Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda

Tuesday, April 20, 2021

6:00 PM

Zoom ID: 938 6524 5999 Passcode: 886199

Betty J. Glick Assembly Chambers

Assembly

Brent Johnson, President
Brent Hibbert, Vice President
Jesse Bjorkman
Lane Chesley
Tyson Cox
Richard Derkevorkian
Cindy Ecklund
Bill Elam
Mike Tupper

Zoom ID: 938 6524 5999 Passcode: 886199

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

Any invocation that may be offered at the beginning of the assembly meeting shall be a voluntary offering of a private person, to and for the benefit of the assembly. No member of the community is required to attend or participate in the invocation.

[Clerk's Note: The invocation was offered by Willy Dunne.]

ROLL CALL

COMMITTEE REPORTS

APPROVAL OF AGENDA AND CONSENT AGENDA

(All items listed with an asterisk (*) are considered to be routine and non-controversial by the Assembly and will be approved by one motion. Public testimony will be taken. There will be no separate discussion of these items unless an Assembly Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.)

ACTION ITEMS CURRENTLY ON CONSENT AGENDA:

04/06/21 Regular Meeting Minutes
Resolution 2021-024 CPH Bond Refi
Resolution 2021-025 BCFSA Bond Refi
Resolution 2021-026 Education Capital Improvement Bond Refi
Resolution 2021-027 Accepting Fitness Equipment – Nikiski Fire
Resolution 2021-028 Additional 911 Positions
Resolution 2021-029 FY22 Community Assistance Program
Resolution 2021-030 Emergency Response Equipment
Resolution 2021-031 Fire Protection Agreement
Ordinance 2020-19-28 Appropriating $46K to SBCFSA
Ordinance 2020-19-29 Handicap Accessible Parking Lot CPGH
Ordinance 2021-16 Late-Filed Senior Grant Application
Ordinance 2021-17 Amending KPB 21.06 Floodplain Management Seward
Ordinance 2021-18 New Election Security and Integrity Code Language
New Marijuana Retail Store - Greenstar
New Concentrates Marijuana Product Manufacturing Facility - Goldstar

ACTION ITEMS ELIGIBLE TO BE ADDED TO THE CONSENT AGENDA:

Ordinance 2020-19-25 COVID-19 Appropriation
Ordinance 2020-19-26 Accepting Grant Funds for Landfill Damage
Ordinance 2020-19-27 Approving Grant Funds for Volunteer Fire Assistance
Ordinance 2021-13 Negotiated Lease with Kiewit Highway
Ordinance 2021-14 Negotiated Lease with Department of Transportation

APPROVAL OF MINUTES

KPB-3085 April 6, 2021 Regular Assembly Meeting Minutes

Attachments: April 6, 2021 Regular Assembly Meeting Minutes

COMMENDING RESOLUTIONS AND PROCLAMATIONS

KPB-3076 A Resolution in Memoriam Commending the Contributions for Jack E. Brown (Bjorkman)

Attachments: Commending Resolution

PRESENTATIONS WITH PRIOR NOTICE

(20 minutes total)

1. KPB-3078 Comprehensive Economic Development Strategy for the Borough, Tim Dillon, Executive Director, Kenai Peninsula Economic Development District (10 Minutes)

Attachments: Presentation

2. KPB-3079 Shimai Toshi Garden Trails, Inc. dba Kenai Peninsula Peace Crane Garden Trails Update, Sarah Pyhala (10 Minutes)

Attachments: Presentation

Annual Report

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

(3 minutes per speaker; 20 minutes aggregate)

ITEMS NOT COMPLETED FROM PRIOR AGENDA

PUBLIC HEARINGS ON ORDINANCES

(Testimony limited to 3 minutes per speaker)

Ordinances referred to Finance Committee

2020-19-24 An Ordinance Appropriating Funds and Authorizing the Borough Clerk to Contract for Necessary Voting Machines, Software, and Related Equipment to Provide an Accessible Voting System for Persons with Disabilities (Hibbert, Johnson)

Attachments: Ordinance 2020-19-24

Amendment Memo 042021

Memo

Voting System Lease and Software Agreement

ecomments 042021

Public Comments 042021

Public Comment 030221

2020-19-25 An Ordinance Approving and Appropriating Funding from the State of Alaska in the Amount Up to $2,037,529.59 for COVID-19 Community Funding, a Federal Pass-Thru Program under the Center for Disease Control and Prevention (Mayor)

Attachments: Ordinance 2020-19-25

Memo

SOW and Budget Narrative

MOA

2020-19-26 An Ordinance Approving and Accepting Grant Funds from the State of Alaska Division of Homeland Security & Emergency Management to Reimburse Repairs at the Central Peninsula Landfill Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor)

Attachments:
Ordinance 2020-19-26
Memo
Award Letter
FEMA PW 367 Agreement
Reference Copy - Ordinance 2018-19-26

2020-19-27 An Ordinance Approving and Appropriating Grant Funds Totaling $14,610.43 from the Alaska Department of Natural Resource for the Volunteer Fire Assistance Program on Behalf of Western Emergency Service Area, Kachemak Emergency Service Area, and Nikiski Fire Service Area (Mayor)

Attachments:
Ordinance 2020-19-27
Memo
Service Area Board Recommendations
VFA Grant Awards Letter
Award Statement

Ordinances referred to Lands Committee

2021-13 An Ordinance Authorizing a Negotiated Lease of Tract C Quartz Creek Subdivision with Kiewit Infrastructure West Company for Project Staging Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

Attachments:
Ordinance 2021-13
Memo
Planning Commission Recommendation
KIEWIT Lease with Attachments - FINAL
Sterling Hwy 45-60 Staging Area Map #1
Sterling Hwy 45-60 Staging Area Map #2
Sterling Hwy 45-60 Project Phasing Schedule

2021-14 An Ordinance Authorizing a Negotiated Lease with Alaska Department of Transportation and Public Facilities for Staging and Material Extraction and Disposal Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

Attachments:
Ordinance 2021-14
Memo
Planning Commission Recommendation
DOT Master Lease with Attachments
Sterling Hwy 45-60 Staging Area Map #1
Sterling Hwy 45-60 Staging Area Map #2
Sterling Hwy 45-60 Project Phasing Schedule

2021-11 An Ordinance Authorizing a Communications Site Lease Agreement to Vertical Bridge Development, LLC (Mayor)

Attachments:
Ordinance 2021-11
Memo
Revised Lease Memo 042021
Final Lease Revised 042021
LEASE
APPENDIX A
APPENDIX B
Attachment A - Map
Attachment B - IMAGERY
Postponement Request 040621 (Dealt with 04/06/21)
PC Recommendations (Dealt with 04/06/21)

UNFINISHED BUSINESS

NEW BUSINESS

1. Resolutions

Resolutions referred to Finance Committee

2021-024 A Resolution Approving the Kenai Peninsula Borough's Participation in a Proposed Refinancing by the Alaska Municipal Bond Bank of its General Obligation Bonds that Provided Funds to Purchase the Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011 of the Kenai Peninsula Borough, Under a Loan Agreement Between the Kenai Peninsula Borough and the Alaska Municipal Bond Bank; and Authorizing the Kenai Peninsula Borough Mayor or Designee to Approve a Revised Schedule of Principal and Interest Payments on the Kenai Peninsula Borough's 2011 Bond, in Accordance with the Loan Agreement, if the Alaska Municipal Bond Bank Successfully Refinances its Bonds (Mayor)

Attachments: Resolution 2021-024

Memo

Reference Copy 2020-043

2021-025 A Resolution Approving the Kenai Peninsula Borough's Participation in a Proposed Refinancing by the Alaska Municipal Bond Bank of its General Obligation Bonds that Provided Funds to Purchase the Bear Creek Fire Service Area General Obligation Bonds, Series 2013 of the Kenai Peninsula Borough, Under a Loan Agreement Between the Kenai Peninsula Borough and the Alaska Municipal Bond Bank; and Authorizing the Kenai Peninsula Borough Mayor or Designee to Approve a Revised Schedule of Principal and Interest Payments on the Kenai Peninsula Borough's 2013 Bond, in Accordance with the Loan Agreement, if the Alaska Municipal Bond Bank Successfully Refinances its Bonds (Mayor)

Attachments: Resolution 2021-025

Memo

Reference Copy Resolution 2020-044

2021-026 A Resolution Approving the Kenai Peninsula Borough's Participation in a Proposed Refinancing by the Alaska Municipal Bond Bank of its General Obligation Bonds that Provided Funds to Purchase the Education Capital Improvement General Obligation Bond, Series 2013 of the Kenai Peninsula Borough, Under a Loan Agreement Between the Kenai Peninsula Borough and the Alaska Municipal Bond Bank; and Authorizing the Kenai Peninsula Borough Mayor or Designee to Approve a Revised Schedule of Principal and Interest Payments on the Kenai Peninsula Borough's 2013 Bond, in Accordance with the Loan Agreement, if the Alaska Municipal Bond Bank Successfully Refinances its Bonds (Mayor)

Attachments: Resolution 2021-026

Memo

Reference Copy Resolution 2020-042

2021-027 A Resolution Accepting Fitness Equipment from the Nikiski Firefighters Association, Inc. on Behalf of North Peninsula Recreation Service Area (Mayor)

Attachments: Resolution 2021-027

Memo

NPRSA Donated Items List

2021-028 A Resolution Increasing the Number of Borough Personnel in the 911 Communications Center Using Available FY2021 Funds (Mayor)

Attachments: Resolution 2021-028

Memo

2021-029 A Resolution Approving Twenty-Seven Unincorporated Communities for Participation in the State's Fiscal Year 2022 Community Assistance Program (Mayor)

Attachments: Resolution 2021-029

Memo

2021-030 A Resolution Accepting Emergency Response Equipment from the Southern Region Emergency Medical Services Council, Inc. on Behalf of the Anchor Point Fire & Emergency Medical Service Area and Recognizing the Transfer of Assets to the Western Emergency Service Area (Mayor)

Attachments: Resolution 2021-030
Memo
Service Area Board Recommendation
Code Blue Award Letter
Code Blue Equip Grant Email

Resolutions referred to Policies and Procedures Committee

2021-031 A Resolution Approving an Intergovernmental Cooperative Fire Protection Agreement between the State of Alaska, Department of Natural Resources, Division of Forestry, and the Kenai Peninsula Borough on behalf of the Western Emergency Service Area (Mayor)

Attachments: Resolution 2021-031
Service Area Board Recommendation
Memo
WESA - 2020 Forestry CFPA
WESA - 2021 Forestry AOP

2021-032 A Resolution Adopting a Policy that the Borough Will Conduct a Pre-Election Security Risk and Vulnerability Assessment and Develop a Security Design for Any Election System Used to Administer Borough Elections (Bjorkman, Elam, Derkevorkian, Mayor)

Attachments: Resolution 2021-032
Memo
Fiscal Note

2. Ordinances for Introduction

Ordinances for Introduction and referred to the Finance Committee

2020-19-28 An Ordinance Appropriating $46,000 from the Seward-Bear Creek Flood Service Area Fund Balance to Complete Ground Control Surveys, Establish Benchmarks and Channel Design in Three Sites for the Sediment Management and Maintenance Program (Mayor)

Attachments: Ordinance 2020-19-28

Memo

2020-19-29 An Ordinance Appropriating Funding from the Central Peninsula Hospital Plant Replacement and Expansion Fund for Completion of the Mountain Tower Handicap Accessible Parking Lot and Access Upgrade Project (Mayor)

Attachments: Ordinance 2020-19-29

Memo

CPH Resolution 21-06

2021-16 An Ordinance Authorizing the Acceptance of the FY2022 Late-Filed Senior Citizen Grant Application for the Seward Senior Citizen Program (Mayor)

Attachments: Ordinance 2021-16

Memo

Seward Senior Grant FY22 Application

Seward Senior Grant Letter

Ordinances for Introduction and referred to the Policies and Procedures Committee

2021-17 An Ordinance Amending KPB 21.06 Floodplain Management to Adopt Flood Depths for Three Neighborhoods in the Seward Mapped Flood Data Area and to Incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards (Mayor)

Attachments: Ordinance 2021-17

Planning Commission Recommendation 051821

Memo

Maps

Reference Copy 2009-09 Sub

Reference Copy Ordinance 2013-29

2021-18 An Ordinance Amending Title 4 Regarding Borough Elections and Enacting a New Chapter of Code, KPB 4.60, Election Security and Integrity, to Ensure Borough Elections are Accessible, Reliable and Secure (Bjorkman, Elam)

Attachments:
- Ordinance 2021-18
- Bjorkman Amendment Memo 061521
- Memo
- Public Comments 061521
- Additional Public Comment 2021-18
- Amendment Memo (Dealt with 05/18/21)
- Bjorkman Amendment (Dealt with 05/18/21)

3. Other

Other Items referred to Finance Committee

KPB-3066 Approving the Issuance of a Letter of Non-Objection to the Marijuana Control Board Regarding the New Retail Marijuana Store, License 23694 filed by Greenstar Flower Outlet, Subject to the Standard Conditions

[Clerk's Note: Standard Conditions for Commercial Marijuana Facilities are as follows: 1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough. 2. There shall be no parking in the borough rights-of-way generated by the marijuana establishment. 3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020 (A). 4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 am.]

Attachments:
- 23694 - Memo to Assembly
- 23694 - Complete Application
- 23694 - Planning Memo
- 23694 - Site Development Plan
- 23694 - Acknowledgement Form
- 23694 - Ariel & Land Use Map

KPB-3067 Approving the Issuance of a Letter of Non-Objection to the Marijuana Control Board Regarding the New Marijuana Product Manufacturing Facility, License 23692 filed by Gold Star Concentrates, Subject to the Standard Conditions

[Clerk's Note: Standard Conditions for Commercial Marijuana Facilities are as follows: 1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough. 2. There shall be no parking in the borough rights-of-way generated by the marijuana establishment. 3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020 (A).]

Attachments: 23692 - Memo to Assembly
23692 - Complete Application
23692 - Planning Memo to Assembly
23692 - Site Development Plan
23692 - Acknowledgement Form
23692 - Ariel & Land Use Map

MAYOR'S REPORT

KPB-3068 Mayor's Report Cover Memo

Attachments: Cover Memo

1. Assembly Requests/Responses - None.

2. Agreements and Contracts

a. KPB-3069 Authorization to Award a Contract for ITB21-021 North Peninsula Recreation Service Area Nikiski Pool Reroof to Earhart Roofing Co. Inc., Anchorage, AK

Attachments: Authorization to Award ITB21-021

b. KPB-3070 Authorization to Award a Contract for RFP21-006 Homer High School Roof Professional Design Service's to K+A designstudios, Kenai, AK

Attachments: Authorization to Award RFP21-006

3. Other

a. KPB-3071 Revenue - Expenditure Report - March 2021

Attachments: Revenue - Expenditure Report - March 2021

b. KPB-3072 Budget Revisions - March 2021

Attachments: Budget Revisions March 2021

c. KPB-3073 Tax Adjustment Request Approval

Attachments: Tax Adjustment Request Approval

d. KPB-3074 Litigation Status Report - Quarter Ending 03/31/21

Attachments: Litigation Status Report - Quarter ending 033221

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

ASSEMBLY COMMENTS

PENDING LEGISLATION

(This item lists legislation which will be addressed at a later date as noted.)

1. 2020-19-07 An Ordinance Appropriating Refinanced 2013 Bear Creek Fire Service Area General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended on 12/01/20

[Clerk's Note: A motion to enact Budget Ordinance 2020-19-07 was on the floor from the 12/01/20 meeting.]

[Clerk's Note: The Administration has given notice of consideration, see related memo dated June 24, 2021.]

Attachments: Ordinance 2020-19-07
Request to Remove from Table 07/06/21
Amendment Memo 070621
Memo
Admin's Request to Table (Dealt with on 12/01/20)
Amendment Memo (Dealt with 10/13/20)
Reference copy: Resolution 2020-044
Reference copy: Resolution 2012-091

2. 2020-19-08 An Ordinance Appropriating Refinanced 2013 School General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended on 12/01/20

[Clerk's Note: A motion to enact Budget Ordinance 2020-19-08 was on the floor from the 12/01/20 meeting.]

[Clerk's Note: The Administration has given notice of consideration, see related memo dated June 24, 2021.]

Attachments:
Ordinance 2020-19-08
Request to Remove from Table 07/06/21
Amendment Memo 070621
Memo
Admin's Request to Table (Dealt with on 12/01/20)
Amendment Memo (Dealt with 10/13/20)
Reference copy: Resolution 2013-071
Reference copy: Resolution 2020-042

3. 2020-19-09 An Ordinance Appropriating Refinanced 2011 Hospital General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended on 12/01/20

[Clerk's Note: A motion to enact Budget Ordinance 2020-19-09 was on the floor from the 12/01/20 meeting.]

[Clerk's Note: The Administration has given notice of consideration, see related memo dated June 24, 2021.]

Attachments:
Ordinance 2020-19-09
Request to Remove from Table 07/06/21
Amendment Memo 070621
Memo
Admin's Request to Table (Dealt with on 12/01/20)
Amendment Memo (Dealt with 10/13/20)
Reference copy: Resolution 2011-073
Reference copy: Resolution 2020-043

4. 2021-12 An Ordinance Amending KPB Chapter 5.19, Uniform Remote Seller Sales Tax Code, in Accordance with Updates and Changes Adopted by the Alaska Remote Seller Sales Tax Commission (Hibbert, Mayor)

Attachments: Ordinance 2021-12
Memo
Reference Copy - Ordinance 2020-03

5. 2021-15 An Ordinance Amending KPB 21.18, Anadromous Waters Habitat Protection, in Accordance with Recommendations Contained in the Final Report of the Work Group Formed to Provide a Review of Chapter 21.18 (Johnson)

Attachments: Ordinance 2021-15
Memo
AWHPWG CAPD Map Final
AWHPWG Final Report
Reference Copy - Resolution 2019-058
Reference Copy - Resolution 2020-009

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. May 4, 2021 Regular Assembly Meeting
6:00 PM this meeting will be held through Zoom Meeting ID: 938 6524 5999 Passcode: 886199 and in person from the Betty J. Glick Assembly Chambers Borough Administration Building

ADJOURNMENT

This meeting will be broadcast on KDLL-FM 91.9 (Central Peninsula), KBBI-AM 890 (South Peninsula), K201AO(KSKA)-FM 88.1 (East Peninsula).

The meeting will be held through Zoom, the Meeting ID: 938 6524 5999 Passcode: 886199 and in-person from the Betty J. Glick Assembly Chambers, Borough Administration Building, Soldotna, Alaska. COVID-19 mitigation protocols will be observed. To join the meeting from a computer, visit https://zoom.us/j/93865245999. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-853-5247 and enter the Meeting ID: 938 6524 5999 Passcode: 886199. Detailed instructions will be posted on at the Kenai Peninsula Borough's main page at kpb.us: "Meeting and Public Notices" "Current Assembly Agenda".

Copies of the agenda and ordinances to be considered can be viewed on the website referenced above or at the Public Bulletin Board located on the window right of the double doors in the back of the Borough Administration Building. For further information, please call the Clerk's Office at 714-2160 or toll free within the Borough at 1-800-478-4441, Ext. 2160. Visit our website at www.kpb.us for copies of the agenda, meeting summaries, ordinances and resolutions.

Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Final

Assembly

Brent Hibbert, President
Brent Johnson, Vice President
Jesse Bjorkman
Kenn Carpenter
Lane Chesley
Tyson Cox
Richard Derkevorkian
Willy Dunne
Bill Elam

Tuesday, April 6, 2021 | **6:00 PM** | **Betty J. Glick Assembly Chambers**

Zoom ID: 938 6524 5999 Passcode: 886199

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Iris Fontana.]

ROLL CALL

Present: 9 - Jesse Bjorkman, Kenn Carpenter, Tyson Cox, Willy Dunne, Brent Hibbert, Brent Johnson, Richard Derkevorkian, Bill Elam, and Lane Chesley

Also present were:
James Baisden, Chief of Staff
Colette Thompson, Borough Attorney
Michele Turner, Deputy Borough Clerk
Randi Broyles, Borough Clerk Assistant

COMMITTEE REPORTS

Assembly Member Cox stated the Finance Committee met and discussed its agenda items.

Assembly Member Derkevorkian stated the Lands Committee met and discussed its agenda items.

Assembly Member Bjorkman stated the Policies and Procedures Committee met and discussed its agenda items.

Vice President Johnson stated the Legislative Committee met and discussed its agenda item.

President Hibbert stated the Committee of the Whole met to continue the Borough Clerk's evaluation.

MOTION: Bjorkman moved to authorize Assembly Member Johnson to attend the National Association of Counties WIR conference in Hamilton, Montana May 26 through May 28, 2021.

50% of expenses or $1,750 (whichever is less) plus conference registration fees will be reimbursed by the Alaska Municipal League (AML) as MR. Johnson is AML's NACo Represenative. The total anticipated expense to the borough is estimated to be no more than $1,255.

The motion to approve Assembly Member Johnson's travel carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

APPROVAL OF AGENDA AND CONSENT AGENDA

KPB-3020 March 2, 2021 Regular Assembly Meeting Minutes

approved.

KPB-3054 A Resolution in Memoriam Commending the Contributions of Dr. Peter Hansen (Mayor)

This Commending Resolution was adopted.

2020-19-23 An Ordinance Appropriating School Bond Interest to Cover the Cost of Ineligible Scope of Work on the Redoubt Elementary Roof Project (Mayor)

This Budget Ordinance was enacted.

2021-10 An Ordinance Providing an Exemption from KPB Chapter 14.06 Road Standards to Allow Acceptance of a Non-Conforming Road into the Borough Road Maintenance Program (Mayor)

This Ordinance was enacted.

2021-023 A Resolution Amending the Spending Plan Approved for CARES Act Coronavirus Relief Funds Received from the State of Alaska, to Transfer Lapsed Funding to Reimburse KPB Emergency Response, Personal Protection Equipment, and Personnel Costs (Mayor)

[Clerk's Note: President Hibbert passed the gavel and declared a possible conflict as he owned Alaska Cab. Vice President Johnson ruled a conflict did exist. President Hibbert abstained from the discussion and vote on Resolution 2021-023.]

This Resolution was adopted.

2021-020 A Resolution Confirming the Appointment of Mako Haggerty to the Prince William Sound Regional Citizen's Advisory Council (Hibbert)

This Resolution was adopted.

2021-021 A Resolution Approving Mutual Aid and Operational Plan Between Seward Bear Creek Fire Service Area and Moose Pass Volunteer Fire Company(Mayor)

This Resolution was adopted.

2020-19-25 An Ordinance Approving and Appropriating Funding from the State of Alaska in the Amount Up to $2,037,529.59 for COVID-19 Community Funding, a Federal Pass-Thru Program under the Center for Disease Control and Prevention (Mayor)

[Clerk's Note: President Hibbert passed the gavel to Vice President Johnson and declared a possible conflict, as he owns Alaska Cab. $75,000 of these funds have been budgeted for transportation to vaccination clinics. Vice President Johnson ruled President Hibbert had a conflict. President Hibbert abstained from the discussion and vote on Ordinance 2020-19-25.

Mr. Elam disclosed he was a network administrator employed at Central Peninsula Hospital. The $200,000 COVID-19 funding appropriated for the hospital in Ordinance 2020-19-25 did not relate to his job.

Mr. Dunne disclosed his wife was an employee at South Peninsula Hospital.

President Hibbert thanked both Assembly Members for their disclosures and ruled there was no conflict.]

This Budget Ordinance was introduced and set for public hearing.

2020-19-26 An Ordinance Approving and Accepting Grant Funds from the State of Alaska Division of Homeland Security & Emergency Management to Reimburse Repairs at the Central Peninsula Landfill Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2020-19-27 An Ordinance Approving and Appropriating Grant Funds Totaling $14,610.43 from the Alaska Department of Natural Resource for the Volunteer Fire Assistance Program on Behalf of Western Emergency Service Area, Kachemak Emergency Service Area, and Nikiski Fire Service Area (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2021-12 An Ordinance Amending KPB Chapter 5.19, Uniform Remote Seller Sales Tax Code, in Accordance with Updates and Changes Adopted by the Alaska Remote Seller Sales Tax Commission (Hibbert, Mayor)

This Ordinance was introduced and set for public hearing.

2021-13 An Ordinance Authorizing a Negotiated Lease of Tract C Quartz Creek Subdivision with Kiewit Infrastructure West Company for Project Staging Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

This Ordinance was introduced and set for public hearing.

2021-14 An Ordinance Authorizing a Negotiated Lease with Alaska Department of Transportation and Public Facilities for Staging and Material Extraction and Disposal Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

This Ordinance was introduced and set for public hearing.

2021-15 An Ordinance Amending KPB 21.18, Anadromous Waters Habitat Protection, in Accordance with Recommendations Contained in the Final Report of the Work Group Formed to Provide a Review of Chapter 21.18 (Johnson)

This Ordinance was introduced and set for public hearing.

KPB-3024 Petition to Vacate the 10' Utility Easement within Tract A, Alaska State Land Survey No. 96-42, Adjoining the Former Seward Highway Right-of-Way, Granted by Alaska State Land Survey No. 96-42, Plat SW 99-1; within Section 22, Township 5 North, Range 1 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2021-019V

[Clerk's Note: The Planning Commission approved the above referenced petition to vacate at its March 15, 2021 meeting by unanimous consent.]

approved.

KPB-3025 Confirming Adeena Wilcox as Borough Assessor (Mayor)

approved.

KPB-3026 Confirming Dil Uhlin as Maintenance Director (Mayor)

approved.

Approval of the Agenda and Consent Agenda

President Hibbert called for public comment with none being offered.

The motion to approve the agenda and consent agenda carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

COMMENDING RESOLUTIONS AND PROCLAMATIONS

1. KPB-3029 Mayor's Proclamation Declaring April 2021 as "Safe Digging Month"

2. KPB-3054 A Resolution in Memoriam Commending the Contributions of Dr. Peter Hansen (Mayor)

[Clerk's Note: Assembly Member Carpenter read the Commending Resolution.]

PRESENTATIONS WITH PRIOR NOTICE

1. KPB-3038 Northern Enterprises Boat Yard in Homer, Aaron Fleenor, Board Member (10 Minutes)

[Clerk's Note: Aaron Fleenor gave a presentation to the Assembly.]

2. KPB-3039 Kachemak Moose Habitat, Inc., Lynn Whitmore, Board Member (10 Minutes)

[Clerk's Note: Lynn Whitmore gave a presentation to the Assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Hibbert called for public comment.

Debbie Cary, Ninilchik spoke on school funding and providing students with many opportunities in school.

There being no one else who wished to speak, the public comment period was closed.

ITEMS NOT COMPLETED FROM PRIOR AGENDA

PUBLIC HEARINGS ON ORDINANCES

2021-11 An Ordinance Authorizing a Communications Site Lease Agreement to Vertical Bridge Development, LLC (Mayor)

Derkevorkian moved to enact Ordinance 2021-11.

President Hibbert called for public comment with none being offered.

Derkevorkian moved to amend Ordinance 2021-11 as follows:

Amend the final Whereas clause to read, "the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of March 15, 2021 recommended approval by unanimous consent."

The motion to amend Ordinance 2021-11 carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

Derkevorkian moved to postpone Ordinance 2021-11 as amended to the 04/20/21 assembly meeting.

The motion to postpone Ordinance 2021-11 as amended to the 04/20/21 meeting carried by the following vote:

Yes: 9 - Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Derkevorkian, Elam, and Chesley

UNFINISHED BUSINESS

1. Notice to Reconsider/Rescind

KPB-2958 Petition to Vacate 30-foot-wide Oliver Street Right-of-way, Including the Associated Utility Easement, North of Half Moon Avenue as Dedicated on Arrowhead Estates Phase 1 Plat KN 2000-7. The right-of-way being Vacated is Unconstructed and Located within the NW1/4 NW1/4 of Section 19, Township 5 North, Range 9 West, Seward Meridian, Alaska, Within the Kenai Peninsula Borough. KPB File 2020-147V. (Referred to Lands Committee) (Notice to Rescind Previous Action Offered by Derkevorkian)

Derkevorkian moved to rescind the previous action of the assembly.

President Hibbert called for public comment.

Nathan Moore, Sterling spoke in support of rescinding the previous action of the assembly.

There being no one else who wished to speak the public comment period was closed.

Assembly Member Derkevorkian spoke in support of rescinding the previous action

of the assembly.

Assembly Members Cox, Chesley and Bjorkman spoke in opposition to rescinding the previous action of the assembly.

The motion to rescind the previous action of the assembly failed by the following vote:

Yes: 3 - Hibbert, Derkevorkian, and Elam

No: 6 - Bjorkman, Carpenter, Cox, Dunne, Johnson, and Chesley

NEW BUSINESS

1. Resolutions

2021-022 A Resolution Supporting Senate Bill 17 Relating to Performing Energy Audits on Certain Public and Community Facilities with the Goal that by 2026 the State Shall Enter Contracts to Retrofit Public Facilities, Buildings and Schools in a Manner that will Result in Net Savings in Energy Costs to the State Within 15 Years After Completion of the Retrofits (Dunne)

Johnson moved to adopt Resolution 2021-022.

President Hibbert called for public comment with none being offered.

Assembly Members Derkevorkian, Elam, Carpenter, and Bjorkman spoke in opposition to Resolution 2021-022.

President Hibbert passed the gavel to Vice President Johnson and spoke in opposition to Resolution 2021-022. Vice President Johnson returned the gavel to President Hibbert.

Assembly Members Dunne, Johnson and Cox spoke in support of Resolution 2021-022.

The motion to adopt Resolution 2021-0202 failed by the following vote:

Yes: 4 - Cox, Dunne, Johnson, and Chesley

No: 5 - Bjorkman, Carpenter, Hibbert, Derkevorkian, and Elam

MAYOR'S REPORT

KPB-3040 Mayor's Report Cover Memo

1. Assembly Requests/Responses - None.

2. Agreements and Contracts

a. KPB-3041 Authorization to Award a Contract for ITB21-023 Crack Sealant Purchase FY21 to NorthStar Supply, LLC, Palmer, AK.

b. KPB-3042 Authorization to Award a Contract for ITB21-019 Homer Transfer Facility Operations and Maintenance 2021 to D&L Construction of Cooper Landing, AK.

c. KPB-3043 Authorization to Award a Contract for ITB-022 Kenai Middle School Boiler Replacement to Norcoast Mechanical, Inc., Anchorage, AK.

d. KPB-3044 Central Peninsula Hospital ADA Parking Lot Design Sole Source Waiver (Contract) with Nelson Engineering.

e. KPB-3045 Authorization to Award a Contract for ITB21-020 Earthquake Repairs; North Peninsula Recreation Service Area, Kenai Middle School, and Skyview Middle School to Pro Grind Rental, LLC, Soldotna, AK.

3. Other

a. KPB-3046 Revenue-Expenditure Report - February 2021

b. KPB-3047 Budget Revisions - February 2021

c. KPB-3048 Tax Adjustment Request Approval

d. KPB-3049 Certification of the 2020 Real Property Supplemental Assessment Roll

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Hibbert called for public comment.

Bjorn Olson, Homer spoke in opposition to the Northern Enterprise boat yard expansion.

John Cox, Anchor Point spoke on the Anchor Point Food Pantry and their need to expand from their current location.

Debbie Cary, Ninilchik thanked the assembly for their time and encouraged future conversations between the school board and borough assembly.

There being no one else who wished to speak, the public comment period was closed.

ASSEMBLY COMMENTS

Assembly Member Bjorkman thanked the assembly, public and Clerk's Office for their participation in the evening. He stated he was thankful for the community members who make the Kenai Peninsula a better place to live. He recognized Nona Safra for her many contributions to the community. He offered his condolences to the family of Jack Brown. Mr. Bjorkman stated he had many conversations with his students about the future of the Kenai Peninsula and their role in it. He encouraged everyone to create a positive community. He wished everyone a good evening.

Assembly Member Chesley stated he served on the KPTMC board as the assembly representative and their last meeting had a presentation given by the owner of Major Marine Tours out of Seward. He stated he was encouraged by the prospect of tourist coming back to the Peninsula this summer.

Assembly Member Dunne thanked Aaron Fleenor and Lynn Whitmore for their presentations. He stated he was looking forward to finding ways to help the marine trades industry and help protect the moose habitat on the southern peninsula. He thanked Bjorn Olson for his testimony. He thanked the employees of the borough for their hard work. He thanked Mr. Ruffner for speaking to the assembly during the lands committee regarding Ordinance 2021-15. He stated the Resilience and Security Commission was dedicated to making the borough a better place and saving the tax payers money.

Assembly Member Carpenter thanked everyone who showed up in person for the meeting. He encouraged the public to speak up on issues important to them. He thanked the Clerk's Office for their hard work. He encouraged everyone to drive safely.

Assembly Member Cox stated that Soldotna High School wrestling was in full swing. He congratulated his daughter for being named Redoubt Elementary's Masonic student of the year.

Vice President Johnson thanked Chief Baisden for his hard work and dedication to the Borough. He thanked Deputy Clerk Michele Turner for her hard work. He thanked President Hibbert for running a smooth meeting. He thanked Debbie Cary for her constant participation in assembly meetings and advocating for students in the borough.

Assembly Member Elam thanked everyone for their hard work and discussions throughout the evening. He stated that masks will no longer be needed for outdoor sports. He encouraged the school district to move away from many of the mitigation controls they have for students. He stated that volunteer week was April 18-24 and

thanked the many volunteers throughout the borough. He congratulated his son for completing his 100-minute math and wished everyone a good evening.

President Hibbert thanked Debbie Cary for being the only school board member to show up every assembly meeting. He thanked incoming Superintendent Holland for visiting with the assembly prior to their meeting. He thanked Purchasing and Contracting Director John Hedges and Maintenance and Roads Director Dil Uhlin for their presentations earlier in the day regarding borough facilities. He encouraged the school district to join the assembly in discussions regarding school funding. He stated he was hopeful that moving forward the school district and borough could find ways to work more effectively together. He thanked the Clerk's Office for their hard work and wished everyone a good evening.

PENDING LEGISLATION

2020-19-07 An Ordinance Appropriating Refinanced 2013 Bear Creek Fire Service Area General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended on 12/01/20

2020-19-08 An Ordinance Appropriating Refinanced 2013 School General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended on 12/01/20

2020-19-09 An Ordinance Appropriating Refinanced 2011 Hospital General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor) Tabled as amended on 12/01/20

2020-19-24 An Ordinance Appropriating Funds and Authorizing the Borough Clerk to Contract for Necessary Voting Machines, Software, and Related Equipment to Provide an Accessible Voting System for Persons with Disabilities (Hibbert, Johnson)

INFORMATIONAL MATERIALS AND REPORTS

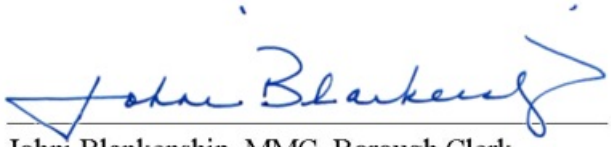
ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. April 20, 2021 Regular Assembly Meeting
6:00 PM This meeting will be held through Zoom Meeting ID: 938 6524 5999 Passcode: 886199 and in person from the Betty J. Glick Assembly Chambers Borough Administration Building.

ADJOURNMENT

With no further business to come before the assembly, President Hibbert adjourned the meeting at 8:58 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of April 6, 2021.



Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: 04/20/2021

Introduced by:	Bjorkman
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
COMMENDING RESOLUTION

A RESOLUTION IN MEMORIAM COMMENDING THE CONTRIBUTIONS OF JACK E. BROWN

WHEREAS, with the passing of Jack E Brown, the Kenai Peninsula Borough has lost a trusted and respected member of our community; and

WHEREAS, Jack was born on August 27th, 1947 in Lincoln, Nebraska and worked hard to put himself through school at California State College, Los Angeles; and

WHEREAS, Jack invested considerable time, effort and care into the youth of the communities he lived in by supporting building projects like Nikiski Middle/High School, Skyview High School, Nikiski North Star Elementary School, and Alaska Christian College; and

WHEREAS, Jack led others to serve the youth of the Kenai Peninsula with him by founding the People Count Vocational School, working to begin the Boys and Girls Club of the Kenai Peninsula and helping to host the 2006 Artic Winter Games; and

WHEREAS, Jack was also dedicated to the civic health of the Kenai Peninsula, he was first elected to the Borough Assembly in 1987 and served consecutive terms until 2001 – including two years as vice president and three years as president; and

WHEREAS, Jack was instrumental in beginning the Nikiski Senior Service Area and the building of the senior center by raising funds; and

WHEREAS, Jack was well respected by the industries of the Kenai Peninsula, he co-founded Industry Appreciation day with his good friend Aaron Goforth; and

WHEREAS, Jack was President of the Cook Inlet Regional Citizens Advisory Council; and

WHEREAS, Jack was renowned and respected for his knowledge of the issues facing the people of the Kenai Peninsula, his deep passion for his work, well-timed sense of humor, and his focused drive toward resolving problems; and

WHEREAS, Jack had an excellent ability to inspire others to get involved in community projects, he was well known for being a good friend and well liked even while disagreeing on the issues of the day, and he encouraged people to work together to find solutions; and

WHEREAS, Jack deeply loved his wife Debbie, and cherished all of his family including, brothers Locy Brown and wife Brenda; Bruce Brown and wife Claire; sisters Lori Peikert and husband Gary, Viola Hancock, Pam Lashley, and Shelly Niblack; son Tim Brown and wife Danielle, son Tom Brown and wife Angie; daughter Christina Hall and husband David Josh; step-daughters Leah Meyring and husband Justin, Sally Gates and husband Aaron, Anne Barnett and husband Shad; 17 grandchildren: Allie, Luke; Mahala, Dwight, Dotty; Angela, Christopher, Destiny, Maddy, Dylan, Shane, Anna; Samuel, Alice; Andrew, Isaac, Noah; great-granddaughter, Harbor Grace; numerous nieces, nephews, and countless treasured friends; and

WHEREAS, Jack, because of his heart for public service and firm commitment to people of the Kenai Peninsula, has set an excellent example for others to follow; and

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

SECTION 1. That the Kenai Peninsula Borough Assembly extends its heartfelt condolences to the family of Jack E. Brown and joins his many friends in mourning the loss of this extraordinary and exemplary public servant who gave so much to his community, forging its future.

SECTION 2. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Kenai Peninsula Comprehensive Economic Development Strategy (CEDS) Overview and Project Update especially designed for the Kenai Peninsula Borough Assembly

Kenai Peninsula Economic Development District
Tim Dillon, Executive Director
April 20, 2021

Kenai Peninsula Borough

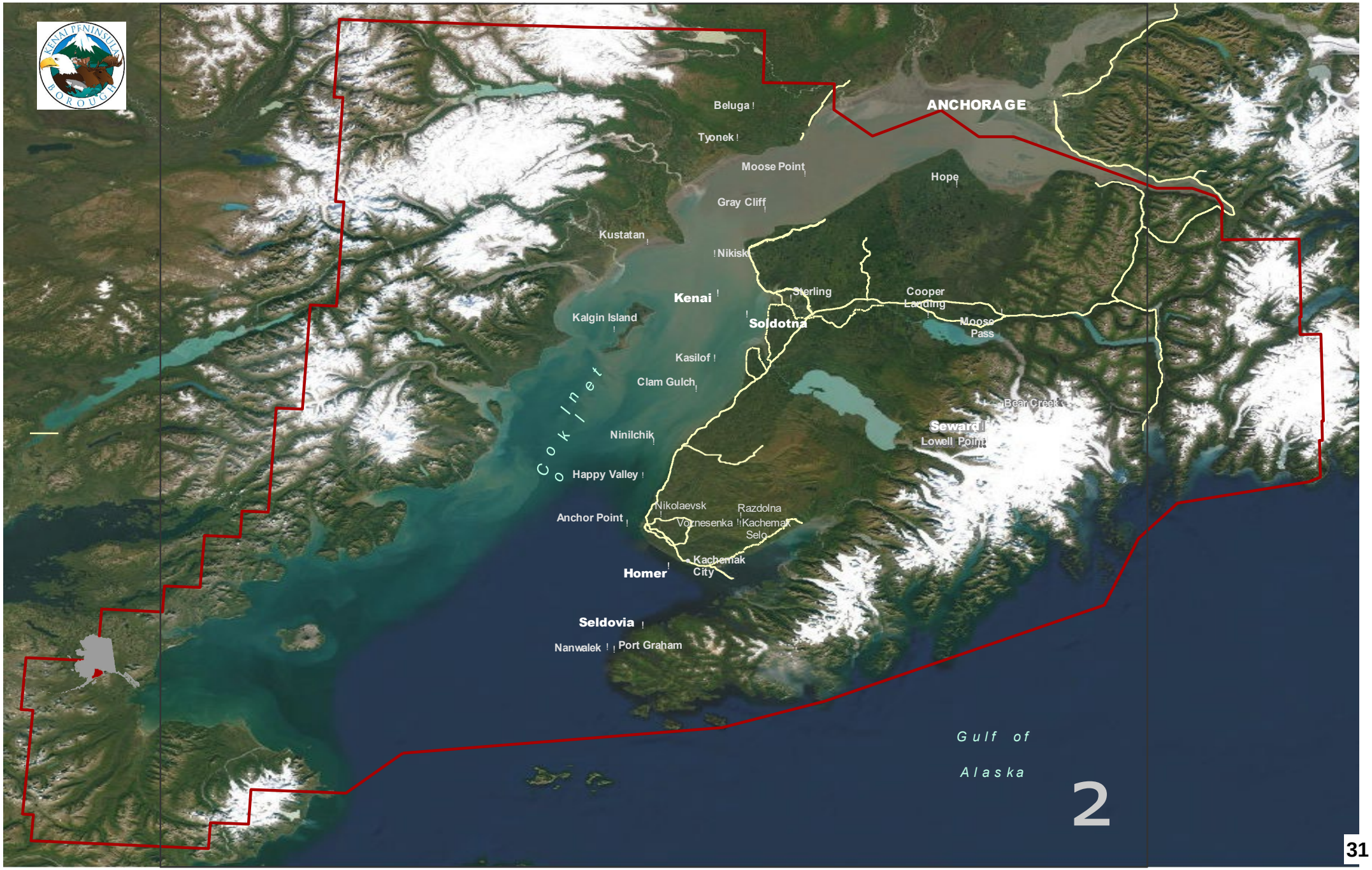
Imagery Source: ArcGIS Online World Imagery

Map Date: 9/19/2019

Major Roads KPB Boundary

0 5 10 Miles

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map



Who are we?

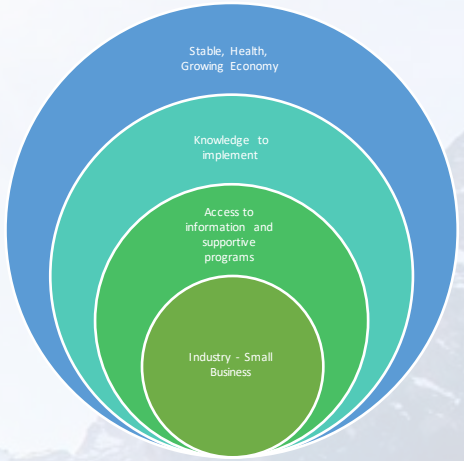
The Kenai Peninsula Economic Development District (KPEDD) is a private non-government resource focused on responsible/sustainable economic development for our region. Using a 30,000ft view of the economy, we locate financing and orchestrate community collaboration for economic planning and business incubation. We support infrastructure projects, workforce development and regional industries. KPEDD is funded by federal, state, regional and educational contracts.

Comprehensive Economic Development Strategy (CEDS)

What is it? Why is it especially important right now?

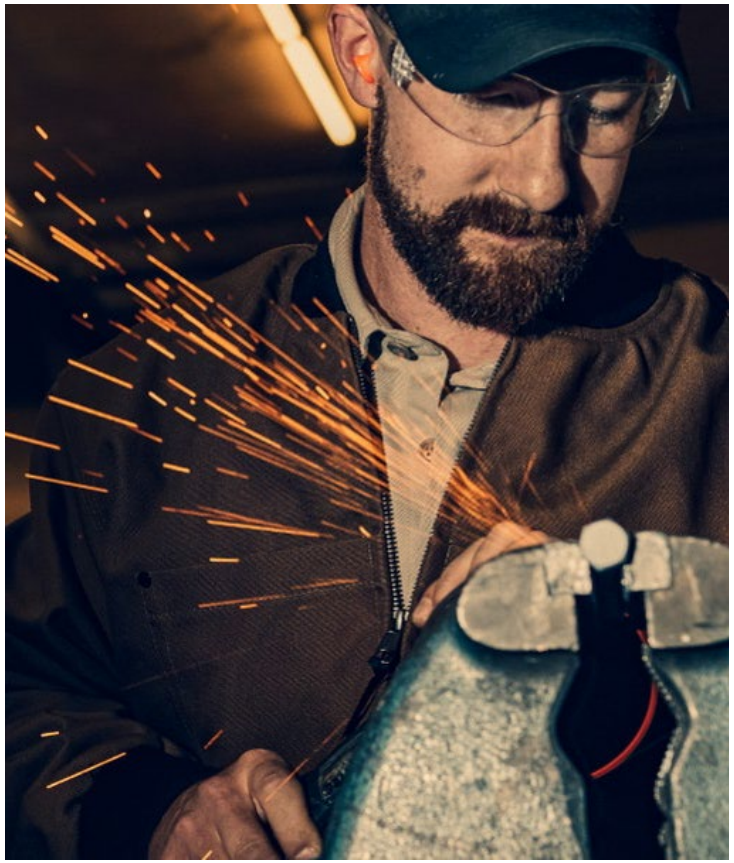
"The Comprehensive Economic Development Strategy (CEDS) contributes to effective economic development in America's communities and regions through a locally-based, regionally-driven economic development planning process. Economic development planning – as implemented through the CEDS – is not only a cornerstone of the U.S. Economic Development Administration's (EDA) programs, but successfully serves as a means to engage community leaders, leverage the involvement of the private sector, and establish a strategic blueprint for regional collaboration. The CEDS provides the capacity-building[1] foundation by which the public sector, working in conjunction with other economic actors (individuals, firms, industries), creates the environment for regional economic prosperity."

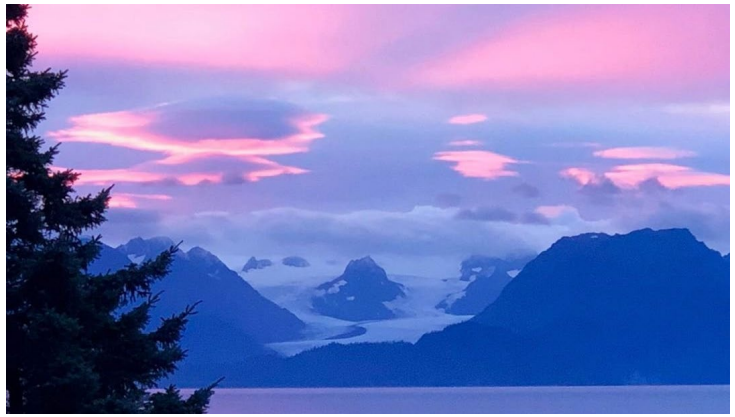
- US Economic Development Administration



- ✓ **Regional Economic Development and Planning**
- ✓ **Opens Federal Funding Opportunities**
- ✓ **Builds leadership, enhances cooperation and fosters public ownership for our region**

OUTREACH: INDUSTRY GROUPS ON THE KENAI PENINSULA





- KPEDD is continuing its outreach efforts and sampling from major industries and business groups throughout the Peninsula. Through public forums, smaller engagement sessions, or one-on-one meetings with industry leaders, our focus will be to compile essential information that will assist in creating a more robust CEDS product. The acumen and insight will be invaluable in the Peninsula's economic trajectory and future.
- Oil and Gas Industry
- Fisheries Groups
- Maritime Trades
- Tourism
- Agriculture
- Medical
- NonProfits
- Chambers of Commerce

SWOT Analysis

***S**trengths*: characteristics of the business or project that give it an advantage over others.

***W**eaknesses*: characteristics that place the business or project at a disadvantage relative to others.

***O**pportunities*: elements in the environment that the business or project could exploit to its advantage.

***T**hreats*: elements in the environment that could cause trouble for the business or project.

As of July 2020, KPEDD staff organized the KPEDD Board Retreat, as well as hosted the KPEDD Economic Future Forum just a few weeks ago. The outcome of the discussions created our focus of the SWOT analysis.

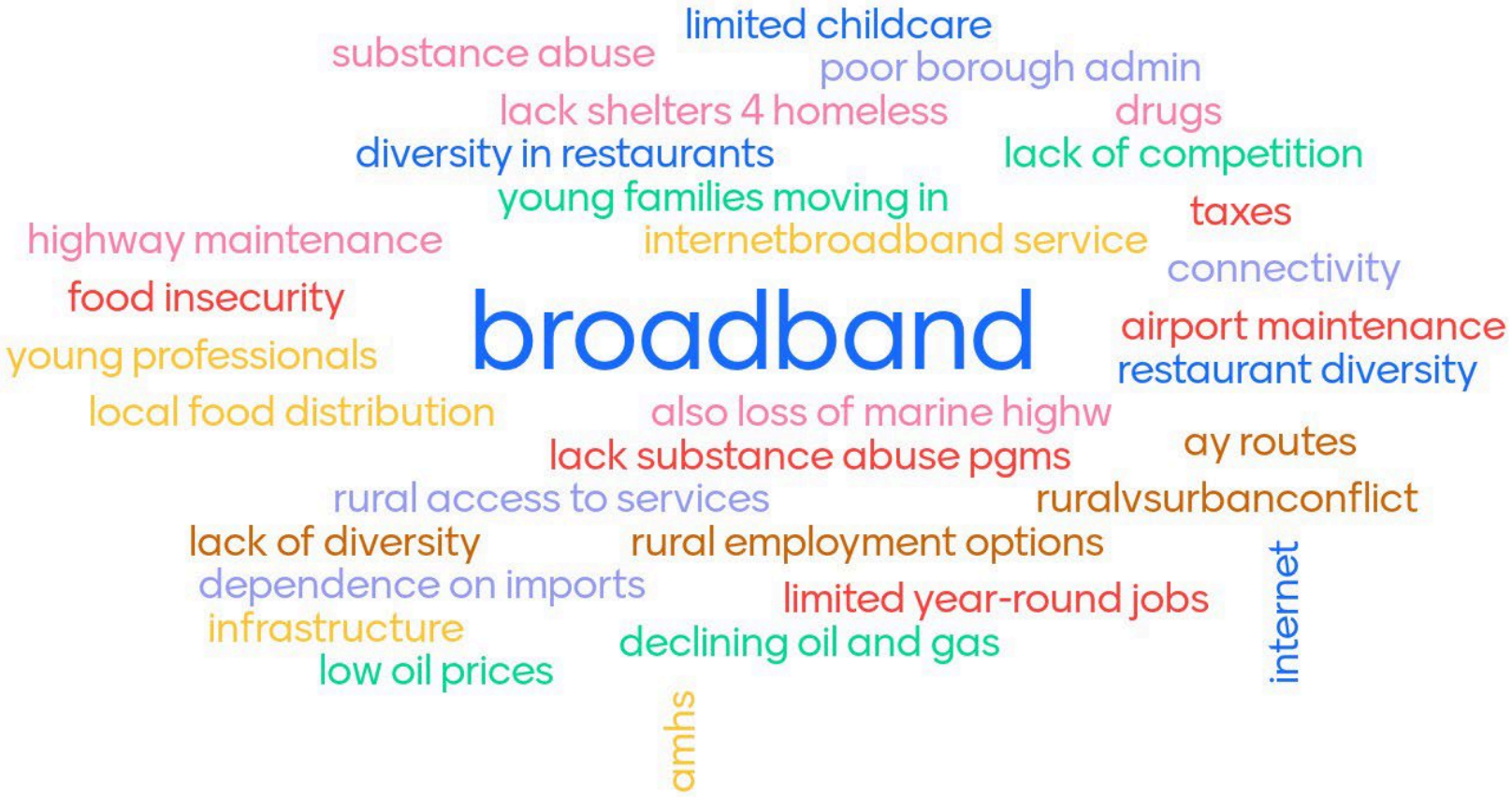
Through the CEDS development process, we will continue to be seeking to identify internal and external factors directly related to the economic climate and future of the Kenai Peninsula. Looking through the SWOT lens, we will better be able to address and achieve the CEDS goals as well as develop strategies for businesses to implement.

What additional strengths do you see for the Kenai Peninsula?

Mentimeter

What additional weaknesses do you see for the Kenai Peninsula?

Mentimeter



What additional opportunities do you see for the Kenai Peninsula?

Mentimeter

12

What additional threats do you see for the Kenai Peninsula?

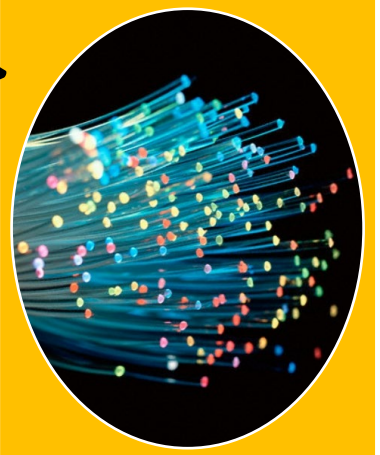
Mentimeter

OVERARCHING CEDS GOAL

QUALITY OF LIVING/PLACE

This includes continuing to develop the Kenai Peninsula “brand” for residents, visitors, and businesses and promoting expansion of recreational amenities and public access.

Comprehensive Economic Development Strategy Goals



Technology /Communications (Goal 1)

-

Expand broadband access across the Borough

Workforce and Human Capital (Goal 2)

-

Industry partnerships and VOC-tech

-

Attract, retain and train qualified workforce

Infrastructure and Land Use (Goal 3)

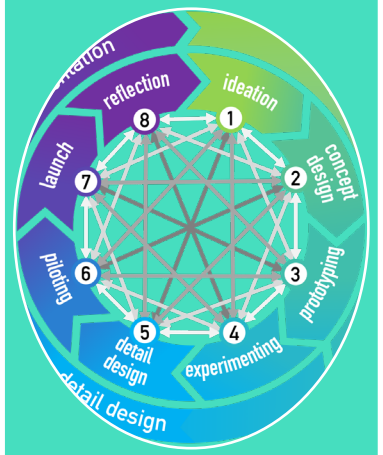
-

Industry focused infrastructure

-

Stability and resiliency in transportation infrastructure

-Mitigation/responsible use of lands



Business Climate and Entrepreneurship (Goal 4)

-

Outreach, education, and information sharing with government support of businesses

Regional Partnerships (Goal 5)

-

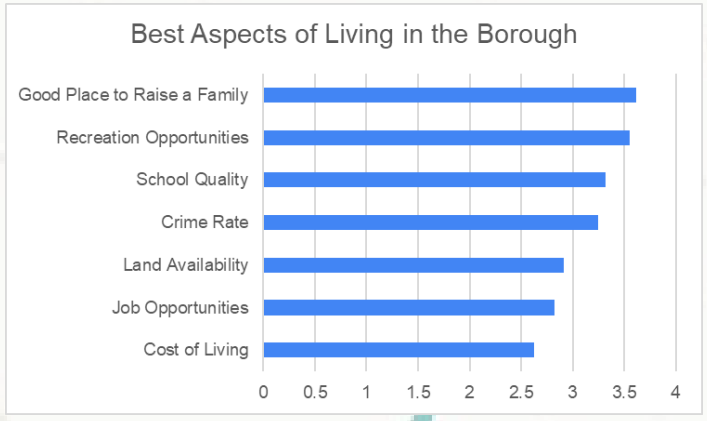
Coordinate with industry

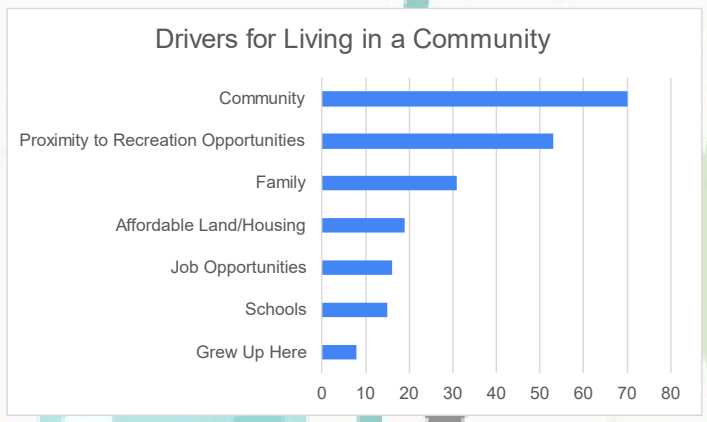
-

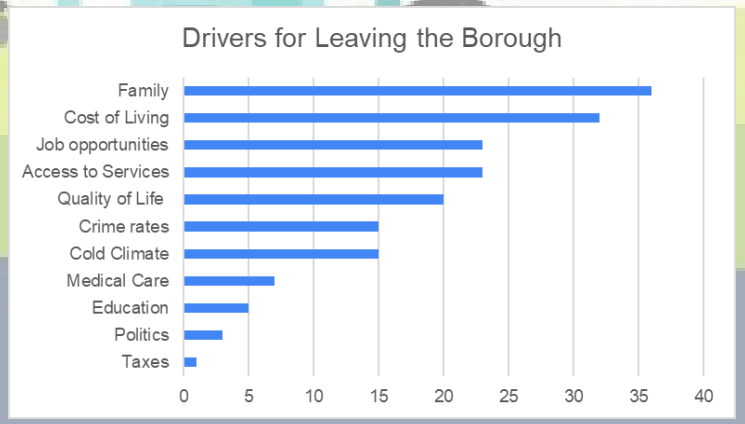
Coordinate with municipalities, communities, and non-profits

Over the last three months, KPEDD has had over 1,500 “touches” with its CEDS outreach efforts.

- *Economic Future Forum*
- *Chamber Luncheons*
- *Virtual meetings*
- *Regional Council Meetings*
- *Outreach and Engagement*
- *Surveys*
- *Connection*
- *Collaboration*





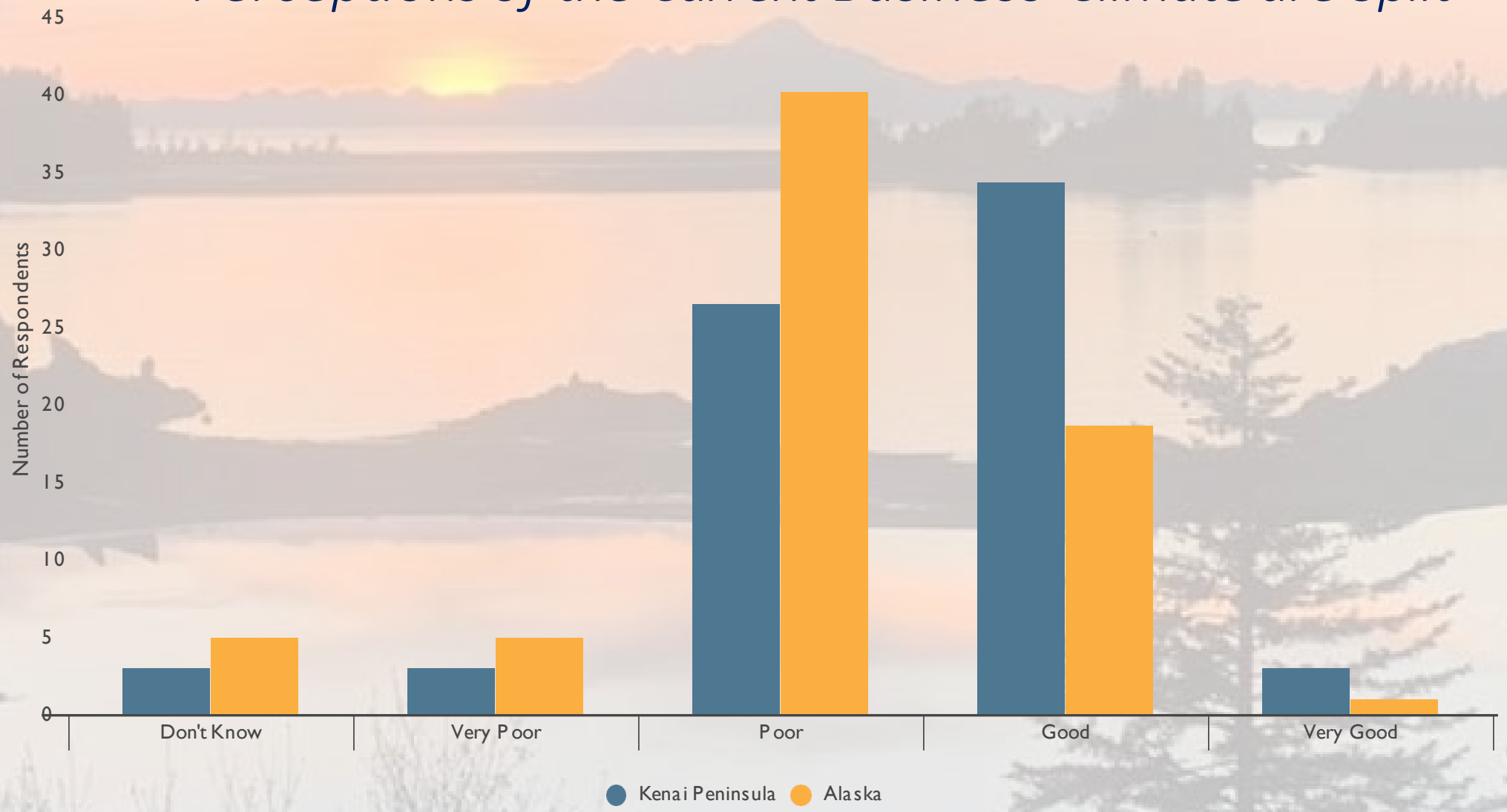


Survey Outcomes

- Surveys were distributed aimed at two sectors of the population - businesses and residents. While we are still analyzing the data, we were able to better assess the economic climate of our region as well as identify focus areas to better generate the economic development strategy.

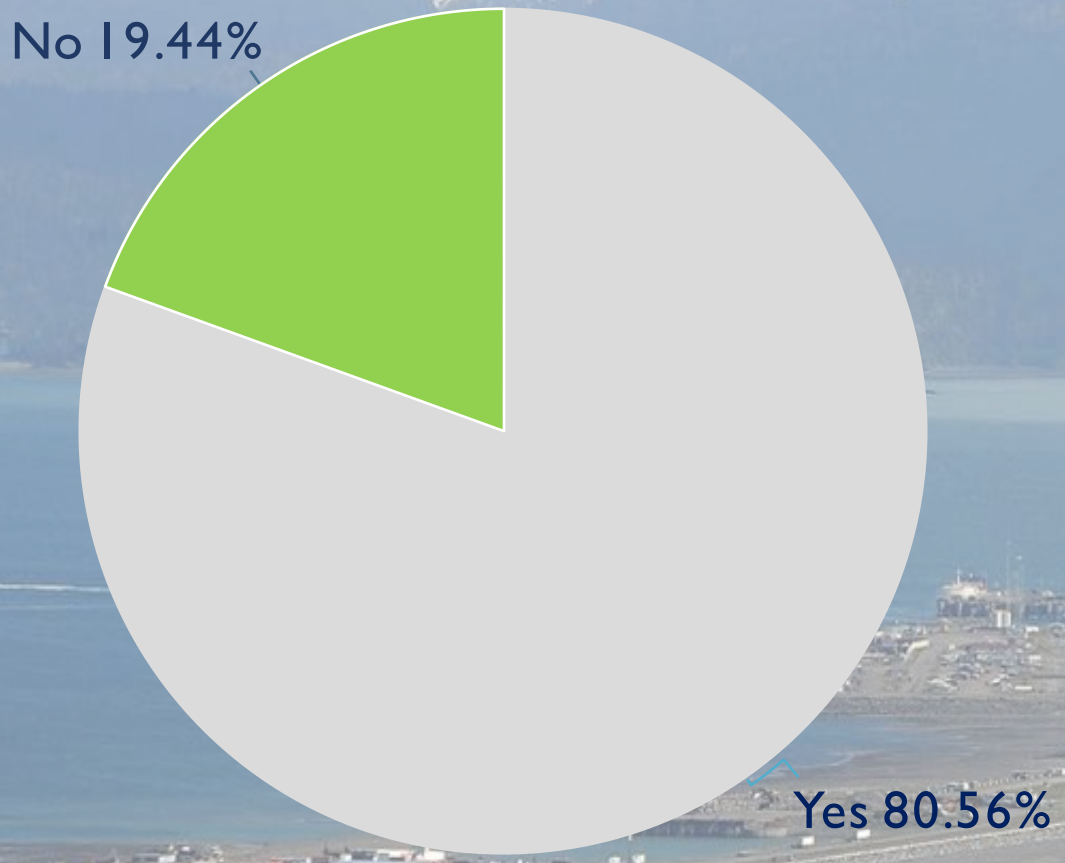
Highlights from the Business Survey

Perceptions of the Current Business Climate are Split

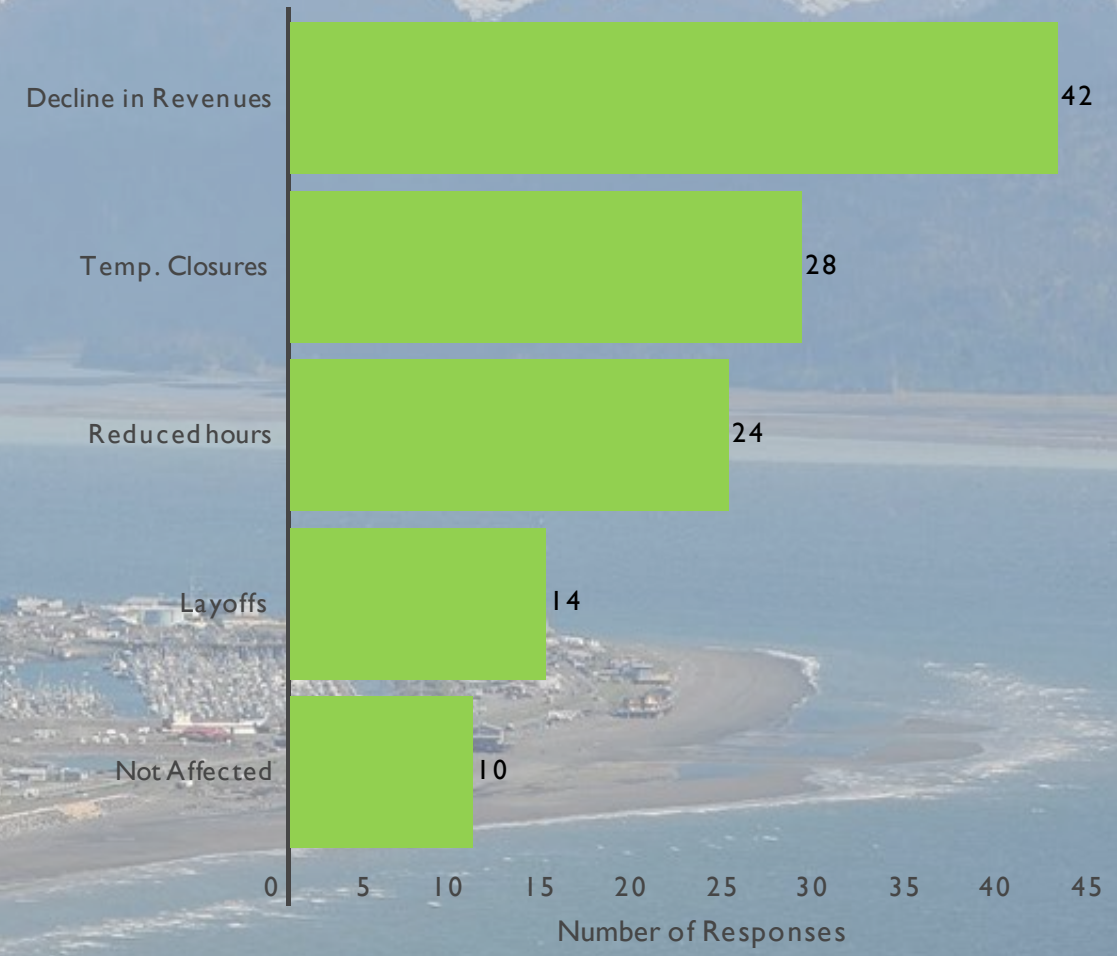


Impacts of COVID19 Pandemicon Businesses

Businesses Impacted by COVID

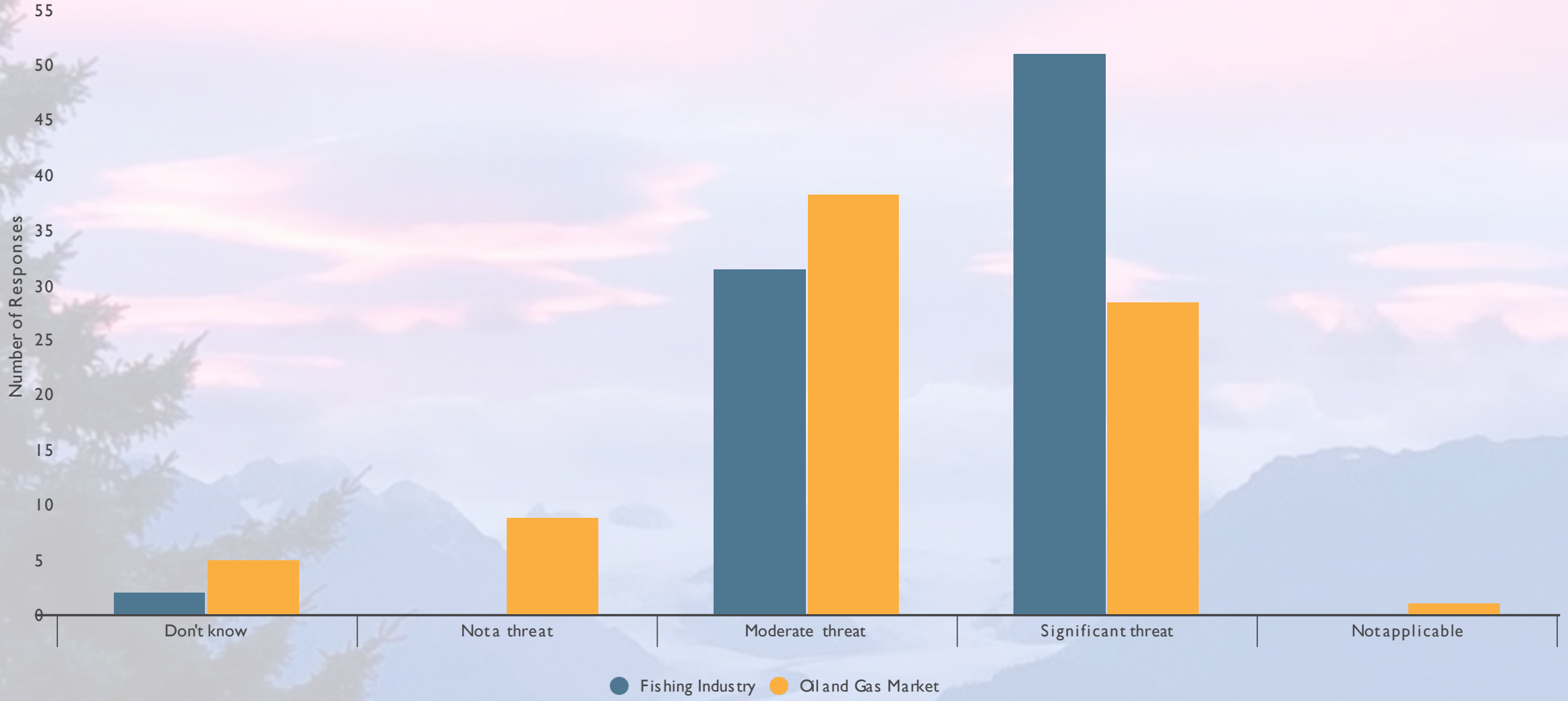


Ways in which Businesses Have been Affected

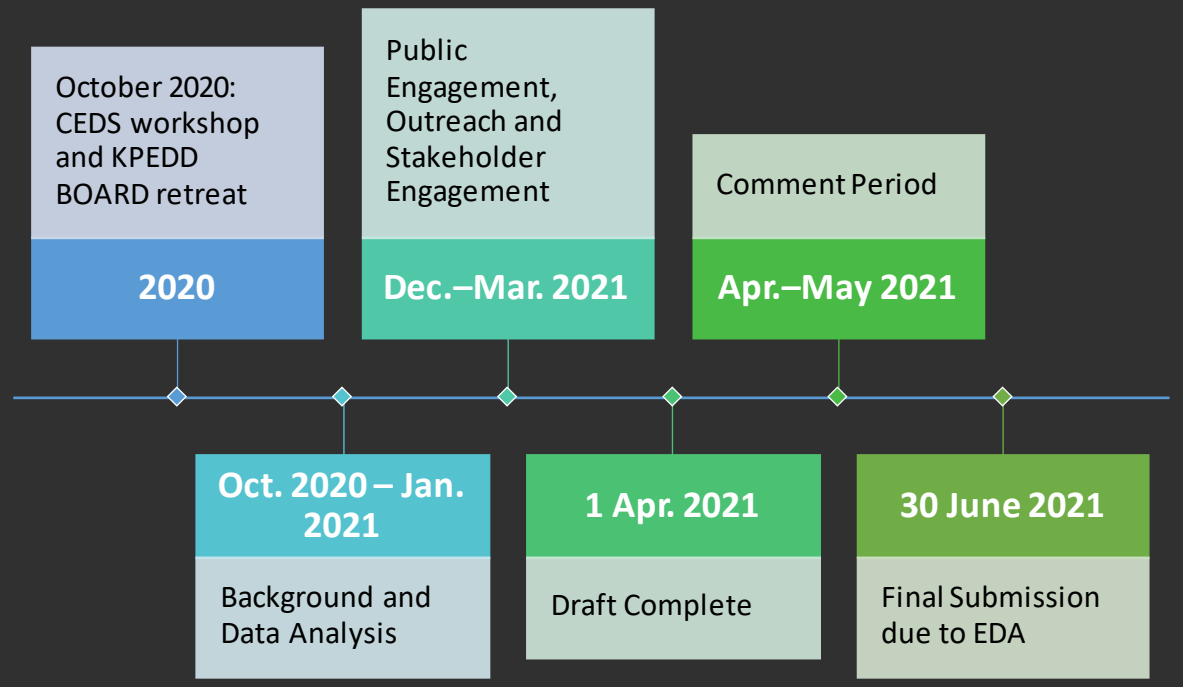


Perceptions on Risks to the Economy

Changes to the Fishing and Oil and Gas Industry are Viewed as Threats



CEDS TIMELINE to COMPLETION



When has having a CEDS made a difference?

This Photo by Unknown Author is licensed under CC BY-SA

- 7.0 magnitude 2018 Earthquake 2019
- Peninsula Wildfires; among the biggest fire seasons on record for the state
- COVID-19 Pandemic
- Alaska Railroad Corp's Alaska Freight Dock and Corridor Improvement Project (Seward)
- Expansion of Opportunity Zones (Borough Wide)
- DOT's Bridge Access Road Pedestrian Pathway (Kenai)
- Cook Inlet Commercial Fishery Support (Borough)
- Alaska Beauty Peony Cooperative (Homer)
- Challenger Learning Center Curriculum Expansion (Kenai)
- Homer Soil and Water Conservation District Specialty Crop Block Grant for Food Distribution Study
- Alaska Fish Nutrition

Investment in Broadband Infrastructure: A Universal Priority

A reoccurring priority deserves attention……

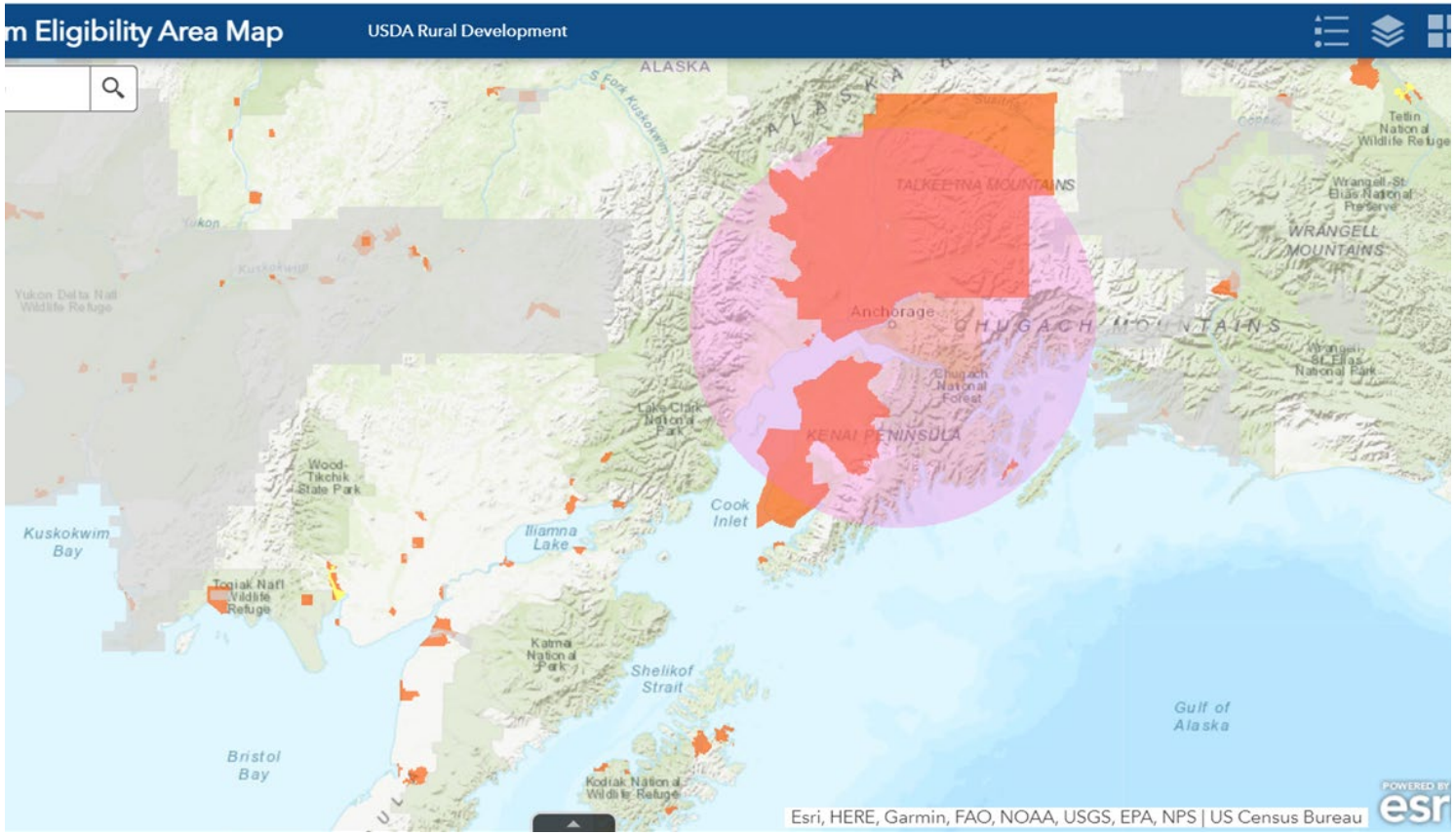
Planning for Alaska's broadband future is imperative because the state lags in adequate statewide infrastructure. In fact, a December 2012 "State Broadband Index" developed by TechNet, an advocacy group comprised of innovators and technology leaders, ranks Alaska 49th of all 50 states in broadband adoption, network quality, and economic structure.

A second snapshot of the nation's technological health, published in December 2012 by the Information Technology & Innovation Foundation and called the "2012 State New Economy Index," benchmarked economic transformation in all 50 states by asking one simple question: To what degree does the structure of state economies match the ideal structure of the New Economy?

The research measured five indicators: knowledge jobs, globalization, economic dynamism, the digital economy, and the capacity to innovate. Alaska ranked 28th of all 50 states.

- State of Alaska's Statewide Broadband Task Force Plan, 2014

When leaders make investing in Broadband Infrastructure a Priority the opportunities for growth and development on the Peninsula begin to emerge.



- Encourage the development of businesses related to information technology, one of the fastest-growing segments of the U.S. economy.
- Enable hospitals and clinics to make better use of telemedicine.
- Provide our communities and residents with greater access to education through distance learning.
- Make the Kenai Peninsula more attractive to technology-driven businesses and corporations.
- Enhance public safety and emergency response systems.

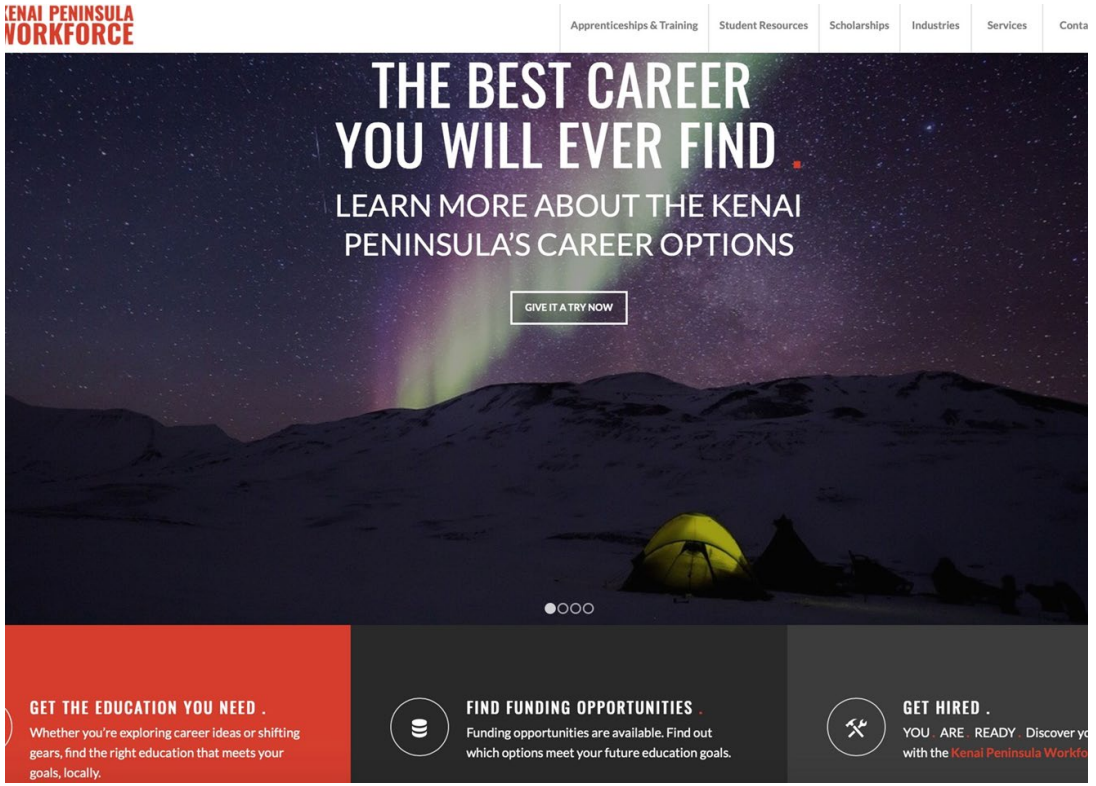
Existing Identified Challenges on the Peninsula

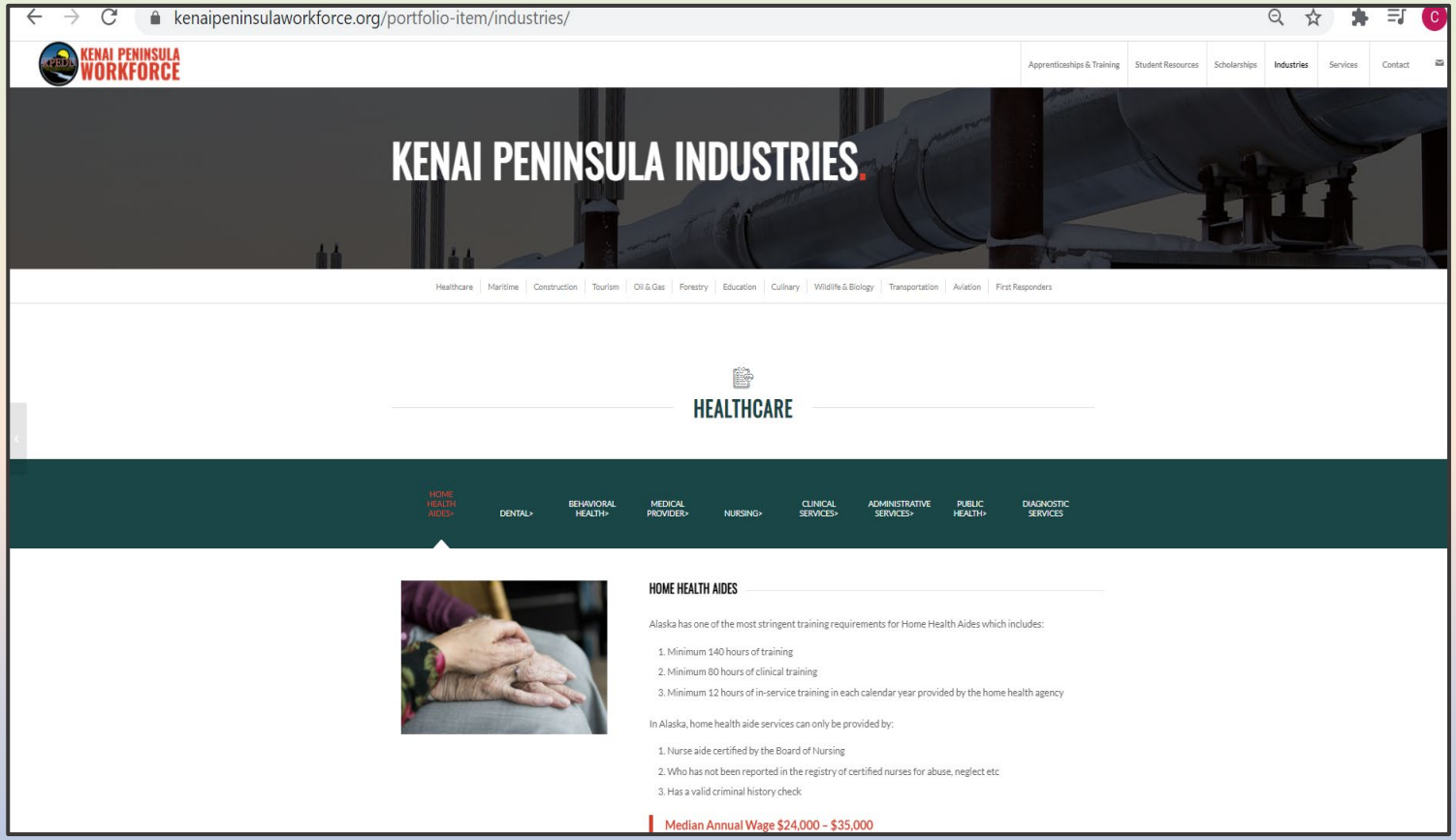
- Many of our challenges pose similar obstacles and pathways to resolve
- Erosion, a great example - which is occurring more and more along Alaska's coastline
- Land and resource management
- Access to reliable Broadband
- Creating economic stability and resiliency
- A rising tide floats all boats

kenaipeninsulaworkforce.org

"When a job opens up on the Kenai Peninsula, we want residents to be ready. Our region is filled with incredibly talented and driven individuals, ready to take on new challenges. Our job is to connect them with the resources they need to guarantee their success."

-Tim Dillon, Executive Director





Health Care	Oil and Gas	Wildlife and Biology
Maritime	Forestry	Transportation
Construction	Education	Aviation
Tourism	Culinary	First Responders

- In all, the site addresses 12 of the Kenai Peninsula's workforce industries including tourism, first responders, construction and education. It dives into what careers within different industries require of applicants. Someone interested in pursuing a career in health care, for example, could look at training requirements, median annual wages, education requirements, relevant degree programs on the peninsula and other general information by health care field.

kpedd.org

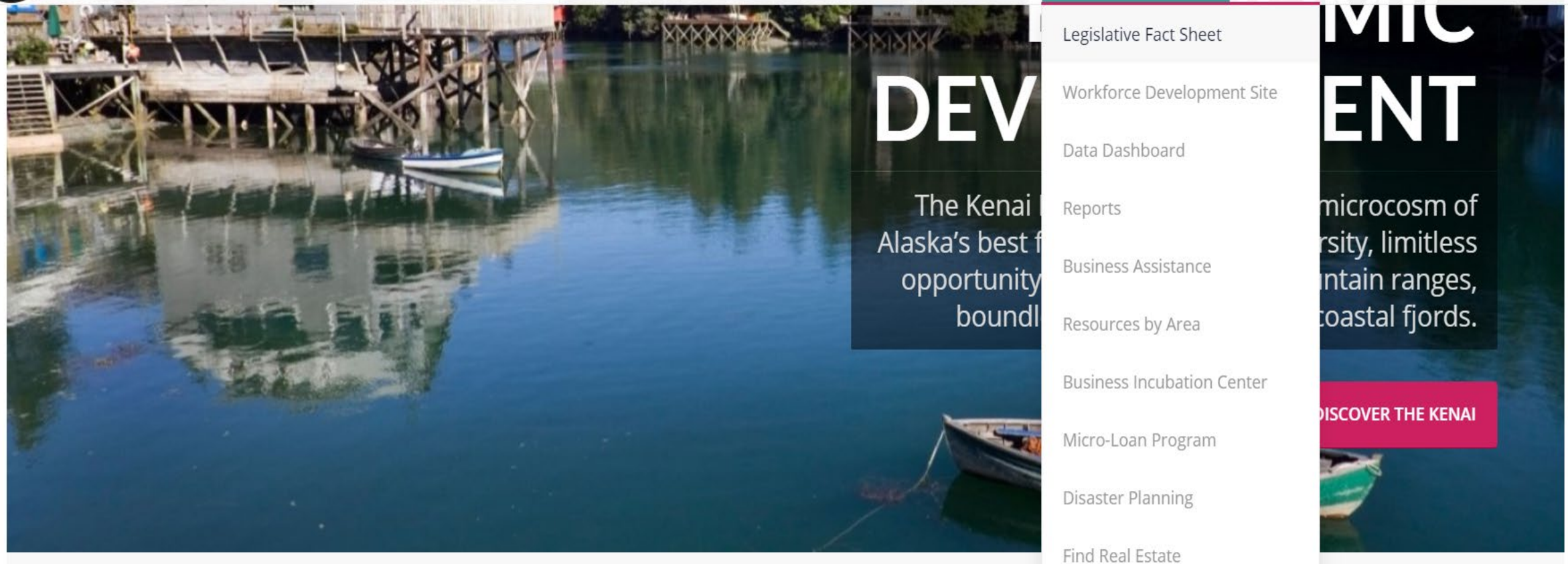
1 (907) 283-3335

Contact | Data Dashboard

Kenai Peninsula Economic Development District, Inc.

About | Region | Industries | Overview | Tools & Resources | Partners & Investors | News & Events

- Legislative Fact Sheet
- Workforce Development Site
- Data Dashboard
- Reports
- Business Assistance
- Resources by Area
- Business Incubation Center
- Micro-Loan Program
- Disaster Planning
- Find Real Estate
- Find a Realtor



KENAI PENINSULA | HOMER, | KENAI, | SELDOVIA, | SEWARD, | SOLDOTNA,

https://ua-ced.org/legislative-fact-sheets

Center for Economic Development
UAA Business Enterprise Institute

2021 Economic and Demographic Factsheet

House District 29 - Representative Ben Carpenter
North Kenai

Income, Housing, and Employment	District	Rank*	Alaska
Median annual household income	$67,550	26 of 40	$77,640
Portion of income spent on housing	17%	33 of 40	21%
Poverty rate for all individuals	15%	7 of 40	11%
Poverty rate for children (under 18)	22%	6 of 40	15%
Percent aged 19-64 employed	66%	35 of 40	73%

Education and Internet	District	Rank	Alaska
Individuals age 25+ with high school diploma or higher	93%	23 of 40	93%
Individuals age 25+ with bachelor's degree or higher	21%	31 of 40	30%
Households with internet access	80%	33 of 40	86%

Population and Diversity	District	Rank	Alaska
Population	17,619	30 of 40	737,068
Individuals speaking a language other than English	8%	31 of 40	16%
Share of population that is non-white	18%	31 of 40	35%
Share of population that is Alaska Native (alone/in combination)	13%	24 of 40	20%

Health Care	District	Rank	Alaska
Individuals without health insurance coverage	17%	11 of 40	14%
Individuals with public health insurance coverage alone	20%	14 of 40	19%
Under age 19 using Medicaid/means-tested public coverage	39%	16 of 40	36%

Safety Net	District	Rank	Alaska
Households receiving SNAP/food stamps	9%	19 of 40	11%
Households with children under 18 receiving SNAP/food stamps	19%	12 of 40	16%
Households with Social Security Income	37%	1 of 40	23%
Children under 18 in households receiving public assistance	26%	14 of 40	23%

*Rank: 1 indicates the largest value, not necessarily the most favorable

Source: American Community Survey, 2015-2019

Center for Economic Development
UAA Business Enterprise Institute

2021 Economic and Demographic Factsheet

Senate District O - Senator Peter Micciche
Kenai/Soldotna/Seward

Income, Housing, and Employment	District	Rank*	Alaska
Median annual household income	$66,545	15 of 20	$77,640
Portion of income spent on housing	18%	16 of 20	21%
Poverty rate for all individuals	13%	5 of 20	11%
Poverty rate for children (under 18)	17%	5 of 20	15%
Percent aged 19-64 employed	68%	16 of 20	73%

Education and Internet	District	Rank	Alaska
Individuals age 25+ with high school diploma or higher	92%	16 of 20	93%
Individuals age 25+ with bachelor's degree or higher	22%	17 of 20	30%
Households with internet access	80%	16 of 20	86%

Population and Diversity	District	Rank	Alaska
Population	37,810	5 of 20	737,068
Individuals speaking a language other than English	8%	17 of 20	16%
Share of population that is non-white	19%	16 of 20	35%
Share of population that is Alaska Native (alone/in combination)	12%	14 of 20	20%

Health Care	District	Rank	Alaska
Individuals without health insurance coverage	14%	7 of 20	14%
Individuals with public health insurance coverage alone	20%	8 of 20	19%
Under age 19 using Medicaid/means-tested public coverage	37%	7 of 20	36%

Safety Net	District	Rank	Alaska
Households receiving SNAP/food stamps	10%	9 of 20	11%
Households with children under 18 receiving SNAP/food stamps	17%	7 of 20	16%
Households with Social Security Income	34%	1 of 20	23%
Children under 18 in households receiving public assistance	20%	9 of 20	23%

*Rank: 1 indicates the largest value, not necessarily the most favorable

Source: American Community Survey, 2015-2019

Alaska Cares Top 7 Regions Funding Summary

Municipality of Anchorage-
1,438 applications approved for $73,044,440.14

Kenai Peninsula-
1,041 applications approved for $49,692,653.94

Matanuska Susitna Borough-
499 applications approved for $20,970,195.59

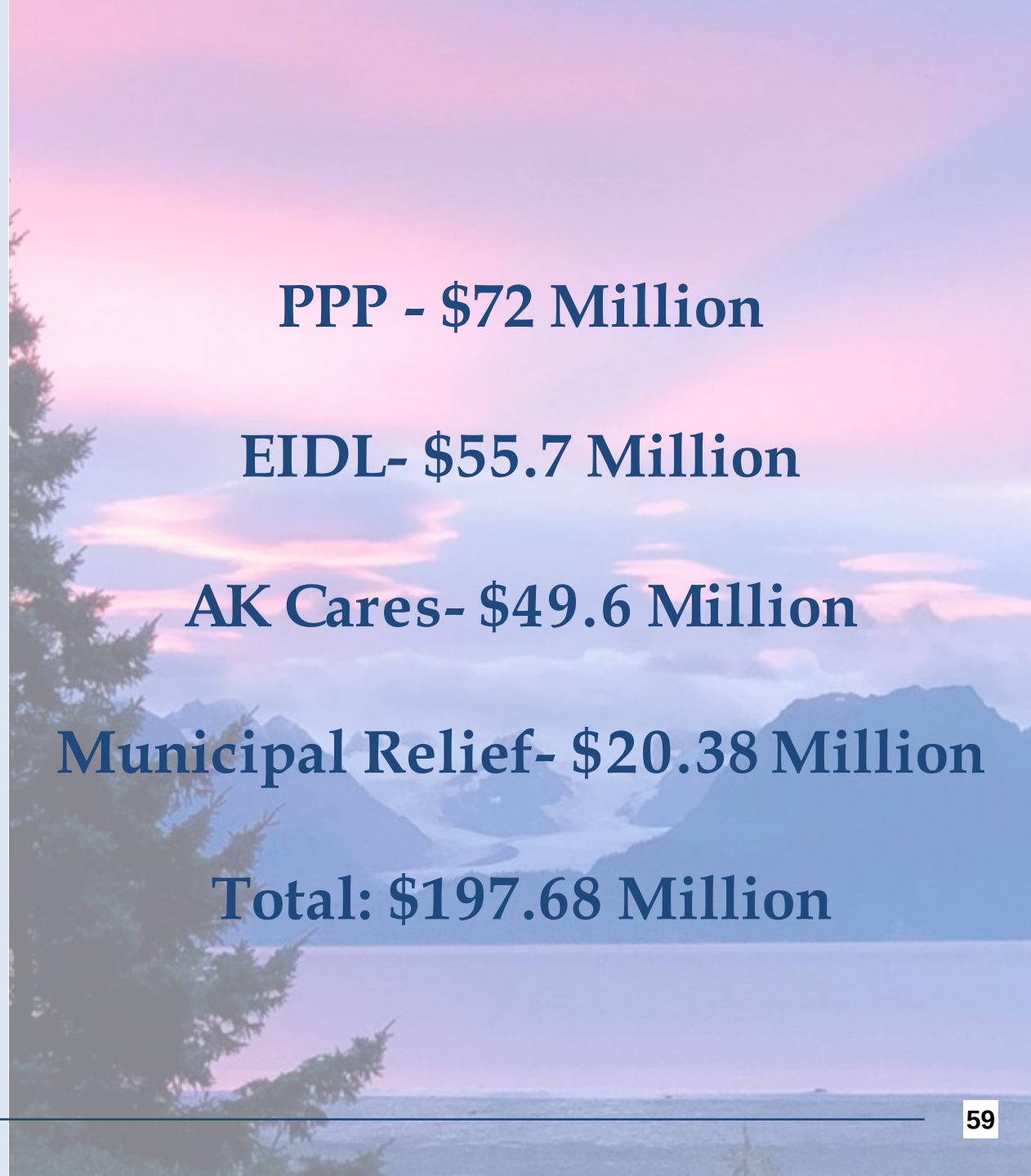
Valdez/Cordova-
344 applications approved for $17,462,932.26

Juneau Borough-
338 applications approved for $16,491,879.47

Fairbanks-
309 applications approved for $16,067,635.00

Ketchikan Borough-
238 applications for $11,886,018.57

Funding Summary of Governmental Pandemic Support for Peninsula



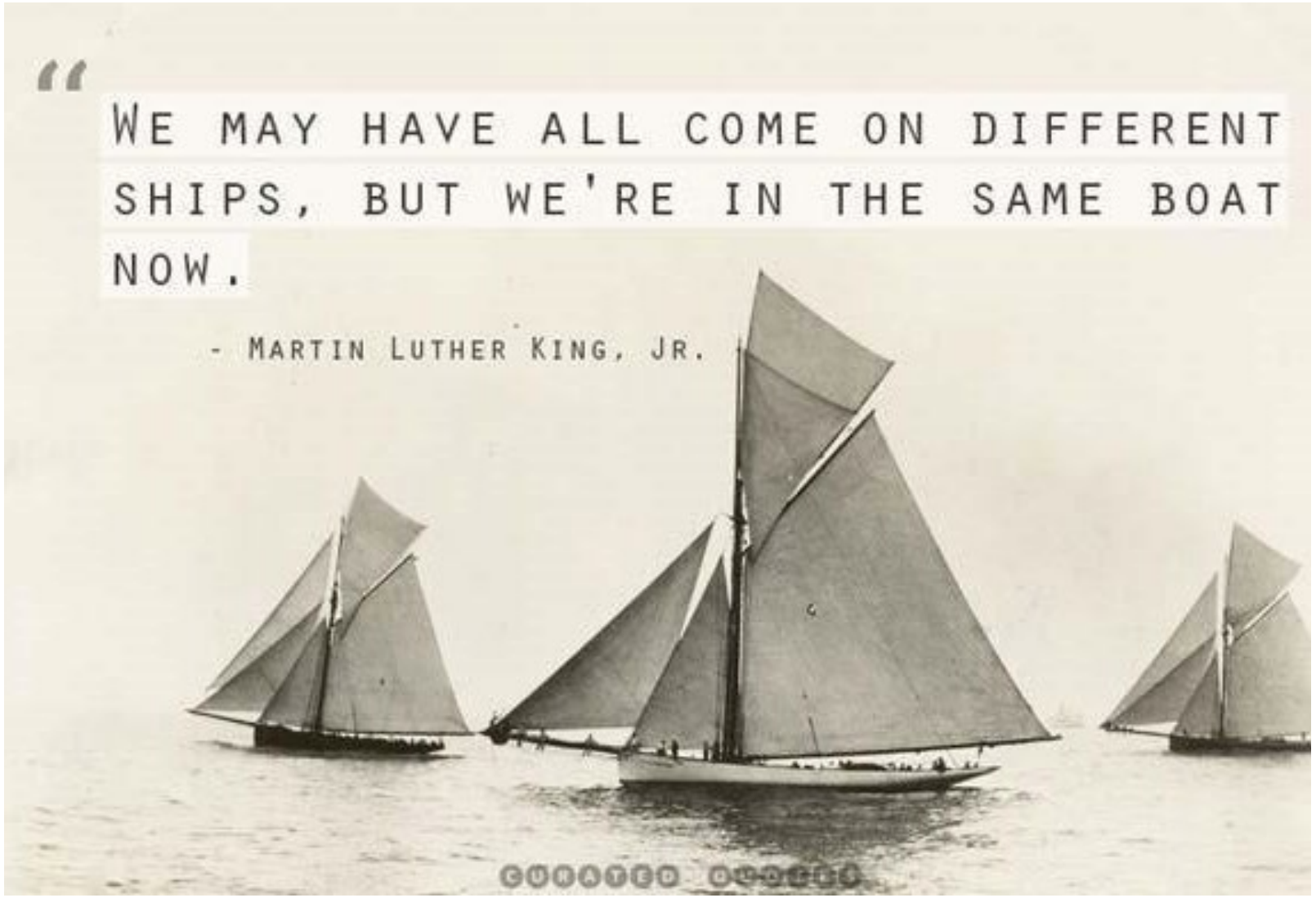
PPP - $72 Million

EIDL- $55.7 Million

AK Cares- $49.6 Million

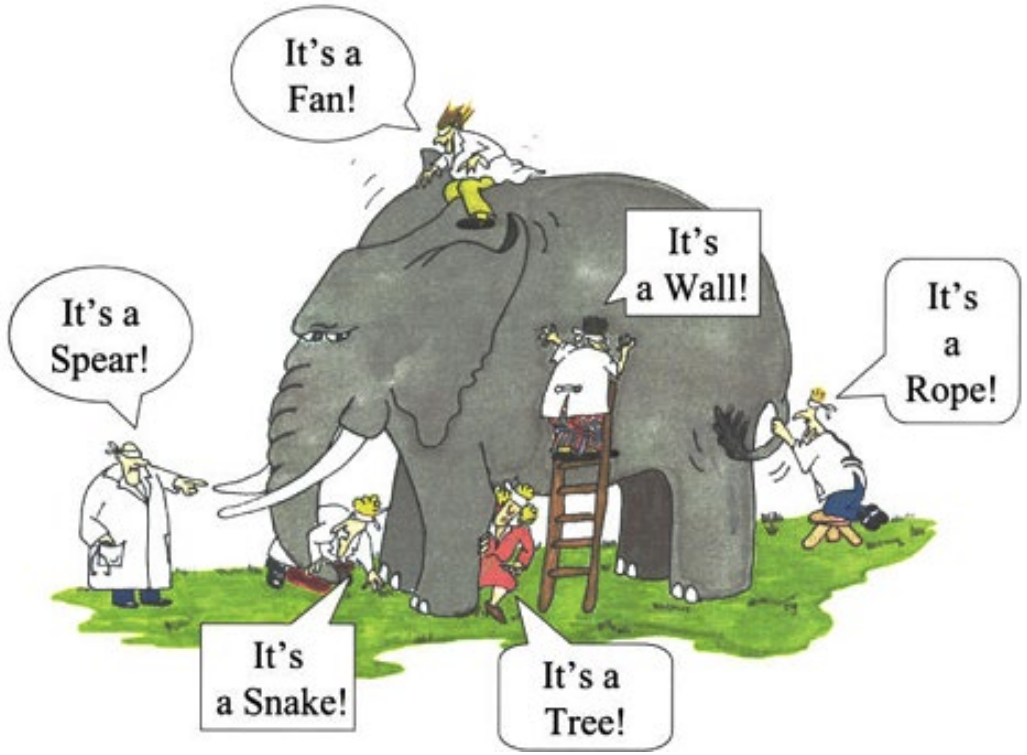
Municipal Relief- $20.38 Million

Total: $197.68 Million



It’s important to remember, we are all really the same.

Don’t forget the bigger picture…..

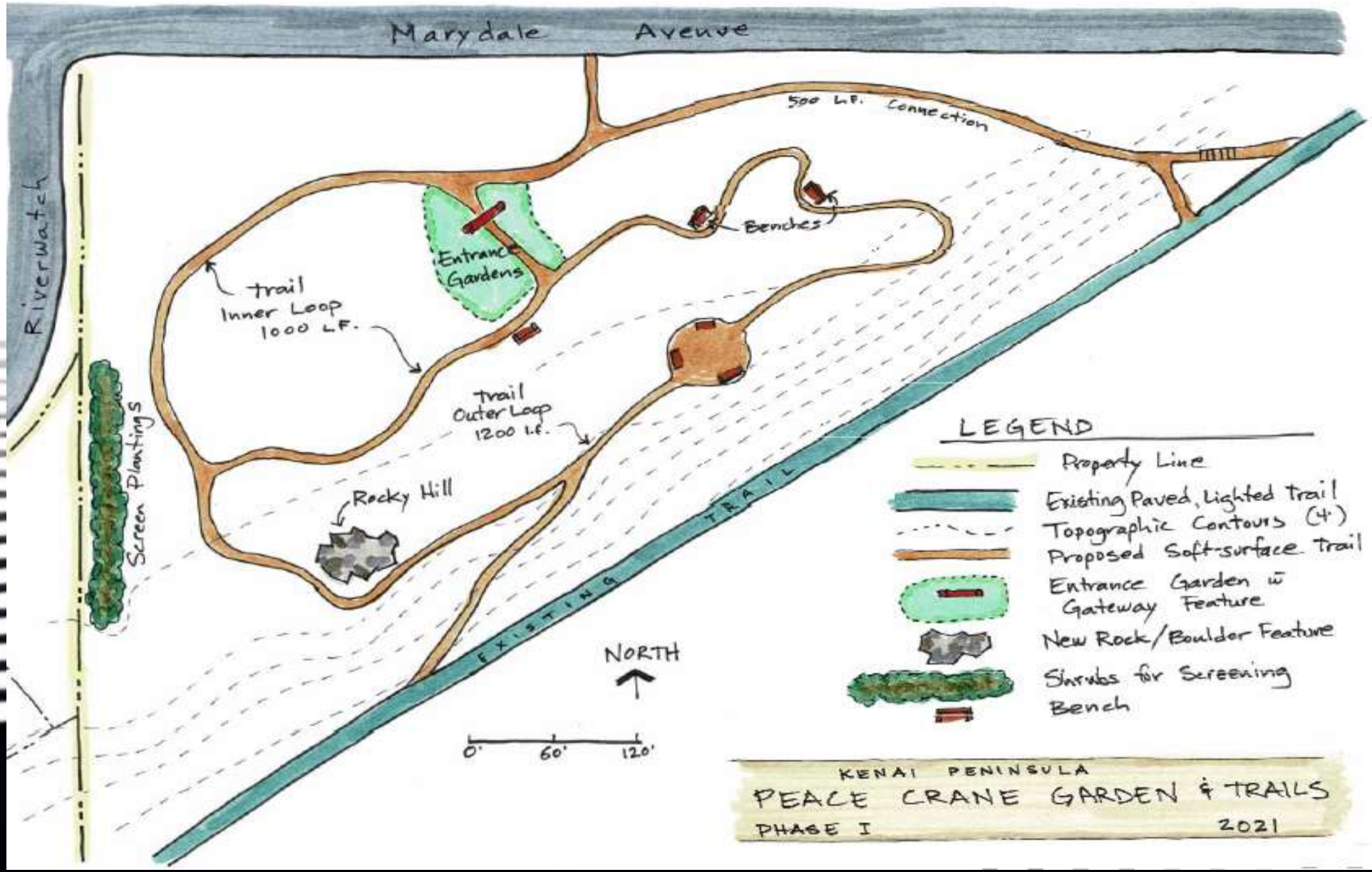


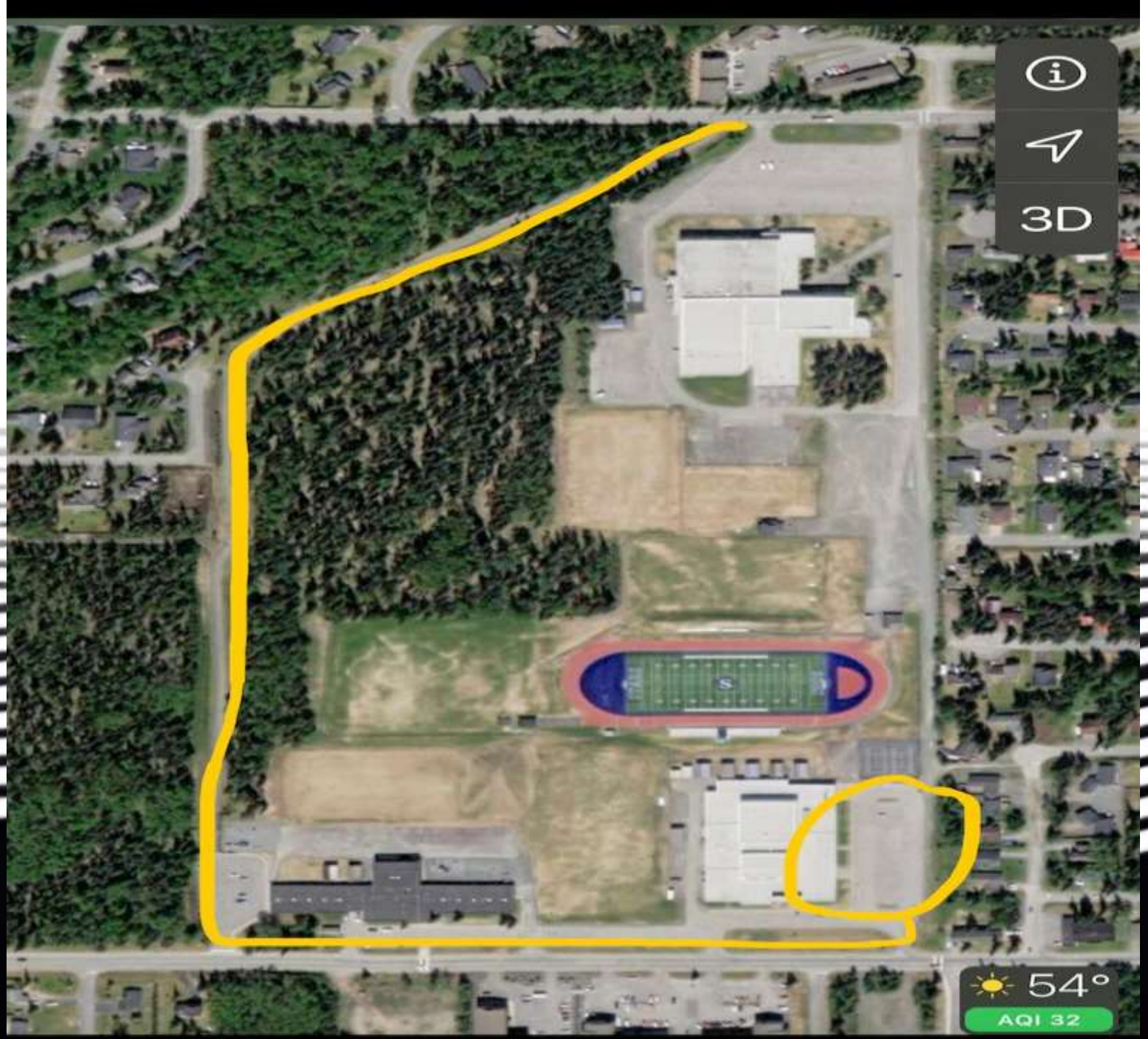
The Kenai Peninsula is vast; approximately 25,000 square miles. The size of West Virginia. It's intuitive that the Kenai Peninsula CEDS will be as vast in content as it is geographically.

Thank you so very much for your time, input and commitment to our Kenai Peninsula.

TIM@KPEDD.ORG
www.kpedd.org
(907)283-3335

キーナイ半島
平和鶴庭園散策路
Kenai Peninsula Peace
Crane Garden Trails


Marydale Avenue
Riverwatch
500 L.F. Connection
Benches
Entrance Gardens
trail
Inner Loop
1000 L.F.
trail
Outer Loop
1200 l.f.
Rocky Hill
Screen Plantings
EXISTING TRAIL
NORTH
0'
60'
120'
LEGEND
Property Line
Existing Paved, Lighted trail
Topographic Contours (4')
Proposed Soft-surface trail
Entrance Garden w Gateway Feature
New Rock/Boulder Feature
Shrubs for Screening
Bench
KENAI PENINSULA
PEACE CRANE GARDEN & TRAILS
PHASE I
2021

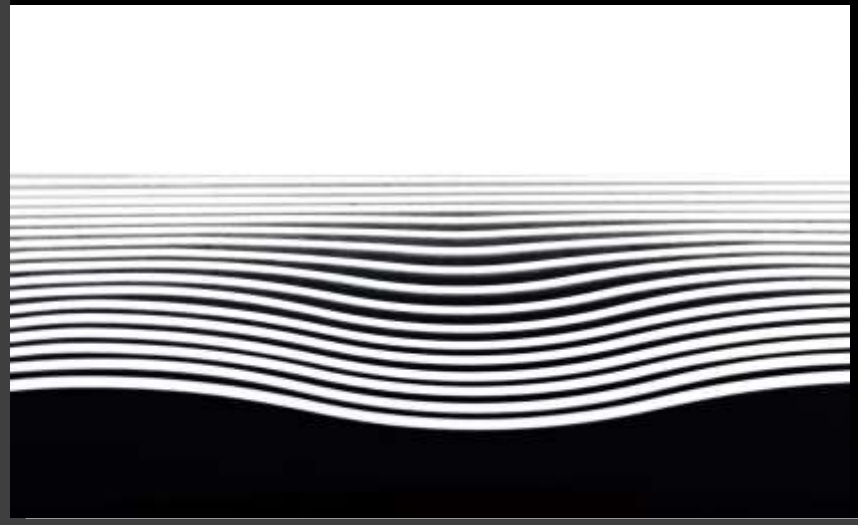

3D
54°
AQI 32

GRANTS

Two Rotary Grants – used for the sculpture
Applying for the RTP grant in the amount of $75,000.00

VOLUNTEER HOURS +260

Rotarians, Neighbors, and Donors



キーナイ半島
平和鶴庭園散策路

Kenai Peninsula Peace
Crane Garden Trails

Annual Report – Due by April 15
CTMA 2020-01

RECEIVED
APR 01 2021
KPB PLANNING DEPT.

TRAIL MANAGER:
Shimai Toshi Garden Trails, Inc. dba Kenai Peninsula Peace Crane Garden Trails
PO Box 771
Soldotna, AK 99669

1. SUMMARY OF TRAIL FACILITIES DEVELOPMENT
   a. Kilometers by Trail Type:
      Type: Rough cut Kilometers: 0.77 km
      Type: _____ Kilometers: _____
      Type: _____ Kilometers: _____
   b. Number of Trailheads (access points): 1
   c. Number of Parking Spaces: 0 on-site

2. TRAIL FACILITIES USE OR AVAILABILITY FOR USE
   a. Number of School Events: 0
   b. Number of Community Events: 3 — totalling over 260 volunteer work hours.
   c. Summer Estimated Users Per Day: N/A
   d. Winter Estimated Users Per Day: N/A
   e. Estimated Total Users Per Year: N/A

3. MAINTENANCE ACTIVITIES
   a. Number of Grooming Events: 3
   b. Vegetation Treatment or Other Work Days: 3
   c. Trash Removals: 3

4. MANAGEMENT ACTIVITIES
   a. Grant Funds Used: $0
   b. Grant Funds Applied For: $75,000.00
   c. Number of Signs: 2 for grant project info

5. FEES
   Fees, if any, will include the total amount collected in US dollars and the number of fee units.
   Total Fees Collected: N/A *Number of Fee Units:* N/A
   Number of Personal Use Cabins: _____ Cabin Use Fees Collected: $_____
   Public Use Cabin Rental Days: _____ Personal Use Cabin Daily Fee: $_____
   Cabin Availability: _____ days available for reservations
   Cabin Maintenance: _____ days (attach log of maintenance activities)
   Cabin Maintenance & Supply Costs: $_____
   Cabin Maintenance Reserve Account Balance: $_____

6. CURRENT CONTACTS

Trail Plan Administrator Name: Sarah Pyhala

Contact Phone Number: (907) 252-0728

Email: sarah.pyhala@outlook.com

Additional Contact Name: Kumi Shields

Contact Phone Number: (360) 510-0049

Email: kumiandjoel@gmail.com

7. Signature: [signature] Date: 3/31/2021

From left, Sarah Pyhala, president of the board for the Shimai Toshi Garden Trails, which is spearheading the Kenai Peninsula Peace Crane Garden Trail, Allan Auxier and Reverend Diane Dunn pose with a string of 1,000 origami cranes on Marydale Avenue in Soldotna, Alaska, on Oct. 17, 2020. Dunn, of Deer Island, Oregon, made the cranes . (Photo by Brian Mazurek/Peninsula Clarion)

ADVERTISEMENT

Building a place for peace

Kenai Peninsula Peace Crane Garden Trails take shape

By Brian Mazurek
Saturday, October 17, 2020 11:14pm | NEWS

Just a short walk down the road from Soldotna High School, a group of about a dozen volunteers spent their Saturday clearing brush and dead trees from a plot of land that will eventually be the site of the Kenai Peninsula Peace Crane Garden Trails.

The trails running through the 7-acre lot on Marydale Avenue have been mostly cleared and marked off with flags already, and volunteers have been working on the area since June, when the Kenai Peninsula Borough agreed to enter a 20-year lease with Shimai Toshi Garden Trails, Inc. — the nonprofit organization behind the project — and authorized the group to turn the plot into a community garden.

Sarah Pyhala, who is president of the Shimai Toshi Garden Trails board of directors and has spearheaded the project for the last three years, said the idea for the garden first took root when Pyhala and her husband, Matthew, were gifted some seeds in February of 2018.

Those uncontaminated seeds were harvested from trees that had survived the atomic bombing of Hiroshima, Japan, at the end of World War II. While trying to get the seeds to grow, Pyhala decided she wanted to be able to plant the trees in a Japanese-style garden and trail that could provide "restorative effects for visitors' physical and psychological being," according to the garden's website.

Pyhala and her group struggled for about two years to find a suitable location for the garden, but in the meantime, three of the Japanese hackberry seeds and one of the gingko seeds successfully sprouted and have since grown into healthy saplings.

Then in March of this year, the Kenai Peninsula Borough Assembly agreed to lease a plot of land next to Soldotna High School for the garden. When Borough Mayor Charlie Pierce signed the lease agreement at the end of June, Phase 1 of the project was officially underway.

Despite the roughness of the current trail and the amount of dead wood still left to remove, Pyhala said she can picture the finished product as clearly as if it were already there.

“I’ve been working with our board and also a task force before that for almost three years,” Pyhala said. “And it’s all finally coming into place.”

The trail winds through the property and branches off to several different distinct spots, including a central space that will feature the garden’s namesake — a 6-foot tall Peace Crane sculpture made by local artist Christina Demetro. The sculpture is made of clay and cast in bronze. In the early stages of the project, Demetro visited 40 classrooms around the peninsula and engaged local students by teaching them how to make clay feathers, write poems and play the xylophones that will be enveloped by the wings of the finished crane statue.

Pyhala said that the statue is close to done, with the last update the installation of a donation box.

Demetro’s bronze statue will likely be the largest crane featured at the trail, but it will not be the only one.

While working on the trail Saturday, Pyhala was visited by Reverend Diane Dunn of Deer Island, Oregon, who gifted Pyhala a string of 1,000 folded paper cranes of various colors and patterns to display in the garden.

Dunn is the reverend of the Myokoin Buddhist Temple in Deer Island and came to Alaska this summer to visit her parents. She told the Clarion that she learned about the garden while doing some research on the local area, and she got the idea to put her origami skills to use.

“I was going through some very stressful times myself, and I found it very meditative to fold cranes,” Dunn said. “Before I knew it I had folded 1,500. I left those in Oregon with friends, and then when I came up here I started folding again, and when I saw the Peace Crane project I thought it would be perfect.”

Dunn, who was sporting a face mask with origami cranes on it, said she has strung cranes for many different charities and organizations over the years, both on her own and with the help of other master folders.

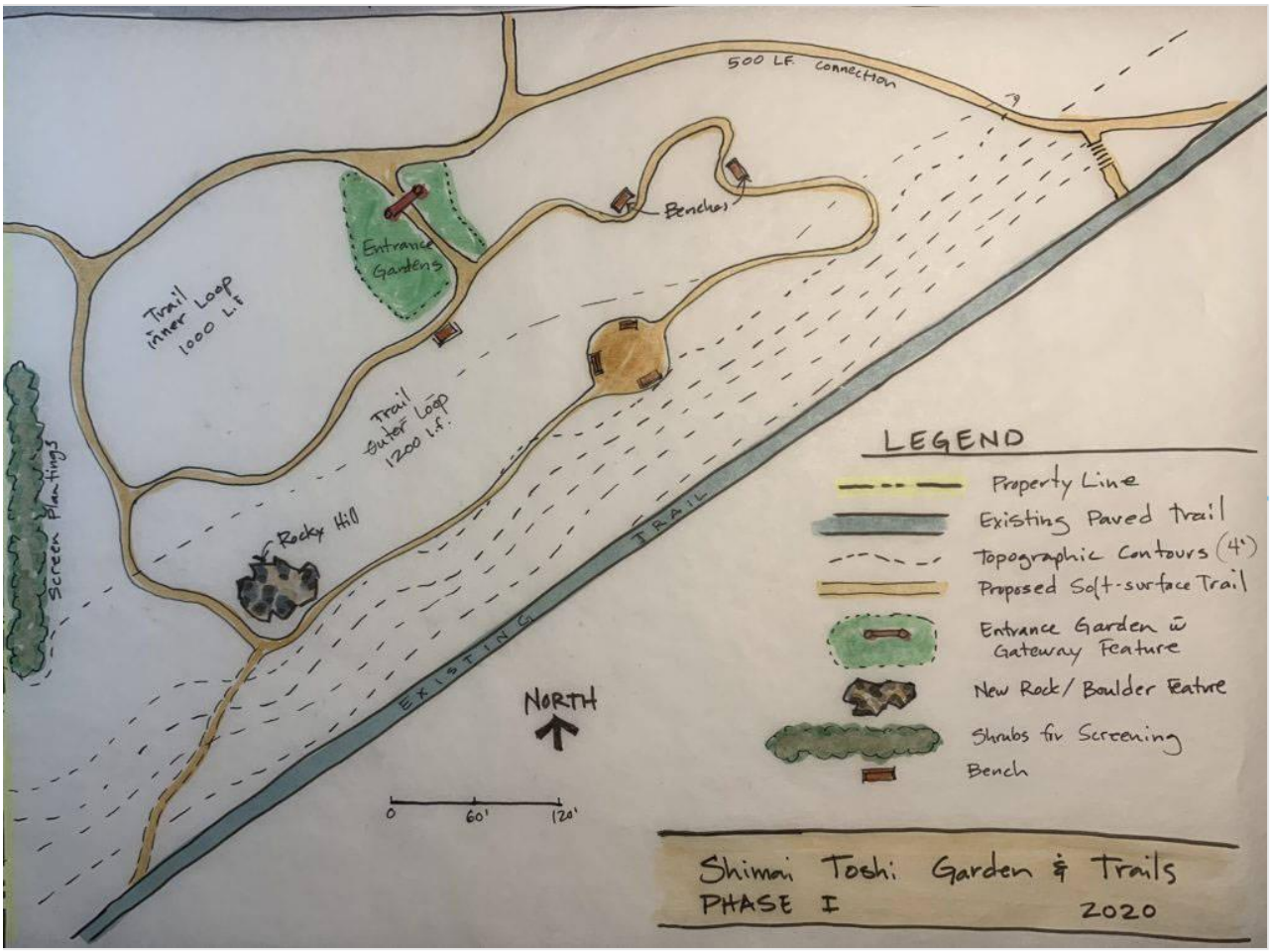
Pyhala said that, until the paper cranes could be hung in the gardens, she planned to encourage local businesses to hang them up and raise awareness about the garden.

The progress on the trails will continue through the winter, with Pyhala as well as members of the Soldotna Rotary Club and other volunteers coming out once a month to work.

The next major step in the project's development will come if Pyhala receives a grant from the state's Division of Parks and Outdoor Recreation to cover the cost of leveling out the trails and installing gravel for the paths. If all goes according to plan, Pyhala hopes to have the first iteration of the garden and trails complete by this time next year, crane statue and all.

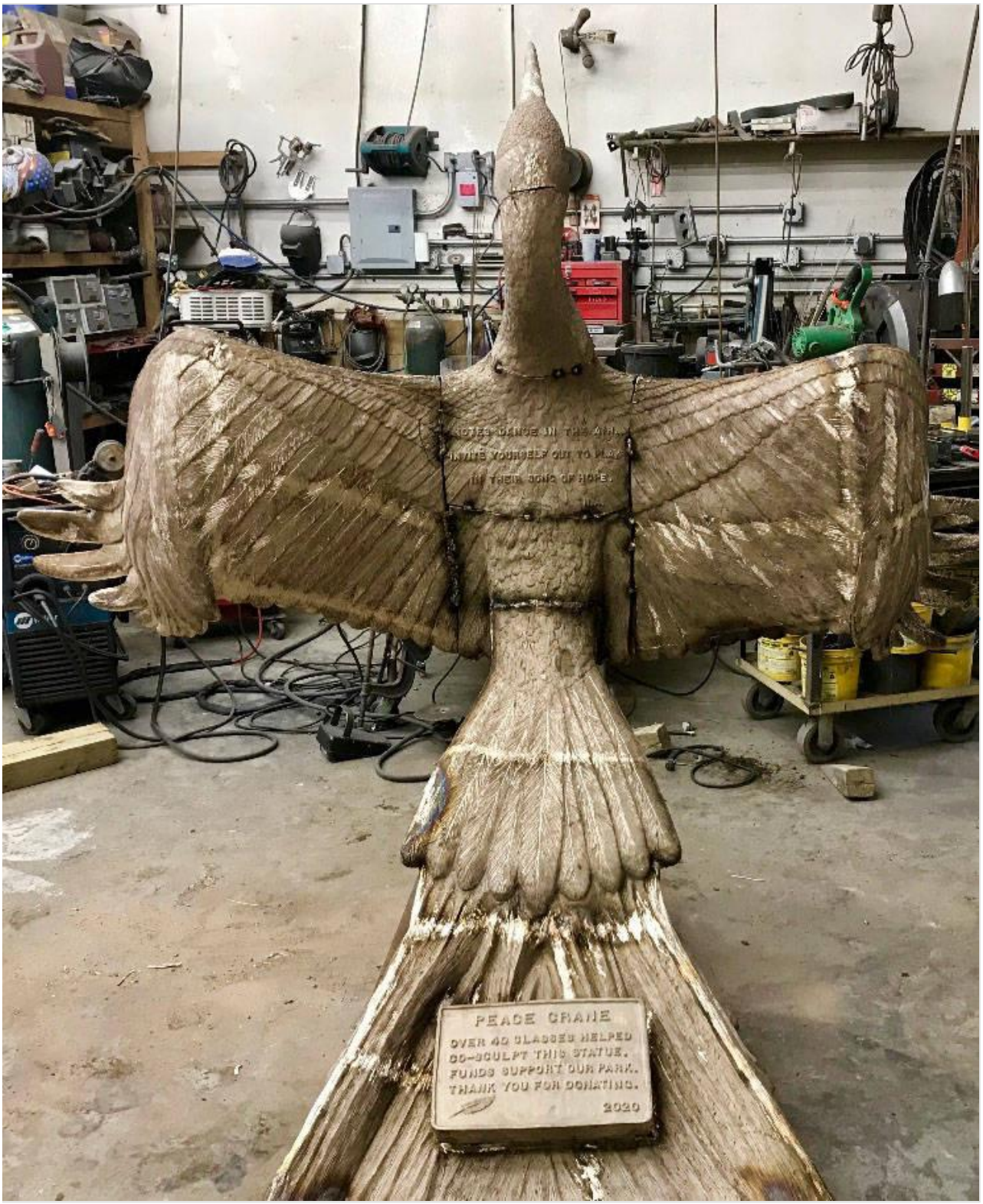
To learn more about the Kenai Peninsula Peace Crane Garden Trails, visit akjapanesegarden.org.

Reach reporter Brian Mazurek at bmazurek@peninsulaclarion.com.



A concept map of Phase 1 of the Kenai Peninsula Peace Crane Garden Trail is seen here in this undated photo. (Courtesy Sarah Pyhala)

Volunteers haul dead wood that has been cleared from the Kenai Peninsula Peace Crane Garden Trail on Marydale Avenue in Soldotna, Alaska, on Oct. 17, 2020. (Photo by Brian Mazurek/Peninsula Clarion)



A peace crane statue that will be featured at the Kenai Peninsula Peace Crane Garden Trail is seen in this undated photo. (Courtesy Sarah Pyhala)

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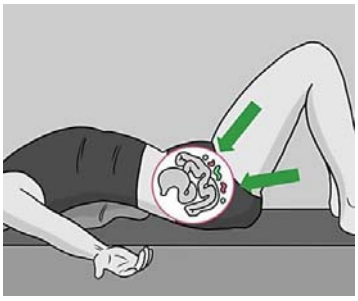

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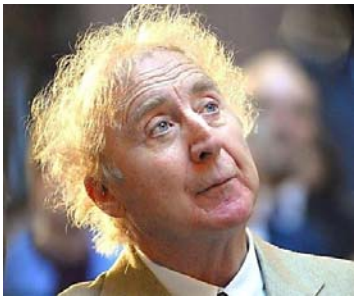

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Introduced by:	Hibbert, Johnson
Date:	03/02/21
Hearing:	04/20/21
Action:	Enacted as Amended
Vote:	8 Yes, 1 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-24

AN ORDINANCE APPROPRIATING FUNDS AND AUTHORIZING THE BOROUGH CLERK TO CONTRACT FOR NECESSARY VOTING MACHINES, SOFTWARE, AND RELATED EQUIPMENT TO PROVIDE AN ACCESIBLE VOTING SYSTEM FOR PERSONS WITH DISABILITIES

WHEREAS, the Americans with Disabilities Act (ADA) and the Help America Vote Act of 2020 (HAVA), as applicable to federal elections, along with other federal laws related to protecting the right to vote, require full and equal opportunity to vote for all eligible voters and an accessible voting system for persons with disabilities; and

WHEREAS, a complaint was filed following the October 6, 2015 borough election with the Alaska State Commission for Human Rights ("ASCHR") alleging discrimination on the basis of a physical disability due to the borough allegedly not accommodating the complainant's vision disability by providing an accessible voting machine; and

WHEREAS, the case caption is *Richard Malley v. Kenai Peninsula Borough*, ASCHR No. J-15-351 (hereinafter the "*Malley* case");

WHEREAS, on October 16, 2018 ASCHR issued its substantial evidence determination in the *Malley* case and offered a conciliation agreement in lieu of proceeding to public hearing; and

WHEREAS, the borough entered into the conciliation agreement on December 18, 2018; and

WHEREAS, as part of the conciliation agreement entered into in the *Malley* case the borough committed to adopting a voting system to provided private, independent voting by visually impaired citizens; and

WHEREAS, the borough must acquire voting equipment and related software that will accommodate individuals with disabilities by providing accessible voting machines and related software and services that allow for "meaningful access to private and independent voting" (hereinafter collectively "ADA compliant voting system"); and

WHEREAS, the ADA compliant voting system must be provided at every polling precinct or location in the borough where voting occurs; and

WHEREAS, on February 9, 2021, ASCHR approved an amendment to the conciliation agreement to provide the borough more time to acquire an ADA compliant voting system in order to comply with the terms of the conciliation agreement; and

WHEREAS, the current voting equipment used by the borough has passed its serviceable life; and

WHEREAS, the current voting tabulation server used by the borough is no longer supported by software or hardware vendors; and

WHEREAS, current voting equipment used by the borough is incapable of accommodating individuals with disabilities by providing accessible voting machines that allow for "meaningful access to private and independent voting"; and

WHEREAS, the State of Alaska is not able to provide the borough use of its ADA compliant voting system; and

WHEREAS, KPB 4.10.120 provides that the borough clerk may contract for the provision of specialized materials and supplies without obtaining competitive bids; and

WHEREAS, since 2007, only nine voting system providers in the United States have been able to meet the testing standards and accreditation requirements necessary to obtain Election Assistance Commission (EAC) certification under HAVA to provide the necessary ADA compliant voting system that will fit the borough's needs; and

WHEREAS, only two EAC certified companies responded to a request for quotes for an ADA compliant voting system that will fit the borough's needs, Dominion Voting Systems Inc. (Dominion) and Election Systems & Software, Inc. (ES&S); and

WHEREAS, after vetting the quotes, capabilities and services that each company could provide the borough for the costs quoted, Dominion was determined to be the superior choice to fulfill the borough's needs; and

WHEREAS, Dominion is a Colorado based company that provides a certified ADA compliant election system which is used by the State of Alaska, as well as many other boroughs and other municipalities in Alaska for the purposes of conducting and administering federal, state, and local municipal elections; and

WHEREAS, the borough has used Dominion, including predecessors in interest, elections products, equipment and software since 1999; and

WHEREAS, the borough is collaborating with the cities within the borough to provide for intergovernmental administration of local elections; and

WHEREAS, the funds appropriated by this ordinance will be utilized to cover the cost of the necessary election equipment to include ADA compliant voting equipment and related software;

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

SECTION 1. That $100,816 is appropriated from the General Fund fund balance account number 100.27910 to be transferred to the General Government Capital Project Fund to account number 407.11130.21VOT.49999 for the purchase of ten ADA compliant voting machines plus $5,000 for estimated shipping costs.

SECTION 2. That $48,000 is currently available through the FY2021 annual budgetary process in the General Fund Assembly - Elections Division account number 100.11130.43410 to supplement the FY2021 total annual lease cost of $148,976 for the ADA compliant voting system, which includes necessary system hardware, implementation, software licensing, support services, and $20,000 in estimated shipping costs.

SECTION 3. That $100,976 is appropriated from General Fund fund balance account number 100.27910 to account number 100.11130.21VOT.49999 to provide funding for the FY2021 total annual lease cost of $148,976 for the ADA compliant voting system, which includes necessary system hardware, implementation, software licensing, support services and $20,000 in estimated shipping costs.

SECTION 4. Pursuant to KPB 4.10.120(C), the borough clerk is authorized to execute an agreement, pursuant to terms and conditions substantially similar to the attached document, between Dominion Voting Inc. and the Kenai Peninsula Borough for an ADA compliant voting system.

SECTION 5. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Dunne, Elam, Johnson, Hibbert
No:	Derkevorkian
Absent:	None

VOTING SYSTEM HARDWARE PURCHASE AND RENTAL WITH OPTION TO PURCHASE BY AND BETWEEN DOMINION VOTING SYSTEMS, INC AND KENAI PENINSULA BOROUGH

This Voting System Hardware Purchase and Rental with Option to Purchase Agreement (hereinafter this or the "Agreement") is entered into by and between Dominion Voting Systems, Inc., (hereinafter "Dominion" or "Licensor"), and the Kenai Peninsula Borough ("Borough" or "Licensee"). This Agreement shall commence on May 1, 2021 ("Effective Date").

WHEREAS, the Borough desires to acquire certain Americans with Disabilities Act (ADA) compliant voting equipment, voting system services, and a software use licenses; and

WHEREAS, Dominion designs, manufactures, licenses, and provides services for its voting systems;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and in accordance with the terms of conditions set forth herein, Dominion agrees to provide, install, license and furnish the Borough with the System (as defined herein), including products and services described more fully below:

1. **Contract Documents**. Exhibits A and B are attached and incorporated herein by reference and form a part of this Agreement. This Agreement consists of the terms and conditions contained in the following sections and the listed Exhibits:

   1.1. Exhibit A: Scope of Services and Payment Provisions
   1.2. Exhibit B: Software License Terms and Conditions
   1.3. Exhibit C State of Alaska RFP: "Scope of Services / Specifications" as set forth in State of Alaska solicitation RFP No. 19000050 and Contract# 190001019

   If in conflict, the Agreement shall control. If in conflict the order of precedence shall be: the Agreement, Exhibit A, Exhibit B, and then State of Alaska RFP – "Scope of Services / Specifications" as set forth in State of Alaska solicitation RFP No. 19000050 and Contract #190001019.

2. **Intent.** Pursuant to the terms herein, the parties intend to enter into this Agreement for the purchase of System Hardware as well as the rental with option to purchase additional System Hardware after two years. System use shall be governed by the terms and conditions of the Software License.

3. **Definitions.** For the purposes of this Agreement the following are defined terms:

   3.1. "Acceptance" means the successful completion of the acceptance testing performed by the Borough on the Dominion Hardware and related Dominion

Software, after delivery in accordance with testing criteria developed and updated from time to time by Dominion, or the occurrence of other events defined in Section 9.

3.2. "Dominion Software" means software and firmware programs licensed to the Borough by Dominion and any associated documentation including the following:

3.2.1. "Democracy Suite Software," Dominion's election management software associated with the ImageCast voting system which includes Election Event Designer and Results Tally and Reporting.

3.2.2. "ImageCast Software," the software/firmware designed for use in the ImageCast voting system.

3.3. "Dominion Hardware" means the ImageCast Precinct Scanner and Tabulator ("ICP"), the ImageCast X with BMD, the ImageCast Central Scanner and associated third party workstation ("ICC") as more specifically described in Exhibit A.

3.4. "Election" means a single election event administered by the Borough including any absentee and early voting activity associated with the election event. Election shall not mean any follow-on events occurring after the initial election event, including without limitations, run-offs or recall replacements elections. Any follow-on event shall be considered an Election in and of itself.

3.5. "Election Management System Hardware" or "EMS Hardware" means third party hardware required for operating Dominion Software as used in conjunction with the Dominion Hardware.

3.6. "License" has the meaning set forth in Section 7.

3.7. "System" means the Dominion Software, Dominion Hardware and EMS Hardware.

3.8. "Third Party Software" means software, other than the Dominion Software, which is owned by third parties, and which Dominion provides to Borough pursuant to sublicenses or end user license agreements with the owners of such Third Party Software. Third Party Software includes, but is not limited to, various operating systems, software drivers, and report writing subroutines.

4. Term of Agreement. This Agreement shall commence on the Effective Date. The initial term of this Agreement is for five (5) years. The initial term shall automatically renew for one additional three (3) year term unless the Agreement is terminated prior to renewal by a party pursuant to the terms of this Agreement. Provided however that the five-year initial term is specifically subject to the Borough's option following the expiration of the second

year of the term to either purchase the System Hardware rental equipment or terminate the Agreement pursuant to Section 17.4 below.

4.1. Per Exhibit A, Payment Schedule, "Year 1" of the initial term will be a 14 month term beginning May 1, 2021 and ending June 30, 2022. "Year 2" of the term and the final year of the rental equipment option will begin July 1, 2022 and end June 30, 2023. Thereafter, subsequent years of the Agreement term shall begin on July 1.

5. Dominion's Responsibilities. Dominion shall:

5.1. Perform the Scope of Services, Specification as set forth in Exhibit A, Scope of Services and Payment Provisions

5.2. Provide the System and services as described in Exhibit A, Scope of Services and Payment Provisions

5.3. Provide the Borough with a Dominion Software Use License as described in Exhibit B - Software License Terms.

5.4. Within 30 days of appointing a Project Manager to oversee the general operations of the project. The project manager shall be responsible for arranging all meetings, visits and consultations between the Parties and for all administrative matters such as invoices, payments and amendments. The project manager shall communicate with the Borough as to the status of information, procedures and progress on the tasks set out in this Agreement and alert of any material change in such plans.

5.5. Assist in the Acceptance Testing process as require by Section 9 below.

5.6. Provide the Borough with a reproducible electronic copy of the user documentation.

5.7. Provide the System that Dominion designs, manufactures, and/or licenses, which is certified for use as a voting system in the Borough's jurisdiction.

5.8. Provide timely invoices to Borough pursuant to the payment schedule in Exhibit A and the payment terms described in Section 5.1 herein.

6. Boroughs Responsibilities. Borough shall:

6.1. Pay invoices in a timely manner due no more than thirty (30) calendar days from receipt of a Dominion invoice.

6.1.1. The Borough represents to Dominion that it is exempt from paying applicable sales tax within the Kenai Peninsula Borough and that no state sales or use tax is applicable. The invoices shall be billed and paid with no sales tax charge added.

6.1.2. The Borough may payoff all balances due pursuant to the payment schedule in Exhibit A at any time without penalty. Provided however that should the Agreement continue beyond the second year of the Agreement, then pursuant to Section 17.4 below the Borough must purchase the System Hardware.

6.2. Appoint a Project Manager who shall be responsible for review, analysis and acceptance of the System and the coordination of Borough personnel, equipment, vehicles and facilities. The Project Manager shall be empowered to make decisions on behalf of the Borough with respect to the work being performed under this Agreement. The Project Manager shall also have direct access to the Borough's top management at all times for purposes of problem resolution.

6.3. Conduct Acceptance Testing process as required by Section 9 below.

6.4. Borough shall provide reasonable access and entry into all Borough property required by Dominion to provide the System and perform the services described in this Agreement. All such access and entry shall be provided at Borough's expense.

6.5. Borough's obligations related to all aspects of this Agreement are subject to annual appropriation by the Kenai Peninsula Borough Assembly for the purpose of performing its obligations. In the event appropriations are not authorized or not sufficient for Borough to perform any of its obligations under any section this Agreement, Borough may terminate this Agreement upon thirty (30) days written notice without further obligation.

7. Title and Risk of Loss.

7.1. Title to the System. The System Hardware shall be provided to the Borough as part of this Agreement described herein and as described more particularly in the contract documents. Title to the portion of the Hardware System that is rental equipment for the first two years shall not pass to the Borough and shall remain with Dominion, until such a time when the Borough exercises its option to purchase the Hardware System in-full. Title to the Hardware System that is purchased and transfers at inception shall transfer to the Borough upon delivery and acceptance by the Borough.

7.2. Software. Dominion Software and Third Party Software is licensed, not sold. The original and any copies of the Dominion Software, or other software provided pursuant to this agreement, in whole or in part, including any subsequent improvements or updates, shall remain the property of Dominion. or any third party that owns such software.

7.3. Risk of Loss. The risk of loss from any casualty to the goods, regardless of the cause, shall be on the Dominion until title to the System passes to the Borough.

Borough shall provide Dominion with a single location for shipment and Dominion shall not be responsible for shipping to more than one location. To retain the benefit of this clause, Borough shall notify Dominion of any loss or damage within ten (10) business days of the receipt of any or all portions of the System, or such shorter period as may be required to comply with the claims requirements of the shipper and shall cooperate in the processing of any claims made by Dominion.

8. Software License.

8.1. License. Upon mutual execution of this Agreement, Dominion grants to the Borough, and the Borough accepts a non-exclusive, non-transferable license ("License") to use the Dominion Software subject to the terms and conditions of this Agreement and the Software License Terms attached hereto as Exhibit B.

8.2. Third Party Software. The System includes Third Party Software, the use of which is subject to the terms and conditions imposed by the owners of such Third Party Software so long as the software functions substantially in accordance with its specifications. Borough consents to the terms and conditions of the Third Party License Agreements by Borough's first use of the System.

9. Acceptance.

9.1. Dominion Software or Dominion Hardware. After delivery Dominion Software or Dominion Hardware, the Borough will conduct acceptance testing of such items in accordance with the acceptance criteria developed and updated, from time to time, by Dominion. Such acceptance testing shall occur at a time mutually agreed upon by the Parties, but no later than ten (10) business days after delivery.

9.2. System Acceptance Testing. To the extent not tested as part of the testing pursuant to Section 9, upon completing the installation of the System, the Borough will conduct system acceptance testing, according to the acceptance test procedures developed and updated, from time to time, by Dominion. Such acceptance testing shall occur at a time mutually agreed upon by the Parties, but no later than ten (10) business days after installation of the System.

10. Dominion Software Warranty.

10.1. Dominion Software Warranty. The Dominion Software Warranty is subject to the Software License Terms attached hereto as Exhibit B.

10.2. Third Party Software Warranty. To the extent permitted by the licensors of Third Party Software, Dominion shall pass to Borough all warranties such licensors make available to Dominion regarding the operation of Third Party Software. However, Dominion will coordinate with Third Party Software licensors and Dominion will use its best efforts to ensure Third Party Software functions substantially in accordance with its specifications.

10.3. No Other Software Warranties. DOMINION DISCLAIMS ALL OTHER SOFTWARE WARRANTIES AND REPRESENTATIONS WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

11. Hardware Warranty.

11.1. Dominion Hardware Warranty Terms. Dominion warrants that when used with the configuration approved by Dominion, each component of Dominion Hardware will be free of defects that would prevent the Dominion Hardware from operating in conformity in all material respects with its specifications. The Dominion Hardware Warranty shall remain in effect during the Agreement term.

11.2. Hardware Warranty Services. If any Hardware component fails to operate in conformity with its specifications during the warranty period, Dominion shall provide a replacement for the Hardware component or, at Dominion's sole option, shall repair the Hardware component, so long as the Hardware is operated with its designated Software and with third party products approved by Dominion for use with the Hardware. The following conditions apply to the Hardware warranty:

11.2.1. The following services are not covered by the Dominion Hardware warranty, but may be available for purchase at Dominion's then current time and material rates:

a. Except as otherwise provided in Exhibit A or Exhibit C to this Agreement, replacement of consumable items including but not limited to batteries, pens, paper rolls, seals, printer ink, removable memory devices, etc.;

b. Repair or replacement of Dominion Hardware damaged by of accident, disaster, theft, vandalism, neglect, abuse, or any improper usage;

c. Repair or replacement of Dominion Hardware modified by any person other than those expressly authorized in writing by Dominion;

d. Repair or replacement of Dominion Hardware products from which the serial numbers have been removed, defaced or changed.

11.3. EMS Hardware Warranty. To the extent permitted by the manufacturers of the EMS Hardware, Dominion shall pass to the Borough all warranties such manufacturers make available to Dominion. However, EMS Hardware will operate in conformity in all material respects with its specifications. If EMS does not provide the warranty, then Dominion will use its best efforts to make sure the hardware functions substantially in accordance with its specifications.

11.4. No Other Warranties. DOMINION DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

12. Confidential Information.

12.1. For purposes of this Agreement, confidential information ("Confidential Information") is defined as those materials, documents, data, and technical information, specifications, business information, Borough information, or other information that the disclosing Party maintains as trade secrets or confidential and which are disclosed to a receiving Party in tangible form conspicuously marked as "confidential". Confidential information includes, without limitation, Dominion Software source code and associated documentation.

12.2. Each Party shall treat the other Party's Confidential Information as confidential within their respective organizations and shall disclose it therein only on a need to know basis.

12.3. Neither Party shall disclose the other Party's Confidential Information to any person outside their respective organizations unless disclosure is made in response to, or because of, an obligation to any federal, state, or local governmental agency or court with appropriate jurisdiction, or to any person properly seeking discovery before any such agency or court

12.4. The parties understand and agree that Borough is a public entity that may be subject to Public Record Laws. Therefore, any covenant of confidentiality given by the Borough in this Agreement shall be governed by and superseded by the provisions and limitations of applicable Public Record Laws.

12.5. Any specific information that Dominion claims to be confidential must be clearly identified as such by Dominion. To the extent consistent with Public Record Laws, Borough shall maintain the confidentiality of all such information marked by Dominion as "Confidential". If a request is made to view such confidential information, Borough will notify Dominion of such request and the date the information will be released to the requestor unless Dominion obtains a court order enjoining such disclosure. If Dominion fails to obtain such court order enjoining such disclosure, the Borough will release the requested information on the date specified. Such release shall be deemed to have been made with Dominion's consent and shall not be deemed to be a violation of law or this Agreement.

13. Limitation of Liability. Each Party's total aggregate liability for any loss, damage, costs or expenses under or in connection with this Agreement, howsoever arising, including

without limitation, loss, damage, costs or expenses caused by breach of contract, negligence, strict liability, breach of statutory or any other duty shall in no circumstances exceed the total dollar amount of the Agreement.

14. Insurance.

14.1. Without limiting Dominion's indemnification in Section 15, it is agreed that Dominion shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the Dominion's policy contains higher limits, the Borough shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Borough upon execution of the Agreement and prior to beginning work and must provide for a notice of cancellation, nonrenewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the Dominion's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

14.1.1. Commercial General Liability: coverage written on an occurrence basis with limits of not less than $1,000,000 per occurrence. This policy shall add and maintain the Borough as additional insured.

14.1.2. Automobile Liability: coverage with a combined single limit of not less than $1,000,000 per occurrence applying to all owned, non-owned, or hired vehicles used in conjunction with this contract.

14.1.3. Workers' Compensation and Employer's Liability: The Dominion shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and where applicable other statutory obligations but not limited to Federal U.S.L. & H and Jones Act Requirements. This policy must be endorsed with a waiver of subrogation in favor of the Borough.

15. Indemnification. The Dominion shall indemnify, hold harmless, and defend the Borough from and against any claim of, or liability for error, omission or negligent act of the Dominion under this agreement. The Dominion shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Dominion and the independent negligence of the Borough, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Dominion" and "Borough", as used within this and the following article, include the employees, agents and other Dominions who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Borough's selection, administration, monitoring, or controlling of the Dominion and in approving or accepting the Dominion's work.

16. **Assignment.** Neither Party may assign its rights, obligations, or interests in this Agreement without the written consent of the other Party.

17. **Termination.**

17.1. For Default. In the event either Party violates any provisions of this Agreement. the injured Party may serve written notice upon the violating Party identifying the violation and providing a reasonable cure period. Except as otherwise noted herein, such cure period shall be at least thirty (30) days. ln the event the violating Party has not remedied the infraction at the end of the cure period, the injured Party may serve written notice upon the violating Patty of its intent to terminate, and seek legal remedies for breach of contract as allowed hereunder. If the breach identified in the notice cannot be completely cured within the specified time period, no default shall occur if the Party receiving the notice begins curative action within the specified time period and thereafter proceeds with reasonable diligence and in good faith to cure the breach as soon as practicable.

17.2. For failure of Appropriation. In the event the Borough does not receive annual appropriations sufficient to cover its expenses related to its obligations under any section of this Agreement, Borough may terminate this Agreement upon thirty (30) days' written notice without further obligation.

17.3. For Convenience. Borough may terminate this Agreement upon sixty (60) days' written notice at any time for any reason, or for no reason. In the event of termination under this subsection, the Borough shall pay Dominion all costs for services incurred by Dominion or expended by Dominion prior to the notice of termination.

17.4. After two years. Upon the expiration of second year of the term of this Agreement, either party may terminate this Agreement, by providing sixty (60) days written notice, without any further obligations owing. In the event of termination under this subsection, the Borough shall pay Dominion all costs for services incurred by Dominion or expended by Dominion prior to the notice of termination. Should this Agreement continue beyond the second year, the Borough shall pay, within the first ninety (90) days of the third year term, purchase the Hardware System.

18. **Survival**. The provisions of Sections 10, 11, 12, 13, and 14 shall survive the expiration or termination of this Agreement.

19. **Force Majeure**. Neither Party shall be liable in damages, or shall be subject to this Agreement by other Party, for any delay or default in performing any obligation hereunder if that delay or default is due to any force majeure event, including without limitation any natural disaster, act of any government or other authority or statutory undertaking, act of terrorism, industrial dispute, fire, explosion, accident, power failure, flood, riot or war (undeclared or declared); provided that, in order to excuse its delay or default hereunder, a Party shall notify the other of the force majeure event, specifying the nature and particulars thereof; and provided, further, that within fifteen (15) calendar

days the termination of force majeure event, such Party shall give notice to other Party specifying the date of termination thereof.

20. **Notices**. All notices required or permitted to be given hereunder shall be given in writing and shall be deemed to have been given when personally delivered or by nationally recognized overnight carrier or mailed, certified or registered mail, return receipt requested, addressed to the intended recipient as follows:

To Dominion:
Dominion Voting Systems, Inc.
Attn: Contracts Administrator
PO Box 343
Broomfield, CO 80038

To Borough:
Johni Blankenship
Borough Clerk
144 N. Binkley St
Soldotna, AK 99669

21. **Equal Opportunity.** The Dominion will fulfill all its legal duties under the civil rights laws of the State of Alaska and the United States, including, but not limited to AS 18.80, and the Civil Rights Act of 1964, 42 U.S.C. sec. 2000a and following. When subcontracting work, the Dominion agrees to use practices that assure equal opportunity to companies owned by women and minorities.

22. **Choice of Law.** Interpretation of this Agreement shall be governed by the laws of the State of Alaska, and the courts of competent jurisdiction located in that State will have jurisdiction to hear and determine questions relating to this Agreement.

23. **Waiver.** Any failure of a Party to assert any right under this Agreement shall not constitute a waiver or a termination of that right or any provisions of this Agreement.

24. **Legality and Severability.** This Agreement and the Parties' actions under this Agreement shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, court orders, and applicable governmental agency orders. If any term or provision of this Agreement is held to be illegal or unenforceable, the remainder of this Agreement shall not be affected thereby and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The Parties agree that any court reviewing this Agreement shall reform any illegal or unenforceable provision to carry out the express intent of the Parties as set forth herein to the fullest extent permitted by law.

25. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

26. **Entire Agreement.** This Agreement and its Exhibits incorporated herein by reference constitute the entire agreement, understanding and representations between Dominion and the Borough, and supersede and replace all prior agreements, written or oral. No modifications or representations to the Agreement shall be valid unless made in writing and signed by duly authorized representatives of both parties and incorporated as an addendum or amendment to this Agreement.

Authority to Sign: Each party represents that the individual signing this Agreement on its behalf has the authority to do so and to so legally bind the party.

DOMINION VOTING SYSTEMS, INC.	KENAI PENINSULA BOROUGH
_____	_____
Authorized Signatory	Authorized Signatory
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title
_____	_____
Date	Date
ATTEST	APPROVED AS TO FORM AND LEGAL SUFFICIENCY
_____	_____
Johni Blankenship, Borough Clerk	Sean Kelley, Deputy Borough Attorney

KPB NOTARY ACKNOWLEDGEMENT

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____day of _____, 2021, 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: ____

DOMINION NOTARY ACKNOWLEDGEMENT

STATE OF COLORADO)
)ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____day of _____, 2021, by _____(name of individual), _____(title) of Dominion Voting Systems, a Colorado corporation, for and on behalf of the corporation.

_____
Notary Public in and for Colorado
My commission expires: ____

EXHIBIT A
VOTING SYSTEM AGREEMENT
BY AND BETWEEN DOMINION VOTING SYSTEMS
AND KENAI PENINSULA BOROUGH

SCOPE OF SERVICES AND PAYMENT PROVISIONS

1. **Pricing Summary** - Prices of equipment, technical facilities, software, and other related services for voting, vote counting, and result processing. All pricing in U.S. Dollars.

1.1 Purchased Items, Software Licenses and Optional Warranties

ITEM	UNITS	Unit Price	Extension
Central Scanning: Absentee/Vote By Mail Hardware			
ImageCast Central Kit – G2140	1	$25,000.00	$25,000.00
ImageCast Central Scanner – G2140	1	$9,000.00	$9,000.00
In-Person Voting: Polling Location Hardware			
MBP Kit #2 Portable High Volume	1	$5,800.00	$5,800.00
Modem – ICP External Wireless	22	$295.00	$6,490.00
Image Cast X Kit – Prime BMD	10	$3,500.00	$35,000.00
ImageCast Privacy Screen – Standard	10	$15.00	$150.00
ImageCast Prime Dual Bay Battery Charger	3	$165.00	$495.00
Accessories & Consumables			
ATI Kit – ICX-USB	10	$375.00	$3,750.00
ImageCast X Prime BMD Bag Kit	30	$120.00	$3,600.00
Compact Flash Memory Card – 16 GB	50	$36.75	$1,837.50
Image Cast X Prime Poll Worker Smart Card – Generic	12	$8.10	$97.20
Image Cast X Prime Technician Card – Generic	3	$8.10	$24.30
ICP I-Button Technician Key – Blue	2	$25.00	$50.00
ICP Cleaning Sheets	25	$11.00	$275.00
I-Button Administrator Key – Black	4	$25.00	$100.00
ICP Paper Roll (72')	60	$2.50	$150.00
Election Management Hardware			
EMS RAS Server Kit	1	$4,650.00	$4650.00
EMS Standard Server Kit	1	$17,000.00	$17,000.00
EMS Standard Listener Server Kit	1	$6,495.00	$6,495.00
EMS Client Workstation Kit	1	$1,700.00	$1,700.00
EMS Adjudication Workstation Kit	1	$1,700.00	$1,700.00
Smart UPS 1500 (rack mountable)	1	$800.00	$800.00

ITEM	UNITS	Unit Price	Extension
Mini Server Rack – 12 U	1	$900.00	$900.00
EMS Report Printer	1	$125.00	$125.00
Election Management Software			
Democracy Suite Standard	1	$60,000.00	$60,000.00
Adjudication Module	1	$15,000.00	$15,000.00
Communications Manager	1	$12,000.00	$12,000.00
Mobile Ballot Printing Module	1	$3,000.00	$3,000.00
Automated Test Deck Module	1	$4,500.00	$4,500.00
Support Services			
Project Management & Implementation	8 days	$2,000.00	$16,000.00
On-Site Services Non-Election Day	8 days	$2,000.00	$16,000.00
On-Site Services – Election Day (arrive Mon, onsite Tue, dept. Wed)	1 set	$4,500.00	$4,500.00
Training	8 days	$1,500.00	$4,500.00
Election Set-up/Ballot Set-up 1st year	1	$5,500.00	$5,500.00

ANNUAL SOFTWARE LICENSE

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
July 1, 2022 – June 30, 2023			
Democracy Suite Standard	1	$12,000.00	$12,000.00
Democracy Suite Adjudication	1	$3,000.00	$3,000.00
Democracy Suite Communications Manager	1	$2,400.00	$2,400.00
Democracy Suite Mobile Ballot Printing	1	$600.00	$600.00
Democracy Suite Automated Test Deck Generator	1	$900.00	$900.00
ICC Annual Firmware - G2140	1	$2,575.00	$2,575.00
ICX-BMD Annual Firmware	10	$150.00	$1,500.00
Discount			($3,118.00)
Sub-Total:			$19,857.00
July 1, 2023 – June 30, 2024			
Democracy Suite Standard	1	$12,360.00	$12,360.00
Democracy Suite Adjudication	1	$3,090.00	$3,090.00
Democracy Suite Communications Manager	1	$2,472.00	$2,472.00
Democracy Suite Mobile Ballot Printing	1	$618.00	$618.00
Democracy Suite Automated Test Deck Generator	1	$927.00	$927.00
ICC Annual Firmware - G2140	1	$2,652.25	$2,652.25
ICX-BMD Annual Firmware	10	$154.50	$1,545.00
Discount			($3,410.25)
Sub-Total:			$20,254.00

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
July 1, 2024 – June 30, 2025			
Democracy Suite Standard	1	$12,730.80	$12,730.80
Democracy Suite Adjudication	1	$3,182.70	$3,182.70
Democracy Suite Communications Manager	1	$2,546.16	$2,546.16
Democracy Suite Mobile Ballot Printing	1	$636.54	$636.54
Democracy Suite Automated Test Deck Generator	1	$954.81	$954.81
ICC Annual Firmware - G2140	1	$2,731.82	$2,731.82
ICX-BMD Annual Firmware	10	$159.14	$1,591.35
Discount			($3,716.18)
Sub-Total:			$20,658.00
July 1, 2025 – June 30, 2026			
Democracy Suite Standard	1	$13,112.72	$13,112.72
Democracy Suite Adjudication	1	$3,278.18	$3,278.18
Democracy Suite Communications Manager	1	$2,622.54	$2,622.54
Democracy Suite Mobile Ballot Printing	1	$655.64	$655.64
Democracy Suite Automated Test Deck Generator	1	$983.45	$983.45
ICC Annual Firmware - G2140	1	$2,813.77	$2,813.77
ICX-BMD Annual Firmware	10	$163.91	$1,639.09
Discount			($4,033.40)
Sub-Total:			$21,072.00
July 1, 2026 – June 30, 2027			
Democracy Suite Standard	1	$13,506.11	$13,506.11
Democracy Suite Adjudication	1	$3,376.53	$3,376.53
Democracy Suite Communications Manager	1	$2,701.22	$2,701.22
Democracy Suite Mobile Ballot Printing	1	$675.31	$675.31
Democracy Suite Automated Test Deck Generator	1	$1,012.96	$1,012.96
ICC Annual Firmware - G2140	1	$2,898.19	$2,898.19
ICX-BMD Annual Firmware	10	$168.83	$1,688.26
Discount			($4,365.56)
Sub-Total:			$21,493.00
July 1, 2027 – June 30, 2028			
Democracy Suite Standard	1	$13,911.29	$13,911.29
Democracy Suite Adjudication	1	$3,477.82	$3,477.82
Democracy Suite Communications Manager	1	$2,782.26	$2,782.26
Democracy Suite Mobile Ballot Printing	1	$695.56	$695.56
Democracy Suite Automated Test Deck Generator	1	$1,043.35	$1,043.35
ICC Annual Firmware - G2140	1	$2,985.13	$2,985.13
ICX-BMD Annual Firmware	10	$173.89	$1,738.91
Discount			($4,711.32)

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
Sub-Total:			$21,923.00
July 1, 2028 – June 30, 2029			
Democracy Suite Standard	1	$14,328.63	$14,328.63
Democracy Suite Adjudication	1	$3,582.16	$3,582.16
Democracy Suite Communications Manager	1	$2,865.73	$2,865.73
Democracy Suite Mobile Ballot Printing	1	$716.43	$716.43
Democracy Suite Automated Test Deck Generator	1	$1,074.65	$1,074.65
ICC Annual Firmware - G2140	1	$3,074.68	$3,074.68
ICX-BMD Annual Firmware	10	$179.11	$1,791.08
Discount			($5,071.35)
Sub-Total:			$22,362.00

ANNUAL HARDWARE WARRANTY (OPTIONAL)

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
July 1, 2022 – June 30, 2023			
ICC Hardware - G2140	1	$1,500.00	$1,500.00
ICX-BMD Hardware	10	$155.00	$1,550.00
Democracy Suite Mobile Ballot Printing Hardware	1	$375.00	$375.00
Discount			($281.00)
Sub-Total:		Sub-total	$3,144.00
July 1, 2023 – June 30, 2024			
ICC Hardware - G2140	1	$1,575.00	$1,575.00
ICX-BMD Hardware	10	$162.75	$1,627.50
Democracy Suite Mobile Ballot Printing Hardware	1	$393.75	$393.75
Discount			($389.25)
Sub-Total:		Sub-total	$3,207.00
July 1, 2024 – June 30, 2025			
ICC Hardware - G2140	1	$1,622.25	$1,622.25
ICX-BMD Hardware	10	$167.63	$1,676.33
Democracy Suite Mobile Ballot Printing Hardware	1	$405.56	$405.56
Discount			($433.14)
Sub-Total:		Sub-total	$3,271.00
July 1, 2025 – June 30, 2026			
ICC Hardware - G2140	1	$1,670.92	$1,670.92
ICX-BMD Hardware	10	$176.01	$1,760.14
Democracy Suite Mobile Ballot Printing Hardware	1	$425.84	$425.84
Discount			($479.90)

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
Sub-Total:		Sub-total	$3,377.00
July 1, 2026 – June 30, 2027			
ICC Hardware - G2140	1	$1,721.05	$1,721.05
ICX-BMD Hardware	10	$184.81	$1,848.15
Democracy Suite Mobile Ballot Printing Hardware	1	$447.13	$447.13
Discount			($613.33)
Sub-Total:		Sub-total	$3,403.00
July 1, 2027 – June 30, 2028			
ICC Hardware - G2140	1	$1,789.89	$1,789.89
ICX-BMD Hardware	10	$194.06	$1,940.56
Democracy Suite Mobile Ballot Printing Hardware	1	$469.49	$469.49
Discount			($728.93)
Sub-Total:		Sub-total	$3,471.00
July 1, 2028 – June 30, 2029			
ICC Hardware - G2140	1	$1,843.58	$1,843.58
ICX-BMD Hardware	10	$203.76	$2,037.58
Democracy Suite Mobile Ballot Printing Hardware	1	$492.96	$492.96
Discount			($833.13)
Sub-Total:		Sub-total	$3,541.00

1.2 Rental with Purchase Option and related License with Optional Warranties

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
ImageCast Precinct Tabulator	26	$3,100.00	$80,600.00
ImageCast X Kit – Prime BMD	20	$3,500.00	$70,000.00
ImageCast X Privacy Screen – Standard	20	$15.00	$300.00
ICE/ICP Power Cord – 15’	26	$37.50	$975.00
ATI Kit – ICX- USB	20	$375.00	$7,500.00
Sub-Total:			$159,375.00
Discount:			($65,443.00)
Total Rental Price			**$93,932.00**

ANNUAL LICENSE & OPTIONAL WARRANTY*	QUANTITY	UNIT PRICE	EXTENSION
ImageCast Precinct (ICP) Firmware License	26	$228.00	$5,928.00
ImageCast X Firmware License	20	$150.00	$3,000.00
ImageCast Precinct Optional Warranty	26	$135.00	$3,510.00
ImageCast X Optional Warranty	20	$155.00	$3,100.00

* If jurisdiction chooses to purchase on July 1, 2023 the annual license and optional warranty fees listed above will apply. Beginning in 2024, License and Warranty fees increase 3% annually.

2. **Payment Schedule** - Dominion shall provide invoices to the Customer as described below. The Customer shall pay invoices in a timely manner and no later than thirty (30) calendar days from receipt of a Dominion invoice. Payments specified in this Exhibit are exclusive of all excise, sale, use and other taxes imposed by any governmental authority, all of which taxes shall be reimbursed by the Customer.

2.1 Purchased Items, Software Licenses and Optional Warranties

ID	Payment Invoice Date	Payment Amount
1	System Infrastructure, Installation and 10 Accessible Voting units – May 1, 2021	$178,801.00
2	Initial Software Annual payments of $21,827.00 (Beginning July 1,2022) Yrs 2 - 5	$21,827.00
3	Annual License & Optional Warranty (Beginning July 1, 2022)	See Fees Above in Section 1.1

2.2 Rental with Purchase Option and related License with Optional Warranties

ID	Payment Invoice Date	Payment Amount
4	Year 1 - Rental Price – May 1,2021	$46,966.00
5	Year 2- Rental Price - July 1, 2022	$46,966.00
6	Optional Purchase Price (July 1, 2023)	$61,200.00
7	Annual License & Optional Warranty (Beginning July1, 2023)	See Fees Above in Section 1.2

3. Detailed Deliverables Description

3.1 ***ImageCast® Central Scanner (ICC)***. Dominion shall provide the ImageCast® Central Scanner for use by The Customer. The ImageCast® Central Scanner is commercial off-the-shelf digital scanners configured to work with the ImageCast® Central Software for high speed ballot tabulation. Each ImageCast® Central Scanner includes the following components:

3.1.1 Canon G2140 document scanner

3.1.2 ImageCast® Central Software including third party Twain software

3.1.3 ICC workstation with pre-loaded software

3.1.4 iButton Security Key

3.1.5 iButton Programmer and iButton Key Switch & Cat5 RJ 45 Cables used with Democracy Suite to transfer security and election information to the iButtons for use with the ICC.

3.2 ***ImageCast® Precinct Scanner and Tabulator*** is a precinct optical scan ballot tabulator designed to scan marked paper ballots, interpret voter marks on the paper ballot, communicate these interpretations back to the voter and upon acceptance by the voter, deposit the ballots into the ballot box. Each ImageCast® provided to the Customer shall consist of the following items:

3.2.1 Two (2) optical imaging scanners for creating a duplex scanned image of each side of the ballot. Ballots can be fed in all four (4) orientations.

3.2.2 Two (2) 16GB flash memory cards. The cards are placed behind two securable doors (Administrator Door and Pollworker Door).

3.2.3 An integrated interactive electronic display in the form of an ultra-high contrast graphical LCD screen, with white background, 5.7" diagonal viewing area, and a built-in touch screen for administration purposes. The LCD display screen is located on the top right side of the machine.

3.2.4 An internal thermal printer and one (1) paper roll for generating reports.

3.2.5 Two (2) security keys (iButton) used with an integrated receptacle (physically attached to the top of the unit and electrically connected to the motherboard) used for a variety of verification and security tasks such control, data confidentiality and integrity functions.

3.2.6 A motorized paper feed mechanism for detecting and moving the ballot within the scanner. Ballots used with the ImageCast® must be 8.5" wide by a variable length (11", 14", 17" and 22"). The paper feed mechanism is physically capable of moving the ballot forward into the machine, across image sensors, enabling complete image capture of both sides of the ballot.

3.2.7 Power supply module uses 120 Vac, 60 Hz, one phase power. It has a power consumption of 0.07 Amps at 120 Volts AC.

3.2.8 An internal battery which is rated to provide two (2) hours of normal use in the absence of AC power.

3.2.9 Plastic collapsible ballot box.

3.3 ***ImageCast® Software***. The Parties will enter into software licenses for the ImageCast software, substantially in the form of Exhibit B to this Agreement. The Dominion software includes, without limitation:

3.3.1 AuditMark®. For each ballot that is scanned and accepted into the unit, a corresponding ballot image is created and stored for audit purposes. The image consists of two parts described below.

- The top portion of the image contains a scanned image of the ballot.
- The bottom portion consists of a machine-generated type-out showing each mark that the unit interpreted for that particular ballot. This is referred to as an AuditMark®.

3.4 ***ImageCast® X ("ICX")***

3.4.1 Application: ImageCast X BMD is a touchscreen in-person voting device and ballot marking device. Voting sessions are initiated on the tablet by either a smart card or the entry of a numeric code based on activation. The ballot is

loaded directly onto the standalone device. All voting activity is performed at the tablet, including accessible voting. Accessible voting interfaces connect to the tablet via an Audio Tactile Interface or ATI. For all modes of voting, after the voter reviews the ballot selections, a paper ballot is created for the voter from a printer in the voting booth. The printed ballot contains a written summary of the voter's choices, as well as a 2D barcode which is read by Dominion's ImageCast Precinct or Central tabulator. No votes are stored on the ImageCast X-BMD unit. All votes can be tabulated and stored on both the ImageCast Central and Precinct Tabulators.

3.4.2 Components: 21" Avalue touchscreen, Android OS, DC 19V input, BMD laser printer, 6' cable. 3 smart cards, and one backup battery.

3.5 ***Democracy Suite Software*** platform is a set of applications tailored for all pre-voting and post-voting activities. The Democracy Suite EMS consists of the following components:

3.5.1 Election Event Designer (EED) Client Application is the primary application used for the definition and management of election event. EED is responsible for the definition of election projects. Each election project is represented as an instance of the election domain database with associated set of election project file based artifacts. The definition of the election project can be initiated by importing the election data from external systems or simply by defining all election project entities without importing external data. It is important to note that an election project initiated by importing data can be further modified within the EED Client Application.

The system can generate two types of paper ballots:

- Proofing ballots – ballots produced to allow election project stakeholders to proof ballot content and styling. These ballots cannot be processed by the ImageCast® as they don't have proper ballot barcodes. These ballots are overprinted with the text "Proofing Ballots – date/time"
- Official ballots – represent production ready, press ready ballots in PDF format with barcodes and without any overprinting.

3.5.2 Results Tally and Reporting (RTR) Client Application is the application used for the tally, reporting and publishing of election results.

3.6 ***ImageCast Adjudication Application***. The Adjudication application is a client and server application used to review and adjudicate ImageCast Central Scanner ballot images. The application uses tabulator results files and scanned images to allow election administrators to make adjudications to ballots with auditing and reporting capabilities. The Adjudication Application examines such voter exceptions as overvotes, undervotes, blank contests, blank ballots, write-in selections, and marginal marks. The application works in two basic modes: election project setup and adjudication. The Adjudication Application can be used in a multi-client environment. Adjudication eliminates the need to physically rescan ballots, which can potentially damage the originals and cause chain-of-custody concerns

3.7 ***Mobile Ballot Printing*** is an application used to search, preview and print ballots via a local printer device. The application makes use of ballot information and PDFs produced by the Election Event Designer application and information provided through the customer voter registration system.

3.8 ***Implementation Services and Training.*** Dominion will provide the following training as described herein.

3.8.1 Project Management Support. Dominion will provide project management support to oversee the general operations of the project through the Agreement Term. The project manager shall be responsible for arranging all meetings, visits and consultations between the parties and for all administrative matters such as invoices, payments and amendments. The Parties shall develop and finalize a project implementation plan including a training and delivery schedule. The Parties agree that changes to the project schedule may be required. Any changes to the project schedule must be mutually agreed to by the Parties.

3.8.2 ImageCast® X – This training introduces the ImageCast® X system with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, Election Day setup and operation, and troubleshooting.

3.8.3 ImageCast® ICC – This training introduces the ICC with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, ballot scanning operation, and troubleshooting.

3.8.4 ImageCast® ICP – This training introduces the ICP with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, ballot scanning operation, and troubleshooting

3.8.5 EMS Server Installation, Configuration & Testing. Dominion will provide a minimum total of one (1) day of direct onsite support for EMS Server installation, configuration & testing.

3.8.6 System Acceptance Testing Support. Dominion will provide direct onsite training and support during the System Acceptance Testing period

3.8.7 Pollworker Train the Trainer – This provides training to the Customer staff on operations of a polling location.

3.9 ***Travel and Expenses included.*** All costs of Dominion transportation, lodging and meal expenses are included during the Agreement Term.

3.10 ***Ongoing telephone support***. Telephone support shall be available for Customers during the Term of the Agreement at no additional costs.

3.11 ***Other Services, Consumables or Equipment.*** Any other services, consumables or equipment not specifically identified in this Agreement are available for purchase by the Customer at the then current Dominion list price.

EXHIBIT B

SOFTWARE LICENSE TERMS AND CONDITIONS

This Exhibit B is part of the Agreement between Dominion and Customer to which it is attached.

1. Definitions. Capitalized terms used herein have the meaning given in the Agreement unless otherwise defined herein.

1.1. "Agreement" means the agreement between the Parties for the use of the licensed Software to which this Exhibit B is attached and incorporated into.

1.2. "Licensee" means Customer, as the term is defined in the Agreement.

1.3. "Licensor" means Dominion Voting Systems, Inc.

1.4. "Software" means Dominion Software, as the term is defined in the Agreement.

1.5. "Specifications" means descriptions and data regarding the features, functions and performance of the Software, as set forth in user manuals or other applicable documentation provided by Licensor.

1.6. "Third-Party Products" means any software or hardware obtained from third-party manufacturers or distributers and provided by Licensor hereunder.

2. License Terms.

2.1. License Limitations. Licensee's use of the Software pursuant to the License granted in the Agreement is subject to the terms herein. Licensee may only use the Software for its own internal business purposes and conducting elections and solely in conjunction with the EMS Hardware. The License shall only be effective during the Term and cannot be transferred or sublicensed.

2.2. Print Copyright License. Subject to the Print Copyright License terms and conditions as defined in Schedule A attached hereto, Licensor grants to Licensee a non-exclusive, non-transferable print copyright license as defined in Schedule A.

2.3. Third-Party Products. When applicable, Licensor hereby sublicenses any software that constitutes or is contained in Third-Party Products, in object code form only, to Licensee for use during the Term.

2.4. No Other Licenses. Other than as expressly set forth herein, (a) Licensor grants no licenses, expressly or by implication, and (b) Licensor's entering into the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party. Licensee agrees not to use the Software as a service bureau for elections outside the Licensee's jurisdiction and agrees not to reverse engineer or otherwise attempt to derive the source code of the Software. The Licensee shall have no power to transfer or grant sub-licenses for the Software. Any use of all or any portion of the Software not expressly permitted is strictly prohibited.

2.5. Intellectual Property Infringement Indemnification. If a third party claims that the Software or System infringes any United States patent, copyright, trade secret or similar

intellectual property right, Dominion shall defend Licensee against such claim at Dominion's expense and pay all damages that a court finally awards against Licensee. If such a claim is made or appears possible, Dominion shall, within sixty (60) days of such claim, and at its option: (a) secure for Licensee the right to continue to use the infringing portion of the Software or System; or (b) modify or replace the Software and System so that it is non-infringing but retains equivalent functionality. If neither of the foregoing options is reasonably available, Dominion shall require Licensee to return the Software or System, and Dominion shall refund Licensee amounts calculated pursuant to the Software License fee, on a pro-rate basis. The foregoing notwithstanding, Dominion shall have no obligation to indemnify Licensee for any infringement claim based on Licensee's modification or misuse of the Software, if the claim would have been avoided had the Software not been modified or misused.

3. Payment. In consideration of the grant of the license, the Licensee shall pay the license fees set forth in the Agreement and Exhibit A of the Agreement.

4. Upgrades and Certification. During the Term, Licensor may provide upgrades to Licensee under the following terms and conditions.

4.1. Upgrades. In the event that Licensor, at its sole discretion, certifies a Software upgrade under the applicable laws and regulations of the Customer's State, Licensor shall make the certified Software upgrade available to the Licensee at no additional cost.

4.2. Certification Requirement. Notwithstanding any other terms of this Agreement, Licensor shall not provide, and shall not be obligated to provide under this Agreement any upgrade, enhancement or other software update that has not been certified under the applicable provisions of the election laws and regulations of the Customer's State.

5. Prohibited Acts. The Licensee shall not, without the prior written permission of Licensor:

5.1. Transfer or copy onto any other storage device or hardware or otherwise copy the Software in whole or in part except for purposes of system backup;

5.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or in part;

5.3. Alter or modify the Software in any way or prepare any derivative works of the Software or any part of parts of the Software;

5.4. Alter, remove or obstruct any copyright or proprietary notices from the Software, or fail to reproduce the same on any lawful copies of the Software.

6. Return of Software. Upon termination or expiration of this Agreement, Licensee shall forthwith return to Licensor all Software in its possession or control, or destroy all such Software from any electronic media, and certify in writing to Licensor that it has been destroyed.

7. Warranties. The following warranties will apply to all Software during the Term.

7.1. Software Warranty Terms. Licensor warrants that the Software will function substantially in accordance with the Specifications during the Term. The Licensor also warrants that the Software will comply with the voting system certification requirements and laws of the Customer's State (collectively the "Requirements") in effect as of the date the Software is certified by the certification authority of the Customer's State. This provision applies to the initially installed Software as well as any subsequent upgrades pursuant to Section 4 herein. However, the Licensor will not be required to make modifications to the Software or System as a result of changes in the Requirements. The foregoing warranty will be void in the event of the Software (i) having been modified by any party other than Licensor or (ii) having been used by the Licensee for purposes other than those for which the Software was designed by Licensor. If Licensor establishes that a failure of the foregoing warranty that is reported by Licensee is not covered by the foregoing warranty, the Licensee shall be responsible for the costs of Licensor's investigative and remedial work at Licensor's then current rates.

7.2. Corrections. If the Licensee believes that the Software is not functioning substantially in accordance with the Specifications or Requirements, the Licensee shall provide Licensor with written notice of the material failure within thirty (30) days of discovering the material failure, provided that the Licensee can reproduce the material failure to Licensor. The Licensor shall correct the deficiencies, at no additional cost to the Licensee and incorporate such corrections into the next version certified by the Customer's State.

7.3 Third-Party Products. The warranties herein do not apply to any Third-Party Products. However, to the extent permitted by the manufacturers of Third-Party Products, Licensor shall pass through to Licensee all warranties such manufacturers make to Licensor regarding the operation of such Third-Party Products.

7.4. NO OTHER WARRANTIES. EXCEPT AS SET FORTH IN THE AGREEMENT AND HEREIN, LICENSOR DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

SCHEDULE A

PRINT COPYRIGHT LICENSE TERMS AND CONDITIONS

1. Definitions. For the purposes of this Agreement, the following are defined terms:

1.1. "Derivative Works" means any work that is based upon or derived from the Licensor's voting systems' ballots, including without limitation, sample ballots and voting booklets.

1.2. "Voting Systems' Ballots" means any ballot created for use with any voting system owned or licensed by the Licensor.

2. Print Copyright License and Use.

2.1. Copyright License Grant. Licensor grants to the Licensee a non-exclusive, non-transferable copyright license to print, reproduce, distribute or otherwise copy the Licensor's Voting Systems' Ballots and any Derivative Works (collectively the "Materials") pursuant to the terms and conditions of this Schedule A.

2.2. Copyright License Use. Other than as expressly set forth herein, (a) Licensor grants no other licenses, expressly or by implication, and (b) Licensor's entering into and performing the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party, (c) the copyright license granted herein cannot be transferred or sublicensed and the Voting Systems' Ballots or Derivative Works cannot be reproduced by any third party without the prior written consent of the Licensor, including without limitation:

(i) any commercial or non-commercial printer
(ii) any third party vendor using ballot on demand system.

2.3. Rights and Interests. All right, title and interest in the Material, including without limitation, any copyright, shall remain with the Licensor.

3. No Copyright Warranties. EXCEPT AS SET FORTH HEREIN, LICENSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

STATE OF ALASKA
REQUEST FOR PROPOSALS

STATEWIDE VOTING AND BALLOT TABULATION SYSTEM

RFP 190000050

MARCH 18, 2019

The State of Alaska, Division of Elections is soliciting proposals for the implementation, installation, testing, maintenance, support and training for a complete and comprehensive statewide voting and ballot tabulation system.

ISSUED BY: OFFICE OF THE GOVERNOR

OFFICE OF THE LIEUTENANT GOVERNOR
DIVISION OF ELECTIONS

PRIMARY CONTACT:

DOTTIE WHITEHEAD
PROCUREMENT OFFICER
DOTTIE.WHITEHEAD@ALASKA.GOV
(907) 465-1182

OFFERORS ARE NOT REQUIRED TO RETURN THIS FORM.

IMPORTANT NOTICE: IF YOU RECEIVED THIS SOLICITATION FROM THE STATE OF ALASKA'S "ONLINE PUBLIC NOTICE" WEB SITE, YOU MUST REGISTER WITH THE PROCUREMENT OFFICER LISTED IN THIS DOCUMENT TO RECEIVE SUBSEQUENT AMENDMENTS. FAILURE TO CONTACT THE PROCUREMENT OFFICER MAY RESULT IN THE REJECTION OF YOUR OFFER.

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SECTION 1. INTRODUCTION & INSTRUCTIONS

SEC. 1.01 PURPOSE OF THE RFP

The State of Alaska, Division of Elections is soliciting proposals for the implementation, installation, testing, maintenance, support and training for a complete and comprehensive statewide voting and ballot tabulation system that will be used to support all aspects of creating, casting and tabulating ballots and reporting election results. The expected life of the new election management system is at least 15 years. The system will support statewide elections, and the State intends to allow local jurisdictions to use the system and equipment where feasible.

SEC. 1.02 BUDGET

The State of Alaska, Division of Elections estimates a budget of $4,000,000 to $6,000,000 dollars for completion of this project. Award and continuation of any resulting contract is contingent on appropriated funds.

SEC. 1.03 DEADLINE FOR RECEIPT OF PROPOSALS

Written proposals must be received no later than **1:00 PM** prevailing Alaska Time on **APRIL 19, 2019**. Faxed or emailed proposals are NOT acceptable.

Late proposals or amendments will be disqualified and not opened or accepted for evaluation.

SEC. 1.04 PRIOR EXPERIENCE

OFFERORS MUST MEET THESE MINIMUM PRIOR EXPERIENCE REQUIREMENTS IN ORDER TO BE CONSIDERED RESPONSIVE:

- A minimum (5) five years of experience implementing a similar voting and ballot tabulation system in at least two (2) primary and two (2) general elections.

- Implementation must have been conducted in the United States within the past 15 years, in a state, municipality, or county that have 500,000 or more registered voters.

An offeror's failure to meet these minimum requirements will cause their proposal to be considered non-responsive and their proposal will be rejected.

SEC. 1.05 REQUIRED REVIEW

Offerors should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and objectionable material must be made in writing and received by the procurement officer at least ten days before the deadline for receipt of proposals. This will allow time for the issuance of any necessary amendments. It will also help prevent the opening of a defective solicitation and exposure of offeror's proposals upon which award could not be made. Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the procurement officer, in writing, at least ten days before the deadline for receipt of proposals.

SEC. 1.06 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF PROPOSALS

All questions must be in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing.

Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the RFP. These questions may be answered over the telephone. Other questions may be more complex and may require a written amendment to the RFP. The procurement officer will make that decision.

Dottie Whitehead
Phone: 907-465-1182
Dottie.whitehead@alaska.gov

SEC. 1.07 RETURN INSTRUCTIONS

Offerors must submit (6) six, hard copies of their proposal, in writing, to the procurement officer in a sealed package. The cost proposal included with the package must be sealed separately from the rest of the proposal and must be clearly identified. The sealed proposal package(s) must be addressed as follows:

OFFICE OF THE LIEUTENANT GOVERNOR
DIVISION OF ELECTIONS

C/O OFFICE OF THE GOVERNOR
DIVISION OF ADMINISTRATIVE SERVICES
ATTENTION: DOTTIE WHITEHEAD
REQUEST FOR PROPOSALS (RFP) #190000050

RFP TITLE: STATEWIDE VOTING AND BALLOT TABULATION SYSTEM

240 MAIN STREET, SUITE 300
JUNEAU, ALASKA 99801

The State of Alaska provides one Request for Proposal (RFP). Additional RFPs may be purchased for the cost of reproduction, $.25 per page.

SEC. 1.08 PROPOSAL CONTENTS

The following information must be included in all proposals.

(a) AUTHORIZED SIGNATURE

All proposals must be signed by an individual authorized to bind the offeror to the provisions of the RFP. Proposals must remain open and valid for at least 90-days from the date set as the deadline for receipt of proposals.

(b) OFFEROR'S CERTIFICATION

By signature on the proposal, offerors certify that they comply with the following:

A. the laws of the State of Alaska;

B. the applicable portion of the Federal Civil Rights Act of 1964;

C. the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;

D. the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;

E. all terms and conditions set out in this RFP;

F. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury;

G. that the offers will remain open and valid for at least 90 days; and

H. that programs, services, and activities provided to the general public under the resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued thereunder by the federal government.

If any offeror fails to comply with [a] through [h] of this paragraph, the state reserves the right to disregard the proposal, terminate the contract, or consider the contractor in default.

(c) VENDOR TAX ID

A valid Vendor Tax ID must be submitted to the issuing office with the proposal or within five days of the state's request.

(d) CONFLICT OF INTEREST

Each proposal shall include a statement indicating whether or not the firm or any individuals working on the contract has a possible conflict of interest (e.g., currently employed by the State of Alaska or formerly employed by the State of Alaska within the past two years) and, if so, the nature of that conflict. The Commissioner of the Office of the Governor reserves the right to **consider a proposal non-responsive and reject it or** cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be developed by the offeror. The Commissioner's determination regarding any questions of conflict of interest shall be final.

(e) FEDERAL REQUIREMENTS

The offeror must identify what version of the U.S. Election Assistance Commission's (EAC) Voluntary Voting System Guidelines (VVSG) the system is certified to and the status of any pending certification.

SEC. 1.09 ASSISTANCE TO OFFERORS WITH A DISABILITY

Offerors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of proposals.

SEC. 1.10 AMENDMENTS TO PROPOSALS

Amendments to or withdrawals of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline unless they are in response to the state's request in accordance with 2 AAC 12.290.

SEC. 1.11 AMENDMENTS TO THE RFP

If an amendment is issued, it will be provided to all who were mailed a copy of the RFP and to those who have registered with the procurement officer after receiving the RFP from the State of Alaska Online Public Notice web site.

SEC. 1.12 RFP SCHEDULE

The RFP schedule set out herein represents the State of Alaska's best estimate of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule may be shifted by the same number of days.

- RFP Issued: **March 18, 2019**
- Pre-proposal conference: **March 26, 2019**
- Deadline for Receipt of Proposals: **April 19, 2019**
- Proposal Evaluation: **April 22 - May 3, 2019**
- Offeror Product Demonstration: **May 7 – May 13, 2019**
- State of Alaska issues Notice of Intent to Award a Contract: **May 15, 2019**
- State of Alaska issues contract: **June 3, 2019**
- Contract start: **July 1, 2019**

This RFP does not, by itself, obligate the state. The state's obligation will commence when the contract is approved by Office of the Governor. Upon written notice to the contractor, the state may set a different starting date for the contract. The state will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the state.

SEC. 1.13 PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held at **10:00 A.M.**, Alaska Time, on March 26, at the Director's Office in Juneau, Alaska. The purpose of the conference is to discuss the work to be performed with the prospective

offerors and allow them to ask questions concerning the RFP. Questions and answers will be transcribed and sent to prospective offerors as soon as possible after the meeting.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for the pre-proposal conference so that reasonable accommodation can be made.

SEC. 1.14 ALTERNATE PROPOSALS

Offerors may only submit one proposal for evaluation. In accordance with 2 AAC 12.830, alternate proposals (proposals that offer something different than what is asked for) will be rejected.

SEC. 1.15 NEWS RELEASES

News releases related to this RFP will not be made without prior approval of the project director.

SECTION 2. BACKGROUND INFORMATION

SEC. 2.01 BACKGROUND INFORMATION

The Division of Elections (DOE) is responsible for conducting statewide federal and state primary and general elections held in even-number years, Regional Educational Attendance Area Elections (for rural school districts) held every year, as well as numerous special elections held throughout rural Alaska. Alaska's primary election includes 3 ballot choices – with each voter only allowed one choice (Republican ballot with Republican candidates only along with ballot measures, Combined ballot with all candidates EXCEPT Republican candidates, along with ballot measures, and a ballot measures only ballot that contains ballot measures but no candidates). Alaska also produces a ballot containing only federal races that is available to certain absentee voters. (Sample ballots for previous elections are available on the division's website at http://www.elections.alaska.gov/Core/sampleballots.php).

Alaska is a paper ballot state, supplemented with touchscreen voting for Help America Vote Act (HAVA) compliance, with unique challenges distributing election equipment due to its large size and a highly dispersed voting population. Many remote communities are off the road system and accessible only via plane, boat or other alternate transportation methods (for example snowmobiles or all-terrain vehicles). To effectively and efficiently perform the core election services, the division is divided between the Director's Office in Juneau and four Regional Election Offices located in Juneau, Fairbanks, Nome, and Anchorage. In addition, the division has an Absentee & Petition Office in Anchorage and a satellite Regional Office in Wasilla that covers the Matanuska-Susitna Borough (Mat-Su).

The state is divided into 40 house districts with a total of 441 precinct polling places across the state, over 150 absentee/early locations serving a total of 575,049 eligible voters in 2018. Some absentee/early voting locations have pre-printed paper ballots for one house district and some have pre-printed paper ballots for multiple districts.

- 304 of Alaska's 441 precincts use a single optical scanner throughout Election Day for scanning/tabulating the paper ballots.
- 137 of Alaska's 441 precincts are considered hand-count precincts, meaning election workers hand count the ballots when the polls close and call their assigned Regional Office to report the election results.
- Each of the 441 precincts and five early vote stations in the Regional/Satellite offices receive a touchscreen voting unit, equipped with a voter-verifiable paper trail, for HAVA accessibility and language assistance requirements.

The Director's Office in Juneau is the "host" site (central server) for the entire ballot tabulation system and houses the software and central hardware (servers, modems) used for programming the election database, generating ballots, preparing all memory devices/security keys used in the election with the election parameters, receiving and reporting of the election results. (Samples of election results reports are available on the division's website at http://www.elections.alaska.gov/doc/info/ElectionResults.php). The Director's office is also responsible for conducting the initial logic and accuracy test on the memory devices that will be used in the election. The database and memory devices are then sent to the Regional Offices.

The Regional Offices and the Mat-Su satellite office are responsible for storing and preventative maintenance of the ballot tabulation equipment, conducting logic and accuracy testing on all equipment\devices used in the region, and the preparation and distribution of the ballot tabulation equipment to the precinct polling place

locations for Election Day use. In addition, three Regional Offices house software and hardware (regional servers) used to enter the election results from hand-count precincts and precincts that cannot upload results from the polling place. The election database is loaded onto the regional servers and through user credentials, regional staff have access to data enter the election results for specific hand-count precincts. The hand-count precincts call their assigned Regional Office to report election results. Regions then manually enter the results into the election database, print a copy of the entered results, and upload the results to the Director's Office. Currently, Region I (Juneau) uses one data-entry station with attached printer to enter results for approximately 40 precincts, Region III (Fairbanks) uses 2 data-entry stations networked to 1 printer to enter results from approximately 50 precincts, and Region IV (Nome) uses 3 data-entry stations networked to 1 printer to enter results from approximately 99 precincts.

All early, absentee, and questioned ballots are scanned and counted at the Regional Offices using optical scanners and uploading the results to the central server in the Director's Office. During the 2018 General Election, over 95,000 absentee/early/questioned ballots were counted. Region 1 (Juneau) counted approximately 25,700 ballots; Region 2 (Anchorage) counted approximately 40,000 ballots; Region 3 (Fairbanks) counted approximately 14,000 ballots; Region 4 (Nome) counted approximately 3,200 and the Mat-Su Satellite Office counted approximately 14,000. Alaska law allows for partial count of absentee and questioned ballots (meaning only some races on the ballot are counted). Statewide, approximately 10,000 of the absentee and questioned ballots voted during the 2018 general election were partially counted. The partial count ballots are scanned in batches according to the type of count. For instance, statewide races only, statewide/senate races only, statewide/senate/judicial races only, Presidential only.

As mentioned above, the division uses one HAVA compliant, accessible touchscreen voting unit (TSX) in each precinct polling place. The units are equipped with a voter-verifiable paper audit trail (required under Alaska Statute 15.15.032), and an audio recording of the ballot and voter's selections for visually impaired voters. In addition, for precincts requiring non-English language assistance, the TSX unit has an audio recording of the ballot in the appropriate alternative language. In 2018, Spanish, Tagalog and multiple Alaska Native language assistance was supported by TSX units in over 100 precincts. In addition to the precinct units, Alaska uses TSX units in the regional early voting stations. Units used in the early voting stations support multiple ballot styles, for instance the Region II (Anchorage) voting station accommodates voters from 21 different house districts. Approximately 1% of Alaska's voters use the touchscreen voting unit to cast their ballot.

Election results from precincts are currently uploaded to the Director's Office from the polling place locations in a mixture of ways: some are uploaded from the equipment at the precinct location, some locations bring memory devices to Regional Offices or hub locations for uploading, and some call their Regional Office to report the results and the regional office manually enter the results. Note: one precinct could use a combination of methods. For example, there could be an upload from the optical scanner and a called-in result from the touchscreen unit. The Director's Office has 29 dedicated modems to receive optical scan results, 15 dedicated modems to receive TSX results and 4 dedicated modems to receive Regional data entry results.

The division does not store ballot tabulation equipment year-round at remote precinct polling places due to lack of suitable storage space. Therefore, equipment, for over 150 rural precincts, is shipped to, and returned from, these locations for each election. Size, durability, air-carrier restrictions (certain batteries, for example) and weight of hardware systems will be a crucial consideration when determining if equipment can be shipped to remote precinct locations using USPS standards. Even though equipment for urban area precincts is kept at Regional Office locations and does not need to be shipped, it is still necessary that the equipment is portable

enough to move easily between rooms and in and out of storage. Some equipment is also stored at regional hub locations (city or borough buildings) that are not owned by the State.

Alaska allows the boroughs and cities to use its precinct-based hardware for local elections, free of charge. The local governments use their own memory devices and have and will continue to arrange their own election programming with the vendor selected through this RFP. Any solution must allow this arrangement to continue to work.

SECTION 3. SCOPE OF WORK & CONTRACT INFORMATION

SEC. 3.01 SCOPE OF WORK

DOE is soliciting proposals for the implementation, installation, testing and training of a new voting and ballot tabulation system (software and hardware) that will be used to support elections, including but not limited to defining the election and election parameters, generating ballots (for electronic and print ready ballot files), ballot scanning (at the precinct polling place and regional office levels), tabulation, transmitting and reporting election results. The first election DOE anticipates using the new system in is the August 18, 2020 Primary election.

DOE requires a complete, turn-key system that includes:

1. Precinct-based voting solution for 304 precincts to include ballot counting at the precinct level and HAVA compliant accessible voting.
2. HAVA compliant accessible voting solution for 137 hand-count precincts and 5 early vote stations.
3. Central ballot counting at Regional Offices for absentee/questioned/early ballots (using scanners that can be loaded with multiple ballots and that do not require feeding ballots one at a time). Typically, these ballots are counted on multiple days (election night and then usually 3-5 additional counts) in batches by house district and type of count (full count or partial count) and can have various quantities (small-large) depending on type of count (see background section for approximate quantities).
4. Manual entry at Regional Offices for hand-count precinct election results. The proposed solution must allow for simultaneous data entry of hand-count results as outlined below:
    a. Region I – at least 2 users entering results.
    b. Region III – at least 2 users entering results.
    c. Region IV – at least 3 users entering results.
5. Upload of election results from precincts and Regional Offices to central server located in the Director's Office.
6. Tabulating/Reporting of election results.
7. (Optional) Ballot-on-Demand solution for a minimum of 5 early vote locations to eliminate and/or reduce the number of pre-printed paper ballots DOE distributes to these locations. (Note: currently, DOE prints ballots for each house district for distribution at these locations. The voter is given the ballot for the house district where he/she is registered. DOE envisions a system that would allow multiple house district ballots to be loaded onto a ballot-on-demand solution for accessing by the voter). (**NOTE: As an optional item, this will not be included when evaluating and scoring the proposals).**

The proposed system must continue to maximize accessibility for all Alaskans eligible to vote, including rural and urban voters, voters with disabilities and voters requiring language assistance under Section 203 of the Voting Rights Act (VRA). The wide array of Alaska Native languages, including regional dialects, mean there are many languages that will need to be supported in Alaska. In the 2018 general election, the State provided support for 15 non-English languages, in the form of alternative language sample ballots and audio files on the touchscreen. All on-screen voting is displayed in English, with an audio translation of the ballot in the alternative language. Some precincts may have up to 5 languages supported via audio translation of the ballot. The successful contractor must be willing to work with Alaska officials to add audio files to the system to support Alaska Native, Spanish and Tagalog languages if not already included in the proposed system.

The State prefers COTS, non-proprietary hardware options wherever possible.

SEC. 3.02 CONTRACT TERM AND WORK SCHEDULE

The length of the contract will be from the date of award, approximately July 1, 2019, for 5 YEARS, EXPIRING 06/30/2024.

Unless otherwise provided in this RFP, the State and the successful offeror/contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least 30-days before the desired date of cancellation.

SEC. 3.03 DELIVERABLES

The contractor will be required to provide a complete, turn-key, EAC certified voting and ballot tabulation system that supports both precinct-based ballot counting and central (regional office) ballot counting as well as provide for HAVA compliant, accessible voting. The contractor shall provide all software, hardware, firmware, equipment, supplies, support and services necessary for a complete and comprehensive solution that meets Alaska's requirements.

All proposed hardware must be newly manufactured, not refurbished. Hardware and software must meet the minimum system requirements outlined as a Must Have in Attachment #1 Requirements and shall include backup power/UPS, any hardware necessary to transmit results from precincts or Regional Offices (including encrypted thumb drives, keys or any other portable storage devices), printers, secure ballot boxes, and any other required hardware. The system must include a centralized scanner system for Regional Offices and a precinct-based solution that incorporates accessible voting requirements.

As part of the deliverables, the contractor will be required to provide the following:

1) **Project Management:** The contractor shall prepare a project schedule with specific tasks, milestones and deliverables. The contractor must assign a project manager to oversee and coordinate the ballot tabulation system delivery, implementation, training and support. The assigned project manager shall provide services to ensure the successful delivery and deployment of the system and will be required to provide updates at least weekly to the DOE project manager regarding equipment delivery, installation, implementation training and support, technical difficulties and all other related matters.

2) **Shipping and Delivery:** The contractor shall provide for the shipping, tracking and delivery of all system components required for the proposed system to the appropriate offices (Director's and Regional/Satellite) for installation. In addition, the components for the precinct-based solution must be shipped to the appropriate Regional/Satellite Office.

3) **Installation:** The contractor must complete the initial installation of the equipment in each Regional/Satellite Office and the Director's Office. Installation will include:

    a) System installation and configuration plan for the system installed in the Director's Office and in each Regional/Satellite Office.

b) Preparation of the system to ensure the system is secure and operating properly and ready for election use.
c) Installation of all components to fully conduct elections.
d) Initial acceptance testing to ensure all system components and precinct-based solution components are operating according to specifications. As part of the acceptance testing, the contractor must provide user-friendly acceptance testing scripts and must provide onsite support for DOE staff when performing acceptance testing.
e) Once all equipment is delivered and installed, the contractor must work with DOE to conduct a "mock" election to be used for end-to-end and load testing to verify that all installed components operate properly, and operate as a complete, fully-functioning system, including the upload of mock election results. The contractor must provide a demonstration election and ballots to support the mock election as well as test scripts for logic and accuracy testing.

4) **Documentation:** The contractor must provide documentation specific to the hardware and software implemented, including:

a) User Procedures, including documentation for precinct-based components as well as central scanning and data-entry of hand-count results at regional offices;
b) shipping requirements to meet USPS standards and contractor's warranty;
c) election administrator documentation;
d) system documentation;
e) preventative maintenance plans and procedures; and
f) training materials specific to the installation, including setup/takedown processes for precinct-based solution.

5) **Training:** The contractor must provide complete, comprehensive training of the entire system for DOE staff, that covers at a minimum:

a) System software and all aspects of preparing the election database (including import/export features, generating ballot files, downloading election database to memory devices, uploading and reporting of election results, backing-up of the database, preparing for logic and accuracy testing);
b) operation of regional scanning solution (including software and hardware);
c) regional office procedures for data entry of hand-count results;
d) preparation, set-up and takedown processes for precinct-based solution (all components); and
e) processes for uploading election results from precincts and Regional/Satellite Offices.

6) **Support:** The contractor must provide election support.

a) Onsite and offsite database review and programming support during election setup during the first primary and general election the system is in use.
b) Onsite support at Regional Offices and Director's Office during the first primary and general election the system is in use. Onsite support will be 3 days, consisting of the day prior, day of, and the day after the election.

c) During the two weeks prior through two weeks after election day, real time support during Alaska business hours, including weekends.

d) U.S. based customer support provided by customer service employees residing within the United States.
   i) The successful vendor agents will be required to be in compliance with the state's security standards, which may include background checks.

7) **Repair and Maintenance:** The contractor must provide equipment repair and preventative maintenance recommendations, including recommendations for storage and off-cycle preventative maintenance requirements.

8) (Optional) Ballot-on-Demand solution for 5 early vote locations. (**NOTE: As an optional item, this will not be included when evaluating and scoring the proposals.)**

9) (Optional) Provide suitable shipping cases for equipment to be sent out to the precincts during an election. **(NOTE: As an optional item, this will not be included when evaluating and scoring the proposals.)**

SEC. 3.04 CONTRACT TYPE

A contract resulting from this RFP, if any, shall be a fixed price contract. The contractor will be required to provide the complete ballot tabulation system as set out in the RFP at a total fixed price.

SEC. 3.05 PROPOSED PAYMENT PROCEDURES

The state will make payments based on a negotiated payment schedule. Each billing must consist of an invoice and progress report. No payment will be made until the progress report and invoice has been approved by the project director.

SEC. 3.06 PROMPT PAYMENT FOR STATE PURCHASES

The state is eligible to receive a 5% discount for all invoices paid within 15 business days from the date of receipt of the commodities or services and/or a correct invoice, whichever is later. The discount shall be taken on the full invoice amount. The state shall consider payment being made as either the date a printed warrant is issued or the date an electronic funds transfer (EFT) is initiated.

SEC. 3.07 CONTRACT PAYMENT

No payment will be made until the contract is approved by the Office of the Governor. Under no conditions will the state be liable for the payment of any interest charges associated with the cost of the contract.

The state is not responsible for and will not pay local, state, or federal taxes. All costs associated with the contract must be stated in U.S. currency.

SEC. 3.08 LOCATION OF WORK

The location(s) the work is to be performed, completed and managed is the Division of Elections Director's Office (Juneau), Regional Offices in Juneau, Anchorage, Fairbanks and Nome as well as the Region 2 satellite office in Wasilla.

The state can offer temporary work space for the contractor to use during installation, testing, training and election support as well as meeting space for any meetings that take place between contractor and state.

By signature on their proposal, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the offeror cannot certify that all work will be performed in the United States, the offeror must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of proposals.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the proposal as non-responsive, or cancel the contract.

SEC. 3.09 THIRD-PARTY SERVICE PROVIDERS

Not applicable.

SEC. 3.10 SUBCONTRACTORS

Subcontractors may be used to perform work under this contract. If an offeror intends to use subcontractors, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

Subcontractor experience **SHALL** be considered in determining whether the offeror meets the requirements set forth in **SEC. 1.04 PRIOR EXPERIENCE**.

If a proposal with subcontractors is selected, the offeror must provide the following information concerning each prospective subcontractor within five working days from the date of the state's request:

- complete name of the subcontractor;
- complete address of the subcontractor;
- type of work the subcontractor will be performing;
- percentage of work the subcontractor will be providing;
- evidence that the subcontractor holds a valid Alaska business license; and
- a written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the services required by the contract.

An offeror's failure to provide this information, within the time set, may cause the state to consider their proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the project director.

SEC. 3.11 JOINT VENTURES

Joint ventures will not be allowed.

SEC. 3.12 RIGHT TO INSPECT PLACE OF BUSINESS

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

SEC. 3.13 F.O.B. POINT

All goods purchased through this contract will be F.O.B. final destination. Unless specifically stated otherwise, all prices offered must include the delivery costs to any location within the State of Alaska.

SEC. 3.14 CONTRACT PERSONNEL

Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the project director. Personnel changes that are not approved by the state may be grounds for the state to terminate the contract.

SEC. 3.15 INSPECTION & MODIFICATION - REIMBURSEMENT FOR UNACCEPTABLE DELIVERABLES

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the project director. The state may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. The project director may instruct the contractor to make corrections or modifications if needed in order to accomplish the contract's intent. The contractor will not unreasonably withhold such changes.

Substantial failure of the contractor to perform the contract may cause the state to terminate the contract. In this event, the state may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

SEC. 3.16 LIQUIDATED DAMAGES – NORMALLY USED FOR CONSTRUCTION ONLY

Not Applicable.

SEC. 3.17 CONTRACT CHANGES - UNANTICIPATED AMENDMENTS

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the project director will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the project director has secured any required state approvals necessary for the amendment and issued a written contract amendment, approved by the Office of the Governor.

SEC. 3.18 NONDISCLOSURE AND CONFIDENTIALITY

Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information.

"Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

SEC. 3.19 INSURANCE REQUIREMENTS

The successful offeror must provide proof of workers' compensation insurance prior to contract approval.

The successful offeror must secure the insurance coverage required by the state. The coverage must be satisfactory to the Department of Administration Division of Risk Management. An offeror's failure to provide evidence of such insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

Offerors must review form **APPENDIX B1** attached, for details on required coverage. No alteration of these requirements will be permitted without prior written approval from the Department of Administration, Division of Risk Management. Objections to any of the requirements in **APPENDIX B1** must be set out in the offeror's proposal.

SEC. 3.20 TERMINATION FOR DEFAULT

If the project director determines that the contractor has refused to perform the work or has failed to perform the work with such diligence as to ensure its timely and accurate completion, the state may, by providing

written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work.

This clause does not restrict the state's termination rights under the contract provisions of Appendix A, attached in **SECTION 8. ATTACHMENTS**.

SECTION 4. PROPOSAL FORMAT AND CONTENT

SEC. 4.01 PROPOSAL FORMAT AND CONTENT

The state discourages overly lengthy and costly proposals; however, in order for the state to evaluate proposals fairly and completely, offerors must follow the format set out in this RFP and provide all information requested.

SEC. 4.02 INTRODUCTION

Proposals must include a transmittal letter that includes the following:

- The complete name and address of offeror's firm and the name, mailing address, and telephone number of the person the state should contact regarding the proposal.
- Indication if the offeror intends to use subcontractors, and if so, specific detail outlined in Section 3.10.
- A statement confirming that the offeror's firm meets the minimum Prior Experience set out in Section 1.04.
- Confirm that the offeror will comply with all provisions in this RFP; and, if applicable, provide notice that the firm qualifies as an Alaskan bidder.
- Signature of a company officer empowered to bind the company.

An offeror's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

SEC. 4.03 UNDERSTANDING AND TECHNICAL SOLUTION FOR THE PROJECT

- Offerors must provide comprehensive narrative statements that illustrate their understanding of the requirements of the project and include a high-level architecture overview (including diagrams) of the proposed solution.

- Offerors must identify the EAC certification status of the proposed system and which version of the VVSG the system is certified under (include a copy of the certification provided by EAC).

- Offerors must provide at a minimum a detailed description of:

    1. The proposed "host" site in the Director's Office, for programming the election, preparing ballots, receiving and reporting of election results. Outline the software and hardware components that are included.
    2. The proposed system in the Regional Offices for counting of absentee/questioned/early vote ballots, including your solution for counting partial count ballots and uploading results to the host site. Outline the software and hardware components that are included.
    3. The proposed system for regional data-entry and uploading to host site of hand-count election results.
    4. The proposed precinct-based system, including accessible voting device, ballot box, how the election is loaded onto the equipment, and how the equipment can be transported to precinct polling places.
    5. The expected useful life of the proposed system and where the proposed system is at in its product useful lifecycle.

6. (Optional) Describe any ballot-on-demand solution you would propose. DOE, dependent on pricing and available funding, may purchase ballot-on-demand as part of the ballot tabulation system. **(NOTE: As an optional item, this will not be included when evaluating and scoring the proposals.)**

- Offerors must complete Attachment 2, Miscellaneous Specifications.

- Offerors must outline the security features of the proposed system, including a detailed description of the planned security that answers the underlying questions of (1) how does the State stop people from doing things to the system that should not be done, and (2) if someone does something, how does the State determine what was done? At a minimum, discuss the following topics:

    - Operational security, including backup capabilities and protocols (for data and configurations).
    - Security of results transmission from precincts or Regional Offices to the Director's Office, including a description of supported communication technologies and methods used to ensure data integrity;
    - Physical security of the system itself; and
    - Access controls, including user authentication.
        - If software components need to be updated (e.g., virus definition updates, system upgrades/patches), identify and describe how this will be accomplished.

      Note: For security reasons, the State envisions that the system will be air gapped. If a firm recommends a different approach, explain the recommended approach and why this approach should be used.

- Offerors must outline the audit functionality in the proposed system, not only for the software components but also for all hardware. The description should answer the foundational question: how can the State prove that the output from the system is trustworthy and no one has tampered with any component of the system? At a minimum, discuss the following topics:

    - What elements are included in audit functions;
    - What data is captured in logs;
    - The auditing techniques used;
    - The available reports and logs; and
    - How the logs are secured.

SEC. 4.04 METHODOLOGY USED FOR THE PROJECT

Offerors must provide comprehensive narrative statements that set out the methodology they intend to employ and illustrate how the methodology will serve to accomplish the work and meet the project schedule.

Proposed methodologies described will include:

- A high-level schedule for the implementation, including the projected length of time to complete each step of the implementation.

- The testing approach to be used for the following types of testing performed as part of the initial system implementation, to include:

    - System testing;
    - Performance/stress testing;
    - Acceptance testing; and
    - Logic and Accuracy testing.
      Note: The selected firm will coordinate and oversee acceptance testing; however, DOE personnel must conduct the testing itself.

- The training approach that will be used for training election staff on use of the proposed system, including the types of training and the method and mode of each type. Include sample training materials for a component of the election creation/set up process, and a component of the ballot scanning process.

- Any mitigation plan, including steps taken to mitigate risks due to unforeseen circumstances. At a minimum, discuss the following topics:

    - Recommendations to prevent, mitigate and recover from an emergency situation that may disrupt an election;
    - Technology threats;
    - Recommendations for contingency planning; and
    - System redundancy and backups.

- The support model, including how support calls are handled during the phases of an election lifecycle and recount.

- The maintenance and warranty structure. Describe the product's lifecycle, including frequency of updates to specialized election software and to the firmware of specialized hardware. Identify how long the firm supports a software version. Define whether updates to the software over time would require the system's network to be rebuilt, and if so, the frequency at which this would occur.

    - Identify who would perform maintenance (e.g., firm, subcontractor, local technicians, etc.).
    - Identify the types of system support and maintenance typically performed by the client's IT staff and the skillsets required for each type.
    - Attach a copy of your standard warranty for the system.

SEC. 4.05 MANAGEMENT PLAN FOR THE PROJECT

The offeror selected in response to this RFP must provide experienced, qualified professionals to ensure the success of the project. Offerors must provide comprehensive narrative statements that set out the management plan they intend to follow and illustrate how the plan will serve to accomplish the work and meet the project schedule. The management plan for the project must include:

- An organizational chart showing proposed project manager and team members and defining all key functional and technical roles of team members.

- Detailed list showing each individual proposed to serve on the project, with a complete description of his/her role, responsibilities and years of experience with implementing voting and ballot tabulation systems.
- Confirmation that the offeror commits that the project team members will actually be assigned to the project and will not be reassigned without notifying DOE.

- If the offeror intends to use subcontractors, the offeror must identify in the proposal the name of the subcontractors and the portions of the work that will be performed by subcontractors.

SEC. 4.06 EXPERIENCE AND QUALIFICATIONS

Offerors must provide an overview about your company, its capabilities and why it should be selected for this project. The overview should describe the company's stability and ability to perform required work for this project and ongoing election support and equipment repair and maintenance. Offeror may provide any additional information that demonstrates the strength it can bring to this project.

Offerors must also provide detailed information describing experience implementing a comparable ballot tabulation system (including the use of the software/hardware being proposed) and provide at least three (3) and no more than five (5) references where the proposed system has been implemented.

SEC. 4.07 DEMONSTRATION

Offerors must provide an on-site mock election demonstration that gives a clear and meaningful understanding of the proposed solution. Location of the Demonstration will be either Juneau or Anchorage, determined by DOE. Offerors must present their demonstration in real time and must supply all components required to perform the demonstration. DOE will provide internet connectivity, a projection screen, tables, chairs and any other requested accommodations DOE finds reasonable.

Each offeror will be limited to one, 6-hour demonstration on a single day that provides an overview of:

- Software used to create election parameters, receive and report results. In addition, DOE would like to see how system imports data, exports results and ballot images, how languages are handled, how audio is imported and at a minimum the Election Summary, Statement of Votes Cast and Card Cast reports.

- Proposed solution for precinct-based equipment (including ballot box and any accessible device and components).

- Scanning solution for Regional Offices for counting absentee/questioned/early ballots, including scanning partial count ballots.

- Manual entry of election results from Regional Offices for uploading to Director's Office.

As part of the demonstration, DOE would like the offeror to prepare a mock election and test ballots that will be used to show scanning with the precinct-based solution, central scanning at the regional offices and other features of the proposed system and that includes at a minimum:

- One jurisdiction wide race (with at least 4 candidates plus write-in), 2 state senate races (with at least 2 candidates, plus write-in), and 4 house district races (with at least 2 candidates, plus write-in) covering a total of 12 precincts. For instance, Governor (jurisdiction-wide), Senate A, Senate B, House District 1, House District 2, House District 3 and House District 4. House District 1-2 can be assigned to Senate A and House District 3-4 can be assigned to Senate B. There should be a minimum of 3 precincts assigned to each house district, for a total of 12 with 2 of the precincts (in the same house district) sharing the precinct equipment.

- There should be enough ballots for 4 different test decks (one for each house district) with extras for evaluators to use. The test decks can be created following the 1, 2, 3, 4 pattern (1st candidate gets 1 vote, second 2nd gets 2 votes, 3rd gets 3 and 4th gets 4, etc). The test decks will be used to scan ballots for the precincts as well as for absentee/questioned/early vote ballots.

    - The candidate names in the jurisdiction-wide race must be rotated by house district.

    - The candidate names shall include both their registered party affiliation and their party designation (i.e., Smith, Ballot (D) Alaska Democrat Party Nominee, where the (D) refers to the candidate's party affiliation).

- Process for uploading election results.

SEC. 4.08 COST PROPOSAL

Cost proposals must include an overall fixed cost for all direct and indirect costs associated with the performance of the contract. Offerors must complete and submit Attachment #3, Proposal Cost Sheet and must attached an itemized list detailing all software, hardware, and miscellaneous system components needed for a complete turn-key system (i.e., power cords, memory devices, ballot boxes, security keys, access cards) that are included with the system cost proposal, broken out by item and quantity.

1. The cost proposal must include the cost (including licensing) for the overall system software that is needed to program and prepare for elections, generate ballot files, tabulate and report results at the Director's Office as well as software that is needed at the Regional/Satellite Offices for manual entry of election results and centrally scanning absentee/questioned/early vote ballots.

2. The cost proposal must include the cost for all system hardware needed for implementation of the system in the Director's Office and the Regional/Satellite Offices. (This includes the hardware for the manual entry stations required as outlined in the Scope of Work).

3. The cost proposal must include the cost, per unit, for all hardware/software/firmware/licensing and any other peripheral items needed for the precinct-based voting and ballot counting solution for 304 precincts, including HAVA compliant accessible voting.

4. The cost proposal must include the cost, per unit, for all hardware/software/firmware/licensing and any other peripheral items needed for the precinct-based HAVA compliant accessible voting solution for 137 hand-count precincts and 5 early vote stations.

5. The cost proposal must include the cost for project management, installation and training.

6. The cost proposal can include the cost for any optional items the offeror would like to propose (i.e., ballot-on-demand, shipping cases). (NOTE: Optional items and their associated costs will not be included when evaluating and scoring the proposals.)
   Evaluation Criteria

All proposals will be reviewed to determine if they are responsive. Proposals determined to be responsive will be evaluated using the criterion that is set out in **SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION**.

An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror.

SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS PROPOSAL IS 100

SEC. 5.01 UNDERSTANDING AND TECHNICAL SOLUTION FOR THE PROJECT (20%)

Proposals will be evaluated against the questions set out below:

1) How well has the offeror demonstrated a thorough understanding of the organization of the Division of Elections, including the roles between the Director's office and the Regional Offices and proposed a solution that addresses the various roles between the Director's office and Regional offices as well as the unique logistical challenges with implementing a ballot tabulation system in Alaska?

2) How well does the offeror's proposed solution address the various ballot counting methods, including how results are reported and is the proposed solution architected to address the variations used in Alaska to count and report results?

3) How well does the proposal describe the total overall system architecture, at the Director's office and Regional offices and demonstrate that the system can meet the requirements set out in the RFP and outline in Attachment 1?

4) How well does the proposal describe the offeror's solution for precinct-based ballot tabulation as well as central scanning for absentee/questioned and early vote ballots, including scanning and reporting results for partial count ballots (i.e., Statewide only, Statewide/Senate, Statewide/Senate/Judicial etc.) and does it appear the proposed solution can adequately meet the ballot tabulation needs of the State of Alaska?

5) Did the offeror provide reasonable detail/recommendation on how the precinct-based equipment could be shipped to rural precincts (shipping boxes/containers/cases) during the elections?

6) For storage at the Regional Offices, is the precinct-based equipment in the proposed solution portable enough to move easily between rooms when preparing for an election?

7) Does the proposal clearly identify the EAC certification status of the proposed solution and which version of the VVSG the system is certified under?

8) How well does the proposal outline the security features of the proposed system, including security of results transmissions, user security authentication and access controls?

SEC. 5.02 METHODOLOGY USED FOR THE PROJECT (5%)

Proposals will be evaluated against the questions set out below:

1) How well has the offeror described a project schedule and does the schedule depict a reasonable timeframe for the project from start to finish?

2) How well does the proposal describe the offeror's proposed testing strategy and has the offeror provided sample test scripts that depict a logical approach to the various tests outlined in the RFP?

3) How well does the proposal describe the training approach and does it appear that the proposed training provide staff with a clear understanding of how to operate and maintain both hardware and software used in the proposed solution?

SEC. 5.03 MANAGEMENT PLAN AND EXPERIENCE FOR THE PROJECT (5%)

Proposals will be evaluated against the questions set out below:

1) How well does the proposal demonstrate that the offeror has the experience and qualifications necessary to complete the requirements of this RFP and deliver a solution on time?

2) How well does the proposal outline the organization of the project team and does it appear that the offeror has experienced personnel resources in place for successful completion of the project on time?

3) Does the proposal demonstrate that the offeror has the ability to provide adequate support for its solution and products after the contract is complete?

SEC. 5.04 SOLUTION DEMONSTRATION (35%)

Proposals will be evaluated against the questions set out below:

1) How well did the demonstration give a clear understanding of the proposed solution, including the software and hardware components?

2) How well did the demonstration show that the proposed solution can meet the functional requirements in Attachment 1 and meet Alaska's ballot counting needs and processes?

3) How well did the demonstration show that the proposed solution offers efficient, high-speed scanning at the Regional Offices for absentee/questioned/early vote ballots?

4) How well did the offeror demonstrate the proposed solution can efficiently process and report results for partial count ballots?

5) How well did the demonstration show that the proposed solution can produce ballots at the house district level for tabulation of absentee/questioned/early vote ballots.

6) How well did the demonstration show that 2 precincts in the same house district can share precinct-based equipment and results tabulated to the correct precinct?

7) How well did the demonstration show that the proposed solution includes an efficient process for manual entry of election results from hand-count precincts?

8) Does the proposed precinct-based solution appear to be user friendly and compact enough for elderly poll workers to manage, including the ability to easily setup and takedown the equipment at the polling place?

9) Will the proposed precinct-based solution be reasonably transported, be capable of withstanding transport conditions without incurring damage and be able to be shipped to rural precincts using USPS as a shipping method?

10) How well did the demonstration show that the proposed precinct-based solution will meet the language accessibility needs for Alaska and allow for designating which languages to apply to individual precincts, without requiring an "all or none" for language accessibility?

SEC. 5.05 CONTRACT COST (25%)

Overall, a minimum of **25**% of the total evaluation points will be assigned to cost. The cost amount used for evaluation may be affected by one or more of the preferences referenced under Section 6.12.

Converting Cost to Points

The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined through the method set out in Section 3.15.

SEC. 5.06 ALASKA OFFEROR PREFERENCE (10%)

If an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points. This amount will be added to the overall evaluation score of each Alaskan offeror.

SECTION 6. GENERAL PROCESS INFORMATION

SEC. 6.01 INFORMAL DEBRIEFING

When the contract is completed, an informal debriefing may be performed at the discretion of the project director. If performed, the scope of the debriefing will be limited to the work performed by the contractor.

SEC. 6.02 ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES

Prior to the award of a contract, an offeror must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran and Alaska Offeror Preference, an offeror must hold a valid Alaska business license prior to the deadline for receipt of proposals. Offerors should contact the **Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, PO Box 110806, Juneau, Alaska 99811-0806**, for information on these licenses. Acceptable evidence that the offeror possesses a valid Alaska business license may consist of any one of the following:

- copy of an Alaska business license;
- certification on the proposal that the offeror has a valid Alaska business license and has included the license number in the proposal;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the offeror has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time proposals are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game;
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only;
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance; or
- Mining licenses issued by Alaska Department of Revenue.

Prior the deadline for receipt of proposals, all offerors must hold any other necessary applicable professional licenses required by Alaska Statute.

SEC. 6.03 SITE INSPECTION

The state may conduct on-site visits to evaluate the offeror's capacity to perform the contract. An offeror must agree, at risk of being found non-responsive and having its proposal rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer at the state’s expense will make site inspection.

SEC. 6.04 CLARIFICATION OF OFFERS

In order to determine if a proposal is reasonably susceptible for award, communications by the procurement officer or the proposal evaluation committee (PEC) are permitted with an offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or substantive change to the proposal. The evaluation by the procurement officer or the PEC may be adjusted as a result of a clarification under this section.

SEC. 6.05 DISCUSSIONS WITH OFFERORS

The state may conduct discussions with offerors in accordance with AS 36.30.240 and 2 AAC 12.290. The purpose of these discussions will be to ensure full understanding of the requirements of the RFP and proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the procurement officer. Discussions will only be held with offerors who have submitted a proposal deemed reasonably susceptible for award by the procurement officer.

Discussions, if held, will be after initial evaluation of proposals by the procurement officer or the PEC. If modifications are made as a result of these discussions they will be put in writing. Following discussions, the procurement officer may set a time for best and final proposal submissions from those offerors with whom discussions were held. Proposals may be reevaluated after receipt of best and final proposal submissions.

If an offeror does not submit a best and final proposal or a notice of withdrawal, the offeror's immediate previous proposal is considered the offeror's best and final proposal.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for discussions so that reasonable accommodation can be made. Any oral modification of a proposal must be reduced to writing by the offeror.

SEC. 6.06 EVALUATION OF PROPOSALS

The procurement officer, or an evaluation committee made up of at least three state employees or public officials, will evaluate proposals. The evaluation will be based solely on the evaluation factors set out in **SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION**.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

SEC. 6.07 CONTRACT NEGOTIATION

After final evaluation, the procurement officer may negotiate with the offeror of the highest-ranked proposal. Negotiations, if held, shall be within the scope of the request for proposals and limited to those items which would not have an effect on the ranking of proposals. If the highest-ranked offeror fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the state may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal. If contract negotiations are commenced, they may be held in Juneau or Anchorage, Alaska. Offerors will be responsible for their travel and per diem expenses.

SEC. 6.08 FAILURE TO NEGOTIATE

If the selected offeror

- fails to provide the information required to begin negotiations in a timely manner; or
- fails to negotiate in good faith; or
- indicates they cannot perform the contract within the budgeted funds available for the project; or
- if the offeror and the state, after a good faith effort, simply cannot come to terms,

the state may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

SEC. 6.09 OFFEROR NOTIFICATION OF SELECTION

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award (NIA) and send copies to all offerors. The NIA will set out the names of all offerors and identify the proposal selected for award.

SEC. 6.10 PROTEST

AS 36.30.560 provides that an interested party may protest the content of the RFP.

An interested party is defined in 2 AAC 12.990(a) (7) as "an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract."

If an interested party wishes to protest the content of a solicitation, the protest must be received, in writing, by the procurement officer at least ten days prior to the deadline for receipt of proposals.

AS 36.30.560 also provides that an interested party may protest the award of a contract or the proposed award of a contract.

If an offeror wishes to protest the award of a contract or the proposed award of a contract, the protest must be received, in writing, by the procurement officer within ten days after the date the Notice of Intent to Award the contract is issued.

A protester must have submitted a proposal in order to have sufficient standing to protest the proposed award of a contract. Protests must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;
- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

Protests filed by telex or telegram are not acceptable because they do not contain a signature. Fax copies containing a signature are acceptable.

The procurement officer will issue a written response to the protest. The response will set out the procurement officer's decision and contain the basis of the decision within the statutory time limit in AS 36.30.580. A copy of the decision will be furnished to the protester by certified mail, fax or another method that provides evidence of receipt.

All offerors will be notified of any protest. The review of protests, decisions of the procurement officer, appeals, and hearings, will be conducted in accordance with the State Procurement Code (AS 36.30), Article 8 "Legal and Contractual Remedies."

SEC. 6.11 APPLICATION OF PREFERENCES

Certain preferences apply to all contracts for professional services, regardless of their dollar value. The Alaska Bidder, Alaska Veteran, and Alaska Offeror preferences are the most common preferences involved in the RFP process. Additional preferences that may apply to this procurement are listed below. Guides that contain excerpts from the relevant statutes and codes, explain when the preferences apply and provide examples of how to calculate the preferences are available at the **Department of Administration, Division of General Service's** web site:

http://doa.alaska.gov/dgs/pdf/pref1.pdf

- Alaska Products Preference - AS 36.30.332
- Recycled Products Preference - AS 36.30.337
- Local Agriculture and Fisheries Products Preference - AS 36.15.050
- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)
- Alaska Veteran's Preference - AS 36.30.321(f)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Offerors must attach a copy of their certification letter to the proposal. **An offeror's failure to provide this certification letter with their proposal will cause the state to disallow the preference.**

Sec. 6.12 ALASKA BIDDER PREFERENCE

An Alaska Bidder Preference of 5% will be applied to the price in the proposal. The preference will be given to an offeror who:

1) holds a current Alaska business license prior to the deadline for receipt of proposals;
2) submits a proposal for goods or services under the name appearing on the offeror's current Alaska business license;

3) has maintained a place of business within the state staffed by the offeror, or an employee of the offeror, for a period of six months immediately preceding the date of the proposal;

4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and

5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

Alaska Bidder Preference Statement

In order to receive the Alaska Bidder Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Bidder Preference.

If the offeror is a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner and include a statement certifying that all members or partners are residents of the state.

If the offeror is a joint venture which includes a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner of each LLC or partnership that is included in the joint venture and include a statement certifying that all of those members or partners are residents of the state.

SEC. 6.13 ALASKA VETERAN PREFERENCE

An Alaska Veteran Preference of 5%, not to exceed $5,000, will be applied to the price in the proposal. The preference will be given to an offeror who qualifies under AS 36.30.990(2) as an Alaska bidder and is a:

A. sole proprietorship owned by an Alaska veteran;

B. partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;

C. limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or

D. corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

Alaska Veteran Preference Statement

In order to receive the Alaska Veteran Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Veteran Preference.

SEC. 6.14 ALASKA OFFEROR PREFERENCE

2 AAC 12.260(e) provides Alaska offerors a 10% overall evaluation point preference. Alaska bidders, as defined in AS 36.30.990(2), are eligible for the preference. An Alaska offeror will receive 10 percent of the total available points added to their overall evaluation score as a preference.

SEC. 6.15 FORMULA USED TO CONVERT COST TO POINTS

The distribution of points based on cost will be determined as set out in 2 AAC 12.260(c). The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined using the formula:

[(Price of Lowest Cost Proposal) x (Maximum Points for Cost)] ÷ (Cost of Each Higher Priced Proposal)

SEC. 6.16 EXAMPLES: CONVERTING COST TO POINTS & APPLYING PREFERENCES

(a) FORMULA USED TO CONVERT COST TO POINTS

STEP 1

List all proposal prices, adjusted where appropriate by the application of applicable preferences claimed by the offeror.

Offeror #1	$40,000
Offeror #2	$42,750
Offeror #3	$47,500

STEP 2

In this example, the RFP allotted 40% of the available 100 points to cost. This means that the lowest cost will receive the maximum number of points.

Offeror #1 receives 40 points.

The reason they receive that amount is because the lowest cost proposal, in this case $40,000, receives the maximum number of points allocated to cost, 40 points.

Offeror #2 receives 37.4 points.

$40,000 lowest cost x 40 maximum points for cost = 1,600,000 ÷ $42,750 cost of Offeror #2's proposal = ***37.4***

Offeror #3 receives 33.7 points.

$40,000 lowest cost x 40 maximum points for cost = 1,600,000 ÷ $47,500 cost of Offeror #3's proposal = **33.7**

(b) ALASKA OFFEROR PREFERENCE

STEP 1

Determine the number of points available to qualifying offerors under this preference.

100 Total Points Available in RFP x 10% Alaska offerors preference = 10 Points for the Preference

STEP 2

Determine which offerors qualify as Alaska bidders and thus, are eligible for the Alaska offerors preference. For the purpose of this example, presume that all of the proposals have been completely evaluated based on the evaluation criteria in the RFP. The scores at this point are:

Offeror #1	83 points	No Preference	0 points
Offeror #2	74 points	Alaska Offerors Preference	10 points
Offeror #3	80 points	Alaska Offerors Preference	10 points

STEP 3

Add the applicable Alaska offerors preference amounts to the offeror's scores:

Offeror #1	83 points	
Offeror #2	84 points	(74 points + 10 points)
Offeror #3	**90 points**	**(80 points + 10 points)**

STEP 4

Offeror #3 is the highest scoring offeror and would get the award, provided their proposal is responsible and responsive.

SECTION 7. GENERAL LEGAL INFORMATION

SEC. 7.01 STANDARD CONTRACT PROVISIONS

The contractor will be required to sign and submit the State's Standard Agreement Form for Professional Services Contracts (form 02-093/Appendix A). This form is attached in **SECTION 8. ATTACHMENTS** for your review. The contractor must comply with the contract provisions set out in this attachment. No alteration of these provisions will be permitted without prior written approval from the Department of Law. Objections to any of the provisions in Appendix A must be set out in the offeror's proposal.

SEC. 7.02 PROPOSAL AS A PART OF THE CONTRACT

Part or all of this RFP and the successful proposal may be incorporated into the contract.

SEC. 7.03 ADDITIONAL TERMS AND CONDITIONS

The state reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

SEC. 7.04 HUMAN TRAFFICKING

By signature on their proposal, the offeror certifies that the offeror is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: http://www.state.gov/j/tip/

Failure to comply with this requirement will cause the state to reject the proposal as non-responsive, or cancel the contract.

SEC. 7.05 RIGHT OF REJECTION

Offerors must comply with all RFP terms, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the state. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

Minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;
- are trivial, negligible, or immaterial in nature;
- do not reflect a material change in the work; or

- do not constitute a substantial reservation against a requirement or provision;

may be waived by the procurement officer.

The state reserves the right to refrain from making an award if it determines that to be in its best interest.

A proposal from a debarred or suspended offeror shall be rejected.

SEC. 7.06 STATE NOT RESPONSIBLE FOR PREPARATION COSTS

The state will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

SEC. 7.07 DISCLOSURE OF PROPOSAL CONTENTS

All proposals and other material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

Trade secrets and other proprietary data contained in proposals may be held confidential if the offeror requests, in writing, that the procurement officer does so, and if the procurement officer agrees, in writing, to do so. The offeror's request must be included with the proposal, must clearly identify the information they wish to be held confidential, and include a statement that sets out the reasons for confidentiality. Unless the procurement officer agrees in writing to hold the requested information confidential, that information will also become public after the Notice of Intent to Award is issued.

SEC. 7.08 ASSIGNMENT

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer.

SEC. 7.09 DISPUTES

A contract resulting from this RFP is governed by the laws of the State of Alaska. If the contractor has a claim arising in connection with the agreement that it cannot resolve with the state by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632. To the extent not otherwise governed by the preceding, the claim shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

SEC. 7.10 SEVERABILITY

If any provision of the contract or agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

SEC. 7.11 SUPPLEMENTAL TERMS AND CONDITIONS

Proposals must comply with SEC. 7.05 RIGHT OF REJECTION. However, if the state fails to identify or detect supplemental terms or conditions that conflict with those contained in this RFP or that diminish the state's rights

under any contract resulting from the RFP, the term(s) or condition(s) will be considered null and void. After award of contract:

if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and

if the state's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

SEC. 7.12 CONTRACT INVALIDATION

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

SEC. 7.13 SOLICITATION ADVERTISING

Public notice has been provided in accordance with 2 AAC 12.220.

SECTION 8 ATTACHMENTS

SEC. 8.01 ATTACHMENTS

1) PROGRAMMING ELECTIONS REQUIREMENTS
2) MISCELLANEOUS SPECIFICATIONS
3) PROPOSAL COST SHEET AND OPTIONAL ITEMS
4) PROPOSAL EVALUATION FORM
5) PROPOSAL CHECKLIST
6) NOTICE OF INTENT TO AWARD

SEPARATE ATTACHMENTS

STANDARD AGREEMENT FORM

APPENDIX A – TERMS AND CONDITIONS

APPENDIX B1 – INSURANCE REEQUIREMENTS

ATTACHMENT 1
PROGRAMMING ELECTIONS REQUIREMENTS

A. PROGRAMMING ELECTIONS REQUIREMENTS

1.	The system must meet the requirements of and be certified under Voluntary Voting System Guidelines (VVSG) 1.0, published in 2005. While minimally acceptable, the State would prefer a system certified under VVSG 1.1, published in 2015.	Must Have
2.	The system architecture must include redundancy in election programming, allowing full election functionality from at least three geographically distinct locations.	Must Have
3.	The system must allow election officials the ability to create an election in a single, centralized database that allows for defining the election parameters (e.g., candidate and contest information), designing ballots and generating ballot displays that can be installed in all voting equipment for which they are intended.	Must Have
4.	Within the system, authorized users can establish political subdivisions, at both the State and municipal levels. Subdivisions will include Senate, House, Judicial, School, Borough Assembly, City Council, and Service Area districts.	Must Have
5.	When creating the election, election officials can designate a contest as being jurisdiction wide or associate it with a specific political subdivision (see A4 for a discussion of political subdivisions).	Must Have
6.	The system allows authorized users to define a new election from scratch, from an election template, or from a previous election.	
7.	The system supports having multiple active elections concurrently.	Must Have
8.	When an election is being defined, the system allows authorized users to enter the following election information in the system once and then use that information in multiple places (e.g., same candidate appears on multiple ballot styles). All fields must support special characters: a. Candidate names b. Candidate political affiliation (where applicable) c. Ballot proposition text d. Precinct name e. Number of registered voters	Must Have
9.	The system supports multiple lines of text for candidate name and multiple lines for candidate political affiliation during election definition.	Must Have
10.	When an election is being defined, the system allows authorized users to enter election information in the system by: a. Manually entering data b. Importing data. Describe supported file types.	Must Have

	c. Copying/pasting text from other software (e.g., Microsoft Word), including character-level and paragraph-level formatting	
11.	After an election is defined, the system will provide administrative reports, in a non-proprietary format, that may be used to proof the election. These reports will include, at a minimum: a. Contests with candidates b. Contests with card styles c. Contests with reporting precincts d. Base precincts with card styles e. Base precincts with contests, candidates, districts/precincts, ballot style	Must Have
12.	After an election is defined, the system will provide the export of election parameters, at minimum, in PDF, text, and XML formats so that the State can import data into other systems used by the division. The parameters available for export will include, at a minimum: a. Ballot styles with districts b. Ballot styles with races c. Races with candidates d. Race rotation with cards e. Ballots with cards	Must Have
13.	The system will use the official election database for logic and accuracy testing (LAT), rather than using a copy. The official election database will be cleared of any testing votes cast after LAT, prior to the actual election.	Must Have
14.	The system must allow for audio files supporting at least five languages on any one Help America Vote Act (HAVA) compliant accessible voting unit. Different machines will have different languages loaded to them, based on the needs of the specific precinct.	Must Have
15.	The solution will allow for creation of sample ballots from the election database in multiple alternative languages required in Alaska.	Must Have
16.	When defining an election, the system will allow users to select languages for which only audio translations will be provided. *Note: State currently displays only an English language ballot.*	Must Have
17.	When defining the election, authorized users must be able to designate which languages apply to an individual precinct. If an alternative language applies to a specific precinct, the system must apply only the selected alternate languages to that precinct (i.e., not all languages in the database).	Must Have
18.	The system must support importing audio files of alternate languages both as individual files and as a batch. These files will be prepared in applications external to the election management system.	Must Have

19.	For primary elections, the system must be able to generate ballot styles for specific political parties as well as "ballot measures only" ballot style. Some ballot styles will include candidates for a single political party and ballot measure(s); other ballot styles, in the same election, will have candidates from multiple political parties and ballot measure(s). "Ballot measures only" ballot style will not contain any partisan contests.	Must Have
20.	The system will allow authorized users to designate individual contests as having ballot rotation of candidate names. The system will allow users to specify the order of rotation by district level. For example, the candidate names in statewide and Senate races are rotated by House District (meaning that for the ballot styles on which that contest appears, Candidate A will be listed at the top for House District 1, Candidate B will be listed at the top for House District 2, etc.). State representative races are not rotated.	Must Have
21.	The system must be able to generate a jurisdiction-wide ballot that contains only federal contests, without the need for a separate ballot style for each precinct.	Must Have
22.	If a ballot is generated containing only federal contests (see A21), the ballot must be formatted for 8.5" x 11" paper, regardless of the page size of other ballot styles in the election.	Must Have
23.	The system will allow election officials to produce and print a ballot at either a Precinct or House District level.	Must Have
24.	The system must enable the user to define the ballot layout, header content, and instructions once and apply those to all ballot styles in the election.	Must Have
25.	The system must support the ability to have different ballot headers depending on the type of ballot (i.e., instructions for paper ballots vs. ballot marking devices)	Must Have
26.	The system must support designing single-sided, two-sided, and multipage ballots (counted as a single ballot).	Must Have
27.	The system must support paper ballot sizes up to and including 17/18 inches in length.	Must Have
28.	The system must support importing images and incorporating them in the ballot designs.	Must Have
29.	The system must allow the user to configure layout options: a. Number of columns b. Font (face, style, size, color) c. Oval/box position d. Number of lines for candidate names	Must Have
30.	For each ballot style in an election, the system will generate sample ballots in a nonproprietary format (such as PDF) that cannot be accepted or counted by a scanner. *Note: Sample ballots will include versions in alternate languages.*	Must Have

31.	For each ballot style, the system will output the final ballot designs to a PDF and in a "print ready" format to be used by the ballot printer and a "scan ready" format for internal use as a batch or to print on demand.	Must Have
32.	The accessible voting units used in the regional early voting stations must be able to accommodate multiple ballot styles.	Must Have
33.	For each ballot style, the system will produce a fully legible, compressed PDF that fits on a standard letter size (8.5' x 11") page.	Nice to Have

B. PROCESSING BALLOTS REQUIREMENTS

1.	Support at least one million eligible voters per statewide election (in 2018, there were 575,049 registered voters).	Must Have
2.	Any equipment that electronically generates ballots must produce a paper record of the ballot that the voter can review and correct at the time of voting and that can be used for a recount. The paper record must identify the election, precinct, ballot style, and vote recorded for each contest. Although a machine-readable barcode may be generated, the printed record must allow for visual confirmation of the votes cast in each contest. The paper record produced for voters with disabilities must be the same size and style as the paper record produced for all other voters. *Note: the verifiable paper record is currently provided in English only, regardless of the language in which the ballot was voted.*	Must Have
3.	At Regional Offices, staff must be able to scan a batch of at least 100 ballots at a time (i.e., place multiple ballots in the feeder at a time, instead of one ballot at a time).	Must Have
4.	The system must allow multiple staff members at each Regional Office to work simultaneously, scanning ballots and entering results from precincts. Not only would this include multiple scanners running simultaneously, but also the ability to manually enter hand count results while running scanners.	Must Have
5.	The system must tabulate ballots to the appropriate precinct, including in the following situations: a. Precinct has more than one ballot style b. Multiple precincts are voting at the same location, using the same equipment (either on the same ballot style or a different ballot style)	Must Have
6.	The system must allow absentee and questioned ballots to be tabulated and reported at the House District level, rather than at the precinct level. Provide a detailed explanation of how users will accomplish designating ballots to be tabulated at the House District level, and how those ballots will be tabulated.	Must Have
7.	When processing a batch of ballots, at a Regional Office, the system must support an authorized user designating that the system only count some contests (and ignore others) for all ballots in that batch. Processing partial count ballots must not require the user to create a duplicate/facsimile ballot with only those races marked.	Must Have

	Note: For absentee and questioned (provisional) ballots, Alaska allows a partial count of races on the ballot that the voter is eligible to vote. For example, a voter who is registered in a polling place in House District 10 but goes to a polling place in House District 29 is required to vote a questioned (provisional) ballot. The division will count all races on the ballot that the voter is eligible to vote but will not count the House District 29 race(s). In this example, the count would be a partial count for statewide races only. Currently, the division scans/counts partial count ballots in batches by House District and the type of count – i.e., all ballots in a single House District where only the statewide races can be counted are scanned together for a House District. The division currently uses header cards for each batch to accomplish partial counts at the regional level. For example, for each House District, ballots are counted by count type as follows: a. *for all ballots in which statewide only contests will be counted* b. *for all ballots in which statewide contests and senate contest will be counted* c. *for all ballots in which statewide contests and judicial contests will be counted* d. *for all ballots in which only the Presidential contest will be counted*	
8.	The system must be capable of scanning and tabulating a ballot with federal contests only, even if the ballot is a different paper size than other ballot styles in the election.	Must Have
9.	The system enables election officials to scan ballots before Election Day without tabulating or partial results being available to anyone (e.g., tabulation function can be disabled until set date and time).	Must Have
10.	If a ballot has an overvote in one or more contests, the system allows election officials to adjudicate those contests. Electronic adjudication is preferred at Regional Offices and Director's Office.	Must Have
11.	The system must support utilizing the election database for recounts and allowing the user to designate which contests and candidates are included in the recount. The system must be capable of recounting either A) all races or B) one or more races, in a precinct or precincts, district or districts, or statewide.	Must Have
12.	In a recount, the system shall not require the user to re-enter election information (i.e., districts, candidates, proposition text) or regenerate ballots. The recount database must allow the same ballots used in the election to be used during the recount.	Must Have
13.	During central scanning, the system will capture an image of any write-ins entered by the voter.	Nice to Have
14.	The system allows adjudication of write-ins as a separate process from adjudicating overvotes.	Nice to Have
15.	The system allows authorized users to enter qualified write-in candidates.	Nice to Have

16.	During adjudication of write-ins, adjudicator may use the list of authorized write-ins to facilitate adjudication.	Nice to Have

C. TRANSMITTING RESULTS REQUIREMENTS

1.	Precinct count systems will be able to efficiently transmit results directly to the Director's Office in Juneau.	Must Have
2.	The Director's Office and Regional Offices will be able to manually enter the results of hand counts called in from precincts that do not have precinct count systems.	Must Have
3.	Regional Offices will be able to securely transmit any results entered or scanned at the Regional Office to the Director's Office in Juneau. The system will prevent duplicate transmissions of system-tabulated results.	Must Have
4.	The system will support uploading precinct results from hub locations or Regional Offices to the Director's Office.	Must Have

D. REPORT RESULTS REQUIREMENTS

1.	The system produces a Summary Election Results report, showing the results for each race/contest to include: a. Race/Contest Name b. Number of precincts c. Precincts reporting d. Times counted e. Total votes f. Candidate name and political affiliation g. Number of votes h. Percentage of vote	Must Have
2.	The system produces a Statement of Votes Cast Report, which reports results by precinct, to include: a. Race/Contest Name b. Number of registered voters c. Number of cards cast d. Percentage of turnout e. Total votes for each candidate in each contest f. Total votes for each issue g. House District total votes for absentee, questioned, and early voting	Must Have
3.	The system produces a Cards Cast Report, which reports the number of cards cast by District/Reporting Unit, to include: a. Precinct name b. Voting groups c. Number of ballot/card cast by each precinct based unit	Must Have

4.	In the results for a contest with write-ins, the system includes the total count in the write-in category.	Must Have
5.	The system allows authorized users to export reports to a non-proprietary electronic format for posting to a website.	Must Have
6.	The system must produce a report, at any point in the process, showing which portable memory devices (if utilized) have been uploaded and which have not been uploaded to the election database for uploading election results.	Must Have
7.	The system must be capable of generating reports in a format on standard letter-sized paper (8.5”x11”)	Must Have

E. NON-FUNCTIONAL REQUIREMENTS

1.	The system must be an integrated system, with support coordinated through a single vendor	Must Have
2.	The system must not be a cloud-based solution.	Must Have
3.	System is architected such that, if specialized election hardware fails during an election, the State is still able to continue processing ballots and tabulating results.	Must Have
4.	In case of a loss of power, system provides for a graceful shutdown either by a user or with an automatic operation of any equipment that stores election or ballot data. A graceful shutdown means that it is done without loss of data and in a manner that enables a user to resume operation from the point it stopped once power is restored. In addition to your overall response, describe for each of the following how your system handles a power loss: a. Central database b. Individual units at a polling location or vote center c. Central tabulation and reporting	Must Have
5.	System provides the ability for all data and configurations to be backed up to removable media device.	Must Have
6.	All hardware for the system is new.	Must Have
7.	The State can reset all passwords (e.g., default administrative passwords) for system components. No passwords will be hardcoded into the devices.	Must Have
8.	System provides user authentication.	Must Have
9.	System security and authorization settings must be able to be managed by a designated administrator without the need for programming.	Must Have

10.	System provides system administration capabilities for appropriately authorized users to configure, monitor, and maintain the system.	Must Have
11.	Equipment for use in precinct locations must be within the size and weight restrictions for shipping (including by air) via the US Postal Service. *Note: 2018 maximum size allowed for a parcel shipped via USPS is no more than 108 inches in length and girth combined. Maximum weight is 70 lbs.*	Must Have
12.	Equipment to include suitable shipping and/or storage cases depending on the destination of the equipment. Cases for shipping equipment to remote precincts to be built to withstand inclement weather conditions and transportation in rugged conditions including small planes, snow machines, and all-terrain vehicles. Cases for equipment not requiring shipping to remote precincts could be suitably less durable, such as soft case.	Nice to Have
13.	Ballot boxes for use in rural precincts must be compact and able to be shipped via USPS. *Note: 2018 maximum size allowed for a parcel shipped via USPS is no more than 108 inches in length and girth combined. Maximum weight is 70 lbs.*	Must Have
14.	Equipment for use in Regional Offices must be lightweight and portable to allow for movement of equipment to and from storage locations for each election cycle.	Must Have
15.	System supports an unlimited number of users with varying permissions/user group assignments.	Nice to Have

ATTACHMENT 2
MISCELLANEOUS SPECIFICATIONS

Offerors must restate and provide a detailed response to each of the following system specification items.

Election Database Software

1. Does your proposed system have a limit on the number of ballot styles allowed per election?

2. How many simultaneous active elections does your system allow?

3. Is there a limit on the number of elections your system can store?

4. When setting up the election database, provide a description of the database elements that can be imported, and the file types supported for import.

5. For the election results reports, which reports does your system allow to be exported, and the file types supported for export?

6. Provide a description of your system's alternative language capabilities. Specifically:
    a. How many languages does your system support?
    b. Does your system allow specific alternative languages to be designated to specific precinct(s) or does it have to apply to all precincts?
    c. Can audio for Alaska Native languages be added to your system for general prompts and instructions to voters.
    d. Can the ballot be presented in English and the audio translation of the ballot be in a designated alternative language?
    e. Can the election specific audio (contest headings, candidate names, ballot measures, etc.) be imported as a batch or does it require individual files to be imported?
    f. Describe any limitations in supported audio file types, number of files or individual audio file size.

7. Describe the options provided in your system for candidate name rotation.

8. What is the maximum paper ballot size your system supports?

9. Describe the security features of your system that allow for user level roles and access.

10. Describe the type of administrative and/or audit reports that are available to proof the election database to ensure the entered information is accurate.

11. Describe any plans you have for future system enhancements.

Precinct-Based System

1. Describe the typical precinct configuration, including the minimum floor space required for the system.

2. Describe the process for preparing the units for Election Day use.
    a. How is the specific election information (including precinct designation) loaded onto the unit?
    b. If a removable memory device (i.e., memory card, thumb drive) is utilized, describe safeguards in the event of power failure or device failure.
    c. Is there any election related information stored directly on the unit, and if so, describe what information is stored.
    d. Describe how logic and accuracy testing is performed.

3. Describe the procedures poll workers will follow to open and close the polls.

4. Describe the power requirements for making electrical connections at the polling place and features of the voting device to include battery backup, etc. Describe any power considerations that are needed at the polling place.

5. Describe the size, weight, and setup for your proposed precinct-based solution.

6. Describe the physical storage requirements for your proposed solution. This should include any associated equipment, including how many can be stacked, any means by which the equipment is protected from damage, what power is required for storage, the practical temperature limits the system can withstand and any other limitations.

7. Describe the procedure for transferring precinct vote totals to the election database.

8. Describe the pre-election and post-election reporting features.

9. Describe the features and capacity of the ballot box.
    a. How many ballots can fit in the ballot box based upon the size of the ballot being used?
    b. How many compartments?
    c. Can the precinct scanner be used to scan ballots without being seated on the ballot box?

10. Describe the size and style of any ballot produced using the accessible voting device and the printer hardware needed. Also include if the ballot produced is in a different format than ballots produced for all other voters.

11. Describe how the voter votes using the accessibility feature of your proposed system.
    a. How is the ballot accessed by the voter? Is it pre-loaded on the unit or does it require a voter access card?
    b. If the ballot is accessed using a voter access card, describe how the access cards are programmed.
    c. How are the voter's selections presented to the voter before casting the ballot?

12. For ballots printed by the precinct-based solution, describe the type, weight and size of the paper used to print ballots, including any specialized paper requirements?

13. Does the scanner and/or accessible voting device require any specialized ink to print precinct reports and/or ballots? Describe the type of ink and/or ink cartridges required.

Central Scanning (Regional Offices)

1. Describe the features of the scanner:
    a. Is it a specialized scanner or COTS scanner?
    b. How many ballots a minute does the scanner scan?
    c. How many ballots can be stacked into the feed tray?
    d. What is the maximum paper length the scanner supports?
    e. What is the power requirement?
    f. Does it have a visual display of the numeric count of the ballots scanned and can that count be cleared after each batch of ballots?
    g. Are there any special features that assist the user in determining if a ballot wasn't scanned and if so, which ballot?

2. Describe the typical configuration, including the minimum amount of floor space needed for the proposed solution for scanning absentee/early/questioned ballots at the Regional/Satellite Offices.

3. When scanning absentee/early/questioned ballots, DOE batches and counts the ballots by house district and type of count (i.e., full count, statewide only, statewide/senate, etc.). After each batch is counted, describe the process users will follow to obtain the election results for each individual batch.

ATTACHMENT 3
PROPOSAL COST SHEET

Proposals must include an itemized list of all costs associated with contract performance and include a total fixed price for the entire Ballot Tabulation System. The total fixed price must include all direct and indirect costs, hardware, software, licenses, maintenance, support, installation, training, project management and any additional miscellaneous expenses associated with contract performance.

Proposals received that do not include a total fixed cost for the entire system and associated costs shall be considered nonresponsive and shall not be evaluated.

Item #1 – Ballot Tabulation System Software

Total Initial Cost: $_____
(attach list of software included in cost proposal)

Licensing first 2 years: $_____

Licensing year 3: $_____

Licensing year 4: $_____

Licensing year 5: $_____

Item #2 – Director's Office "Host" Site and Regional/Satellite Office Hardware
(servers, scanners, printers and any additional items required for system as outlined in Scope of Work)

Hardware: $_____
(attach list of all hardware, including quantity, included in cost proposal)

Warranty/maintenance first 2 years: $_____

Warranty/maintenance year 3: $_____

Warranty/maintenance year 4: $_____

Warranty/maintenance year 5: $_____

Itemized list of all additional costs:

_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____

Item #3 – Precinct-Based Voting and Ballot Counting Solution
(attach list of all hardware/software included in cost proposal that is needed for both precinct-based ballot counting and HAVA compliant accessible voting)

Hardware Cost: $_____ per unit x 304 $ _____

Software Cost: $_____ per unit x 304 $ _____

Licensing: $_____ per unit x 304 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

Item #4 – HAVA Compliant Accessible Voting Solution
(attach list of all hardware/software included in cost proposal that is needed for HAVA compliant accessible voting at 137 hand-count precincts and 5 early vote locations)

Hardware Cost: $_____ per unit x 142 $ _____

Software Cost: $_____ per unit x 142 $ _____

Licensing: $_____ per unit x 142 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

Item #5 – Project Management, Installation and Training

Project Management:	$_____
Training:	$_____
Installation:	$_____

Itemized list of all additional costs:

_____	$ _____
_____	$ _____
_____	$ _____

TOTAL FIXED PROPOSAL COST $_____

_____
Printed name of Authorized Representative:

_____ _____
Signature of Authorized Representative: Dated:

OPTIONAL ITEMS AND RELATED COST

IMPORTANT NOTICE: As a value-added option, offerors are encouraged to include all costs associated with Items #1-#3 listed below. Providing this information is optional. The information and cost will NOT be considered during the evaluation process and will be used for information purposes only.

Item #1 – Lease Option

Offerors should include a separate cost sheet for leasing the hardware associated with the precinct based voting and ballot counting solution and the HAVA compliant accessible voting solution. If offerors are interested in providing a lease option, include the terms associated with the lease agreement.

Item #2 – Ballot-on-Demand

(attach list of all hardware/software included in cost proposal)

Hardware Cost: $_____ per unit x 5 $ _____

Software Cost: $_____ per unit x 5 $ _____

Licensing: $_____ per unit x 5 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 5 $ _____

_____ $_____ per unit x 5 $ _____

_____ $_____ per unit x 5 $ _____

Item #3 – Precinct Equipment Shipping Cases

Hardware Cost: $_____ per unit x 150 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 150 $ _____

_____ $_____ per unit x 150 $ _____

_____
Printed name of Authorized Representative:

_____ _____
Signature of Authorized Representative: Date:

ATTACHMENT #4
Proposal Evaluation Form

All proposals will be reviewed for responsiveness and then evaluated using the criteria set out herein.

Offeror Name: _____

Evaluator Name: _____

Date of Review: _____

RFP Number: **RFP #190000050**

EVALUATION CRITERIA AND SCORING

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS PROPOSAL IS **100**

Proposals will be evaluated against the questions set out below:

5.01 Understanding and Technical Solution for the Project (20%)

1. How well has the offeror demonstrated a thorough understanding of the organization of the Division of Elections, including the roles between the Director's office and the regional offices and proposed a solution that addresses the various roles between the Director's office and Regional offices as well as the unique logistical challenges with implementing a ballot tabulation system in Alaska?

NOTES: _____

_____

_____

2. How well does the offeror's proposed solution address the various ballot counting methods, including how results are reported and is the proposed solution architected to address the variations used in Alaska to count and report results?

NOTES: _____

_____

_____

3. How well does the proposal describe the total overall system architecture, at the Director's office and Regional offices and demonstrate that the system has the ability to meet the requirements set out in this RFP and outline in Attachment 1?

NOTES: _____

_____

_____

4. How well does the proposal describe the offeror's solution for precinct-based ballot tabulation as well as central scanning for absentee/questioned and early vote ballots, including scanning and reporting results for partial count ballots (i.e., Statewide only, Statewide/Senate, Statewide/Senate/Judicial etc.) and does it appear the proposed solution can adequately meet the ballot tabulation needs of the State of Alaska?

NOTES: _____

_____

_____

5. Did the offeror provide reasonable detail/recommendation on how the precinct-based equipment could be shipped to rural precincts (shipping boxes/containers/cases) during the elections?

NOTES: _____

_____

_____

6. For storage at the regional offices, is the precinct-based equipment in the proposed solution portable enough to move easily between rooms when preparing for an election?

NOTES: _____

_____

_____

7. Does the proposal clearly identify the EAC certification status of the proposed solution and which version of the VVSG the system is certified under?

NOTES: _____

_____

_____

8. How well does the proposal outline the security features of the proposed system, including security of results transmissions, user security authentication and access controls?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.01: _____

5.02 Methodology Used for the Project (5%)

9. How well has the offeror described a project schedule and does the schedule depict a reasonable time frame for the project from start to finish?

NOTE: _____

_____

_____

10. How well does the proposal describe the offeror's proposed testing strategy and has the offeror provided sample test scripts that depict a logical approach to the various tests outlined in the RFP?

NOTES: _____

_____

_____

11. How well does the proposal describe the training approach and does it appear that the proposed training provide staff with a clear understanding of how to operate and maintain both hardware and software used in the proposed solution?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.02: _____

5.03 Management Plan and Experience for the Project (5%)

12. How well does the proposal demonstrate that the offeror has the experience and qualifications necessary to complete the requirements of this RFP and deliver a solution on time?

NOTES: _____

_____

_____

13. How well does the proposal outline the organization of the project team and does it appear that the offeror has experienced personnel resources in place for successful completion of the project on time?

NOTES: _____

_____

_____

14. Does the proposal demonstrate that the offeror has the ability to provide adequate support for its solution and products after the contract is complete?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.03: _____

5.04 Solution Demonstration (35%)

15. How well did the demonstration give a clear understanding of the proposed solution, including the software and hardware components?

NOTES: _____

_____

_____

16. How well did the demonstration show that the proposed solution can meet the functional requirements in Attachment 1 and meet Alaska's ballot counting needs and processes?

NOTES: _____

_____

_____

17. How well did the demonstration show that the proposed solution offers efficient, high-speed scanning at the regional offices for absentee/questioned/early vote ballots?

NOTES: _____

_____

_____

18. How well did the offeror demonstrate the proposed solution can efficiently process and report results for partial count ballots?

NOTES: _____

_____

_____

19. How well did the demonstration show that the proposed solution can produce ballots at the house district level for tabulation of absentee/questioned/early vote ballots.

NOTES: _____

_____

_____

20. How well did the demonstration show that 2 precincts in the same house district can share precinct-based equipment and results tabulated to the correct precinct?

NOTES: _____

_____

_____

21. How well did the demonstration show that the proposed solution includes an efficient process for manual entry of election results from hand-count precincts?

NOTES: _____

_____

_____

22. Does the proposed precinct-based solution appear to be user friendly and compact enough for elderly poll workers to manage, including the ability to easily setup and takedown the equipment at the polling place?

NOTES: _____

_____

_____

23. Will the proposed precinct-based solution be reasonably transported, be capable of withstanding transport conditions without incurring damage and be able to be shipped to rural precincts using USPS as a shipping method?

NOTES: _____

_____

_____

24. How well did the demonstration show that the proposed precinct-based solution will meet the language accessibility needs for Alaska and allow for designating which languages to apply to individual precincts, without requiring an “all or none” for language accessibility?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.04: _____

5.05 Contract Cost (25%)

Overall, a minimum of **25**% of the total evaluation points will be assigned to cost. The cost amount used for evaluation may be affected by one or more of the preferences referenced under Section 6.12.

Converting Cost to Points

The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined through the method set out in Section 3.15.

EVALUATOR'S POINT TOTAL FOR 5.05: _____

5.06 Alaska Offeror Preference (10%)

If an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points. This amount will be added to the overall evaluation score of each Alaskan offeror.

EVALUATOR'S POINT TOTAL FOR 5.06: _____

EVALUATOR'S COMBINED POINT TOTAL FOR ALL EVALUATED SECTIONS: _____

ATTACHMENT #5
PROPOSAL CHECKLIST

Important Notice: Offeror's must sign and submit this Proposal Checklist with their proposal in order for their proposal to considered. Signature on the checklist indicates that you have read the RFP requirements and submitted all requested information as set out in the RFP. Completion of this firm does not guarantee a responsive proposal.

☐ **General Requirements**

- ☐ Register with the Procurement Officer – RFP Cover Page
- ☐ Submit all copies of proposal by the required deadline – Section 1.01
- ☐ Minimum Prior Experience Requirements – Sections 1.04
- ☐ Proposal Required Review – Section 1.08
- ☐ Offeror's Proposal Certification – Section 1.08 a & b
- ☐ Conflict of Interest Statement – Section 1.08 d, if applicable
- ☐ Comply with Insurance Requirements – Section 3.19
- ☐ Subcontractor Information – Section 3.10, if applicable
- ☐ Application of Preference Affidavit – Section 6.11
- ☐ 5% Alaska Bidder Preference Affidavit – Section 6.12
- ☐ Comply with state's Standard Contract Provisions – Section 7.01

☐ **Proposal Format and Content – Section 4**

- ☐ Introduction
- ☐ Understanding and Technical Solution for the Project
- ☐ Methodology Used for the Project
- ☐ Management Plan for the Project
- ☐ Experience & Qualifications
- ☐ Demonstration
- ☐ Cost Proposal

☐ **Proposal meets all additional RFP requirements and has submitted all required information as set out in the RFP.**

OFFEROR'S CERTIFICATION

Company Name	**Date**
Printed Name of Authorized Representative	**Signature of Authorized Representative**

ATTACHMENT #6
NOTICE OF INTENT TO AWARD CONTRACT

Office of the Lieutenant Governor
Division of Elections
C/O Office of the Governor
240 Main Street, Suite 300
P.O. Box 110001
Juneau, Alaska 99801-0001

THIS IS NOT AN ORDER **DATE ISSUED:** _____

RFP NO.: 190000050 **RFP ISSUE DATE**: March 18, 2019

RFP SUBJECT: Statewide Voting and Ballot Tabulation System

PROCUREMENT OFFICER: Dottie Whitehead **SIGNATURE:** _____

This is notice of the state's intent to award a contract. The figures shown here are a tabulation of the offers received with the apparent low bidder(s) indicated. A bidder who wishes to protest this Notice of Intent must file the protest within ten calendar days following the date this notice is issued. If the tenth day falls on a weekend or holiday, the last day of the protest period is the first working day following the tenth day. **Bidders, identified here as the apparent low responsive bidders, are instructed not to proceed until a Purchase Order, Contract Award, or other form of notice is given by the Contracting Officer**. A company or person who proceeds prior to receiving a Purchase Order, Contract Award, or other form of notice of Award does so without a contract and at their own risk. AS 36.30.365.

ITEM NO.	PRICE	AWARD	COMMENTS	RESPONSIVE YES/NO/?	BIDDER

LEGEND: @ -- AWARD TO BIDDER
Y -- RESPONSIVE BID
N -- NON-RESPONSIVE BID
? -- BID NOT EVALUATED BECAUSE THERE WAS A LOWER RESPONSIVE BID

SUMMARY

NOTES:

DocuSign Envelope ID: A98D9465-B040-4098-B41E-2B1DACC636C6

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

THRU: Brent Hibbert, Assembly President BH
Brent Johnson, Assembly Vice President BJ

FROM: Johni Blankenship, Borough Clerk JB
Sean Kelley, Deputy Borough Attorney SK
Brandi Harbaugh, Finance Director BH

DATE: March 25, 2021

RE: Amendment to Ordinance 2020-19-24, Appropriating Funds and Authorizing the Borough Clerk to Contract for Necessary Voting Machines, Software, and Related Equipment to Provide an Accessible Voting System For Persons With Disabilities (Hibbert, Johnson)

The following amendments are requested in order to align with the attached draft contract and exhibits:

SECTION 1. That $100,816 is appropriated from the General Fund fund balance account number 100.27910 to be transferred to the General Government Capital Project Fund to account number 407.11130.21VOT.49999 for the purchase of **[~~SEVEN~~]** **ten** ADA compliant voting machines plus $5,000 for estimated shipping costs.

SECTION 3. That $100,976 is appropriated from General Fund fund balance account number 100.27910 to account number 100.11130.**[~~43011~~]** **21VOT.49999** to provide funding for the FY2021 total annual lease cost of $148,976 for the ADA compliant voting system, which includes necessary system hardware, implementation, software licensing, support services and $20,000 in estimated shipping costs.

Your consideration is appreciated.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Brent Hibbert, Assembly President
Brent Johnson, Assembly Vice President

FROM: Johni Blankenship, Borough Clerk JB
Ben Hanson, IT Director BH
John Hedges, Purchasing Director JH

DATE: February 18, 2021

RE: Ordinance 2020-19-24, Appropriating Funds and Authorizing the Borough Clerk to Contract for Necessary Voting Machines, Software, and Related Equipment to Provide an Accessible Voting System for Persons with Disabilities (Hibbert, Johnson)

A complaint was filed following the October 6, 2015 borough election with the Alaska State Commission for Human Rights ("ASCHR") alleging discrimination on the basis of a physical disability due to the borough allegedly not accommodating the complainant's vision disability by providing an accessible voting machine.

The borough entered into the conciliation agreement on December 18, 2018. As part of the conciliation agreement entered into in the Malley case, the borough committed to adopting a voting system to provide private, independent voting by visually impaired citizens. The ADA compliant voting equipment must be provided at every polling precinct or location in the borough where voting occurs. On February 9, 2021, ASCHR approved an amendment to the conciliation agreement to provide the borough more time to acquire ADA compliant voting equipment in order to comply with the terms of the conciliation agreement.

The implementation of a new, ADA compliant voting system will require considerable effort from multiple borough departments (Clerks, Information Technology, Maintenance). Given the competing priorities facing each of these departments, it is essential that this purchase and implementation move forward prior to the new fiscal year start.

KPB 4.10.120 provides that the borough clerk may contract for the provision of specialized materials and supplies without obtaining competitive bids. Quotes

were obtained from two companies, Dominion Voting Systems Inc. (Dominion) and Election Systems & Software (ES&S). After vetting the quotes, capabilities and services that each company could provide the borough for the costs quoted, Dominion was determined to be the superior choice to fulfill the borough's needs.

In addition, the borough is benefiting from the ability to incorporate the scope of work, deliverables, and specifications terms from the State of Alaska's Voting System RFP pursuant to KPB 5.28.030 which allows the borough to join other units of government in cooperative purchasing venture that serves the best interests of the borough.

Pursuant to this ordinance and the contract that the parties would enter into, the borough will purchase 7 ADA compliant voting machines for use at borough vote centers. The purchase price includes $5,000 in estimated shipping costs. The Borough would lease 26 ADA complaint voting machines and related hardware components and services, to include an annual software use license, for a period of two years with an option to purchase or terminate after two years. The first year lease total includes $20,000 in estimated shipping costs for the 26 machines and related components.

Your consideration is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Acct. No. 100.27910 - Amount $100,816
Acct. No. 100.11130.43410 - Amount $48,000
Acct. No. 100.27910 - Amount $100,976

By: PP Date: 2/19/2021

By: BH

VOTING SYSTEM HARDWARE PURCHASE AND RENTAL WITH OPTION TO PURCHASE BY AND BETWEEN DOMINION VOTING SYSTEMS, INC AND KENAI PENINSULA BOROUGH

This Voting System Hardware Purchase and Rental with Option to Purchase Agreement (hereinafter this or the "Agreement") is entered into by and between Dominion Voting Systems, Inc., (hereinafter "Dominion" or "Licensor"), and the Kenai Peninsula Borough ("Borough" or "Licensee"). This Agreement shall commence on May 1, 2021 ("Effective Date").

WHEREAS, the Borough desires to acquire certain Americans with Disabilities Act (ADA) compliant voting equipment, voting system services, and a software use licenses; and

WHEREAS, Dominion designs, manufactures, licenses, and provides services for its voting systems;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and in accordance with the terms of conditions set forth herein, Dominion agrees to provide, install, license and furnish the Borough with the System (as defined herein), including products and services described more fully below:

1. **Contract Documents**. Exhibits A and B are attached and incorporated herein by reference and form a part of this Agreement. This Agreement consists of the terms and conditions contained in the following sections and the listed Exhibits:

   1.1. Exhibit A: Scope of Services and Payment Provisions
   1.2. Exhibit B: Software License Terms and Conditions
   1.3. Exhibit C State of Alaska RFP: "Scope of Services / Specifications" as set forth in State of Alaska solicitation RFP No. 19000050 and Contract# 190001019

   If in conflict, the Agreement shall control. If in conflict the order of precedence shall be: the Agreement, Exhibit A, Exhibit B, and then State of Alaska RFP – "Scope of Services / Specifications" as set forth in State of Alaska solicitation RFP No. 19000050 and Contract #190001019.

2. **Intent.** Pursuant to the terms herein, the parties intend to enter into this Agreement for the purchase of System Hardware as well as the rental with option to purchase additional System Hardware after two years. System use shall be governed by the terms and conditions of the Software License.

3. **Definitions.** For the purposes of this Agreement the following are defined terms:

   3.1. "Acceptance" means the successful completion of the acceptance testing performed by the Borough on the Dominion Hardware and related Dominion

Software, after delivery in accordance with testing criteria developed and updated from time to time by Dominion, or the occurrence of other events defined in Section 9.

3.2. "Dominion Software" means software and firmware programs licensed to the Borough by Dominion and any associated documentation including the following:

3.2.1. "Democracy Suite Software," Dominion's election management software associated with the ImageCast voting system which includes Election Event Designer and Results Tally and Reporting.

3.2.2. "ImageCast Software," the software/firmware designed for use in the ImageCast voting system.

3.3. "Dominion Hardware" means the ImageCast Precinct Scanner and Tabulator ("ICP"), the ImageCast X with BMD, the ImageCast Central Scanner and associated third party workstation ("ICC") as more specifically described in Exhibit A.

3.4. "Election" means a single election event administered by the Borough including any absentee and early voting activity associated with the election event. Election shall not mean any follow-on events occurring after the initial election event, including without limitations, run-offs or recall replacements elections. Any follow-on event shall be considered an Election in and of itself.

3.5. "Election Management System Hardware" or "EMS Hardware" means third party hardware required for operating Dominion Software as used in conjunction with the Dominion Hardware.

3.6. "License" has the meaning set forth in Section 7.

3.7. "System" means the Dominion Software, Dominion Hardware and EMS Hardware.

3.8. "Third Party Software" means software, other than the Dominion Software, which is owned by third parties, and which Dominion provides to Borough pursuant to sublicenses or end user license agreements with the owners of such Third Party Software. Third Party Software includes, but is not limited to, various operating systems, software drivers, and report writing subroutines.

4. Term of Agreement. This Agreement shall commence on the Effective Date. The initial term of this Agreement is for five (5) years. The initial term shall automatically renew for one additional three (3) year term unless the Agreement is terminated prior to renewal by a party pursuant to the terms of this Agreement. Provided however that the five-year initial term is specifically subject to the Borough's option following the expiration of the second

year of the term to either purchase the System Hardware rental equipment or terminate the Agreement pursuant to Section 17.4 below.

4.1. Per Exhibit A, Payment Schedule, "Year 1" of the initial term will be a 14 month term beginning May 1, 2021 and ending June 30, 2022. "Year 2" of the term and the final year of the rental equipment option will begin July 1, 2022 and end June 30, 2023. Thereafter, subsequent years of the Agreement term shall begin on July 1.

5. Dominion's Responsibilities. Dominion shall:

5.1. Perform the Scope of Services, Specification as set forth in Exhibit A, Scope of Services and Payment Provisions

5.2. Provide the System and services as described in Exhibit A, Scope of Services and Payment Provisions

5.3. Provide the Borough with a Dominion Software Use License as described in Exhibit B - Software License Terms.

5.4. Within 30 days of appointing a Project Manager to oversee the general operations of the project. The project manager shall be responsible for arranging all meetings, visits and consultations between the Parties and for all administrative matters such as invoices, payments and amendments. The project manager shall communicate with the Borough as to the status of information, procedures and progress on the tasks set out in this Agreement and alert of any material change in such plans.

5.5. Assist in the Acceptance Testing process as require by Section 9 below.

5.6. Provide the Borough with a reproducible electronic copy of the user documentation.

5.7. Provide the System that Dominion designs, manufactures, and/or licenses, which is certified for use as a voting system in the Borough's jurisdiction.

5.8. Provide timely invoices to Borough pursuant to the payment schedule in Exhibit A and the payment terms described in Section 5.1 herein.

6. Boroughs Responsibilities. Borough shall:

6.1. Pay invoices in a timely manner due no more than thirty (30) calendar days from receipt of a Dominion invoice.

6.1.1. The Borough represents to Dominion that it is exempt from paying applicable sales tax within the Kenai Peninsula Borough and that no state sales or use tax is applicable. The invoices shall be billed and paid with no sales tax charge added.

6.1.2. The Borough may payoff all balances due pursuant to the payment schedule in Exhibit A at any time without penalty. Provided however that should the Agreement continue beyond the second year of the Agreement, then pursuant to Section 17.4 below the Borough must purchase the System Hardware.

6.2. Appoint a Project Manager who shall be responsible for review, analysis and acceptance of the System and the coordination of Borough personnel, equipment, vehicles and facilities. The Project Manager shall be empowered to make decisions on behalf of the Borough with respect to the work being performed under this Agreement. The Project Manager shall also have direct access to the Borough's top management at all times for purposes of problem resolution.

6.3. Conduct Acceptance Testing process as required by Section 9 below.

6.4. Borough shall provide reasonable access and entry into all Borough property required by Dominion to provide the System and perform the services described in this Agreement. All such access and entry shall be provided at Borough's expense.

6.5. Borough's obligations related to all aspects of this Agreement are subject to annual appropriation by the Kenai Peninsula Borough Assembly for the purpose of performing its obligations. In the event appropriations are not authorized or not sufficient for Borough to perform any of its obligations under any section this Agreement, Borough may terminate this Agreement upon thirty (30) days written notice without further obligation.

7. Title and Risk of Loss.

7.1. Title to the System. The System Hardware shall be provided to the Borough as part of this Agreement described herein and as described more particularly in the contract documents. Title to the portion of the Hardware System that is rental equipment for the first two years shall not pass to the Borough and shall remain with Dominion, until such a time when the Borough exercises its option to purchase the Hardware System in-full. Title to the Hardware System that is purchased and transfers at inception shall transfer to the Borough upon delivery and acceptance by the Borough.

7.2. Software. Dominion Software and Third Party Software is licensed, not sold. The original and any copies of the Dominion Software, or other software provided pursuant to this agreement, in whole or in part, including any subsequent improvements or updates, shall remain the property of Dominion. or any third party that owns such software.

7.3. Risk of Loss. The risk of loss from any casualty to the goods, regardless of the cause, shall be on the Dominion until title to the System passes to the Borough.

Borough shall provide Dominion with a single location for shipment and Dominion shall not be responsible for shipping to more than one location. To retain the benefit of this clause, Borough shall notify Dominion of any loss or damage within ten (10) business days of the receipt of any or all portions of the System, or such shorter period as may be required to comply with the claims requirements of the shipper and shall cooperate in the processing of any claims made by Dominion.

8. Software License.

8.1. License. Upon mutual execution of this Agreement, Dominion grants to the Borough, and the Borough accepts a non-exclusive, non-transferable license ("License") to use the Dominion Software subject to the terms and conditions of this Agreement and the Software License Terms attached hereto as Exhibit B.

8.2. Third Party Software. The System includes Third Party Software, the use of which is subject to the terms and conditions imposed by the owners of such Third Party Software so long as the software functions substantially in accordance with its specifications. Borough consents to the terms and conditions of the Third Party License Agreements by Borough's first use of the System.

9. Acceptance.

9.1. Dominion Software or Dominion Hardware. After delivery Dominion Software or Dominion Hardware, the Borough will conduct acceptance testing of such items in accordance with the acceptance criteria developed and updated, from time to time, by Dominion. Such acceptance testing shall occur at a time mutually agreed upon by the Parties, but no later than ten (10) business days after delivery.

9.2. System Acceptance Testing. To the extent not tested as part of the testing pursuant to Section 9, upon completing the installation of the System, the Borough will conduct system acceptance testing, according to the acceptance test procedures developed and updated, from time to time, by Dominion. Such acceptance testing shall occur at a time mutually agreed upon by the Parties, but no later than ten (10) business days after installation of the System.

10. Dominion Software Warranty.

10.1. Dominion Software Warranty. The Dominion Software Warranty is subject to the Software License Terms attached hereto as Exhibit B.

10.2. Third Party Software Warranty. To the extent permitted by the licensors of Third Party Software, Dominion shall pass to Borough all warranties such licensors make available to Dominion regarding the operation of Third Party Software. However, Dominion will coordinate with Third Party Software licensors and Dominion will use its best efforts to ensure Third Party Software functions substantially in accordance with its specifications.

10.3. No Other Software Warranties. DOMINION DISCLAIMS ALL OTHER SOFTWARE WARRANTIES AND REPRESENTATIONS WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

11. Hardware Warranty.

11.1. Dominion Hardware Warranty Terms. Dominion warrants that when used with the configuration approved by Dominion, each component of Dominion Hardware will be free of defects that would prevent the Dominion Hardware from operating in conformity in all material respects with its specifications. The Dominion Hardware Warranty shall remain in effect during the Agreement term.

11.2. Hardware Warranty Services. If any Hardware component fails to operate in conformity with its specifications during the warranty period, Dominion shall provide a replacement for the Hardware component or, at Dominion's sole option, shall repair the Hardware component, so long as the Hardware is operated with its designated Software and with third party products approved by Dominion for use with the Hardware. The following conditions apply to the Hardware warranty:

11.2.1. The following services are not covered by the Dominion Hardware warranty, but may be available for purchase at Dominion's then current time and material rates:

a. Except as otherwise provided in Exhibit A or Exhibit C to this Agreement, replacement of consumable items including but not limited to batteries, pens, paper rolls, seals, printer ink, removable memory devices, etc.;

b. Repair or replacement of Dominion Hardware damaged by of accident, disaster, theft, vandalism, neglect, abuse, or any improper usage;

c. Repair or replacement of Dominion Hardware modified by any person other than those expressly authorized in writing by Dominion;

d. Repair or replacement of Dominion Hardware products from which the serial numbers have been removed, defaced or changed.

11.3. EMS Hardware Warranty. To the extent permitted by the manufacturers of the EMS Hardware, Dominion shall pass to the Borough all warranties such manufacturers make available to Dominion. However, EMS Hardware will operate in conformity in all material respects with its specifications. If EMS does not provide the warranty, then Dominion will use its best efforts to make sure the hardware functions substantially in accordance with its specifications.

11.4. No Other Warranties. DOMINION DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

12. Confidential Information.

12.1. For purposes of this Agreement, confidential information ("Confidential Information") is defined as those materials, documents, data, and technical information, specifications, business information, Borough information, or other information that the disclosing Party maintains as trade secrets or confidential and which are disclosed to a receiving Party in tangible form conspicuously marked as "confidential". Confidential information includes, without limitation, Dominion Software source code and associated documentation.

12.2. Each Party shall treat the other Party's Confidential Information as confidential within their respective organizations and shall disclose it therein only on a need to know basis.

12.3. Neither Party shall disclose the other Party's Confidential Information to any person outside their respective organizations unless disclosure is made in response to, or because of, an obligation to any federal, state, or local governmental agency or court with appropriate jurisdiction, or to any person properly seeking discovery before any such agency or court

12.4. The parties understand and agree that Borough is a public entity that may be subject to Public Record Laws. Therefore, any covenant of confidentiality given by the Borough in this Agreement shall be governed by and superseded by the provisions and limitations of applicable Public Record Laws.

12.5. Any specific information that Dominion claims to be confidential must be clearly identified as such by Dominion. To the extent consistent with Public Record Laws, Borough shall maintain the confidentiality of all such information marked by Dominion as "Confidential". If a request is made to view such confidential information, Borough will notify Dominion of such request and the date the information will be released to the requestor unless Dominion obtains a court order enjoining such disclosure. If Dominion fails to obtain such court order enjoining such disclosure, the Borough will release the requested information on the date specified. Such release shall be deemed to have been made with Dominion's consent and shall not be deemed to be a violation of law or this Agreement.

13. Limitation of Liability. Each Party's total aggregate liability for any loss, damage, costs or expenses under or in connection with this Agreement, howsoever arising, including

without limitation, loss, damage, costs or expenses caused by breach of contract, negligence, strict liability, breach of statutory or any other duty shall in no circumstances exceed the total dollar amount of the Agreement.

14. Insurance.

14.1. Without limiting Dominion's indemnification in Section 15, it is agreed that Dominion shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the Dominion's policy contains higher limits, the Borough shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Borough upon execution of the Agreement and prior to beginning work and must provide for a notice of cancellation, nonrenewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the Dominion's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

14.1.1. Commercial General Liability: coverage written on an occurrence basis with limits of not less than $1,000,000 per occurrence. This policy shall add and maintain the Borough as additional insured.

14.1.2. Automobile Liability: coverage with a combined single limit of not less than $1,000,000 per occurrence applying to all owned, non-owned, or hired vehicles used in conjunction with this contract.

14.1.3. Workers' Compensation and Employer's Liability: The Dominion shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and where applicable other statutory obligations but not limited to Federal U.S.L. & H and Jones Act Requirements. This policy must be endorsed with a waiver of subrogation in favor of the Borough.

15. Indemnification. The Dominion shall indemnify, hold harmless, and defend the Borough from and against any claim of, or liability for error, omission or negligent act of the Dominion under this agreement. The Dominion shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Dominion and the independent negligence of the Borough, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Dominion" and "Borough", as used within this and the following article, include the employees, agents and other Dominions who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Borough's selection, administration, monitoring, or controlling of the Dominion and in approving or accepting the Dominion's work.

16. **Assignment.** Neither Party may assign its rights, obligations, or interests in this Agreement without the written consent of the other Party.

17. **Termination.**

17.1. For Default. In the event either Party violates any provisions of this Agreement. the injured Party may serve written notice upon the violating Party identifying the violation and providing a reasonable cure period. Except as otherwise noted herein, such cure period shall be at least thirty (30) days. ln the event the violating Party has not remedied the infraction at the end of the cure period, the injured Party may serve written notice upon the violating Patty of its intent to terminate, and seek legal remedies for breach of contract as allowed hereunder. If the breach identified in the notice cannot be completely cured within the specified time period, no default shall occur if the Party receiving the notice begins curative action within the specified time period and thereafter proceeds with reasonable diligence and in good faith to cure the breach as soon as practicable.

17.2. For failure of Appropriation. In the event the Borough does not receive annual appropriations sufficient to cover its expenses related to its obligations under any section of this Agreement, Borough may terminate this Agreement upon thirty (30) days' written notice without further obligation.

17.3. For Convenience. Borough may terminate this Agreement upon sixty (60) days' written notice at any time for any reason, or for no reason. In the event of termination under this subsection, the Borough shall pay Dominion all costs for services incurred by Dominion or expended by Dominion prior to the notice of termination.

17.4. After two years. Upon the expiration of second year of the term of this Agreement, either party may terminate this Agreement, by providing sixty (60) days written notice, without any further obligations owing. In the event of termination under this subsection, the Borough shall pay Dominion all costs for services incurred by Dominion or expended by Dominion prior to the notice of termination. Should this Agreement continue beyond the second year, the Borough shall pay, within the first ninety (90) days of the third year term, purchase the Hardware System.

18. **Survival**. The provisions of Sections 10, 11, 12, 13, and 14 shall survive the expiration or termination of this Agreement.

19. **Force Majeure**. Neither Party shall be liable in damages, or shall be subject to this Agreement by other Party, for any delay or default in performing any obligation hereunder if that delay or default is due to any force majeure event, including without limitation any natural disaster, act of any government or other authority or statutory undertaking, act of terrorism, industrial dispute, fire, explosion, accident, power failure, flood, riot or war (undeclared or declared); provided that, in order to excuse its delay or default hereunder, a Party shall notify the other of the force majeure event, specifying the nature and particulars thereof; and provided, further, that within fifteen (15) calendar

days the termination of force majeure event, such Party shall give notice to other Party specifying the date of termination thereof.

20. **Notices**. All notices required or permitted to be given hereunder shall be given in writing and shall be deemed to have been given when personally delivered or by nationally recognized overnight carrier or mailed, certified or registered mail, return receipt requested, addressed to the intended recipient as follows:

To Dominion:
Dominion Voting Systems, Inc.
Attn: Contracts Administrator
PO Box 343
Broomfield, CO 80038

To Borough:
Johni Blankenship
Borough Clerk
144 N. Binkley St
Soldotna, AK 99669

21. **Equal Opportunity.** The Dominion will fulfill all its legal duties under the civil rights laws of the State of Alaska and the United States, including, but not limited to AS 18.80, and the Civil Rights Act of 1964, 42 U.S.C. sec. 2000a and following. When subcontracting work, the Dominion agrees to use practices that assure equal opportunity to companies owned by women and minorities.

22. **Choice of Law.** Interpretation of this Agreement shall be governed by the laws of the State of Alaska, and the courts of competent jurisdiction located in that State will have jurisdiction to hear and determine questions relating to this Agreement.

23. **Waiver.** Any failure of a Party to assert any right under this Agreement shall not constitute a waiver or a termination of that right or any provisions of this Agreement.

24. **Legality and Severability.** This Agreement and the Parties' actions under this Agreement shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, court orders, and applicable governmental agency orders. If any term or provision of this Agreement is held to be illegal or unenforceable, the remainder of this Agreement shall not be affected thereby and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The Parties agree that any court reviewing this Agreement shall reform any illegal or unenforceable provision to carry out the express intent of the Parties as set forth herein to the fullest extent permitted by law.

25. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

26. **Entire Agreement.** This Agreement and its Exhibits incorporated herein by reference constitute the entire agreement, understanding and representations between Dominion and the Borough, and supersede and replace all prior agreements, written or oral. No modifications or representations to the Agreement shall be valid unless made in writing and signed by duly authorized representatives of both parties and incorporated as an addendum or amendment to this Agreement.

Authority to Sign: Each party represents that the individual signing this Agreement on its behalf has the authority to do so and to so legally bind the party.

DOMINION VOTING SYSTEMS, INC.	KENAI PENINSULA BOROUGH
_____	_____
Authorized Signatory	Authorized Signatory
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title
_____	_____
Date	Date
ATTEST	APPROVED AS TO FORM AND LEGAL SUFFICIENCY
_____	_____
Johni Blankenship, Borough Clerk	Sean Kelley, Deputy Borough Attorney

KPB NOTARY ACKNOWLEDGEMENT

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____day of _____, 2021, 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: ____

DOMINION NOTARY ACKNOWLEDGEMENT

STATE OF COLORADO)
)ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____day of _____, 2021, by _____(name of individual), _____(title) of Dominion Voting Systems, a Colorado corporation, for and on behalf of the corporation.

_____
Notary Public in and for Colorado
My commission expires: ____

EXHIBIT A
VOTING SYSTEM AGREEMENT
BY AND BETWEEN DOMINION VOTING SYSTEMS
AND KENAI PENINSULA BOROUGH

SCOPE OF SERVICES AND PAYMENT PROVISIONS

1. **Pricing Summary** - Prices of equipment, technical facilities, software, and other related services for voting, vote counting, and result processing. All pricing in U.S. Dollars.

1.1 Purchased Items, Software Licenses and Optional Warranties

ITEM	UNITS	Unit Price	Extension
Central Scanning: Absentee/Vote By Mail Hardware			
ImageCast Central Kit – G2140	1	$25,000.00	$25,000.00
ImageCast Central Scanner – G2140	1	$9,000.00	$9,000.00
In-Person Voting: Polling Location Hardware			
MBP Kit #2 Portable High Volume	1	$5,800.00	$5,800.00
Modem – ICP External Wireless	22	$295.00	$6,490.00
Image Cast X Kit – Prime BMD	10	$3,500.00	$35,000.00
ImageCast Privacy Screen – Standard	10	$15.00	$150.00
ImageCast Prime Dual Bay Battery Charger	3	$165.00	$495.00
Accessories & Consumables			
ATI Kit – ICX-USB	10	$375.00	$3,750.00
ImageCast X Prime BMD Bag Kit	30	$120.00	$3,600.00
Compact Flash Memory Card – 16 GB	50	$36.75	$1,837.50
Image Cast X Prime Poll Worker Smart Card – Generic	12	$8.10	$97.20
Image Cast X Prime Technician Card – Generic	3	$8.10	$24.30
ICP I-Button Technician Key – Blue	2	$25.00	$50.00
ICP Cleaning Sheets	25	$11.00	$275.00
I-Button Administrator Key – Black	4	$25.00	$100.00
ICP Paper Roll (72')	60	$2.50	$150.00
Election Management Hardware			
EMS RAS Server Kit	1	$4,650.00	$4650.00
EMS Standard Server Kit	1	$17,000.00	$17,000.00
EMS Standard Listener Server Kit	1	$6,495.00	$6,495.00
EMS Client Workstation Kit	1	$1,700.00	$1,700.00
EMS Adjudication Workstation Kit	1	$1,700.00	$1,700.00
Smart UPS 1500 (rack mountable)	1	$800.00	$800.00

ITEM	UNITS	Unit Price	Extension
Mini Server Rack – 12 U	1	$900.00	$900.00
EMS Report Printer	1	$125.00	$125.00
Election Management Software			
Democracy Suite Standard	1	$60,000.00	$60,000.00
Adjudication Module	1	$15,000.00	$15,000.00
Communications Manager	1	$12,000.00	$12,000.00
Mobile Ballot Printing Module	1	$3,000.00	$3,000.00
Automated Test Deck Module	1	$4,500.00	$4,500.00
Support Services			
Project Management & Implementation	8 days	$2,000.00	$16,000.00
On-Site Services Non-Election Day	8 days	$2,000.00	$16,000.00
On-Site Services – Election Day (arrive Mon, onsite Tue, dept. Wed)	1 set	$4,500.00	$4,500.00
Training	8 days	$1,500.00	$4,500.00
Election Set-up/Ballot Set-up 1st year	1	$5,500.00	$5,500.00

ANNUAL SOFTWARE LICENSE

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
July 1, 2022 – June 30, 2023			
Democracy Suite Standard	1	$12,000.00	$12,000.00
Democracy Suite Adjudication	1	$3,000.00	$3,000.00
Democracy Suite Communications Manager	1	$2,400.00	$2,400.00
Democracy Suite Mobile Ballot Printing	1	$600.00	$600.00
Democracy Suite Automated Test Deck Generator	1	$900.00	$900.00
ICC Annual Firmware - G2140	1	$2,575.00	$2,575.00
ICX-BMD Annual Firmware	10	$150.00	$1,500.00
Discount			($3,118.00)
Sub-Total:			$19,857.00
July 1, 2023 – June 30, 2024			
Democracy Suite Standard	1	$12,360.00	$12,360.00
Democracy Suite Adjudication	1	$3,090.00	$3,090.00
Democracy Suite Communications Manager	1	$2,472.00	$2,472.00
Democracy Suite Mobile Ballot Printing	1	$618.00	$618.00
Democracy Suite Automated Test Deck Generator	1	$927.00	$927.00
ICC Annual Firmware - G2140	1	$2,652.25	$2,652.25
ICX-BMD Annual Firmware	10	$154.50	$1,545.00
Discount			($3,410.25)
Sub-Total:			$20,254.00

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
July 1, 2024 – June 30, 2025			
Democracy Suite Standard	1	$12,730.80	$12,730.80
Democracy Suite Adjudication	1	$3,182.70	$3,182.70
Democracy Suite Communications Manager	1	$2,546.16	$2,546.16
Democracy Suite Mobile Ballot Printing	1	$636.54	$636.54
Democracy Suite Automated Test Deck Generator	1	$954.81	$954.81
ICC Annual Firmware - G2140	1	$2,731.82	$2,731.82
ICX-BMD Annual Firmware	10	$159.14	$1,591.35
Discount			($3,716.18)
Sub-Total:			$20,658.00
July 1, 2025 – June 30, 2026			
Democracy Suite Standard	1	$13,112.72	$13,112.72
Democracy Suite Adjudication	1	$3,278.18	$3,278.18
Democracy Suite Communications Manager	1	$2,622.54	$2,622.54
Democracy Suite Mobile Ballot Printing	1	$655.64	$655.64
Democracy Suite Automated Test Deck Generator	1	$983.45	$983.45
ICC Annual Firmware - G2140	1	$2,813.77	$2,813.77
ICX-BMD Annual Firmware	10	$163.91	$1,639.09
Discount			($4,033.40)
Sub-Total:			$21,072.00
July 1, 2026 – June 30, 2027			
Democracy Suite Standard	1	$13,506.11	$13,506.11
Democracy Suite Adjudication	1	$3,376.53	$3,376.53
Democracy Suite Communications Manager	1	$2,701.22	$2,701.22
Democracy Suite Mobile Ballot Printing	1	$675.31	$675.31
Democracy Suite Automated Test Deck Generator	1	$1,012.96	$1,012.96
ICC Annual Firmware - G2140	1	$2,898.19	$2,898.19
ICX-BMD Annual Firmware	10	$168.83	$1,688.26
Discount			($4,365.56)
Sub-Total:			$21,493.00
July 1, 2027 – June 30, 2028			
Democracy Suite Standard	1	$13,911.29	$13,911.29
Democracy Suite Adjudication	1	$3,477.82	$3,477.82
Democracy Suite Communications Manager	1	$2,782.26	$2,782.26
Democracy Suite Mobile Ballot Printing	1	$695.56	$695.56
Democracy Suite Automated Test Deck Generator	1	$1,043.35	$1,043.35
ICC Annual Firmware - G2140	1	$2,985.13	$2,985.13
ICX-BMD Annual Firmware	10	$173.89	$1,738.91
Discount			($4,711.32)

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
Sub-Total:			$21,923.00
July 1, 2028 – June 30, 2029			
Democracy Suite Standard	1	$14,328.63	$14,328.63
Democracy Suite Adjudication	1	$3,582.16	$3,582.16
Democracy Suite Communications Manager	1	$2,865.73	$2,865.73
Democracy Suite Mobile Ballot Printing	1	$716.43	$716.43
Democracy Suite Automated Test Deck Generator	1	$1,074.65	$1,074.65
ICC Annual Firmware - G2140	1	$3,074.68	$3,074.68
ICX-BMD Annual Firmware	10	$179.11	$1,791.08
Discount			($5,071.35)
Sub-Total:			$22,362.00

ANNUAL HARDWARE WARRANTY (OPTIONAL)

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
July 1, 2022 – June 30, 2023			
ICC Hardware - G2140	1	$1,500.00	$1,500.00
ICX-BMD Hardware	10	$155.00	$1,550.00
Democracy Suite Mobile Ballot Printing Hardware	1	$375.00	$375.00
Discount			($281.00)
Sub-Total:		Sub-total	$3,144.00
July 1, 2023 – June 30, 2024			
ICC Hardware - G2140	1	$1,575.00	$1,575.00
ICX-BMD Hardware	10	$162.75	$1,627.50
Democracy Suite Mobile Ballot Printing Hardware	1	$393.75	$393.75
Discount			($389.25)
Sub-Total:		Sub-total	$3,207.00
July 1, 2024 – June 30, 2025			
ICC Hardware - G2140	1	$1,622.25	$1,622.25
ICX-BMD Hardware	10	$167.63	$1,676.33
Democracy Suite Mobile Ballot Printing Hardware	1	$405.56	$405.56
Discount			($433.14)
Sub-Total:		Sub-total	$3,271.00
July 1, 2025 – June 30, 2026			
ICC Hardware - G2140	1	$1,670.92	$1,670.92
ICX-BMD Hardware	10	$176.01	$1,760.14
Democracy Suite Mobile Ballot Printing Hardware	1	$425.84	$425.84
Discount			($479.90)

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
Sub-Total:		Sub-total	$3,377.00
July 1, 2026 – June 30, 2027			
ICC Hardware - G2140	1	$1,721.05	$1,721.05
ICX-BMD Hardware	10	$184.81	$1,848.15
Democracy Suite Mobile Ballot Printing Hardware	1	$447.13	$447.13
Discount			($613.33)
Sub-Total:		Sub-total	$3,403.00
July 1, 2027 – June 30, 2028			
ICC Hardware - G2140	1	$1,789.89	$1,789.89
ICX-BMD Hardware	10	$194.06	$1,940.56
Democracy Suite Mobile Ballot Printing Hardware	1	$469.49	$469.49
Discount			($728.93)
Sub-Total:		Sub-total	$3,471.00
July 1, 2028 – June 30, 2029			
ICC Hardware - G2140	1	$1,843.58	$1,843.58
ICX-BMD Hardware	10	$203.76	$2,037.58
Democracy Suite Mobile Ballot Printing Hardware	1	$492.96	$492.96
Discount			($833.13)
Sub-Total:		Sub-total	$3,541.00

1.2 Rental with Purchase Option and related License with Optional Warranties

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENSION
ImageCast Precinct Tabulator	26	$3,100.00	$80,600.00
ImageCast X Kit – Prime BMD	20	$3,500.00	$70,000.00
ImageCast X Privacy Screen – Standard	20	$15.00	$300.00
ICE/ICP Power Cord – 15’	26	$37.50	$975.00
ATI Kit – ICX- USB	20	$375.00	$7,500.00
Sub-Total:			$159,375.00
Discount:			($65,443.00)
Total Rental Price			**$93,932.00**

ANNUAL LICENSE & OPTIONAL WARRANTY*	QUANTITY	UNIT PRICE	EXTENSION
ImageCast Precinct (ICP) Firmware License	26	$228.00	$5,928.00
ImageCast X Firmware License	20	$150.00	$3,000.00
ImageCast Precinct Optional Warranty	26	$135.00	$3,510.00
ImageCast X Optional Warranty	20	$155.00	$3,100.00

* If jurisdiction chooses to purchase on July 1, 2023 the annual license and optional warranty fees listed above will apply. Beginning in 2024, License and Warranty fees increase 3% annually.

2. **Payment Schedule** - Dominion shall provide invoices to the Customer as described below. The Customer shall pay invoices in a timely manner and no later than thirty (30) calendar days from receipt of a Dominion invoice. Payments specified in this Exhibit are exclusive of all excise, sale, use and other taxes imposed by any governmental authority, all of which taxes shall be reimbursed by the Customer.

2.1 Purchased Items, Software Licenses and Optional Warranties

ID	Payment Invoice Date	Payment Amount
1	System Infrastructure, Installation and 10 Accessible Voting units – May 1, 2021	$178,801.00
2	Initial Software Annual payments of $21,827.00 (Beginning July 1,2022) Yrs 2 - 5	$21,827.00
3	Annual License & Optional Warranty (Beginning July 1, 2022)	See Fees Above in Section 1.1

2.2 Rental with Purchase Option and related License with Optional Warranties

ID	Payment Invoice Date	Payment Amount
4	Year 1 - Rental Price – May 1,2021	$46,966.00
5	Year 2- Rental Price - July 1, 2022	$46,966.00
6	Optional Purchase Price (July 1, 2023)	$61,200.00
7	Annual License & Optional Warranty (Beginning July1, 2023)	See Fees Above in Section 1.2

3. Detailed Deliverables Description

3.1 ***ImageCast® Central Scanner (ICC)***. Dominion shall provide the ImageCast® Central Scanner for use by The Customer. The ImageCast® Central Scanner is commercial off-the-shelf digital scanners configured to work with the ImageCast® Central Software for high speed ballot tabulation. Each ImageCast® Central Scanner includes the following components:

3.1.1 Canon G2140 document scanner

3.1.2 ImageCast® Central Software including third party Twain software

3.1.3 ICC workstation with pre-loaded software

3.1.4 iButton Security Key

3.1.5 iButton Programmer and iButton Key Switch & Cat5 RJ 45 Cables used with Democracy Suite to transfer security and election information to the iButtons for use with the ICC.

3.2 ***ImageCast® Precinct Scanner and Tabulator*** is a precinct optical scan ballot tabulator designed to scan marked paper ballots, interpret voter marks on the paper ballot, communicate these interpretations back to the voter and upon acceptance by the voter, deposit the ballots into the ballot box. Each ImageCast® provided to the Customer shall consist of the following items:

3.2.1 Two (2) optical imaging scanners for creating a duplex scanned image of each side of the ballot. Ballots can be fed in all four (4) orientations.

3.2.2 Two (2) 16GB flash memory cards. The cards are placed behind two securable doors (Administrator Door and Pollworker Door).

3.2.3 An integrated interactive electronic display in the form of an ultra-high contrast graphical LCD screen, with white background, 5.7" diagonal viewing area, and a built-in touch screen for administration purposes. The LCD display screen is located on the top right side of the machine.

3.2.4 An internal thermal printer and one (1) paper roll for generating reports.

3.2.5 Two (2) security keys (iButton) used with an integrated receptacle (physically attached to the top of the unit and electrically connected to the motherboard) used for a variety of verification and security tasks such control, data confidentiality and integrity functions.

3.2.6 A motorized paper feed mechanism for detecting and moving the ballot within the scanner. Ballots used with the ImageCast® must be 8.5" wide by a variable length (11", 14", 17" and 22"). The paper feed mechanism is physically capable of moving the ballot forward into the machine, across image sensors, enabling complete image capture of both sides of the ballot.

3.2.7 Power supply module uses 120 Vac, 60 Hz, one phase power. It has a power consumption of 0.07 Amps at 120 Volts AC.

3.2.8 An internal battery which is rated to provide two (2) hours of normal use in the absence of AC power.

3.2.9 Plastic collapsible ballot box.

3.3 ***ImageCast® Software***. The Parties will enter into software licenses for the ImageCast software, substantially in the form of Exhibit B to this Agreement. The Dominion software includes, without limitation:

3.3.1 AuditMark®. For each ballot that is scanned and accepted into the unit, a corresponding ballot image is created and stored for audit purposes. The image consists of two parts described below.

- The top portion of the image contains a scanned image of the ballot.
- The bottom portion consists of a machine-generated type-out showing each mark that the unit interpreted for that particular ballot. This is referred to as an AuditMark®.

3.4 ***ImageCast® X ("ICX")***

3.4.1 Application: ImageCast X BMD is a touchscreen in-person voting device and ballot marking device. Voting sessions are initiated on the tablet by either a smart card or the entry of a numeric code based on activation. The ballot is

loaded directly onto the standalone device. All voting activity is performed at the tablet, including accessible voting. Accessible voting interfaces connect to the tablet via an Audio Tactile Interface or ATI. For all modes of voting, after the voter reviews the ballot selections, a paper ballot is created for the voter from a printer in the voting booth. The printed ballot contains a written summary of the voter's choices, as well as a 2D barcode which is read by Dominion's ImageCast Precinct or Central tabulator. No votes are stored on the ImageCast X-BMD unit. All votes can be tabulated and stored on both the ImageCast Central and Precinct Tabulators.

3.4.2 Components: 21" Avalue touchscreen, Android OS, DC 19V input, BMD laser printer, 6' cable. 3 smart cards, and one backup battery.

3.5 ***Democracy Suite Software*** platform is a set of applications tailored for all pre-voting and post-voting activities. The Democracy Suite EMS consists of the following components:

3.5.1 Election Event Designer (EED) Client Application is the primary application used for the definition and management of election event. EED is responsible for the definition of election projects. Each election project is represented as an instance of the election domain database with associated set of election project file based artifacts. The definition of the election project can be initiated by importing the election data from external systems or simply by defining all election project entities without importing external data. It is important to note that an election project initiated by importing data can be further modified within the EED Client Application.

The system can generate two types of paper ballots:

- Proofing ballots – ballots produced to allow election project stakeholders to proof ballot content and styling. These ballots cannot be processed by the ImageCast® as they don't have proper ballot barcodes. These ballots are overprinted with the text "Proofing Ballots – date/time"
- Official ballots – represent production ready, press ready ballots in PDF format with barcodes and without any overprinting.

3.5.2 Results Tally and Reporting (RTR) Client Application is the application used for the tally, reporting and publishing of election results.

3.6 ***ImageCast Adjudication Application***. The Adjudication application is a client and server application used to review and adjudicate ImageCast Central Scanner ballot images. The application uses tabulator results files and scanned images to allow election administrators to make adjudications to ballots with auditing and reporting capabilities. The Adjudication Application examines such voter exceptions as overvotes, undervotes, blank contests, blank ballots, write-in selections, and marginal marks. The application works in two basic modes: election project setup and adjudication. The Adjudication Application can be used in a multi-client environment. Adjudication eliminates the need to physically rescan ballots, which can potentially damage the originals and cause chain-of-custody concerns

3.7 ***Mobile Ballot Printing*** is an application used to search, preview and print ballots via a local printer device. The application makes use of ballot information and PDFs produced by the Election Event Designer application and information provided through the customer voter registration system.

3.8 ***Implementation Services and Training.*** Dominion will provide the following training as described herein.

3.8.1 Project Management Support. Dominion will provide project management support to oversee the general operations of the project through the Agreement Term. The project manager shall be responsible for arranging all meetings, visits and consultations between the parties and for all administrative matters such as invoices, payments and amendments. The Parties shall develop and finalize a project implementation plan including a training and delivery schedule. The Parties agree that changes to the project schedule may be required. Any changes to the project schedule must be mutually agreed to by the Parties.

3.8.2 ImageCast® X – This training introduces the ImageCast® X system with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, Election Day setup and operation, and troubleshooting.

3.8.3 ImageCast® ICC – This training introduces the ICC with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, ballot scanning operation, and troubleshooting.

3.8.4 ImageCast® ICP – This training introduces the ICP with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, ballot scanning operation, and troubleshooting

3.8.5 EMS Server Installation, Configuration & Testing. Dominion will provide a minimum total of one (1) day of direct onsite support for EMS Server installation, configuration & testing.

3.8.6 System Acceptance Testing Support. Dominion will provide direct onsite training and support during the System Acceptance Testing period

3.8.7 Pollworker Train the Trainer – This provides training to the Customer staff on operations of a polling location.

3.9 ***Travel and Expenses included.*** All costs of Dominion transportation, lodging and meal expenses are included during the Agreement Term.

3.10 ***Ongoing telephone support***. Telephone support shall be available for Customers during the Term of the Agreement at no additional costs.

3.11 ***Other Services, Consumables or Equipment.*** Any other services, consumables or equipment not specifically identified in this Agreement are available for purchase by the Customer at the then current Dominion list price.

EXHIBIT B

SOFTWARE LICENSE TERMS AND CONDITIONS

This Exhibit B is part of the Agreement between Dominion and Customer to which it is attached.

1. Definitions. Capitalized terms used herein have the meaning given in the Agreement unless otherwise defined herein.

1.1. "Agreement" means the agreement between the Parties for the use of the licensed Software to which this Exhibit B is attached and incorporated into.

1.2. "Licensee" means Customer, as the term is defined in the Agreement.

1.3. "Licensor" means Dominion Voting Systems, Inc.

1.4. "Software" means Dominion Software, as the term is defined in the Agreement.

1.5. "Specifications" means descriptions and data regarding the features, functions and performance of the Software, as set forth in user manuals or other applicable documentation provided by Licensor.

1.6. "Third-Party Products" means any software or hardware obtained from third-party manufacturers or distributers and provided by Licensor hereunder.

2. License Terms.

2.1. License Limitations. Licensee's use of the Software pursuant to the License granted in the Agreement is subject to the terms herein. Licensee may only use the Software for its own internal business purposes and conducting elections and solely in conjunction with the EMS Hardware. The License shall only be effective during the Term and cannot be transferred or sublicensed.

2.2. Print Copyright License. Subject to the Print Copyright License terms and conditions as defined in Schedule A attached hereto, Licensor grants to Licensee a non-exclusive, non-transferable print copyright license as defined in Schedule A.

2.3. Third-Party Products. When applicable, Licensor hereby sublicenses any software that constitutes or is contained in Third-Party Products, in object code form only, to Licensee for use during the Term.

2.4. No Other Licenses. Other than as expressly set forth herein, (a) Licensor grants no licenses, expressly or by implication, and (b) Licensor's entering into the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party. Licensee agrees not to use the Software as a service bureau for elections outside the Licensee's jurisdiction and agrees not to reverse engineer or otherwise attempt to derive the source code of the Software. The Licensee shall have no power to transfer or grant sub-licenses for the Software. Any use of all or any portion of the Software not expressly permitted is strictly prohibited.

2.5. Intellectual Property Infringement Indemnification. If a third party claims that the Software or System infringes any United States patent, copyright, trade secret or similar

intellectual property right, Dominion shall defend Licensee against such claim at Dominion's expense and pay all damages that a court finally awards against Licensee. If such a claim is made or appears possible, Dominion shall, within sixty (60) days of such claim, and at its option: (a) secure for Licensee the right to continue to use the infringing portion of the Software or System; or (b) modify or replace the Software and System so that it is non-infringing but retains equivalent functionality. If neither of the foregoing options is reasonably available, Dominion shall require Licensee to return the Software or System, and Dominion shall refund Licensee amounts calculated pursuant to the Software License fee, on a pro-rate basis. The foregoing notwithstanding, Dominion shall have no obligation to indemnify Licensee for any infringement claim based on Licensee's modification or misuse of the Software, if the claim would have been avoided had the Software not been modified or misused.

3. Payment. In consideration of the grant of the license, the Licensee shall pay the license fees set forth in the Agreement and Exhibit A of the Agreement.

4. Upgrades and Certification. During the Term, Licensor may provide upgrades to Licensee under the following terms and conditions.

4.1. Upgrades. In the event that Licensor, at its sole discretion, certifies a Software upgrade under the applicable laws and regulations of the Customer's State, Licensor shall make the certified Software upgrade available to the Licensee at no additional cost.

4.2. Certification Requirement. Notwithstanding any other terms of this Agreement, Licensor shall not provide, and shall not be obligated to provide under this Agreement any upgrade, enhancement or other software update that has not been certified under the applicable provisions of the election laws and regulations of the Customer's State.

5. Prohibited Acts. The Licensee shall not, without the prior written permission of Licensor:

5.1. Transfer or copy onto any other storage device or hardware or otherwise copy the Software in whole or in part except for purposes of system backup;

5.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or in part;

5.3. Alter or modify the Software in any way or prepare any derivative works of the Software or any part of parts of the Software;

5.4. Alter, remove or obstruct any copyright or proprietary notices from the Software, or fail to reproduce the same on any lawful copies of the Software.

6. Return of Software. Upon termination or expiration of this Agreement, Licensee shall forthwith return to Licensor all Software in its possession or control, or destroy all such Software from any electronic media, and certify in writing to Licensor that it has been destroyed.

7. Warranties. The following warranties will apply to all Software during the Term.

7.1. Software Warranty Terms. Licensor warrants that the Software will function substantially in accordance with the Specifications during the Term. The Licensor also warrants that the Software will comply with the voting system certification requirements and laws of the Customer's State (collectively the "Requirements") in effect as of the date the Software is certified by the certification authority of the Customer's State. This provision applies to the initially installed Software as well as any subsequent upgrades pursuant to Section 4 herein. However, the Licensor will not be required to make modifications to the Software or System as a result of changes in the Requirements. The foregoing warranty will be void in the event of the Software (i) having been modified by any party other than Licensor or (ii) having been used by the Licensee for purposes other than those for which the Software was designed by Licensor. If Licensor establishes that a failure of the foregoing warranty that is reported by Licensee is not covered by the foregoing warranty, the Licensee shall be responsible for the costs of Licensor's investigative and remedial work at Licensor's then current rates.

7.2. Corrections. If the Licensee believes that the Software is not functioning substantially in accordance with the Specifications or Requirements, the Licensee shall provide Licensor with written notice of the material failure within thirty (30) days of discovering the material failure, provided that the Licensee can reproduce the material failure to Licensor. The Licensor shall correct the deficiencies, at no additional cost to the Licensee and incorporate such corrections into the next version certified by the Customer's State.

7.3 Third-Party Products. The warranties herein do not apply to any Third-Party Products. However, to the extent permitted by the manufacturers of Third-Party Products, Licensor shall pass through to Licensee all warranties such manufacturers make to Licensor regarding the operation of such Third-Party Products.

7.4. NO OTHER WARRANTIES. EXCEPT AS SET FORTH IN THE AGREEMENT AND HEREIN, LICENSOR DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

SCHEDULE A

PRINT COPYRIGHT LICENSE TERMS AND CONDITIONS

1. Definitions. For the purposes of this Agreement, the following are defined terms:

1.1. "Derivative Works" means any work that is based upon or derived from the Licensor's voting systems' ballots, including without limitation, sample ballots and voting booklets.

1.2. "Voting Systems' Ballots" means any ballot created for use with any voting system owned or licensed by the Licensor.

2. Print Copyright License and Use.

2.1. Copyright License Grant. Licensor grants to the Licensee a non-exclusive, non-transferable copyright license to print, reproduce, distribute or otherwise copy the Licensor's Voting Systems' Ballots and any Derivative Works (collectively the "Materials") pursuant to the terms and conditions of this Schedule A.

2.2. Copyright License Use. Other than as expressly set forth herein, (a) Licensor grants no other licenses, expressly or by implication, and (b) Licensor's entering into and performing the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party, (c) the copyright license granted herein cannot be transferred or sublicensed and the Voting Systems' Ballots or Derivative Works cannot be reproduced by any third party without the prior written consent of the Licensor, including without limitation:

(i) any commercial or non-commercial printer
(ii) any third party vendor using ballot on demand system.

2.3. Rights and Interests. All right, title and interest in the Material, including without limitation, any copyright, shall remain with the Licensor.

3. No Copyright Warranties. EXCEPT AS SET FORTH HEREIN, LICENSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

STATE OF ALASKA
REQUEST FOR PROPOSALS

STATEWIDE VOTING AND BALLOT TABULATION SYSTEM

RFP 190000050

MARCH 18, 2019

The State of Alaska, Division of Elections is soliciting proposals for the implementation, installation, testing, maintenance, support and training for a complete and comprehensive statewide voting and ballot tabulation system.

ISSUED BY: OFFICE OF THE GOVERNOR

OFFICE OF THE LIEUTENANT GOVERNOR
DIVISION OF ELECTIONS

PRIMARY CONTACT:

DOTTIE WHITEHEAD
PROCUREMENT OFFICER
DOTTIE.WHITEHEAD@ALASKA.GOV
(907) 465-1182

OFFERORS ARE NOT REQUIRED TO RETURN THIS FORM.

IMPORTANT NOTICE: IF YOU RECEIVED THIS SOLICITATION FROM THE STATE OF ALASKA'S "ONLINE PUBLIC NOTICE" WEB SITE, YOU MUST REGISTER WITH THE PROCUREMENT OFFICER LISTED IN THIS DOCUMENT TO RECEIVE SUBSEQUENT AMENDMENTS. FAILURE TO CONTACT THE PROCUREMENT OFFICER MAY RESULT IN THE REJECTION OF YOUR OFFER.

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SECTION 1. INTRODUCTION & INSTRUCTIONS

SEC. 1.01 PURPOSE OF THE RFP

The State of Alaska, Division of Elections is soliciting proposals for the implementation, installation, testing, maintenance, support and training for a complete and comprehensive statewide voting and ballot tabulation system that will be used to support all aspects of creating, casting and tabulating ballots and reporting election results. The expected life of the new election management system is at least 15 years. The system will support statewide elections, and the State intends to allow local jurisdictions to use the system and equipment where feasible.

SEC. 1.02 BUDGET

The State of Alaska, Division of Elections estimates a budget of $4,000,000 to $6,000,000 dollars for completion of this project. Award and continuation of any resulting contract is contingent on appropriated funds.

SEC. 1.03 DEADLINE FOR RECEIPT OF PROPOSALS

Written proposals must be received no later than **1:00 PM** prevailing Alaska Time on **APRIL 19, 2019**. Faxed or emailed proposals are NOT acceptable.

Late proposals or amendments will be disqualified and not opened or accepted for evaluation.

SEC. 1.04 PRIOR EXPERIENCE

OFFERORS MUST MEET THESE MINIMUM PRIOR EXPERIENCE REQUIREMENTS IN ORDER TO BE CONSIDERED RESPONSIVE:

- A minimum (5) five years of experience implementing a similar voting and ballot tabulation system in at least two (2) primary and two (2) general elections.

- Implementation must have been conducted in the United States within the past 15 years, in a state, municipality, or county that have 500,000 or more registered voters.

An offeror's failure to meet these minimum requirements will cause their proposal to be considered non-responsive and their proposal will be rejected.

SEC. 1.05 REQUIRED REVIEW

Offerors should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and objectionable material must be made in writing and received by the procurement officer at least ten days before the deadline for receipt of proposals. This will allow time for the issuance of any necessary amendments. It will also help prevent the opening of a defective solicitation and exposure of offeror's proposals upon which award could not be made. Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the procurement officer, in writing, at least ten days before the deadline for receipt of proposals.

SEC. 1.06 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF PROPOSALS

All questions must be in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing.

Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the RFP. These questions may be answered over the telephone. Other questions may be more complex and may require a written amendment to the RFP. The procurement officer will make that decision.

Dottie Whitehead
Phone: 907-465-1182
Dottie.whitehead@alaska.gov

SEC. 1.07 RETURN INSTRUCTIONS

Offerors must submit (6) six, hard copies of their proposal, in writing, to the procurement officer in a sealed package. The cost proposal included with the package must be sealed separately from the rest of the proposal and must be clearly identified. The sealed proposal package(s) must be addressed as follows:

OFFICE OF THE LIEUTENANT GOVERNOR
DIVISION OF ELECTIONS

C/O OFFICE OF THE GOVERNOR
DIVISION OF ADMINISTRATIVE SERVICES
ATTENTION: DOTTIE WHITEHEAD
REQUEST FOR PROPOSALS (RFP) #190000050

RFP TITLE: STATEWIDE VOTING AND BALLOT TABULATION SYSTEM

240 MAIN STREET, SUITE 300
JUNEAU, ALASKA 99801

The State of Alaska provides one Request for Proposal (RFP). Additional RFPs may be purchased for the cost of reproduction, $.25 per page.

SEC. 1.08 PROPOSAL CONTENTS

The following information must be included in all proposals.

(a) AUTHORIZED SIGNATURE

All proposals must be signed by an individual authorized to bind the offeror to the provisions of the RFP. Proposals must remain open and valid for at least 90-days from the date set as the deadline for receipt of proposals.

(b) OFFEROR'S CERTIFICATION

By signature on the proposal, offerors certify that they comply with the following:

A. the laws of the State of Alaska;

B. the applicable portion of the Federal Civil Rights Act of 1964;

C. the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;

D. the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;

E. all terms and conditions set out in this RFP;

F. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury;

G. that the offers will remain open and valid for at least 90 days; and

H. that programs, services, and activities provided to the general public under the resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued thereunder by the federal government.

If any offeror fails to comply with [a] through [h] of this paragraph, the state reserves the right to disregard the proposal, terminate the contract, or consider the contractor in default.

(c) VENDOR TAX ID

A valid Vendor Tax ID must be submitted to the issuing office with the proposal or within five days of the state's request.

(d) CONFLICT OF INTEREST

Each proposal shall include a statement indicating whether or not the firm or any individuals working on the contract has a possible conflict of interest (e.g., currently employed by the State of Alaska or formerly employed by the State of Alaska within the past two years) and, if so, the nature of that conflict. The Commissioner of the Office of the Governor reserves the right to **consider a proposal non-responsive and reject it or** cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be developed by the offeror. The Commissioner's determination regarding any questions of conflict of interest shall be final.

(e) FEDERAL REQUIREMENTS

The offeror must identify what version of the U.S. Election Assistance Commission's (EAC) Voluntary Voting System Guidelines (VVSG) the system is certified to and the status of any pending certification.

SEC. 1.09 ASSISTANCE TO OFFERORS WITH A DISABILITY

Offerors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of proposals.

SEC. 1.10 AMENDMENTS TO PROPOSALS

Amendments to or withdrawals of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline unless they are in response to the state's request in accordance with 2 AAC 12.290.

SEC. 1.11 AMENDMENTS TO THE RFP

If an amendment is issued, it will be provided to all who were mailed a copy of the RFP and to those who have registered with the procurement officer after receiving the RFP from the State of Alaska Online Public Notice web site.

SEC. 1.12 RFP SCHEDULE

The RFP schedule set out herein represents the State of Alaska's best estimate of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule may be shifted by the same number of days.

- RFP Issued: **March 18, 2019**
- Pre-proposal conference: **March 26, 2019**
- Deadline for Receipt of Proposals: **April 19, 2019**
- Proposal Evaluation: **April 22 - May 3, 2019**
- Offeror Product Demonstration: **May 7 – May 13, 2019**
- State of Alaska issues Notice of Intent to Award a Contract: **May 15, 2019**
- State of Alaska issues contract: **June 3, 2019**
- Contract start: **July 1, 2019**

This RFP does not, by itself, obligate the state. The state's obligation will commence when the contract is approved by Office of the Governor. Upon written notice to the contractor, the state may set a different starting date for the contract. The state will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the state.

SEC. 1.13 PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held at **10:00 A.M.**, Alaska Time, on March 26, at the Director's Office in Juneau, Alaska. The purpose of the conference is to discuss the work to be performed with the prospective

offerors and allow them to ask questions concerning the RFP. Questions and answers will be transcribed and sent to prospective offerors as soon as possible after the meeting.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for the pre-proposal conference so that reasonable accommodation can be made.

SEC. 1.14 ALTERNATE PROPOSALS

Offerors may only submit one proposal for evaluation. In accordance with 2 AAC 12.830, alternate proposals (proposals that offer something different than what is asked for) will be rejected.

SEC. 1.15 NEWS RELEASES

News releases related to this RFP will not be made without prior approval of the project director.

SECTION 2. BACKGROUND INFORMATION

SEC. 2.01 BACKGROUND INFORMATION

The Division of Elections (DOE) is responsible for conducting statewide federal and state primary and general elections held in even-number years, Regional Educational Attendance Area Elections (for rural school districts) held every year, as well as numerous special elections held throughout rural Alaska. Alaska's primary election includes 3 ballot choices – with each voter only allowed one choice (Republican ballot with Republican candidates only along with ballot measures, Combined ballot with all candidates EXCEPT Republican candidates, along with ballot measures, and a ballot measures only ballot that contains ballot measures but no candidates). Alaska also produces a ballot containing only federal races that is available to certain absentee voters. (Sample ballots for previous elections are available on the division's website at http://www.elections.alaska.gov/Core/sampleballots.php).

Alaska is a paper ballot state, supplemented with touchscreen voting for Help America Vote Act (HAVA) compliance, with unique challenges distributing election equipment due to its large size and a highly dispersed voting population. Many remote communities are off the road system and accessible only via plane, boat or other alternate transportation methods (for example snowmobiles or all-terrain vehicles). To effectively and efficiently perform the core election services, the division is divided between the Director's Office in Juneau and four Regional Election Offices located in Juneau, Fairbanks, Nome, and Anchorage. In addition, the division has an Absentee & Petition Office in Anchorage and a satellite Regional Office in Wasilla that covers the Matanuska-Susitna Borough (Mat-Su).

The state is divided into 40 house districts with a total of 441 precinct polling places across the state, over 150 absentee/early locations serving a total of 575,049 eligible voters in 2018. Some absentee/early voting locations have pre-printed paper ballots for one house district and some have pre-printed paper ballots for multiple districts.

- 304 of Alaska's 441 precincts use a single optical scanner throughout Election Day for scanning/tabulating the paper ballots.
- 137 of Alaska's 441 precincts are considered hand-count precincts, meaning election workers hand count the ballots when the polls close and call their assigned Regional Office to report the election results.
- Each of the 441 precincts and five early vote stations in the Regional/Satellite offices receive a touchscreen voting unit, equipped with a voter-verifiable paper trail, for HAVA accessibility and language assistance requirements.

The Director's Office in Juneau is the "host" site (central server) for the entire ballot tabulation system and houses the software and central hardware (servers, modems) used for programming the election database, generating ballots, preparing all memory devices/security keys used in the election with the election parameters, receiving and reporting of the election results. (Samples of election results reports are available on the division's website at http://www.elections.alaska.gov/doc/info/ElectionResults.php). The Director's office is also responsible for conducting the initial logic and accuracy test on the memory devices that will be used in the election. The database and memory devices are then sent to the Regional Offices.

The Regional Offices and the Mat-Su satellite office are responsible for storing and preventative maintenance of the ballot tabulation equipment, conducting logic and accuracy testing on all equipment\devices used in the region, and the preparation and distribution of the ballot tabulation equipment to the precinct polling place

locations for Election Day use. In addition, three Regional Offices house software and hardware (regional servers) used to enter the election results from hand-count precincts and precincts that cannot upload results from the polling place. The election database is loaded onto the regional servers and through user credentials, regional staff have access to data enter the election results for specific hand-count precincts. The hand-count precincts call their assigned Regional Office to report election results. Regions then manually enter the results into the election database, print a copy of the entered results, and upload the results to the Director's Office. Currently, Region I (Juneau) uses one data-entry station with attached printer to enter results for approximately 40 precincts, Region III (Fairbanks) uses 2 data-entry stations networked to 1 printer to enter results from approximately 50 precincts, and Region IV (Nome) uses 3 data-entry stations networked to 1 printer to enter results from approximately 99 precincts.

All early, absentee, and questioned ballots are scanned and counted at the Regional Offices using optical scanners and uploading the results to the central server in the Director's Office. During the 2018 General Election, over 95,000 absentee/early/questioned ballots were counted. Region 1 (Juneau) counted approximately 25,700 ballots; Region 2 (Anchorage) counted approximately 40,000 ballots; Region 3 (Fairbanks) counted approximately 14,000 ballots; Region 4 (Nome) counted approximately 3,200 and the Mat-Su Satellite Office counted approximately 14,000. Alaska law allows for partial count of absentee and questioned ballots (meaning only some races on the ballot are counted). Statewide, approximately 10,000 of the absentee and questioned ballots voted during the 2018 general election were partially counted. The partial count ballots are scanned in batches according to the type of count. For instance, statewide races only, statewide/senate races only, statewide/senate/judicial races only, Presidential only.

As mentioned above, the division uses one HAVA compliant, accessible touchscreen voting unit (TSX) in each precinct polling place. The units are equipped with a voter-verifiable paper audit trail (required under Alaska Statute 15.15.032), and an audio recording of the ballot and voter's selections for visually impaired voters. In addition, for precincts requiring non-English language assistance, the TSX unit has an audio recording of the ballot in the appropriate alternative language. In 2018, Spanish, Tagalog and multiple Alaska Native language assistance was supported by TSX units in over 100 precincts. In addition to the precinct units, Alaska uses TSX units in the regional early voting stations. Units used in the early voting stations support multiple ballot styles, for instance the Region II (Anchorage) voting station accommodates voters from 21 different house districts. Approximately 1% of Alaska's voters use the touchscreen voting unit to cast their ballot.

Election results from precincts are currently uploaded to the Director's Office from the polling place locations in a mixture of ways: some are uploaded from the equipment at the precinct location, some locations bring memory devices to Regional Offices or hub locations for uploading, and some call their Regional Office to report the results and the regional office manually enter the results. Note: one precinct could use a combination of methods. For example, there could be an upload from the optical scanner and a called-in result from the touchscreen unit. The Director's Office has 29 dedicated modems to receive optical scan results, 15 dedicated modems to receive TSX results and 4 dedicated modems to receive Regional data entry results.

The division does not store ballot tabulation equipment year-round at remote precinct polling places due to lack of suitable storage space. Therefore, equipment, for over 150 rural precincts, is shipped to, and returned from, these locations for each election. Size, durability, air-carrier restrictions (certain batteries, for example) and weight of hardware systems will be a crucial consideration when determining if equipment can be shipped to remote precinct locations using USPS standards. Even though equipment for urban area precincts is kept at Regional Office locations and does not need to be shipped, it is still necessary that the equipment is portable

enough to move easily between rooms and in and out of storage. Some equipment is also stored at regional hub locations (city or borough buildings) that are not owned by the State.

Alaska allows the boroughs and cities to use its precinct-based hardware for local elections, free of charge. The local governments use their own memory devices and have and will continue to arrange their own election programming with the vendor selected through this RFP. Any solution must allow this arrangement to continue to work.

SECTION 3. SCOPE OF WORK & CONTRACT INFORMATION

SEC. 3.01 SCOPE OF WORK

DOE is soliciting proposals for the implementation, installation, testing and training of a new voting and ballot tabulation system (software and hardware) that will be used to support elections, including but not limited to defining the election and election parameters, generating ballots (for electronic and print ready ballot files), ballot scanning (at the precinct polling place and regional office levels), tabulation, transmitting and reporting election results. The first election DOE anticipates using the new system in is the August 18, 2020 Primary election.

DOE requires a complete, turn-key system that includes:

1. Precinct-based voting solution for 304 precincts to include ballot counting at the precinct level and HAVA compliant accessible voting.
2. HAVA compliant accessible voting solution for 137 hand-count precincts and 5 early vote stations.
3. Central ballot counting at Regional Offices for absentee/questioned/early ballots (using scanners that can be loaded with multiple ballots and that do not require feeding ballots one at a time). Typically, these ballots are counted on multiple days (election night and then usually 3-5 additional counts) in batches by house district and type of count (full count or partial count) and can have various quantities (small-large) depending on type of count (see background section for approximate quantities).
4. Manual entry at Regional Offices for hand-count precinct election results. The proposed solution must allow for simultaneous data entry of hand-count results as outlined below:
    a. Region I – at least 2 users entering results.
    b. Region III – at least 2 users entering results.
    c. Region IV – at least 3 users entering results.
5. Upload of election results from precincts and Regional Offices to central server located in the Director's Office.
6. Tabulating/Reporting of election results.
7. (Optional) Ballot-on-Demand solution for a minimum of 5 early vote locations to eliminate and/or reduce the number of pre-printed paper ballots DOE distributes to these locations. (Note: currently, DOE prints ballots for each house district for distribution at these locations. The voter is given the ballot for the house district where he/she is registered. DOE envisions a system that would allow multiple house district ballots to be loaded onto a ballot-on-demand solution for accessing by the voter). (**NOTE: As an optional item, this will not be included when evaluating and scoring the proposals).**

The proposed system must continue to maximize accessibility for all Alaskans eligible to vote, including rural and urban voters, voters with disabilities and voters requiring language assistance under Section 203 of the Voting Rights Act (VRA). The wide array of Alaska Native languages, including regional dialects, mean there are many languages that will need to be supported in Alaska. In the 2018 general election, the State provided support for 15 non-English languages, in the form of alternative language sample ballots and audio files on the touchscreen. All on-screen voting is displayed in English, with an audio translation of the ballot in the alternative language. Some precincts may have up to 5 languages supported via audio translation of the ballot. The successful contractor must be willing to work with Alaska officials to add audio files to the system to support Alaska Native, Spanish and Tagalog languages if not already included in the proposed system.

The State prefers COTS, non-proprietary hardware options wherever possible.

SEC. 3.02 CONTRACT TERM AND WORK SCHEDULE

The length of the contract will be from the date of award, approximately July 1, 2019, for 5 YEARS, EXPIRING 06/30/2024.

Unless otherwise provided in this RFP, the State and the successful offeror/contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least 30-days before the desired date of cancellation.

SEC. 3.03 DELIVERABLES

The contractor will be required to provide a complete, turn-key, EAC certified voting and ballot tabulation system that supports both precinct-based ballot counting and central (regional office) ballot counting as well as provide for HAVA compliant, accessible voting. The contractor shall provide all software, hardware, firmware, equipment, supplies, support and services necessary for a complete and comprehensive solution that meets Alaska's requirements.

All proposed hardware must be newly manufactured, not refurbished. Hardware and software must meet the minimum system requirements outlined as a Must Have in Attachment #1 Requirements and shall include backup power/UPS, any hardware necessary to transmit results from precincts or Regional Offices (including encrypted thumb drives, keys or any other portable storage devices), printers, secure ballot boxes, and any other required hardware. The system must include a centralized scanner system for Regional Offices and a precinct-based solution that incorporates accessible voting requirements.

As part of the deliverables, the contractor will be required to provide the following:

1) **Project Management:** The contractor shall prepare a project schedule with specific tasks, milestones and deliverables. The contractor must assign a project manager to oversee and coordinate the ballot tabulation system delivery, implementation, training and support. The assigned project manager shall provide services to ensure the successful delivery and deployment of the system and will be required to provide updates at least weekly to the DOE project manager regarding equipment delivery, installation, implementation training and support, technical difficulties and all other related matters.

2) **Shipping and Delivery:** The contractor shall provide for the shipping, tracking and delivery of all system components required for the proposed system to the appropriate offices (Director's and Regional/Satellite) for installation. In addition, the components for the precinct-based solution must be shipped to the appropriate Regional/Satellite Office.

3) **Installation:** The contractor must complete the initial installation of the equipment in each Regional/Satellite Office and the Director's Office. Installation will include:

    a) System installation and configuration plan for the system installed in the Director's Office and in each Regional/Satellite Office.

b) Preparation of the system to ensure the system is secure and operating properly and ready for election use.
c) Installation of all components to fully conduct elections.
d) Initial acceptance testing to ensure all system components and precinct-based solution components are operating according to specifications. As part of the acceptance testing, the contractor must provide user-friendly acceptance testing scripts and must provide onsite support for DOE staff when performing acceptance testing.
e) Once all equipment is delivered and installed, the contractor must work with DOE to conduct a "mock" election to be used for end-to-end and load testing to verify that all installed components operate properly, and operate as a complete, fully-functioning system, including the upload of mock election results. The contractor must provide a demonstration election and ballots to support the mock election as well as test scripts for logic and accuracy testing.

4) **Documentation:** The contractor must provide documentation specific to the hardware and software implemented, including:

a) User Procedures, including documentation for precinct-based components as well as central scanning and data-entry of hand-count results at regional offices;
b) shipping requirements to meet USPS standards and contractor's warranty;
c) election administrator documentation;
d) system documentation;
e) preventative maintenance plans and procedures; and
f) training materials specific to the installation, including setup/takedown processes for precinct-based solution.

5) **Training:** The contractor must provide complete, comprehensive training of the entire system for DOE staff, that covers at a minimum:

a) System software and all aspects of preparing the election database (including import/export features, generating ballot files, downloading election database to memory devices, uploading and reporting of election results, backing-up of the database, preparing for logic and accuracy testing);
b) operation of regional scanning solution (including software and hardware);
c) regional office procedures for data entry of hand-count results;
d) preparation, set-up and takedown processes for precinct-based solution (all components); and
e) processes for uploading election results from precincts and Regional/Satellite Offices.

6) **Support:** The contractor must provide election support.

a) Onsite and offsite database review and programming support during election setup during the first primary and general election the system is in use.
b) Onsite support at Regional Offices and Director's Office during the first primary and general election the system is in use. Onsite support will be 3 days, consisting of the day prior, day of, and the day after the election.

c) During the two weeks prior through two weeks after election day, real time support during Alaska business hours, including weekends.

d) U.S. based customer support provided by customer service employees residing within the United States.
   i) The successful vendor agents will be required to be in compliance with the state's security standards, which may include background checks.

7) **Repair and Maintenance:** The contractor must provide equipment repair and preventative maintenance recommendations, including recommendations for storage and off-cycle preventative maintenance requirements.

8) (Optional) Ballot-on-Demand solution for 5 early vote locations. (**NOTE: As an optional item, this will not be included when evaluating and scoring the proposals.)**

9) (Optional) Provide suitable shipping cases for equipment to be sent out to the precincts during an election. **(NOTE: As an optional item, this will not be included when evaluating and scoring the proposals.)**

SEC. 3.04 CONTRACT TYPE

A contract resulting from this RFP, if any, shall be a fixed price contract. The contractor will be required to provide the complete ballot tabulation system as set out in the RFP at a total fixed price.

SEC. 3.05 PROPOSED PAYMENT PROCEDURES

The state will make payments based on a negotiated payment schedule. Each billing must consist of an invoice and progress report. No payment will be made until the progress report and invoice has been approved by the project director.

SEC. 3.06 PROMPT PAYMENT FOR STATE PURCHASES

The state is eligible to receive a 5% discount for all invoices paid within 15 business days from the date of receipt of the commodities or services and/or a correct invoice, whichever is later. The discount shall be taken on the full invoice amount. The state shall consider payment being made as either the date a printed warrant is issued or the date an electronic funds transfer (EFT) is initiated.

SEC. 3.07 CONTRACT PAYMENT

No payment will be made until the contract is approved by the Office of the Governor. Under no conditions will the state be liable for the payment of any interest charges associated with the cost of the contract.

The state is not responsible for and will not pay local, state, or federal taxes. All costs associated with the contract must be stated in U.S. currency.

SEC. 3.08 LOCATION OF WORK

The location(s) the work is to be performed, completed and managed is the Division of Elections Director's Office (Juneau), Regional Offices in Juneau, Anchorage, Fairbanks and Nome as well as the Region 2 satellite office in Wasilla.

The state can offer temporary work space for the contractor to use during installation, testing, training and election support as well as meeting space for any meetings that take place between contractor and state.

By signature on their proposal, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the offeror cannot certify that all work will be performed in the United States, the offeror must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of proposals.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the proposal as non-responsive, or cancel the contract.

SEC. 3.09 THIRD-PARTY SERVICE PROVIDERS

Not applicable.

SEC. 3.10 SUBCONTRACTORS

Subcontractors may be used to perform work under this contract. If an offeror intends to use subcontractors, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

Subcontractor experience **SHALL** be considered in determining whether the offeror meets the requirements set forth in **SEC. 1.04 PRIOR EXPERIENCE**.

If a proposal with subcontractors is selected, the offeror must provide the following information concerning each prospective subcontractor within five working days from the date of the state's request:

- complete name of the subcontractor;
- complete address of the subcontractor;
- type of work the subcontractor will be performing;
- percentage of work the subcontractor will be providing;
- evidence that the subcontractor holds a valid Alaska business license; and
- a written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the services required by the contract.

An offeror's failure to provide this information, within the time set, may cause the state to consider their proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the project director.

SEC. 3.11 JOINT VENTURES

Joint ventures will not be allowed.

SEC. 3.12 RIGHT TO INSPECT PLACE OF BUSINESS

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

SEC. 3.13 F.O.B. POINT

All goods purchased through this contract will be F.O.B. final destination. Unless specifically stated otherwise, all prices offered must include the delivery costs to any location within the State of Alaska.

SEC. 3.14 CONTRACT PERSONNEL

Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the project director. Personnel changes that are not approved by the state may be grounds for the state to terminate the contract.

SEC. 3.15 INSPECTION & MODIFICATION - REIMBURSEMENT FOR UNACCEPTABLE DELIVERABLES

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the project director. The state may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. The project director may instruct the contractor to make corrections or modifications if needed in order to accomplish the contract's intent. The contractor will not unreasonably withhold such changes.

Substantial failure of the contractor to perform the contract may cause the state to terminate the contract. In this event, the state may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

SEC. 3.16 LIQUIDATED DAMAGES – NORMALLY USED FOR CONSTRUCTION ONLY

Not Applicable.

SEC. 3.17 CONTRACT CHANGES - UNANTICIPATED AMENDMENTS

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the project director will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the project director has secured any required state approvals necessary for the amendment and issued a written contract amendment, approved by the Office of the Governor.

SEC. 3.18 NONDISCLOSURE AND CONFIDENTIALITY

Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information.

"Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

SEC. 3.19 INSURANCE REQUIREMENTS

The successful offeror must provide proof of workers' compensation insurance prior to contract approval.

The successful offeror must secure the insurance coverage required by the state. The coverage must be satisfactory to the Department of Administration Division of Risk Management. An offeror's failure to provide evidence of such insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

Offerors must review form **APPENDIX B1** attached, for details on required coverage. No alteration of these requirements will be permitted without prior written approval from the Department of Administration, Division of Risk Management. Objections to any of the requirements in **APPENDIX B1** must be set out in the offeror's proposal.

SEC. 3.20 TERMINATION FOR DEFAULT

If the project director determines that the contractor has refused to perform the work or has failed to perform the work with such diligence as to ensure its timely and accurate completion, the state may, by providing

written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work.

This clause does not restrict the state's termination rights under the contract provisions of Appendix A, attached in **SECTION 8. ATTACHMENTS**.

SECTION 4. PROPOSAL FORMAT AND CONTENT

SEC. 4.01 PROPOSAL FORMAT AND CONTENT

The state discourages overly lengthy and costly proposals; however, in order for the state to evaluate proposals fairly and completely, offerors must follow the format set out in this RFP and provide all information requested.

SEC. 4.02 INTRODUCTION

Proposals must include a transmittal letter that includes the following:

- The complete name and address of offeror's firm and the name, mailing address, and telephone number of the person the state should contact regarding the proposal.
- Indication if the offeror intends to use subcontractors, and if so, specific detail outlined in Section 3.10.
- A statement confirming that the offeror's firm meets the minimum Prior Experience set out in Section 1.04.
- Confirm that the offeror will comply with all provisions in this RFP; and, if applicable, provide notice that the firm qualifies as an Alaskan bidder.
- Signature of a company officer empowered to bind the company.

An offeror's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

SEC. 4.03 UNDERSTANDING AND TECHNICAL SOLUTION FOR THE PROJECT

- Offerors must provide comprehensive narrative statements that illustrate their understanding of the requirements of the project and include a high-level architecture overview (including diagrams) of the proposed solution.

- Offerors must identify the EAC certification status of the proposed system and which version of the VVSG the system is certified under (include a copy of the certification provided by EAC).

- Offerors must provide at a minimum a detailed description of:

    1. The proposed "host" site in the Director's Office, for programming the election, preparing ballots, receiving and reporting of election results. Outline the software and hardware components that are included.
    2. The proposed system in the Regional Offices for counting of absentee/questioned/early vote ballots, including your solution for counting partial count ballots and uploading results to the host site. Outline the software and hardware components that are included.
    3. The proposed system for regional data-entry and uploading to host site of hand-count election results.
    4. The proposed precinct-based system, including accessible voting device, ballot box, how the election is loaded onto the equipment, and how the equipment can be transported to precinct polling places.
    5. The expected useful life of the proposed system and where the proposed system is at in its product useful lifecycle.

6. (Optional) Describe any ballot-on-demand solution you would propose. DOE, dependent on pricing and available funding, may purchase ballot-on-demand as part of the ballot tabulation system. **(NOTE: As an optional item, this will not be included when evaluating and scoring the proposals.)**

- Offerors must complete Attachment 2, Miscellaneous Specifications.

- Offerors must outline the security features of the proposed system, including a detailed description of the planned security that answers the underlying questions of (1) how does the State stop people from doing things to the system that should not be done, and (2) if someone does something, how does the State determine what was done? At a minimum, discuss the following topics:

    - Operational security, including backup capabilities and protocols (for data and configurations).
    - Security of results transmission from precincts or Regional Offices to the Director's Office, including a description of supported communication technologies and methods used to ensure data integrity;
    - Physical security of the system itself; and
    - Access controls, including user authentication.
        - If software components need to be updated (e.g., virus definition updates, system upgrades/patches), identify and describe how this will be accomplished.

      Note: For security reasons, the State envisions that the system will be air gapped. If a firm recommends a different approach, explain the recommended approach and why this approach should be used.

- Offerors must outline the audit functionality in the proposed system, not only for the software components but also for all hardware. The description should answer the foundational question: how can the State prove that the output from the system is trustworthy and no one has tampered with any component of the system? At a minimum, discuss the following topics:

    - What elements are included in audit functions;
    - What data is captured in logs;
    - The auditing techniques used;
    - The available reports and logs; and
    - How the logs are secured.

SEC. 4.04 METHODOLOGY USED FOR THE PROJECT

Offerors must provide comprehensive narrative statements that set out the methodology they intend to employ and illustrate how the methodology will serve to accomplish the work and meet the project schedule.

Proposed methodologies described will include:

- A high-level schedule for the implementation, including the projected length of time to complete each step of the implementation.

- The testing approach to be used for the following types of testing performed as part of the initial system implementation, to include:

    - System testing;
    - Performance/stress testing;
    - Acceptance testing; and
    - Logic and Accuracy testing.
      Note: The selected firm will coordinate and oversee acceptance testing; however, DOE personnel must conduct the testing itself.

- The training approach that will be used for training election staff on use of the proposed system, including the types of training and the method and mode of each type. Include sample training materials for a component of the election creation/set up process, and a component of the ballot scanning process.

- Any mitigation plan, including steps taken to mitigate risks due to unforeseen circumstances. At a minimum, discuss the following topics:

    - Recommendations to prevent, mitigate and recover from an emergency situation that may disrupt an election;
    - Technology threats;
    - Recommendations for contingency planning; and
    - System redundancy and backups.

- The support model, including how support calls are handled during the phases of an election lifecycle and recount.

- The maintenance and warranty structure. Describe the product's lifecycle, including frequency of updates to specialized election software and to the firmware of specialized hardware. Identify how long the firm supports a software version. Define whether updates to the software over time would require the system's network to be rebuilt, and if so, the frequency at which this would occur.

    - Identify who would perform maintenance (e.g., firm, subcontractor, local technicians, etc.).
    - Identify the types of system support and maintenance typically performed by the client's IT staff and the skillsets required for each type.
    - Attach a copy of your standard warranty for the system.

SEC. 4.05 MANAGEMENT PLAN FOR THE PROJECT

The offeror selected in response to this RFP must provide experienced, qualified professionals to ensure the success of the project. Offerors must provide comprehensive narrative statements that set out the management plan they intend to follow and illustrate how the plan will serve to accomplish the work and meet the project schedule. The management plan for the project must include:

- An organizational chart showing proposed project manager and team members and defining all key functional and technical roles of team members.

- Detailed list showing each individual proposed to serve on the project, with a complete description of his/her role, responsibilities and years of experience with implementing voting and ballot tabulation systems.
- Confirmation that the offeror commits that the project team members will actually be assigned to the project and will not be reassigned without notifying DOE.

- If the offeror intends to use subcontractors, the offeror must identify in the proposal the name of the subcontractors and the portions of the work that will be performed by subcontractors.

SEC. 4.06 EXPERIENCE AND QUALIFICATIONS

Offerors must provide an overview about your company, its capabilities and why it should be selected for this project. The overview should describe the company's stability and ability to perform required work for this project and ongoing election support and equipment repair and maintenance. Offeror may provide any additional information that demonstrates the strength it can bring to this project.

Offerors must also provide detailed information describing experience implementing a comparable ballot tabulation system (including the use of the software/hardware being proposed) and provide at least three (3) and no more than five (5) references where the proposed system has been implemented.

SEC. 4.07 DEMONSTRATION

Offerors must provide an on-site mock election demonstration that gives a clear and meaningful understanding of the proposed solution. Location of the Demonstration will be either Juneau or Anchorage, determined by DOE. Offerors must present their demonstration in real time and must supply all components required to perform the demonstration. DOE will provide internet connectivity, a projection screen, tables, chairs and any other requested accommodations DOE finds reasonable.

Each offeror will be limited to one, 6-hour demonstration on a single day that provides an overview of:

- Software used to create election parameters, receive and report results. In addition, DOE would like to see how system imports data, exports results and ballot images, how languages are handled, how audio is imported and at a minimum the Election Summary, Statement of Votes Cast and Card Cast reports.

- Proposed solution for precinct-based equipment (including ballot box and any accessible device and components).

- Scanning solution for Regional Offices for counting absentee/questioned/early ballots, including scanning partial count ballots.

- Manual entry of election results from Regional Offices for uploading to Director's Office.

As part of the demonstration, DOE would like the offeror to prepare a mock election and test ballots that will be used to show scanning with the precinct-based solution, central scanning at the regional offices and other features of the proposed system and that includes at a minimum:

- One jurisdiction wide race (with at least 4 candidates plus write-in), 2 state senate races (with at least 2 candidates, plus write-in), and 4 house district races (with at least 2 candidates, plus write-in) covering a total of 12 precincts. For instance, Governor (jurisdiction-wide), Senate A, Senate B, House District 1, House District 2, House District 3 and House District 4. House District 1-2 can be assigned to Senate A and House District 3-4 can be assigned to Senate B. There should be a minimum of 3 precincts assigned to each house district, for a total of 12 with 2 of the precincts (in the same house district) sharing the precinct equipment.

- There should be enough ballots for 4 different test decks (one for each house district) with extras for evaluators to use. The test decks can be created following the 1, 2, 3, 4 pattern (1st candidate gets 1 vote, second 2nd gets 2 votes, 3rd gets 3 and 4th gets 4, etc). The test decks will be used to scan ballots for the precincts as well as for absentee/questioned/early vote ballots.

    - The candidate names in the jurisdiction-wide race must be rotated by house district.

    - The candidate names shall include both their registered party affiliation and their party designation (i.e., Smith, Ballot (D) Alaska Democrat Party Nominee, where the (D) refers to the candidate's party affiliation).

- Process for uploading election results.

SEC. 4.08 COST PROPOSAL

Cost proposals must include an overall fixed cost for all direct and indirect costs associated with the performance of the contract. Offerors must complete and submit Attachment #3, Proposal Cost Sheet and must attached an itemized list detailing all software, hardware, and miscellaneous system components needed for a complete turn-key system (i.e., power cords, memory devices, ballot boxes, security keys, access cards) that are included with the system cost proposal, broken out by item and quantity.

1. The cost proposal must include the cost (including licensing) for the overall system software that is needed to program and prepare for elections, generate ballot files, tabulate and report results at the Director's Office as well as software that is needed at the Regional/Satellite Offices for manual entry of election results and centrally scanning absentee/questioned/early vote ballots.

2. The cost proposal must include the cost for all system hardware needed for implementation of the system in the Director's Office and the Regional/Satellite Offices. (This includes the hardware for the manual entry stations required as outlined in the Scope of Work).

3. The cost proposal must include the cost, per unit, for all hardware/software/firmware/licensing and any other peripheral items needed for the precinct-based voting and ballot counting solution for 304 precincts, including HAVA compliant accessible voting.

4. The cost proposal must include the cost, per unit, for all hardware/software/firmware/licensing and any other peripheral items needed for the precinct-based HAVA compliant accessible voting solution for 137 hand-count precincts and 5 early vote stations.

5. The cost proposal must include the cost for project management, installation and training.

6. The cost proposal can include the cost for any optional items the offeror would like to propose (i.e., ballot-on-demand, shipping cases). (NOTE: Optional items and their associated costs will not be included when evaluating and scoring the proposals.)
   Evaluation Criteria

All proposals will be reviewed to determine if they are responsive. Proposals determined to be responsive will be evaluated using the criterion that is set out in **SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION**.

An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror.

SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS PROPOSAL IS 100

SEC. 5.01 UNDERSTANDING AND TECHNICAL SOLUTION FOR THE PROJECT (20%)

Proposals will be evaluated against the questions set out below:

1) How well has the offeror demonstrated a thorough understanding of the organization of the Division of Elections, including the roles between the Director's office and the Regional Offices and proposed a solution that addresses the various roles between the Director's office and Regional offices as well as the unique logistical challenges with implementing a ballot tabulation system in Alaska?

2) How well does the offeror's proposed solution address the various ballot counting methods, including how results are reported and is the proposed solution architected to address the variations used in Alaska to count and report results?

3) How well does the proposal describe the total overall system architecture, at the Director's office and Regional offices and demonstrate that the system can meet the requirements set out in the RFP and outline in Attachment 1?

4) How well does the proposal describe the offeror's solution for precinct-based ballot tabulation as well as central scanning for absentee/questioned and early vote ballots, including scanning and reporting results for partial count ballots (i.e., Statewide only, Statewide/Senate, Statewide/Senate/Judicial etc.) and does it appear the proposed solution can adequately meet the ballot tabulation needs of the State of Alaska?

5) Did the offeror provide reasonable detail/recommendation on how the precinct-based equipment could be shipped to rural precincts (shipping boxes/containers/cases) during the elections?

6) For storage at the Regional Offices, is the precinct-based equipment in the proposed solution portable enough to move easily between rooms when preparing for an election?

7) Does the proposal clearly identify the EAC certification status of the proposed solution and which version of the VVSG the system is certified under?

8) How well does the proposal outline the security features of the proposed system, including security of results transmissions, user security authentication and access controls?

SEC. 5.02 METHODOLOGY USED FOR THE PROJECT (5%)

Proposals will be evaluated against the questions set out below:

1) How well has the offeror described a project schedule and does the schedule depict a reasonable timeframe for the project from start to finish?

2) How well does the proposal describe the offeror's proposed testing strategy and has the offeror provided sample test scripts that depict a logical approach to the various tests outlined in the RFP?

3) How well does the proposal describe the training approach and does it appear that the proposed training provide staff with a clear understanding of how to operate and maintain both hardware and software used in the proposed solution?

SEC. 5.03 MANAGEMENT PLAN AND EXPERIENCE FOR THE PROJECT (5%)

Proposals will be evaluated against the questions set out below:

1) How well does the proposal demonstrate that the offeror has the experience and qualifications necessary to complete the requirements of this RFP and deliver a solution on time?

2) How well does the proposal outline the organization of the project team and does it appear that the offeror has experienced personnel resources in place for successful completion of the project on time?

3) Does the proposal demonstrate that the offeror has the ability to provide adequate support for its solution and products after the contract is complete?

SEC. 5.04 SOLUTION DEMONSTRATION (35%)

Proposals will be evaluated against the questions set out below:

1) How well did the demonstration give a clear understanding of the proposed solution, including the software and hardware components?

2) How well did the demonstration show that the proposed solution can meet the functional requirements in Attachment 1 and meet Alaska's ballot counting needs and processes?

3) How well did the demonstration show that the proposed solution offers efficient, high-speed scanning at the Regional Offices for absentee/questioned/early vote ballots?

4) How well did the offeror demonstrate the proposed solution can efficiently process and report results for partial count ballots?

5) How well did the demonstration show that the proposed solution can produce ballots at the house district level for tabulation of absentee/questioned/early vote ballots.

6) How well did the demonstration show that 2 precincts in the same house district can share precinct-based equipment and results tabulated to the correct precinct?

7) How well did the demonstration show that the proposed solution includes an efficient process for manual entry of election results from hand-count precincts?

8) Does the proposed precinct-based solution appear to be user friendly and compact enough for elderly poll workers to manage, including the ability to easily setup and takedown the equipment at the polling place?

9) Will the proposed precinct-based solution be reasonably transported, be capable of withstanding transport conditions without incurring damage and be able to be shipped to rural precincts using USPS as a shipping method?

10) How well did the demonstration show that the proposed precinct-based solution will meet the language accessibility needs for Alaska and allow for designating which languages to apply to individual precincts, without requiring an "all or none" for language accessibility?

SEC. 5.05 CONTRACT COST (25%)

Overall, a minimum of **25**% of the total evaluation points will be assigned to cost. The cost amount used for evaluation may be affected by one or more of the preferences referenced under Section 6.12.

Converting Cost to Points

The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined through the method set out in Section 3.15.

SEC. 5.06 ALASKA OFFEROR PREFERENCE (10%)

If an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points. This amount will be added to the overall evaluation score of each Alaskan offeror.

SECTION 6. GENERAL PROCESS INFORMATION

SEC. 6.01 INFORMAL DEBRIEFING

When the contract is completed, an informal debriefing may be performed at the discretion of the project director. If performed, the scope of the debriefing will be limited to the work performed by the contractor.

SEC. 6.02 ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES

Prior to the award of a contract, an offeror must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran and Alaska Offeror Preference, an offeror must hold a valid Alaska business license prior to the deadline for receipt of proposals. Offerors should contact the **Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, PO Box 110806, Juneau, Alaska 99811-0806**, for information on these licenses. Acceptable evidence that the offeror possesses a valid Alaska business license may consist of any one of the following:

- copy of an Alaska business license;
- certification on the proposal that the offeror has a valid Alaska business license and has included the license number in the proposal;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the offeror has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time proposals are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game;
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only;
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance; or
- Mining licenses issued by Alaska Department of Revenue.

Prior the deadline for receipt of proposals, all offerors must hold any other necessary applicable professional licenses required by Alaska Statute.

SEC. 6.03 SITE INSPECTION

The state may conduct on-site visits to evaluate the offeror's capacity to perform the contract. An offeror must agree, at risk of being found non-responsive and having its proposal rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer at the state’s expense will make site inspection.

SEC. 6.04 CLARIFICATION OF OFFERS

In order to determine if a proposal is reasonably susceptible for award, communications by the procurement officer or the proposal evaluation committee (PEC) are permitted with an offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or substantive change to the proposal. The evaluation by the procurement officer or the PEC may be adjusted as a result of a clarification under this section.

SEC. 6.05 DISCUSSIONS WITH OFFERORS

The state may conduct discussions with offerors in accordance with AS 36.30.240 and 2 AAC 12.290. The purpose of these discussions will be to ensure full understanding of the requirements of the RFP and proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the procurement officer. Discussions will only be held with offerors who have submitted a proposal deemed reasonably susceptible for award by the procurement officer.

Discussions, if held, will be after initial evaluation of proposals by the procurement officer or the PEC. If modifications are made as a result of these discussions they will be put in writing. Following discussions, the procurement officer may set a time for best and final proposal submissions from those offerors with whom discussions were held. Proposals may be reevaluated after receipt of best and final proposal submissions.

If an offeror does not submit a best and final proposal or a notice of withdrawal, the offeror's immediate previous proposal is considered the offeror's best and final proposal.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for discussions so that reasonable accommodation can be made. Any oral modification of a proposal must be reduced to writing by the offeror.

SEC. 6.06 EVALUATION OF PROPOSALS

The procurement officer, or an evaluation committee made up of at least three state employees or public officials, will evaluate proposals. The evaluation will be based solely on the evaluation factors set out in **SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION**.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

SEC. 6.07 CONTRACT NEGOTIATION

After final evaluation, the procurement officer may negotiate with the offeror of the highest-ranked proposal. Negotiations, if held, shall be within the scope of the request for proposals and limited to those items which would not have an effect on the ranking of proposals. If the highest-ranked offeror fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the state may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal. If contract negotiations are commenced, they may be held in Juneau or Anchorage, Alaska. Offerors will be responsible for their travel and per diem expenses.

SEC. 6.08 FAILURE TO NEGOTIATE

If the selected offeror

- fails to provide the information required to begin negotiations in a timely manner; or
- fails to negotiate in good faith; or
- indicates they cannot perform the contract within the budgeted funds available for the project; or
- if the offeror and the state, after a good faith effort, simply cannot come to terms,

the state may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

SEC. 6.09 OFFEROR NOTIFICATION OF SELECTION

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award (NIA) and send copies to all offerors. The NIA will set out the names of all offerors and identify the proposal selected for award.

SEC. 6.10 PROTEST

AS 36.30.560 provides that an interested party may protest the content of the RFP.

An interested party is defined in 2 AAC 12.990(a) (7) as "an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract."

If an interested party wishes to protest the content of a solicitation, the protest must be received, in writing, by the procurement officer at least ten days prior to the deadline for receipt of proposals.

AS 36.30.560 also provides that an interested party may protest the award of a contract or the proposed award of a contract.

If an offeror wishes to protest the award of a contract or the proposed award of a contract, the protest must be received, in writing, by the procurement officer within ten days after the date the Notice of Intent to Award the contract is issued.

A protester must have submitted a proposal in order to have sufficient standing to protest the proposed award of a contract. Protests must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;
- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

Protests filed by telex or telegram are not acceptable because they do not contain a signature. Fax copies containing a signature are acceptable.

The procurement officer will issue a written response to the protest. The response will set out the procurement officer's decision and contain the basis of the decision within the statutory time limit in AS 36.30.580. A copy of the decision will be furnished to the protester by certified mail, fax or another method that provides evidence of receipt.

All offerors will be notified of any protest. The review of protests, decisions of the procurement officer, appeals, and hearings, will be conducted in accordance with the State Procurement Code (AS 36.30), Article 8 "Legal and Contractual Remedies."

SEC. 6.11 APPLICATION OF PREFERENCES

Certain preferences apply to all contracts for professional services, regardless of their dollar value. The Alaska Bidder, Alaska Veteran, and Alaska Offeror preferences are the most common preferences involved in the RFP process. Additional preferences that may apply to this procurement are listed below. Guides that contain excerpts from the relevant statutes and codes, explain when the preferences apply and provide examples of how to calculate the preferences are available at the **Department of Administration, Division of General Service's** web site:

http://doa.alaska.gov/dgs/pdf/pref1.pdf

- Alaska Products Preference - AS 36.30.332
- Recycled Products Preference - AS 36.30.337
- Local Agriculture and Fisheries Products Preference - AS 36.15.050
- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)
- Alaska Veteran's Preference - AS 36.30.321(f)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Offerors must attach a copy of their certification letter to the proposal. **An offeror's failure to provide this certification letter with their proposal will cause the state to disallow the preference.**

Sec. 6.12 ALASKA BIDDER PREFERENCE

An Alaska Bidder Preference of 5% will be applied to the price in the proposal. The preference will be given to an offeror who:

1) holds a current Alaska business license prior to the deadline for receipt of proposals;
2) submits a proposal for goods or services under the name appearing on the offeror's current Alaska business license;

3) has maintained a place of business within the state staffed by the offeror, or an employee of the offeror, for a period of six months immediately preceding the date of the proposal;

4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and

5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

Alaska Bidder Preference Statement

In order to receive the Alaska Bidder Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Bidder Preference.

If the offeror is a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner and include a statement certifying that all members or partners are residents of the state.

If the offeror is a joint venture which includes a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner of each LLC or partnership that is included in the joint venture and include a statement certifying that all of those members or partners are residents of the state.

SEC. 6.13 ALASKA VETERAN PREFERENCE

An Alaska Veteran Preference of 5%, not to exceed $5,000, will be applied to the price in the proposal. The preference will be given to an offeror who qualifies under AS 36.30.990(2) as an Alaska bidder and is a:

A. sole proprietorship owned by an Alaska veteran;

B. partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;

C. limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or

D. corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

Alaska Veteran Preference Statement

In order to receive the Alaska Veteran Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Veteran Preference.

SEC. 6.14 ALASKA OFFEROR PREFERENCE

2 AAC 12.260(e) provides Alaska offerors a 10% overall evaluation point preference. Alaska bidders, as defined in AS 36.30.990(2), are eligible for the preference. An Alaska offeror will receive 10 percent of the total available points added to their overall evaluation score as a preference.

SEC. 6.15 FORMULA USED TO CONVERT COST TO POINTS

The distribution of points based on cost will be determined as set out in 2 AAC 12.260(c). The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined using the formula:

[(Price of Lowest Cost Proposal) x (Maximum Points for Cost)] ÷ (Cost of Each Higher Priced Proposal)

SEC. 6.16 EXAMPLES: CONVERTING COST TO POINTS & APPLYING PREFERENCES

(a) FORMULA USED TO CONVERT COST TO POINTS

STEP 1

List all proposal prices, adjusted where appropriate by the application of applicable preferences claimed by the offeror.

Offeror #1	$40,000
Offeror #2	$42,750
Offeror #3	$47,500

STEP 2

In this example, the RFP allotted 40% of the available 100 points to cost. This means that the lowest cost will receive the maximum number of points.

Offeror #1 receives 40 points.

The reason they receive that amount is because the lowest cost proposal, in this case $40,000, receives the maximum number of points allocated to cost, 40 points.

Offeror #2 receives 37.4 points.

$40,000 lowest cost x 40 maximum points for cost = 1,600,000 ÷ $42,750 cost of Offeror #2's proposal = ***37.4***

Offeror #3 receives 33.7 points.

$40,000 lowest cost x 40 maximum points for cost = 1,600,000 ÷ $47,500 cost of Offeror #3's proposal = **33.7**

(b) ALASKA OFFEROR PREFERENCE

STEP 1

Determine the number of points available to qualifying offerors under this preference.

100 Total Points Available in RFP x 10% Alaska offerors preference = 10 Points for the Preference

STEP 2

Determine which offerors qualify as Alaska bidders and thus, are eligible for the Alaska offerors preference. For the purpose of this example, presume that all of the proposals have been completely evaluated based on the evaluation criteria in the RFP. The scores at this point are:

Offeror #1	83 points	No Preference	0 points
Offeror #2	74 points	Alaska Offerors Preference	10 points
Offeror #3	80 points	Alaska Offerors Preference	10 points

STEP 3

Add the applicable Alaska offerors preference amounts to the offeror's scores:

Offeror #1	83 points	
Offeror #2	84 points	(74 points + 10 points)
Offeror #3	**90 points**	**(80 points + 10 points)**

STEP 4

Offeror #3 is the highest scoring offeror and would get the award, provided their proposal is responsible and responsive.

SECTION 7. GENERAL LEGAL INFORMATION

SEC. 7.01 STANDARD CONTRACT PROVISIONS

The contractor will be required to sign and submit the State's Standard Agreement Form for Professional Services Contracts (form 02-093/Appendix A). This form is attached in **SECTION 8. ATTACHMENTS** for your review. The contractor must comply with the contract provisions set out in this attachment. No alteration of these provisions will be permitted without prior written approval from the Department of Law. Objections to any of the provisions in Appendix A must be set out in the offeror's proposal.

SEC. 7.02 PROPOSAL AS A PART OF THE CONTRACT

Part or all of this RFP and the successful proposal may be incorporated into the contract.

SEC. 7.03 ADDITIONAL TERMS AND CONDITIONS

The state reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

SEC. 7.04 HUMAN TRAFFICKING

By signature on their proposal, the offeror certifies that the offeror is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: http://www.state.gov/j/tip/

Failure to comply with this requirement will cause the state to reject the proposal as non-responsive, or cancel the contract.

SEC. 7.05 RIGHT OF REJECTION

Offerors must comply with all RFP terms, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the state. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

Minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;
- are trivial, negligible, or immaterial in nature;
- do not reflect a material change in the work; or

- do not constitute a substantial reservation against a requirement or provision;

may be waived by the procurement officer.

The state reserves the right to refrain from making an award if it determines that to be in its best interest.

A proposal from a debarred or suspended offeror shall be rejected.

SEC. 7.06 STATE NOT RESPONSIBLE FOR PREPARATION COSTS

The state will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

SEC. 7.07 DISCLOSURE OF PROPOSAL CONTENTS

All proposals and other material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

Trade secrets and other proprietary data contained in proposals may be held confidential if the offeror requests, in writing, that the procurement officer does so, and if the procurement officer agrees, in writing, to do so. The offeror's request must be included with the proposal, must clearly identify the information they wish to be held confidential, and include a statement that sets out the reasons for confidentiality. Unless the procurement officer agrees in writing to hold the requested information confidential, that information will also become public after the Notice of Intent to Award is issued.

SEC. 7.08 ASSIGNMENT

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer.

SEC. 7.09 DISPUTES

A contract resulting from this RFP is governed by the laws of the State of Alaska. If the contractor has a claim arising in connection with the agreement that it cannot resolve with the state by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632. To the extent not otherwise governed by the preceding, the claim shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

SEC. 7.10 SEVERABILITY

If any provision of the contract or agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

SEC. 7.11 SUPPLEMENTAL TERMS AND CONDITIONS

Proposals must comply with SEC. 7.05 RIGHT OF REJECTION. However, if the state fails to identify or detect supplemental terms or conditions that conflict with those contained in this RFP or that diminish the state's rights

under any contract resulting from the RFP, the term(s) or condition(s) will be considered null and void. After award of contract:

if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and

if the state's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

SEC. 7.12 CONTRACT INVALIDATION

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

SEC. 7.13 SOLICITATION ADVERTISING

Public notice has been provided in accordance with 2 AAC 12.220.

SECTION 8 ATTACHMENTS

SEC. 8.01 ATTACHMENTS

1) PROGRAMMING ELECTIONS REQUIREMENTS
2) MISCELLANEOUS SPECIFICATIONS
3) PROPOSAL COST SHEET AND OPTIONAL ITEMS
4) PROPOSAL EVALUATION FORM
5) PROPOSAL CHECKLIST
6) NOTICE OF INTENT TO AWARD

SEPARATE ATTACHMENTS

STANDARD AGREEMENT FORM

APPENDIX A – TERMS AND CONDITIONS

APPENDIX B1 – INSURANCE REEQUIREMENTS

ATTACHMENT 1
PROGRAMMING ELECTIONS REQUIREMENTS

A. PROGRAMMING ELECTIONS REQUIREMENTS

1.	The system must meet the requirements of and be certified under Voluntary Voting System Guidelines (VVSG) 1.0, published in 2005. While minimally acceptable, the State would prefer a system certified under VVSG 1.1, published in 2015.	Must Have
2.	The system architecture must include redundancy in election programming, allowing full election functionality from at least three geographically distinct locations.	Must Have
3.	The system must allow election officials the ability to create an election in a single, centralized database that allows for defining the election parameters (e.g., candidate and contest information), designing ballots and generating ballot displays that can be installed in all voting equipment for which they are intended.	Must Have
4.	Within the system, authorized users can establish political subdivisions, at both the State and municipal levels. Subdivisions will include Senate, House, Judicial, School, Borough Assembly, City Council, and Service Area districts.	Must Have
5.	When creating the election, election officials can designate a contest as being jurisdiction wide or associate it with a specific political subdivision (see A4 for a discussion of political subdivisions).	Must Have
6.	The system allows authorized users to define a new election from scratch, from an election template, or from a previous election.	
7.	The system supports having multiple active elections concurrently.	Must Have
8.	When an election is being defined, the system allows authorized users to enter the following election information in the system once and then use that information in multiple places (e.g., same candidate appears on multiple ballot styles). All fields must support special characters: a. Candidate names b. Candidate political affiliation (where applicable) c. Ballot proposition text d. Precinct name e. Number of registered voters	Must Have
9.	The system supports multiple lines of text for candidate name and multiple lines for candidate political affiliation during election definition.	Must Have
10.	When an election is being defined, the system allows authorized users to enter election information in the system by: a. Manually entering data b. Importing data. Describe supported file types.	Must Have

	c. Copying/pasting text from other software (e.g., Microsoft Word), including character-level and paragraph-level formatting	
11.	After an election is defined, the system will provide administrative reports, in a non-proprietary format, that may be used to proof the election. These reports will include, at a minimum: a. Contests with candidates b. Contests with card styles c. Contests with reporting precincts d. Base precincts with card styles e. Base precincts with contests, candidates, districts/precincts, ballot style	Must Have
12.	After an election is defined, the system will provide the export of election parameters, at minimum, in PDF, text, and XML formats so that the State can import data into other systems used by the division. The parameters available for export will include, at a minimum: a. Ballot styles with districts b. Ballot styles with races c. Races with candidates d. Race rotation with cards e. Ballots with cards	Must Have
13.	The system will use the official election database for logic and accuracy testing (LAT), rather than using a copy. The official election database will be cleared of any testing votes cast after LAT, prior to the actual election.	Must Have
14.	The system must allow for audio files supporting at least five languages on any one Help America Vote Act (HAVA) compliant accessible voting unit. Different machines will have different languages loaded to them, based on the needs of the specific precinct.	Must Have
15.	The solution will allow for creation of sample ballots from the election database in multiple alternative languages required in Alaska.	Must Have
16.	When defining an election, the system will allow users to select languages for which only audio translations will be provided. *Note: State currently displays only an English language ballot.*	Must Have
17.	When defining the election, authorized users must be able to designate which languages apply to an individual precinct. If an alternative language applies to a specific precinct, the system must apply only the selected alternate languages to that precinct (i.e., not all languages in the database).	Must Have
18.	The system must support importing audio files of alternate languages both as individual files and as a batch. These files will be prepared in applications external to the election management system.	Must Have

19.	For primary elections, the system must be able to generate ballot styles for specific political parties as well as "ballot measures only" ballot style. Some ballot styles will include candidates for a single political party and ballot measure(s); other ballot styles, in the same election, will have candidates from multiple political parties and ballot measure(s). "Ballot measures only" ballot style will not contain any partisan contests.	Must Have
20.	The system will allow authorized users to designate individual contests as having ballot rotation of candidate names. The system will allow users to specify the order of rotation by district level. For example, the candidate names in statewide and Senate races are rotated by House District (meaning that for the ballot styles on which that contest appears, Candidate A will be listed at the top for House District 1, Candidate B will be listed at the top for House District 2, etc.). State representative races are not rotated.	Must Have
21.	The system must be able to generate a jurisdiction-wide ballot that contains only federal contests, without the need for a separate ballot style for each precinct.	Must Have
22.	If a ballot is generated containing only federal contests (see A21), the ballot must be formatted for 8.5" x 11" paper, regardless of the page size of other ballot styles in the election.	Must Have
23.	The system will allow election officials to produce and print a ballot at either a Precinct or House District level.	Must Have
24.	The system must enable the user to define the ballot layout, header content, and instructions once and apply those to all ballot styles in the election.	Must Have
25.	The system must support the ability to have different ballot headers depending on the type of ballot (i.e., instructions for paper ballots vs. ballot marking devices)	Must Have
26.	The system must support designing single-sided, two-sided, and multipage ballots (counted as a single ballot).	Must Have
27.	The system must support paper ballot sizes up to and including 17/18 inches in length.	Must Have
28.	The system must support importing images and incorporating them in the ballot designs.	Must Have
29.	The system must allow the user to configure layout options: a. Number of columns b. Font (face, style, size, color) c. Oval/box position d. Number of lines for candidate names	Must Have
30.	For each ballot style in an election, the system will generate sample ballots in a nonproprietary format (such as PDF) that cannot be accepted or counted by a scanner. *Note: Sample ballots will include versions in alternate languages.*	Must Have

31.	For each ballot style, the system will output the final ballot designs to a PDF and in a "print ready" format to be used by the ballot printer and a "scan ready" format for internal use as a batch or to print on demand.	Must Have
32.	The accessible voting units used in the regional early voting stations must be able to accommodate multiple ballot styles.	Must Have
33.	For each ballot style, the system will produce a fully legible, compressed PDF that fits on a standard letter size (8.5' x 11") page.	Nice to Have

B. PROCESSING BALLOTS REQUIREMENTS

1.	Support at least one million eligible voters per statewide election (in 2018, there were 575,049 registered voters).	Must Have
2.	Any equipment that electronically generates ballots must produce a paper record of the ballot that the voter can review and correct at the time of voting and that can be used for a recount. The paper record must identify the election, precinct, ballot style, and vote recorded for each contest. Although a machine-readable barcode may be generated, the printed record must allow for visual confirmation of the votes cast in each contest. The paper record produced for voters with disabilities must be the same size and style as the paper record produced for all other voters. *Note: the verifiable paper record is currently provided in English only, regardless of the language in which the ballot was voted.*	Must Have
3.	At Regional Offices, staff must be able to scan a batch of at least 100 ballots at a time (i.e., place multiple ballots in the feeder at a time, instead of one ballot at a time).	Must Have
4.	The system must allow multiple staff members at each Regional Office to work simultaneously, scanning ballots and entering results from precincts. Not only would this include multiple scanners running simultaneously, but also the ability to manually enter hand count results while running scanners.	Must Have
5.	The system must tabulate ballots to the appropriate precinct, including in the following situations: a. Precinct has more than one ballot style b. Multiple precincts are voting at the same location, using the same equipment (either on the same ballot style or a different ballot style)	Must Have
6.	The system must allow absentee and questioned ballots to be tabulated and reported at the House District level, rather than at the precinct level. Provide a detailed explanation of how users will accomplish designating ballots to be tabulated at the House District level, and how those ballots will be tabulated.	Must Have
7.	When processing a batch of ballots, at a Regional Office, the system must support an authorized user designating that the system only count some contests (and ignore others) for all ballots in that batch. Processing partial count ballots must not require the user to create a duplicate/facsimile ballot with only those races marked.	Must Have

	Note: For absentee and questioned (provisional) ballots, Alaska allows a partial count of races on the ballot that the voter is eligible to vote. For example, a voter who is registered in a polling place in House District 10 but goes to a polling place in House District 29 is required to vote a questioned (provisional) ballot. The division will count all races on the ballot that the voter is eligible to vote but will not count the House District 29 race(s). In this example, the count would be a partial count for statewide races only. Currently, the division scans/counts partial count ballots in batches by House District and the type of count – i.e., all ballots in a single House District where only the statewide races can be counted are scanned together for a House District. The division currently uses header cards for each batch to accomplish partial counts at the regional level. For example, for each House District, ballots are counted by count type as follows: a. *for all ballots in which statewide only contests will be counted* b. *for all ballots in which statewide contests and senate contest will be counted* c. *for all ballots in which statewide contests and judicial contests will be counted* d. *for all ballots in which only the Presidential contest will be counted*	
8.	The system must be capable of scanning and tabulating a ballot with federal contests only, even if the ballot is a different paper size than other ballot styles in the election.	Must Have
9.	The system enables election officials to scan ballots before Election Day without tabulating or partial results being available to anyone (e.g., tabulation function can be disabled until set date and time).	Must Have
10.	If a ballot has an overvote in one or more contests, the system allows election officials to adjudicate those contests. Electronic adjudication is preferred at Regional Offices and Director's Office.	Must Have
11.	The system must support utilizing the election database for recounts and allowing the user to designate which contests and candidates are included in the recount. The system must be capable of recounting either A) all races or B) one or more races, in a precinct or precincts, district or districts, or statewide.	Must Have
12.	In a recount, the system shall not require the user to re-enter election information (i.e., districts, candidates, proposition text) or regenerate ballots. The recount database must allow the same ballots used in the election to be used during the recount.	Must Have
13.	During central scanning, the system will capture an image of any write-ins entered by the voter.	Nice to Have
14.	The system allows adjudication of write-ins as a separate process from adjudicating overvotes.	Nice to Have
15.	The system allows authorized users to enter qualified write-in candidates.	Nice to Have

16.	During adjudication of write-ins, adjudicator may use the list of authorized write-ins to facilitate adjudication.	Nice to Have

C. TRANSMITTING RESULTS REQUIREMENTS

1.	Precinct count systems will be able to efficiently transmit results directly to the Director's Office in Juneau.	Must Have
2.	The Director's Office and Regional Offices will be able to manually enter the results of hand counts called in from precincts that do not have precinct count systems.	Must Have
3.	Regional Offices will be able to securely transmit any results entered or scanned at the Regional Office to the Director's Office in Juneau. The system will prevent duplicate transmissions of system-tabulated results.	Must Have
4.	The system will support uploading precinct results from hub locations or Regional Offices to the Director's Office.	Must Have

D. REPORT RESULTS REQUIREMENTS

1.	The system produces a Summary Election Results report, showing the results for each race/contest to include: a. Race/Contest Name b. Number of precincts c. Precincts reporting d. Times counted e. Total votes f. Candidate name and political affiliation g. Number of votes h. Percentage of vote	Must Have
2.	The system produces a Statement of Votes Cast Report, which reports results by precinct, to include: a. Race/Contest Name b. Number of registered voters c. Number of cards cast d. Percentage of turnout e. Total votes for each candidate in each contest f. Total votes for each issue g. House District total votes for absentee, questioned, and early voting	Must Have
3.	The system produces a Cards Cast Report, which reports the number of cards cast by District/Reporting Unit, to include: a. Precinct name b. Voting groups c. Number of ballot/card cast by each precinct based unit	Must Have

4.	In the results for a contest with write-ins, the system includes the total count in the write-in category.	Must Have
5.	The system allows authorized users to export reports to a non-proprietary electronic format for posting to a website.	Must Have
6.	The system must produce a report, at any point in the process, showing which portable memory devices (if utilized) have been uploaded and which have not been uploaded to the election database for uploading election results.	Must Have
7.	The system must be capable of generating reports in a format on standard letter-sized paper (8.5”x11”)	Must Have

E. NON-FUNCTIONAL REQUIREMENTS

1.	The system must be an integrated system, with support coordinated through a single vendor	Must Have
2.	The system must not be a cloud-based solution.	Must Have
3.	System is architected such that, if specialized election hardware fails during an election, the State is still able to continue processing ballots and tabulating results.	Must Have
4.	In case of a loss of power, system provides for a graceful shutdown either by a user or with an automatic operation of any equipment that stores election or ballot data. A graceful shutdown means that it is done without loss of data and in a manner that enables a user to resume operation from the point it stopped once power is restored. In addition to your overall response, describe for each of the following how your system handles a power loss: a. Central database b. Individual units at a polling location or vote center c. Central tabulation and reporting	Must Have
5.	System provides the ability for all data and configurations to be backed up to removable media device.	Must Have
6.	All hardware for the system is new.	Must Have
7.	The State can reset all passwords (e.g., default administrative passwords) for system components. No passwords will be hardcoded into the devices.	Must Have
8.	System provides user authentication.	Must Have
9.	System security and authorization settings must be able to be managed by a designated administrator without the need for programming.	Must Have

10.	System provides system administration capabilities for appropriately authorized users to configure, monitor, and maintain the system.	Must Have
11.	Equipment for use in precinct locations must be within the size and weight restrictions for shipping (including by air) via the US Postal Service. *Note: 2018 maximum size allowed for a parcel shipped via USPS is no more than 108 inches in length and girth combined. Maximum weight is 70 lbs.*	Must Have
12.	Equipment to include suitable shipping and/or storage cases depending on the destination of the equipment. Cases for shipping equipment to remote precincts to be built to withstand inclement weather conditions and transportation in rugged conditions including small planes, snow machines, and all-terrain vehicles. Cases for equipment not requiring shipping to remote precincts could be suitably less durable, such as soft case.	Nice to Have
13.	Ballot boxes for use in rural precincts must be compact and able to be shipped via USPS. *Note: 2018 maximum size allowed for a parcel shipped via USPS is no more than 108 inches in length and girth combined. Maximum weight is 70 lbs.*	Must Have
14.	Equipment for use in Regional Offices must be lightweight and portable to allow for movement of equipment to and from storage locations for each election cycle.	Must Have
15.	System supports an unlimited number of users with varying permissions/user group assignments.	Nice to Have

ATTACHMENT 2
MISCELLANEOUS SPECIFICATIONS

Offerors must restate and provide a detailed response to each of the following system specification items.

Election Database Software

1. Does your proposed system have a limit on the number of ballot styles allowed per election?

2. How many simultaneous active elections does your system allow?

3. Is there a limit on the number of elections your system can store?

4. When setting up the election database, provide a description of the database elements that can be imported, and the file types supported for import.

5. For the election results reports, which reports does your system allow to be exported, and the file types supported for export?

6. Provide a description of your system's alternative language capabilities. Specifically:
    a. How many languages does your system support?
    b. Does your system allow specific alternative languages to be designated to specific precinct(s) or does it have to apply to all precincts?
    c. Can audio for Alaska Native languages be added to your system for general prompts and instructions to voters.
    d. Can the ballot be presented in English and the audio translation of the ballot be in a designated alternative language?
    e. Can the election specific audio (contest headings, candidate names, ballot measures, etc.) be imported as a batch or does it require individual files to be imported?
    f. Describe any limitations in supported audio file types, number of files or individual audio file size.

7. Describe the options provided in your system for candidate name rotation.

8. What is the maximum paper ballot size your system supports?

9. Describe the security features of your system that allow for user level roles and access.

10. Describe the type of administrative and/or audit reports that are available to proof the election database to ensure the entered information is accurate.

11. Describe any plans you have for future system enhancements.

Precinct-Based System

1. Describe the typical precinct configuration, including the minimum floor space required for the system.

2. Describe the process for preparing the units for Election Day use.
    a. How is the specific election information (including precinct designation) loaded onto the unit?
    b. If a removable memory device (i.e., memory card, thumb drive) is utilized, describe safeguards in the event of power failure or device failure.
    c. Is there any election related information stored directly on the unit, and if so, describe what information is stored.
    d. Describe how logic and accuracy testing is performed.

3. Describe the procedures poll workers will follow to open and close the polls.

4. Describe the power requirements for making electrical connections at the polling place and features of the voting device to include battery backup, etc. Describe any power considerations that are needed at the polling place.

5. Describe the size, weight, and setup for your proposed precinct-based solution.

6. Describe the physical storage requirements for your proposed solution. This should include any associated equipment, including how many can be stacked, any means by which the equipment is protected from damage, what power is required for storage, the practical temperature limits the system can withstand and any other limitations.

7. Describe the procedure for transferring precinct vote totals to the election database.

8. Describe the pre-election and post-election reporting features.

9. Describe the features and capacity of the ballot box.
    a. How many ballots can fit in the ballot box based upon the size of the ballot being used?
    b. How many compartments?
    c. Can the precinct scanner be used to scan ballots without being seated on the ballot box?

10. Describe the size and style of any ballot produced using the accessible voting device and the printer hardware needed. Also include if the ballot produced is in a different format than ballots produced for all other voters.

11. Describe how the voter votes using the accessibility feature of your proposed system.
    a. How is the ballot accessed by the voter? Is it pre-loaded on the unit or does it require a voter access card?
    b. If the ballot is accessed using a voter access card, describe how the access cards are programmed.
    c. How are the voter's selections presented to the voter before casting the ballot?

12. For ballots printed by the precinct-based solution, describe the type, weight and size of the paper used to print ballots, including any specialized paper requirements?

13. Does the scanner and/or accessible voting device require any specialized ink to print precinct reports and/or ballots? Describe the type of ink and/or ink cartridges required.

Central Scanning (Regional Offices)

1. Describe the features of the scanner:
    a. Is it a specialized scanner or COTS scanner?
    b. How many ballots a minute does the scanner scan?
    c. How many ballots can be stacked into the feed tray?
    d. What is the maximum paper length the scanner supports?
    e. What is the power requirement?
    f. Does it have a visual display of the numeric count of the ballots scanned and can that count be cleared after each batch of ballots?
    g. Are there any special features that assist the user in determining if a ballot wasn't scanned and if so, which ballot?

2. Describe the typical configuration, including the minimum amount of floor space needed for the proposed solution for scanning absentee/early/questioned ballots at the Regional/Satellite Offices.

3. When scanning absentee/early/questioned ballots, DOE batches and counts the ballots by house district and type of count (i.e., full count, statewide only, statewide/senate, etc.). After each batch is counted, describe the process users will follow to obtain the election results for each individual batch.

ATTACHMENT 3
PROPOSAL COST SHEET

Proposals must include an itemized list of all costs associated with contract performance and include a total fixed price for the entire Ballot Tabulation System. The total fixed price must include all direct and indirect costs, hardware, software, licenses, maintenance, support, installation, training, project management and any additional miscellaneous expenses associated with contract performance.

Proposals received that do not include a total fixed cost for the entire system and associated costs shall be considered nonresponsive and shall not be evaluated.

Item #1 – Ballot Tabulation System Software

Total Initial Cost: $_____
(attach list of software included in cost proposal)

Licensing first 2 years: $_____

Licensing year 3: $_____

Licensing year 4: $_____

Licensing year 5: $_____

Item #2 – Director's Office "Host" Site and Regional/Satellite Office Hardware
(servers, scanners, printers and any additional items required for system as outlined in Scope of Work)

Hardware: $_____
(attach list of all hardware, including quantity, included in cost proposal)

Warranty/maintenance first 2 years: $_____

Warranty/maintenance year 3: $_____

Warranty/maintenance year 4: $_____

Warranty/maintenance year 5: $_____

Itemized list of all additional costs:

_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____

Item #3 – Precinct-Based Voting and Ballot Counting Solution
(attach list of all hardware/software included in cost proposal that is needed for both precinct-based ballot counting and HAVA compliant accessible voting)

Hardware Cost: $_____ per unit x 304 $ _____

Software Cost: $_____ per unit x 304 $ _____

Licensing: $_____ per unit x 304 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

_____ $_____ per unit x 304 $ _____

Item #4 – HAVA Compliant Accessible Voting Solution
(attach list of all hardware/software included in cost proposal that is needed for HAVA compliant accessible voting at 137 hand-count precincts and 5 early vote locations)

Hardware Cost: $_____ per unit x 142 $ _____

Software Cost: $_____ per unit x 142 $ _____

Licensing: $_____ per unit x 142 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

_____ $_____ per unit x 142 $ _____

Item #5 – Project Management, Installation and Training

Project Management:	$_____
Training:	$_____
Installation:	$_____

Itemized list of all additional costs:

_____	$ _____
_____	$ _____
_____	$ _____

TOTAL FIXED PROPOSAL COST $_____

_____
Printed name of Authorized Representative:

_____ _____
Signature of Authorized Representative: Dated:

OPTIONAL ITEMS AND RELATED COST

IMPORTANT NOTICE: As a value-added option, offerors are encouraged to include all costs associated with Items #1-#3 listed below. Providing this information is optional. The information and cost will NOT be considered during the evaluation process and will be used for information purposes only.

Item #1 – Lease Option

Offerors should include a separate cost sheet for leasing the hardware associated with the precinct based voting and ballot counting solution and the HAVA compliant accessible voting solution. If offerors are interested in providing a lease option, include the terms associated with the lease agreement.

Item #2 – Ballot-on-Demand

(attach list of all hardware/software included in cost proposal)

Hardware Cost: $_____ per unit x 5 $ _____

Software Cost: $_____ per unit x 5 $ _____

Licensing: $_____ per unit x 5 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 5 $ _____

_____ $_____ per unit x 5 $ _____

_____ $_____ per unit x 5 $ _____

Item #3 – Precinct Equipment Shipping Cases

Hardware Cost: $_____ per unit x 150 $ _____

Itemized list of all additional costs:

_____ $_____ per unit x 150 $ _____

_____ $_____ per unit x 150 $ _____

_____
Printed name of Authorized Representative:

_____ _____
Signature of Authorized Representative: Date:

ATTACHMENT #4
Proposal Evaluation Form

All proposals will be reviewed for responsiveness and then evaluated using the criteria set out herein.

Offeror Name: _____

Evaluator Name: _____

Date of Review: _____

RFP Number: **RFP #190000050**

EVALUATION CRITERIA AND SCORING

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS PROPOSAL IS **100**

Proposals will be evaluated against the questions set out below:

5.01 Understanding and Technical Solution for the Project (20%)

1. How well has the offeror demonstrated a thorough understanding of the organization of the Division of Elections, including the roles between the Director's office and the regional offices and proposed a solution that addresses the various roles between the Director's office and Regional offices as well as the unique logistical challenges with implementing a ballot tabulation system in Alaska?

NOTES: _____

_____

_____

2. How well does the offeror's proposed solution address the various ballot counting methods, including how results are reported and is the proposed solution architected to address the variations used in Alaska to count and report results?

NOTES: _____

_____

_____

3. How well does the proposal describe the total overall system architecture, at the Director's office and Regional offices and demonstrate that the system has the ability to meet the requirements set out in this RFP and outline in Attachment 1?

NOTES: _____

_____

_____

4. How well does the proposal describe the offeror's solution for precinct-based ballot tabulation as well as central scanning for absentee/questioned and early vote ballots, including scanning and reporting results for partial count ballots (i.e., Statewide only, Statewide/Senate, Statewide/Senate/Judicial etc.) and does it appear the proposed solution can adequately meet the ballot tabulation needs of the State of Alaska?

NOTES: _____

_____

_____

5. Did the offeror provide reasonable detail/recommendation on how the precinct-based equipment could be shipped to rural precincts (shipping boxes/containers/cases) during the elections?

NOTES: _____

_____

_____

6. For storage at the regional offices, is the precinct-based equipment in the proposed solution portable enough to move easily between rooms when preparing for an election?

NOTES: _____

_____

_____

7. Does the proposal clearly identify the EAC certification status of the proposed solution and which version of the VVSG the system is certified under?

NOTES: _____

_____

_____

8. How well does the proposal outline the security features of the proposed system, including security of results transmissions, user security authentication and access controls?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.01: _____

5.02 Methodology Used for the Project (5%)

9. How well has the offeror described a project schedule and does the schedule depict a reasonable time frame for the project from start to finish?

NOTE: _____

_____

_____

10. How well does the proposal describe the offeror's proposed testing strategy and has the offeror provided sample test scripts that depict a logical approach to the various tests outlined in the RFP?

NOTES: _____

_____

_____

11. How well does the proposal describe the training approach and does it appear that the proposed training provide staff with a clear understanding of how to operate and maintain both hardware and software used in the proposed solution?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.02: _____

5.03 Management Plan and Experience for the Project (5%)

12. How well does the proposal demonstrate that the offeror has the experience and qualifications necessary to complete the requirements of this RFP and deliver a solution on time?

NOTES: _____

_____

_____

13. How well does the proposal outline the organization of the project team and does it appear that the offeror has experienced personnel resources in place for successful completion of the project on time?

NOTES: _____

_____

_____

14. Does the proposal demonstrate that the offeror has the ability to provide adequate support for its solution and products after the contract is complete?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.03: _____

5.04 Solution Demonstration (35%)

15. How well did the demonstration give a clear understanding of the proposed solution, including the software and hardware components?

NOTES: _____

_____

_____

16. How well did the demonstration show that the proposed solution can meet the functional requirements in Attachment 1 and meet Alaska's ballot counting needs and processes?

NOTES: _____

_____

_____

17. How well did the demonstration show that the proposed solution offers efficient, high-speed scanning at the regional offices for absentee/questioned/early vote ballots?

NOTES: _____

_____

_____

18. How well did the offeror demonstrate the proposed solution can efficiently process and report results for partial count ballots?

NOTES: _____

_____

_____

19. How well did the demonstration show that the proposed solution can produce ballots at the house district level for tabulation of absentee/questioned/early vote ballots.

NOTES: _____

_____

_____

20. How well did the demonstration show that 2 precincts in the same house district can share precinct-based equipment and results tabulated to the correct precinct?

NOTES: _____

_____

_____

21. How well did the demonstration show that the proposed solution includes an efficient process for manual entry of election results from hand-count precincts?

NOTES: _____

_____

_____

22. Does the proposed precinct-based solution appear to be user friendly and compact enough for elderly poll workers to manage, including the ability to easily setup and takedown the equipment at the polling place?

NOTES: _____

_____

_____

23. Will the proposed precinct-based solution be reasonably transported, be capable of withstanding transport conditions without incurring damage and be able to be shipped to rural precincts using USPS as a shipping method?

NOTES: _____

_____

_____

24. How well did the demonstration show that the proposed precinct-based solution will meet the language accessibility needs for Alaska and allow for designating which languages to apply to individual precincts, without requiring an “all or none” for language accessibility?

NOTES: _____

_____

_____

EVALUATOR'S POINT TOTAL FOR 5.04: _____

5.05 Contract Cost (25%)

Overall, a minimum of **25**% of the total evaluation points will be assigned to cost. The cost amount used for evaluation may be affected by one or more of the preferences referenced under Section 6.12.

Converting Cost to Points

The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined through the method set out in Section 3.15.

EVALUATOR'S POINT TOTAL FOR 5.05: _____

5.06 Alaska Offeror Preference (10%)

If an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points. This amount will be added to the overall evaluation score of each Alaskan offeror.

EVALUATOR'S POINT TOTAL FOR 5.06: _____

EVALUATOR'S COMBINED POINT TOTAL FOR ALL EVALUATED SECTIONS: _____

ATTACHMENT #5
PROPOSAL CHECKLIST

Important Notice: Offeror's must sign and submit this Proposal Checklist with their proposal in order for their proposal to considered. Signature on the checklist indicates that you have read the RFP requirements and submitted all requested information as set out in the RFP. Completion of this firm does not guarantee a responsive proposal.

☐ **General Requirements**

- ☐ Register with the Procurement Officer – RFP Cover Page
- ☐ Submit all copies of proposal by the required deadline – Section 1.01
- ☐ Minimum Prior Experience Requirements – Sections 1.04
- ☐ Proposal Required Review – Section 1.08
- ☐ Offeror's Proposal Certification – Section 1.08 a & b
- ☐ Conflict of Interest Statement – Section 1.08 d, if applicable
- ☐ Comply with Insurance Requirements – Section 3.19
- ☐ Subcontractor Information – Section 3.10, if applicable
- ☐ Application of Preference Affidavit – Section 6.11
- ☐ 5% Alaska Bidder Preference Affidavit – Section 6.12
- ☐ Comply with state's Standard Contract Provisions – Section 7.01

☐ **Proposal Format and Content – Section 4**

- ☐ Introduction
- ☐ Understanding and Technical Solution for the Project
- ☐ Methodology Used for the Project
- ☐ Management Plan for the Project
- ☐ Experience & Qualifications
- ☐ Demonstration
- ☐ Cost Proposal

☐ **Proposal meets all additional RFP requirements and has submitted all required information as set out in the RFP.**

OFFEROR'S CERTIFICATION

Company Name	**Date**
Printed Name of Authorized Representative	**Signature of Authorized Representative**

ATTACHMENT #6
NOTICE OF INTENT TO AWARD CONTRACT

Office of the Lieutenant Governor
Division of Elections
C/O Office of the Governor
240 Main Street, Suite 300
P.O. Box 110001
Juneau, Alaska 99801-0001

THIS IS NOT AN ORDER **DATE ISSUED:** _____

RFP NO.: 190000050 **RFP ISSUE DATE**: March 18, 2019

RFP SUBJECT: Statewide Voting and Ballot Tabulation System

PROCUREMENT OFFICER: Dottie Whitehead **SIGNATURE:** _____

This is notice of the state's intent to award a contract. The figures shown here are a tabulation of the offers received with the apparent low bidder(s) indicated. A bidder who wishes to protest this Notice of Intent must file the protest within ten calendar days following the date this notice is issued. If the tenth day falls on a weekend or holiday, the last day of the protest period is the first working day following the tenth day. **Bidders, identified here as the apparent low responsive bidders, are instructed not to proceed until a Purchase Order, Contract Award, or other form of notice is given by the Contracting Officer**. A company or person who proceeds prior to receiving a Purchase Order, Contract Award, or other form of notice of Award does so without a contract and at their own risk. AS 36.30.365.

ITEM NO.	PRICE	AWARD	COMMENTS	RESPONSIVE YES/NO/?	BIDDER

LEGEND: @ -- AWARD TO BIDDER
Y -- RESPONSIVE BID
N -- NON-RESPONSIVE BID
? -- BID NOT EVALUATED BECAUSE THERE WAS A LOWER RESPONSIVE BID

SUMMARY

NOTES:

Leif Hagen
Location:
Submitted At: 4:09pm 04-20-21

I implore the assembly to VOTE NO on ordinance 2020-19-24. Whether you believe there was foul play or it was a mess of conspiracy theories, there is too much controversy around Dominion after the 2020 election debacle. Our voters need to feel confident that our elections are conducted fairly and honestly without feeling like they are second-guessing election results. The January 6th riot is a great reminder of what it can look like when people don't trust their election process.

Controversy isn't new to Dominion. In August of 2019, NBC News did several reports on the vulnerabilities of Dominion voting machines as well as other brands and it was shocking to see how easily the voting machines could be tampered with or hacked to affect different outcomes - this was especially easy with the Dominion voting machine models that have internet capabilities. It was also notable that out of the handful of voting machine companies that NBC reached out to for responses to their scathing report, Dominion was the only company that would not make a comment. I insist the assembly watch some of NBC's reports. Here's a link to one of their reports: https://youtu.be/QtWP0KDx2hA

Now I'm not here to spread conspiracy theories - Democrats and Republicans alike were waving red flags on Dominion well before the 2020 Election. I'm only here as a concerned voter who believes that election integrity and confidence in these elections is of the utmost importance to a democratic society. If our assembly also shares these beliefs, it would be counterintuitive with the controversy that swirls around Dominion for our assembly to purchase these machines. Considering two-thirds of the Kenai Peninsula voted Republican in 2020, many of which already have distrust for Dominion software and hardware, I believe we absolutely need to keep this controversial company out of our state's elections to maintain voter confidence in our election process. Please VOTE NO. Thank you.

Sabrina Harden
Location:
Submitted At: 2:45pm 04-20-21

I urge the assembly members to vote "no" on Ordinance 2020-19-24 for two reasons. First, we already have absentee ballots that can be used by anyone that is not able to make it to the polls. I do not want to use tax payer's money for a new voting system when one is not needed. Second, the reliability of the Dominion voting machines and software are still in question. Please do not move forward until concrete information is available.
Thank you,
Sabrina Harden
Kenai

Susanne Ratcliffe Wilson
Location:
Submitted At: 11:41am 04-20-21

On behalf of my husband, Roy Wilson and myself I am writing in support of Ordinance 2020-19-24. I note that the Election Stakeholder Group recommended the purchase of Dominion machines. I see no reason why this recommendation should not be followed. Please pass Ordinance 2020-19-24 today. Thank you.
Susanne Ratcliffe Wilson

Kathryn Carssow
Location:
Submitted At: 11:10am 04-20-21

Dear Assembly Members and Mayor,
Thank you in advance for addressing the issues of the voting access lawsuit by appointing The Election Stakeholder Group and respecting their recommendation that the borough purchase the Dominion machines. Please do not waste tax payers money and delay solving the issues of the suit by starting a new search for voting machines. I respect that the borough IT staff and election officials believe that Dominion machines are the best choice. The fact that the state of Alaska uses Dominion and there are no reports of voter fraud in the past election is good evidence that Dominion is a smart choice for our local elections.
Respectfully,
Kathryn Carssow
Homer.

Kelly Cooper
Location:
Submitted At: 10:06am 04-20-21

I urge the assembly when voting on this ordinance to make your decision based on fact, not disinformation and fear. Claims about Dominion Systems being linked to widespread fraud in the 2020 presidential election are completely false. Elections are conducted by bipartisan public officials and each state runs their own elections. There simply was not a coordinated effort to change votes or outcomes and quite frankly, it just isn't possible. Dominion is an American company with no ties to China or Venezuela. Government agencies and election officials across 28 battleground states conclusively affirmed no voting system deleted, lost, or changed votes in the 2020 election. Lawsuit after lawsuit has been thrown out with no basis for claims of election fraud or the performance of Dominion systems. Dominion machines produce paper ballots and paper records as well as digital ballots for 100% reliable audits and recounts. This also allows the voter to view their ballot for accuracy prior to submitting it at the polling station. Our Lt. Governor audited Alaska's election and also found no discrepancies or voter fraud. Thank you for serving the Kenai Peninsula Borough and I appreciate your diligence and research when voting on this ordinance.

Therese Lewandowski
Location:
Submitted At: 9:24am 04-20-21

Hello,
I support the Borough purchasing these machines. I worked the elections this past year and the new Dominion machines the state used were great. At the end of a very long day submitting data digitally went very fast. That data is also saved on two discs. The borough machines require phone line transmission. That took a long time, choked at one point and we had to start over. The disinformation over these machines is unfortunate. Like all states, Alaska boroughs and munis use different machines. Republicans won this state whether the muni used Dominion or the older machines. No one called fraud here. I hope you vote this ordinance and help the election workers do their jobs more efficiently. Thank you, Therese Lewandowski

Bradley Cross
Location:
Submitted At: 9:43pm 04-19-21

I am writing to request a NO vote on finance committee decision to fund the Dominion Voting system purchase agreement. Also known as 2020-19-24, this agreement has many flaws. The fact that Dominion software updates "from time to time" as stated in Sec 3.1 of the agreement and that it uses 3rd party software as stated in sec 3.8 should give you pause. Also disturbing is Sec 6.4 that grants Dominions "access and entry into borough property", with no specific limits defined. Sections 8.2 and 10.2 go on to describe how Dominion will use its "best efforts" to ensure the software works, not exactly reassuring to me. If you are still not concerned, sections 12.1 and 12.2 describe how confidential information between the borough and Dominion will be on a "need to know basis" unless it is COURT ODERED! My final and significant concern of this contract is Sec 13 where limits of liability for Dominion are the cost of the contract for any breach, negligence, liability or any other duty. To vote yes to this contract I believe you put the finances of the borough at risk of significant monetary damage from litigation. You may also want to review with the borough attorney whether each individual member of the assembly may be joined in the potential lawsuit.

I oppose installation of a voting system that has been found to have modem connectivity to the cloud or internet. Dominion has been proven to have such hardware and software capabilities. Please do not argue that the borough has no intention of using that feature. As stated in the memorandum, the desire of proceeding with a new system is to use "intergovernmental administration" and collaboration with other cities. If you are not convinced that Dominion voting systems have internet capability and therefore vulnerability, please look up this link from NBC news.
https://www.nbcnews.com/politics/elections/online-vulnerable-experts-find-nearly-three-dozen-u-s-votingn1112436

As to the argument of ADA compliance, as an Eye Care Professional ,I can assure you this is not the best way to ensure a visually impaired citizen can cast a vote while maintaining the insurance of election integrity. Please do not offer that as an excuse to support such a reckless policy for the borough.

Thank you,
Bradley Cross

Katherine George
Location:
Submitted At: 9:11pm 04-19-21

I support Ordinance 2020-19-24. Our State uses Dominion and we had no reports of voter fraud this past election. Please vote to pass this ordinance.

Katherine George
Homer

Ron Keffer
Location:
Submitted At: 7:39pm 04-19-21

I urge the assembly to pass 2020-19-24 and purchase the Dominion voting machines. There simply is no reason to begin this process again. Public comment, official governmental statements, court decisions, and even the statements of those who denigrated these machines originally make it clear that they are effective, economical, and generally the best buy for any governmental agency. Here in the borough, there is strong support for this measure, especially from those who have done the research. Please pass 2020-19-24. It's the right thing to do.

Lynn Takeoka Spence
Location:
Submitted At: 6:43pm 04-19-21

Please approve the purchase and lease of the Dominion voting machines. These machines are used throughout the United States with no evidence of voter fraud or misuse. We need a reliable voting machine to ensure fair elections and the research done by the borough indicated these machines are the most reliable machines available. I hope the assembly will not spend more money to research this issue. At some point you have to make a decision and it seems reasonable to use the info you have already received to make this purchase. Please do not be swayed by people who are unhappy with the results of the national election. No evidence has been produced to show the Dominion machines or the voting process was fraudulant. Be sensible and make sure we are ready for the next election.

Lynn Takeoka Spence
331 Mountain View Drive
Homer, AK 99603
907 299-6646

Lynda Raymond
Location:
Submitted At: 5:20pm 04-19-21

These Dominion machines were recommended by the Election Stakeholder's Group. We need to have ADA compliant machines! Our Borough has used Dominion machines for many years with no reports of fraud or other problems.

These were what was recommended and I encourage you to vote to purchase these machines.

Thank you.
Lynda (Lani) Raymond
Homer

Nina Faust
Location:
Submitted At: 4:45pm 04-19-21

Dear Borough Assembly Members:

I support Ordinance 2020-19-24. Based on my research into the Dominion voting machines, they are secure and will do the job just fine. We do not have money to redo the search based on misinformation from the last election. The last election was certified and there was no proof of any fraud. As far as I am concerned these machines will do a reliable job for us and we should go forward with the plan to purchase them! Vote yes on this ordinance.

Respectfully,
Nina Faust
P.O. Box 2994
Homer, AK 99603

Harold Spence
Location:
Submitted At: 3:57pm 04-19-21

Dear Assembly Members,
Regarding 2020-19-24, I fully support this measure. There is nothing wrong with Dominion voting machines, and the basis for claims that there are are without merit.
Beginning a new search would be a waste of money and time.
Please vote to pass this ordinance.

Sincerely,
Harold Spence
Homer

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 10:10 AM
To: Broyles, Randi
Cc: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Dominion voting machines

From: jack brincefield <jackbrincefield@gmail.com>
Sent: Sunday, April 18, 2021 1:52 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Thank you for taking time to consider my conserns .I feel Dominion voting machines are very bad for this country please do not allow them to be brought here .Thank you .

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 10:08 AM
To: Broyles, Randi
Cc: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Voting machines

Public comment

From: Robin Bedunnah <rbedunnah@yahoo.com>
Sent: Monday, April 19, 2021 7:32 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

April 18, 2021

Members of the Kenai Peninsula Borough Assembly

As to addressing concerns for Ordinance 2021-18 Election Security and integrity, to ensure Borough Elections are accessible, reliable and secure.

I would hope that each assembly member would do what is honorable, noble, upright, true and characteristic of the people you represent. We are a constitutional republic, and are free as long as our government from the President of the US, Congress, State, City and Borough do what is right and abide by their commitment to uphold our constitution.

I am opposed to using any election equipment (tabulator) such as Dominion or Smartmatic, that can be hacked, manipulated, tied in with the internet, foreign countries and governments or any such insecure means that is not directly in the complete control of our local elections board.

The 2020 US Presidential election was/is froth with controversy and questionable results, and is considered by many to be fraudulent. The voting machines in many states were bought at an extremely high price and paid for by the tax payers and then potentially used against the will of the voting public.

I certainly do not what to duplicate a scenario where election fraud could be easily perpetrated again.

I urge the KPB to oppose the purchase of or acquisition of any voting machine used by any of the states where integrity was compromised.

Additionally, I am not in favor of mail in voting. Absentee is one thing, but mass mail in voting, conveniently used by the covid crisis created a large scale opportunity for lost, buried, miscounted, shredded and or changed voting.

Please remain true to voting integrityand be not influenced by what others are doing.

By the way Georgia paid 100 million for ballot-marking devices across the state. I wonder why?

Sincerely,

Robin BeDunnah
P. O. Box 2676
Kenai, Alaska 99611

Sent from my iPad

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 10:10 AM
To: Broyles, Randi
Cc: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Opposition to Buy Dominion Voting Machines

From: Brenda Uchtman <lookingup161@gmail.com>
Sent: Sunday, April 18, 2021 4:59 PM
To: Hibbert, Brent <bhibbert@kpb.us>; Derkevorkian, Richard <rderkevorkian@kpb.us>; lbjorkman@kpb.us; Cox, Tyson <tysoncox@kpb.us>; Elam, Bill <belam@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Johnson, Brent <bjohnson@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Dunne, Willy <WDunne@kpb.us>; G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Opposition to Buy Dominion Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Assembly members:

I am writing this letter in opposition of the Kenai Peninsula Borough buying Dominion voting machines. Texas refused to buy the machines and I suggest you find out why Texas backed out of buying them. There are still lawsuits in litigation over these machines. Any upgrades to Borough voting machines use paper ballots and should not function with any network or wireless or capacity. Our Kenai Peninsula Clerks office does not have a Standard Operating Procedure. I request that our Assembly produce an SOP detailing:
1. How our current elections are managed.
2. How the machines are distributed , including a tracking system containing all of the serial numbers of our current machines.

The public has a right to know how our current elections are managed. A written SOP should exist and be available for public scrutiny.

Sincerely,

Brenda Uchtman

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 10:09 AM
To: Broyles, Randi
Cc: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>

From: Mark Edens <markedensak@gmail.com>
Sent: Sunday, April 18, 2021 10:53 PM
To: Hibbert, Brent <bhibbert@kpb.us>; Derkevorkian, Richard <rderkevorkian@kpb.us>; Bjorkman, Jesse <JBjorkman@kpb.us>; Cox, Tyson <tysoncox@kpb.us>; Elam, Bill <belam@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Johnson, Brent <bjohnson@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Dunne, Willy <WDunne@kpb.us>; G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Member of the Borough Assembly,

Please vote NO on Dominion voting machines. They are specifically built to promote fraud. There are much better options.

Thank you!
Mark Edens

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 10:09 AM
To: Broyles, Randi
Cc: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Vote "No" on proposed Ordinance 2020-19-24 (Dominion voting machines)

From: nelonbarbara <nelonbarbara@gmail.com>
Sent: Monday, April 19, 2021 7:17 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Vote "No" on proposed Ordinance 2020-19-24 (Dominion voting machines)

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

As a Kenai Peninsula resident I am writing to ask you to vote "No" on proposed Ordinance 2020-19-24 (Dominion voting machines) thisTuesday, April 20th.

Dominion voting machines are subject to at least 6 lawsuits as a result of the November 2020 election. These lawsuits are still in litigation and their outcomes are currently unknown. Why would we buy equipment from a vendor whose product is subject to such litigation, potentially hampering the Borough's ability to conduct elections in the future?

The state of Texas considered and then refused to purchase any Dominion machines in 2019. Perhaps the Assembly table proposed 2020-19-24 until it determines why Texas refused to buy Dominion machines.

Florida primarily uses the ES&S election system. They counted 11 million votes by midnight of the General election on November 3, 2020, and have not had any lawsuits filed. How did Florida count 11 million votes and release all the results on election day without ANY accusations or lawsuits filed? In fact, ES&S, itself, is not embroiled in any lawsuits.

Any upgrades to the Borough voting machines should use paper ballots and not function with any network or wireless access or capability. Any ADA concerns should be addressed in a manner to protect the integrity of the vote, while accommodating the voter's particular need.

Additionally, our Kenai Peninsula Clerk's office currently does not have a Standard Operating Procedure for managing how the machines are distributed, including a tracking system containing all the serial numbers of our current machines. The public has a right to know how our current elections are managed; a written Standard Operation Procedure should exist and be available for public scrutiny.

Thank you,
Barbara Roland
37020 Circle Park St., Kenai Alaska 99611

Broyles, Randi

From: Blankenship, Johni
Sent: Wednesday, April 14, 2021 4:53 PM
To: Turner, Michele; Broyles, Randi
Subject: Fwd: New Public Comment to Assembly Members

Sent from my iPhone

Begin forwarded message:

> **From:** Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
> **Date:** April 14, 2021 at 1:26:54 PM HST
> **To:** BoroughAssembly <Borough-Assembly@kpb.us>
> **Subject: New Public Comment to Assembly Members**
> **Reply-To:** jambolaya13@yahoo.com
>
> **Your Name:** Janice Higbee
>
> **Your Email:** jambolaya13@yahoo.com
>
> **Subject:** Ordinance 2020-19-24
>
> **Message:**
>
> Thank you for making sure ADA accessible voting machines are available to all who need them. Please vote yes to enact Ordinance 2021-19-24

Broyles, Randi

From: Blankenship, Johni
Sent: Saturday, April 17, 2021 9:30 AM
To: Broyles, Randi; Turner, Michele
Subject: Fwd: <EXTERNAL-SENDER>Dominion voting machines

Sent from my iPhone

Begin forwarded message:

From: Loren Hollers <caribouxak49@gmail.com>
Date: April 17, 2021 at 5:26:17 AM HST
To: "Hibbert, Brent" <bhibbert@kpb.us>, "Derkevorkian, Richard" <rderkevorkian@kpb.us>, "Bjorkman, Jesse" <JBjorkman@kpb.us>, "Cox, Tyson" <tysoncox@kpb.us>, "Elam, Bill" <belam@kpb.us>, "Carpenter, Kenn" <KCarpenter@kpb.us>, "Johnson, Brent" <bjohnson@kpb.us>, "Chesley, Lane" <lchesley@kpb.us>, "Dunne, Willy" <WDunne@kpb.us>, G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Honorable Assemblymen:
We are contacting you to protest the purchase of these machines.
Dominion voting machines are subject at least 6 lawsuits as a result of the November 2020 election. These lawsuits are still in litigation, and their outcomes are unknown currently. Why buy equipment from a vendor who product is subject to such litigation, potentially hampering the Borough's ability to conduct elections in the future?

The State of Texas considered and then refused to purchase any Dominion machines in 2019. Perhaps the Assembly table the proposed 2020-19-24 until it determines why Texas refused to buy Dominion machines.

Florida primarily uses the ES&S election system. They counted 11 million votes by midnight of the General election on November 3rd, 2020, and have not had any lawsuits filed. How did Florida count 11 million votes and release all the results on election day without ANY accusations or lawsuits filed? In fact, ES&S, itself, is not embroiled in any lawsuits.

Any upgrades to Borough voting machines should use paper ballots and not function with any network or wireless access or capability. Any ADA concerns should be addressed in a manner to protect the integrity of the vote, while accommodating the voter's particular need.

Additionally, our Kenai Peninsula Clerk's office currently does not have a Standard Operating Procedure for managing our elections. Before the KPB purchases ANY voting tabulation machines, the Assembly should produce a SOP detailing 1.) how our current elections are managed, and 2.) how the machines are distributed, including a tracking system containing all the serial numbers of our current machines. The public has a right to know how our current elections are managed; a written Standard Operating Procedure should exist and be available for public scrutiny.

Sincerely,
Loren & Dianna Hollers

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Saturday, April 17, 2021 9:30 AM
To: Broyles, Randi; Turner, Michele
Subject: Fwd: <EXTERNAL-SENDER>Proposed Ordinance 2020-19-24

Sent from my iPhone

Begin forwarded message:

From: jrdailey@acsalaska.net
Date: April 16, 2021 at 7:55:49 PM HST
To: "Hibbert, Brent" <bhibbert@kpb.us>, "Derkevorkian, Richard" <rderkevorkian@kpb.us>, "Bjorkman, Jesse" <JBjorkman@kpb.us>, "Cox, Tyson" <tysoncox@kpb.us>, "Elam, Bill" <belam@kpb.us>, "Carpenter, Kenn" <KCarpenter@kpb.us>, "Johnson, Brent" <bjohnson@kpb.us>, "Chesley, Lane" <lchesley@kpb.us>, "Dunne, Willy" <WDunne@kpb.us>, G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Proposed Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Members of the Assembly,

Please vote NO on the proposed purchase of Dominion voting machines.

If new voting machines are necessary, the ES&S machines were used to count Florida's votes without any delay or controversy in the November 2020 election.

If new voting machines are necessary, why is the Borough clerk authorized to make the purchase? Does KPB no longer have a purchasing officer? Is there the appearance of a conflict of interest if the Borough clerk, the person charged with election integrity, is involved in the transaction?

If new voting machines are necessary, why is the ADA part of the equation? Does it really have to do with someone who's vote was disenfranchised or was a willing person and a willing judiciary part of a larger play to use the ADA to leverage changes to election rules? It would seem to me that for as long as the ADA has been in place voting procedures and machines would have long been in place years ago to accommodate the needs of disable voters. All properly vetted voters should be able to vote...using the ADA seems abit askew of sound reasoning.

If new voting machines are necessary, do the proposed machines use paper ballots? Its much harder to steal an election w/paper ballots than with machines connected to the internet where software can be manipulated to bring desired outcomes. Example is Venezuela and Maduro's use of rigged voting machines.

Elections are the cornerstone of our state and republic's elections. The Borough should develop, implement and enforce an effective standard operating procedure for its elections. Voting machines should be traceable. Procedures should be in place to ensure every legitimate vote in counted efficiently and without undue cost.

Thanks for your consideration

JR Dailey
Sterling AK

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 10:21 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>April 20 Agenda

From: Troy and Linda Jones <ltjones@horizonsatellite.com>
Sent: Monday, April 19, 2021 10:19 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>April 20 Agenda

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Madam Clerk,
I was made aware that our assembly is considering purchase of new voting machines in proposed Ordinance 2020-19-24, which seeks to purchase Dominion voting machines.

Dominion voting machines are subject at least 6 lawsuits as a result of the November 2020 election. These lawsuits are still in litigation, and their outcomes are unknown currently. Why buy equipment from a vendor who product is subject to such litigation, potentially hampering the Borough's ability to conduct elections in the future?

I would like my voice to be heard in NOT supporting this ordinance.

Can you please put my dissent in each assembly member packet?

Thanks for your assistance.

Linda Jones

Homer

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 12:51 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Machines

-----Original Message-----
From: Jon Watson <jjet77656@icloud.com>
Sent: Monday, April 19, 2021 12:49 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

We don't need dominion voting machines. Too much drama, why invite that to the peninsula.
There are other options I suggest you investigate.
Sincerely,
Rev Jon Watson
Peninsula Christian Center

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 12:43 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Public comment on 2020-19-24

From: Brad and Kym <bandkcross@gmail.com>
Sent: Monday, April 19, 2021 12:28 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Public comment on 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I am sending this to you as I am not sure it submitted on the ecomment feature of the website. Please forward it to assembly members for review as part of the public comment for the 4/20/2021 assembly meeting
Thank you,
Bradley Cross

I am writing to request a NO vote on finance committee decision to fund the Dominion Voting system purchase agreement. Also known as 2020-19-24, this agreement has many flaws. The fact that Dominion software updates "from time to time" as stated in Sec 3.1 of the agreement and that it uses 3rd party software as stated in sec 3.8 should give you pause. Also disturbing is Sec 6.4 that grants Dominions "access and entry into borough property", with no specific limits defined. Sections 8.2 and 10.2 go on to describe how Dominion will use its "best efforts" to ensure the software works, not exactly reassuring to me. If you are still not concerned, sections 12.1 and 12.2 describe how confidential information between the borough and Dominion will be on a "need to know basis" unless it is COURT ODERED! The final and significant concern of this contract is Sec 13 where limits of liability for Dominion are the cost of the contract for any breach, negligence, liability or any other duty.
To vote yes to this contract I believe you put the finances of the borough at risk of significant monetary damage from litigation. You may also want to review with the borough attorney whether each individual member of the assembly may be joined in the potential lawsuit.

I oppose installation of a voting system that has been found to have modem connectivity to the cloud or internet. Dominion has been proven to have such hardware and software capabilities. Please do not argue that the borough has no intention of using that feature. As stated in the memorandum, the desire of proceeding with a new system is to use "intergovernmental administration" and collaboration with other cities. If you are not convinced that Dominion voting systems have internet capability and therefore vulnerability, please look up this link from NBC news.
https://www.nbcnews.com/politics/elections/online-vulnerable-experts-find-nearly-three-dozen-u-s-voting-n1112436

As to the argument of ADA compliance, as an Eye Care Professional ,I can assure you this is not the best way to ensure a visually impaired citizen can cast a vote while maintaining the insurance of election integrity. Please do not offer that as an excuse to support such a reckless policy for the borough.

Thank you,
Bradley Cross

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 12:44 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting systems

-----Original Message-----
From: Thatfloorguy <cmflooringak@gmail.com>
Sent: Monday, April 19, 2021 12:33 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Voting systems

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello my name is chris manis and I along with millions of other American citizens saw the complete theft of an election just not long ago. I find it completely careless and quite frankly blatant disregard to the security of our elections that the Kenai peninsula or any area of Alaska would consider dominion voting systems. My concern is not because trump lost but there were entirely to many discrepancies for me and millions of others across our great nation to have any form of trust in our elections let alone with those or any other voting machine. Our country is under attack by a certain group of people that are trying to take away each and every god given freedom we American patriots would die to protect and the last thing our nation needs is to lose any and all faith we may have for our voting process. We're being censored, targeted, criminalized, and I fear that using those voting systems or any other for that matter will ignite a powder keg that will explode into an avoidable situation.
For the love of god and country keep dominion out of Alaska Thank you Concerned citizen Chris manis

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 12:44 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion machines

-----Original Message-----
From: Tom Krueger <tmkalaska@yahoo.com>
Sent: Monday, April 19, 2021 12:35 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

We don't want this state to use those machines after all the fraud & corporation so don't spend a dime of Alaskans money on this system. Thank you Tom Krueger

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 1:31 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion Voting

From: AK Hunter <1972akhunter@gmail.com>
Sent: Monday, April 19, 2021 1:24 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion Voting

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please forward this to all KPB Assembly members immediately!

Dear Assembly Member,

In light of the obvious fraud that has happened in the 2020 election that stole the presidency from Trump, I am absolutely appalled that our own local government is even thinking about using any other method of voting than a pen and paper!
Under no circumstances should the KPB involve Dominion or any of the companies affiliated with the elections for 2020!
You are all being watched closely and you will be held accountable for your actions good or bad!

Thank you,
Nathan Warren
45410 Big Eddy Road
Soldotna, AK 99669

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 1:08 PM
To: Broyles, Randi; Turner, Michele
Subject: FW: <EXTERNAL-SENDER>No on Dominion Voting machine.

-----Original Message-----
From: Eileen Becker <elbecker1945@gmail.com>
Sent: Monday, April 19, 2021 12:59 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>No on Dominion Voting machine.

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

To Borough Assembly Clerk. Please post our now vote for the purchase of Dominion Voting machine. Dave and Elleen Becker. Peninsula Radio Group. Homer Ak

Sent from my iPad

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 2:12 PM
To: Broyles, Randi; Turner, Michele
Subject: FW: New Public Comment to Assembly Members

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Monday, April 19, 2021 1:53 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Alex Koplin

Your Email: bubba@horizonsatellite.com

Subject: Dominion Voting Machines

Message:

April 19, 2021
Dear Assembly Members,
Kenai Peninsula Votes (KPV) supports Ordinance 2020-19-24, the purchase and leasing of the Dominion voting machines. The Borough and the Election Stakeholder's Group have done their research and compared different systems and Dominion was the choice. If the Assembly votes down this ordinance, it will be a waste of tax payer's money and time to try and come up with a new system.
Dominion machines were chosen because they meet the ADA compliance issues that were brought forth from a lawsuit regarding accessibility issues when voting. I would think that delaying the purchase of these machines would be in violation of the timeline to meet the requirements of the lawsuit.
The machines leave a paper trail and are secure. In our last election our State did a check on the reliability of the machines as we recounted Ballot Measure 2. Here is a quote from the Midnight Sun: "The state completed its unusual audit of the vote on Ballot Measure 2, a move that Lt. Gov. Kevin Meyer requested to, as he claimed, build confidence in the new vote-counting machines used in the election—the Dominion machines that have been at the heart of Trump conspiracy theories about the election—and that the count was correct."
These machines produce accurate results, support ADA compliance and are the same system that the State uses. There has been no report of voter fraud in our State elections in the past year, using these machines.
Sincerely,

Alex L. Koplin
Kenai Peninsula Votes
907-299-2517

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 2:28 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion

-----Original Message-----
From: Terry Jones <tjonesrjones@gmail.com>
Sent: Monday, April 19, 2021 2:26 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Vote no on Dominion voting machines

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 3:11 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

-----Original Message-----
From: dannymichel59@gmail.com <dannymichel59@gmail.com>
Sent: Monday, April 19, 2021 2:51 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear assembly members, I understand that you are voting on voting machines, after our last election it's hard for me to believe you would even consider any kind of electronic machine, especially Dominion machines with the known fraud that took place. We will be very interested to see how this turns out sincerely Dan Michel PO Box 648 Sterling Alaska 99672.

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 3:11 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Proposed Dominion voting machine purchase

From: Susan Whipp <aelas2@outlook.com> **On Behalf Of** Susan Whipp
Sent: Monday, April 19, 2021 1:26 PM
To: Hibbert, Brent <bhibbert@kpb.us>; rderkevorkiane@kpb.us; Bjorkman, Jesse <JBjorkman@kpb.us>; Cox, Tyson <tysoncox@kpb.us>; Elam, Bill <belam@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Johnson, Brent <bjohnson@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Dunne, Willy <WDunne@kpb.us>; G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Proposed Dominion voting machine purchase

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Ladies and Gentlemen,

In light of the 6 or more lawsuits again Dominion voting systems - it is beyond the realm of comprehension this body would even Consider purchasing voting equipment from this company.

Perhaps you need to look to Texas and find out exactly why they did Not purchase these same machines.

Any updates to our voting system MUST include the use of Paper ballots! No machines with internet connectivity. It seems that the borough is Still lacking a written SOP for elections. Having a clear standard operating procedure MUST come before the purchase of any voting equipment. The public must be able to clearly understand our election procedures - lacking a clear SOP makes that impossible.

Please thoroughly review the reasons why Texas decided to not use these machines Before investing Our money in flawed equipment.

Thank you for your time and attention to these matters!

Tim Colbath / CEO AELAS
PO Box 8051
Nikiski, AK. 99635
907-776-3614
EIN# 92-0178028
www.aelas.petfinder.com
'Speaking for those who cannot speak for themselves.'
"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." Margaret Mead

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 3:13 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

From: Homer Inn and Spa <getaway@homerinnandspa.com>
Sent: Monday, April 19, 2021 3:06 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

A definite NO on Dominion Machines! There are reasons why Texas and other states refuse to us them. We should too.
Paul Hueper
Homer, AK

Get Outlook for iOS

Broyles, Randi

From: Blankenship, Johni
Sent: Monday, April 19, 2021 3:53 PM
To: Broyles, Randi; Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Say NO to Dominion Voting Machines

From: Tom Stroozas <tstroozas@americascuisine.com>
Sent: Monday, April 19, 2021 3:49 PM
To: Hibbert, Brent <bhibbert@kpb.us>; Derkevorkian, Richard <rderkevorkian@kpb.us>; Bjorkman, Jesse <JBjorkman@kpb.us>; Cox, Tyson <tysoncox@kpb.us>; Elam, Bill <belam@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Johnson, Brent <bjohnson@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Dunne, Willy <WDunne@kpb.us>; G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Say NO to Dominion Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I ask that KPB Assembly give some thought before moving forward with potentially securing Dominion as our voting machine vendor and request that you do not vote to do so for the following reasons:

1. Dominion voting machines are subject to at least 6 lawsuits as a result of the November 2020 election. These lawsuits are still in litigation, and their outcomes are unknown currently. Why buy equipment from a vendor whose product is subject to such litigation, potentially hampering the Borough's ability to conduct elections in the future?

2. The State of Texas considered and then refused to purchase any Dominion machines in 2019.

- Perhaps the Assembly should postpone the proposed 2020-19-24 until it determines why Texas refused to buy Dominion machines.

3. Florida primarily uses the ES&S election system. They counted 11 million votes by midnight of the General election on November 3rd, 2020, and have not had any lawsuits filed. How did Florida count 11 million votes and release all the results on election day without ANY accusations or lawsuits filed? In fact, ES&S, itself, is not embroiled in any lawsuits.

Any upgrades to Borough voting machines should use paper ballots and not function with any network or wireless access or capability. Any ADA concerns should be addressed in a manner to protect the integrity of the vote, while accommodating the voter's particular need.

Additionally, our Kenai Peninsula Clerk's office currently does not have a Standard Operating Procedure for managing our elections. Before the KPB purchases ANY voting tabulation machines, the Assembly should produce a SOP detailing 1.) how our current elections are managed, and 2.) how the machines are distributed, including a tracking system containing all the serial numbers of our current

machines. The public has a right to know how our current elections are managed; a written Standard Operating Procedure should exist and be available for public scrutiny.

Thanks for listening.

Tom Stroozas
P. O. Box 1481
Homer, AK 99603
704-488-3779 cell; 907-235-3677 office

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:32 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>ordinance 2020 - 19-24

From: Anne Wieland <agpacsu@yahoo.com>
Sent: Monday, April 19, 2021 9:43 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>ordinance 2020 - 19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

To Kenai Peninsula Borough Assembly members:

Please support Ordinance 2020 19-24. There was no problem found with Dominion voting machines.
Thank you.
Anne Wieland
Homer

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:32 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

-----Original Message-----
From: McLANE Susan <macsmith869@gmail.com>
Sent: Monday, April 19, 2021 9:45 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please inform the Assembly members that I strongly support purchasing Dominion voting machines. There had been NO evidence presented that they are unreliable. The misinformation by the Trump campaign has unfairly maligned this company and its product. Thank you. Hal Smith MD. Homer.
Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:31 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voter machines

From: Renee Eidem <cowgirlup4560@gmail.com>
Sent: Monday, April 19, 2021 10:36 PM
To: Hibbert, Brent <bhibbert@kpb.us>; Derkevorkian, Richard <rderkevorkian@kpb.us>; Bjorkman, Jesse <JBjorkman@kpb.us>; Cox, Tyson <tysoncox@kpb.us>; Elam, Bill <belam@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Johnson, Brent <bjohnson@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Dunne, Willy <WDunne@kpb.us>; G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voter machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi All,

Just wanted to let you know that I am one person who lives in the Borough that does not agree with acquiring Dominion Voter Machines. It is looking more and more like they are way too easy to hack, program and get connected to the internet causing interference with having a fair and honest election. Common sense says it is not a good idea to use these machines. Please vote against acquiring these voter machines.

I appreciate your consideration.

Sincerely,

Renee Eidem
PO Box 21
Homer AK 99603

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:31 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Ordinance 2020-19-24

-----Original Message-----
From: Carol Swartz <cswartz165@gmail.com>
Sent: Monday, April 19, 2021 11:10 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Could you please have my comment here distributed to Assembly members? Thank you so much.

KPB Assembly member,

I am writing in support of Ordinance 2020-19-24 and ask you to vote accordingly for the recommendation of the Election Stakeholder Group. The Dominion machines have been reliably and successfully utilized by the State of Alaska and a multitude of States for many years.
The Stakeholder Group and IT staff have spent much time researching and reviewing options. With great respect of their efforts and in-depth understanding of all the complexed aspects of this matter, I believe their recommendation should be approved. To start a new search at this point would be greatly inefficient and unnecessary.

Thank you very much for your consideration.

Sincerely,
Carol Swartz
Box 2748
Homer, Ak 99603

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:31 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>supporting Ordinance 2020-19-24

From: Patricia Westbrook <patwestbrook@hotmail.com>
Sent: Monday, April 19, 2021 11:34 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>supporting Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Prior to the Assembly meeting Tuesday April 20:

Please distribute this message to all Kenai Peninsula Borough Assembly members:

I am in Support of Ordinance 2020-19-24 allowing the Borough to lease/buy the Dominion voting machines.

Thank you in advance,

Patricia Westbrook
166 W Bunnell Ave
Unit 10
Homer, AK 99603

907-299-9294

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:31 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion Voting system purchase agreement. 2020-19-24

From: Donald Johnson <donaldjohnson@alaska.net>
Sent: Tuesday, April 20, 2021 4:20 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Cc: Liz Chase <beachmfishery@gmail.com>
Subject: <EXTERNAL-SENDER>Dominion Voting system purchase agreement. 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Kenai Peninsula Borough Assembly Member,

I am requesting that the Kenai Peninsula Borough NOT purchase Dominion Voting system equipment. 2020-19-24. The reason for this request is that I claim Dominion Voting Systems have a seriously questionable business history and future.

Historically Dominion representatives have assured customers that their voting systems themselves are not designed to be online, but in a great many cases they end up online anyway and thereby put the voting process itself at risk.
It is a tremendous risk for any election systems to be connected online, even momentarily because that connection presents a serious hacker risk opportunity. Once a hacker begins talking to the voting system through a modem, they can change unofficial election results, they can hack the software in the voting machine and make it cheat the election. Direct hard-line internet connections present a serious hacker risk and wireless network connections present an even greater risk. The National Institute of Standards and Technology, which provides cybersecurity frameworks for state and local governments and other organizations, recommends that voting systems should not have internet network connections. We cannot just ignore the fact that in the past Dominion voting systems ended up with connection modems when Dominion Representative's claimed they did not have them.

I see KPB election equipment evaluation being driven by minority issues like a human rights visual complaint from the Alaska State Commission for Human Rights (ASCHR). How does an issue that ends up affecting maybe 1% of our population generate more concern than an issue that affects 100% of our population?
Voter visual disability is not more important than voting system security. Complying with the Americans with Disabilities Act (ADA) and the Help America Vote Act of 2020 (HAVA), may appear to be a lofty goal but what good are those complying votes if they are deleted by an international hack? Our KPB election systems have serious internet connection risks that are being ignored while visual rights are absorbing the boroughs attention. This is like spending all your time and resources creating a fancy frosting for a rotten cake. The borough may need new ADA compliant voter equipment but how does that get more attention than election system & software security?

The KPB Dominion Voting system purchase agreement known as 2020-19-24, is so full of bottomless holes that they are difficult to even address. Sec. 6.4 gives Dominion the legal authority to walk onto kpb

property at anytime and do whatever they want to these systems. Since I do not trust Dominion I find this to be another unnecessary security threat. At the very least Dominion should be required to request kpb property access. Sec. 12.2 allows confidential information between the kpb and Dominion to be on a "need to know basis" unless it is court ordered! What is that? This basically means the kpb may be required to beg Dominion for information about its own voting equipment! It is unrealistic and illogical to force the kpb to beg its own equipment supplier for maintenance information. Then there is the huge matter of the Sec. 13 disclaimer that limits Dominion's liability for all its possible negligence or any breaches that may occur. When a company needs this kind of a monstrous disclaimer they in fact need it for a big reason. That reason is the billions of dollars worth of law suits which have been filed against them and their equipment.

Have you notice the multiple billions of dollars worth of law suits that have been filed against and by Dominion? It is very likely that Dominion Voting Systems will not even be around in the very near future because of these mounting litigations that are stacking up against and by them. What happens if all these liabilities go the wrong direction leaving the kpb with millions of dollars worth of equipment without a supplier to help maintain it? Then the kpb would be forced to just dump all these Dominion systems and that **will cost the borough millions of dollars in future voter system replacements**. Has the the kpb considered the likelihood of Dominion being around in the future with billions of dollars in litigations hanging over its head? Why would the kpb seek out a voting system supplier that has these kind of liabilities?

https://seekingalpha.com/news/3676821-fox-slides-as-voting-machine-firm-dominion-files-1-point-6b-defamation-suit

https://www.msn.com/en-us/news/politics/dominion-voting-systems-sues-giuliani-for-2413-billion-for-defamation/ar-BB1d4HSv

https://www.thedailybeast.com/dominion-builds-legal-behemoth-to-drain-trumpland-of-billions

https://www.msn.com/en-us/news/politics/dominion-ceo-avoids-dollar13b-question-on-whether-giuliani-cost-firm-contracts/ar-BB1d5DEK

https://www.cnbc.com/2021/02/24/dominion-smartmatic-defamation-cases-credible-experts.html

Has the kpb actually considered the current and future financial condition of Dominion? I claim that Election Systems & Software, Inc. would be a much more logical choice for our kpb voting equipment needs. Election Systems & Software has a much better business track record and is in a much more stable financial condition. It does not matter if the kpb or the State of Alaska have used Dominion elections products since 1999, I claim the financial liabilities currently being presented by Dominion are an unacceptable risk that the kpb cannot afford at this time.

Again I request that the Kenai Peninsula Borough NOT purchase Dominion Voting system equipment. 2020-19-24.

Thank you,

Donald Johnson
Soldotna Alaska
donaldjohnson@alaska.net
907 953 9500

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:31 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

-----Original Message-----
From: Wings AK. <stinsondude@gmail.com>
Sent: Tuesday, April 20, 2021 5:39 AM
To: Hibbert, Brent <bhibbert@kpb.us>; Derkevorkian, Richard <rderkevorkian@kpb.us>; Bjorkman, Jesse <JBjorkman@kpb.us>; Cox, Tyson <tysoncox@kpb.us>; Elam, Bill <belam@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Johnson, Brent <bjohnson@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Dunne, Willy <WDunne@kpb.us>; G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I am very uncomfortable with the idea of implementing Dominion type voting machines in our State. I believe it will result in an even greater distrust of our election system. Why go down this road when there are ongoing court cases against Dominion? I can't believe there no other ADA compliant options.
JeffVeal

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:31 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Support of Voting Machines

From: Sue Christiansen <suechristiansen@yahoo.com>
Sent: Tuesday, April 20, 2021 6:16 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Support of Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Assembly Members,
Thanks for your extraordinary time and energy serving the Kenai Peninsula.
I am writing in support of ordinance 2020-19-24. Please allow the Borough to purchase / lease the Dominion voting machines.

Thank you .

Sue Christiansen

PO Box 3, Homer,AK, 99603
Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:31 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>voting machine

-----Original Message-----
From: Joe Warchola <warchola@alaska.net>
Sent: Tuesday, April 20, 2021 6:51 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>voting machine

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I understand that the assembly will be voting on if we are going to utilize/buy the dominion voting machines for upcoming election. I am totally against idea as this machine has been proven that it can be easily manipulated/hacked to provide any outcome that the hacker might want. This is the same system that dictator Hugo Chavez utilized in his country to guarantee voter results. Texas has already taken legal action regarding the use of these machines so for us to spend funds on a questionable system like this does not seems logical. please vote NO on the purchasing of these machines.

Thanks,

Joe Warchola

Kasilof, Alaska

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:30 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Support for Ordinance 2020-19-24

From: Clyde Boyer and Vivian Finlay <vivandclyde@gmail.com>
Sent: Tuesday, April 20, 2021 8:16 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Support for Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I support the Borough to lease or buy the Dominion voting machines. These machines have been recommended by the Election Stakeholder Group, and have been used reliably. There is no reason to spend more taxpayer money to start a new search for another type of machine.
There is also no reason to hold onto unfounded "myths" that the Dominion machines have been used fraudulently.
Thank you.
Vivian Finlay, and Clyde Boyer

--
455 Elderberry Drive,
Homer, AK. 99603 USA
(907) 435-3903

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:29 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Support for buying Dominion Voting Machines Ordinance 2020-19-24

From: Kevin Walker <homerkev@gmail.com>
Sent: Tuesday, April 20, 2021 9:10 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Support for buying Dominion Voting Machines Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I support purchasing the Dominion voting machines for the following reasons:

1. **The Election Stakeholder Group recommended Dominion machines**
2. **It would waste tax payer's money to start a brand new search**
3. **It could violate the terms of the lawsuit if we don't get these machines in place now.**
4. **The machines are reliable and our IT and election officials believe this is the best choice.**
5. **Our State uses Dominion and we had no reports of voter fraud this past election.**

Thank you,
Kevin Walker
59975 Golden Plover Ave
Kachemak City, AK 99603

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:34 AM
To: Broyles, Randi
Subject: FW: New Public Comment to Assembly Members

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Monday, April 19, 2021 5:12 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Janet Fink

Your Email: janetfink17@gmail.com

Subject: Dominion Voting Machine

Message:

I want you to know that I support Dominion Voting Machines. They were safe and accurate during this last election. There is no factual proof otherwise. Thank you for Planning for this purchase.

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:33 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>2020-19-24

-----Original Message-----
From: Megan O'Neill <moneill5450@gmail.com>
Sent: Monday, April 19, 2021 5:33 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Assembly Members:
Please support 2020-19-24 and buy Dominion voting machines.
Sincerely,
Megan O'Neill
3476 Main St
Homer, AK 99603

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:33 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion voting machines

-----Original Message-----
From: Doug <glorias@xyz.net>
Sent: Monday, April 19, 2021 5:46 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

NO on Dominion voting machines! They cannot be fully trusted! Must wait for several audits of national election results before trusting this system. Again, NO on purchasing Dominion voting machines. Doug and Gloria Stuart Homer Alaska 99603

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:33 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>We support Ordnance 20-19-24

From: Angie Newby <angienewby1@gmail.com>
Sent: Monday, April 19, 2021 6:00 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Cc: Hibbert, Brent <bhibbert@kpb.us>; Dunne, Willy <WDunne@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Elam, Bill <belam@kpb.us>; Cox, Tyson <tysoncox@kpb.us>; Bjorkman, Jesse <JBjorkman@kpb.us>; Derkevorkian, Richard <rderkevorkian@kpb.us>
Subject: <EXTERNAL-SENDER>We support Ordnance 20-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please share our support with Assembly members.

This issue has been researched by the Borough and makes great sense and most importantly was supported by the Election Stakeholder Group.

Also the State uses Dominion voting machines and has not experienced any difficulties in the past elections.

Voting is now a "top of mind" topic and we should do everything possible to facilitate voter turnout and efficient proven tools is a major step forward.

Angie Newby, CRS CCIM
Homer Real Estate
PO Box 997
Homer, Ak., 99603
SELL # 907-299-1514
angienewby1@gmail.com
www.homerrealestate.com

Proceed as if success is inevitable

"Travel is fatal to prejudice, bigotry and narrow mindedness" Mark Twain
Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:33 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

-----Original Message-----
From: Carol Ford <akwhoville@gmail.com>
Sent: Monday, April 19, 2021 6:50 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please let the assembly members know that I am in favor of the ordinance to buy NEW voting machines.
Sincerely,

Carol Ford. Homer, AK

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:33 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Please distribute to the Assembly

From: Wendy Wayne <lewistownmontana@yahoo.com>
Sent: Monday, April 19, 2021 7:02 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Please distribute to the Assembly

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello,

Please distribute these comments to the Assembly:

I support ordinance 2020-19-24. The Dominion voting machines have been proven to be accurate and reliable. The state of Alaska uses Dominion machines and there has been no fraud. Please don't waste tax payer dollars to start a new search for voting machines.

Sincerely,

Wendy Wayne
Homer Alaska

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:33 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

From: swcburkhardt <swcburkhardt@gmail.com>
Sent: Monday, April 19, 2021 7:29 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please consider using USA made, backed, and secured voting machines.
Do not purchase questionable Dominion voting machines.

Thank you.

Sincerely,
S. Waynette Coleman
Ninilchik, AK

Sent via the Samsung Galaxy S10+, an AT&T 5G Evolution capable smartphone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:33 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Public comment Dominion voting machine

From: swcburkhardt <swcburkhardt@gmail.com>
Sent: Monday, April 19, 2021 7:32 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Public comment Dominion voting machine

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please do not purchase Dominion voting machines for any voting purposes in AK.

Thank you.

Sincerely yours,
S. Waynette Coleman
Ninilchik, AK

Sent via the Samsung Galaxy S10+, an AT&T 5G Evolution capable smartphone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:32 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion voting machines

-----Original Message-----
From: Shelly Erickson <shellyhro31@gmail.com>
Sent: Monday, April 19, 2021 7:47 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I am very opposed to the borough investing in the Dominion Voting machines. With the more exposure from the audits happening, it would be poor management of our resources and also election integrity to buy these at this time.
Shelly Erickson
Homer, Ak 99603
9073994700

PS: please pass this on to the Assembly. Thanks

Sent from my iPad

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:32 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Re 2020-19-24

-----Original Message-----
From: WillFiles <will@wfiles.us>
Sent: Monday, April 19, 2021 8:01 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Cc: Dunne, Willy <WDunne@kpb.us>; Chesley, Lane <lchesley@kpb.us>
Subject: <EXTERNAL-SENDER>Re 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello Borough Assembly members,
I live in Kachemak City, and understand you will be voting on Tuesday regarding the purchase of some voting machines made by Dominion. It is my understanding that the State of Alaska has used these machines and that there are no reports of problems with them. I would heartily support this purchase since it may help certain disabled folks to vote more easily, and hopefully will provide efficiency to the voting process.

Thank you,

Will Files
59835 Tern Ct
Homer, AK 99603
907-299-2990

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:32 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

-----Original Message-----
From: diving.warren3@gmail.com <diving.warren3@gmail.com>
Sent: Monday, April 19, 2021 8:28 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Assembly Member,

In light of the obvious fraud that has happened in the 2020 election that stole the presidency from Trump, I am absolutely appalled that our own local government is even thinking about using any other method of voting than a pen and paper!
Under no circumstances should the KPB involve Dominion or any of the companies affiliated with the elections for 2020! You are all being watched closely and you will be held accountable for your actions good or bad!

Thank you,
Jennifer Warren
45410 Big Eddy Road
Soldotna, AK 99669

Sent from my iPhone

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:35 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion voting machines

-----Original Message-----
From: David Silva <daveinak@icloud.com>
Sent: Tuesday, April 20, 2021 8:53 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

It has come to my attention that the assembly is considering dominion voting machines now. In light of the recent voter fraud during the presidential election, I urge you to reconsider. Our next elections, now more than ever, need all the voter integrity they can get. They can not be trusted. Do not allow these machines to come into Alaska!
Thank you
David Silva
Soldotna, AK.

Broyles, Randi LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 2:22 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>KPB ordinance proposal 2020-19-24/Resolution 2021-032

From: Virginia Reynolds <greyn1966@gmail.com>
Sent: Tuesday, April 20, 2021 2:08 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>KPB ordinance proposal 2020-19-24/Resolution 2021-032

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Regarding Borough ordinance proposal 2020-19-24 & Resolution 2021-032

On Resolution 2021-032:

I'm fine with upgrading the current voting machines and then installing one machine designated for the disabled. I do not believe there should be 100's of thousands of dollars spent on voting machines to accommodate a few people that are not that frequently used other than election years. I also speak as a deaf person.

I support endeavors to boost the election integrity components such as verifying citizenship, witnessed signatures on absentee ballots, absolutely no mailed ballots, photo ID shown at the polls when casting votes.

Thank you for your time,
Virginia Reynolds
Kenai, AK

Broyles, Randi LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 1:38 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>supporting Ordinance 2020-19-24

From: Julia Person <juliaperson@gmail.com>
Sent: Tuesday, April 20, 2021 1:36 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>supporting Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I am writing to voice my support for the Borough purchasing Dominion voting machines. After the allegations against the company this past year, they have been researched more than any other machine!

No fraud was found - which makes a strong recommendation for using this machine.

I understand this is the machine the State uses and it stands to reason having the same machine will make coordination easier.

Julia Person
Homer Alaska

Broyles, Randi LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 1:38 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Borough ordinance proposal 2020-19-24 & Resolution 2021-032

-----Original Message-----
From: Dave Peck <dlp1951@gmail.com>
Sent: Tuesday, April 20, 2021 1:34 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Borough ordinance proposal 2020-19-24 & Resolution 2021-032

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Good afternoon. It's my understanding this legislation to purchase Dominion voting machines & a Resolution on voting machine security are going to be voted on this evening so I'd like to provide the following input for the Assemby.

On the Dominion machines:

I am no tech expert. However I do understand everything computer can be hacked. Even our highest security data is hacked. We cannot see the inner workings of a computer. You open up a computer & what do you see? Electronic components is what you see. You cannot see inside those components. I'll compare that to a photograph you have stored on your computer. You can't open up the machine & see that photo like you can open up an old box in the attic & find old family photographs that were taken years ago. You can hold them in your hand. You can't hold computer data in your hand.You can't take your I phone apart & find that old report you saved. It can only be viewed using the proper electronic equipment & the programmed software that interprets the data. Software programmed by fallible humans for a specific purpose.
I, as a voter, cannot look into a machine & find the vote I cast. Our elected officials depend on their software experts to know if there is a problem with voting machines. In fact, at a recent meeting, Mayor Charlie Pierce commented words to the effect that....my software people tell me the voting machines are ok. I have no reason to doubt that at all. What is concerning is that it even requires software people to figure that out. The common person should be able to ascertain if their votes are secure without the need of software/tech experts. That a common person could observe a ballot from start to final count by an election official. Hand counts, or as close to it as possible, may be the best way to tabulate votes. The old optical scanners could be about as much technology as we really need along with saving all completed paper ballots.

On Resolution 2021-032:

BUT, if we are bound & determined to computerise voting (which I
oppose) then a security wall around the entire system, which will verify the integrity of all components of the system before elections, is essential. For that reason I endorse this resolution along with other election integrity components such as verifying citizenship of all people registering to vote, witnessed signatures on absentee ballots, no mailed ballots

(except the absentee ballots we use now with the witness signature) and photo ID shown at the polls when casting votes.

Thank you,

David Peck
705 Sycamore St
Kenai, Alaska 99611

Sent from my iPod

Broyles, Randi LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 1:58 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Vote NO on Dominion Machines

From: Kelley Cizek <kll.czk@gmail.com>
Sent: Tuesday, April 20, 2021 1:48 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Vote NO on Dominion Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please forward this to each assembly person.

I am writing to request a NO vote on the finance committee decision to fund the Dominion Voting system purchase agreement. Also known as 2020-19-24, this agreement has many flaws. The fact that Dominion software updates "from time to time" as stated in Sec 3.1 of the agreement and that it uses 3rd party software as stated in sec 3.8 should give you pause. Also disturbing is Sec 6.4 that grants Dominions "access and entry into borough property", with no specific limits defined. Sections 8.2 and 10.2 go on to describe how Dominion will use its "best efforts" to ensure the software works; not exactly reassuring to me. If you are still not concerned, sections 12.1 and 12.2 describe how confidential information between the Borough and Dominion will be on a "need to know basis" unless it is COURT ORDERED! The final and significant concern of this contract is Sec 13 where limits of liability for Dominion are the cost of the contract for any breach, negligence, liability or any other duty.

I believe by voting yes to this contract you would put the finances of the Borough at risk of significant monetary damage from litigation. You may also want to review with the Borough attorney whether each individual member of the assembly may be joined in the potential lawsuit.

I oppose installation of a voting system that has been found to have modem connectivity to the cloud or internet. Dominion has been proven to have such hardware and software capabilities. Please do not argue that the Borough has no intention of using that feature. As stated in the memorandum, the desire of proceeding with a new system is to use "intergovernmental administration" and collaboration with other cities. If you are not convinced that Dominion voting systems have internet capability and therefore vulnerability, please look up this link from *NBC news.*
https://www.nbcnews.com/politics/elections/online-vulnerable-experts-find-nearly-three-dozen-u-s-voting-n1112436

In addition to all of the above, I have grave concerns because this company is currently embroiled in a nation wide scandal regarding election fraud and it remains to be seen if it indeed is directly linked to treasonous activities to steal our election. I still have issues with our own part

of those elections because of Dominion's involvement in that I believe Ballot Measure 2 is part of the deception that is being perpetuated in our state of Alaska and Lt. Governor Kevin Meyer has not done any due diligence yet to investigate that.

This company is a poor choice for our election integrity and I am urging a NO vote to stop this from going forward

Thank you,
Kelley Cizek.

Broyles, Randi LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 12:24 PM
To: Broyles, Randi
Subject: FW: New Public Comment to Assembly Members

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Tuesday, April 20, 2021 12:06 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Gary Waltenbaugh

Your Email: tmhkrd@gmail.com

Subject: Borough Voting Machine Purchase

Message:

Since theElection Stakeholder Group recommended Dominion machines, I think we go ahead and buy them. We don't want to waste tax payer's money to start a search for new machines, as the Dominion machines have been proven reliable and trustworthy across the US.
Thanks for listening.
GSW

LAYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 12:55 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Support for Ordinance 2020-19-24

From: Kate Finn <hundredthmonk21@gmail.com>
Sent: Tuesday, April 20, 2021 12:53 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Support for Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi Johni,

Would you please communicate to the Assembly members my total support for Ordinance 2020-19-24—the purchase/lease of additional Dominion voting machines!

Those who should know what they are talking about/recommending ie: The Election Stakeholder Group as well as our IT, and election officials believe that Dominion is the best choice. Therefore do we really want to wait and search for a new option? Especially if it could violate the terms of the lawsuit, if we don't get the machines in place now! As a taxpayer, I would see a new search as a total waste of my tax payer money—PLEASE don't do that!

Thanks so much for reading this **and** voting to support Ordinance 2020-19-24

Kate Finn
POBox 3364
Homer, AK 99603
235-5329

LAYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 12:57 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting Machines

From: Dan Lush <danlush@gmail.com>
Sent: Tuesday, April 20, 2021 12:56 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Sent from Mail for Windows 10
We have to use some modern equipment to tally votes. Until a machine is proven to be bad we should not label it so. Please don't make a choice on rumor, trust in facts. Buy the equipment needed to count our votes!

Daniel Lush
41376 Crested Crane
Homer

AYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 11:55 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion voting

-----Original Message-----
From: August Weber <chubba87_69@hotmail.com>
Sent: Tuesday, April 20, 2021 11:52 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion voting

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

You can't be seriously considering dominion voting machines after this past election. People need to trust in the system and I strongly feel this will not regain that trust... it's a hard no for me!

Sent from my iPhone

Broyles, Randi LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 11:55 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>No to Dominion

From: dan Caryk <dirty3rd11b@yahoo.com>
Sent: Tuesday, April 20, 2021 11:53 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>No to Dominion

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please don't buy those machines. There is a lot of information that says those machines are not reliable and faulty.

Dan Caryk
Homer Resident and Business Owner

Sent from Yahoo Mail on Android

AYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 11:43 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion Voting Machine - VOTE NO- No Confidence

-----Original Message-----
From: Emily & Jared Berg <buckberg.berg@gmail.com>
Sent: Tuesday, April 20, 2021 11:41 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion Voting Machine - VOTE NO- No Confidence

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello Borough Mayor and Clerk
——-NO TO DOMINION———

Please hear our voice, the Thought/ planned action, that our Borough is entertaining using the Dominion Voting Machine/Apparatuses to tally-count-manage-organize, or do anything at all related to the citizens votes is a firm NO.

#1. We have as a country faced a compromised presidential vote, not to mention, minimally, 7 states also with compromised votes, and the majority of these were threaded with the Dominion processes. This does not take into account the international platform of countries data bases that have been hacked or votes being compromised. Texas refuses to use this unproven system, we should follow suit of that large states choices to protect the citizens vote.

#2. Dominion has refused to be transparent as to how the system works/ and/or, as to if it is a truly secure Method to protect votes, not change them, be compromised, or have personnel that could commit fraud. Based on the most recent results they are a failure.

Based on this small bit of data, Our borough should not participate in this type of measuring systems until it is proven worthy, trusted, and the citizens voice is heard.

Jared & Emily Berg

LAYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 11:30 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting Integrity

-----Original Message-----
From: Ray Walker <raywalker@gci.net>
Sent: Tuesday, April 20, 2021 11:29 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Voting Integrity

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please, please, please replace ALL dominion voting machines and make our elections fair again.
Before the KPB purchases ANY voting tabulation machines, the Assembly should produce a SOP detailing 1.) how our current elections are managed, and 2.) how the machines are distributed, including a tracking system containing all the serial numbers of our current machines. The public has a right to know how our current elections are managed; a written Standard Operating Procedure should exist and be available for public scrutiny.
Raymond Walker
Homer, Ak

Sent from my iPhone

Broyles, Randi LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 11:29 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>KPB Assembly Considering Dominion Voting Machines

-----Original Message-----
From: Richard Warren <richardewarren@hotmail.com>
Sent: Tuesday, April 20, 2021 10:59 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>KPB Assembly Considering Dominion Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear KPB Assembly Member,
Our family and community friends are opposed to your consideration of purchasing and using Dominion Voting Machines. We question who is influencing you!

We need to have our local public officials represent our local voting needs. Our needs are to have a voting system that is honest and transparent.

Consider honesty and transparency in our KPB Voting System while voting on the Dominion machine issue. Consider your true base, the conservative population of the KPB!

Rick Warren
36445 Lakeshore Dr.
Soldotna

Sent from iPhone

Broyles, Randi

LAYDOWN

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 10:57 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion Voting Machines

-----Original Message-----
From: lisalinegar <lisalinegar@gmail.com>
Sent: Tuesday, April 20, 2021 10:56 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I recently heard that the Kenai Peninsula Borough is going through the process of purchasing to utilize Dominion voting machines. Is this correct? I realize I am no expert but this concerns me as a resident and legal voter that the borough is purchasing machines that are at the center or a rather large controversy over voter fraud and the ability to manipulate totals and rescan the same ballot multiple times. Surely there is an alternative with a better reputation. I would not trust or feel comfortable using a Dominion machine to cast/count my vote. Integrity and transparency is everything in this electronic age.

Thank you,
Lisa Linegar
Homer, AK
907-

Sent from my iPhone

LAYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 10:57 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Voting machines

-----Original Message-----
From: Kellen and Jess Stock <kellenandjess@startmail.com>
Sent: Tuesday, April 20, 2021 10:46 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Voting machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Good morning Johni,

It's come to my attention that the borough may be interested in purchasing new voting machines. I cannot express enough how crucial a fair and transparent voting system is to the survival of our democracy.

The questions surrounding the Dominion voting systems in the last national election cycle should be reason enough to raise a red flag. The Borough should not be purchasing any electronic voting machines that do not offer absolute transparency to their system and provide the citizens the opportunity to examine its legitimacy.

The US government is operated based on the consent of the governed. Purchasing equipment as vital to our democracy as the machines that count votes, without the input of the governed through their elected officials, is cause to question an official's dedication to uphold and defend our Constitution.

If you deem it necessary to purchase new vote counting equipment, I implore you bring the decision before the Borough Assembly to vote and allow the people to have their voice.

Respectfully,
Kellen Stock

LAYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 10:26 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Dominion

From: Rocky <rocky@legacyak.net>
Sent: Tuesday, April 20, 2021 10:20 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Dominion

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Johni
Shame. After all the unrest, misinformation and total lake of trust in the electoral process exposed in the last election cycle alone, to think that our own borough would try to sneak Dominion machines in under the radar with zero input from the constitutes is shameful beyond words. And that any office of the borough that is complicit in this egregious wrong on the good people of the borough should be fully reviewed. Our elected and appointed and hired would do well that they each represent us, the people of this borough, and are not appointed to make decisions for us as if we were children, but to be our representative voice in our own government. Shame, I say again. Please consider your part in this action that will continue to unravel the fabric of our community and send it to the Assembly to let the people make this decision, for better, or for worse. Thank you for your consideration.

Joshua (Rocky) Ross, Owner
Legacy Home Inspections
(907) 312-0697

LAYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 10:26 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>New Voting Machines

From: Erik Bakke <bakkeerik@gmail.com>
Sent: Tuesday, April 20, 2021 10:09 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>New Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Johni,

It's come to my attention that the borough may be interested in purchasing new voting machines. I cannot express enough how absolutely crucial it is that any voting system be based on trust, and openness. If there's no faith in the voting system, there will be no faith in the government whose legitimacy is based entirely upon that process.

To that end, no borough dollars should *ever* go to a closed-source electronic voting machine. It is vital to the fundamental legitimacy of the "consent of the governed" that any member of the public be able to examine the source code used to tabulate, store, and transmit votes.

If it is behind a black box of opaqueness and secrecy we will find ourselves riddled with speculation, mistrust, and conspiracies (at best) or fraud, manipulation, and tampering (at worst). Neither outcome is acceptable.

Dominion does not release their source code, and as a result, ***the borough should absolutely not buy their products*** until that is remedied, and a thorough public audit of the software has been completed.

Regards,
Erik Bakke
55201 Stuart Ave
Fritz Creek, AK 99603
612.412.4125

LAYDOWN

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 9:52 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Supporting Ordinance 2020-19-24

From: Sammy Crawford <scrawfordak68@gmail.com>
Sent: Tuesday, April 20, 2021 9:52 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Supporting Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Assembly Members,
I would like to add my voice to those supporting ordinance 2020-19-24. As part of the election stakeholders group we had several companies present to us their specific voting machines.
We thoroughly researched each company and voted to approve Dominion machines. We need to avoid the lawsuit that could ensue if machines are not put in place now. The state of Alaska uses Dominion and there were no reports of voter fraud this past election.
Thank you for your support.
Sammy Crawford
Kenai
scrawfordak68@gmail.com

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 8:18 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>

From: John Destefano <italy423@gmail.com>
Sent: Tuesday, April 20, 2021 8:17 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dominion voting machines aren't trustworthy do what is right.....

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 7:35 PM
To: Broyles, Randi
Subject: FW: New Public Comment to Assembly Members

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Tuesday, April 20, 2021 6:48 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: hs norwood

Your Email: rohobawr@alaska.net

Subject: "Election Security" Proposals

Message:

Given that no fraud in any election has been proven.

Given that any additional measures regarding "securing the elections" of this borough will cost money ...

Given that I have years of experience evaluating proposals and am fully aware that eliminating viable proposals for no legitimate reason (e.g. a brand of voting machine) increases the cost of completing any job ... .

Given the fact that ... although the mil rate might not have increased ... the 2020 assessments increased significantly so the land owners are paying the increased costs of KBP administration ...

This taxpayer does not support any proposals regarding "election security" until and unless a viable problem in the integrity of the existing system has been proven.

Put the money that would go to supporting "election security" into the school system.

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, April 20, 2021 5:58 PM
To: Broyles, Randi
Subject: FW: New Public Comment to Assembly Members

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Tuesday, April 20, 2021 5:54 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Lee Page

Your Email: Pgno9135@protonmail.com

Subject: Dominion Voting machines

Message:

I am in favor of using Dominion Voting Machines. They have proven to be effective and trustworthy. I would behoove the Assembly to approve using them to count votes.

Broyles, Randi

From: Blankenship, Johni
Sent: Friday, April 9, 2021 8:44 AM
To: Broyles, Randi; Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Ordinance 2020-19-24

FYI

From: Donna Aderhold <donnagrace99@gmail.com>
Sent: Thursday, April 8, 2021 8:33 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Ordinance 2020-19-24

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Assembly Members,
Thank you for addressing the need for accessible voting machines at each voting precinct in the borough with Ordinance 2020-19-24. Having accessible voting machines is required under the recent consent decree and vital for borough residents who experience a disability to have full access to independent voting.

As a member of the Election Stakeholder Group, I participated in demonstrations by Dominion and ES&S voting systems. I agree with the selection of Dominion for the accessible voting machines. The Dominion voting machines will be compatible with the voting systems the borough and state currently use. There are numerous safeguards to voting with the Dominion voting machines. Of particular note, they print a paper copy of the ballot a voter marks electronically, and the voter reviews it for accuracy before running it through the scanner with the remaining ballots. In addition, the machines are stand alone (i.e., not connected to the internet or other voting systems) and require a specific key card used by a trained election worker to program.

The Kenai Peninsula is a wonderful place to live. Let's make sure it is a wonderful place to live for everyone, including those experiencing disabilities, by ensuring secure and independent voting for all our residents who are registered to vote. We all know that every vote counts!

Sincerely,
Donna Aderhold

Donna Aderhold
353 Grubstake Ave.
Homer, AK 99603

Broyles, Randi 2020-19-24

From: Blankenship, Johni
Sent: Monday, March 8, 2021 9:49 AM
To: Broyles, Randi; Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Democrat Dominion Voter Fraud Device

From: jenwill@alaska.net <jenwill@alaska.net>
Sent: Monday, March 8, 2021 9:43 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Democrat Dominion Voter Fraud Device

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Remember the old saying: "it matters not who wins the election, what matters is who counts the vote"
I am ashamed to even contact our BOURGH POLITBURO ASSEMBLY. You people are traitors to our nation since you are allowing DOMINION VOTING DEVICES to be used Please just move to California, or some other Socialist/Comunist state the is proud to find ways to cheat on elections.

YOU ARE OUT OF YOUR MINDS!!!!!

Sent from my Samsung Galaxy smartphone.

Broyles, Randi

From: Blankenship, Johni
Sent: Thursday, April 22, 2021 9:13 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Fwd: Say NO to Dominion Voting Machines

From: Thomas Soderholm <tom@smokeybayair.com>
Sent: Thursday, April 22, 2021 8:47 AM
To: Hibbert, Brent <bhibbert@kpb.us>; Derkevorkian, Richard <rderkevorkian@kpb.us>; Bjorkman, Jesse <JBjorkman@kpb.us>; Cox, Tyson <tysoncox@kpb.us>; Elam, Bill <belam@kpb.us>; Carpenter, Kenn <KCarpenter@kpb.us>; Johnson, Brent <bjohnson@kpb.us>; Chesley, Lane <lchesley@kpb.us>; G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Cc: Tom Stroozas <tstroozas@americascuisine.com>
Subject: <EXTERNAL-SENDER>Fwd: Say NO to Dominion Voting Machines

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I would like to add my endorsement of Mr. Stroozas email.

This issue is critical, in that more all the time are of the opinion that election integrity and accuracy are gradually being compromised. This will lead to what is already a problem with voter apathy, evidenced by the often abysmal turnout.

We need to take measures to ensure voters don't feel, 'my vote doesn't really matter anymore.' That is essentially voter disenfranchisement by (a not so subtle) unintended means.

**the views I expressed are of myself as a private citizen and resident of Homer. I am not writing in any professionally capacity or as representing any Board I maybe a member of, or presiding over.

Sincerely,
-tom

Thomas Soderholm
Director of Operations
Smokey Bay Air
Homer, Alaska
tom@smokeybayair.com
907-299-6010 (mobile)
907-235-1511 (office)

Begin forwarded message:

From: Tom Stroozas <tstroozas@americascuisine.com>
Subject: Fwd: Say NO to Dominion Voting Machines

Date: April 19, 2021 at 15:50:16 AKDT
To: Thomas Soderholm <tom@smokeybayair.com>

FYI...

Tom Stroozas
Stroozas & Associates, LLC
AmericasCuisine - Anchorage
P. O. Box 1481
Homer, AK 99603
704-488-3779 cell; 907-235-3677 office
www.americascuisine.com

---------- Forwarded message ---------
From: **Tom Stroozas** <tstroozas@americascuisine.com>
Date: Mon, Apr 19, 2021 at 3:49 PM
Subject: Say NO to Dominion Voting Machines
To: <bhibbert@kpb.us>, <rderkevorkian@kpb.us>, <jbjorkman@kpb.us>, <tysoncox@kpb.us>, <belam@kpb.us>, <kcarpenter@kpb.us>, <bjohnson@kpb.us>, <lchesley@kpb.us>, Dunne, Willy <wdunne@kpb.us>, <assemblyclerk@kpb.us>

I ask that KPB Assembly give some thought before moving forward with potentially securing Dominion as our voting machine vendor and request that you do not vote to do so for the following reasons:

1. Dominion voting machines are subject to at least 6 lawsuits as a result of the November 2020 election. These lawsuits are still in litigation, and their outcomes are unknown currently. Why buy equipment from a vendor whose product is subject to such litigation, potentially hampering the Borough's ability to conduct elections in the future?

2. The State of Texas considered and then refused to purchase any Dominion machines in 2019.

    - Perhaps the Assembly should postpone the proposed 2020-19-24 until it determines why Texas refused to buy Dominion machines.

3. Florida primarily uses the ES&S election system. They counted 11 million votes by midnight of the General election on November 3rd, 2020, and have not had any lawsuits filed. How did Florida count 11 million votes and release all the results on election day without ANY accusations or lawsuits filed? In fact, ES&S, itself, is not embroiled in any lawsuits.

Any upgrades to Borough voting machines should use paper ballots and not function with any network or wireless access or capability. Any ADA concerns should be addressed in a manner to protect the integrity of the vote, while accommodating the voter's particular need.

Additionally, our Kenai Peninsula Clerk's office currently does not have a Standard Operating Procedure for managing our elections. Before the KPB purchases ANY voting tabulation machines, the Assembly should produce a SOP detailing 1.) how our current elections are managed, and 2.) how the machines are distributed, including a tracking system containing all the serial numbers of our current machines. The public has a right to know how our current elections are managed; a written Standard Operating Procedure should exist and be available for public scrutiny.

Thanks for listening.

Tom Stroozas
P. O. Box 1481
Homer, AK 99603
704-488-3779 cell; 907-235-3677 office

Broyles, Randi

From: Blankenship, Johni
Sent: Thursday, April 22, 2021 9:13 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Re:

From: John Destefano <italy423@gmail.com>
Sent: Thursday, April 22, 2021 7:00 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Re:

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

It's too bad you did the wrong thing

On Tue, Apr 20, 2021, 8:17 PM John Destefano <italy423@gmail.com> wrote:

Dominion voting machines aren't trustworthy do what is right.....

2020-19-24

Robert K. Wall
PO Box 761
Sterling, AK 99672

March 2, 2021

Kenai Peninsula Borough Assembly
144 Binkley St.
Soldotna, AK 99669

Re: Ordinance 2020-19-24, to be entered as public comment for the March 2nd meeting.

Dear Assembly,

I am strongly opposed to the Borough purchasing any Dominion equipment.

1.) Dominion is embroiled in at least 6 lawsuits in the lower 48. These lawsuits are still in litigation, and their outcomes are unknown currently. The allegations are substantial and have not been challenged at this time.

2.) The State of Texas considered and then refused to purchase any Dominion machines in 2019. I request the Assembly find out what the reasoning was behind their decision.

3.) Please note that the State of Florida primarily uses the ES&S election system. They counted 11 million votes by midnight of the General election on November 3rd, 2020, and have not had any lawsuits filed. How did Florida count 11 million votes and release all the results on election day without ANY accusations or lawsuits filed? In fact, ES&S, itself, is not embroiled in any lawsuits.

Additionally, our Kenai Peninsula Clerk's office currently does not have a Standard Operating Procedure for managing our elections. Before the KPB purchases ANY voting tabulation machines, I request that the Assembly produce a SOP detailing 1.) how our current elections are managed, and 2.) how the machines are distributed, including a tracking system containing all the serial numbers of our current machines. The public has a right to know how our current elections are managed; a written Standard Operating Procedure should exist and be available for public scrutiny.

I also request to know where specifically the machines were used in the last election, and be provided a detailed history of their current software upgrades.

Election integrity is a sacred right of our great nation, and here on the Kenai Peninsula. Public confidence in our elections must be retained through a clear and open process that can be reviewed and shared with the voters.

I urge you, at this time, do not buy any Dominion machines. Also, we must review and codify the system that we now have.

Respectfully,

Robert Wall

Robert Wall

Introduced by:	Mayor
Date:	04/06/21
Hearing:	04/20/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-25

AN ORDINANCE ACCEPTING AND APPROPRIATING FUNDING FROM THE STATE OF ALASKA IN THE AMOUNT UP TO $2,037,529.59 FOR COVID-19 COMMUNITY FUNDING, A FEDERAL PASS-THRU AWARD UNDER THE CENTER FOR DISEASE CONTROL AND PREVENTION

WHEREAS, the Alaska Department of Health and Social Services has notified municipalities of funding through the "COVID-19 Community Funding Program" (funding) that is a federal pass-thru program under the Center for Disease Control and Prevention (CDC); and

WHEREAS, the borough was notified of funding up to $2,037,529.59 that may be used to assist COVID-19 testing and vaccine administration as well as recovery activities; and

WHEREAS, the program requires that a minimum of 10 percent of the funding be focused on health equity to help those who have been disproportionately impacted by COVID-19; and

WHEREAS, it is in the best interest of the borough to accept these funds to help defray costs resulting from the impacts of the coronavirus pandemic;

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

SECTION 1. That the mayor is authorized to accept the COVID-19 Community Funding Program award up to $2,037,529.59 from the State of Alaska for testing and vaccine response as well as recovery activities based upon COVID-19 impacts.

SECTION 2. That the mayor is authorized to execute any documents deemed necessary to accept and expend the funds and to fulfill the intents and purposes of this ordinance.

SECTION 3. That the federal pass-thru funds in the amount of up to $2,037,529.59 are appropriated to account 271.11250.21VAC.49999, contingent upon actual award amount.

SECTION 4. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

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Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Charlie Pierce, Mayor
Brandi Harbaugh, Finance Director BH
Dan Nelson, Emergency Manager DN

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager BA

DATE: March 25, 2021

RE: Ordinance 2020-19-25, Approving and Appropriating Funding from the State of Alaska in the Amount Up to $2,037,529.59 for COVID-19 Community Funding, a Federal Pass-Thru Program under the Center for Disease Control and Prevention (Mayor)

The State of Alaska Department of Health and Social Services (DHHS), Division of Public Health is providing funding to municipalities and tribal entities to help improve efforts and increase access to COVID-19 testing; to build capacity to increase access to vaccinations; and to implement strategies that decrease health inequities. A minimum of 10 percent of the funds must be dedicated to assisting those who have difficulty accessing vaccines and other disadvantaged populations or communities. The Office of Emergency Management will oversee the program, ending March 31, 2022.

Eligible activities may also include recovery activities based upon lessons learned from post-response outcomes due to the coronavirus pandemic. Upon approval, the borough will enter into a memorandum of agreement with DHHS to reimburse the proposed activities in the attached budget narrative.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Acct. No. 271.11250.21VAC.49999

Amount: $2,037,529.59

By: PP Date: 3/23/2021

Kenai Peninsula Borough Project Scope of Work and Budget Detail

Project Description	Unit Amount	Total	Narrative
Personnel			
One PTE position: Program Manager		$ 80,000.00	The program manager manages these contracts and all other details related to the vaccination program, including contract administration and monitoring, public information activities, and works with emergency management, fire departments, and Borough administration.
Two PTE positions: 1 Call Center Manager and 1 Vaccine Clinic Assistant	$ 31,200.00	$ 62,400.00	Personnel costs include one year of a call center manager and vaccine clinic assistant. These personnel perform all logistics and planning for vaccine clinics, answer incoming calls, make outbound reminder calls, and other details.
Firefighter/EMS Vaccine Administration		$ 150,000.00	Overtime for vaccine administration reflects the portion of mobile, fixed, and pop-up vaccination clinics that are performed by Borough fire/EMS service areas as overtime (see contract section).
Contractual			
Public information campaign		$ 250,000.00	Public relations/communications firm to provide for communication and outreach for vaccine clinics and information, with a particular emphasis on underserved communities and populations. Scope of work will include outreach campaigns, arranging for translation of materials into native and other languages, producing electronic, printed, and other materials, and other strategies to reach the target audiences. COVID-19 topics to include vaccine distribution, testing, recovery and prevention messaging. Includes costs for direct advertising in radio, newspaper, social media, and other outlets.
Extended Site Clinics		$ 125,000.00	Funding to support private medical providers, pharmacies, and qualified entities to provide smaller clinics during extended hours. For example, a medical office may keep staff from 5pm – 9pm on weeknights or open on weekends for the sole purpose of providing vaccinations.

Mobile Vaccination Clinics	$	175,000.00	Commission medical providers to provide services to individual homes, group homes, isolated communities, public events, villages, and other areas where the population may be limited in mobility and not able to travel to a fixed site.
Transportation	$	75,000.00	Local taxi cab companies, transportation, or agencies to provide transportation to vaccine clinics when the individuals' health allows. These would reimburse these companies agencies for the costs of trips taken (i.e. cab rides) or could be a hire for certain days to provide for one or more vaccine clinics.
Preparedness and Planning	$	30,000.00	Develop the after action report and improvement plan for vaccination process undertaken by the OEM and partners.
	$	50,000.00	Revise the Borough Continuity of Operations Plan (COOP) to take into account pandemic procedures and other updates.
Borough Code Revisions	$	150,000.00	Update sections of code specific to response and recovery in areawide and nonareawide capacities. Updates and additions should not conflict with fire & EMS and hospital service area powers, but complement existing powers and identify potential changes or other recommendations based upon lessons-learned in correlation with COVID-19 response actions.
Subrecipient Agreements to KPB Service Areas			
South Peninsula Hospital (SPH)	$	200,000.00	Pass-through funding to address the hospital service area needs specific to the COVID-19 MOA. SPH serves communities of Homer, Kachemak City, Seldovia and unincorporated communities (CDPs) of Anchor Point, Ninichik, Nikolaevsk, Fritz Creek, Diamond Ridge and smaller CDPs along the Kachemak Bay coastline.
Central Peninsula Hospital (CPH)	$	200,000.00	Pass-through funding to address the hospital service area needs specific to the COVID-19 MOA. CPH serves Kenai, Soldotna and CDPs along the the Sterling and Spur Highways as well as CDPs across upper Cook Inlet.

North Peninsula Recreation (NPRSA)	$	340,129.59	NPRSA parks, recreational facility, pool, hockey rink and trails give all families and individuals opportunities to boost physical and mental health, and offer young children an opportunity to develop social skills, regardless of their socioeconomic status. The focus will be to develop and implement avenues for promoting health and wellness, and keys to prevention of COVID-19. These projects will develop more multi-programming with varied user groups, emphasize outdoor recreation, open spaces, programming and event areas, encourage social distancing and sanitation and focus on our community's health and well-being. An investment in these COVID-19 recovery projects is an investment in continued health, vitality and resiliency of the people who live on the KPB. Projects to emphasize health and wellness in safe spaces include: Pool Lap Lanes/Dividers, Gym Curtains/Dividers, Outdoor tents-large / stage, Virtual streaming of classes (fitness and other) for public, Upgrades and equipment for outdoor multi-purpose court, sanitation stations for the playground, no touch fixtures in pool and recreation facilities (lights, toilets, sinks, urinals).
Seldovia Recreation (SRSA)	$	150,000.00	SRSA provides a meeting place for Seldovia residents with a focus on arts, cultural awareness, health and wellness for young and young at heart. Projects to emphasize health and wellness in safe spaces include: Curtains/Dividers, Sanitation stations for playground, No touch fixtures in the facility.
TOTAL ALLOCATION (LESS CITIES)	$	2,037,529.59	

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of
Health and Social Services

DIVISION OF PUBLIC HEALTH
Director's Office

Anchorage
3601 C Street, Suite 756
Anchorage, Alaska 99503-5924
Main: 907.269.8126
Fax: 907.269.2048

COVID 19 Community Memorandum of Agreement Information

PURPOSE:

The State of Alaska, Department of Health and Social Services, Division of Public Health will provide funding to Alaskan local governments and Tribal entities to help with the following activities:

- Improve efforts and increase access to COVID testing in the community
- Build capacity to increase access to COVID vaccine in the community
- Implement strategies that decrease health inequities

***Health Equity**

According to the Robert Wood Johnson Foundation, health equity means that everyone has a fair and just opportunity to be as healthy as possible. This requires removing obstacles to health such as poverty, discrimination, and their consequences, including powerlessness and lack of access to good jobs with fair pay, quality education and housing, safe environments, and health care.(https://www.rwjf.org/en/library/research/2017/05/what-is-health-equity-.html)

COVID-19 HEALTH EQUITY ACTIVITY REQUIREMENT:

One goal of these projects is to implement community-driven strategies around COVID-19 vaccines, testing, case interviews, contact tracing, and other COVID-19 topics, with specific emphasis on population groups that have been disproportionately impacted by the COVID-19 pandemic due to external social factors and systemic inequities. Funding is calculated on population size. A portion of the funds are required to be used to help those who have difficulty accessing testing, vaccine or complying with recommendations from contract tracers. A minimum of 10% will be required for each MOA and will increase based on the levels of deprivation experienced in your community. Information on higher levels of deprivation by community is available for comparison to surrounding areas here: Neighborhood Atlas - Home (wisc.edu).

ELIGIBILITY:

Local governments are eligible to apply and may propose plans to engage one or more communities and geographic areas. The definition of communities may also include a group of people who have particular characteristic in common (e.g. share similar cultural beliefs or interests). Please work with your local tribes, borough, or municipality to ensure that efforts are coordinated. DHSS allows recipients to act as pass-through entities in order to provide funding to other recipients, including community-based organizations serving populations who may experience health inequities. **Technical assistance will be provided throughout the funding period to assist with reporting, advancing health equity projects, pre-approval of projects and invoice processing.**

REPORTING:

Reporting requirements will be due at the same time as invoices. Payment will not be issued unless necessary reporting is attached. Reporting requirements will be determined during the MOA preparation and will be dependent upon the type of activities selected. Entities are encouraged to collaborate with hospitals, schools and community organizations to improve the outcomes for their population**. See attachment of COVID-19 Community Memorandum of Agreement fund amounts.**

PERIOD OF AGREEMENT, DATES AND DEADLINES:

March 15, 2021 – March 31, 2022

Important dates:

February 22, 2021	Pre award meeting with technical assistance (4pm)
February 25, 2021	2nd Pre award meeting with technical assistance (10am)
March 15, 2021	Funding Requests due to Maria.caruso@alaska.gov
March 31, 2021	Award funding to Communities via signed MOA
March 31, 2022	Final receipts due to DPH, payments issued to Communities

Submit questions to: Maria.caruso@alaska.gov

TERMS OF PAYMENT: Funds will be reimbursed through invoicing upon approval of MOA.

PRIOR APPROVAL REQUIRED:

- Computer software
- Equipment
- Construction projects

FUNDS CANNOT BE USED FOR:

- Resources funded by another HSS Contract or HSS-Cares source
- Research
- Purchasing vehicles
- Reimbursement of Pre-Award costs
- Hospital bills or insurance claims
- Fund raising activities or lobbying
- No indirect costs will be considered
- Food and/or water

Please complete the application in order to develop MOA.

1. Complete selected activities by dates prescribed above.
2. Please include an updated W9 with your request.

Submit completed application and W9 to: Maria.caruso@alaska.gov

COVID 19 Community Memorandum of Agreement Application

Primary Contact Information:
(Please make sure to include name, phone number, email and physical address for all contacts listed.)

Program Contact:_____

Phone number:_____

Email:_____

Physical Address: _____

Finance Contact:_____

Phone number:_____

Email:_____

Physical Address: _____

Other Contact that needs to sign/be listed on the Memorandum of Agreement (MOA):

Contact:_____

Phone number:_____

Email:_____

Physical Address: _____

Please list communities and partners intended to be part of this funding, either through subawards or support.

Community/Partner Name(s):

_____

_____

_____

_____

_____

_____

_____

_____

SCOPE and AMOUNTS:
Please check activities from the menu below. In the final box, indicate the dollar amount anticipated.

Menu of Activities

1. Improve efforts and increase access to COVID testing in the community: ☐ Develop new test sites or mobile testing capacity ☐ Expand capacity in existing locations where testing is offered ☐ Overtime for personnel to report lab results ☐ Transportation costs associated with testing***** ☐ New or mobile testing sites targeted at underserved community members***** ☐ Develop targeted, culturally relevant communication efforts***** ☐ Staff training to support reporting of lab results ☐ Purchasing necessary supplies for testing ☐ Other activities (Please describe in the box below)		
If there is not sufficient space to provide details, please attach a spreadsheet or addendum to your application.		**Amount Requested per Activity:**
Description of "Other" activities:		
Personnel **(expected overtime, job title)**		
Contracts (**sub-contractor name, activity to be performed)**		
Supplies/Materials **(type of supply, quantity)**		
Total		

* These activities are examples of how to meet the minimum 10% budget requirements to address health inequities. Other activities may also be counted but will require a description of how they address health inequities.

2. Build capacity to increase access to COVID vaccine in the community:

- ☐ Overtime for personnel to administer vaccine
- ☐ Overtime for support staff to make appointments or reminder calls for patients
- ☐ Additional sites for vaccine administration
- ☐ Mobile vaccine administration*
- ☐ Transportation costs associated with vaccinations*
- ☐ New or mobile vaccine sites targeted at underserved community members*
- ☐ Develop targeted, culturally relevant communication efforts*
- ☐ Incentivize providers to improve reporting race, ethnicity, and occupation data into VacTrak.
- ☐ Rent space or expand hours where vaccine can be administered
- ☐ Supplies needed to administer vaccines
- ☐ Other activities (Please describe in the box below)

If there is not sufficient space to provide details, please attach a spreadsheet or addendum to your application.		**Amount Requested per Activity:**
Description of "Other" activities:		
Personnel **(expected overtime number, job titles)**		
Contracts (**sub-contractor name, activity to be performed)**		
Site Rental for Vaccine Administration		
Supplies/Materials **(type of supply, quantity)**		
Total:		

* These activities are examples of how to meet the minimum 10% budget requirements to address health inequities. Other activities may also be counted but will require a description of how they address health inequities.

Introduced by:	Mayor
Date:	04/06/21
Hearing:	04/20/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-26

AN ORDINANCE APPROVING AND ACCEPTING GRANT FUNDS FROM THE STATE OF ALASKA DIVISION OF HOMELAND SECURITY & EMERGENCY MANAGEMENT TO REIMBURSE REPAIRS AT THE CENTRAL PENINSULA LANDFILL RESULTING FROM THE NOVEMBER 30, 2018 COOK INLET 7.0 EARTHQUAKE

WHEREAS, on November 30, 2018 at 8:29 am a 7.0 earthquake shook from an epicenter five miles north of Anchorage which was felt across Southcentral Alaska and tsunami warnings were issued for coastal communities, including Seward and the Kachemak Bay communities of Homer, Seldovia, Nanwalek and Port Graham; and

WHEREAS, the borough appropriated $450,000 from the general fund for disaster response and recovery by way of Ordinance 2018-19-26; and

WHEREAS, the Federal Disaster Declaration DR-4413 approved eligible expenses associated with response, recovery and mitigation to be reimbursed by the Federal Emergency Management Agency and the State of Alaska through the Public Assistance Program (FEMA PA); and

WHEREAS, the borough has submitted eight project applications through the FEMA PA program for damages sustained to borough facilities; and

WHEREAS, repair costs for the Central Peninsula Landfill leachate tank in the amount of $205,797.38 will be reimbursed to the borough as a 75 percent federal pass-through and a 25 percent state-matching grant awarded by the State of Alaska Division of Homeland Security & Emergency Management;

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

SECTION 1. That the mayor is authorized to accept grant funds totaling $205,797.38 from the State of Alaska Division of Homeland Security & Emergency Management for the November 30, 2018 Cook Inlet 7.0 Earthquake, Federal Disaster Declaration DR4413.

SECTION 2. That the $450,000 appropriation from the general fund for disaster response and recovery by way of ordinance 2018-19-26 are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 3. That this grant award exceeds the original appropriation of $450,000 by $141,427.56 and grant funds in the amount of $141,427.56 are appropriated to account number 260.32122.19EQ1.49999 for Central Peninsula Landfill earthquake repairs.

SECTION 4. That the mayor is authorized to negotiate, administer and execute on behalf of the borough the applicant agreement package for disaster presently identified as the November 30, 2018 Cook Inlet 7.0 Earthquake, Federal Disaster Declaration DR4413, and to negotiate, execute, and administer any other documents, agreements, and contracts required under or related to the grant agreements including without limitation the Assurances and Agreements, the Summary of Grant Conditions for All Applicants, and the Indemnity and Hold Harmless Agreement required as a condition of the grant agreements and any subsequent grant amendments.

SECTION 5. The Kenai Peninsula Borough agrees that upon award assistance through the Alaska Division of Homeland Security & Emergency Management as described in this ordinance it shall waive its sovereign immunity to the extent required by paragraph 27 of the DHS&EM Form 30-57f State Assurance and Agreements and be subject to suit for actions arising out of the project activities for the November 30, 2018 Cook Inlet 7.0 Earthquake disaster in the same manner, and to the same extent as any person and shall not be immune or exempt from any administrative or judicial process, sanction or judgement.

SECTION 6. That this ordinance shall be effective upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

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Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP
Brandi Harbaugh, Finance Director BH
Dan Nelson, Emergency Manager DN
John Hedges, Purchasing & Contracting Director JH

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager BA

DATE: March 25, 2021

SUBJECT: Ordinance 2020-19-26, Approving and Accepting Grant Funds from the State of Alaska Division of Homeland Security & Emergency Management to Reimburse Repairs at the Central Peninsula Landfill Resulting from the November 30, 2018 Cook Inlet 7.0 Earthquake (Mayor)

This ordinance accepts $205,797.38 from the State of Alaska Division of Homeland Security & Emergency Management (AKDHSEM) for costs incurred at the Central Peninsula Landfill (CPL) in responding to the November 30, 2018 Cook Inlet 7.0 Earthquake, Federal Disaster Declaration DR4413. Funds in the amount of $64,369.82 were previously appropriated by way of ordinance 2018-19-26 as a portion of the overall $450,000 total appropriation, therefore $141,427.56 in grant funds will be appropriated through this ordinance.

The project applications and approved grant awards are managed through the Federal Emergency Management Agency online system named Grants Portal, and the award agreements created through the AKDHSEM as project worksheets.

The approved expenses associated with response, recovery and mitigation that are eligible for reimbursement by the Federal Emergency Management Agency (75% share) and the State of Alaska (25%) through the FEMA Public Assistance Program under project worksheet 367 for CPL Leachate Tank Repairs.

Attachment: Award Letter 03/11/21.

FINANCE DEPARTMENT
MATCH & ADMIN FEE FUNDS/ACCOUNT VERIFIED

Account 260.32122.19EQ1.49999

Amount $64,369.82

By: PP Date: 3/24/2021

THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Military and Veterans Affairs

Division of Homeland Security and Emergency Management

P.O. Box 5750
JBER, AK 99505-0800
Main: 907.428.7000
Fax: 907.428.7009
ready.alaska.gov

March 11, 2021

Dan Nelson, Emergency Manager
Kenai Peninsula Borough
253 Wilson Lane
Soldotna, AK 99669

RE: Obligating Award Document
Disaster: DR-4413-AK, 2018 Cook Inlet Earthquake
Subrecipient: Kenai Peninsula Borough
PA ID: 122-00276-00
Project Worksheet(s): 0367

Mr. Nelson:

Enclosed is your initial Grant Award Package for Project Worksheet (PW) 0367 under DR-4413-AK, 2018 Cook Inlet Earthquake. A pre-signed Obligating Award Document (OAD) and Grant Requirements Form are enclosed. Please return by email once signed to our office no later than two weeks after receipt.

Please note the following signature guide:

- Obligating Award Document: Three subrecipient signatures on the front page plus one subrecipient signature on the back page.
- Grant Requirements Form: Three subrecipient signatures on the back page.

No payments will be processed until we receive our copy of the signed forms. A current quarterly report (DHS&EM 30-60) is also due for the current quarter of this obligation and every quarter until the project is closed. Please use the table below when submitting your quarterly reports in the future.

Period	Date Due	Period	Date Due
Jan 1 – Mar 31	April 15	Apr 1 – Jun 30	July 15
Jul 1 – Sep 30	October 15	Oct 1 – Dec 31	January 15

If you have any questions, please contact Duane Ruch, your assigned Division Representative, at 907-428-7076 or by email at duane.ruch@alaska.gov.

Sincerely,

William A. Dennis
Alternate Governor's Authorized Representative

Enclosure(s): Obligating Award Document
Grant Requirements Forms
Project Reports
Project Worksheet 0367

State of Alaska
Department of Military and Veterans Affairs
Homeland Security & Emergency Management

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT
Obligating Award Document for
Disaster - Public Assistance Presidentially Declared

FAIN: (Disaster Number) DR-4413-AK CFDA No. ***97.036*** ***Date of Disaster Declaration*** 0113112019

1.Project Worksheet# 0367 **2. DUNS#** 071845168	**3. Award Amendment LJ Amendment Number** **4. Employer Tax ID#** 92-0030894
5. Recipient Name and Address Kenai Peninsula Borough 144 North Binkley Street Soldotna, Alaska 99669	**6. Issuing Office and Address** Department of Military and Veterans Affairs Division of Homeland Security and Emergency Management PO Box 5750 JBER, AK 99505-5750 *http://www.readyalaska.gov*
7. PW Obligation Date 0211812021	**Agency: Federal Emergency Management Agency (FEMA)**

9. Purpose of Awa.rd/Amendment:

Initial Award

10. Grant Award and Terms and Conditions: (see *attached Grant Terms and Conditions)*

Total Approved Amount:	**$205,797.38**
Total Awarded Amount:	**$205,797.38**
Federal Share:	**$154,348.04**
State Share:	**$51,449.34**
Sub-Grantee Share:	**$ 0.00**

See attached: Approved PAGP Project Worksheet *Grant Performance Period:0113112019* **through 0713112021**

11. **Grant Requirements Assurances and AQreements:** {see *attached Grant Requirements, Assurances and Agreements)*
The acceptance of a grant from the United States creates a legal duty on the part of the grantee to use the funds or property made available in accordance with the conditions of the grant. (GAO Accounting Principles and Standards for Federal Agencies, Chanter 2, Section 16.Bfcl). Federal awarding agency is the Federal Emeraency Management Aaency (FEMA).

12. **Project Award Title:**

Peninsula Landfill

13. Recipient Is required to sign and return one (1) copy of this document with the terms and conditions to the issuing address in Block 6, within 30 days .from the date in Block 17.

14. DHS&EM Project Manager **Printed Name of SPAO: Duane Ruch**	**.Phone: (907) 428 7076** **Fax: (907) 428-7009** **Email: duane.ruch@alaska.gov**
15. Signature of Jurisdiction Project Manager **Printed Name: Dan Nelson**	**Phone: 907- 252-0369** **Fax: 907-714-2395** **Email: dnelson@kpb.us**
16. Signature of Jurisdiction Chief Financial Officer **Printed Name: Brandi Harbaugh**	**Phone: 907-714-2176** **Fax: 907-714-2376** **Email: bharbaugh@kpb.us**
17. Signature of Jurisdiction Signatory Official **Printed Name and Title: Charlie Pierce, Mayor**	**Date:** **Phone: (907) 714-2150** **Fax: 907-714-2377** **Email: mayor@kpb.us**
18. DHS&EM Signatory Official Wliiiam A. Dennis Alternate Governor's Authorized Representative	Date: _j . 1/- 2_/ Phone: (907) 428-7000 Fax: (907) 428-7009 Email: bill.dennis@alaska.gov

Turn *over* to complete instruction acknowledgement.

Introduced by:	Mayor
Date:	01/08/19
Hearing:	01/22/19
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2018-19-26

AN ORDINANCE APPROPRIATING FUNDS FROM THE GENERAL FUND FOR EARTHQUAKE RESPONSE UNDER THE LOCALLY DECLARED DISASTER EMERGENCY WITHIN THE KENAI PENINSULA

WHEREAS, on November 30, 2018 at 8:29 am a 7.0 earthquake shook from an epicenter five miles north of Anchorage which was felt across Southcentral Alaska and tsunami warnings were issued for coastal communities, including Seward and the Kachemak Bay communities of Homer, Seldovia, Nanwalek and Port Graham; and

WHEREAS, an appropriation is needed to provide funding for the borough's response and damage assessments; and

WHEREAS, both the State of Alaska and federal government issued an emergency declaration to assist the Municipality of Anchorage, Kenai Peninsula Borough, and Matanuska-Susitna Borough on November 30, 2018;

WHEREAS, the Kenai Peninsula Borough Mayor issued a local emergency declaration for the entire Kenai Peninsula Borough on December 4, 2018, subsequently extended to June 7, 2019 by the assembly; and

WHEREAS, the borough has completed some work and continues to conduct repairs and damage assessments borough-wide for the following departments and service areas: Maintenance, Purchasing and Contracting, Roads, Office of Emergency Management, Solid Waste, North Peninsula Recreation, Nikiski Fire, Central Emergency Services, Kachemak Emergency Services, and Central Peninsula Hospital Service Area; and

WHEREAS, departments and service areas have financially supported the initial response, and this appropriation will reimburse these operational funds; and

WHEREAS, it is expected that significant expenses will be incurred in responding to this event and repairing damages to facilities and public infrastructure caused by the earthquake; and

WHEREAS, this ordinance appropriates funds in the amount of $450,000 to enable the borough to continue repairs and assessments associated with the disaster;

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

SECTION 1. That the sum of $450,000 is hereby appropriated from the general fund balance and transferred to account no. 260.11251.19EQ1.49999 for response and assessment by the borough through the declared earthquake disaster emergency within the Kenai Peninsula Borough.

SECTION 2. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 22ND DAY OF JANUARY, 2019.

Wayne H. Ogle, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle
No:	None
Absent:	None

Introduced by:	Mayor
Date:	04/06/21
Hearing:	04/20/21
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-27

AN ORDINANCE APPROVING AND APPROPRIATING GRANT FUNDS TOTALING $14,610.43 FROM THE ALASKA DEPARTMENT OF NATURAL RESOURCES FOR THE VOLUNTEER FIRE ASSISTANCE PROGRAM ON BEHALF OF WESTERN EMERGENCY SERVICE AREA, KACHEMAK EMERGENCY SERVICE AREA AND NIKISKI FIRE SERVICE AREA

WHEREAS, Western Emergency Service Area, Kachemak Emergency Service Area and the Nikiski Fire Service Area applied for individual grants under the 2021 Volunteer Fire Assistance ("VFA") program administered by the Alaska Department of Natural Resources, Division of Forestry; and

WHEREAS, the borough received an award notification, allowing the service areas to purchase wildland firefighting equipment; and

WHEREAS, the VFA program requires a 10 percent match of local expenditures toward the grant funds; and

WHEREAS, the service areas will meet the 10 percent match requirement and 1 percent administration fee through expenditures made from their approved FY21 operating budget if purchases are made prior to June 30, 2021 or, from their FY22 operating budget, if purchases are made between July 1 and December 1, 2021; and

WHEREAS, at its regular meeting on April 14, 2021, the Western Emergency Service Area board recommended approval by unanimous consent; and

WHEREAS, at its regular meeting held on April 15, 2021, the Kachemak Emergency Service Area board recommended approval by unanimous consent; and

WHEREAS, at its regular meeting held on April 14, 2021, the Nikiski Fire Service Area board recommended approval by unanimous consent; and

WHEREAS, it is in the best interest of the borough to accept the grant funds;

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

SECTION 1. That the mayor is authorized to accept the 2021 VFA program grant funds from the Alaska Department of Natural Resource on behalf of the Western Emergency Service Area, Kachemak Emergency Service Area and the Nikiski Fire Service Area and is authorized execute a grant agreement and any other documents deemed necessary to expend the grant and to fulfill the intents and purposes of this ordinance.

SECTION 2. That Western Emergency Service Area grant funds in the amount of $4,998.42 are appropriated to the account 209.51410.22VF1.49999.

SECTION 3. That Kachemak Emergency Service Area grant funds in the amount of $4,986.01 are appropriated to the account 212.51810.22VF2.49999.

SECTION 4. That Nikiski Fire Service Area grant funds in the amount of $4,626 are appropriated to the account 206.51110.22VF3.49999.

SECTION 5. This ordinance shall become effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

DocuSign Envelope ID: 8CAEC3BD-688C-4B86-8BDC-EECE5E13979D

Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

TO: Brent Hibbert, Assembly President
Members of the Kenai Peninsula Assembly

THRU: Charlie Pierce, Mayor
Brandi Harbaugh, Finance Director BH
Brenda Ahlberg, Community & Fiscal Projects Manager BA

FROM: Jon Marsh, WESA Fire Chief JM
Bob Cicciarella, KESA Fire Chief RJC
Bryan Crisp, NFSA Fire Chief JBC

DATE: March 25, 2021

SUBJECT: Ordinance 2020-19- ___, Approving and Appropriating Grant Funds Totaling $14,610.43 from the Alaska Department of Natural Resource for the Volunteer Fire Assistance Program on Behalf of Western Emergency Service Area, Kachemak Emergency Service Area, and Nikiski Fire Service Area (Mayor)

The Alaska Department of Natural Resources, Division of Forestry provides assistance in training, equipment purchases and prevention activities through the Volunteer Fire Assistance ("VFA") program. The VFA program may be used for both wildland and structure protection needs. The assistance is provided to increase firefighter safety, improve the firefighting capabilities of rural volunteer fire departments, and enhance protection in the urban-wildland interface.

The following service areas were notified of grant award: Western Emergency Service Area (WESA), Kachemak Emergency Service Area (KESA), and Nikiski Fire Service Area (NFSA). At the time of application, the Anchor Point and Ninilchik response areas were not formally one entity under WESA. Upon award, the Division of Forestry approved the award transfer to WESA.

The 2021 VFA awards by service area match:

Service Area	Award	Project Description	Account	Match	Admin Service Fee
WESA	$4,998.42	Protective gear, suppression hand tools	209.51410.48760	$499.84	$54.98

DocuSign Envelope ID: 8CAEC3BD-688C-4B86-8BDC-EECE5E13979D

KESA	$4,986.01	Protective gear, suppression hand tools	212.51810.48760	$498.60	$54.84
NFSA	$4,626.00	Protective gear	206.51110.48760	$462.60	$50.88

The VFA program requires 10 percent matching funds. Each service area will meet the match requirement and the one percent borough administrative fee through expenditures made from the approved FY21 operating budget if purchases are made prior to June 30, 2021; or, from the FY22 operating budget if purchases are made between July 1, 2021 and December 31, 2021. Each service area fire chief shall provide grant oversight and project completion.

This ordinance is scheduled to come before the service area boards of WESA, KESA and NFSA on April 14, April 15 and April 14, respectively. The recommendations of each board will be submitted to the assembly prior to the scheduled hearing on this ordinance.

Attachments: 03/10/21 Award Notification; 03/22/21 AK DoF Email Transfer Clarification.

FINANCE DEPARTMENT
MATCH & ADMIN FEE FUNDS/ACCOUNT VERIFIED

Account: 209.51410.48760 $554.82
212.51810.48760 $553.44
206.51110.48760 $513.48

By: PP Date: 3/24/2021

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk

FROM: Michele Turner, Deputy Borough Clerk

DATE: April 20, 2021

RE: Ordinance 2020-19-27: Approving and Appropriating Grant Funds Totaling $14,610.43 from the Alaska Department of Natural Resources for the Volunteer Fire Assistance Program on Behalf of Western Emergency Service Area, Kachemak Emergency Service Area and Nikiski Fire Service Area (Mayor)

The service area boards have addressed the referenced ordinance. Please amend the fifth, sixth and seventh Whereas clauses to read:

"**WHEREAS,** at its regular meeting on April 14, 2021, the Western Emergency Service Area board recommended approval by unanimous consent.

WHEREAS, at its regular meeting held on April 15, 2021, the Kachemak Emergency Service Area Board recommended approval by unanimous consent; and

WHEREAS, at its regular meeting held on April 14, 2021, the Nikiski Fire Service Area board recommended approval by unanimous consent;"

Thank you.

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources
Division of Forestry

550 West 7th Avenue, Suite 1450
Anchorage, AK 99501-3561
Main: 907.269-8463
Fax: 907-269-8931

March 10, 2021

Dear Volunteer Fire Department:

Thank you for applying for the 2021 Volunteer Fire Assistance (VFA) grants. Thirty-five (35) volunteer fire departments applied for a VFA grant requesting a total of $164,044.58 in assistance. Thirty-four (34) of the thirty-five (35) VFDs will receive some level of funding. A total of $159,026.50 was awarded. This letter is the official notification.

The enclosed spreadsheet lists all applicants and amount requested/amount awarded. If a fire department was awarded a grant, the amount awarded will be listed in the column titled “Amount Awarded”. Some VFDs will not receive an award this year and one will receive a partial award. If a VFD did not receive any funding or will be receiving a partial award, please contact your respective DOF Fire Management Officer with any questions you may have.

- Checks will be distributed electronically by association with the VFD's SOA vendor number and the SOA electronic payment agreement. Electronic disbursements are expected by May 2021.
- To be eligible for a 2022 VFA grant, compliance documentation, such as copies of receipts for 2021 grant expenditures, must be submitted to your nearest Forestry office at the time of, or prior to, submitting a 2022 application.
- Volunteer Fire Assistance is an award of Federal Financial Assistance with funding from the USDA Forest Service. Prime and sub recipients to this award are subject to OMB guidance in sub parts A through F of 2 CFR Part 200 as adapted and supplemented by the USDA in 2 CFR Part 400. Adaption by USDS of the OMB guidance in 2 CFR 400 gives regulatory effect to OMB guidance in 2 CFR 200 where full text may be found.
- The brochure, Complying with Civil Rights, FS-850, can be found here: https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd526908.pdf.
- The OMB Circulars are available on the internet at www.ecfr.gov.

If an application was not fully successful do not be discouraged and continue to apply every year by submitting a complete online application package by the deadline.

Sincerely,

Sarah Saarloos

Sarah Saarloos, Fire Staff Officer

2021 VFA Grant Awards

Fire Department	Amount Requested	Amount Awarded	Division of Forestry Office
Delta Junction VFD	$4,990.25	$4,972.27	Delta Area Office
Rural Deltana VFD	$4,972.50	$4,972.50	Delta Area Office
Chena-Goldstream Fire & Rescue	$5,000.00	$5,000.00	Fairbanks Area Office
City of Anderson	$4,998.63	$4,998.63	Fairbanks Area Office
McKinley VFD	$4,961.02	$4,961.02	Fairbanks Area Office
Steese Area VFD	$4,500.00	$4,500.00	Fairbanks Area Office
Tri-Valley VFD	$5,000.00	$5,000.00	Fairbanks Area Office
Anchor Point Fire & Emergency Medical Service Area	$4,998.42	$4,998.42	Kenai Kodiak Area Office
Cooper Landing VFD	$4,449.10	$4,449.10	Kenai Kodiak Area Office
Fire Protection Area No. 1 (Bayside Fire Station)	$4,500.00	$4,500.00	Kenai Kodiak Area Office
Homer VFD	$4,998.50	$4,998.50	Kenai Kodiak Area Office
Kachemak Emerg. Services	$4,986.01	$4,986.01	Kenai Kodiak Area Office
Kenai FD	$4,974.92	$4,974.92	Kenai Kodiak Area Office
Lowell Point VFD	$4,995.00	$4,995.00	Kenai Kodiak Area Office
Nikiski FD	$4,626.00	$4,626.00	Kenai Kodiak Area Office
Ninilchik Emergency Services	$4,778.80	$4,778.80	Kenai Kodiak Area Office
Seward FD	$4,979.00	$4,979.00	Kenai Kodiak Area Office
Womens Bay VFD	$4,350.06	$4,350.06	Kenai Kodiak Area Office
Butte FD	$4,970.70	$4,970.70	Mat Su Area
Caswell Lakes FSA #135	$4,988.39	$4,988.39	Mat Su Area
Chickaloon Fire Service, Inc.	$5,000.00	$0.00	Mat Su Area
Houston FD	$4,608.00	$4,608.00	Mat Su Area
Palmer Fire and Rescue	$4,875.00	$4,875.00	Mat Su Area
Sutton VFD	$3,224.00	$3,224.00	Mat Su Area
Talkeetna VFD	$5,000.00	$5,000.00	Mat Su Area
West Lakes FD	$4,885.65	$4,885.65	Mat Su Area
Willow VFD	$4,973.43	$4,973.43	Mat Su Area
Whale Pass VFD	$2,215.45	$2,215.45	Southeast Alaska
Aniak VFD	$4,590.00	$4,590.00	Southwest District
Port Alsworth VFD	$4,499.00	$4,499.00	Southwest District
Northway VFD	$4,625.00	$4,625.00	Tok Area Office
Tok VFD	$4,034.71	$4,034.71	Tok Area Office
Gakona VFD	$5,000.00	$5,000.00	Valdez-Copper River Area Office
Kennicott/McCarthy VFD	$4,997.05	$4,997.05	Valdez-Copper River Area Office
Valdez FD	$4,499.99	$4,499.99	Valdez-Copper River Area Office
GRAND TOTAL	**$164,044.58**	**$159,026.60**	

From:	Kent, Howard J (DNR)
To:	Ahlberg, Brenda
Cc:	Saarloos, Sarah (DNR); Marsh, Jon; Mathis, Robert; Bear, David
Subject:	<EXTERNAL-SENDER>RE: 2021 VFA awards
Date:	Monday, March 22, 2021 12:01:06 PM
Attachments:	image003.png

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Good morning Brenda,

It is my understanding that the 2021 VFA Grant Application submitted by Anchor Point Fire & Emergency Medical Service Area will be awarded under the Western Emergency Service Area for the amount of $4,998.42 that was applied for.

Because Anchor Point Fire & Emergency Medical Service Area and Ninilchik Emergency Services have officially combined to become one Fire Department the 2021 VFA Grant Application submitted by Ninilchik will no longer be awarded. The 2021 VFA Grant Award per Fire Department cannot exceed the $5,000.00 maximum amount. Due to the recent merge of these two Fire Departments only one could be awarded so it was decided that Anchor Point's submitted VFA Application would be the one to receive funding. Please let me know if you have additional questions or need further clarification. Thanks.

Howie Kent
Fire Management Officer
Alaska Division of Forestry
Kenai/Kodiak Area Office
42499 Sterling Highway
Soldotna, AK. 99669
907-260-4220 (Office)
907-394-2606 (Cell)

From: Ahlberg, Brenda <bahlberg@kpb.us>
Sent: Monday, March 22, 2021 10:20 AM
To: Kent, Howard J (DNR) <howard.kent@alaska.gov>
Cc: Saarloos, Sarah (DNR) <sarah.saarloos@alaska.gov>; Marsh, Jon <JMarsh@kpb.us>; Mathis, Robert <RMathis@kpb.us>; Bear, David <dbear@kpb.us>
Subject: 2021 VFA awards

Good morning Howie:
Thanks so much for your support and the recent announcement of VFA awards. May I please have an official statement acknowledging that the award $4,998.42 to Anchor Point Fire & Emergency Medical Service Area will be transferred to the new legal name Western Emergency Service Area.

Also, what are your thoughts on the Ninilchik Emergency Services award $4,778.80? Will this be issued to the volunteer nonprofit? If transferred to WESA, I'll need an official statement acknowledging this transfer too.

Smiles, B

Brenda Ahlberg
Community & Fiscal Projects Manager
Public Information Officer, MPIO, Type 1(t)
907-714-2153 direct
907-231-6505 mobile
907-714-2377 fax
bahlberg@kpb.us
https://cares.kpb.us – CARES Act Relief Fund Project Updates
www.kpb.us – Information by departments and service areas
www.kpboem.com – Updates from agencies responding to area-wide response
@Kenai.Peninsula.Borough – Facebook Page for general government topics
@KPBalerts – Facebook Page for areawide response topics
@KPBinfo – Twitter Account
@KPBalerts – Twitter Account
KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669

Introduced by:	Mayor
Date:	04/06/21
Hearing:	04/20/21
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-13

AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE OF TRACT C QUARTZ CREEK SUBDIVISION WITH KIEWIT INFRASTRUCTURE WEST COMPANY FOR PROJECT STAGING ACTIVITIES IN SUPPORT OF THE STERLING HIGHWAY MP 45-60 CONSTRUCTION PROJECT NEAR COOPER LANDING

WHEREAS, the Alaska Department of Transportation & Public Facilities **(“**DOT&PF” is actively working on the Sterling Highway MP 45-60 construction project near Cooper Landing; and

WHEREAS, the borough owns Tract C Quartz Creek Subdivision (Tract C) at the east end of the project; and

WHEREAS, Kiewit Infrastructure West Company (KIWC) is a Construction Manager/General Contractor for DOT&PF on the Sterling Highway MP45-60 project; and

WHEREAS, KIWC has identified Tract C as being a practical and important location for project staging activities; and

WHEREAS, Tract C is classified as Commercial, and development of the parcel for project staging is compatible with the commercial land classification; and

WHEREAS, land management has worked with project officials to develop an agreement involving borough lands and resources based on project needs; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of April 12, 2021 recommended approval by unanimous consent;

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

SECTION 1. That the assembly finds that leasing Kenai Peninsula Borough owned Tract C Quartz Creek Subdivision pursuant to KPB 17.10.100(I) is in the best interest of the borough.

SECTION 2. That the provisions of KPB 17.10.080-090 and KPB 17.10.110-240 governing classification, disposition, and leasing of borough lands and related natural resources shall not apply to this lease to Kiewit Infrastructure West in cooperation with the Sterling Highway MP 45-60 project.

SECTION 3. Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) to lease Tract C Quartz Creek Subdivision, Plat No 94-11 Seward Recording District, according to the terms and conditions and substantially in the form of the Land Lease and Development Agreement accompanying this ordinance. The authorization is for lease solely to Kiewit Infrastructure West Company (KIWC), and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

SECTION 4. The mayor is authorized to execute a lease substantially similar to the Lease Agreement form approved by the assembly.

SECTION 5. KIWC shall have 90 days from the time of enactment of this ordinance to execute the lease document.

SECTION 6. That revenue from the subject lease shall be deposited in the Land Trust Fund.

SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Land Lease and Development Agreement

KPBL# 21-0501-02

The Kenai Peninsula Borough (KPB), an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (hereinafter "KPB" or "Lessor") and Kiewit Infrastructure West Co. (KIWC), whose address is 2000 W. International Airport Rd. C-6 (hereinafter "KIWC" or "Lessee") enter into this Land Lease Development Agreement and agree as follows:

I. Background; Contract Documents; Authorized Contact; Definitions

1. **Background**. The KPB owns certain real property located in the Kenai Peninsula Borough, in the state of Alaska, that is more particularly described as Tract C Quartz Creek Subdivision, Plat No 94-11, Seward Recording District (the "Property")., The parties intend that for good and valuable consideration KPBI grants KIWC the right to develop and use the Property for the purposes of Sterling Highway MP45-60 project operations including staging and housing equipment, personnel or resources, and processing construction materials in accordance with the terms and conditions of this Agreement and all attachments hereto. KIWC agrees that it will conduct its use and operations according to the terms and conditions contained in This Agreement for purposes integral to the Alaska Department of Transportation & Public Facilities' ("DOT&PFs") Sterling Highway MP45-60 Project near Cooper Landing, Alaska.

2. **Authorized Contact.** All communications about This Agreement shall be directed as follows. Any reliance on a communication with a person other than those listed below is at the party's own risk. KPB staff do not have authority to bind the KPB. Any material amendments or changes to The Agreement must be approved by the KPB Assembly by ordinance.

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

3. **Contract Documents**. As authorized by the Borough Assembly, this Lease and Development Agreement, and incorporated contract agreements, together form the entire agreement ("Agreement"). Collectively, the Agreement is the final and complete agreement and understanding of the parties. The following agreements or attachments, are attached to, incorporated herein by reference, and together form the Agreement:

    i. Lease and Development Agreement
    ii. Attachment 1: Survey Plat of Tract C, Quartz Creek Subdivision
    iii. Attachment 2: Lease Provisions Required by KPB 17.10

iv. Attachment 3: Clearing Plan
v. Attachment 4: Tract C Lease Application

If in conflict, the Lease and Development Agreement shall control.

4. **Definitions.**

4.1. Agreement - the final and complete agreement of the parties and shall encompass the Lease and Development Agreement and all Attachments to the Lease and Development Agreement that are incorporated by reference.

4.2. Environmental Assessment - An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of property and the presence, type, concentration, and extent of any Contamination in, on, and under the surface of the property.

4.3. Environmental Law - Any federal, state, or local statute, law, regulation, ordinance, code, Lease, order, decision, or judgment from a governmental entity relating to environmental matters, including littering and dumping. It includes, as applicable, 42 U.S.C. 7401-7671 (Clean Air Act); 33 U.S.C. 1251-1387 (Federal Water Pollution Control Act);42 U.S.C. 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); S.C. 5101-5127 (Hazardous Materials Transportation Act); 15 U.S.C. 2601-2692 (Toxic Substances Control Act); AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); and the provisions of 18 AAC (Environmental Conservation) implementing AS 46.

4.4. Environmental Liability Baseline - A description, accepted by the Lessor and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of Contamination in, on, or under the surface of the Property that was neither caused nor Materially Contributed To by the Lessee, nor assumed by the Lessee by reason of assignment.

4.5. Lessee – Kiewit Infrastructure West Co., or KIWC.

4.6. Lessor - Kenai Peninsula Borough or KPB.

4.7. Project - DOT&PF's Sterling Highway MP45-60 Project.

4.8. Property –Real Property legally described as Tract C Quartz Creek Subdivision, Plat No 94-11, Seward Recording District

4.9. Site Development Materials - Materials used for Site Development. Site Development Materials includes geotextile, gravel, paving, pavement reinforcement materials, and utilities.

II. Leased Property Description; Term; Rent

5. **The Property**. The KPB leases to KIWC and KIWC leases from the KPB, 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:

> Tract C Quartz Creek Subdivision, Plat No 94-11 Seward Recording District., State of Alaska.

6. **Term.**
   - 6.1. 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.
   - 6.2. Renewal Term(s). Unless notice of non-renewal is provided prior to expiration of the Initial Term or KIWC is otherwise in breach of this Agreement, the Agreement may be automatically renewed by KIWC for one additional 1-year Renewal Term on the same rent schedule as the initial term.
7. **Rent.**
   - 7.1. Surface Use Rent ("Rent"). The Rent for the use of the Property is Thirty five thousand six hundred forty dollars ($35,640) per year payable on the commencement date of the Agreement and each anniversary thereof. This Rent shall increase annually at 3% per annum.

III. Uses; Reservation of Rights by KPB

8. **Authorized Uses**. The Agreement is entered into for the use of the Property for the following authorized uses:
   - 8.1. Subject to Section 12 below, Rights Reserved by KPB, KIWC shall have exclusive surface use and possession of the Property. The surface uses shall be governed by this Agreement. Surface uses include, but are not limited to, staging and housing 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- Tract C Lease Application.
   - 8.2. Subject to reclamation obligations, KIWC 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. KIWC shall conserve topsoil on site and maintain such material available for site reclamation at the end of the Agreement.

9. **Prohibited Uses**. Under this Agreement, the following uses on the Property are prohibited:
   - 9.1. Installing permanent structures;

9.2. Storage of bulk fuel. Bulk fuel is defined as storage of 25,000 Gallons or more fuel.

10. **Vegetated Buffers/ Clearing Plan.** Uses 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 KIWC's development and use under this agreement. No further clearing or expansion of use into vegetated areas will take place unless approved by KPB in writing. Vegetated areas may be incorporated into KIWC's storm water management practices. Individual trees within the vegetated buffer that are a substantial hazard risk may be removed by KIWC as necessary without changing the buffer status.

11. **Site Closure.**
    11.1. 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.
    11.2. 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.
    11.3. 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.

12. **Rights Reserved by KPB.**
    12.1. The KPB reserves a 60 foot x 60 foot area on the Property ("Reserved Area"), the exact location is subject to mutual agreement of the parties hereto, for the purposes of siting a communications facility (tower) on the Property. This reservation includes the exclusive right to grant to a third party the right, license and privilege to site, construct, install, and maintain a communications site (tower) or to place commercial communications equipment on the Property and includes ingress and egress rights. This provision is subordinate to the rights and privileges granted under this Agreement

and shall not unreasonably interfere with KIWC's authorized use of the Property or limit KIWC from installing non-commercial communications equipment for the project.

12.2. The KPB reserves the right of ingress and egress from the Property, and the right to enter any part of the Property for the purposes of inspection at any reasonable time subject only to the KPB's best efforts, except in the case of an emergency, to coordinate its inspection with the KIWC to minimize interference with the KIWC's operations and activities on the Property.

IV. Cancellation, Expiration or Other Termination

13. **Cancellation.**

13.1. This Agreement may be cancelled by KIWC by 90-days written notice to KPB, provided that KIWC is in good standing with the terms and conditions of the lease.

13.2. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

13.3. Rent will be prorated to the partial term in the case of early cancellation.

14. **Lessee Default.**

14.1. If KIWC violates a term of the Agreement and the KPB considers that term to be a material obligation of the Agreement, or the violation to be a material deviation from the requirements of the Agreement, the KPB will mail or deliver to KIWC a written notice of the violation. The notice must allow KIWC not less than sixty (60) days to correct the violation, unless the violation constitutes an imminent threat to public health or safety.

14.2. If the KIWC does not correct the violation by the time allowed in the notice, the KPB shall:

a. grant an extension of time to correct the violation if KIWC shows good cause;
b. take enforcement action as provided under this Agreement or as available by law; or
c. cancel this Agreement.

14.3. If the KPB determines that a violation creates an imminent threat to public health or safety, the KPB shall:

a. Direct KIWC to stop the activity immediately
b. Provide KIWC less time than otherwise specified in the Agreement to correct the violation; or
c. Correct the violation.

14.4. Without limitation, the following shall be deemed either violations of material obligations of this Agreement or material deviations from the requirements of the Agreement:

a. KIWC fails to pay when due any rent, charge, or fee or royalty specified in the Agreement, including any increase made under this Agreement ;
b. KIWC blocks or restricts KPB or its Contractor's access to the Property in violation of Section 11 above;
c. KIWC is otherwise found to be in violation of State or Federal law.

15. **Waiver**.
    15.1. A waiver by the KPB of any default by KIWC of any provision of this Agreement will not operate as a waiver of any subsequent default. If the KPB waives a default, the KPB is not required to provide notice to KIWC to restore or revive any provision under this Agreement. The waiver by the KPB of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the KPB.
    15.2. The KPB's failure to insist upon the strict performance by KIWC of any provision in this Agreement is not a waiver or relinquishment for the future, and the provision will continue in full force.

16. **Disposition of Improvements and Personal Property**. All temporary improvements and personal property of KIWC shall be removed by KIWC, at its sole expense, within ninety (90) days of cancellation, termination, or expiration of the Agreement.

17. **Disposition of Site Development Materials.** Site Development Materials that KIWC completes or places on the Property become part of the KPB-owned realty and property of the KPB upon completion or placement. KIWC may not remove the Site Development Materials unless the KPB approves in writing.

18. **Natural Disasters.** If the parties agree in writing that the Property is unusable, not due to the fault or negligence of either party, to the extent that performance of this Agreement is impossible, this Agreement may be terminated. If KIWC elects to continue to operate, the KPB is under no obligation to continue to perform. Causes for termination under this provision include, but are not restricted to, acts of God, fires, floods, epidemics, quarantine restrictions, earthquakes, landslides, mudslides, avalanches, tsunami, or volcanic activity.

19. **National Emergency.** If the federal government declares a national emergency, neither party may hold the other liable for any inability to perform any part of this Agreement as a result of the national emergency.

20. **Survival.**
    20.1. At the expiration, cancellation, or other termination of this Agreement, the KIWC shall peaceably and quietly vacate the Property and return possession to the KPB.
    20.2. KIWC's obligations under the following provisions of this Agreement shall survive and remain binding on KIWC after the expiration, cancellation, or other termination of the Agreement:
        a. Section 7 – Rent – of the Agreement;
        b. Section 14 – Disposition of Improvements and Personal Property – of the Agreement;
        c. Sections 19 through 24 – Environmental Issues – of this Agreement; and
        d. All terms related to Reclamation of the Property under Attachment 1 – material Extraction and Disposal Terms & Conditions.

V. Environmental Issues

21. Environmental Liability Baseline

21.1. Responsibility for Ascertaining Environmental Condition of Property. The Lessee has the sole responsibility under this Agreement to ascertain the environmental condition and presence of Contamination in, on, and under the surface of the Property, and is conclusively presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Property except as identified in an Environmental Liability Baseline. If known Contamination is on the property that has been closed out under alternate cleanup levels approved by ADEC, Lessee is responsible for following all restrictions set by ADEC, including, but not limited to notifying any assignee of this Agreement in writing of ADEC's restrictions.

21.2. Financial Responsibility for Contamination on the Property and on any Affected Property. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Property, except for Contamination that is identified in an Environmental Liability Baseline. This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Property, or other potentially responsible parties except for the Lessor.

21.3. Establishing an Environmental Liability Baseline.

a. If the Lessee wants to establish an Environmental Liability Baseline for all or any portion of the Property, the Lessee shall provide the Lessor with an Environmental Assessment for that portion of the Property.

b. If the Lessee discovers Contamination in, on, or under the surface of the Property, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate by clear and convincing evidence to the satisfaction of the Lessor that the Contamination proposed for inclusion was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities nor assumed by the Lessee. Contamination caused or Materially Contributed to by activities of the Lessee's sublessees, contractors, and guests on the Property are deemed to be Materially Contributed To by the Lessee.

c. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities shall be included in the Environmental Liability Baseline.

21.4. Adding to an Existing Environmental Liability Baseline.

a. If, after an Environmental Liability Baseline is established for any portion of the Property the Lessee discovers Contamination in, on, or under the surface of that portion of the Property having an Environmental Liability Baseline, which Contamination the Lessee or the Lessee's operations or activities did not cause or Materially Contribute To, and which the Lessee did not assume by reason of assignment, the Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Lessor for the Lessor's consideration to add to the Environmental Liability Baseline. The Lessee's additional Environmental Assessment must demonstrate by clear and convincing evidence to the satisfaction of the Lessor which portion of the additional Contamination on the Property was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities may be added to the existing Environmental Liability Baseline.

21.5. Lessor's Acceptance or Rejection of Lessee's Environmental Assessment. When the Lessor receives the Lessee's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Lessor, in its sole discretion, will do one of the following:

a. Accept the findings of the Lessee's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that portion of the Property being assessed or to add to the existing Environmental Liability Baseline.

b. Reject the findings of the Lessee's Environmental Assessment for that portion of the Property being assessed and offer the Lessee the opportunity to perform additional environmental testings if the Lessor determines in writing that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Lessor's written rejection of the Lessee's Environmental Assessment will be based on failure of the Lessee's Environmental Assessment to either:

(1) follow generally accepted professional practices in determining the environmental condition of the Property and the presence of Contamination in, on, or under the surface of the Property; or

(2) demonstrate the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities.

c. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Property being assessed. If the results of the Lessor's tests conflict with the Lessee's Environmental Assessment, the Lessor and the Lessee will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for that portion of the Property being assessed.

21.6. Amending the Environmental Liability Baseline to Delete Contamination Caused, Materially Contributed to, or Assumed by Lessee

a. If, after the Environmental Liability Baseline for any portion of the Property is established, it is discovered that the presence of Contamination identified in the Environmental Liability Baseline was caused or materially contributed to by the Lessee or the Lessee's operations or activities, or assumed by the Lessee by reason of assignment, the Environmental Liability Baseline may be amended to delete that portion of the Contamination that was caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. The Lessor will have the burden of proof in establishing that the Lessee or the Lessee's operations or activities caused or Materially Contributed to this Contamination.

c. If it is discovered that Contamination identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, the parties will agree upon an amendment to the Environmental Liability Baseline within a reasonable time.

22. **Release of Lessee.** The Lessor releases the Lessee from liability to the Lessor for Contamination identified by the Environmental Liability Baseline that was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

23. **Required Remediation**. The Lessor is under no obligation to remediate Contamination identified in an Environmental Assessment, except the Lessor shall remediate, or have responsible parties remediate, the Contamination identified in the Environmental Liability Baseline if an agency with such authority requires the Lessee or Lessor to remediate. In the event of such required remediation, the Lessor will make a reasonable effort to coordinate the remediation with the Lessee to minimize disruption of the Lessee's operations or activities and damage to the Lessee's improvements and property. The Lessee releases and holds the Lessor harmless for all costs associated with any damage to, and relocation, removal, and repair of Lessee's improvements and property that result from remediation performed in compliance with this paragraph with respect to Contamination that existed before construction of affected improvements.

24. **Action Against Potentially Responsible Parties**. This article does not restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties for Contamination identified in the Environmental Liability Baseline.

VI. Additional Terms and Conditions

25. **Defense and Indemnification.** To the extent allowed by law and subject to legislative appropriation of available funds, the parties shall mutually indemnify, defend, save and hold each other, including their elected and appointed officers, agents and employees, as applicable, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees resulting from either parties' performance or failure to perform in accord with the terms of the Agreement in any way whatsoever. This defense and indemnification shall not mean that a party is responsible for any damages or claims arising from the sole negligence or willful misconduct of the other party, its agents or employees. Each party is solely responsible for damages or claims arising from their sole negligence or willful misconduct.

26. **Insurance.** It is understood that both parties to the Agreement are self-insured at adequate and acceptable to both parties. However, any contractors or subcontractors that use or perform work at the Property shall maintain the following insurance coverages:
    26.1. Commercial General Liability Insurance (CGL). All Contractors and subcontractors of any tier shall provide and maintain, Commercial General Liability Insurance (CGL). The CGL Policy shall be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from Property, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion,

collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as an Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.

26.2. Worker's Compensation, Employer's Liability Insurance. Contractor and subcontractor(s) of any tier shall provide and maintain, for all of its employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than the minimum amounts required by law. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.

26.3. Auto Liability. Contractor and subcontractor(s) of any tier shall provide and maintain, Auto Liability Insurance (ALI). The Auto Liability Policy shall include a Combined Single Limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.

26.4. Proof of Coverage. All insurance shall be primary and exclusive of any other insurance held by the KPB. Upon renewal of insurance coverage during the license, certificates of insurance shall be delivered to the KPB. KIWC on behalf of its contractors shall deliver, within 30 days, complete insurance coverage policy documents to the KPB upon request.

27. **Assignments.** The Agreement is not assignable.

28. **Subleasing.** KIWC may not sublease the Property or any part thereof without written permission of the KBP Mayor when applicable. A sublease shall be in writing and subject to the terms and conditions of this Master Lease.

29. **Waste.** KIWC shall not commit waste upon or injury to the lands leased herein.

30. **Fire Protection.** KIWC shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property, and comply with all laws, regulations, and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

31. **Safety.** KIWC shall be solely responsible for maintaining the Property in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the Property as needed for KIWC's use of the Property. KIWC is responsible for the safety of all persons conducting activities on the Property under the Agreement.

32. **Sanitation.** KIWC shall comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property shall be kept in a clean and sanitary condition and

every effort shall be made to prevent pollution of the waters and lands. Sanitary facilities shall be in accordance with the State of Alaska, Department of Environmental Conservation regulations.

33. **Compliance with Laws.** KIWC shall abide by all applicable federal, state, city, and borough statutes, ordinances, rules, and regulations. KIWC is responsible for obtaining all federal, state, and local permits applicable to licensee's activities and shall keep such permits in good standing.

34. **Responsibility of Location.** It shall be the responsibility of KIWC to properly locate itself and its improvements on the Property.

35. **Liens and Mortgages**. KIWC shall not cause or allow any lien or encumbrance of any kind or nature whatsoever to attach to the Property during the term of the Agreement. In the event that any prohibited lien is placed against the Property, KIWC shall immediately cause the lien to be released.

36. **No Warranty, Express or Implied.** The KIWC accepts the Property AS-IS, WHERE-IS. The Agreement shall be without warranty whatsoever, whether implied or expressed, as to quality, fitness for purpose or suitability for development, or physical condition (including, without limitation the environmental condition of the property). It is the responsibility of the KIWC to satisfy itself prior to executing the Agreement and/or prior to closing as to the type, condition, and quality of the Property.

37. **Jurisdiction.** Any lawsuits filed in connection with the terms and conditions of the Agreement, and of the rights and duties of the parties, shall be filed and prosecuted at Kenai, Alaska and shall be governed by Alaska law, without regard to conflict of law principles.

38. **Savings Clause.** Should any provision of the Agreement fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of the Agreement or constitute any cause of action in favor of either party as against the other.

39. **Binding Effect.** It is agreed that all covenants, terms, and conditions of the Agreement shall be binding upon the successors, heirs and assigns of the parties hereto.

40. **Integration and Merger.** The Agreement sets out all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Property whether oral or written. Unless specifically authorized within a provision, no modification or amendment of the Agreement is effective unless in writing and signed by both of the parties.

41. **Warranty of Authority.** KIWC warrants that the person executing the Agreement is authorized to do so on behalf of KIWC.

42. **Counterparts.** The Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

43. **Quiet Enjoyment.** During the term of the Agreement, KIWC will have quiet enjoyment of the Property subject to the terms and conditions stated in the Agreement.

44. **Interpretation.** Both parties have had an opportunity to review the Agreement, to suggest changes, and to consult with legal counsel before signing. The Agreement will not be interpreted in favor of or against either Party.

LESSOR:

Kenai Peninsula Borough

By: Charlie Pierce
Its: Mayor
Date: _____

LESSEE:

Kiewit Infrastructure West, Co.

By: _____
Its: _____
Date: _____

ATTEST:

_____
Johni Blankenship, MMC, Borough Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
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 of the 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: _____

KIWC 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 _____, Kiewit Infrastructure West, Co., and who acknowledged to me that the foregoing instrument was executed freely and voluntarily on behalf of Kiewit Infrastructure West, Co., for the uses and purposes therein set forth and who is authorized by said company to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year written above.

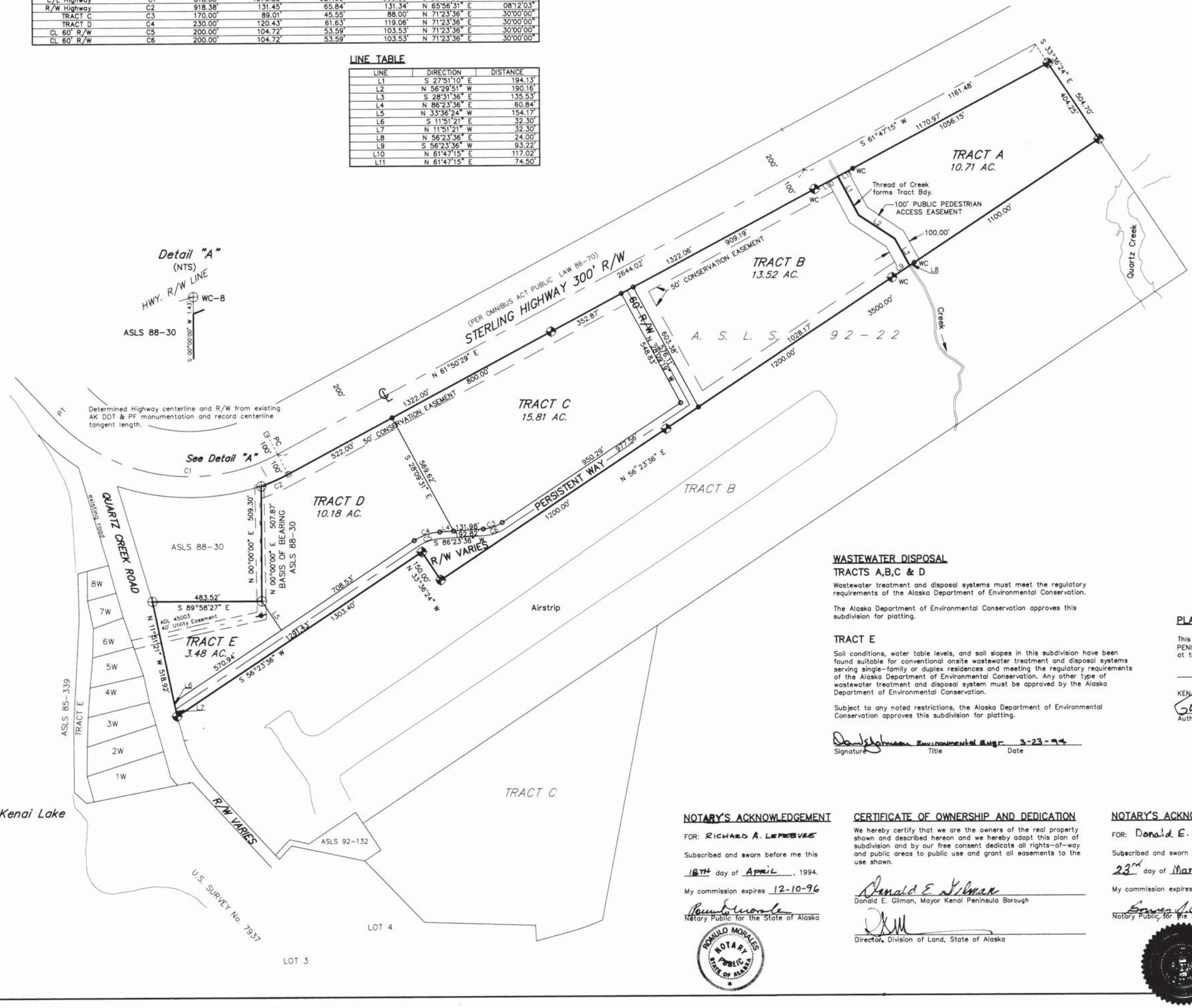
_____
Notary Public in and for Alaska
Commission Expires:_____

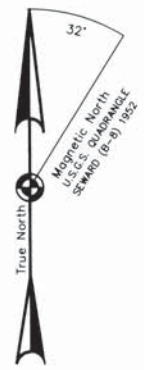
CURVE TABLE

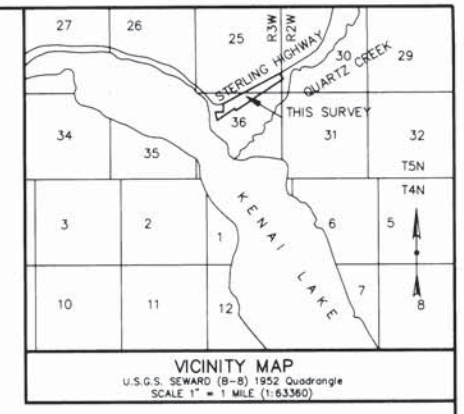
LOT	CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C/L Highway	C1	818.38'	1070.80'	627.60'	996.03'	S 80°40'29" E	74°58'04"
R/W Highway	C2	918.38'	131.45'	65.84'	131.34'	N 65°56'31" E	08°12'03"
TRACT C	C3	170.00'	89.01'	45.55'	88.00'	N 71°23'36" E	30°00'00"
TRACT D	C4	230.00'	120.43'	61.63'	119.06'	N 71°23'36" E	30°00'00"
CL 60' R/W	C5	200.00'	104.72'	53.59'	103.53'	N 71°23'36" E	30°00'00"
CL 60' R/W	C6	200.00'	104.72'	53.59'	103.53'	N 71°23'36" E	30°00'00"

LINE TABLE

LINE	DIRECTION	DISTANCE
L1	S 27°51'10" E	194.13'
L2	N 56°29'51" W	190.16'
L3	S 28°31'36" E	135.53'
L4	N 86°23'36" E	60.84'
L5	N 33°36'24" W	154.17'
L6	S 11°51'21" E	32.30'
L7	N 11°51'21" W	32.30'
L8	N 56°23'36" E	24.00'
L9	S 56°23'36" W	93.22'
L10	N 61°47'15" E	117.02'
L11	N 61°47'15" E	74.50'







VICINITY MAP
U.S.G.S. SEWARD (B-8) 1952 Quadrangle
SCALE 1" = 1 MILE (1:63360)

LEGEND

- PRIMARY MONUMENT RECOVERED THIS SURVEY
- SECONDARY MONUMENT RECOVERED THIS SURVEY
- AK DOT & PF 6" x 6" CONC. R/W MONUMENT RECOVERED THIS SURVEY
- PRIMARY MONUMENT SET THIS SURVEY
- SECONDARY MONUMENT SET THIS SURVEY
- 1/2" REBAR WITH PLASTIC CAP.

NOTES

1) Water supply and sewage disposal systems shall be permitted only in conformance with applicable requirements of 18 AAC 70, 18 AAC 72, and 18 AAC 80.

2) No direct access to state maintained ROWS permitted unless approved by State of Alaska Department of Transportation.

3) No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.

4) BUILDING SET BACK – A building set back of 20 ft. is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.

WASTEWATER DISPOSAL

TRACTS A,B,C & D

Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

The Alaska Department of Environmental Conservation approves this subdivision for platting.

TRACT E

Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Alaska Department of Environmental Conservation. Any other type of wastewater treatment and disposal system must be approved by the Alaska Department of Environmental Conservation.

Subject to any noted restrictions, the Alaska Department of Environmental Conservation approves this subdivision for platting.

Signature Title Date

PLAT APPROVAL

This plat was approved by the KENAI PENINSULA BOROUGH PLANNING COMMISSION at the meeting of December 13, 1993.

KENAI PENINSULA BOROUGH by

Authorized Official

STATE OF ALASKA
49TH
M. SCOTT McLANE
4928-S
REGISTERED PROFESSIONAL LAND SURVEYOR

94-11
RECORDED
SEWARD REC. DIST.
DATE 5/5 19 94
TIME 3:34 P.M.
REQUESTED BY McLANE & ASSOC.
ADDRESS P.O. BOX 468
SOLDOTNA, AK 99669

SCALE

FEET 0 50 200 300 500 700 900
METERS 25 50 100 200 250

1 METER = 3.280833 U.S. SURVEY FEET 1 U.S. ACRE = 0.4047 HECTARE

NOTARY'S ACKNOWLEDGEMENT

FOR: RICHARD A. LEFEBVRE

Subscribed and sworn before me this 18TH day of APRIL, 1994.

My commission expires 12-10-96

Notary Public for the State of Alaska

ROMULO MORALES NOTARY PUBLIC STATE OF ALASKA

CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of the real property shown and described hereon and we hereby adopt this plan of subdivision and by our free consent dedicate all rights-of-way and public areas to public use and grant all easements to the use shown.

Donald E. Gilman, Mayor Kenai Peninsula Borough

Director, Division of Land, State of Alaska

NOTARY'S ACKNOWLEDGEMENT

FOR: Donald E. Gilman

Subscribed and sworn before me this 23rd day of March, 1994.

My commission expires 7/22/97

Notary Public for the State of Alaska

QUARTZ CREEK SUBDIVISION
(A Resubdivision of Tract A ASLS 92-22)

KENAI PENINSULA BOROUGH, OWNER
144 N. Binkley
Soldotna, AK 99669

LOCATION

58.814 AC. M/L WITHIN UNSURVEYED SEC. 30, T. 5 N., R. 2 W., AND UNSURVEYED SEC.'S 25 & 36, T. 5 N., R. 3 W., S.M., AK, THE KENAI PENINSULA BOROUGH IN SEWARD RECORDING DISTRICT.

Surveyed by : McLANE & ASSOCIATES
P.O. BOX 468
Soldotna, AK 99669

Date :	Book No. :	Project No.
Nov. 29, 1993	92-08	922018p
Drawn by : Checked by : MSM	Scale 1" = 200'	KPB File No. 93-185

ATTACHMENT 2
LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current**. The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment**. Lessee may assign the lands upon which Lessee has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement**. In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the borough may cancel the Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation**. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry**. In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection**. The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste**. The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification**. The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice**. Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default**. Notice of the default will be in writing as provided in paragraph 9 above.

(11) **Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.**

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or Lessee's successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed**. Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent**. In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location**. It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder**. In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation**. The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

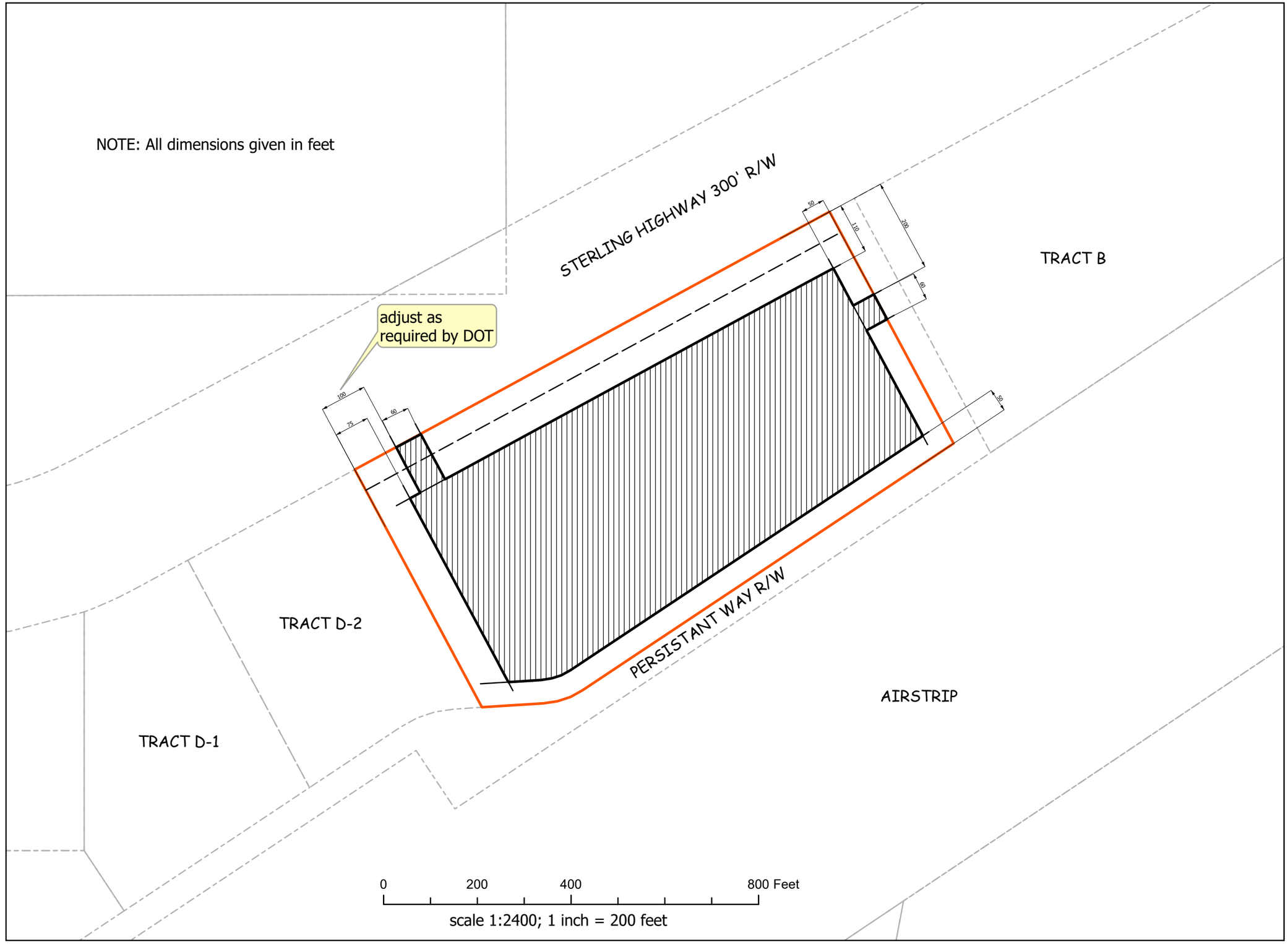
(17) **Shore Land Public Access Easement**. As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Subleasing**. No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

(19) **Violation**. Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(20) **Written Waiver**. The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

NOTE: All dimensions given in feet



N

Legend

- Clearing Limits
- TRACT C
- Parcels

LEGAL DESCRIPTION:

T 5N R 3W SEC 36 SEWARD MERIDIAN SW 0940011
QUARTZ CREEK SUB TRACT C

Attachment 3
Clearing Plan

Proposed Clearing Limits for LMD 20-17.

Permittee: Kiewit Infrastructure

-KPB Land Management
9/23/2020

LAND MANAGEMENT
KENAI PENINSULA BOROUGH

Project Number:
OA33028/CFHWY00684
Date: 1/20/2021

Sterling Highway MP 45-60 Sunrise to Skilak Lake Rd Phases 2-5 CM/GC

Tract C Lease Application

ATTACHMENT 4 to Lease Agreement

Prepared For:

Kenai Peninsula Borough Land Management Division

Prepared By:
Kiewit Infrastructure West Co.
2000 W. International Airport Rd. C-6
Anchorage, AK 99502

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Acronyms and Abbreviations

ADOT&PF	Alaska Department of Transportation & Public Facilities
KIWC	Kiewit Infrastructure West Co.
KPB	Kenai Peninsula Borough
SWPPP	Storm Water Polution Prevention Plan
APDES	Alaska Pollutant Discharge Elimination System
SPCC	Spill Prevention Control and Countermeasure
HMA	Hot Mix Asphalt

Introduction

KIWC proposes a negotiated lease of Tract C.

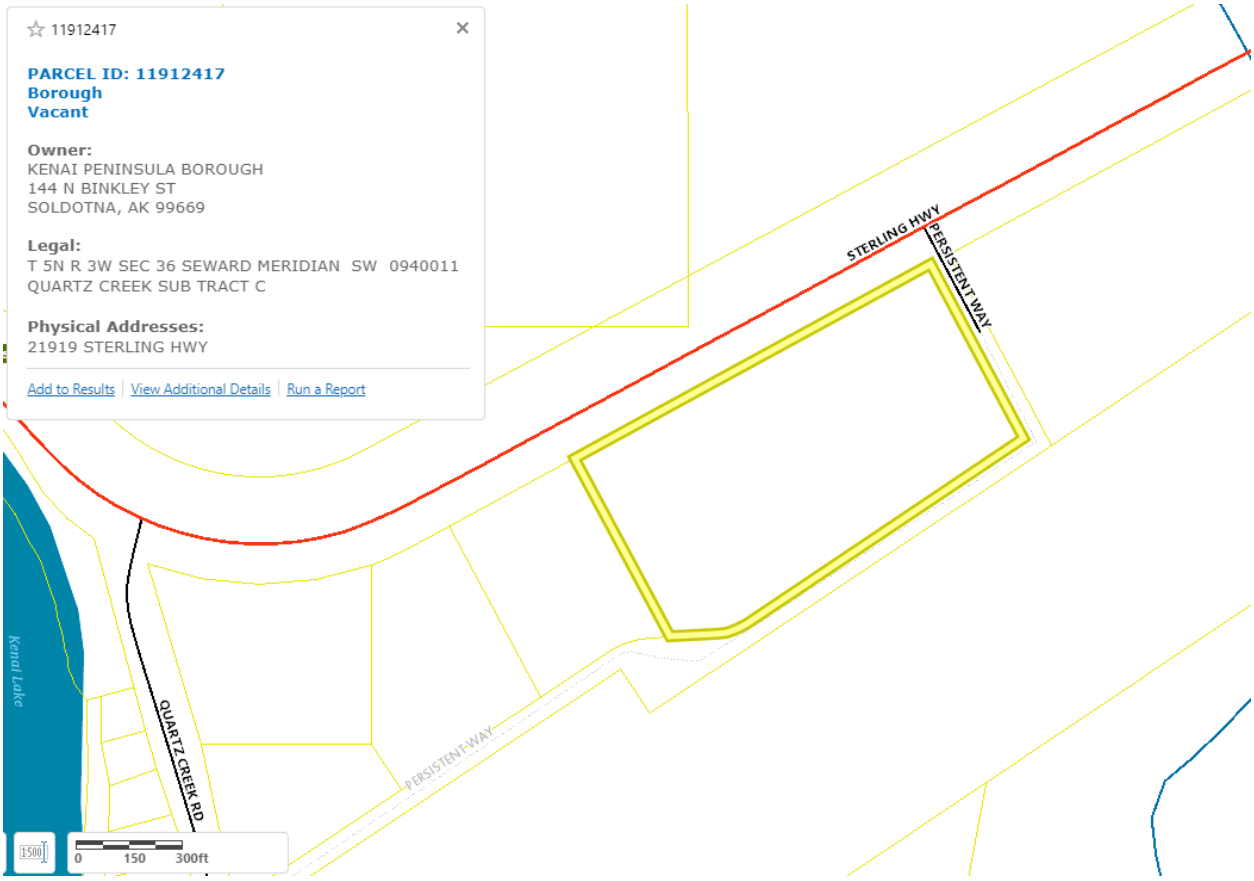
The parcel known as Tract C is described as the following:

Legal Description: T 5N R 3W SEC 36 SEWARD MERIDIAN SW 0940011 QUARTZ CREEK SUB TRACT C

Physical Address: 21919 Sterling Hwy

Tax Parcel ID: 11912417

Acreage: 15.81 Acres



The proposed primary use for this parcel under the negotiated lease is to develop a temporary project field office; and temporary materials and equipment laydown area to facilitate construction activities for the Sterling Highway MP 45-60 Sunrise to Skilak Lake Rd Phases 2-5 CM/GC Project for AKDOT&PF.

The proposed term for the negotiated lease is April 2021 until the highway project competion. The project is anticipated to be completed by the end of year 2025.

Existing Improvements

Under existing KPB Land Use Permit LMD 20-17, KIWC has completed 10.8 Acres of timber clearing and salvage; and soil sampling at Tract C during the week of November 16th, 2020. The current condition of the parcel is shown in the photo below.

Figure 1 - Site Photo 11/20/2020

A copy of Land Use Permit LMD 20-17 is attached.

Prior to the work performed in 2020 under the land use permit, the parcel existed as a wooded lot with a paved driveway apron access at the intersection of Persistence Way and Sterling Hwy leading to a single lane gravel road.

Proposed Permanent Improvements and Temporary Structures

During the lease, KIWC proposes to develop Tract C to be a working field office. Site work including utility installation and earthwork will be required to facilitate access and installation of the temporary office structures. A portion of this work may be considered permanent improvement for integration into the future development plan.

Proposed permanent improvements include the following:

- Utility Installation
  - Electric Service (Chugach Electric Association Inc.)
  - Phone Service (TelAlaska)
  - Leach Field Sewage System
  - Potable Drinking Water Well System
- Site Earthwork
  - Grubbing
  - Drainage
  - Grading and placing gravel for a driveable working surface

The preliminary plan for the site is shown below in Figure 2. This plan includes several temporary structures that are planned to be removed by the end of the lease term.

Proposed temporary structures include the following examples:

- Job office - consisting of mobile trailer units
- Area Lighting
- Fencing and Entrance Gates
- Hot Mix Asphalt (HMA) Plant
- Concrete Batch Plant
- Bathroom facilities
- Parking area
- Secondary Access to Sterling Hwy
- Materials testing lab
- Maintenance facility
- Fuel Storage

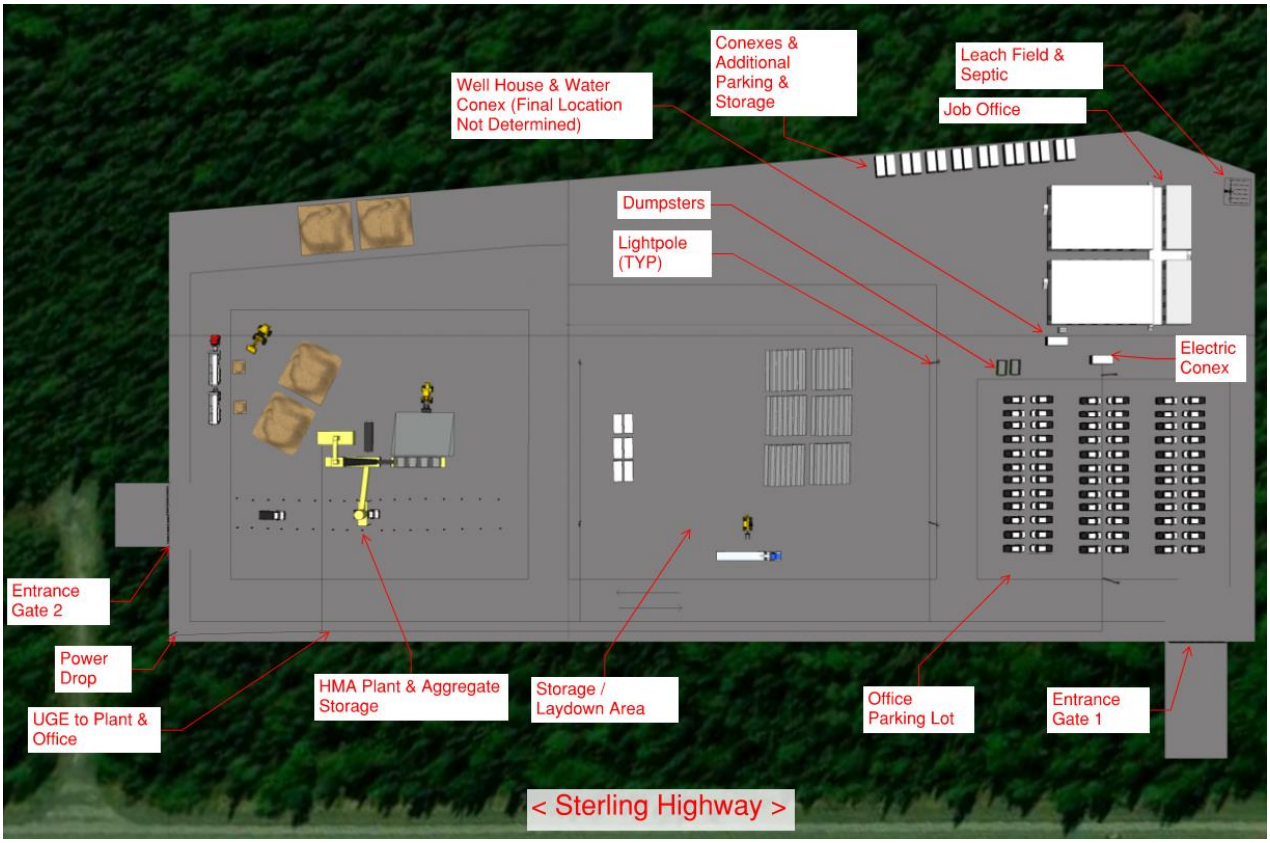


Figure 2 - Preliminary Site Layout

Plan for Future Use

KIWC intends to cooperate with KPB's future development plan for Tract C. Engineering resources will be available.

SWPPP and SPCC

The site work at Tract C including ground disturbing work, will be performed and maintained in adherence with the APDES Construction General Permit (CGP) and the project SWPPP and SPCC Plan programs for the duration of the lease. Documentation for this program will be located at the project office. Reporting of spills or discharges will follow the protocols listed in the program.

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MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP
Melanie Aeschliman, Planning Director MA

FROM: Marcus A Mueller, Land Management Officer

DATE: March 25, 2021

RE: Ordinance 2021-13, Authorizing a Negotiated Lease of Tract C Quartz Creek Subdivision with Kiewit Infrastructure West Company for Project Staging Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

Kiewit Infrastructure West Company (KIWC) is a construction manager/ general contractor for Alaska Department of Transportation's Sterling Highway MP 45-60 project near Cooper Landing. A 16-acre KPB-owned parcel at the east end of the project has been identified by Kiewit for project staging.

Proposed staging uses include building a durable pad, installing utilities, a well and septic system to house and stage project offices, personnel, resources, supplies and equipment and to operate an asphalt batch plant.

KPB Land Management worked with KIWC last fall through a land use permit to conduct clearing activities while leaving a vegetated buffer around the property, in anticipation of the lease proposal. The cleared area would be available for the development and use proposed by Kiewit under the lease.

The lease would have a 5-year term, which corresponds to DOT's construction schedule, and would provide for a one-year renewal option at a rent of $35,640 per year with a 3% annual increase. The lease is proposed to start on May 1st to meet the 2021 construction schedule.

Your consideration is appreciated.

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director

DATE: April 13, 2021

RE: ORIDINANCE 2021-13: AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE OF TRACT C QUARTZ CREEK SUBDIVISION WITH KIEWIT INFRASTRUCTURE WEST COMPANY FOR STAGING IN SUPPORT OF THE STERLING HIGHWAY MP 45-60 CONSTRUCTION PROJECT NEAR COOPER LANDING

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled March 15, 2020 meeting.

A motion passed by unanimous vote (9-Yes, 0-No, 2-Absent) to recommend approval of Ordinance 2021-13.

In the ordinance, please amend the last WHEREAS statement:

> WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting April 12, 2021 recommended approval by unanimous vote.

Attached are the unapproved minutes of the subject portion of the meeting.

April 12, 2021 Planning Commission Draft Meeting Minutes

AGENDA ITEM E NEGOTIATED LEASE

6. Ordinance 2021-14: Authorizing a Negotiated Lease with Alaska Department of Transportation and Public Facilities for Staging and Material Extraction and Disposal Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing.

Staff report given by Marcus Mueller

Alaska Department of Transportation and Public Facilities (DOT&PF) is actively working on the Sterling Highway MP 45-60 Construction Project, which follows the Juneau Creek Alternative near Cooper Landing. The Kenai Peninsula Borough is a landowner in the project area and the borough is the managing authority to certain lands under its municipal entitlement land grant.

KPB Land Management has been working with the project team as it seeks to implement the major project. DOT&PF has proposed three project staging and disposal sites on borough owned or managed land. A fourth site related to the project has been proposed directly by DOT&PF Construction Management/General Contractor.

The proposed master lease agreement provides terms for both project staging activities and material extraction and disposal. The staging activities are handled through a surface use rental structure and the material disposal is addressed in resource management terms with a fee structure based on the volume and types of materials from the project that are left on site. Environmental protections and practices are enumerated in the agreement and all materials deposited would be uncontaminated natural materials. The proposed commencement date is May 1, 2021 to work with the project schedule.

The Cooper Landing APC at the April 7, 2021 meeting voted to support the lease with the State of Alaska Dept. of Transportation & Public Facilities.

END OF STAFF REORT

Vice Chair Ruffner opened the item for public comment. Hearing no one wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Ecklund to forward to the Assembly a recommendation to approve Ordinance 2021-14 authorizing a negotiated lease with the Alaska Dept. of Transportation & Public Facilities staging and material disposal in support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	9	No	0	Absent	2
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Martin				

AGENDA ITEM E NEGOTIATED LEASE

7. Ordinance 2021-13: Authorizing a Negotiated Lease of Tract C Quartz Creek Subdivision with Kiewit Infrastructure West Company for Project Staging Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

Staff report given by Marcus Mueller.

Kiewit Infrastructure West Company (KIWC) is a construction manager/ general contractor for Alaska Department of Transportation's Sterling Highway MP 45-60 project near Cooper Landing. A 16-acre KPB-owned parcel at the east end of the project has been identified by Kiewit for project staging.

Proposed staging uses include building a durable pad, installing utilities, a well and septic system to house and stage project offices, personnel, resources, supplies and equipment and to operate an asphalt batch plant.

KPB Land Management worked with KIWC last fall through a land use permit to conduct clearing activities while leaving a vegetated buffer around the property, in anticipation of the lease proposal. The cleared area would be available for the development and use proposed by Kiewit under the lease.

The lease would have a 5-year term, which corresponds to DOT's construction schedule, and would provide for a one-year renewal option at a rent of $35,640 per year with a 3% annual increase. The lease is proposed to start on May 1st to meet the 2021 construction schedule.

The Cooper Landing APC at the April 7, 2021 meeting voted to support the Lease with the Kiewit Infrastructure West Company.

END OF STAFF REORT

Vice Chair Ruffner opened the item for public comment. Hearing no one wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Ecklund to forward to the Assembly a recommendation to approve Ordinance 2021-13 authorizing a negotiated lease with the Kiewit Infrastructure West Company for staging in support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	9	No	0	Absent	2
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Martin				

AGENDA ITEM E CONDITIONAL LAND USE PERMIT MODIFICATION

8. Conditional Land Use Permit Modification for an Existing Material Site Operation
   Applicant: River Resources, LLC
   Landowner: River Resources, LLC
   Parcel Numbers: 135-243-13 & 29
   Legal Description:
   - T05N, R10W, SEC 34, Seward Meridian, KN NW1/4 SE1/4, Excluding Patson Properties Part 1
   - T05N, R10W, SEC 34 Seward Meridian, KN 2019-068, Patson Properties 2019 Replat Tract 1C

   Location: 34386 Patson Road

Staff report given by Bryan Taylor

GENERAL OVERVIEW: The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on December 16, 2019, to allow for gravel extraction below the groundwater elevation. A copy of the application, including the required water monitoring information, is included as **Attachment A**. The applicant is also requesting an exemption for dewatering as part of the extraction activities. Dewatering will only be conducted within the permitted material site and water will not leave the property.

KPB 21.29.050(A)(5) provides that the planning commission may approve excavation in the water table provided the applicant completes certain water monitoring requirements carried out by an independent civil engineer or professional hydrogeologist, submits the monitoring data, and has certification by the engineer or hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.

Land Lease and Development Agreement

KPBL# 21-0501-02

The Kenai Peninsula Borough (KPB), an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (hereinafter "KPB" or "Lessor") and Kiewit Infrastructure West Co. (KIWC), whose address is 2000 W. International Airport Rd. C-6 (hereinafter "KIWC" or "Lessee") enter into this Land Lease Development Agreement and agree as follows:

I. Background; Contract Documents; Authorized Contact; Definitions

1. **Background**. The KPB owns certain real property located in the Kenai Peninsula Borough, in the state of Alaska, that is more particularly described as Tract C Quartz Creek Subdivision, Plat No 94-11, Seward Recording District (the "Property")., The parties intend that for good and valuable consideration KPBI grants KIWC the right to develop and use the Property for the purposes of Sterling Highway MP45-60 project operations including staging and housing equipment, personnel or resources, and processing construction materials in accordance with the terms and conditions of this Agreement and all attachments hereto. KIWC agrees that it will conduct its use and operations according to the terms and conditions contained in This Agreement for purposes integral to the Alaska Department of Transportation & Public Facilities' ("DOT&PFs") Sterling Highway MP45-60 Project near Cooper Landing, Alaska.

2. **Authorized Contact.** All communications about This Agreement shall be directed as follows. Any reliance on a communication with a person other than those listed below is at the party's own risk. KPB staff do not have authority to bind the KPB. Any material amendments or changes to The Agreement must be approved by the KPB Assembly by ordinance.

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

3. **Contract Documents**. As authorized by the Borough Assembly, this Lease and Development Agreement, and incorporated contract agreements, together form the entire agreement ("Agreement"). Collectively, the Agreement is the final and complete agreement and understanding of the parties. The following agreements or attachments, are attached to, incorporated herein by reference, and together form the Agreement:

    i. Lease and Development Agreement
    ii. Attachment 1: Survey Plat of Tract C, Quartz Creek Subdivision
    iii. Attachment 2: Lease Provisions Required by KPB 17.10

iv. Attachment 3: Clearing Plan
v. Attachment 4: Tract C Lease Application

If in conflict, the Lease and Development Agreement shall control.

4. **Definitions.**

4.1. Agreement - the final and complete agreement of the parties and shall encompass the Lease and Development Agreement and all Attachments to the Lease and Development Agreement that are incorporated by reference.

4.2. Environmental Assessment - An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of property and the presence, type, concentration, and extent of any Contamination in, on, and under the surface of the property.

4.3. Environmental Law - Any federal, state, or local statute, law, regulation, ordinance, code, Lease, order, decision, or judgment from a governmental entity relating to environmental matters, including littering and dumping. It includes, as applicable, 42 U.S.C. 7401-7671 (Clean Air Act); 33 U.S.C. 1251-1387 (Federal Water Pollution Control Act);42 U.S.C. 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); S.C. 5101-5127 (Hazardous Materials Transportation Act); 15 U.S.C. 2601-2692 (Toxic Substances Control Act); AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); and the provisions of 18 AAC (Environmental Conservation) implementing AS 46.

4.4. Environmental Liability Baseline - A description, accepted by the Lessor and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of Contamination in, on, or under the surface of the Property that was neither caused nor Materially Contributed To by the Lessee, nor assumed by the Lessee by reason of assignment.

4.5. Lessee – Kiewit Infrastructure West Co., or KIWC.

4.6. Lessor - Kenai Peninsula Borough or KPB.

4.7. Project - DOT&PF's Sterling Highway MP45-60 Project.

4.8. Property –Real Property legally described as Tract C Quartz Creek Subdivision, Plat No 94-11, Seward Recording District

4.9. Site Development Materials - Materials used for Site Development. Site Development Materials includes geotextile, gravel, paving, pavement reinforcement materials, and utilities.

II. Leased Property Description; Term; Rent

5. **The Property**. The KPB leases to KIWC and KIWC leases from the KPB, 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:

> Tract C Quartz Creek Subdivision, Plat No 94-11 Seward Recording District., State of Alaska.

6. **Term.**
   - 6.1. 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.
   - 6.2. Renewal Term(s). Unless notice of non-renewal is provided prior to expiration of the Initial Term or KIWC is otherwise in breach of this Agreement, the Agreement may be automatically renewed by KIWC for one additional 1-year Renewal Term on the same rent schedule as the initial term.
7. **Rent.**
   - 7.1. Surface Use Rent ("Rent"). The Rent for the use of the Property is Thirty five thousand six hundred forty dollars ($35,640) per year payable on the commencement date of the Agreement and each anniversary thereof. This Rent shall increase annually at 3% per annum.

III. Uses; Reservation of Rights by KPB

8. **Authorized Uses**. The Agreement is entered into for the use of the Property for the following authorized uses:
   - 8.1. Subject to Section 12 below, Rights Reserved by KPB, KIWC shall have exclusive surface use and possession of the Property. The surface uses shall be governed by this Agreement. Surface uses include, but are not limited to, staging and housing 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- Tract C Lease Application.
   - 8.2. Subject to reclamation obligations, KIWC 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. KIWC shall conserve topsoil on site and maintain such material available for site reclamation at the end of the Agreement.

9. **Prohibited Uses**. Under this Agreement, the following uses on the Property are prohibited:
   - 9.1. Installing permanent structures;

9.2. Storage of bulk fuel. Bulk fuel is defined as storage of 25,000 Gallons or more fuel.

10. **Vegetated Buffers/ Clearing Plan.** Uses 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 KIWC's development and use under this agreement. No further clearing or expansion of use into vegetated areas will take place unless approved by KPB in writing. Vegetated areas may be incorporated into KIWC's storm water management practices. Individual trees within the vegetated buffer that are a substantial hazard risk may be removed by KIWC as necessary without changing the buffer status.

11. **Site Closure.**
    11.1. 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.
    11.2. 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.
    11.3. 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.

12. **Rights Reserved by KPB.**
    12.1. The KPB reserves a 60 foot x 60 foot area on the Property ("Reserved Area"), the exact location is subject to mutual agreement of the parties hereto, for the purposes of siting a communications facility (tower) on the Property. This reservation includes the exclusive right to grant to a third party the right, license and privilege to site, construct, install, and maintain a communications site (tower) or to place commercial communications equipment on the Property and includes ingress and egress rights. This provision is subordinate to the rights and privileges granted under this Agreement

and shall not unreasonably interfere with KIWC's authorized use of the Property or limit KIWC from installing non-commercial communications equipment for the project.

12.2. The KPB reserves the right of ingress and egress from the Property, and the right to enter any part of the Property for the purposes of inspection at any reasonable time subject only to the KPB's best efforts, except in the case of an emergency, to coordinate its inspection with the KIWC to minimize interference with the KIWC's operations and activities on the Property.

IV. Cancellation, Expiration or Other Termination

13. **Cancellation.**

13.1. This Agreement may be cancelled by KIWC by 90-days written notice to KPB, provided that KIWC is in good standing with the terms and conditions of the lease.

13.2. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

13.3. Rent will be prorated to the partial term in the case of early cancellation.

14. **Lessee Default.**

14.1. If KIWC violates a term of the Agreement and the KPB considers that term to be a material obligation of the Agreement, or the violation to be a material deviation from the requirements of the Agreement, the KPB will mail or deliver to KIWC a written notice of the violation. The notice must allow KIWC not less than sixty (60) days to correct the violation, unless the violation constitutes an imminent threat to public health or safety.

14.2. If the KIWC does not correct the violation by the time allowed in the notice, the KPB shall:

a. grant an extension of time to correct the violation if KIWC shows good cause;
b. take enforcement action as provided under this Agreement or as available by law; or
c. cancel this Agreement.

14.3. If the KPB determines that a violation creates an imminent threat to public health or safety, the KPB shall:

a. Direct KIWC to stop the activity immediately
b. Provide KIWC less time than otherwise specified in the Agreement to correct the violation; or
c. Correct the violation.

14.4. Without limitation, the following shall be deemed either violations of material obligations of this Agreement or material deviations from the requirements of the Agreement:

a. KIWC fails to pay when due any rent, charge, or fee or royalty specified in the Agreement, including any increase made under this Agreement ;
b. KIWC blocks or restricts KPB or its Contractor's access to the Property in violation of Section 11 above;
c. KIWC is otherwise found to be in violation of State or Federal law.

15. **Waiver**.
    15.1. A waiver by the KPB of any default by KIWC of any provision of this Agreement will not operate as a waiver of any subsequent default. If the KPB waives a default, the KPB is not required to provide notice to KIWC to restore or revive any provision under this Agreement. The waiver by the KPB of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the KPB.
    15.2. The KPB's failure to insist upon the strict performance by KIWC of any provision in this Agreement is not a waiver or relinquishment for the future, and the provision will continue in full force.

16. **Disposition of Improvements and Personal Property**. All temporary improvements and personal property of KIWC shall be removed by KIWC, at its sole expense, within ninety (90) days of cancellation, termination, or expiration of the Agreement.

17. **Disposition of Site Development Materials.** Site Development Materials that KIWC completes or places on the Property become part of the KPB-owned realty and property of the KPB upon completion or placement. KIWC may not remove the Site Development Materials unless the KPB approves in writing.

18. **Natural Disasters.** If the parties agree in writing that the Property is unusable, not due to the fault or negligence of either party, to the extent that performance of this Agreement is impossible, this Agreement may be terminated. If KIWC elects to continue to operate, the KPB is under no obligation to continue to perform. Causes for termination under this provision include, but are not restricted to, acts of God, fires, floods, epidemics, quarantine restrictions, earthquakes, landslides, mudslides, avalanches, tsunami, or volcanic activity.

19. **National Emergency.** If the federal government declares a national emergency, neither party may hold the other liable for any inability to perform any part of this Agreement as a result of the national emergency.

20. **Survival.**
    20.1. At the expiration, cancellation, or other termination of this Agreement, the KIWC shall peaceably and quietly vacate the Property and return possession to the KPB.
    20.2. KIWC's obligations under the following provisions of this Agreement shall survive and remain binding on KIWC after the expiration, cancellation, or other termination of the Agreement:
        a. Section 7 – Rent – of the Agreement;
        b. Section 14 – Disposition of Improvements and Personal Property – of the Agreement;
        c. Sections 19 through 24 – Environmental Issues – of this Agreement; and
        d. All terms related to Reclamation of the Property under Attachment 1 – material Extraction and Disposal Terms & Conditions.

V. Environmental Issues

21. Environmental Liability Baseline

21.1. Responsibility for Ascertaining Environmental Condition of Property. The Lessee has the sole responsibility under this Agreement to ascertain the environmental condition and presence of Contamination in, on, and under the surface of the Property, and is conclusively presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Property except as identified in an Environmental Liability Baseline. If known Contamination is on the property that has been closed out under alternate cleanup levels approved by ADEC, Lessee is responsible for following all restrictions set by ADEC, including, but not limited to notifying any assignee of this Agreement in writing of ADEC's restrictions.

21.2. Financial Responsibility for Contamination on the Property and on any Affected Property. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Property, except for Contamination that is identified in an Environmental Liability Baseline. This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Property, or other potentially responsible parties except for the Lessor.

21.3. Establishing an Environmental Liability Baseline.

a. If the Lessee wants to establish an Environmental Liability Baseline for all or any portion of the Property, the Lessee shall provide the Lessor with an Environmental Assessment for that portion of the Property.

b. If the Lessee discovers Contamination in, on, or under the surface of the Property, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate by clear and convincing evidence to the satisfaction of the Lessor that the Contamination proposed for inclusion was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities nor assumed by the Lessee. Contamination caused or Materially Contributed to by activities of the Lessee's sublessees, contractors, and guests on the Property are deemed to be Materially Contributed To by the Lessee.

c. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities shall be included in the Environmental Liability Baseline.

21.4. Adding to an Existing Environmental Liability Baseline.

a. If, after an Environmental Liability Baseline is established for any portion of the Property the Lessee discovers Contamination in, on, or under the surface of that portion of the Property having an Environmental Liability Baseline, which Contamination the Lessee or the Lessee's operations or activities did not cause or Materially Contribute To, and which the Lessee did not assume by reason of assignment, the Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Lessor for the Lessor's consideration to add to the Environmental Liability Baseline. The Lessee's additional Environmental Assessment must demonstrate by clear and convincing evidence to the satisfaction of the Lessor which portion of the additional Contamination on the Property was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities may be added to the existing Environmental Liability Baseline.

21.5. Lessor's Acceptance or Rejection of Lessee's Environmental Assessment. When the Lessor receives the Lessee's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Lessor, in its sole discretion, will do one of the following:

a. Accept the findings of the Lessee's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that portion of the Property being assessed or to add to the existing Environmental Liability Baseline.

b. Reject the findings of the Lessee's Environmental Assessment for that portion of the Property being assessed and offer the Lessee the opportunity to perform additional environmental testings if the Lessor determines in writing that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Lessor's written rejection of the Lessee's Environmental Assessment will be based on failure of the Lessee's Environmental Assessment to either:

(1) follow generally accepted professional practices in determining the environmental condition of the Property and the presence of Contamination in, on, or under the surface of the Property; or

(2) demonstrate the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities.

c. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Property being assessed. If the results of the Lessor's tests conflict with the Lessee's Environmental Assessment, the Lessor and the Lessee will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for that portion of the Property being assessed.

21.6. Amending the Environmental Liability Baseline to Delete Contamination Caused, Materially Contributed to, or Assumed by Lessee

a. If, after the Environmental Liability Baseline for any portion of the Property is established, it is discovered that the presence of Contamination identified in the Environmental Liability Baseline was caused or materially contributed to by the Lessee or the Lessee's operations or activities, or assumed by the Lessee by reason of assignment, the Environmental Liability Baseline may be amended to delete that portion of the Contamination that was caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. The Lessor will have the burden of proof in establishing that the Lessee or the Lessee's operations or activities caused or Materially Contributed to this Contamination.

c. If it is discovered that Contamination identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, the parties will agree upon an amendment to the Environmental Liability Baseline within a reasonable time.

22. **Release of Lessee.** The Lessor releases the Lessee from liability to the Lessor for Contamination identified by the Environmental Liability Baseline that was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

23. **Required Remediation**. The Lessor is under no obligation to remediate Contamination identified in an Environmental Assessment, except the Lessor shall remediate, or have responsible parties remediate, the Contamination identified in the Environmental Liability Baseline if an agency with such authority requires the Lessee or Lessor to remediate. In the event of such required remediation, the Lessor will make a reasonable effort to coordinate the remediation with the Lessee to minimize disruption of the Lessee's operations or activities and damage to the Lessee's improvements and property. The Lessee releases and holds the Lessor harmless for all costs associated with any damage to, and relocation, removal, and repair of Lessee's improvements and property that result from remediation performed in compliance with this paragraph with respect to Contamination that existed before construction of affected improvements.

24. **Action Against Potentially Responsible Parties**. This article does not restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties for Contamination identified in the Environmental Liability Baseline.

VI. Additional Terms and Conditions

25. **Defense and Indemnification.** To the extent allowed by law and subject to legislative appropriation of available funds, the parties shall mutually indemnify, defend, save and hold each other, including their elected and appointed officers, agents and employees, as applicable, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees resulting from either parties' performance or failure to perform in accord with the terms of the Agreement in any way whatsoever. This defense and indemnification shall not mean that a party is responsible for any damages or claims arising from the sole negligence or willful misconduct of the other party, its agents or employees. Each party is solely responsible for damages or claims arising from their sole negligence or willful misconduct.

26. **Insurance.** It is understood that both parties to the Agreement are self-insured at adequate and acceptable to both parties. However, any contractors or subcontractors that use or perform work at the Property shall maintain the following insurance coverages:
    26.1. Commercial General Liability Insurance (CGL). All Contractors and subcontractors of any tier shall provide and maintain, Commercial General Liability Insurance (CGL). The CGL Policy shall be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from Property, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion,

collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as an Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.

26.2. Worker's Compensation, Employer's Liability Insurance. Contractor and subcontractor(s) of any tier shall provide and maintain, for all of its employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than the minimum amounts required by law. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.

26.3. Auto Liability. Contractor and subcontractor(s) of any tier shall provide and maintain, Auto Liability Insurance (ALI). The Auto Liability Policy shall include a Combined Single Limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.

26.4. Proof of Coverage. All insurance shall be primary and exclusive of any other insurance held by the KPB. Upon renewal of insurance coverage during the license, certificates of insurance shall be delivered to the KPB. KIWC on behalf of its contractors shall deliver, within 30 days, complete insurance coverage policy documents to the KPB upon request.

27. **Assignments.** The Agreement is not assignable.

28. **Subleasing.** KIWC may not sublease the Property or any part thereof without written permission of the KBP Mayor when applicable. A sublease shall be in writing and subject to the terms and conditions of this Master Lease.

29. **Waste.** KIWC shall not commit waste upon or injury to the lands leased herein.

30. **Fire Protection.** KIWC shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property, and comply with all laws, regulations, and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

31. **Safety.** KIWC shall be solely responsible for maintaining the Property in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the Property as needed for KIWC's use of the Property. KIWC is responsible for the safety of all persons conducting activities on the Property under the Agreement.

32. **Sanitation.** KIWC shall comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property shall be kept in a clean and sanitary condition and

every effort shall be made to prevent pollution of the waters and lands. Sanitary facilities shall be in accordance with the State of Alaska, Department of Environmental Conservation regulations.

33. **Compliance with Laws.** KIWC shall abide by all applicable federal, state, city, and borough statutes, ordinances, rules, and regulations. KIWC is responsible for obtaining all federal, state, and local permits applicable to licensee's activities and shall keep such permits in good standing.

34. **Responsibility of Location.** It shall be the responsibility of KIWC to properly locate itself and its improvements on the Property.

35. **Liens and Mortgages**. KIWC shall not cause or allow any lien or encumbrance of any kind or nature whatsoever to attach to the Property during the term of the Agreement. In the event that any prohibited lien is placed against the Property, KIWC shall immediately cause the lien to be released.

36. **No Warranty, Express or Implied.** The KIWC accepts the Property AS-IS, WHERE-IS. The Agreement shall be without warranty whatsoever, whether implied or expressed, as to quality, fitness for purpose or suitability for development, or physical condition (including, without limitation the environmental condition of the property). It is the responsibility of the KIWC to satisfy itself prior to executing the Agreement and/or prior to closing as to the type, condition, and quality of the Property.

37. **Jurisdiction.** Any lawsuits filed in connection with the terms and conditions of the Agreement, and of the rights and duties of the parties, shall be filed and prosecuted at Kenai, Alaska and shall be governed by Alaska law, without regard to conflict of law principles.

38. **Savings Clause.** Should any provision of the Agreement fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of the Agreement or constitute any cause of action in favor of either party as against the other.

39. **Binding Effect.** It is agreed that all covenants, terms, and conditions of the Agreement shall be binding upon the successors, heirs and assigns of the parties hereto.

40. **Integration and Merger.** The Agreement sets out all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Property whether oral or written. Unless specifically authorized within a provision, no modification or amendment of the Agreement is effective unless in writing and signed by both of the parties.

41. **Warranty of Authority.** KIWC warrants that the person executing the Agreement is authorized to do so on behalf of KIWC.

42. **Counterparts.** The Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

43. **Quiet Enjoyment.** During the term of the Agreement, KIWC will have quiet enjoyment of the Property subject to the terms and conditions stated in the Agreement.

44. **Interpretation.** Both parties have had an opportunity to review the Agreement, to suggest changes, and to consult with legal counsel before signing. The Agreement will not be interpreted in favor of or against either Party.

LESSOR:	**LESSEE:**
Kenai Peninsula Borough	**Kiewit Infrastructure West, Co.**
_____	_____
By: Charlie Pierce	By: _____
Its: Mayor	Its: _____
Date: _____	Date: _____

ATTEST:	APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
_____	_____
Johni Blankenship, MMC, 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 of the 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: _____

KIWC 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 _____, Kiewit Infrastructure West, Co., and who acknowledged to me that the foregoing instrument was executed freely and voluntarily on behalf of Kiewit Infrastructure West, Co., for the uses and purposes therein set forth and who is authorized by said company to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year written above.

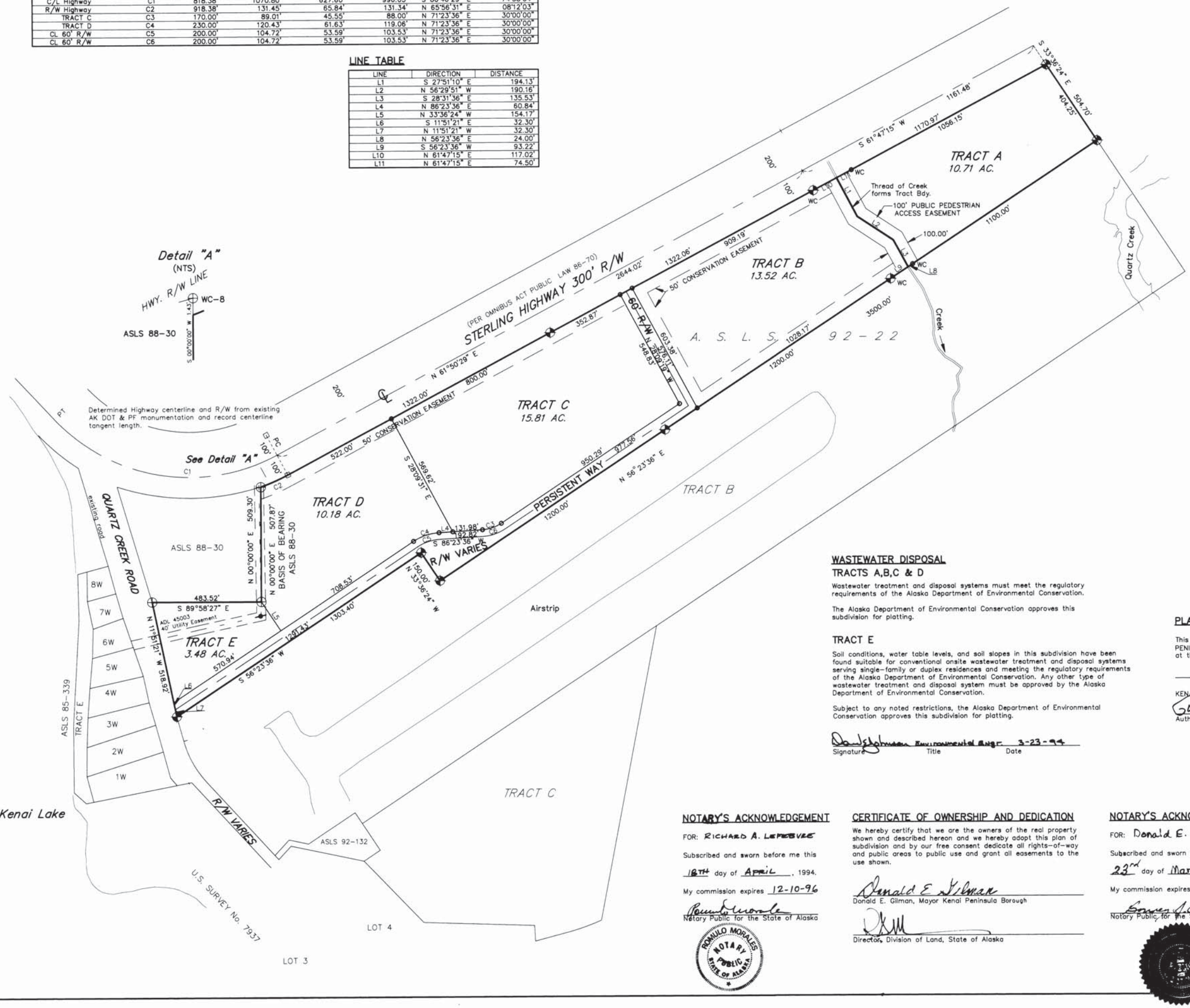
_____
Notary Public in and for Alaska
Commission Expires:_____

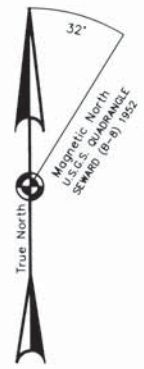
CURVE TABLE

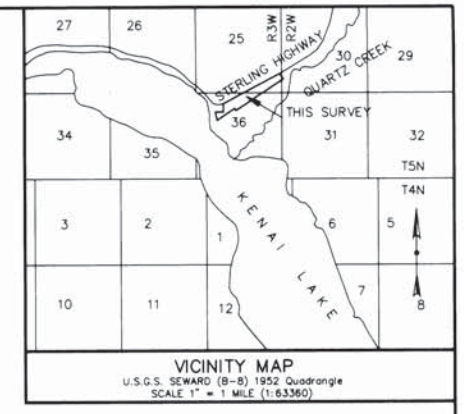
LOT	CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C/L Highway	C1	818.38'	1070.80'	627.60'	996.03'	S 80°40'29" E	74°58'04"
R/W Highway	C2	918.38'	131.45'	65.84'	131.34'	N 65°56'31" E	08°12'03"
TRACT C	C3	170.00'	89.01'	45.55'	88.00'	N 71°23'36" E	30°00'00"
TRACT D	C4	230.00'	120.43'	61.63'	119.06'	N 71°23'36" E	30°00'00"
CL 60' R/W	C5	200.00'	104.72'	53.59'	103.53'	N 71°23'36" E	30°00'00"
CL 60' R/W	C6	200.00'	104.72'	53.59'	103.53'	N 71°23'36" E	30°00'00"

LINE TABLE

LINE	DIRECTION	DISTANCE
L1	S 27°51'10" E	194.13'
L2	N 56°29'51" W	190.16'
L3	S 28°31'36" E	135.53'
L4	N 86°23'36" E	60.84'
L5	N 33°36'24" W	154.17'
L6	S 11°51'21" E	32.30'
L7	N 11°51'21" W	32.30'
L8	N 56°23'36" E	24.00'
L9	S 56°23'36" W	93.22'
L10	N 61°47'15" E	117.02'
L11	N 61°47'15" E	74.50'







VICINITY MAP
U.S.G.S. SEWARD (B-8) 1952 Quadrangle
SCALE 1" = 1 MILE (1:63360)

LEGEND

- PRIMARY MONUMENT RECOVERED THIS SURVEY
- SECONDARY MONUMENT RECOVERED THIS SURVEY
- AK DOT & PF 6" x 6" CONC. R/W MONUMENT RECOVERED THIS SURVEY
- PRIMARY MONUMENT SET THIS SURVEY
- SECONDARY MONUMENT SET THIS SURVEY
- 1/2" REBAR WITH PLASTIC CAP.

NOTES

1) Water supply and sewage disposal systems shall be permitted only in conformance with applicable requirements of 18 AAC 70, 18 AAC 72, and 18 AAC 80.

2) No direct access to state maintained ROWS permitted unless approved by State of Alaska Department of Transportation.

3) No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.

4) BUILDING SET BACK – A building set back of 20 ft. is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.

WASTEWATER DISPOSAL

TRACTS A,B,C & D

Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

The Alaska Department of Environmental Conservation approves this subdivision for platting.

TRACT E

Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Alaska Department of Environmental Conservation. Any other type of wastewater treatment and disposal system must be approved by the Alaska Department of Environmental Conservation.

Subject to any noted restrictions, the Alaska Department of Environmental Conservation approves this subdivision for platting.

Signature Title Date

PLAT APPROVAL

This plat was approved by the KENAI PENINSULA BOROUGH PLANNING COMMISSION at the meeting of December 13, 1993.

KENAI PENINSULA BOROUGH by

Authorized Official

STATE OF ALASKA 49TH M. SCOTT McLANE 4928-S REGISTERED PROFESSIONAL LAND SURVEYOR

94-11

RECORDED SEWARD REC. DIST. 20. DATE 5/5 19 94 TIME 3:34 P.M. REQUESTED BY McLANE & ASSOC. ADDRESS P.O. BOX 468 SOLDOTNA, AK 99669

SCALE

FEET 0 50 200 300 500 700 900
METERS 25 50 100 200 250

1 METER = 3.280833 U.S. SURVEY FEET 1 U.S. ACRE = 0.4047 HECTARE

NOTARY'S ACKNOWLEDGEMENT

FOR: RICHARD A. LEFEBVRE

Subscribed and sworn before me this 18TH day of APRIL, 1994.

My commission expires 12-10-96

Notary Public for the State of Alaska

ROMULO MORALES NOTARY PUBLIC STATE OF ALASKA

CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of the real property shown and described hereon and we hereby adopt this plan of subdivision and by our free consent dedicate all rights-of-way and public areas to public use and grant all easements to the use shown.

Donald E. Gilman, Mayor Kenai Peninsula Borough

Director, Division of Land, State of Alaska

NOTARY'S ACKNOWLEDGEMENT

FOR: Donald E. Gilman

Subscribed and sworn before me this 23rd day of March, 1994.

My commission expires 7/22/97

Notary Public for the State of Alaska

QUARTZ CREEK SUBDIVISION
(A Resubdivision of Tract A ASLS 92-22)

KENAI PENINSULA BOROUGH, OWNER
144 N. Binkley
Soldotna, AK 99669

LOCATION

58.814 AC. M/L WITHIN UNSURVEYED SEC. 30, T. 5 N., R. 2 W., AND UNSURVEYED SEC.'S 25 & 36, T. 5 N., R. 3 W., S.M., AK, THE KENAI PENINSULA BOROUGH IN SEWARD RECORDING DISTRICT.

Surveyed by : McLANE & ASSOCIATES
P.O. BOX 468
Soldotna, AK 99669

Date : Nov. 29, 1993	Book No. : 92-08	Project No. 922018p
Drawn by : Checked by : MSM	Scale 1" = 200'	KPB File No. 93-185

ATTACHMENT 2
LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current**. The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment**. Lessee may assign the lands upon which Lessee has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement**. In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the borough may cancel the Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation**. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry**. In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection**. The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste**. The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification**. The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice**. Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default**. Notice of the default will be in writing as provided in paragraph 9 above.

(11) **Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.**

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or Lessee's successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed**. Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent**. In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location**. It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder**. In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation**. The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement**. As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Subleasing**. No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

(19) **Violation**. Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(20) **Written Waiver**. The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

NOTE: All dimensions given in feet

STERLING HIGHWAY 300' R/W

TRACT B

adjust as required by DOT

100
75
60
50
110
200
60
50

TRACT D-2

TRACT D-1

PERSISTANT WAY R/W

AIRSTRIP

0 200 400 800 Feet

scale 1:2400; 1 inch = 200 feet

N

Legend

- Clearing Limits
- TRACT C
- Parcels

LEGAL DESCRIPTION:

T 5N R 3W SEC 36 SEWARD MERIDIAN SW 0940011
QUARTZ CREEK SUB TRACT C

Attachment 3
Clearing Plan

Proposed Clearing Limits for LMD 20-17.

Permittee: Kiewit Infrastructure

-KPB Land Management
9/23/2020

LAND MANAGEMENT
KENAI PENINSULA BOROUGH

Project Number:
OA33028/CFHWY00684
Date: 1/20/2021

Sterling Highway MP 45-60 Sunrise to Skilak Lake Rd Phases 2-5 CM/GC

Tract C Lease Application

ATTACHMENT 4 to Lease Agreement

Prepared For:

Kenai Peninsula Borough Land Management Division

Prepared By:
Kiewit Infrastructure West Co.
2000 W. International Airport Rd. C-6
Anchorage, AK 99502

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Acronyms and Abbreviations

ADOT&PF	Alaska Department of Transportation & Public Facilities
KIWC	Kiewit Infrastructure West Co.
KPB	Kenai Peninsula Borough
SWPPP	Storm Water Polution Prevention Plan
APDES	Alaska Pollutant Discharge Elimination System
SPCC	Spill Prevention Control and Countermeasure
HMA	Hot Mix Asphalt

Introduction

KIWC proposes a negotiated lease of Tract C.

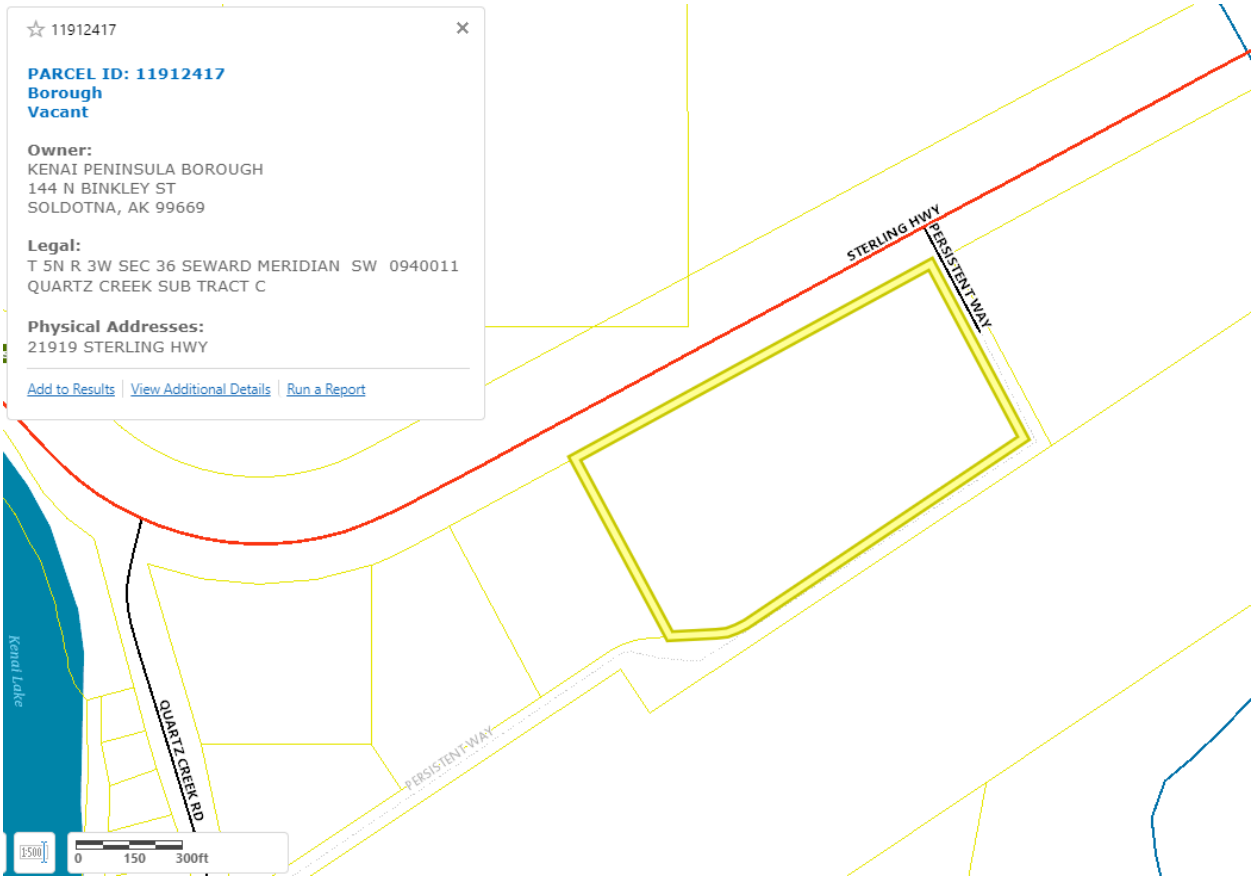
The parcel known as Tract C is described as the following:

Legal Description: T 5N R 3W SEC 36 SEWARD MERIDIAN SW 0940011 QUARTZ CREEK SUB TRACT C

Physical Address: 21919 Sterling Hwy

Tax Parcel ID: 11912417

Acreage: 15.81 Acres



The proposed primary use for this parcel under the negotiated lease is to develop a temporary project field office; and temporary materials and equipment laydown area to facilitate construction activities for the Sterling Highway MP 45-60 Sunrise to Skilak Lake Rd Phases 2-5 CM/GC Project for AKDOT&PF.

The proposed term for the negotiated lease is April 2021 until the highway project competion. The project is anticipated to be completed by the end of year 2025.

Existing Improvements

Under existing KPB Land Use Permit LMD 20-17, KIWC has completed 10.8 Acres of timber clearing and salvage; and soil sampling at Tract C during the week of November 16th, 2020. The current condition of the parcel is shown in the photo below.

Figure 1 - Site Photo 11/20/2020

A copy of Land Use Permit LMD 20-17 is attached.

Prior to the work performed in 2020 under the land use permit, the parcel existed as a wooded lot with a paved driveway apron access at the intersection of Persistence Way and Sterling Hwy leading to a single lane gravel road.

Proposed Permanent Improvements and Temporary Structures

During the lease, KIWC proposes to develop Tract C to be a working field office. Site work including utility installation and earthwork will be required to facilitate access and installation of the temporary office structures. A portion of this work may be considered permanent improvement for integration into the future development plan.

Proposed permanent improvements include the following:

- Utility Installation
  - Electric Service (Chugach Electric Association Inc.)
  - Phone Service (TelAlaska)
  - Leach Field Sewage System
  - Potable Drinking Water Well System
- Site Earthwork
  - Grubbing
  - Drainage
  - Grading and placing gravel for a driveable working surface

The preliminary plan for the site is shown below in Figure 2. This plan includes several temporary structures that are planned to be removed by the end of the lease term.

Proposed temporary structures include the following examples:

- Job office - consisting of mobile trailer units
- Area Lighting
- Fencing and Entrance Gates
- Hot Mix Asphalt (HMA) Plant
- Concrete Batch Plant
- Bathroom facilities
- Parking area
- Secondary Access to Sterling Hwy
- Materials testing lab
- Maintenance facility
- Fuel Storage

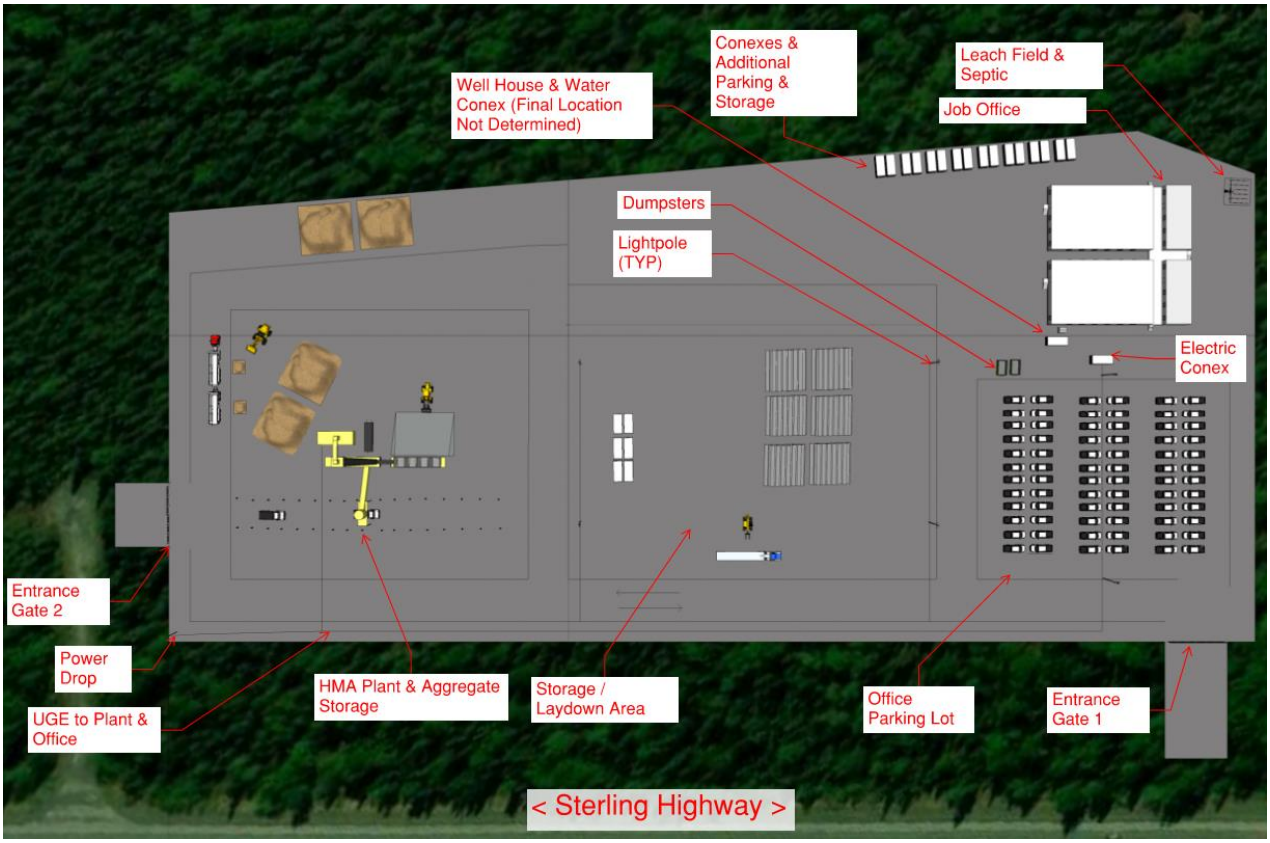


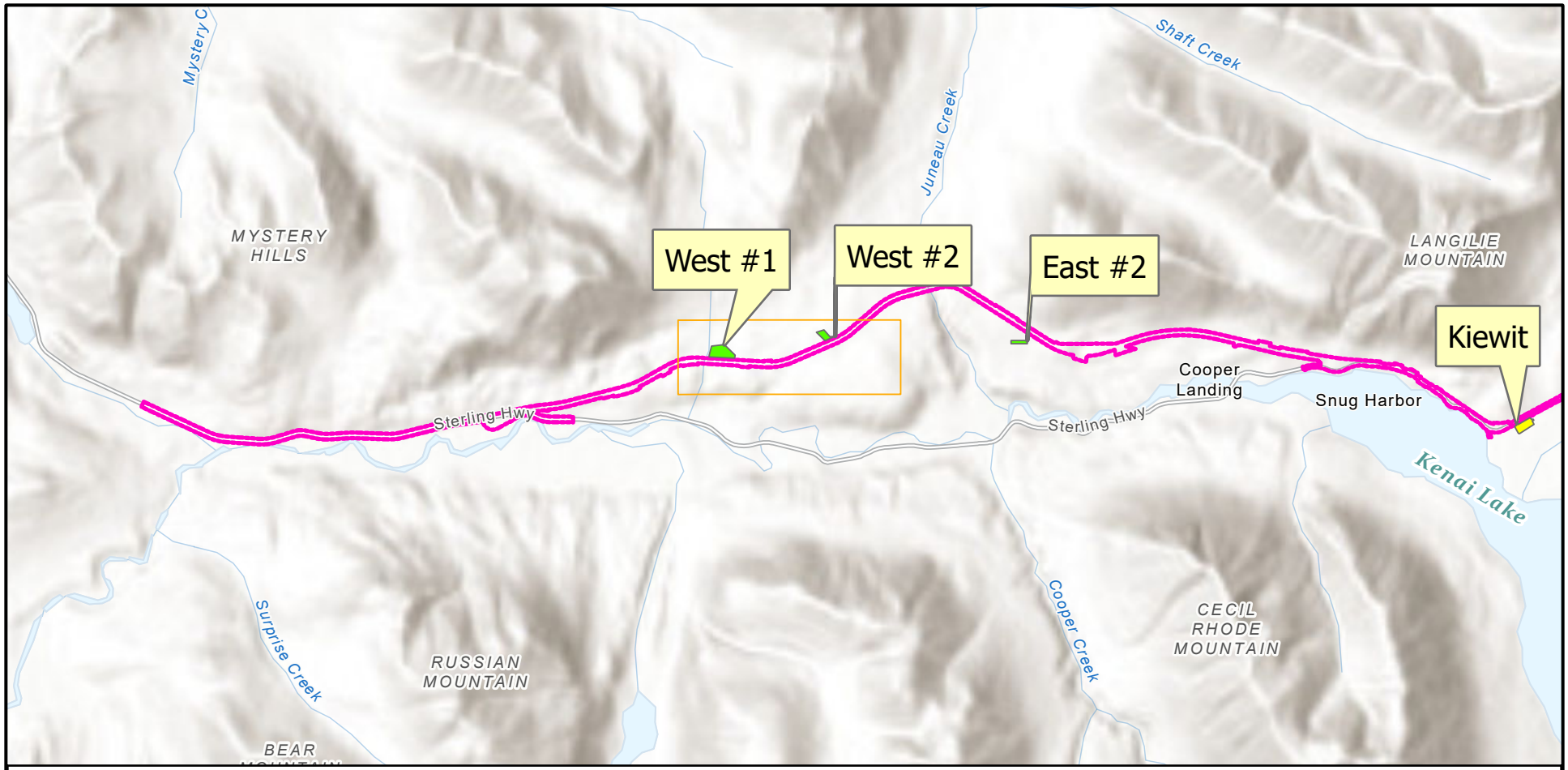
Figure 2 - Preliminary Site Layout

Plan for Future Use

KIWC intends to cooperate with KPB's future development plan for Tract C. Engineering resources will be available.

SWPPP and SPCC

The site work at Tract C including ground disturbing work, will be performed and maintained in adherence with the APDES Construction General Permit (CGP) and the project SWPPP and SPCC Plan programs for the duration of the lease. Documentation for this program will be located at the project office. Reporting of spills or discharges will follow the protocols listed in the program.



Legend

- DOT Staging Area
- Kiewit Staging Area
- Bypass Designed Alignment
- Unit 395

LAND MANAGEMENT — Kenai Peninsula Borough

N

Sterling Highway MP 45-60
Proposed Staging Areas

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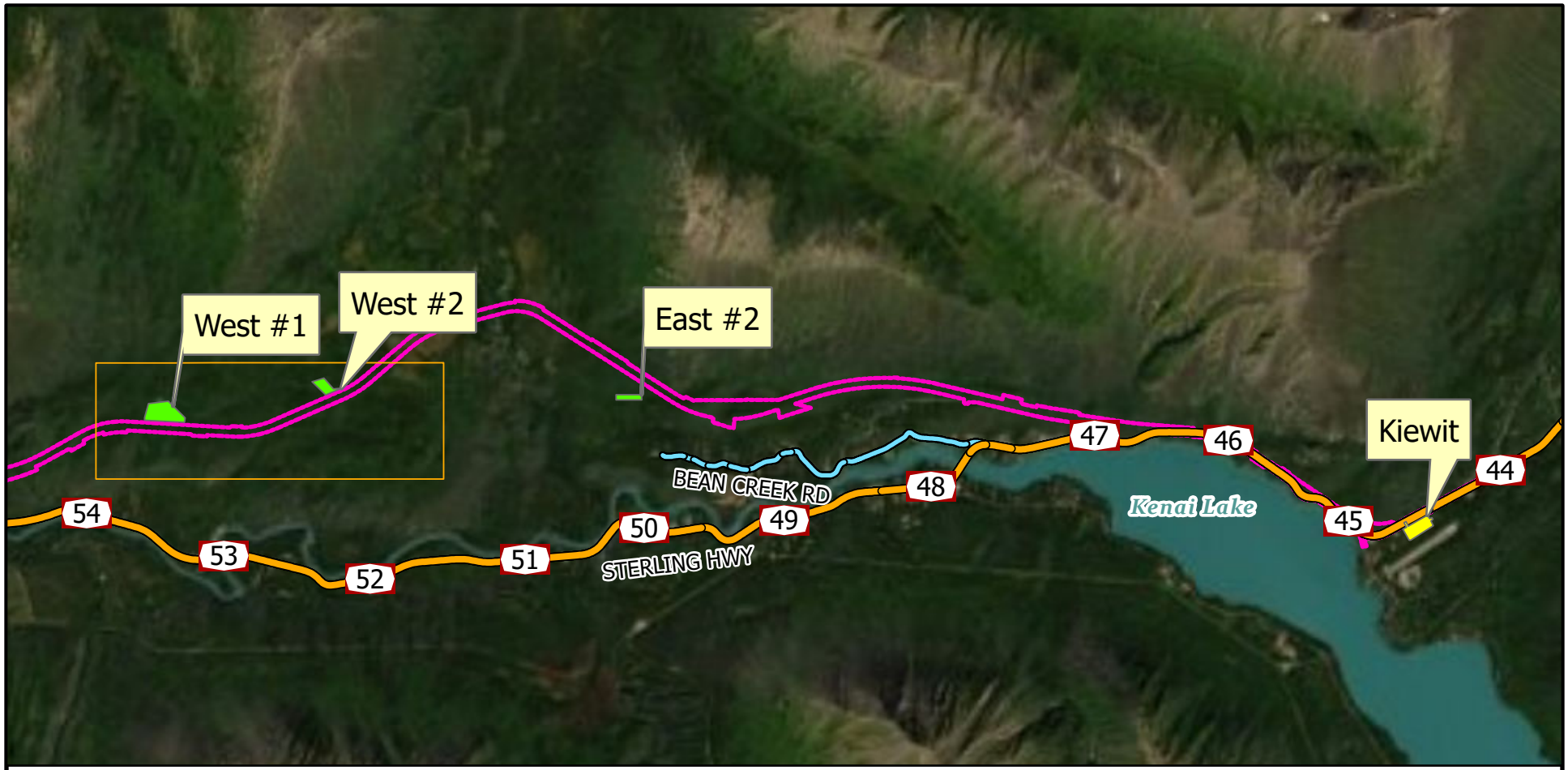

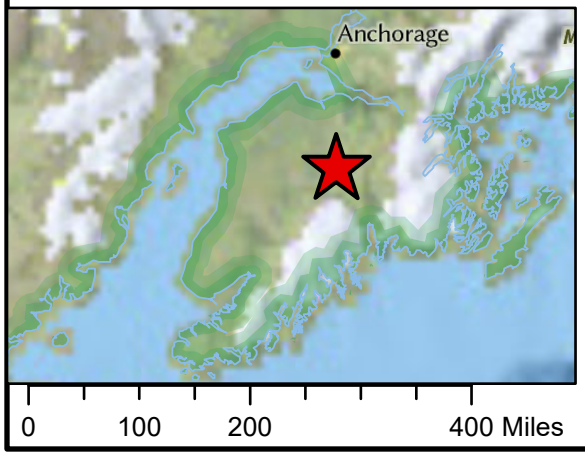

Legend

- DOT Staging Area
- Kiewit Staging Area
- Bypass Designed Alignment
- Unit 395
- State Hwy
- KPB Major Rd
- Mileposts

0 1.25 2.5 5 Miles

LAND MANAGEMENT
KENAI PENINSULA BOROUGH

N

Sterling Highway MP 45-60
Proposed Staging Areas

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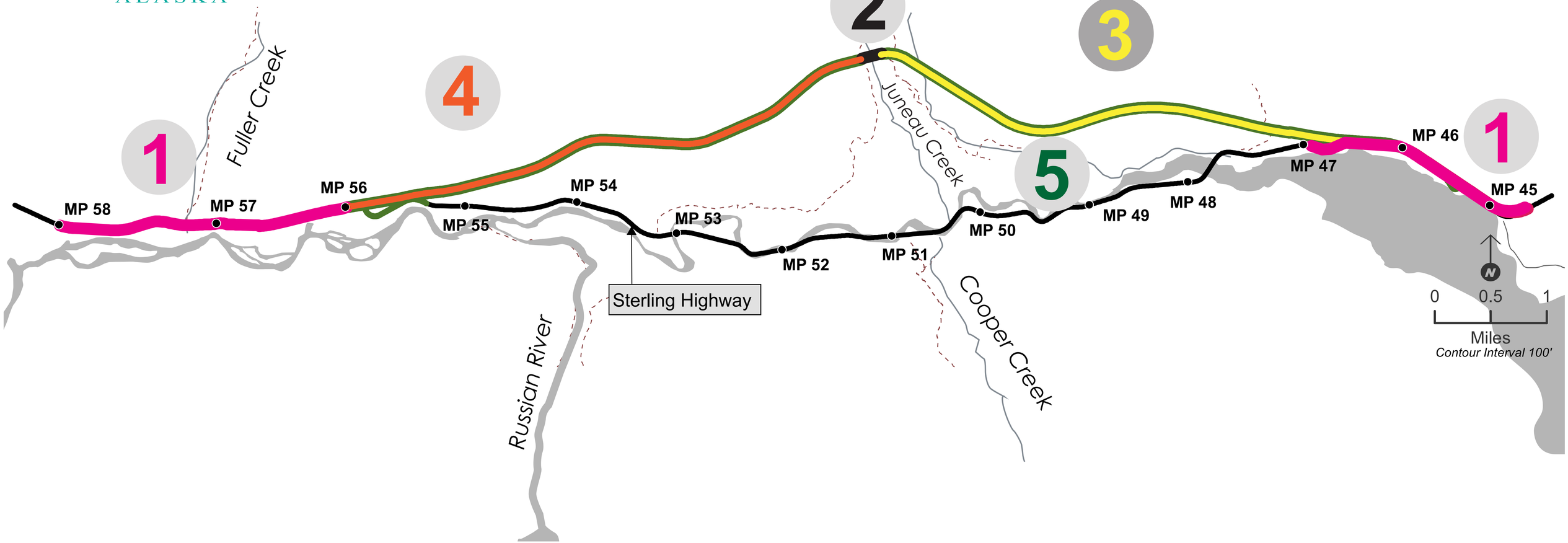
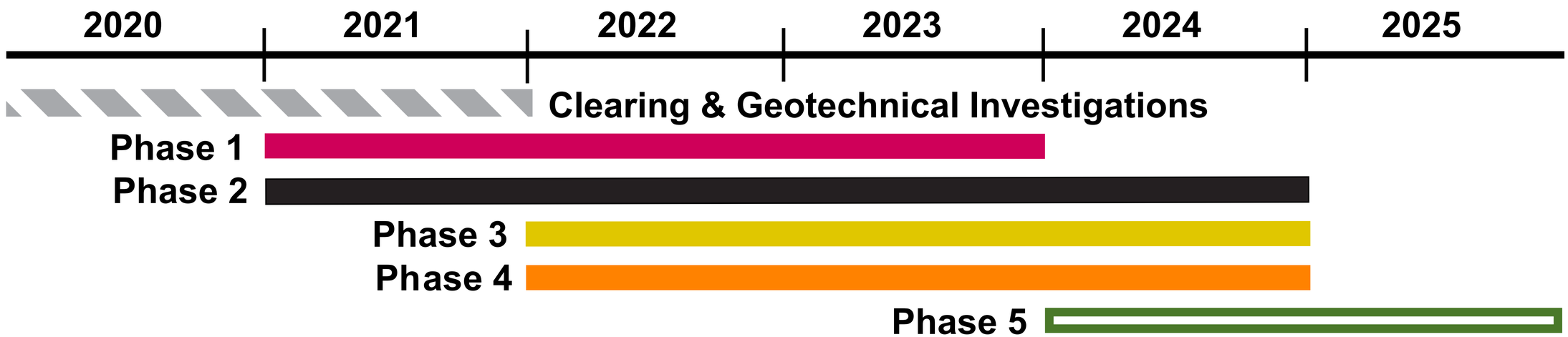
STERLING
HIGHWAY MILE POST 45 TO 60
ALASKA





Introduced by:	Mayor
Date:	04/06/21
Hearing:	04/20/21
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-14

AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE WITH ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES FOR STAGING AND MATERIAL EXTRACTION AND DISPOSAL ACTIVITIES IN SUPPORT OF THE STERLING HIGHWAY MP 45-60 CONSTRUCTION PROJECT NEAR COOPER LANDING

WHEREAS, the Alaska Department of Transportation and Public Facilities ("DOT&PF") is actively working on the Sterling Highway MP 45-60 construction project near Cooper Landing (the "project"); and

WHEREAS, the borough owns or manages certain lands along and adjacent to the parts of the project alignment; and

WHEREAS, DOT&PF has identified certain sites that would be useful for project staging and material extraction, as well as earthen material disposal activities to serve the project needs; and

WHEREAS, land management has worked with project officials to develop a Master Land Lease and Development Agreement involving borough lands and resources based on project needs; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of April 12, 2021 recommended approval by unanimous consent;

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

SECTION 1. That the assembly finds that leasing three sites of Kenai Peninsula Borough owned and managed land pursuant to KPB 17.10.100(I) as described in the accompanying Master Land Lease Development Agreement is in the best interest of the borough.

SECTION 2. That the provisions of KPB 17.10.080 -.090 and KPB 17.10.110 -.240 governing classification, disposition, and leasing of borough lands and related natural resources shall not apply to this lease to DOT&PF in cooperation with the Sterling Highway MP 45-60 project.

SECTION 3. Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) to lease three sites referred to as West #1, West #2 and East #2 Staging and Disposal Sites, located within Sections 26 & 27 T5N, R4W, and Section 30 T 5N, R3W, Seward Meridian Alaska, according to the terms and conditions and substantially in the form of the Master Land Lease Development Agreement accompanying this ordinance. The authorization is for lease solely to the State of Alaska Department of Transportation and Public Facilities (DOT&PF), and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

SECTION 4. The mayor is authorized to execute a Land Lease and Development Agreement substantially similar in form to the accompanying Master Land Lease Development Agreement form approved by the assembly in this ordinance..

SECTION 5. DOT&PF shall have 90 days from the date of enactment of this ordinance to execute the lease document.

SECTION 6. That revenue from the subject Master Land lease Development Agreement shall be deposited in the Land Trust Fund.

SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Master Land Lease Development Agreement

KPBL# 21-0501-01

The Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (hereinafter "KPB" or "Lessor"), and the State of Alaska, Department of Transporation 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 (Master Lease) and agree as follows:

I. Background; Contract Documents; Authorized Contact; Definitions

1. **Background**. The KPB owns or manages certain real property located in the Kenai Peninsula Borough, in the State of Alaska, that is more particularly described and/or depicted in Attachment 3 attached hereto (the "Property"). For good and valuable consideration, the parties agree that the KPB will grant the DOT&PF the right to use the Property for the purposes of staging equipment, personnel and resources, and to dispose, develop, process, explore, excavate, crush, stockpile, remove, and reclaim gravel, soil, and other natural resource materials on the Property. DOT&PF agrees that it will conduct its use and operations according to the terms and conditions contained in this Master Lease for purposes integral to DOT&PF's Sterling Highway MP45-60 Project near Cooper Landing, Alaska.

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

KPB	**DOT&PF**
Kenai Peninsula Borough Attn: Land Management Division Mailing Address: 144 N. Binkley St. Soldotna, AK 99669	DOT&PF Central Region Construction Attn: Sean Holland 4111 Aviation Avenue Anchorage, AK 99519-6900

3. **Contract Documents**. As authorized by the Borough Assembly, this Master Lease and incorporated contract agreements together form the entire agreement ("Agreement"). Collectively, the Agreement is the final and complete understanding of the parties. The

following agreements or attachments, are attached to, incorporated herein by reference, and together form the entire Agreement:

i. Master Lease Agreement
ii. Attachment 1: Material Extraction and Disposal Terms & Conditions
iii. Attachment 2: Lease Provisions Required by KPB 17.10
iv. Attachment 3: Site Survey Drawings
v. Attachment 4: Staging/Disposal Site Operations Plan

If in conflict, the Master Lease shall control, except that the Material Extraction and Disposal Terms & Conditions shall control with respect to the authorized uses, fees or royalties, and reclamation terms specific to the disposal, processing, exploration, extraction, stockpiling, removal, and reclamation of natural material resources on the Property.

4. **Definitions.**

4.1. Agreement - the final and complete agreement of the parties and shall encompass the Master Land Lease Development Agreement and Attachments 1, 2, 3 and 4 as described above in paragraph 3, Contract Documents, of this agreement. .

4.2. Environmental Assessment - An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of property and the presence, type, concentration, and extent of any Contamination in, on, and under the surface of the property.

4.3. Environmental Law - Any federal, state, or local statute, law, regulation, ordinance, code, Lease, order, decision, or judgment from a governmental entity relating to environmental matters, including littering and dumping. It includes, as applicable, 42 U.S.C. 7401-7671 (Clean Air Act); 33 U.S.C. 1251-1387 (Federal Water Pollution Control Act);42 U.S.C. 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); S.C. 5101-5127 (Hazardous Materials Transportation Act); 15 U.S.C. 2601-2692 (Toxic Substances Control Act); AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); and the provisions of 18 AAC (Environmental Conservation) implementing AS 46.

4.4. Environmental Liability Baseline - A description, accepted by the Lessor and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of Contamination in, on, or under the surface of the Property that was neither caused nor Materially Contributed To by the Lessee, nor assumed by the Lessee by reason of assignment.

4.5. Lessee - State of Alaska, Department of Transportation and Public Facilities or DOT&PF.

4.6. Lessor - Kenai Peninsula Borough or KPB.

4.7. Project - DOT&PF's Sterling Highway MP45-60 Project.

4.8. Property –Sites that will be leased by DOT&PF from KPB as part of the Project more particularly described in Section 5 below in this Agreement, and also shown on Attachment 3.

4.9. Site Development Materials - Materials used for Site Development. Site Development Materials includes geotextile, fill, gravel, paving, and pavement reinforcement materials.

II. Leased Property Description; Term; Rent

5. **The Property.** The KPB leases to DOT&PF and DOT&PF leases from the KPB, 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
>
> Each Site more particularly described and depicted in Attachment 3- Site Survey Drawings.

6. **Additional Lands.** By mutual written agreement of the parties, the Property may be added to, amended, or otherwise changed to fit the needs of the Project. This provision shall be interpreted to mean that the KPB and DOT&PF may agree to add additional lands owned or managed by the KPB to the Agreement and DOT&PF may agree to lease such additional lands under the same rental & fees basis, terms and conditions set forth in this Agreement.

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.

7.2. Renewal Term(s). Unless notice of non-renewal is provided prior to expiration of the Initial Term or the DOT&PF is otherwise in breach of this Master Lease, the Agreement may be automatically renewed by DOT&PF for two additional 1-year Renewal Terms.

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 Master 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
TOTAL		$19,560/YR

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

III. Uses; Reservation of Rights by KPB

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.

10. **Prohibited Uses.** Under this Agreement, the following uses on the Property are prohibited:

10.1. Installing permanent structures;

10.2. Storage of bulk fuel. Bulk fuel is defined as storage of 25,000 Gallons or more fuel per site.

11. **Rights Reserved by KPB.**

11.1. The KPB reserves a 60 foot x 60 foot area on the Property ("Reserved Area"), the exact location is subject to mutual agreement of the parties hereto, for the purposes of siting

a communications facility (tower) on the Property. This reservation includes the exclusive right to grant to a third party the right, license or privilege to site, construct, install, and maintain a communications site (tower) or to place commercial communications equipment on the Property and includes ingress and egress rights. This provision is subordinate to the rights and privileges granted under this Agreement and shall not unreasonably interfere with DOT&PF's authorizes use of the Property or limit DOT&PF from installing non-commercial communications equipment for the project.

11.2. The KPB reserves the right of ingress and egress from the Property, and the right to enter any part of the Property for the purposes of inspection at any reasonable time subject only to the KPB's best efforts, except in the case of an emergency, to coordinate its inspection with the DOT&PF to minimize interference with the DOT&PF's operations and activities on the Property.

11.3. Upon KPB entering into a third party agreement for a communication facility on the Property, DOT&PF shall be automatically released from liabilities under this agreement as to the reserved area.

IV. Cancellation, Expiration or Other Termination

12. **DOT&PF Default.**

12.1. If DOT&PF violates a term of the Agreement and the KPB considers that term to be a material obligation of the Agreement, or the violation to be a material deviation from the requirements of the Agreement, the KPB will mail or deliver to DOT&PF a written notice of the violation. The notice must allow DOT&PF not less than sixty (60) days to correct the violation, unless the violation constitutes an imminent threat to public health or safety.

12.2. If the DOT&PF does not correct the violation by the time allowed in the notice, the KPB shall:

a. grant an extension of time to correct the violation if the DOT&PF shows good cause;
b. take enforcement action as provided under this Master Lease or as available by law; or
c. cancel this Master Lease.

12.3. If the KPB determines that a violation creates an imminent threat to public health or safety, the KPB shall:

a. Direct DOT&PF to stop the activity immediately
b. Provide DOT&PF less time than otherwise specified in the Agreement to correct the violation; or
c. Correct the violation.

12.4. Without limitation, the following shall be deemed either violations of material obligations of this Agreement or material deviations from the requirements of the Agreement:

a. DOT&PF fails to pay when due any rent, charge, or fee or royalty specified in the Agreement, including any increase made under this Master Lease;
b. DOT&PF blocks or restricts KPB or its Contractor's access to the Property in violation of Section 11 above;
c. DOT&PF is otherwise found to be in violation of State or Federal law.

13. **Waiver.**
    13.1. A waiver by the KPB of any default by DOT&PF of any provision of this Agreement will not operate as a waiver of any subsequent default. If the KPB waives a default, the KPB is not required to provide notice to DOT&PF to restore or revive any provision under this Agreement. The waiver by the KPB of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the KPB.
    13.2. The KPB's failure to insist upon the strict performance by DOT&PF of any provision in this Agreement is not a waiver or relinquishment for the future, and the provision will continue in full force.

14. **Disposition of Improvements and Personal Property**. All temporary improvements and personal property of DOT&PF shall be removed by DOT&PF, at its sole expense, within ninety (90) days of cancellation, termination, or expiration of the Agreement.

15. **Disposition of Site Development Materials**. Site Development Materials that DOT&PF completes or places on the Property become part of the KPB-owned or managed realty and property of the KPB upon completion or placement. DOT&PF may not remove the Site Development Materials unless the KPB approves in writing.

16. **Natural Disasters.** If the parties agree in writing that the Property are unusable, not due to the fault or negligence of either party, to the extent that performance of this Master Lease is impossible, this Master Lease may be terminated. If the DOT&PF elects to continue to operate, the KPB is under no obligation to continue to perform. Causes for termination under this provision include, but are not restricted to, acts of God, fires, floods, epidemics, quarantine restrictions, earthquakes, landslides, mudslides, avalanches, tsunami, or volcanic activity.

17. **National Emergency**. If the federal government declares a national emergency, neither party may hold the other liable for any inability to perform any part of this Master Lease as a result of the national emergency.

18. **Survival.**
    18.1. At the expiration, cancellation, or other termination of this Master Lease, the DOT&PF shall peaceably and quietly vacate the Property and return possession to the KPB.
    18.2. The DOT&PF's obligations under the following provisions of this Master Lease shall

survive and remain binding on the DOT&PF after the expiration, cancellation, or other termination of the Agreement:

a. Section 7 – Rent – of the Master Lease;
b. Section 14 – Disposition of Improvements and Personal Property – of the Master Lease;
c. Sections 19 through 24 – Environmental Issues – of this Master Lease; and
d. All terms related to Reclamation of the Property under Attachment 1 – material Extraction and Disposal Terms & Conditions.

V. Environmental Issues

19. **Environmental Liability Baseline.**

19.1. Responsibility for Ascertaining Environmental Condition of Property. The Lessee has the sole responsibility under this Agreement to ascertain the environmental condition and presence of Contamination in, on, and under the surface of the Property, and is conclusively presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Property except as identified in an Environmental Liability Baseline. If known Contamination is on the property that has been closed out under alternate cleanup levels approved by ADEC, Lessee is responsible for following all restrictions set by ADEC, including, but not limited to notifying any assignee of this Agreement in writing of ADEC's restrictions.

19.2. Financial Responsibility for Contamination on the Property and on any Affected Property. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Property, except for Contamination that is identified in an Environmental Liability Baseline. This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Property, or other potentially responsible parties except for the Lessor.

19.3. Establishing an Environmental Liability Baseline

a. If the Lessee wants to establish an Environmental Liability Baseline for all or any portion of the Property, the Lessee shall provide the Lessor with an Environmental Assessment for that portion of the Property.
b. If the Lessee discovers Contamination in, on, or under the surface of the Property, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate by clear and convincing evidence to the satisfaction of the Lessor that the Contamination proposed for inclusion was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities nor assumed by the Lessee. Contamination caused or Materially Contributed to by activities of the Lessee's sublessees, contractors, and guests on the Property are deemed to be Materially Contributed To by the Lessee.
c. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities shall be included in the Environmental Liability Baseline.

19.4. Adding to an Existing Environmental Liability Baseline.

a. If, after an Environmental Liability Baseline is established for any portion of the Property the Lessee discovers Contamination in, on, or under the surface of that portion of the Property having an Environmental Liability Baseline, which Contamination the Lessee or the Lessee's operations or activities did not cause or Materially Contribute To, and which the Lessee did not assume by reason of assignment, the Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Lessor for the Lessor's consideration to add to the Environmental Liability Baseline. The Lessee's additional Environmental Assessment must demonstrate by clear and convincing evidence to the satisfaction of the Lessor which portion of the additional Contamination on the Property was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities may be added to the existing Environmental Liability Baseline.

19.5. Lessor's Acceptance or Rejection of Lessee's Environmental Assessment. When the Lessor receives the Lessee's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Lessor, in its sole discretion, will do one of the following:

a. Accept the findings of the Lessee's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that portion of the Property being assessed or to add to the existing Environmental Liability Baseline.

b. Reject the findings of the Lessee's Environmental Assessment for that portion of the Property being assessed and offer the Lessee the opportunity to perform additional environmental testings if the Lessor determines in writing that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Lessor's written rejection of the Lessee's Environmental Assessment will be based on failure of the Lessee's Environmental Assessment to either:

(1) follow generally accepted professional practices in determining the environmental condition of the Property and the presence of Contamination in, on, or under the surface of the Property; or

(2) demonstrate the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities.

c. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Property being assessed. If the results of the Lessor's tests conflict with the Lessee's Environmental Assessment, the Lessor and the Lessee will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for that portion of the Property being assessed.

19.6. Amending the Environmental Liability Baseline to Delete Contamination Caused, Materially Contributed to, or Assumed by Lessee.

a. If, after the Environmental Liability Baseline for any portion of the Property is established, it is discovered that the presence of Contamination identified

in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, or assumed by the Lessee by reason of assignment, the Environmental Liability Baseline may be amended to delete that portion of the Contamination that was caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. The Lessor will have the burden of proof in establishing that the Lessee or the Lessee's operations or activities caused or Materially Contributed to this Contamination.
c. If it is discovered that Contamination identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, the parties will agree upon an amendment to the Environmental Liability Baseline within a reasonable time.

20. **Release of Lessee.** The Lessor releases the Lessee from liability to the Lessor for Contamination identified by the Environmental Liability Baseline that was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

21. **Required Remediation.** The Lessor is under no obligation to remediate Contamination identified in an Environmental Assessment, except the Lessor shall remediate, or have responsible parties remediate, the Contamination identified in the Environmental Liability Baseline if an agency with such authority requires the Lessee or Lessor to remediate. In the event of such required remediation, the Lessor will make a reasonable effort to coordinate the remediation with the Lessee to minimize disruption of the Lessee's operations or activities and damage to the Lessee's improvements and property. The Lessee releases and holds the Lessor harmless for all costs associated with any damage to, and relocation, removal, and repair of Lessee's improvements and property that result from remediation performed in compliance with this paragraph with respect to Contamination that existed before construction of affected improvements.

22. **Action Against Potentially Responsible Parties.** This article does not restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties for Contamination identified in the Environmental Liability Baseline.

VI. Additional Terms and Conditions

23. **Defense and Indemnification.** To the extent allowed by law and subject to legislative appropriation, the parties shall mutually indemnify, defend, save and hold KPB, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees resulting from either parties' performance or failure to perform in accord with the terms of the Agreement in any way whatsoever. This defense and indemnification shall not mean that a party is responsible for any damages or claims arising from the sole negligence or willful misconduct of the other party, its agents or employees.

24. **Insurance**. It is understood that both parties to the Agreement are self-insured at adequate and acceptable to both parties. However, any contractors or subcontractors that use or perform work at the Property shall maintain the following insurance coverages:
    24.1. Commercial General Liability Insurance (CGL). All Contractors and subcontractors of any tier shall provide and maintain, Commercial General Liability Insurance (CGL). The CGL Policy shall be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from Property, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.
    24.2. Worker's Compensation, Employer's Liability Insurance. Contractor and subcontractor(s) of any tier shall provide and maintain, for all of its employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than the minimum amounts required by law. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.
    24.3. Auto Liability. Contractor and subcontractor(s) of any tier shall provide and maintain, Auto Liability Insurance (ALI). The Auto Liability Policy shall include a Combined Single Limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.
    24.4. Proof of Coverage. All insurance shall be primary and exclusive of any other insurance held by the KPB. Upon renewal of insurance coverage during the license, certificates of insurance shall be delivered to the KPB. DOT&PF on behalf of its contractors shall deliver, within 30 days, complete insurance coverage policy documents to the KPB upon request.

25. **Assignments.** The Agreement is not assignable.

26. **Subleasing.** DOT&PF may not sublease the Property or any part thereof without written permission of the KBP Mayor when applicable. A sublease shall be in writing and subject to the terms and conditions of this Master Lease.

27. **Waste.** DOT&PF shall not commit waste upon or injury to the lands leased herein.

28. **Fire Protection.** DOT&PF shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on

the Property, and comply with all laws, regulations, and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

29. **Safety.** DOT&PF shall be solely responsible for maintaining the Property in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the Property as needed for DOT&PF's use of the Property. DOT&PF is responsible for the safety of all persons conducting activities on the Property under the Agreement.

30. **Sanitation.** DOT&PF shall comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property shall be kept in a clean and sanitary condition and every effort shall be made to prevent pollution of the waters and lands. Sanitary facilities shall be in accordance with the State of Alaska, Department of Environmental Conservation regulations.

31. **Compliance with Laws.** DOT&PF shall abide by all applicable federal, state, city, and borough statutes, ordinances, rules, and regulations. DOT&PF is responsible for obtaining all federal, state, and local permits applicable to licensee's activities and shall keep such permits in good standing.

32. **Responsibility of Location.** It shall be the responsibility of DOT&PF to properly locate itself and its improvements on the Property.

33. **Liens and Mortgages.** DOT&PF shall not cause or allow any lien or encumbrance of any kind or nature whatsoever to attach to the Property during the term of the Agreement. In the event that any prohibited lien is placed against the Property, DOT&PF shall immediately cause the lien to be released.

34. **No Warranty, Express or Implied.** The DOT&PF accepts the Property AS-IS, WHERE-IS. The Agreement shall be without warranty whatsoever, whether implied or expressed, as to quality, fitness for purpose or suitability for development, or physical condition (including, without limitation the environmental condition of the property). It is the responsibility of the DOT&PF to satisfy itself prior to executing the lease and/or prior to closing as to the type, condition, and quality of the Property.

35. **Jurisdiction.** Any lawsuits filed in connection with the terms and conditions of the Agreement, and of the rights and duties of the parties, shall be filed and prosecuted at Kenai, Alaska and shall be governed by Alaska law, without regard to conflict of law principles.

36. **Savings Clause.** Should any provision of the Agreement fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of the Agreement or constitute any cause of action in favor of either party as against the other.

37. **Binding Effect.** It is agreed that all covenants, terms, and conditions of the Agreement shall be binding upon the successors, heirs and assigns of the parties hereto.

38. **Integration and Merger.** The Agreement sets out all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Property whether oral or written. Unless specifically authorized within a provision, no

modification or amendment of the Agreement is effective unless in writing and signed by both of the parties.

39. **Warranty of Authority.** DOT&PF warrants that the person executing the Agreement is authorized to do so on behalf of DOT&PF.

40. **Counterparts**. The Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

41. **Quiet Enjoyment.** During the term of the Agreement, DOT&PF will have quiet enjoyment of the Property subject to the terms and conditions stated in the Agreement.

42. **Interpretation.** Both parties have had an opportunity to review the Agreement, to suggest changes, and to consult with legal counsel before signing. The Agreement will not be interpreted in favor of or against either Party.

LESSOR:

Kenai Peninsula Borough

_____

By: Charlie Pierce

Its: Mayor

Date: _____

LESSEE:

State of Alaska, Department of Transportation and Public Facilities

_____

By: _____

Its: _____

Date: _____

ATTEST:

_____

Johni Blankenship, Borough Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____

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
Commission Expires:_____

MATERIAL EXTRACTION AND DISPOSAL TERMS & CONDITIONS
KPB 17.10.210

Attachment 1 to Master Lease Agreement

1. DISPOSAL TERMS AND CONDITIONS:

1.1. DOT shall not dispose of material on KPB property other than material from the Sterling Highway MP 45-60 Project.

1.2. DOT represents and warrants that the Disposal Material to be deposited on the Property satisfies the definition of uncontaminated fill as defined here:

> ***"Uncontaminated fill"*** *means uncontaminated solid material including soil, rock, stone, and grubbings (Stumps, roots, moss, grass, turf, debris, mulch or other organic-laden materials stripped from the land). Uncontaminated fill does not include human waste or refuse, industrial refuse, equipment parts, rubber tires, or any other materials not occurring naturally in the project zone.*

1.3. DOT represents and warrants that the Disposal Material does not contain and will not release Hazardous Materials in quantities that would require investigation, monitoring, clean-up, containment, restoration, removal, governmental notification, or other remedial work under any applicable federal, state, or local law or regulation. The term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is regulated by any governmental authority of the State of Alaska or the United States government, including without limitation, any material or substance which (i) is defined or listed as a "hazardous material", "toxic pollutant", "hazardous waste", "hazardous substance" or "hazardous pollutant," under applicable federal, state or local law or administrative codes promulgated thereunder, (ii) contains hydrocarbons of any kind, nature or description, including, but not limited to, gas, oil, or similar petroleum products, other than reclaimed asphalt pavement, (iii) contains asbestos, (iv) contains PCBs or (v) contains radioactive materials.

1.4. DOT, or its contractor, will establish methods of volumetric measurement and recording such as load records with volume average truck counts, or before and after cross section survey, LiDAR elevation surveys, or implement other tracking procedures sufficient to track the site location, volume, and type of materials deposited.

1.5. DOT will produce auditable project records showing the quantity and type of materials deposited under this agreement which shall be provided in summary form with payments.

a. For the purpose of providing progressive evidence to KPB of the classification of

materials and respective location deposited, DOT will capture low-level high-resolution imagery at least monthly of each disposal area during active periods. Images will be delivered to KPB by the expiration of this agreement. Progress images are to support general-tracking information and may be either orthomosiac or oblique.

1.6. KPB reserves the right to reject the placement of any disposal materials which do not fit within the classifications outlined in Section 3 of this agreement.

1.7. Fees will be charged for material disposal according to the table in Section 3 of this agreement.

1.8. Construction quality materials to be stockpiled for credit require a stockpile design plan and are subject to inspection and acceptance based on conventional material testing standards for the material type.

2. EXTRACTION TERMS AND CONDTIONS:

2.1 Extraction of material to be transported off-site will require a Conditional Land Use Permit from KPB Planning Dept in accordance with KPB 21.29.

2.2 The DOT or its contractor will provide auditable project records showing the quantity and type of materials removed under this agreement, and their origin.

2.3 Fees will be charged for extracted materials according to the table in Section 3 of this agreement.

3. CLASSIFICATION OF MATERIALS and SCHEDULE OF FEES:

Classification	**Description**	**Unit Disposal Fee**	**Unit Extraction Fee**	**Creditable Value**
Type C Material	Compactable Mineral Aggregate (see DOT SSHC 2020, 703-2.07)	$0.40/ cubic yard	n/a	n/a
Grubbed Material and Muck Excavation	Stumps, roots, moss, grass, turf, debris, mulch or other organic-laden material (DOT SSHC 2020, 201-3.03)	$0.40/ cubic yard	n/a	n/a
Topsoil and Peat	Topsoil and peat, free of muck and large debris	$0.40/ cubic yard		A volume of up to 8" per unit

				area used as reclamation topdressing materials can be deducted from Fee
Construction quality materials stockpiles	Sorted, stockpiled aggregates meeting KPB road construction specifications, sorted, stockpiled clean topsoil, or sorted, stockpiled topsoil grade peat	n/a	n/a	$1.50/ cubic yard, credit may not exceed disposal fee total
Pad Area Materials	Compacted aggregate, not underlain with organic material, capped with NFS gravel to form a durable pad or driving surface	n/a	n/a	Volume not subject to fees
Unclassified excavation	Any material extracted from KPB land and transported off-site	n/a	$3.00/ cubic yard	n/a

4. PAYMENT:

Partial payment shall be due at the end of each calendar year, within the contract term. Full and final payment shall be due at the end of the contract term. Payments shall be accompanied by an auditable record showing the quantity and types of material deposited and extracted from KPB lands, and the respective sites of origin/ disposal. Credits against fees, if any, shall be accounted with appropriate documentation and signed off by both parties prior to final payment becoming due.

5. STABILIZATION:

The parties agree that all fill deposited on KPB land shall be stabilized to safeguard

against slope failures of any kind. Specifically:

5.1 All deposited fill shall be layered in maximum 3' lifts and mechanically compacted using vibratory equipment.
5.2 No constructed embankment shall exceed a 2:1, or 50%, slope.
5.3 Any travel ways, road surfaces, or pads constructed under this agreement shall have a minimum 2% cross-slope gradient, to allow for low-energy surface drainage and to prevent water perching.
5.4 No travel way or road surface constructed on KPB land shall exceed 10% gradient.
5.5 Any area within the Property used as a foundation for material processing equipment, such as an asphalt plant or a concrete batch plant, shall be structurally sound, constructed only of compactable mineral aggregate, and shall be compacted in lifts of 1' or less.

6. EROSION and SEDIMENT CONTROL:

All activities taking place upon KPB land during the term of this contract and within the scope of the Sterling Highway MP 45-60 project shall adhere to the Best Management Practices, adopted under the project's SWPPP plan, stipulated by the DOT SSHC 2020 - section 641, and enforced by the DOT. Under no circumstances shall any constructed embankments be left for the winter months, without being mulched and seeded, or the equivalent.

7. SAFETY

The DOT shall be responsible for ensuring that all mining and extraction activities adhere to applicable workers protection and mining safety laws and regulations.

8. PERMITS

The DOT shall have in place any necessary municipal, state, or federal permits prior to commencing extraction and material processing activities.

9. CLOSE-OUT and RECLAMATION PLAN:

Prior to breaking ground on the Property, the DOT shall provide to the KPB a reclamation plan which includes an overview of the long-term stabilization measures to be implemented on the pads, berms, and other earthen structures constructed pursuant to this agreement. All roads/ travel ways shall be closed-out at KPB's direction. This may include removing culverts, installing drivable or non-drivable water bars, remedial landscaping, blocking access with "tank traps" or construction barriers, or installation of a simple gate. The reclamation plan shall include contouring the site for positive drainage,

slope stability measures, topsoiling and revegeration, continuation of durable pad areas and construction quality materials stockpile access. The reclamation plan may be revised by agreement of the parties prior to close-out to promote long term site management goals.

10. MODIFICATIONS:

The parties may mutually agree to modify these terms and conditions. Modifications shall be incorporated into the Master Lease contract by written amendments.

11. MASTER LEASE AGREEMENT:

The terms and conditions herein apply to disposal and extraction activities on the Property under the Master Lease Agreement. Except as specifically stated herein, the Master Lease Agreement controls.

ATTACHMENT 2
LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current**. The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment**. Lessee may assign the lands upon which Lessee has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement**. In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the borough may cancel Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation**. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry**. In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection**. The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste**. The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification**. The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice**. Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default**. Notice of the default will be in writing as provided in paragraph 9 above.

(11) **Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.**

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or Lessee's successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed**. Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent**. In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location**. It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder**. In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation**. The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement**. As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Subleasing**. No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

(19) **Violation**. Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(20) **Written Waiver**. The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

THESE PLATS MAY BE USED FOR THE ESTABLISHMENT OF THE RIGHT-OF-WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

NOTE: THE ALIGNMENT OF CHUNKWOOD AND WEST JUNEAU ROADS SHOWN ON THIS EXHIBIT IS APPROXIMATE. STAGING AREA BOUNDARIES DEFINED ON SHEETS 4 & 6 MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD & WEST JUNEAU ROADS AND MAY BE ADJUSTED TO MEET THIS REQUIREMENT.

THIS SEAL IS FOR ALL WORK CONTAINED ON PLATS 2 THROUGH 6 OF 6.

12/22/2020

R&M CONSULTANTS, INC.

9101 VANGUARD DRIVE
ANCHORAGE, AK 99507
PHONE (907) 522-1707
AUTH. NO. AECC111

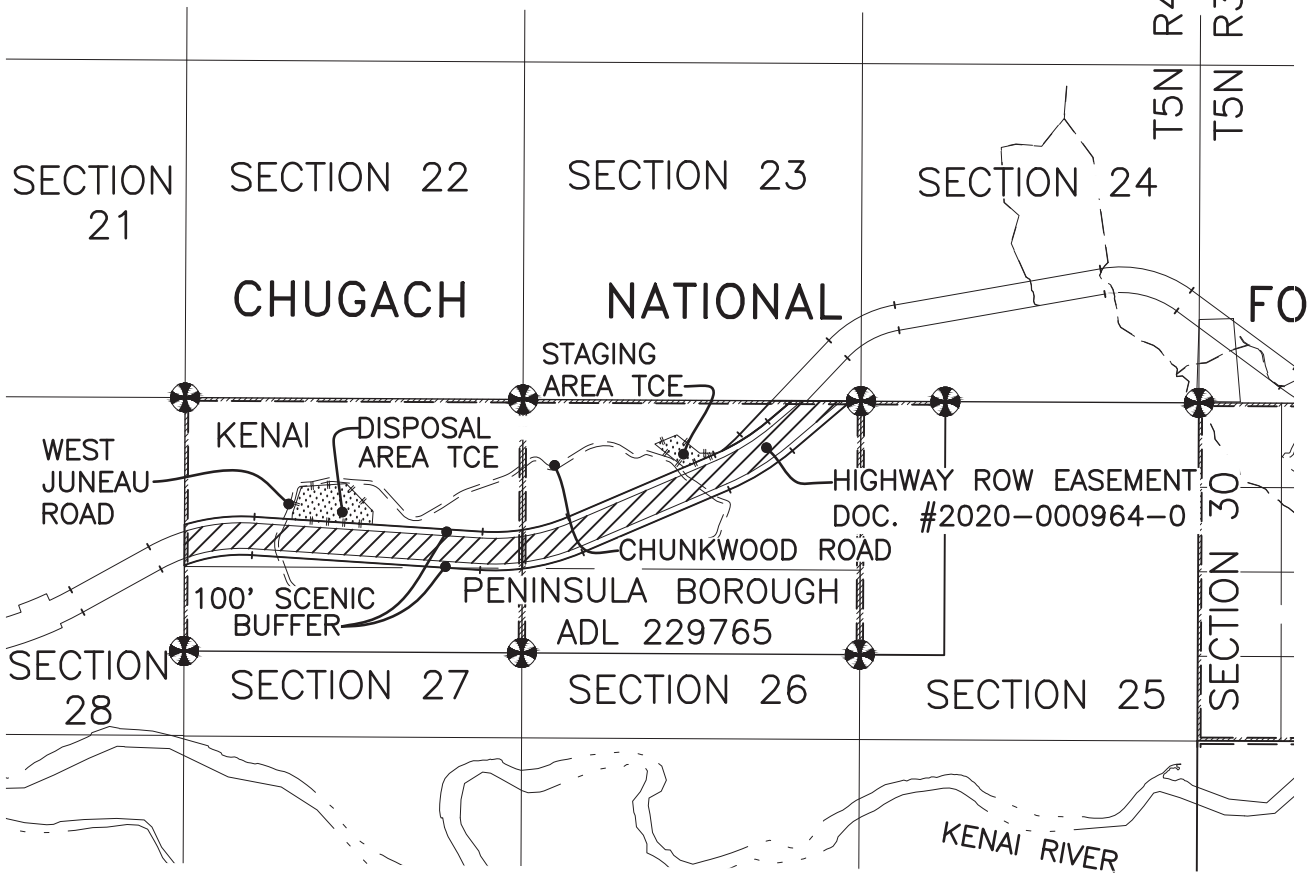
ATTACHED TO _____ PAGE 1 OF 6 DATED _____

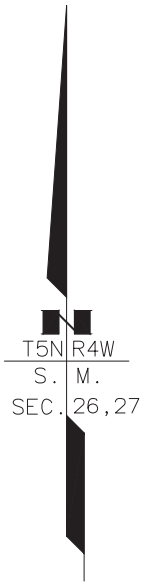
PROJECT NO. 0A33029/CFHWY00694

PARCEL NO.
KPB 395 DISPOSAL/STAGING AREA TCE

EXISTING RIGHT–OF–WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED





0 1500 3000 6000

SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 2 OF 6

ROE AREA 18.602 AC.

DRAWN BY KFT

DATE Dec 2020

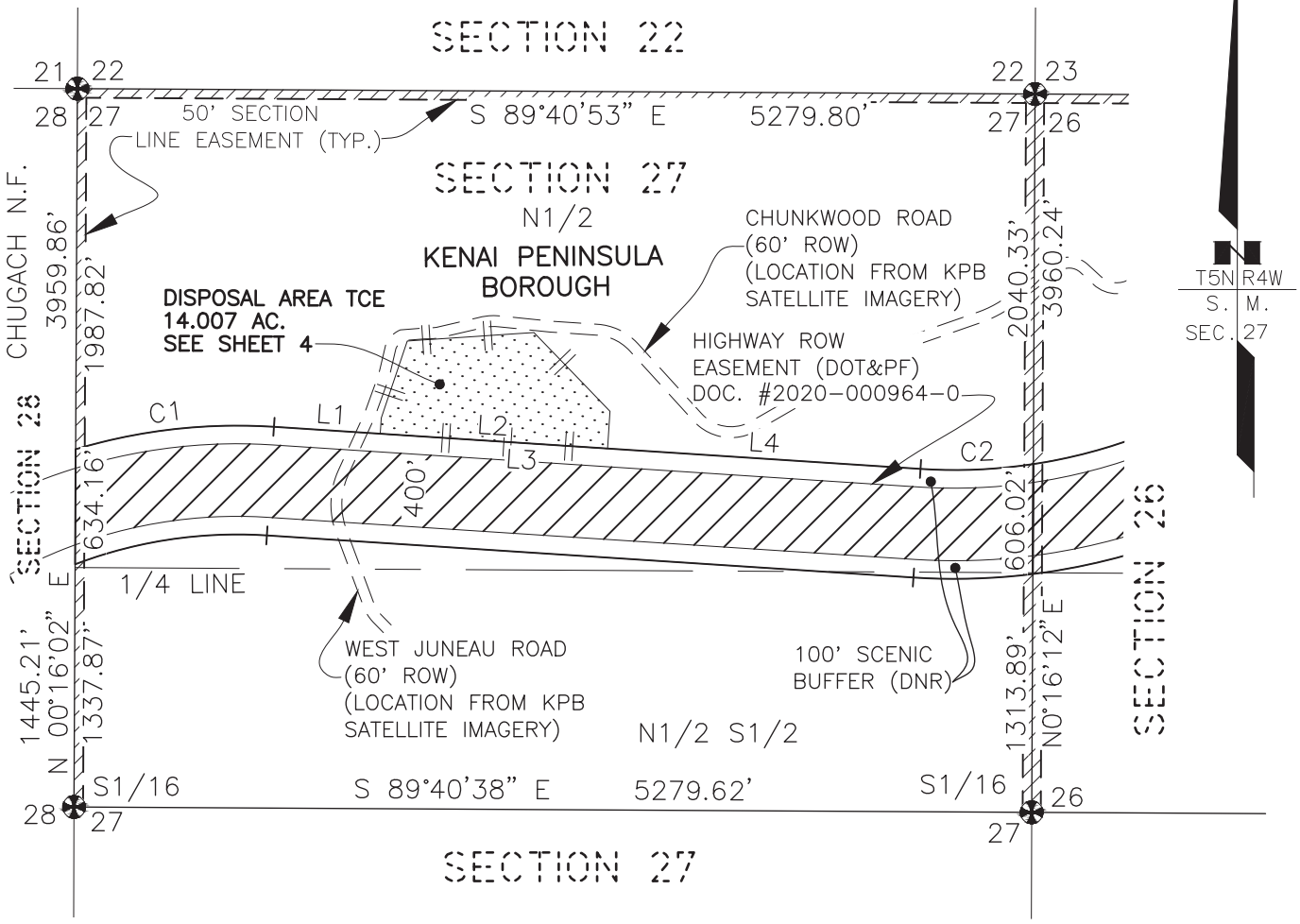
PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREAS TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:16:43 PM

EXISTING RIGHT-OF-WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED

⊕ = RECOVERED PRIMARY MONUMENT [BLM]



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	1105.99	3112.56	20°21'32"
C2	623.78	2896.21	12°20'25"

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	587.17	S 86°16'28" E
L2	1255.79	S 86°16'28" E
L3	3571.72	S 86°16'28" E
L4	1728.76	S 86°16'28" E

0 500 1000 2000

SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 3 OF 6

TCE AREA 14.007 AC.

DRAWN BY KFT

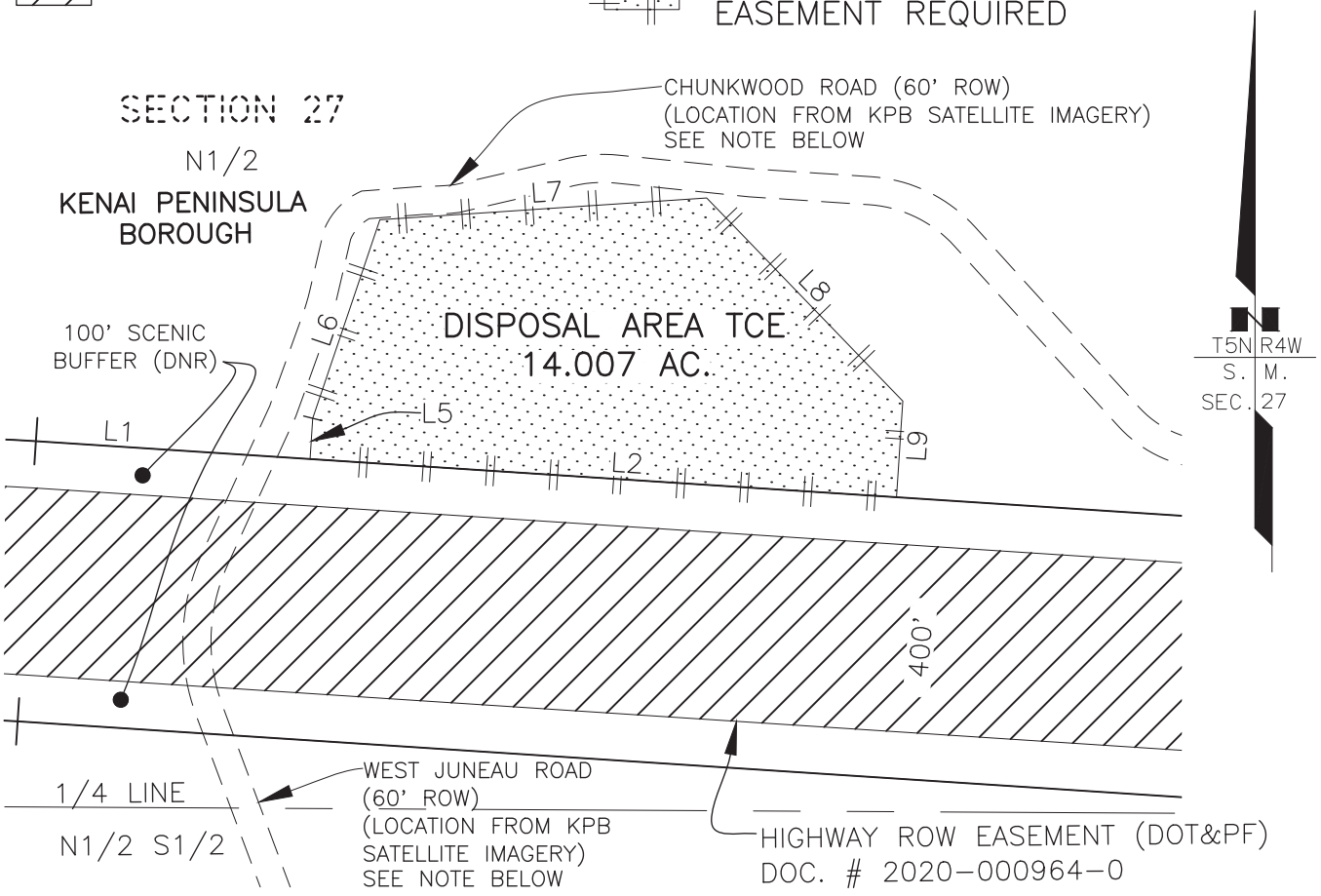
DATE Dec 2020

PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:16:56 PM

EXISTING RIGHT-OF-WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	587.17	S 86°16'28" E
L2	1255.79	S 86°16'28" E
L5	87.16	N 03°43'32" E
L6	447.83	N 18°40'14" E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L7	699.96	N 86°10'48" E
L8	603.36	S 43°59'37" E
L9	205.83	S 03°43'32" W

0 200 400 800

SCALE IN FEET

NOTE: ALIGNMENT OF CHUNKWOOD & WEST JUNEAU ROADS SHOWN IS APPROXIMATE. STAGING AREA BOUNDARY MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD & WEST JUNEAU ROADS & MAY BE ADJUSTED TO MEET THIS REQUIREMENT.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 4 OF 6

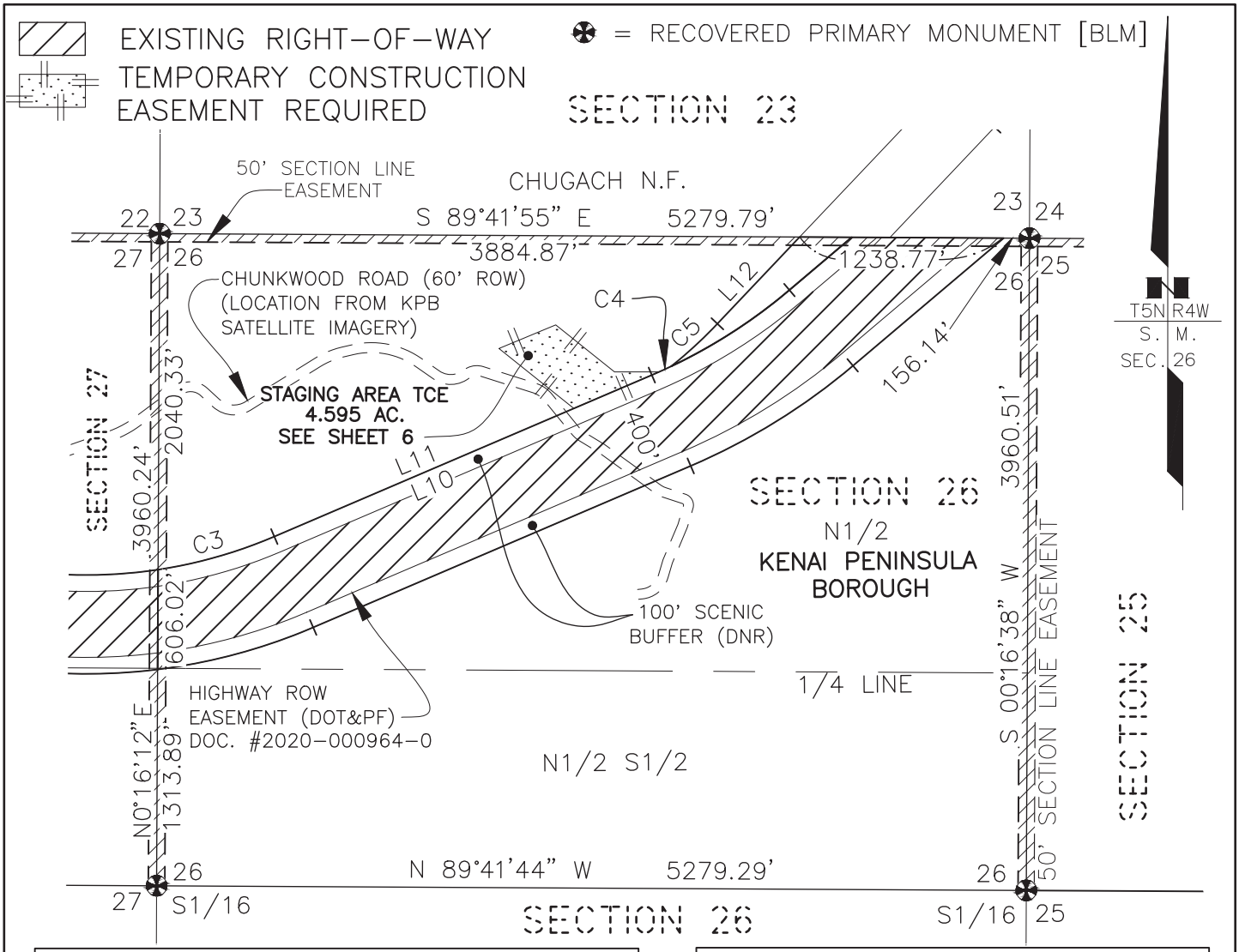
TCE AREA 14.007 AC.

DRAWN BY KFT

DATE Dec 2020

PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:17:09 PM



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C3	735.59	2896.21	14°33'08"
C4	80.12	3300.41	1°23'27"
C5	382.52	2800.00	7°49'39"

LINE TABLE		
LINE #	LENGTH	DIRECTION
L10	2492.68	N 66°50'00" E
L11	1977.69	N 66°50'00" E
L12	725.74	N 43°27'21" E

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 5 OF 6

TCE AREA 4.595 AC

DRAWN BY KFT

DATE Dec 2020

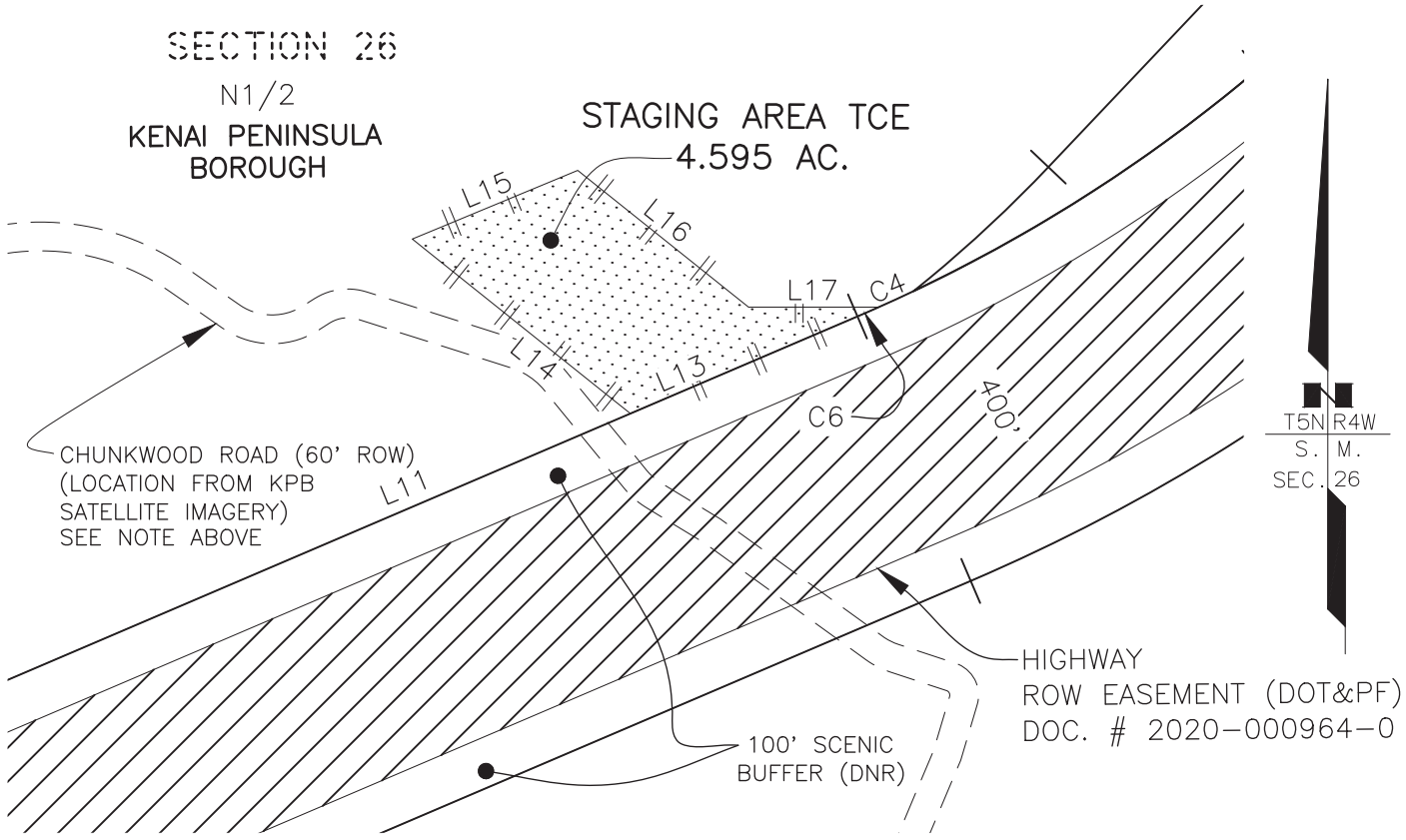
PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:17:22 PM

EXISTING RIGHT-OF-WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED

NOTE: ALIGNMENT OF CHUNKWOOD ROAD SHOWN IS APPROXIMATE. STAGING AREA BOUNDARY MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD ROAD AND MAY BE ADJUSTED TO MEET THIS REQUIREMENT.



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C4	80.12	3300.41	1°23'27"
C6	48.01	3300.41	0°50'01"

LINE TABLE		
LINE #	LENGTH	DIRECTION
L11	1977.69	N 66°50'00" E
L13	514.99	N 66°50'00" E
L14	582.30	N 51°18'52" W
L15	373.30	N 67°25'48" E
L16	456.66	S 51°18'52" E
L17	270.83	N 90°00'00" E

0 200 400 800

SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 6 OF 6

TCE AREA 4.595 AC.

DRAWN BY KFT

DATE Dec 2020

PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:17:41 PM

THESE PLATS MAY BE USED FOR THE ESTABLISHMENT OF THE RIGHT-OF-WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

THIS SEAL IS FOR ALL WORK CONTAINED ON PLATS 2 THROUGH 4 OF 4.

1/5/2021

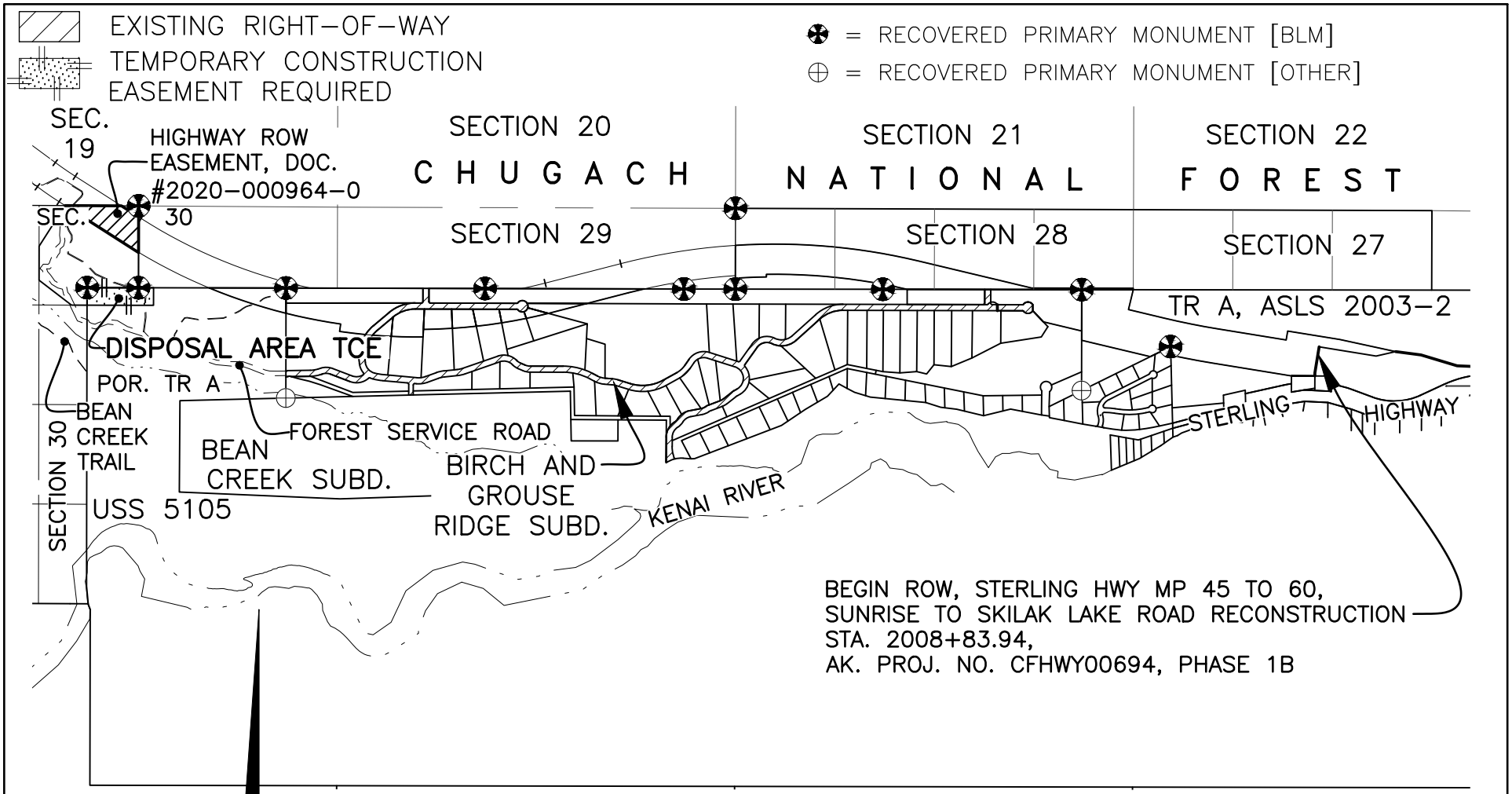
R&M CONSULTANTS, INC.

9101 VANGUARD DRIVE
ANCHORAGE, AK 99507
PHONE (907) 522-1707
AUTH. NO. AECC111

ATTACHED TO _____ PAGE 1 OF 4 DATED _____

PROJECT NO. 0A33029/CFHWY00694

PARCEL NO.
KPB S5105 DISPOSAL AREA TCE



STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 2 OF 4

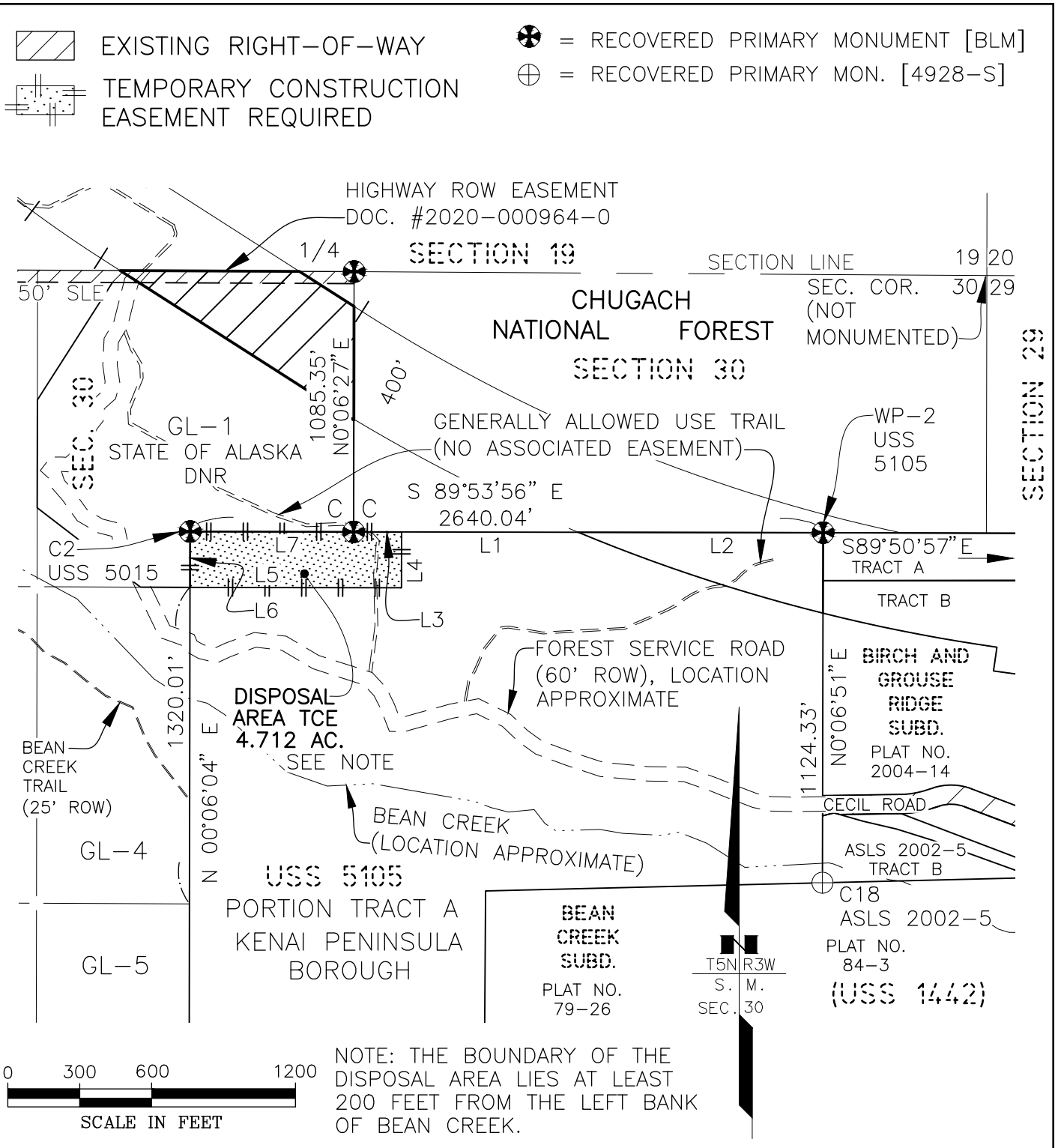
TCE AREA 4.712 AC.

DRAWN BY KFT

DATE Jan 2021

PARCEL NO. KPB S5105
DISPOSAL AREA TCE

KPB USS 5105 Disposal Area TCE 1-5-2021



STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 3 OF 4

TCE AREA 4.712 AC.

DRAWN BY KFT

DATE Jan 2021

PARCEL NO. KPB S5105
DISPOSAL AREA TCE

KPB USS 5105 Disposal Area TCE 1-5-2021 1:14:19 PM

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	736.70	S 89°53'56" E
L2	1021.35	S 89°53'56" E
L3	200.00	S 89°53'56" E
L4	232.70	S 00°06'04" W
L5	881.99	N 89°53'56" W
L6	232.70	N 00°06'04" E
L7	681.99	S 89°53'56" E

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 4 OF 4

TCE AREA 4.712 AC.

DRAWN BY KFT

DATE Jan 2021

PARCEL NO. KPB S5105
DISPOSAL AREA TCE

KPB USS 5105 Disposal Area TCE 1-5-2021 1/5/2021 1:14:26 PM

Attachment #2 to Master Lease

Project No.:	CFHWY00753
Date Prepared:	01/28/2021

Sterling Highway MP 45-60 Sunrise to Skilak Lake Rd Phases 2-5 CM/GC Staging/Disposal Site Operations Plan

Prepared For:

KPB and ADOT&PF

Prepared By:
Kiewit Infrastructure West Co.
2000 W. International Airport Rd. C-6
Anchorage, AK 99502

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Appendixes

Appendix A – Site location and 3D Model

Table(s)

Table 1 – West #1

Table 2 – West #2

Table 3 – East #2

Acronyms and Abbreviations

ADOT	Alaska Department of Transportation & Public Facilities
BMP	Best Management Practice
DNR	Alaska Department of Natural Resources
HMCP	Hazardous Material Control Plan
KIWC	Kiewit Infrastructure West Co.
KPB	Kenai Peninsula Borough
ROW	Right of Way
SOA	State of Alaska
USACE	United States Army Corps. of Engineers
USFS	United States Forest Service

1 Project Description

The following is KIWC's Operation Plan pertaining to staging and disposal areas within the limits of KPB. Kiewit Infrastructure West Co (KIWC) is the CM/GC contractor for the Sterling Highway Milepost 45-60; Sunrise to Skilak Lake Rd – Phases 2-5**.** Staging and disposal sites will be developed/utilized during construction of the project and reclaimed upon completion of the permanent construction according to an approved plan. This work will include three separate locations as identified in the visuals attached.

2 Scope

Identified in this plan are three staging & disposal sites for use during the construction of the Sterling Highway Milepost 45-60 Project. Two of the sites are on the West side (West #1 & #2) and one site is on the East side (East #2) at approximately Station 1500. West #1 is located near USFS Rd. #1 and will primarily be used as a disposal site for slash, peat, topsoil and excess excavation. Eventually, this site will be developed into a staging area for storage and miscellaneous operations. West #2 is located adjacent to USFS Rd #2. West #2 will be home to field offices, permanent materials, maintenance facility, fuel storage and potentially a batch plant. East #2 is located near Station 1500 and will be the designated East side disposal area. Over time it may be developed into an additional area for staging of bridge materials and/or a material crushing and hot plant location for the project.

KIWC is planning on using the requested sites as follows:

2.1 West Site #1

The first location is East of USFS Road #1, near Stations 1314+25 to 1329+00 (Approx. 14 AC). This site will include minimal grubbing to develop an access road into the site. It will be used to dispose of material such as slash, muck excavation, grubbing, and excess excavation material generated by KIWC during construction activities. The slash will be buried at the bottom of the site to reduce further impacts from activities in the site. This site will be broken into quadrants to include specific areas to place materials. For example, the far west section will include a mixture of peat and topsoil that could be used later during the reclamation of the site. The middle section will be material that will be unusable for future aspects of the project such as common excavation with high fines content. The northern section of the site will be used for excess embankment that may later be utilized as a staging area. Clearing will consist of machine clearing, hand clearing, mulching, and decking timber. Grubbing will consist of removal of the top organic layer to develop access into the site and staging area. Reclamation will include covering the site with topsoil and seeding it for permanent stabilization in compliance with the applicable revegetation plan for the project (currently in development).

2.2 West Site #2

The second location is East of USFS Road #2, near Stations 1379+00 to 1387+00 (Approx. 4.6 AC). The use of this parcel will consist of removal and stockpiling the existing organics, creating an earth berm around the perimeter of the site. Clearing will consist of machine clearing, hand clearing, mulching, and decking timber. The top organics layer will be removed in order to access more useable soils. The berm will be track walked for added stability in accordance with Alaska BMP practices. Within the boundaries of the site this area will be transformed into a uniformly flat but free draining area, the site will be capped with aggregate developed on site to provide an all weather running surface. The site will be used

for storage of permeant materials, aggregates, plant operation, field offices, fuel and a maintenance facility. Reclamation will include using the earth berm around the area to cover it with topsoil and follow an applicable revegetation plan.

2.3 East Site #2

On the East side a disposal site will be developed at ~Station 1500. This site will be cleared and built up with the disposal of excess material from the project. Similar to the other sites, the material placed into this site will include grubbing, muck ex, and other material that do not meet the project needs for embankment or are excess. As this site is built up, it will be constructed with side slopes 2:1 (H:V) to allow for proper drainage and surrounded by BMPs to mitigate the risk of storm runoff. The site may also be utilized as a staging area during later phases of the project and will be reclaimed in accordance with an approved revegetation plan at the end of the project.

3 Timeline - Schedule

Notice to Proceed (NTP): Anticipated – May 1, 2021

Final Completion: October 31, 2025

3.1 Order of Precedence for Staging and Disposal Sites

1. Establish staging and disposal areas in relation to the project corridor development.
2. Establish access throughout the project corridor.
3. Construct remaining permanent work for the project alignment.
4. Upon completion of the project reclaim staging and disposal areas used during construction activities to applicable requirements.

4 Operations

4.1 Locations

4.1.1 West #1

This site is ~14 acre parcel located near Juneau Creek Rd. in Parcel 395. As depicted, it is capable of holding approximately 700,000 CY of material. The site will maintain a minimum 1% slope for drainage with slopes anticipated to be 2:1(H:V) around the site. The site will contain grubbing and peat (muck excavation) that could be used later in the project as a topsoil source, in addition to excess or unusable excavation generated from the project. Beyond a disposal site, this is a potential location to place an asphalt hot plant during paving operations. For reclamation, topsoil will be spread across the site in accordance with a revegetation plan for the project. The site will be accessed by Juneau Creek Rd and off the project alignment. A summary of quantities is provided below:

Table 1 – West #1
Disposal and Staging Area

PROPERTY OWNER	TOTAL (ACRE)
KPB	14.0
Fill Possible	~700,000 CY
Grubbing/Muck Ex	~200,00 CY
Excess Materials	~500,000 CY

4.1.2 West #2

This site is ~4.6 Acres and is intended to be used primarily as a staging area. It will consist primarily of clearing and grubbing along with the balancing of approximately 20,000 cubic yards material within the site. The site will maintain a minimum 1% drainage and 2:1(H:V) slopes around the outside. Once the site is balanced,the site will become a staging area for permanent materials, maintenance facility, fuel storage and a possible location for a batch plant during bridge construction. The grubbing will create a vegetative earth berm around the site as a BMP with temporary seed added for stabilization. During reclamation, the berm will be spread back across the site which will be reclaimed according to an agreed upon plan. The site will be accessed from USFS Road #2 (Juneau Creek Rd) or off the project alignment. A summary of quantities is provided below:

Table 2 – West #2
Staging area

PROPERTY OWNER	TOTAL (ACRE)
KPB	4.6
Cut	~15,000 CY
Fill	~22,000 CY

4.1.3 East #2 (~Sta. 1500)

The footprint of this site will be ~21 acres and will be contained within the boundaries of the DNR and KPB. Clearing will take place before any material is disposed into this area. Initially this site will be used for material disposal but as the site develops, parts of this area may be utilized as bridge material storage and crushing / production operations. Finish surfaces will be constructed to provide positive drainage with 2:1 (H:V) slopes around the site while avoiding concentrated flows. Final reclamation of this area will follow an approved revegetation plan. A summary of quantities is provided below:

Table 3: East #2
Disposal and Staging Area

PROPERTY OWNER	FILL (CY)	AREA (ACRE)
DNR	834,000	17.5
KPB	208,000	3.5
TOTAL	1,042,000	21.0

4.2 Timber

Trees to be salvaged shall meet the criteria of the current Firewood plan on the project.

4.3 Final Site Clean Up

During construction the job Storm Water Pollution Prevention Plan (SWPPP) will be followed. Upon Completion of all work any materials that are not to be incorporated into the final project shall be removed and disposed of according to applicable requirements.

4.4 Equipment

- Feller Bunchers
- Excavators with mulching attachment
- Skidsteers with mulching attachment
- Wheel loaders
- Skidders
- Grinders / Mulchers
- Bulldozer
- Pickup Truck
- Maintenance vehicle
- Excavators
- Haul Trucks
- Blade (Grader)

4.5 Safety Protocol

Vehicle and pedestrian access to all trails, KPB roadways, USFS roadways and other recreational resources shall always be maintained for the duration of the project, except for when closures are necessary.

Special Construction signs, in accordance with Subsection 643-2.01, shall be used to advise the public of work in the vicinity of trails. Special Construction signs shall be placed at trailheads at least two weeks before construction begins and be maintained in serviceable condition for the duration of the project. Signs shall state dates and duration of work and dates and duration of road closures.

Use Plastic Safety Fence, in accordance with Subsection 643-2.01, or other means approved by the Engineer to delineate trails through the work site as necessary.

See Appendix A – Special Construction Signs for examples of signage and corresponding locations.

4.6 Hazardous Materials

4.6.1 Personnel, Training & Discharge Prevention Procedure – 40 CFR 112.7(f)

- During handling of hazardous materials operations will follow our Hazardous Material Control Plan (HMCP) that complies with applicable state and federal regulations.
- Maintenance personnel have been trained in the operation and maintenance of equipment to prevent and control discharges; discharge notification; facility operations; and the contents of the SPCC plan.
- Ongoing orientation and training of spill prevention and control is conducted pursuant to the commitments of Kiewit Infrastructure West Co's Sterling Highway MP 45-60 Project and District policies. Discharge prevention training is addressed as necessary during project start-up, regularly scheduled safety meetings, and new-hire orientation.

4.6.2 Tank Truck Loading / Unloading Rack – 40 CFR 112.7(h)

Tank trucks are operated by an independent vendor responsible for ensuring their operations are performed in accordance with applicable state and federal regulations. Spill kits are kept on hand when fuel deliveries are made, and a fueling procedure is followed to minimize the risk of an accidental discharge.

4.6.3 Emergency Telephone Numbers – 40 CFR 112.7(a3vi)

- Bob Falk, Project Manager
  - Phone: (360)319-3075
- Jim Dennison, Project Environmental Coordinator
  - Phone: (907) 406-9652
- Jim Dilworth, District Environmental Manager
  - Phone: (360) 693-1478
- Pat Harrison, Area Manager
  - Phone: (907) 222-9350
- Alaska Department of Environmental Conservation
  - Anchorage: (907) 269-3063
  - Outside normal business hours: (800) 478-9300
- National Response Center
  - (800) 424-8802
- Emerald Alaska Inc.
  - (888) 506-7220

4.7 Contaminated Site Clean Up

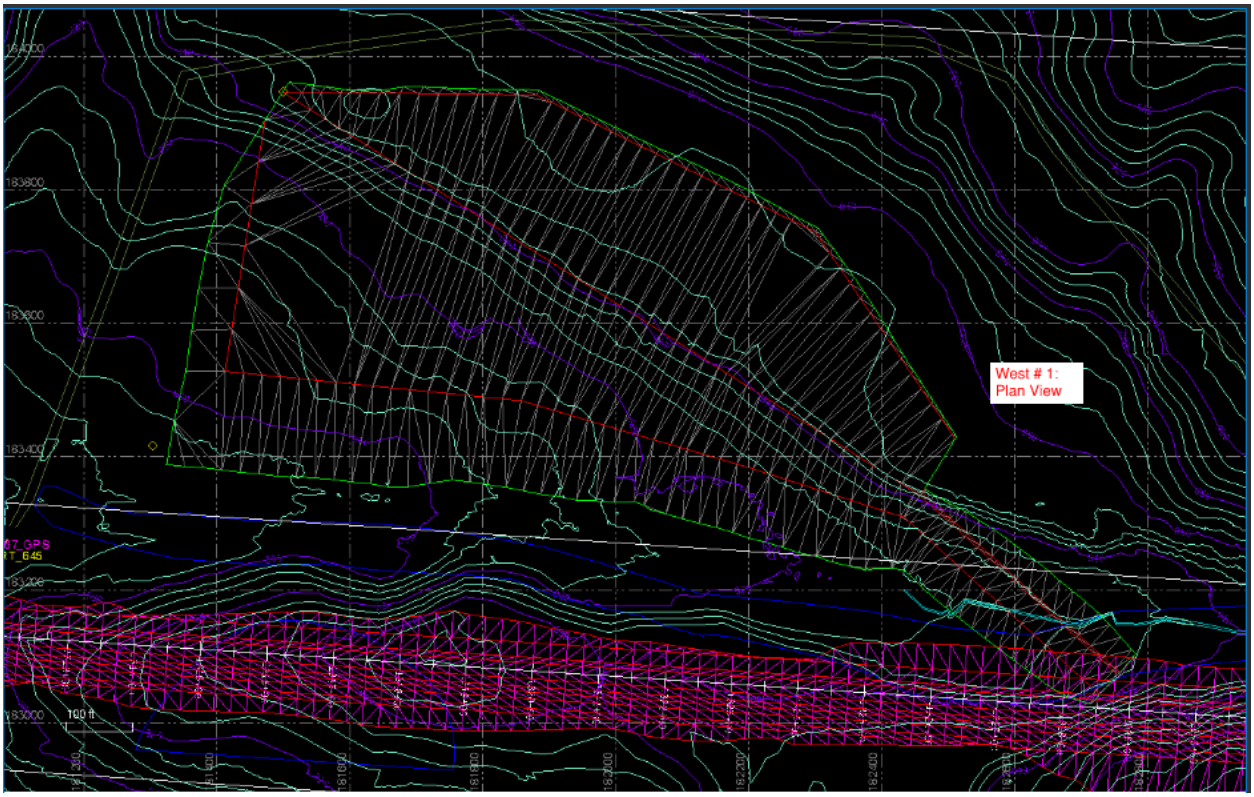
In the event of a spill or release, the initial response actions include the following:

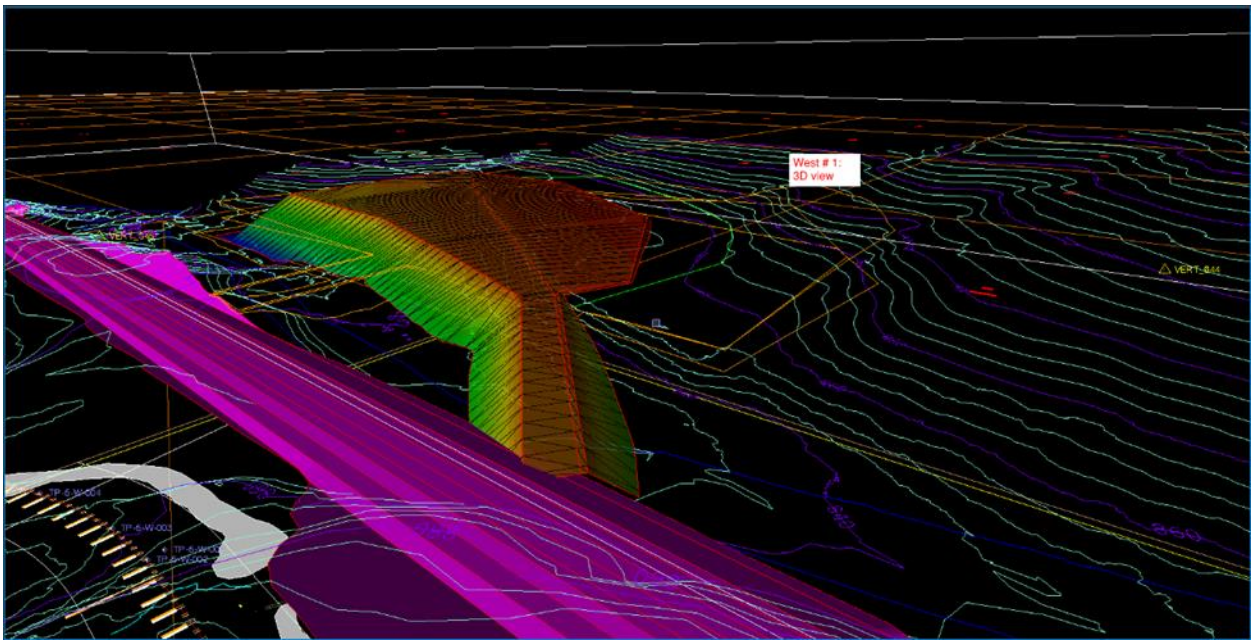
- **Action 1**. Evacuate all non-essential personnel
- **Action 2**. Identify the source of the release
- **Action 3**. Isolate equipment, restrict all sources of ignition, cordon off the area, contain and stop the discharge to the extent possible, close off drainage courses that may lead to a discharge into the waters of the State or other sensitive off-site areas.
  - Note: Only attempt to contain and stop the discharge if you have received the proper training, unless containing or stopping the discharge will involve a simple action such as closing a valve. Avoid direct contact with or the breathing of gases from the spilled product. When responding, use the proper Personal Protection Equipment (PPE) (Consult the Material Safety Data Sheet). Do not hose down or attempt to dilute the spilled material.
- **Action 4**. Provide the Project Environmental Coordinator with the following information:
  - Date and time of the release and/or discovery
  - Type of materials released and estimated quantity
  - Injuries involved, and fire and/or explosion potential
  - Need for additional assistance
  - Immediate actions taken to contain or stop the release
  - Location of the release and direction of flow
  - Probability of offsite migration and/or environmental damages
- **Action 5**. The Project Environmental Coordinator will be responsible for notifying the ADEC and the State of Alaska Department of Transportation (ADOT) and will assign additional personnel and resources to contain or stop the discharge, make the appropriate notification, and begin cleanup activities.

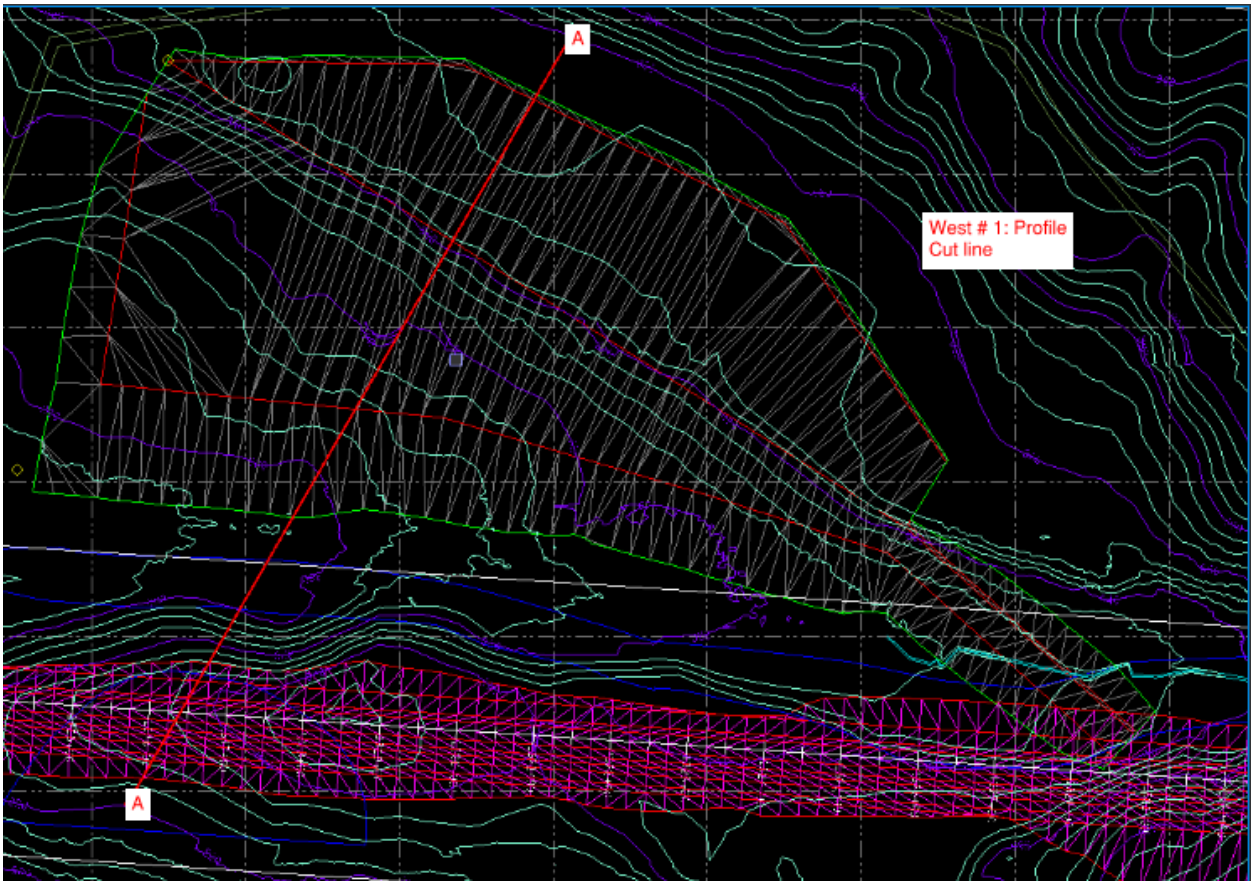
- For the cleanup of minor spills, absorbent materials are available on site at the spill kit locations.
- If the spill cannot be contained within the facility area with materials and equipment on hand, facility personnel are instructed to contain the spill as the situation allows and contact the following contractor for assistance: Emerald Alaska Inc. 2020 Viking Drive, Anchorage, AK 99501(888) 506-7220

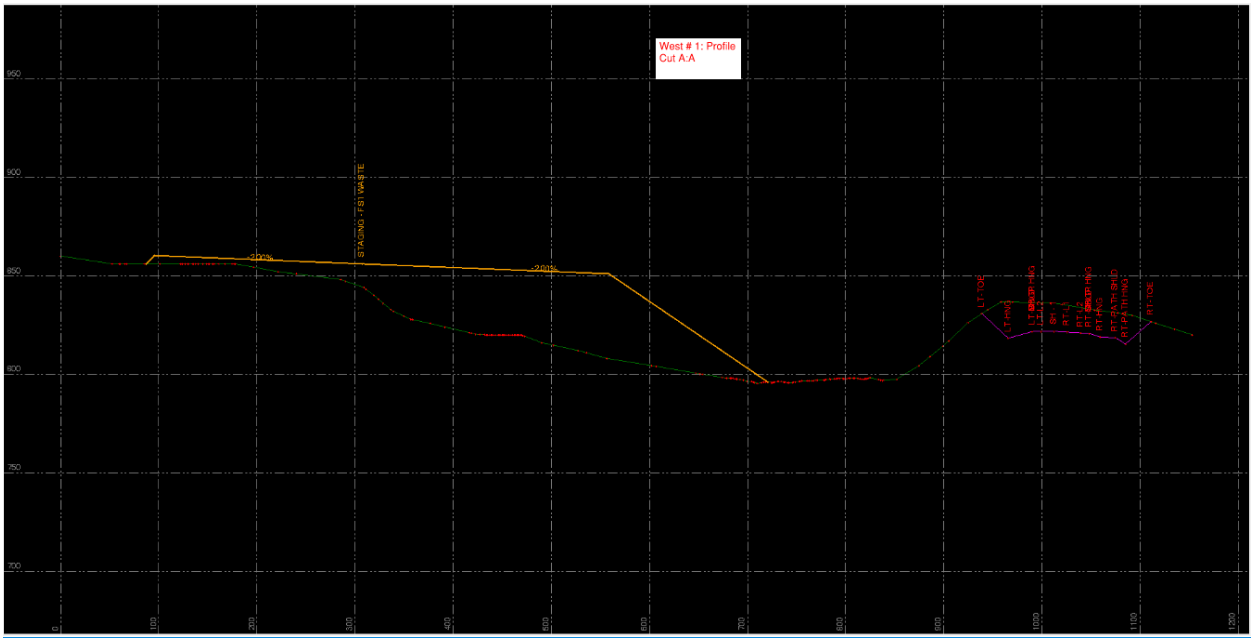
- In accordance with Title 18 of the Alaska Administrative Code, Chapter 75.300, discharges shall be reported to the Alaska Department of Environmental Conservation:
    - As soon as there is knowledge of a...
        - Discharge or release of a hazardous substance other than oil;
        - Discharge or release of oil to water; or
        - Discharge or release, including a cumulative discharge or release, of oil in excess of 55 gallons solely to land outside an impermeable secondary containment area or structure; and
    - Within 48 hours after there is knowledge of a discharge or release, including a cumulative discharge, of oil solely to land
        - In excess of 10 gallons, but 55 gallons or less; or
        - In excess of 55 gallons, if the discharge or release is the result of the escape or release of oil from its original storage tank, pipeline, or other immediate container into an impermeable secondary containment area or structure.
        - All spills between 1 and 10 gallons will be logged monthly and reported to Alaska Department of Environmental Conservation.
- The District Environmental Manager and Area Manager shall also be notified.
- In accordance with Title 18 of the Alaska Administrative Code, Chapter 75.007, the operator shall maintain for the life of the facility a history of spills over 42 gallons, including the source, cause, amount and corrective action taken.
- All reported spills will be documented as to what action was taken to clean up the material and prevent a similar type of spill from recurring. Photos will be taken of the area and stored with the spill documentation at the project office location.

Appendix A – Site location and 3D Model


West # 1:
Plan View


West # 1:
3D view


A
West # 1: Profile
Cut line
A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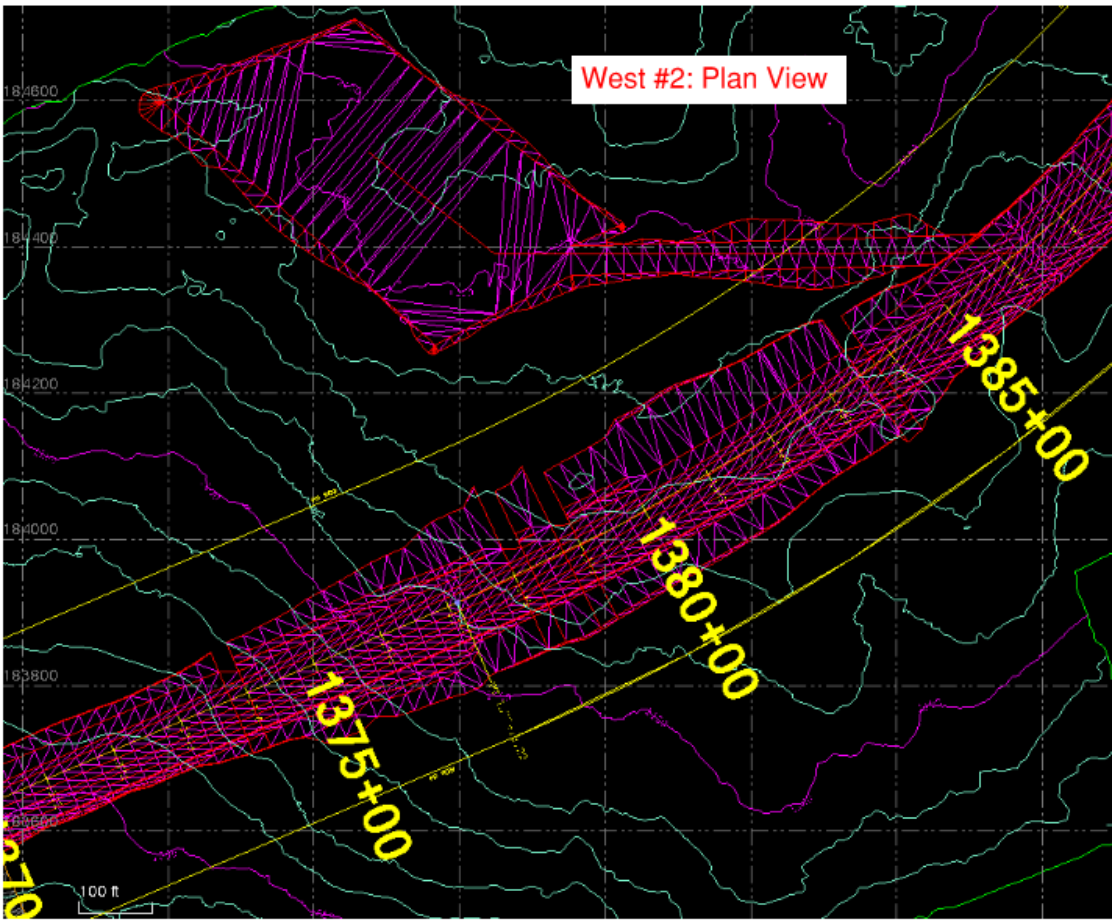
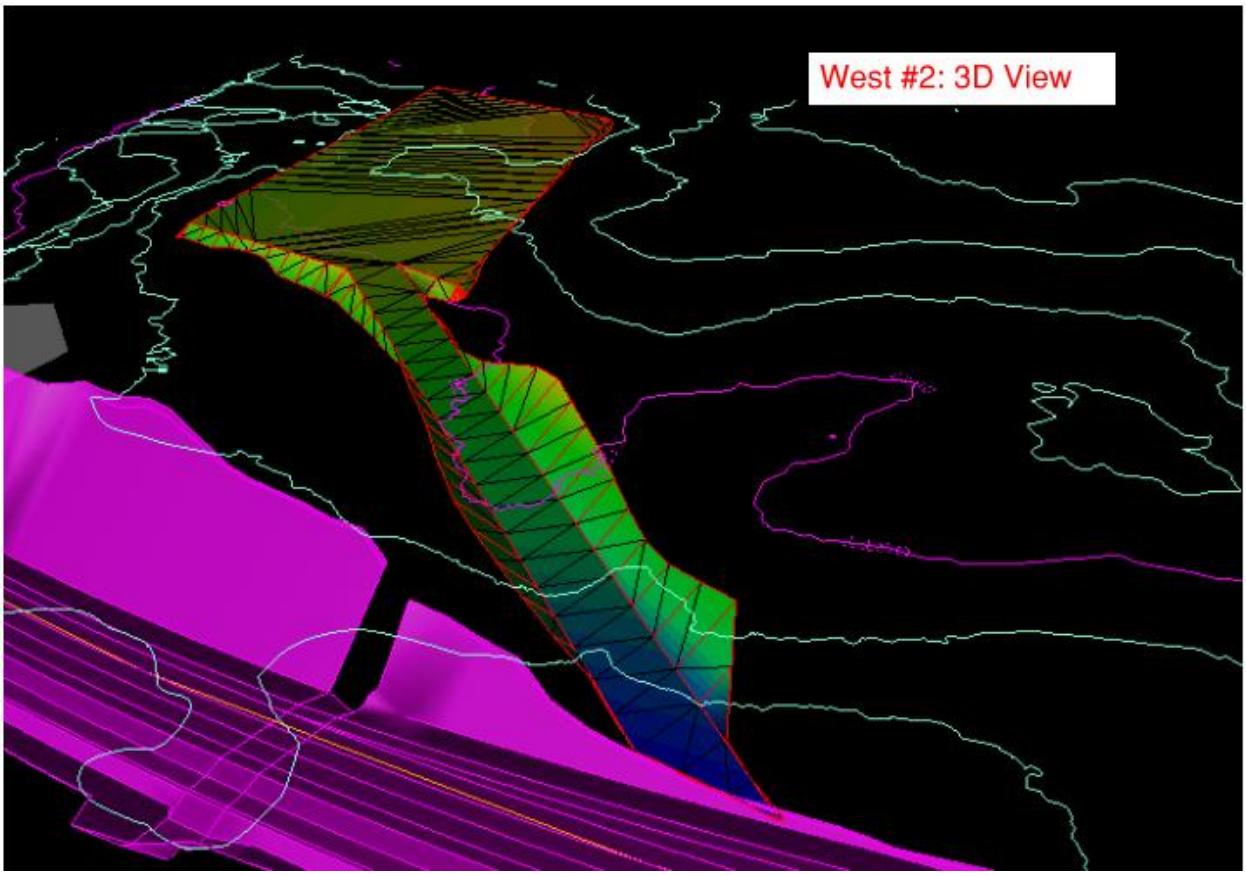
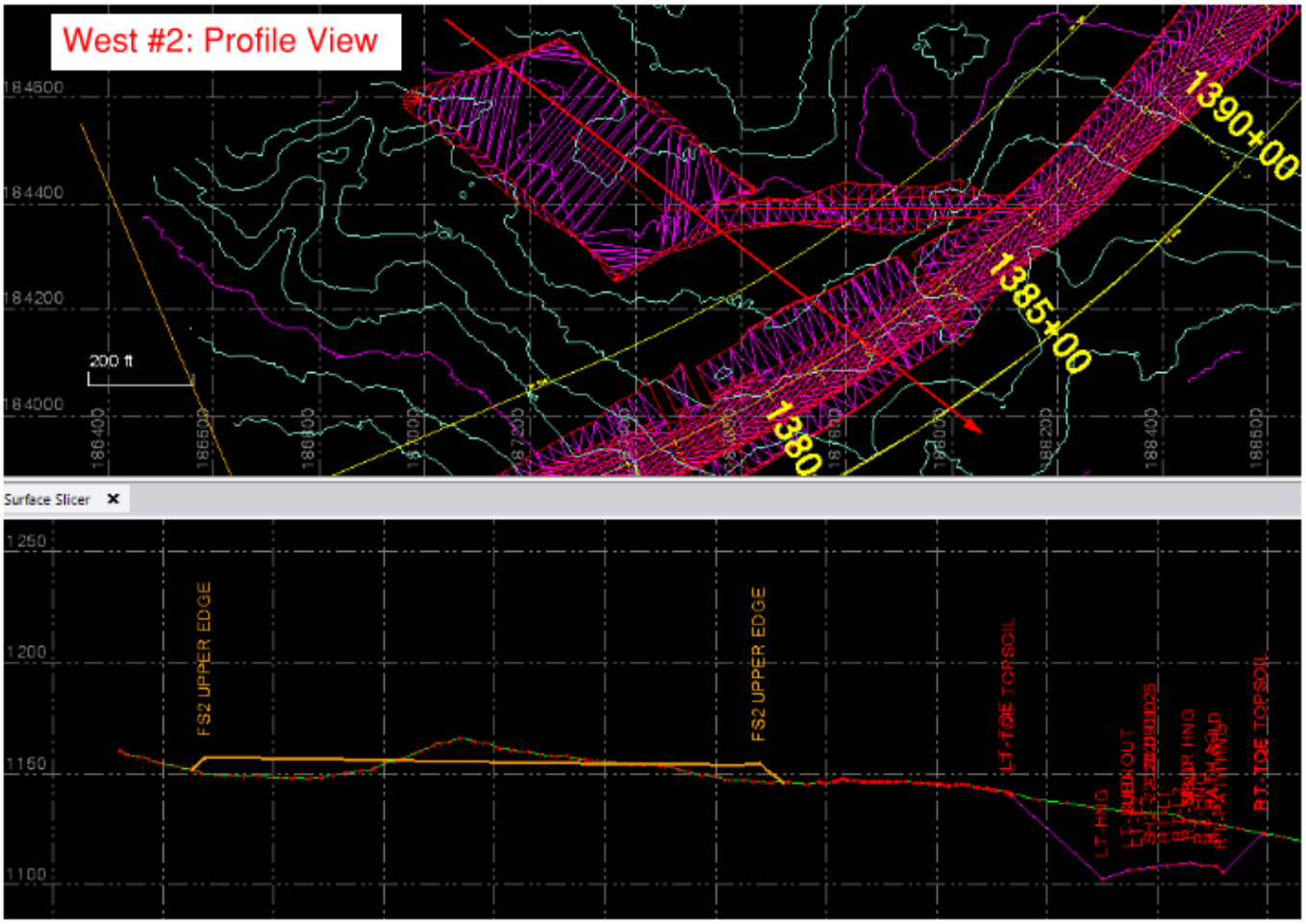
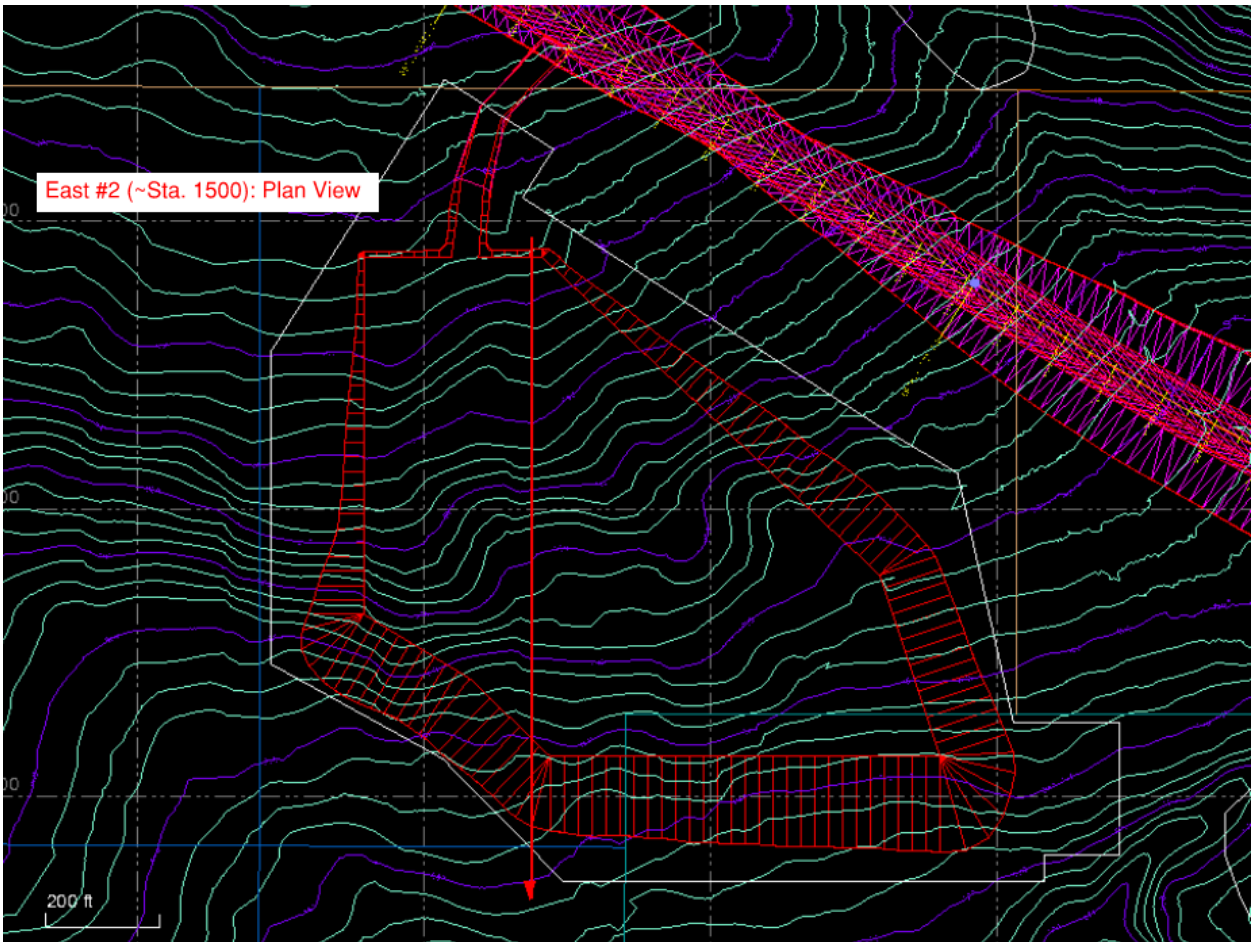
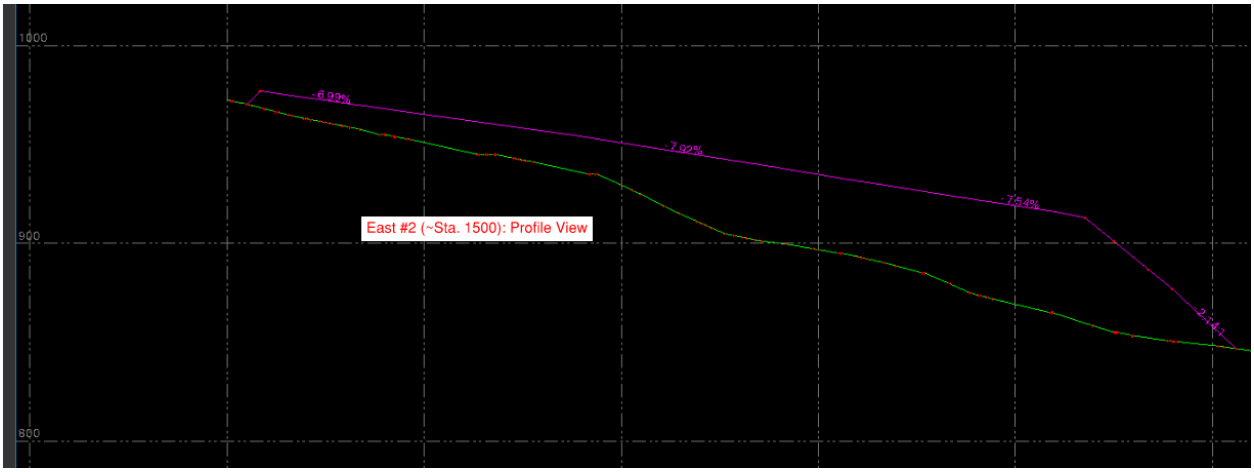
STAGING - FST WASTE
LT TOE
RT TOE

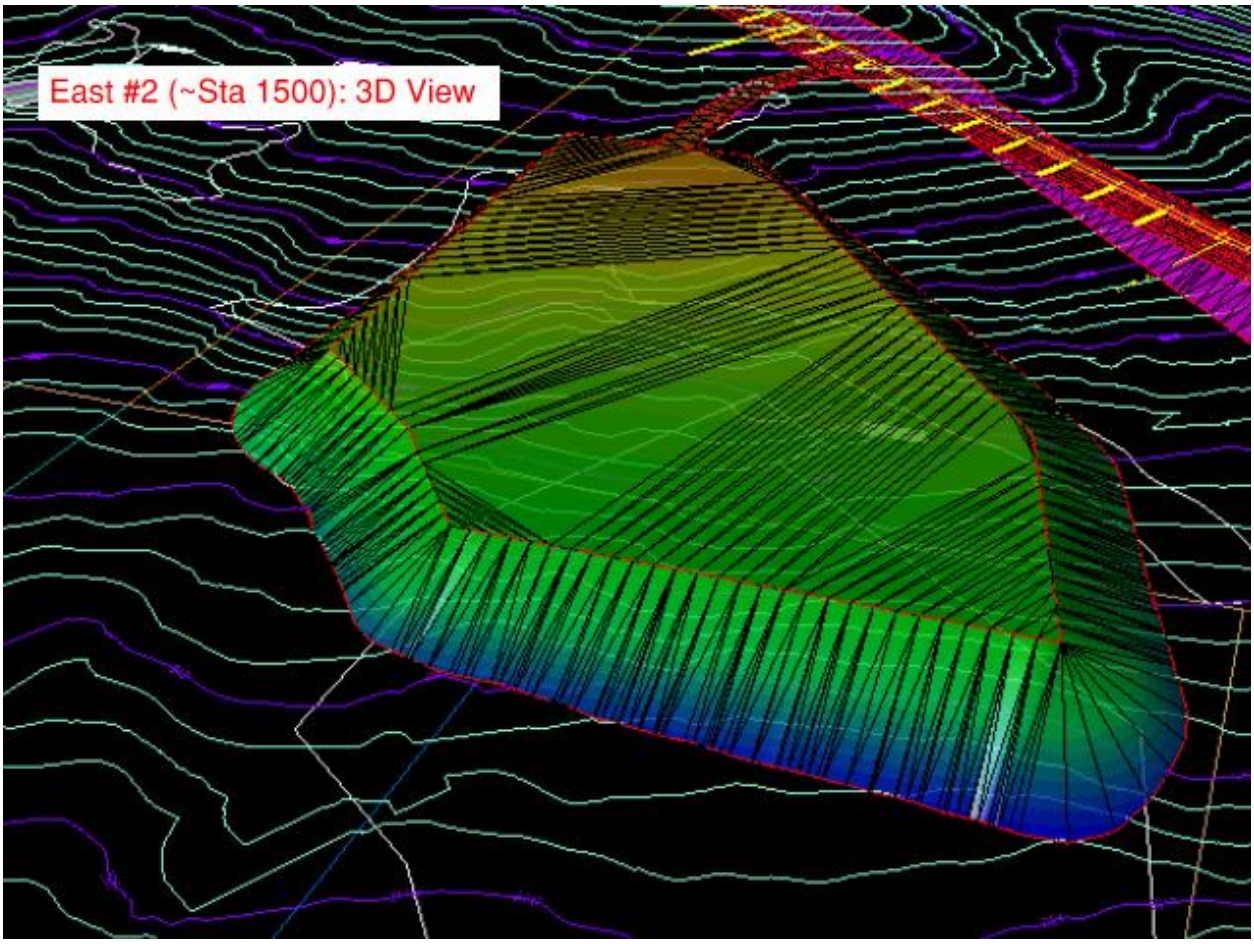

West #2: Plan View
1385+00
1380+00
1375+00
100 ft

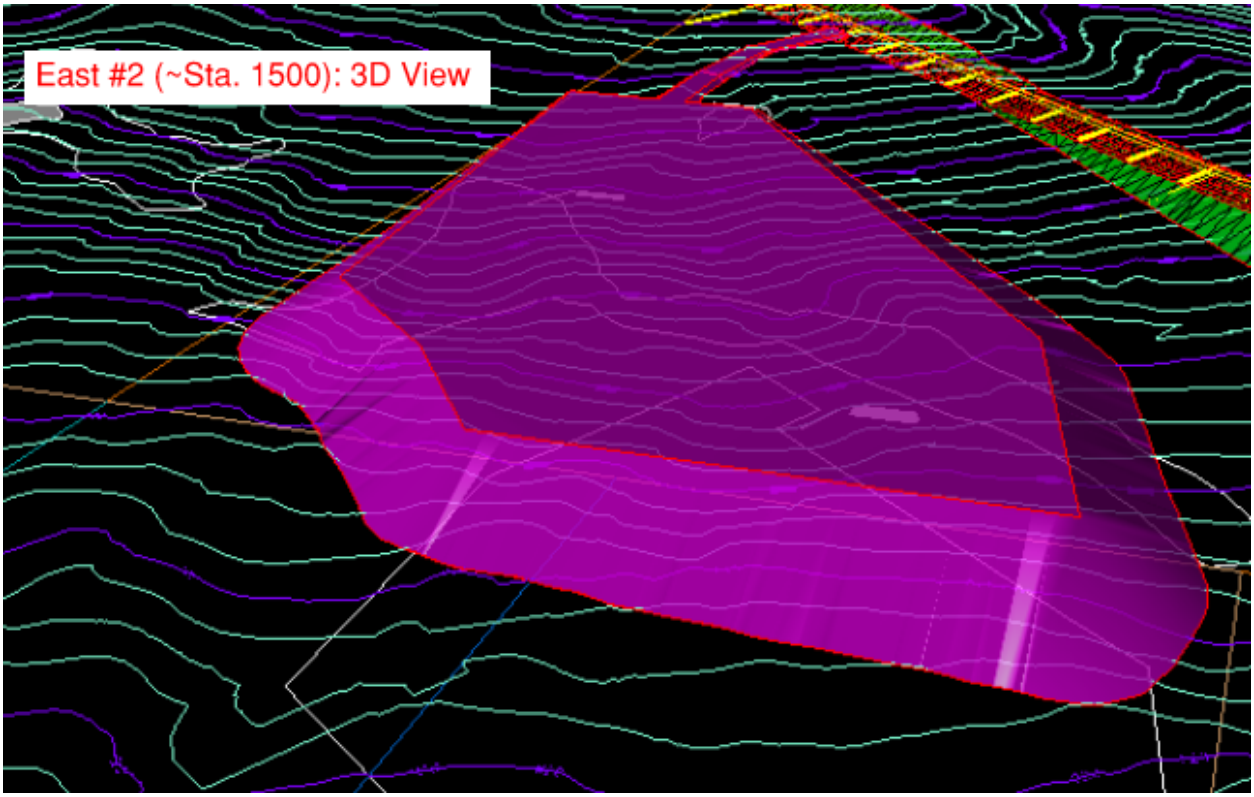

West #2: 3D View


West #2: Profile View
184500
184400
184200
184000
200 ft
1390+00
1385+00
1380
Surface Slicer
1250
1200
1150
1100
FS2 UPPER EDGE
FS2 UPPER EDGE
LT TOE TOPSOIL
RT TOE TOPSOIL


East #2 (~Sta. 1500): Plan View
200 ft


1000
900
800
-6.92%
7.92%
7.54%
East #2 (~Sta. 1500): Profile View

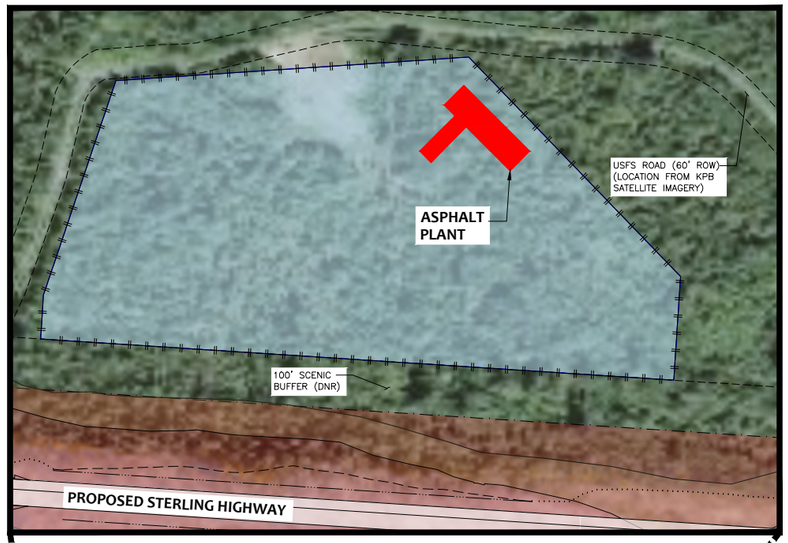

East #2 (~Sta 1500): 3D View


East #2 (~Sta. 1500): 3D View

WEST #1 AND #2 STAGING AND DISPOSAL SITES

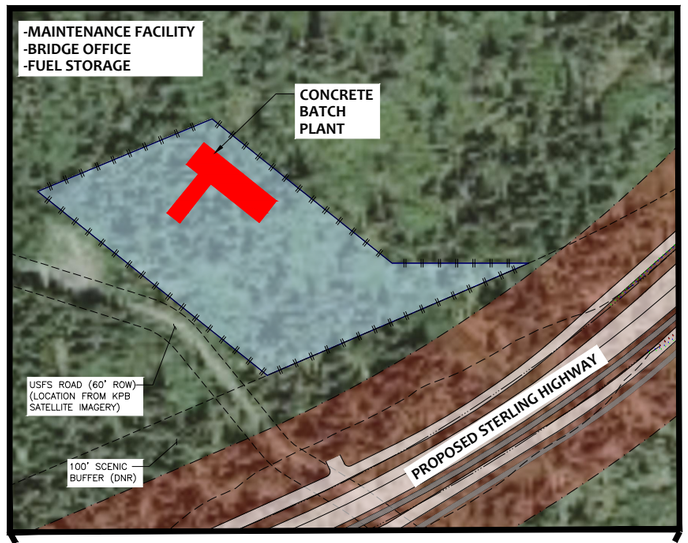
14.0 ACRE
STAGING AND DISPOSAL SITE
(19.9 Identified in EIS)

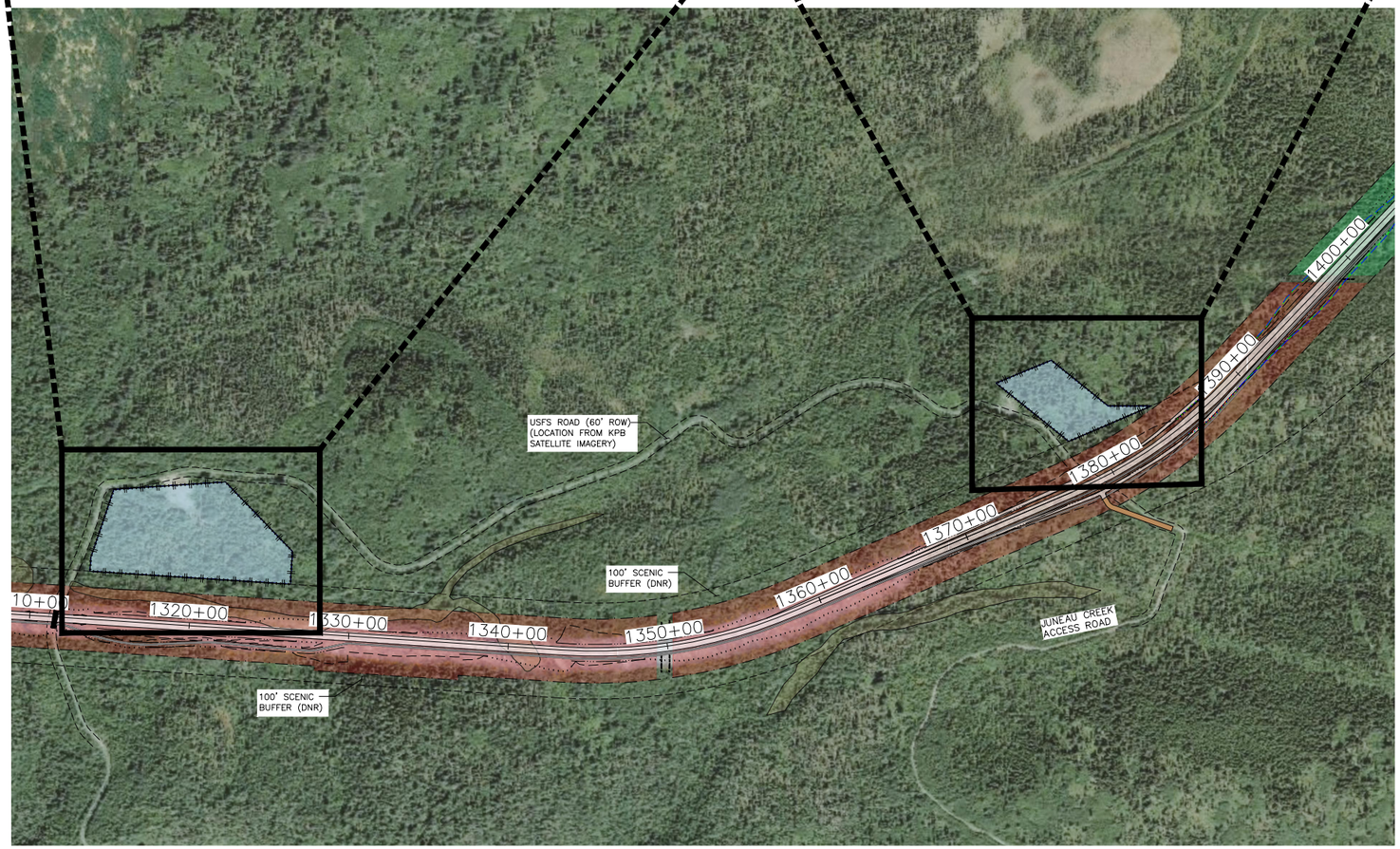
"WEST #1"



ALTERNATE 4.6 ACRE
STAGING SITE
(NOT Identified in EIS)

"WEST #2"





LEGEND

- STAGING/ DISPOSAL
- WETLANDS
- ROW (PROPOSED)

LAND OWNERSHIP

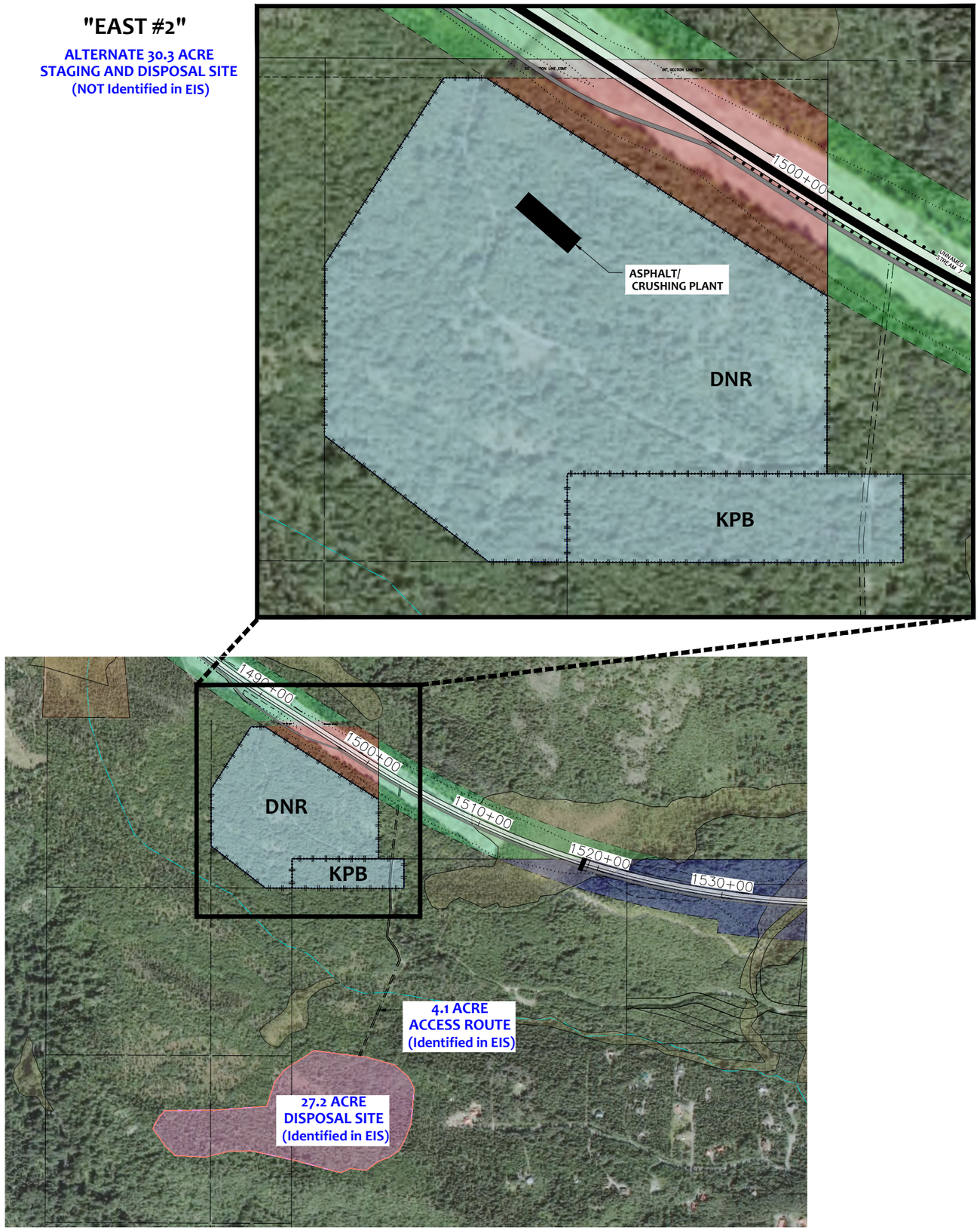
- USFS
- STATE

SITE	EIS		PROPOSED	
	DISPOSAL (ACRES)	STAGING (ACRES)	DISPOSAL (ACRES)	STAGING (ACRES)
WEST #1	19.9	NA	9.0	5.0
WEST #2	NA	NA	NA	4.6
TOTAL IMPACTED AREA				
	19.9 ACRES		18.6 ACRES	

January 12, 2021

"EAST #2"

ALTERNATE 30.3 ACRE
STAGING AND DISPOSAL SITE
(NOT Identified in EIS)



EAST #2
STAGING AND DISPOSAL SITE

LEGEND

- STAGING/ DISPOSAL
- WETLANDS
- ROW (PROPOSED)

LAND OWNERSHIP

- USFS
- STATE
- KPB

SITE	EIS		PROPOSED	
	DISPOSAL /ACCESS (ACRES)	STAGING (ACRES)	DISPOSAL (ACRES)	STAGING/ ACCESS (ACRES)
EAST #2	31.3	NA	20.4 (DNR)	4.7 (KPB) 5.2 (DNR)
TOTAL IMPACTED AREA				
	31.3 ACRES		30.3 ACRES	

January 12, 2021

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Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP
Melanie Aeschliman, Planning Director MA

FROM: Marcus A Mueller, Land Management Officer

DATE: March 25, 2021

RE: Ordinance 2021-14, Authorizing a Negotiated Lease with Alaska Department of Transportation and Public Facilities for Staging and Material Extraction and Disposal Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

Alaska Department of Transportation and Public Facilities (DOT&PF) is actively working on the Sterling Highway MP 45-60 Construction Project, which follows the Juneau Creek Alternative near Cooper Landing. The Kenai Peninsula Borough is a landowner in the project area and the borough is the managing authority to certain lands under its municipal entitlement land grant.

KPB Land Management has been working with the project team as it seeks to implement the major project. DOT&PF has proposed three project staging and disposal sites on borough owned or managed land. A forth site related to the project has been proposed directly by DOT&PF's Construction Management/General Contractor.

The project timeline includes construction activities from 2021-2026. The project includes construction of a 4-lane highway to national highway standards and a substantial bridge span over Juneau Creek.

The proposed master lease agreement provides terms for both project staging activities and material extraction and disposal. The staging activities are handled through a surface use rental structure and the material disposal is addressed in resource management terms with a fee structure based on the volume and types of materials from the project that are left on site. Environmental protections and practices are enumerated in the agreement and all materials deposited would be uncontaminated natural materials. The proposed commencement date is May 1, 2021 to work with the project schedule.

Your consideration is appreciated.

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director

DATE: April 13, 2021

RE: ORIDINANCE 2021-14: AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE WITH ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES FOR STAGING AND MATERIAL DISPOSAL IN SUPPORT OF THE STERLING HIGHWAY MP 45-60 CONSTRUCTION PROJECT NEAR COOPER LANDING

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled March 15, 2020 meeting.

A motion passed by unanimous vote (9-Yes, 0-No, 2-Absent) to recommend approval of Ordinance 2021-14.

In the ordinance, please amend the last WHEREAS statement:

> WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting April 12, 2021 recommended approval by unanimous vote.

Attached are the unapproved minutes of the subject portion of the meeting.

April 12, 2021 Planning Commission Draft Meeting Minutes

AGENDA ITEM E NEGOTIATED LEASE

6. Ordinance 2021-14: Authorizing a Negotiated Lease with Alaska Department of Transportation and Public Facilities for Staging and Material Extraction and Disposal Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing.

Staff report given by Marcus Mueller

Alaska Department of Transportation and Public Facilities (DOT&PF) is actively working on the Sterling Highway MP 45-60 Construction Project, which follows the Juneau Creek Alternative near Cooper Landing. The Kenai Peninsula Borough is a landowner in the project area and the borough is the managing authority to certain lands under its municipal entitlement land grant.

KPB Land Management has been working with the project team as it seeks to implement the major project. DOT&PF has proposed three project staging and disposal sites on borough owned or managed land. A fourth site related to the project has been proposed directly by DOT&PF Construction Management/General Contractor.

The proposed master lease agreement provides terms for both project staging activities and material extraction and disposal. The staging activities are handled through a surface use rental structure and the material disposal is addressed in resource management terms with a fee structure based on the volume and types of materials from the project that are left on site. Environmental protections and practices are enumerated in the agreement and all materials deposited would be uncontaminated natural materials. The proposed commencement date is May 1, 2021 to work with the project schedule.

The Cooper Landing APC at the April 7, 2021 meeting voted to support the lease with the State of Alaska Dept. of Transportation & Public Facilities.

END OF STAFF REORT

Vice Chair Ruffner opened the item for public comment. Hearing no one wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Ecklund to forward to the Assembly a recommendation to approve Ordinance 2021-14 authorizing a negotiated lease with the Alaska Dept. of Transportation & Public Facilities staging and material disposal in support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	9	No	0	Absent	2
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Martin				

AGENDA ITEM E NEGOTIATED LEASE

7. Ordinance 2021-13: Authorizing a Negotiated Lease of Tract C Quartz Creek Subdivision with Kiewit Infrastructure West Company for Project Staging Activities in Support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing (Mayor)

Staff report given by Marcus Mueller.

Kiewit Infrastructure West Company (KIWC) is a construction manager/ general contractor for Alaska Department of Transportation's Sterling Highway MP 45-60 project near Cooper Landing. A 16-acre KPB-owned parcel at the east end of the project has been identified by Kiewit for project staging.

Master Land Lease Development Agreement

KPBL# 21-0501-01

The Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (hereinafter "KPB" or "Lessor"), and the State of Alaska, Department of Transporation 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 (Master Lease) and agree as follows:

I. Background; Contract Documents; Authorized Contact; Definitions

1. **Background**. The KPB owns or manages certain real property located in the Kenai Peninsula Borough, in the State of Alaska, that is more particularly described and/or depicted in Attachment 3 attached hereto (the "Property"). For good and valuable consideration, the parties agree that the KPB will grant the DOT&PF the right to use the Property for the purposes of staging equipment, personnel and resources, and to dispose, develop, process, explore, excavate, crush, stockpile, remove, and reclaim gravel, soil, and other natural resource materials on the Property. DOT&PF agrees that it will conduct its use and operations according to the terms and conditions contained in this Master Lease for purposes integral to DOT&PF's Sterling Highway MP45-60 Project near Cooper Landing, Alaska.

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

KPB	**DOT&PF**
Kenai Peninsula Borough Attn: Land Management Division Mailing Address: 144 N. Binkley St. Soldotna, AK 99669	DOT&PF Central Region Construction Attn: Sean Holland 4111 Aviation Avenue Anchorage, AK 99519-6900

3. **Contract Documents**. As authorized by the Borough Assembly, this Master Lease and incorporated contract agreements together form the entire agreement ("Agreement"). Collectively, the Agreement is the final and complete understanding of the parties. The

following agreements or attachments, are attached to, incorporated herein by reference, and together form the entire Agreement:

i. Master Lease Agreement
ii. Attachment 1: Material Extraction and Disposal Terms & Conditions
iii. Attachment 2: Lease Provisions Required by KPB 17.10
iv. Attachment 3: Site Survey Drawings
v. Attachment 4: Staging/Disposal Site Operations Plan

If in conflict, the Master Lease shall control, except that the Material Extraction and Disposal Terms & Conditions shall control with respect to the authorized uses, fees or royalties, and reclamation terms specific to the disposal, processing, exploration, extraction, stockpiling, removal, and reclamation of natural material resources on the Property.

4. **Definitions.**

4.1. Agreement - the final and complete agreement of the parties and shall encompass the Master Land Lease Development Agreement and Attachments 1, 2, 3 and 4 as described above in paragraph 3, Contract Documents, of this agreement. .

4.2. Environmental Assessment - An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of property and the presence, type, concentration, and extent of any Contamination in, on, and under the surface of the property.

4.3. Environmental Law - Any federal, state, or local statute, law, regulation, ordinance, code, Lease, order, decision, or judgment from a governmental entity relating to environmental matters, including littering and dumping. It includes, as applicable, 42 U.S.C. 7401-7671 (Clean Air Act); 33 U.S.C. 1251-1387 (Federal Water Pollution Control Act);42 U.S.C. 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); S.C. 5101-5127 (Hazardous Materials Transportation Act); 15 U.S.C. 2601-2692 (Toxic Substances Control Act); AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); and the provisions of 18 AAC (Environmental Conservation) implementing AS 46.

4.4. Environmental Liability Baseline - A description, accepted by the Lessor and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of Contamination in, on, or under the surface of the Property that was neither caused nor Materially Contributed To by the Lessee, nor assumed by the Lessee by reason of assignment.

4.5. Lessee - State of Alaska, Department of Transportation and Public Facilities or DOT&PF.

4.6. Lessor - Kenai Peninsula Borough or KPB.

4.7. Project - DOT&PF's Sterling Highway MP45-60 Project.

4.8. Property –Sites that will be leased by DOT&PF from KPB as part of the Project more particularly described in Section 5 below in this Agreement, and also shown on Attachment 3.

4.9. Site Development Materials - Materials used for Site Development. Site Development Materials includes geotextile, fill, gravel, paving, and pavement reinforcement materials.

II. Leased Property Description; Term; Rent

5. **The Property.** The KPB leases to DOT&PF and DOT&PF leases from the KPB, 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
>
> Each Site more particularly described and depicted in Attachment 3- Site Survey Drawings.

6. **Additional Lands.** By mutual written agreement of the parties, the Property may be added to, amended, or otherwise changed to fit the needs of the Project. This provision shall be interpreted to mean that the KPB and DOT&PF may agree to add additional lands owned or managed by the KPB to the Agreement and DOT&PF may agree to lease such additional lands under the same rental & fees basis, terms and conditions set forth in this Agreement.

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.

7.2. Renewal Term(s). Unless notice of non-renewal is provided prior to expiration of the Initial Term or the DOT&PF is otherwise in breach of this Master Lease, the Agreement may be automatically renewed by DOT&PF for two additional 1-year Renewal Terms.

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 Master 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
TOTAL		$19,560/YR

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

III. Uses; Reservation of Rights by KPB

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.

10. **Prohibited Uses.** Under this Agreement, the following uses on the Property are prohibited:

10.1. Installing permanent structures;

10.2. Storage of bulk fuel. Bulk fuel is defined as storage of 25,000 Gallons or more fuel per site.

11. **Rights Reserved by KPB.**

11.1. The KPB reserves a 60 foot x 60 foot area on the Property ("Reserved Area"), the exact location is subject to mutual agreement of the parties hereto, for the purposes of siting

a communications facility (tower) on the Property. This reservation includes the exclusive right to grant to a third party the right, license or privilege to site, construct, install, and maintain a communications site (tower) or to place commercial communications equipment on the Property and includes ingress and egress rights. This provision is subordinate to the rights and privileges granted under this Agreement and shall not unreasonably interfere with DOT&PF's authorizes use of the Property or limit DOT&PF from installing non-commercial communications equipment for the project.

11.2. The KPB reserves the right of ingress and egress from the Property, and the right to enter any part of the Property for the purposes of inspection at any reasonable time subject only to the KPB's best efforts, except in the case of an emergency, to coordinate its inspection with the DOT&PF to minimize interference with the DOT&PF's operations and activities on the Property.

11.3. Upon KPB entering into a third party agreement for a communication facility on the Property, DOT&PF shall be automatically released from liabilities under this agreement as to the reserved area.

IV. Cancellation, Expiration or Other Termination

12. **DOT&PF Default.**

12.1. If DOT&PF violates a term of the Agreement and the KPB considers that term to be a material obligation of the Agreement, or the violation to be a material deviation from the requirements of the Agreement, the KPB will mail or deliver to DOT&PF a written notice of the violation. The notice must allow DOT&PF not less than sixty (60) days to correct the violation, unless the violation constitutes an imminent threat to public health or safety.

12.2. If the DOT&PF does not correct the violation by the time allowed in the notice, the KPB shall:

a. grant an extension of time to correct the violation if the DOT&PF shows good cause;
b. take enforcement action as provided under this Master Lease or as available by law; or
c. cancel this Master Lease.

12.3. If the KPB determines that a violation creates an imminent threat to public health or safety, the KPB shall:

a. Direct DOT&PF to stop the activity immediately
b. Provide DOT&PF less time than otherwise specified in the Agreement to correct the violation; or
c. Correct the violation.

12.4. Without limitation, the following shall be deemed either violations of material obligations of this Agreement or material deviations from the requirements of the Agreement:

a. DOT&PF fails to pay when due any rent, charge, or fee or royalty specified in the Agreement, including any increase made under this Master Lease;
b. DOT&PF blocks or restricts KPB or its Contractor's access to the Property in violation of Section 11 above;
c. DOT&PF is otherwise found to be in violation of State or Federal law.

13. **Waiver.**
    13.1. A waiver by the KPB of any default by DOT&PF of any provision of this Agreement will not operate as a waiver of any subsequent default. If the KPB waives a default, the KPB is not required to provide notice to DOT&PF to restore or revive any provision under this Agreement. The waiver by the KPB of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the KPB.
    13.2. The KPB's failure to insist upon the strict performance by DOT&PF of any provision in this Agreement is not a waiver or relinquishment for the future, and the provision will continue in full force.

14. **Disposition of Improvements and Personal Property**. All temporary improvements and personal property of DOT&PF shall be removed by DOT&PF, at its sole expense, within ninety (90) days of cancellation, termination, or expiration of the Agreement.

15. **Disposition of Site Development Materials**. Site Development Materials that DOT&PF completes or places on the Property become part of the KPB-owned or managed realty and property of the KPB upon completion or placement. DOT&PF may not remove the Site Development Materials unless the KPB approves in writing.

16. **Natural Disasters.** If the parties agree in writing that the Property are unusable, not due to the fault or negligence of either party, to the extent that performance of this Master Lease is impossible, this Master Lease may be terminated. If the DOT&PF elects to continue to operate, the KPB is under no obligation to continue to perform. Causes for termination under this provision include, but are not restricted to, acts of God, fires, floods, epidemics, quarantine restrictions, earthquakes, landslides, mudslides, avalanches, tsunami, or volcanic activity.

17. **National Emergency**. If the federal government declares a national emergency, neither party may hold the other liable for any inability to perform any part of this Master Lease as a result of the national emergency.

18. **Survival.**
    18.1. At the expiration, cancellation, or other termination of this Master Lease, the DOT&PF shall peaceably and quietly vacate the Property and return possession to the KPB.
    18.2. The DOT&PF's obligations under the following provisions of this Master Lease shall

survive and remain binding on the DOT&PF after the expiration, cancellation, or other termination of the Agreement:

a. Section 7 – Rent – of the Master Lease;
b. Section 14 – Disposition of Improvements and Personal Property – of the Master Lease;
c. Sections 19 through 24 – Environmental Issues – of this Master Lease; and
d. All terms related to Reclamation of the Property under Attachment 1 – material Extraction and Disposal Terms & Conditions.

V. Environmental Issues

19. **Environmental Liability Baseline.**

19.1. Responsibility for Ascertaining Environmental Condition of Property. The Lessee has the sole responsibility under this Agreement to ascertain the environmental condition and presence of Contamination in, on, and under the surface of the Property, and is conclusively presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Property except as identified in an Environmental Liability Baseline. If known Contamination is on the property that has been closed out under alternate cleanup levels approved by ADEC, Lessee is responsible for following all restrictions set by ADEC, including, but not limited to notifying any assignee of this Agreement in writing of ADEC's restrictions.

19.2. Financial Responsibility for Contamination on the Property and on any Affected Property. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Property, except for Contamination that is identified in an Environmental Liability Baseline. This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Property, or other potentially responsible parties except for the Lessor.

19.3. Establishing an Environmental Liability Baseline

a. If the Lessee wants to establish an Environmental Liability Baseline for all or any portion of the Property, the Lessee shall provide the Lessor with an Environmental Assessment for that portion of the Property.
b. If the Lessee discovers Contamination in, on, or under the surface of the Property, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate by clear and convincing evidence to the satisfaction of the Lessor that the Contamination proposed for inclusion was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities nor assumed by the Lessee. Contamination caused or Materially Contributed to by activities of the Lessee's sublessees, contractors, and guests on the Property are deemed to be Materially Contributed To by the Lessee.
c. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities shall be included in the Environmental Liability Baseline.

19.4. Adding to an Existing Environmental Liability Baseline.

a. If, after an Environmental Liability Baseline is established for any portion of the Property the Lessee discovers Contamination in, on, or under the surface of that portion of the Property having an Environmental Liability Baseline, which Contamination the Lessee or the Lessee's operations or activities did not cause or Materially Contribute To, and which the Lessee did not assume by reason of assignment, the Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Lessor for the Lessor's consideration to add to the Environmental Liability Baseline. The Lessee's additional Environmental Assessment must demonstrate by clear and convincing evidence to the satisfaction of the Lessor which portion of the additional Contamination on the Property was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities may be added to the existing Environmental Liability Baseline.

19.5. Lessor's Acceptance or Rejection of Lessee's Environmental Assessment. When the Lessor receives the Lessee's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Lessor, in its sole discretion, will do one of the following:

a. Accept the findings of the Lessee's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that portion of the Property being assessed or to add to the existing Environmental Liability Baseline.

b. Reject the findings of the Lessee's Environmental Assessment for that portion of the Property being assessed and offer the Lessee the opportunity to perform additional environmental testings if the Lessor determines in writing that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Lessor's written rejection of the Lessee's Environmental Assessment will be based on failure of the Lessee's Environmental Assessment to either:

(1) follow generally accepted professional practices in determining the environmental condition of the Property and the presence of Contamination in, on, or under the surface of the Property; or

(2) demonstrate the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities.

c. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Property being assessed. If the results of the Lessor's tests conflict with the Lessee's Environmental Assessment, the Lessor and the Lessee will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for that portion of the Property being assessed.

19.6. Amending the Environmental Liability Baseline to Delete Contamination Caused, Materially Contributed to, or Assumed by Lessee.

a. If, after the Environmental Liability Baseline for any portion of the Property is established, it is discovered that the presence of Contamination identified

in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, or assumed by the Lessee by reason of assignment, the Environmental Liability Baseline may be amended to delete that portion of the Contamination that was caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

b. The Lessor will have the burden of proof in establishing that the Lessee or the Lessee's operations or activities caused or Materially Contributed to this Contamination.
c. If it is discovered that Contamination identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, the parties will agree upon an amendment to the Environmental Liability Baseline within a reasonable time.

20. **Release of Lessee.** The Lessor releases the Lessee from liability to the Lessor for Contamination identified by the Environmental Liability Baseline that was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

21. **Required Remediation.** The Lessor is under no obligation to remediate Contamination identified in an Environmental Assessment, except the Lessor shall remediate, or have responsible parties remediate, the Contamination identified in the Environmental Liability Baseline if an agency with such authority requires the Lessee or Lessor to remediate. In the event of such required remediation, the Lessor will make a reasonable effort to coordinate the remediation with the Lessee to minimize disruption of the Lessee's operations or activities and damage to the Lessee's improvements and property. The Lessee releases and holds the Lessor harmless for all costs associated with any damage to, and relocation, removal, and repair of Lessee's improvements and property that result from remediation performed in compliance with this paragraph with respect to Contamination that existed before construction of affected improvements.

22. **Action Against Potentially Responsible Parties.** This article does not restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties for Contamination identified in the Environmental Liability Baseline.

VI. Additional Terms and Conditions

23. **Defense and Indemnification.** To the extent allowed by law and subject to legislative appropriation, the parties shall mutually indemnify, defend, save and hold KPB, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees resulting from either parties' performance or failure to perform in accord with the terms of the Agreement in any way whatsoever. This defense and indemnification shall not mean that a party is responsible for any damages or claims arising from the sole negligence or willful misconduct of the other party, its agents or employees.

24. **Insurance**. It is understood that both parties to the Agreement are self-insured at adequate and acceptable to both parties. However, any contractors or subcontractors that use or perform work at the Property shall maintain the following insurance coverages:
    24.1. Commercial General Liability Insurance (CGL). All Contractors and subcontractors of any tier shall provide and maintain, Commercial General Liability Insurance (CGL). The CGL Policy shall be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from Property, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.
    24.2. Worker's Compensation, Employer's Liability Insurance. Contractor and subcontractor(s) of any tier shall provide and maintain, for all of its employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than the minimum amounts required by law. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.
    24.3. Auto Liability. Contractor and subcontractor(s) of any tier shall provide and maintain, Auto Liability Insurance (ALI). The Auto Liability Policy shall include a Combined Single Limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.
    24.4. Proof of Coverage. All insurance shall be primary and exclusive of any other insurance held by the KPB. Upon renewal of insurance coverage during the license, certificates of insurance shall be delivered to the KPB. DOT&PF on behalf of its contractors shall deliver, within 30 days, complete insurance coverage policy documents to the KPB upon request.

25. **Assignments.** The Agreement is not assignable.

26. **Subleasing.** DOT&PF may not sublease the Property or any part thereof without written permission of the KBP Mayor when applicable. A sublease shall be in writing and subject to the terms and conditions of this Master Lease.

27. **Waste.** DOT&PF shall not commit waste upon or injury to the lands leased herein.

28. **Fire Protection.** DOT&PF shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on

the Property, and comply with all laws, regulations, and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

29. **Safety.** DOT&PF shall be solely responsible for maintaining the Property in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the Property as needed for DOT&PF's use of the Property. DOT&PF is responsible for the safety of all persons conducting activities on the Property under the Agreement.

30. **Sanitation.** DOT&PF shall comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property shall be kept in a clean and sanitary condition and every effort shall be made to prevent pollution of the waters and lands. Sanitary facilities shall be in accordance with the State of Alaska, Department of Environmental Conservation regulations.

31. **Compliance with Laws.** DOT&PF shall abide by all applicable federal, state, city, and borough statutes, ordinances, rules, and regulations. DOT&PF is responsible for obtaining all federal, state, and local permits applicable to licensee's activities and shall keep such permits in good standing.

32. **Responsibility of Location.** It shall be the responsibility of DOT&PF to properly locate itself and its improvements on the Property.

33. **Liens and Mortgages.** DOT&PF shall not cause or allow any lien or encumbrance of any kind or nature whatsoever to attach to the Property during the term of the Agreement. In the event that any prohibited lien is placed against the Property, DOT&PF shall immediately cause the lien to be released.

34. **No Warranty, Express or Implied.** The DOT&PF accepts the Property AS-IS, WHERE-IS. The Agreement shall be without warranty whatsoever, whether implied or expressed, as to quality, fitness for purpose or suitability for development, or physical condition (including, without limitation the environmental condition of the property). It is the responsibility of the DOT&PF to satisfy itself prior to executing the lease and/or prior to closing as to the type, condition, and quality of the Property.

35. **Jurisdiction.** Any lawsuits filed in connection with the terms and conditions of the Agreement, and of the rights and duties of the parties, shall be filed and prosecuted at Kenai, Alaska and shall be governed by Alaska law, without regard to conflict of law principles.

36. **Savings Clause.** Should any provision of the Agreement fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of the Agreement or constitute any cause of action in favor of either party as against the other.

37. **Binding Effect.** It is agreed that all covenants, terms, and conditions of the Agreement shall be binding upon the successors, heirs and assigns of the parties hereto.

38. **Integration and Merger.** The Agreement sets out all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Property whether oral or written. Unless specifically authorized within a provision, no

modification or amendment of the Agreement is effective unless in writing and signed by both of the parties.

39. **Warranty of Authority.** DOT&PF warrants that the person executing the Agreement is authorized to do so on behalf of DOT&PF.

40. **Counterparts**. The Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

41. **Quiet Enjoyment.** During the term of the Agreement, DOT&PF will have quiet enjoyment of the Property subject to the terms and conditions stated in the Agreement.

42. **Interpretation.** Both parties have had an opportunity to review the Agreement, to suggest changes, and to consult with legal counsel before signing. The Agreement will not be interpreted in favor of or against either Party.

LESSOR:

Kenai Peninsula Borough

By: Charlie Pierce
Its: Mayor
Date: _____

LESSEE:

State of Alaska, Department of Transportation and Public Facilities

By: _____
Its: _____
Date: _____

ATTEST:

_____
Johni Blankenship, Borough Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
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
Commission Expires:_____

MATERIAL EXTRACTION AND DISPOSAL TERMS & CONDITIONS
KPB 17.10.210

Attachment 1 to Master Lease Agreement

1. DISPOSAL TERMS AND CONDITIONS:

1.1. DOT shall not dispose of material on KPB property other than material from the Sterling Highway MP 45-60 Project.

1.2. DOT represents and warrants that the Disposal Material to be deposited on the Property satisfies the definition of uncontaminated fill as defined here:

> ***"Uncontaminated fill"*** *means uncontaminated solid material including soil, rock, stone, and grubbings (Stumps, roots, moss, grass, turf, debris, mulch or other organic-laden materials stripped from the land). Uncontaminated fill does not include human waste or refuse, industrial refuse, equipment parts, rubber tires, or any other materials not occurring naturally in the project zone.*

1.3. DOT represents and warrants that the Disposal Material does not contain and will not release Hazardous Materials in quantities that would require investigation, monitoring, clean-up, containment, restoration, removal, governmental notification, or other remedial work under any applicable federal, state, or local law or regulation. The term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is regulated by any governmental authority of the State of Alaska or the United States government, including without limitation, any material or substance which (i) is defined or listed as a "hazardous material", "toxic pollutant", "hazardous waste", "hazardous substance" or "hazardous pollutant," under applicable federal, state or local law or administrative codes promulgated thereunder, (ii) contains hydrocarbons of any kind, nature or description, including, but not limited to, gas, oil, or similar petroleum products, other than reclaimed asphalt pavement, (iii) contains asbestos, (iv) contains PCBs or (v) contains radioactive materials.

1.4. DOT, or its contractor, will establish methods of volumetric measurement and recording such as load records with volume average truck counts, or before and after cross section survey, LiDAR elevation surveys, or implement other tracking procedures sufficient to track the site location, volume, and type of materials deposited.

1.5. DOT will produce auditable project records showing the quantity and type of materials deposited under this agreement which shall be provided in summary form with payments.

a. For the purpose of providing progressive evidence to KPB of the classification of

materials and respective location deposited, DOT will capture low-level high-resolution imagery at least monthly of each disposal area during active periods. Images will be delivered to KPB by the expiration of this agreement. Progress images are to support general-tracking information and may be either orthomosiac or oblique.

1.6. KPB reserves the right to reject the placement of any disposal materials which do not fit within the classifications outlined in Section 3 of this agreement.

1.7. Fees will be charged for material disposal according to the table in Section 3 of this agreement.

1.8. Construction quality materials to be stockpiled for credit require a stockpile design plan and are subject to inspection and acceptance based on conventional material testing standards for the material type.

2. EXTRACTION TERMS AND CONDTIONS:

2.1 Extraction of material to be transported off-site will require a Conditional Land Use Permit from KPB Planning Dept in accordance with KPB 21.29.

2.2 The DOT or its contractor will provide auditable project records showing the quantity and type of materials removed under this agreement, and their origin.

2.3 Fees will be charged for extracted materials according to the table in Section 3 of this agreement.

3. CLASSIFICATION OF MATERIALS and SCHEDULE OF FEES:

Classification	**Description**	**Unit Disposal Fee**	**Unit Extraction Fee**	**Creditable Value**
Type C Material	Compactable Mineral Aggregate (see DOT SSHC 2020, 703-2.07)	$0.40/ cubic yard	n/a	n/a
Grubbed Material and Muck Excavation	Stumps, roots, moss, grass, turf, debris, mulch or other organic-laden material (DOT SSHC 2020, 201-3.03)	$0.40/ cubic yard	n/a	n/a
Topsoil and Peat	Topsoil and peat, free of muck and large debris	$0.40/ cubic yard		A volume of up to 8" per unit

				area used as reclamation topdressing materials can be deducted from Fee
Construction quality materials stockpiles	Sorted, stockpiled aggregates meeting KPB road construction specifications, sorted, stockpiled clean topsoil, or sorted, stockpiled topsoil grade peat	n/a	n/a	$1.50/ cubic yard, credit may not exceed disposal fee total
Pad Area Materials	Compacted aggregate, not underlain with organic material, capped with NFS gravel to form a durable pad or driving surface	n/a	n/a	Volume not subject to fees
Unclassified excavation	Any material extracted from KPB land and transported off-site	n/a	$3.00/ cubic yard	n/a

4. PAYMENT:

Partial payment shall be due at the end of each calendar year, within the contract term. Full and final payment shall be due at the end of the contract term. Payments shall be accompanied by an auditable record showing the quantity and types of material deposited and extracted from KPB lands, and the respective sites of origin/ disposal. Credits against fees, if any, shall be accounted with appropriate documentation and signed off by both parties prior to final payment becoming due.

5. STABILIZATION:

The parties agree that all fill deposited on KPB land shall be stabilized to safeguard

against slope failures of any kind. Specifically:

5.1 All deposited fill shall be layered in maximum 3' lifts and mechanically compacted using vibratory equipment.
5.2 No constructed embankment shall exceed a 2:1, or 50%, slope.
5.3 Any travel ways, road surfaces, or pads constructed under this agreement shall have a minimum 2% cross-slope gradient, to allow for low-energy surface drainage and to prevent water perching.
5.4 No travel way or road surface constructed on KPB land shall exceed 10% gradient.
5.5 Any area within the Property used as a foundation for material processing equipment, such as an asphalt plant or a concrete batch plant, shall be structurally sound, constructed only of compactable mineral aggregate, and shall be compacted in lifts of 1' or less.

6. EROSION and SEDIMENT CONTROL:

All activities taking place upon KPB land during the term of this contract and within the scope of the Sterling Highway MP 45-60 project shall adhere to the Best Management Practices, adopted under the project's SWPPP plan, stipulated by the DOT SSHC 2020 - section 641, and enforced by the DOT. Under no circumstances shall any constructed embankments be left for the winter months, without being mulched and seeded, or the equivalent.

7. SAFETY

The DOT shall be responsible for ensuring that all mining and extraction activities adhere to applicable workers protection and mining safety laws and regulations.

8. PERMITS

The DOT shall have in place any necessary municipal, state, or federal permits prior to commencing extraction and material processing activities.

9. CLOSE-OUT and RECLAMATION PLAN:

Prior to breaking ground on the Property, the DOT shall provide to the KPB a reclamation plan which includes an overview of the long-term stabilization measures to be implemented on the pads, berms, and other earthen structures constructed pursuant to this agreement. All roads/ travel ways shall be closed-out at KPB's direction. This may include removing culverts, installing drivable or non-drivable water bars, remedial landscaping, blocking access with "tank traps" or construction barriers, or installation of a simple gate. The reclamation plan shall include contouring the site for positive drainage,

slope stability measures, topsoiling and revegeration, continuation of durable pad areas and construction quality materials stockpile access. The reclamation plan may be revised by agreement of the parties prior to close-out to promote long term site management goals.

10. MODIFICATIONS:

The parties may mutually agree to modify these terms and conditions. Modifications shall be incorporated into the Master Lease contract by written amendments.

11. MASTER LEASE AGREEMENT:

The terms and conditions herein apply to disposal and extraction activities on the Property under the Master Lease Agreement. Except as specifically stated herein, the Master Lease Agreement controls.

ATTACHMENT 2
LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current**. The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment**. Lessee may assign the lands upon which Lessee has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement**. In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the borough may cancel Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation**. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry**. In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection**. The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste**. The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification**. The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice**. Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default**. Notice of the default will be in writing as provided in paragraph 9 above.

(11) **Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.**

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or Lessee's successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed**. Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent**. In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location**. It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder**. In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation**. The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement**. As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Subleasing**. No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

(19) **Violation**. Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(20) **Written Waiver**. The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

THESE PLATS MAY BE USED FOR THE ESTABLISHMENT OF THE RIGHT-OF-WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

NOTE: THE ALIGNMENT OF CHUNKWOOD AND WEST JUNEAU ROADS SHOWN ON THIS EXHIBIT IS APPROXIMATE. STAGING AREA BOUNDARIES DEFINED ON SHEETS 4 & 6 MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD & WEST JUNEAU ROADS AND MAY BE ADJUSTED TO MEET THIS REQUIREMENT.

THIS SEAL IS FOR ALL WORK CONTAINED ON PLATS 2 THROUGH 6 OF 6.

12/22/2020

R&M CONSULTANTS, INC.

9101 VANGUARD DRIVE
ANCHORAGE, AK 99507
PHONE (907) 522-1707
AUTH. NO. AECC111

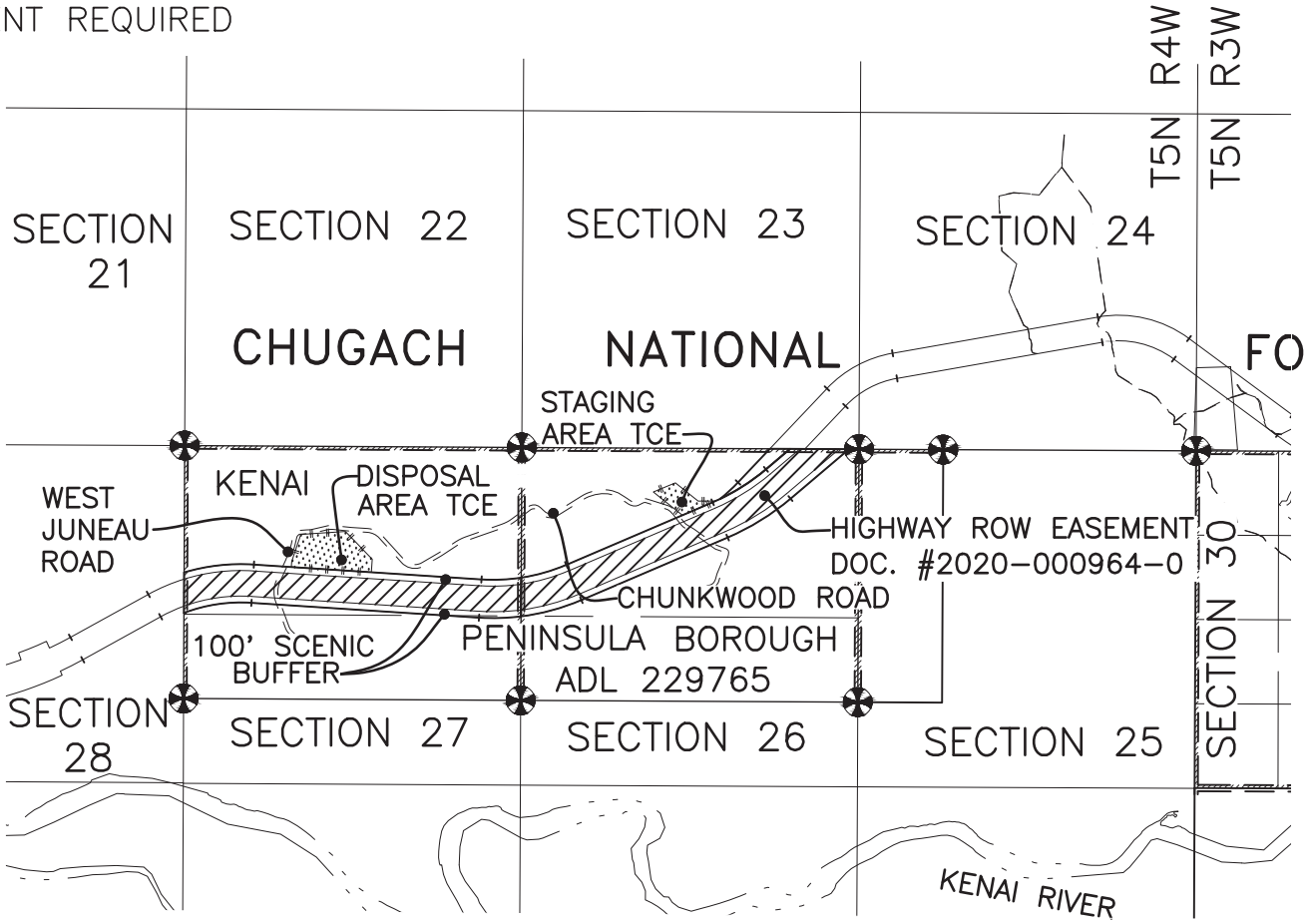
ATTACHED TO _____ PAGE 1 OF 6 DATED _____

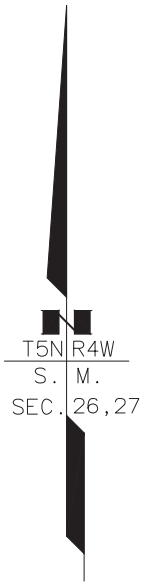
PROJECT NO. 0A33029/CFHWY00694

PARCEL NO.
KPB 395 DISPOSAL/STAGING AREA TCE

EXISTING RIGHT–OF–WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED





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SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 2 OF 6

ROE AREA 18.602 AC.

DRAWN BY KFT

DATE Dec 2020

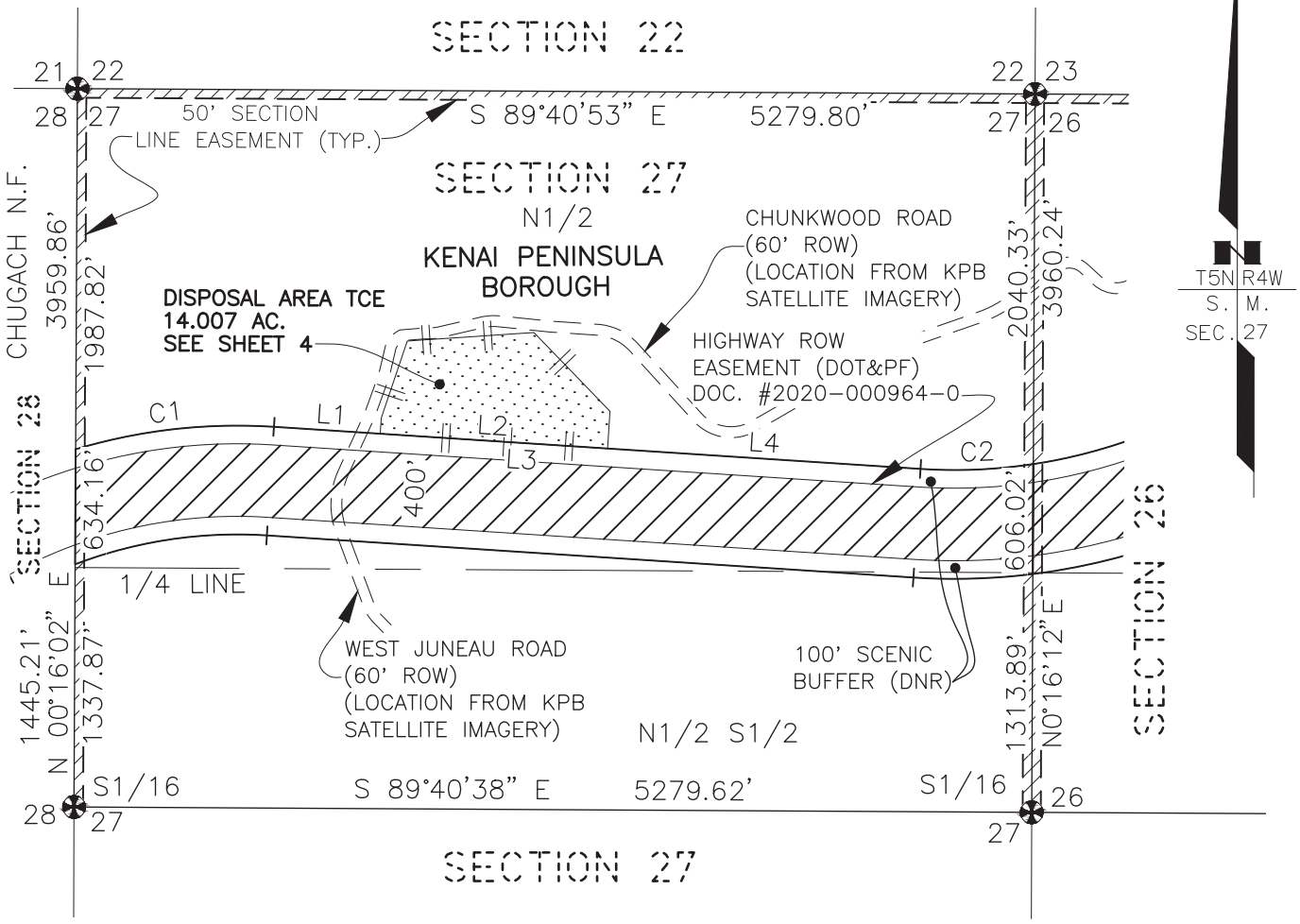
PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREAS TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:16:43 PM

EXISTING RIGHT-OF-WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED

⊕ = RECOVERED PRIMARY MONUMENT [BLM]



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	1105.99	3112.56	20°21'32"
C2	623.78	2896.21	12°20'25"

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	587.17	S 86°16'28" E
L2	1255.79	S 86°16'28" E
L3	3571.72	S 86°16'28" E
L4	1728.76	S 86°16'28" E

0 500 1000 2000

SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 3 OF 6

TCE AREA 14.007 AC.

DRAWN BY KFT

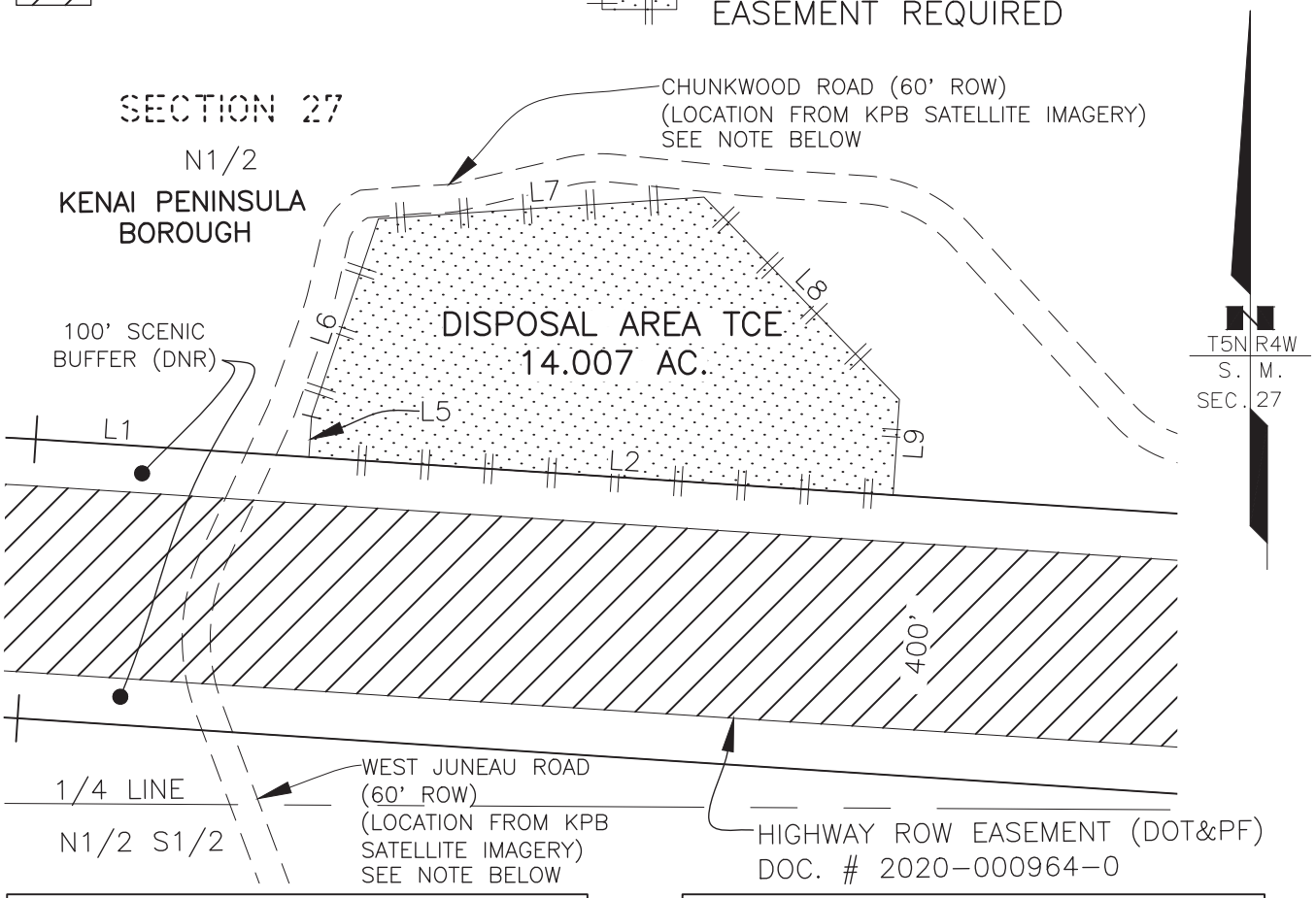
DATE Dec 2020

PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:16:56 PM

EXISTING RIGHT-OF-WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	587.17	S 86°16'28" E
L2	1255.79	S 86°16'28" E
L5	87.16	N 03°43'32" E
L6	447.83	N 18°40'14" E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L7	699.96	N 86°10'48" E
L8	603.36	S 43°59'37" E
L9	205.83	S 03°43'32" W

0 200 400 800

SCALE IN FEET

NOTE: ALIGNMENT OF CHUNKWOOD & WEST JUNEAU ROADS SHOWN IS APPROXIMATE. STAGING AREA BOUNDARY MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD & WEST JUNEAU ROADS & MAY BE ADJUSTED TO MEET THIS REQUIREMENT.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 4 OF 6

TCE AREA 14.007 AC.

DRAWN BY KFT

DATE Dec 2020

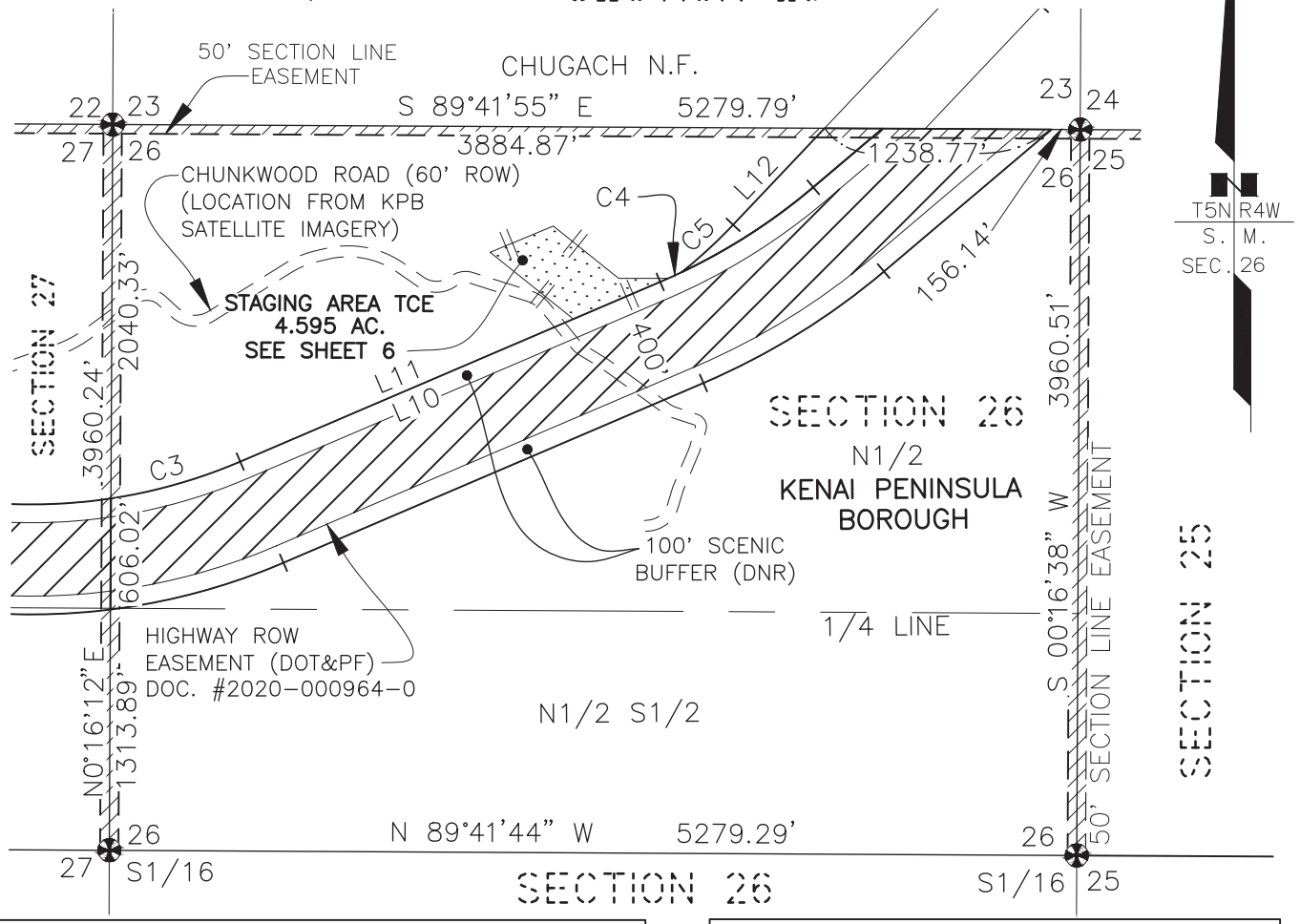
PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:17:09 PM

EXISTING RIGHT-OF-WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED

= RECOVERED PRIMARY MONUMENT [BLM]



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C3	735.59	2896.21	14°33'08"
C4	80.12	3300.41	1°23'27"
C5	382.52	2800.00	7°49'39"

LINE TABLE		
LINE #	LENGTH	DIRECTION
L10	2492.68	N 66°50'00" E
L11	1977.69	N 66°50'00" E
L12	725.74	N 43°27'21" E

0 500 1000 2000

SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 5 OF 6

TCE AREA 4.595 AC

DRAWN BY KFT

DATE Dec 2020

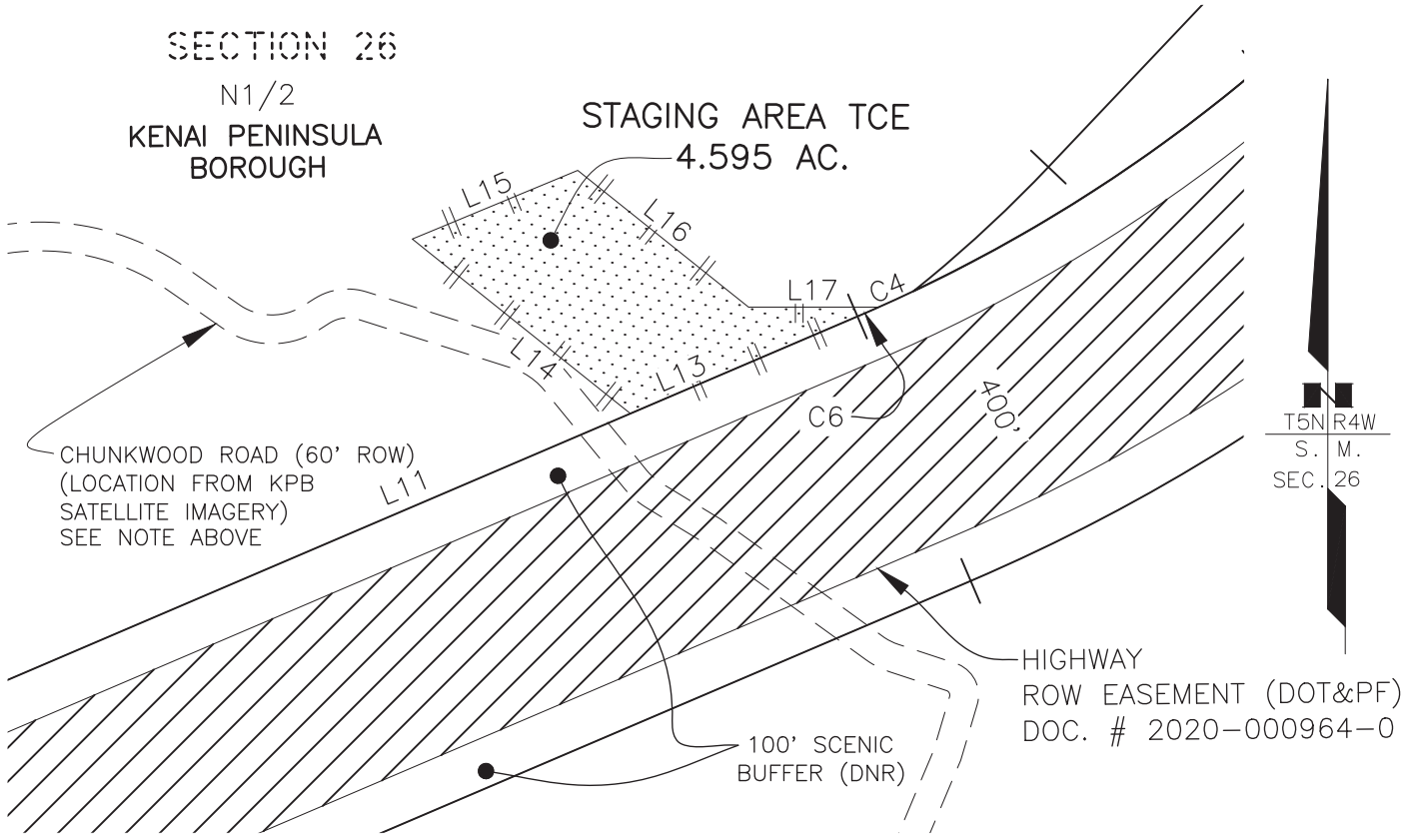
PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:17:22 PM

EXISTING RIGHT-OF-WAY

TEMPORARY CONSTRUCTION EASEMENT REQUIRED

NOTE: ALIGNMENT OF CHUNKWOOD ROAD SHOWN IS APPROXIMATE. STAGING AREA BOUNDARY MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD ROAD AND MAY BE ADJUSTED TO MEET THIS REQUIREMENT.



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C4	80.12	3300.41	1°23'27"
C6	48.01	3300.41	0°50'01"

LINE TABLE		
LINE #	LENGTH	DIRECTION
L11	1977.69	N 66°50'00" E
L13	514.99	N 66°50'00" E
L14	582.30	N 51°18'52" W
L15	373.30	N 67°25'48" E
L16	456.66	S 51°18'52" E
L17	270.83	N 90°00'00" E

0 200 400 800

SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 6 OF 6

TCE AREA 4.595 AC.

DRAWN BY KFT

DATE Dec 2020

PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:17:41 PM

THESE PLATS MAY BE USED FOR THE ESTABLISHMENT OF THE RIGHT-OF-WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

THIS SEAL IS FOR ALL WORK CONTAINED ON PLATS 2 THROUGH 4 OF 4.

1/5/2021

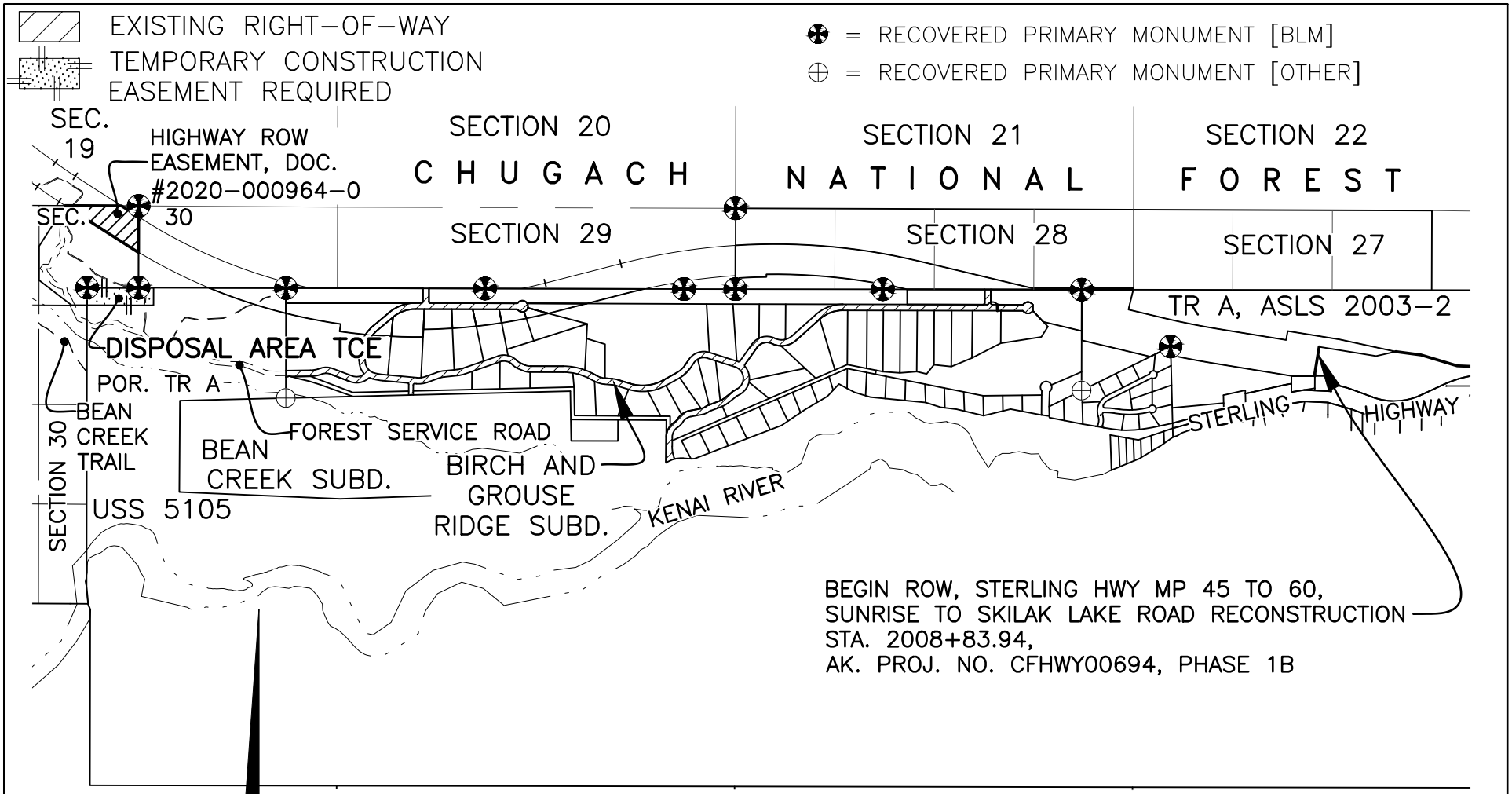
R&M CONSULTANTS, INC.

9101 VANGUARD DRIVE
ANCHORAGE, AK 99507
PHONE (907) 522-1707
AUTH. NO. AECC111

ATTACHED TO _____ PAGE 1 OF 4 DATED _____

PROJECT NO. 0A33029/CFHWY00694

PARCEL NO.
KPB S5105 DISPOSAL AREA TCE



STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 2 OF 4

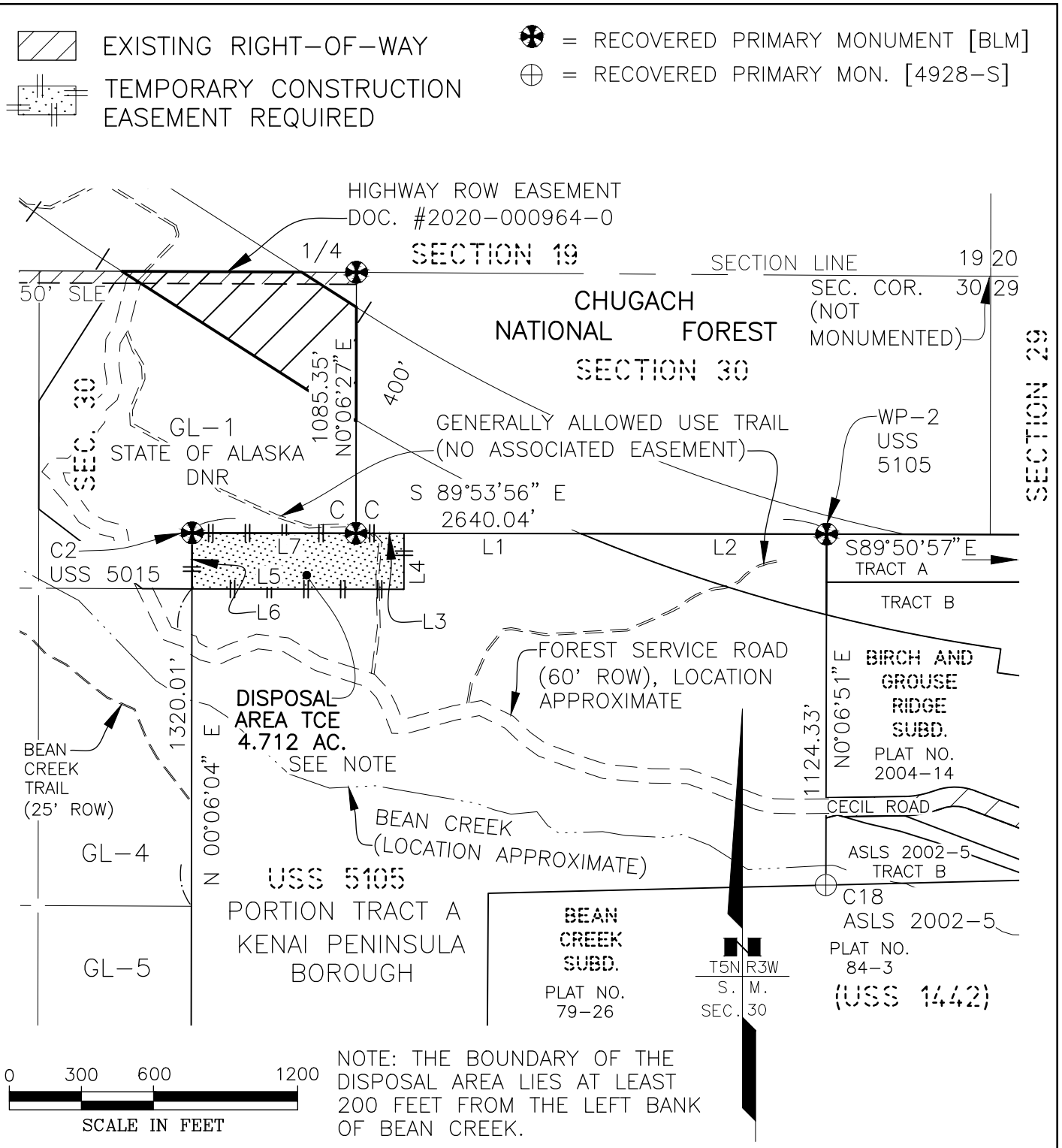
TCE AREA 4.712 AC.

DRAWN BY KFT

DATE Jan 2021

PARCEL NO. KPB S5105
DISPOSAL AREA TCE

KPB USS 5105 Disposal Area TCE 1-5-2021



STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 3 OF 4

TCE AREA 4.712 AC.

DRAWN BY KFT

DATE Jan 2021

PARCEL NO. KPB S5105
DISPOSAL AREA TCE

KPB USS 5105 Disposal Area TCE 1-5-2021 1:14:19 PM

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	736.70	S 89°53'56" E
L2	1021.35	S 89°53'56" E
L3	200.00	S 89°53'56" E
L4	232.70	S 00°06'04" W
L5	881.99	N 89°53'56" W
L6	232.70	N 00°06'04" E
L7	681.99	S 89°53'56" E

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 4 OF 4

TCE AREA 4.712 AC.

DRAWN BY KFT

DATE Jan 2021

PARCEL NO. KPB S5105
DISPOSAL AREA TCE

KPB USS 5105 Disposal Area TCE 1-5-2021 1/5/2021 1:14:26 PM

Attachment #2 to Master Lease

Project No.:	CFHWY00753
Date Prepared:	01/28/2021

Sterling Highway MP 45-60 Sunrise to Skilak Lake Rd Phases 2-5 CM/GC Staging/Disposal Site Operations Plan

Prepared For:

KPB and ADOT&PF

Prepared By:
Kiewit Infrastructure West Co.
2000 W. International Airport Rd. C-6
Anchorage, AK 99502

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Appendixes

Appendix A – Site location and 3D Model

Table(s)

Table 1 – West #1

Table 2 – West #2

Table 3 – East #2

Acronyms and Abbreviations

ADOT	Alaska Department of Transportation & Public Facilities
BMP	Best Management Practice
DNR	Alaska Department of Natural Resources
HMCP	Hazardous Material Control Plan
KIWC	Kiewit Infrastructure West Co.
KPB	Kenai Peninsula Borough
ROW	Right of Way
SOA	State of Alaska
USACE	United States Army Corps. of Engineers
USFS	United States Forest Service

1 Project Description

The following is KIWC's Operation Plan pertaining to staging and disposal areas within the limits of KPB. Kiewit Infrastructure West Co (KIWC) is the CM/GC contractor for the Sterling Highway Milepost 45-60; Sunrise to Skilak Lake Rd – Phases 2-5**.** Staging and disposal sites will be developed/utilized during construction of the project and reclaimed upon completion of the permanent construction according to an approved plan. This work will include three separate locations as identified in the visuals attached.

2 Scope

Identified in this plan are three staging & disposal sites for use during the construction of the Sterling Highway Milepost 45-60 Project. Two of the sites are on the West side (West #1 & #2) and one site is on the East side (East #2) at approximately Station 1500. West #1 is located near USFS Rd. #1 and will primarily be used as a disposal site for slash, peat, topsoil and excess excavation. Eventually, this site will be developed into a staging area for storage and miscellaneous operations. West #2 is located adjacent to USFS Rd #2. West #2 will be home to field offices, permanent materials, maintenance facility, fuel storage and potentially a batch plant. East #2 is located near Station 1500 and will be the designated East side disposal area. Over time it may be developed into an additional area for staging of bridge materials and/or a material crushing and hot plant location for the project.

KIWC is planning on using the requested sites as follows:

2.1 West Site #1

The first location is East of USFS Road #1, near Stations 1314+25 to 1329+00 (Approx. 14 AC). This site will include minimal grubbing to develop an access road into the site. It will be used to dispose of material such as slash, muck excavation, grubbing, and excess excavation material generated by KIWC during construction activities. The slash will be buried at the bottom of the site to reduce further impacts from activities in the site. This site will be broken into quadrants to include specific areas to place materials. For example, the far west section will include a mixture of peat and topsoil that could be used later during the reclamation of the site. The middle section will be material that will be unusable for future aspects of the project such as common excavation with high fines content. The northern section of the site will be used for excess embankment that may later be utilized as a staging area. Clearing will consist of machine clearing, hand clearing, mulching, and decking timber. Grubbing will consist of removal of the top organic layer to develop access into the site and staging area. Reclamation will include covering the site with topsoil and seeding it for permanent stabilization in compliance with the applicable revegetation plan for the project (currently in development).

2.2 West Site #2

The second location is East of USFS Road #2, near Stations 1379+00 to 1387+00 (Approx. 4.6 AC). The use of this parcel will consist of removal and stockpiling the existing organics, creating an earth berm around the perimeter of the site. Clearing will consist of machine clearing, hand clearing, mulching, and decking timber. The top organics layer will be removed in order to access more useable soils. The berm will be track walked for added stability in accordance with Alaska BMP practices. Within the boundaries of the site this area will be transformed into a uniformly flat but free draining area, the site will be capped with aggregate developed on site to provide an all weather running surface. The site will be used

for storage of permeant materials, aggregates, plant operation, field offices, fuel and a maintenance facility. Reclamation will include using the earth berm around the area to cover it with topsoil and follow an applicable revegetation plan.

2.3 East Site #2

On the East side a disposal site will be developed at ~Station 1500. This site will be cleared and built up with the disposal of excess material from the project. Similar to the other sites, the material placed into this site will include grubbing, muck ex, and other material that do not meet the project needs for embankment or are excess. As this site is built up, it will be constructed with side slopes 2:1 (H:V) to allow for proper drainage and surrounded by BMPs to mitigate the risk of storm runoff. The site may also be utilized as a staging area during later phases of the project and will be reclaimed in accordance with an approved revegetation plan at the end of the project.

3 Timeline - Schedule

Notice to Proceed (NTP): Anticipated – May 1, 2021

Final Completion: October 31, 2025

3.1 Order of Precedence for Staging and Disposal Sites

1. Establish staging and disposal areas in relation to the project corridor development.
2. Establish access throughout the project corridor.
3. Construct remaining permanent work for the project alignment.
4. Upon completion of the project reclaim staging and disposal areas used during construction activities to applicable requirements.

4 Operations

4.1 Locations

4.1.1 West #1

This site is ~14 acre parcel located near Juneau Creek Rd. in Parcel 395. As depicted, it is capable of holding approximately 700,000 CY of material. The site will maintain a minimum 1% slope for drainage with slopes anticipated to be 2:1(H:V) around the site. The site will contain grubbing and peat (muck excavation) that could be used later in the project as a topsoil source, in addition to excess or unusable excavation generated from the project. Beyond a disposal site, this is a potential location to place an asphalt hot plant during paving operations. For reclamation, topsoil will be spread across the site in accordance with a revegetation plan for the project. The site will be accessed by Juneau Creek Rd and off the project alignment. A summary of quantities is provided below:

Table 1 – West #1
Disposal and Staging Area

PROPERTY OWNER	TOTAL (ACRE)
KPB	14.0
Fill Possible	~700,000 CY
Grubbing/Muck Ex	~200,00 CY
Excess Materials	~500,000 CY

4.1.2 West #2

This site is ~4.6 Acres and is intended to be used primarily as a staging area. It will consist primarily of clearing and grubbing along with the balancing of approximately 20,000 cubic yards material within the site. The site will maintain a minimum 1% drainage and 2:1(H:V) slopes around the outside. Once the site is balanced,the site will become a staging area for permanent materials, maintenance facility, fuel storage and a possible location for a batch plant during bridge construction. The grubbing will create a vegetative earth berm around the site as a BMP with temporary seed added for stabilization. During reclamation, the berm will be spread back across the site which will be reclaimed according to an agreed upon plan. The site will be accessed from USFS Road #2 (Juneau Creek Rd) or off the project alignment. A summary of quantities is provided below:

Table 2 – West #2
Staging area

PROPERTY OWNER	TOTAL (ACRE)
KPB	4.6
Cut	~15,000 CY
Fill	~22,000 CY

4.1.3 East #2 (~Sta. 1500)

The footprint of this site will be ~21 acres and will be contained within the boundaries of the DNR and KPB. Clearing will take place before any material is disposed into this area. Initially this site will be used for material disposal but as the site develops, parts of this area may be utilized as bridge material storage and crushing / production operations. Finish surfaces will be constructed to provide positive drainage with 2:1 (H:V) slopes around the site while avoiding concentrated flows. Final reclamation of this area will follow an approved revegetation plan. A summary of quantities is provided below:

Table 3: East #2
Disposal and Staging Area

PROPERTY OWNER	FILL (CY)	AREA (ACRE)
DNR	834,000	17.5
KPB	208,000	3.5
TOTAL	1,042,000	21.0

4.2 Timber

Trees to be salvaged shall meet the criteria of the current Firewood plan on the project.

4.3 Final Site Clean Up

During construction the job Storm Water Pollution Prevention Plan (SWPPP) will be followed. Upon Completion of all work any materials that are not to be incorporated into the final project shall be removed and disposed of according to applicable requirements.

4.4 Equipment

- Feller Bunchers
- Excavators with mulching attachment
- Skidsteers with mulching attachment
- Wheel loaders
- Skidders
- Grinders / Mulchers
- Bulldozer
- Pickup Truck
- Maintenance vehicle
- Excavators
- Haul Trucks
- Blade (Grader)

4.5 Safety Protocol

Vehicle and pedestrian access to all trails, KPB roadways, USFS roadways and other recreational resources shall always be maintained for the duration of the project, except for when closures are necessary.

Special Construction signs, in accordance with Subsection 643-2.01, shall be used to advise the public of work in the vicinity of trails. Special Construction signs shall be placed at trailheads at least two weeks before construction begins and be maintained in serviceable condition for the duration of the project. Signs shall state dates and duration of work and dates and duration of road closures.

Use Plastic Safety Fence, in accordance with Subsection 643-2.01, or other means approved by the Engineer to delineate trails through the work site as necessary.

See Appendix A – Special Construction Signs for examples of signage and corresponding locations.

4.6 Hazardous Materials

4.6.1 Personnel, Training & Discharge Prevention Procedure – 40 CFR 112.7(f)

- During handling of hazardous materials operations will follow our Hazardous Material Control Plan (HMCP) that complies with applicable state and federal regulations.
- Maintenance personnel have been trained in the operation and maintenance of equipment to prevent and control discharges; discharge notification; facility operations; and the contents of the SPCC plan.
- Ongoing orientation and training of spill prevention and control is conducted pursuant to the commitments of Kiewit Infrastructure West Co's Sterling Highway MP 45-60 Project and District policies. Discharge prevention training is addressed as necessary during project start-up, regularly scheduled safety meetings, and new-hire orientation.

4.6.2 Tank Truck Loading / Unloading Rack – 40 CFR 112.7(h)

Tank trucks are operated by an independent vendor responsible for ensuring their operations are performed in accordance with applicable state and federal regulations. Spill kits are kept on hand when fuel deliveries are made, and a fueling procedure is followed to minimize the risk of an accidental discharge.

4.6.3 Emergency Telephone Numbers – 40 CFR 112.7(a3vi)

- Bob Falk, Project Manager
  - Phone: (360)319-3075
- Jim Dennison, Project Environmental Coordinator
  - Phone: (907) 406-9652
- Jim Dilworth, District Environmental Manager
  - Phone: (360) 693-1478
- Pat Harrison, Area Manager
  - Phone: (907) 222-9350
- Alaska Department of Environmental Conservation
  - Anchorage: (907) 269-3063
  - Outside normal business hours: (800) 478-9300
- National Response Center
  - (800) 424-8802
- Emerald Alaska Inc.
  - (888) 506-7220

4.7 Contaminated Site Clean Up

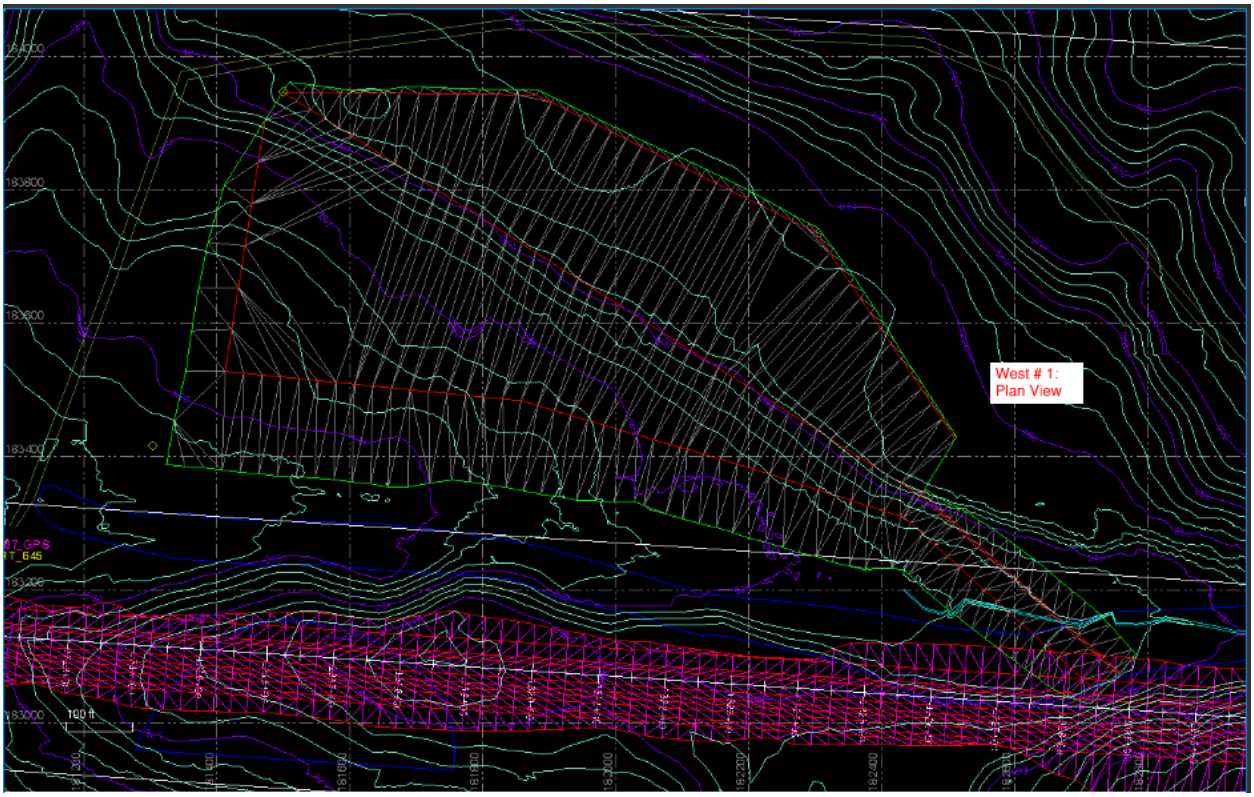
In the event of a spill or release, the initial response actions include the following:

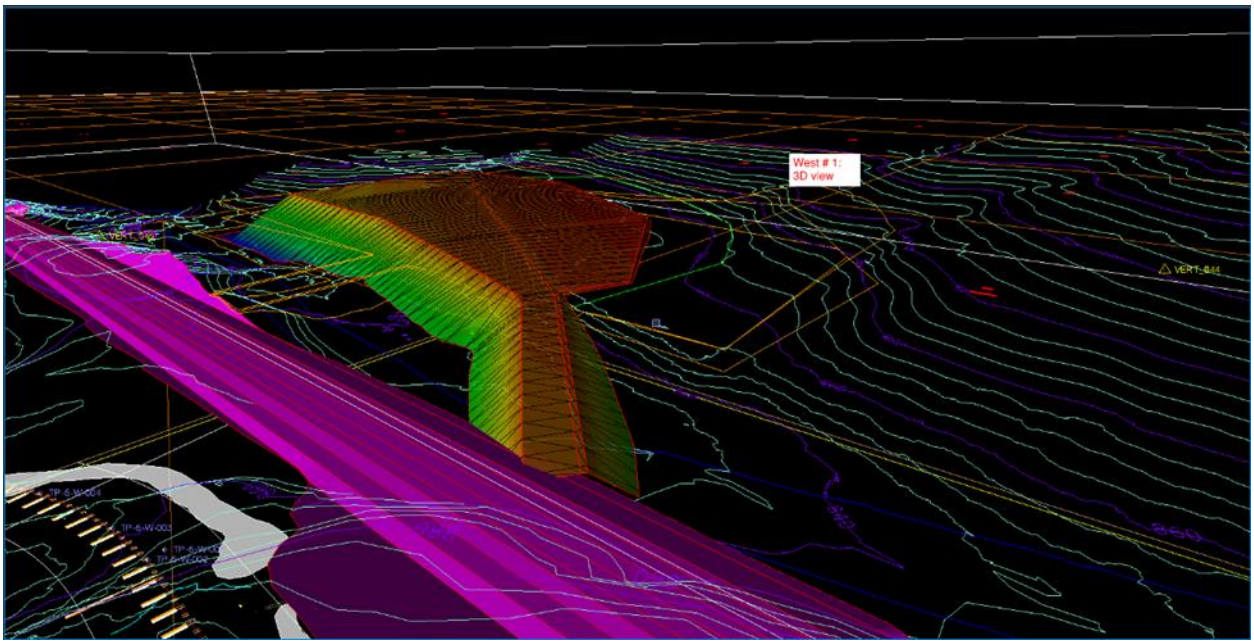
- **Action 1**. Evacuate all non-essential personnel
- **Action 2**. Identify the source of the release
- **Action 3**. Isolate equipment, restrict all sources of ignition, cordon off the area, contain and stop the discharge to the extent possible, close off drainage courses that may lead to a discharge into the waters of the State or other sensitive off-site areas.
  - Note: Only attempt to contain and stop the discharge if you have received the proper training, unless containing or stopping the discharge will involve a simple action such as closing a valve. Avoid direct contact with or the breathing of gases from the spilled product. When responding, use the proper Personal Protection Equipment (PPE) (Consult the Material Safety Data Sheet). Do not hose down or attempt to dilute the spilled material.
- **Action 4**. Provide the Project Environmental Coordinator with the following information:
  - Date and time of the release and/or discovery
  - Type of materials released and estimated quantity
  - Injuries involved, and fire and/or explosion potential
  - Need for additional assistance
  - Immediate actions taken to contain or stop the release
  - Location of the release and direction of flow
  - Probability of offsite migration and/or environmental damages
- **Action 5**. The Project Environmental Coordinator will be responsible for notifying the ADEC and the State of Alaska Department of Transportation (ADOT) and will assign additional personnel and resources to contain or stop the discharge, make the appropriate notification, and begin cleanup activities.

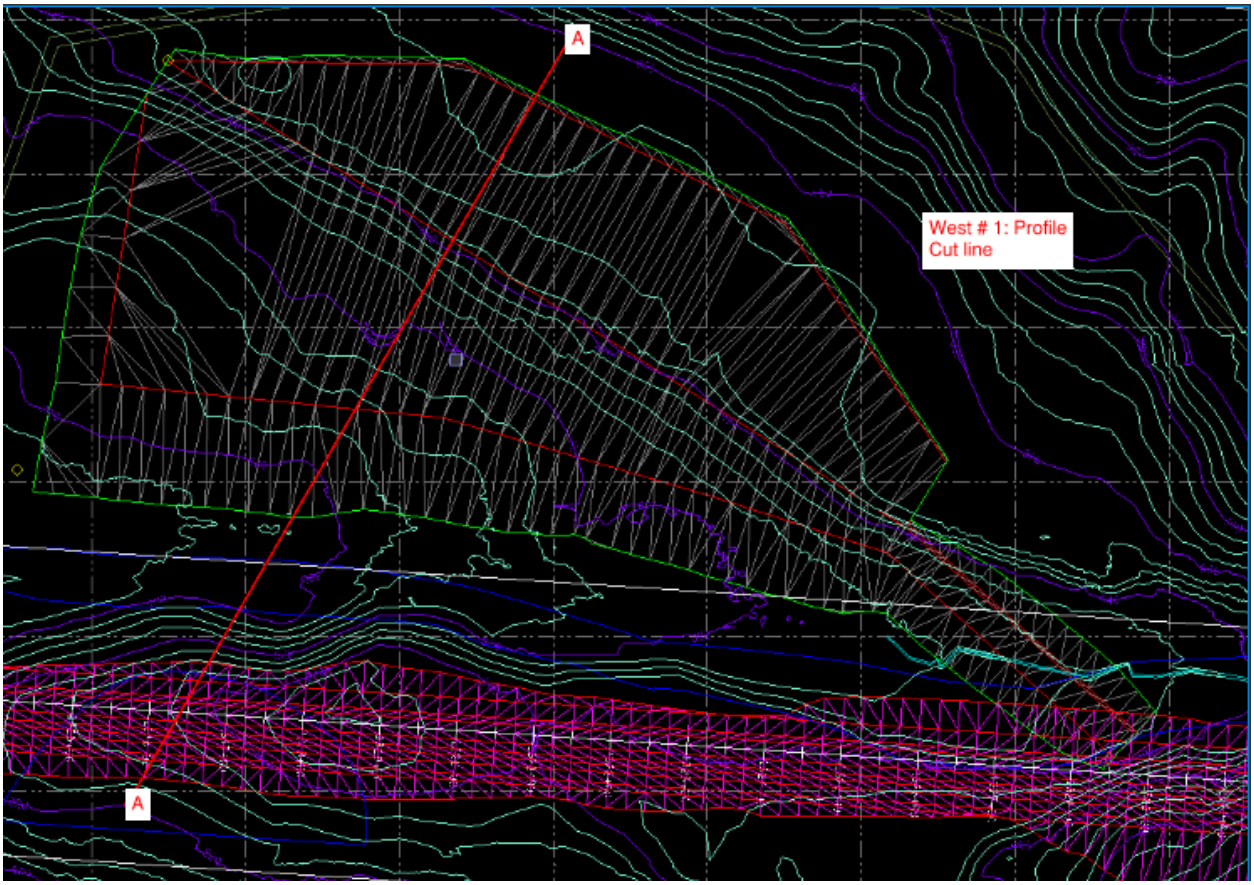
- For the cleanup of minor spills, absorbent materials are available on site at the spill kit locations.
- If the spill cannot be contained within the facility area with materials and equipment on hand, facility personnel are instructed to contain the spill as the situation allows and contact the following contractor for assistance: Emerald Alaska Inc. 2020 Viking Drive, Anchorage, AK 99501(888) 506-7220

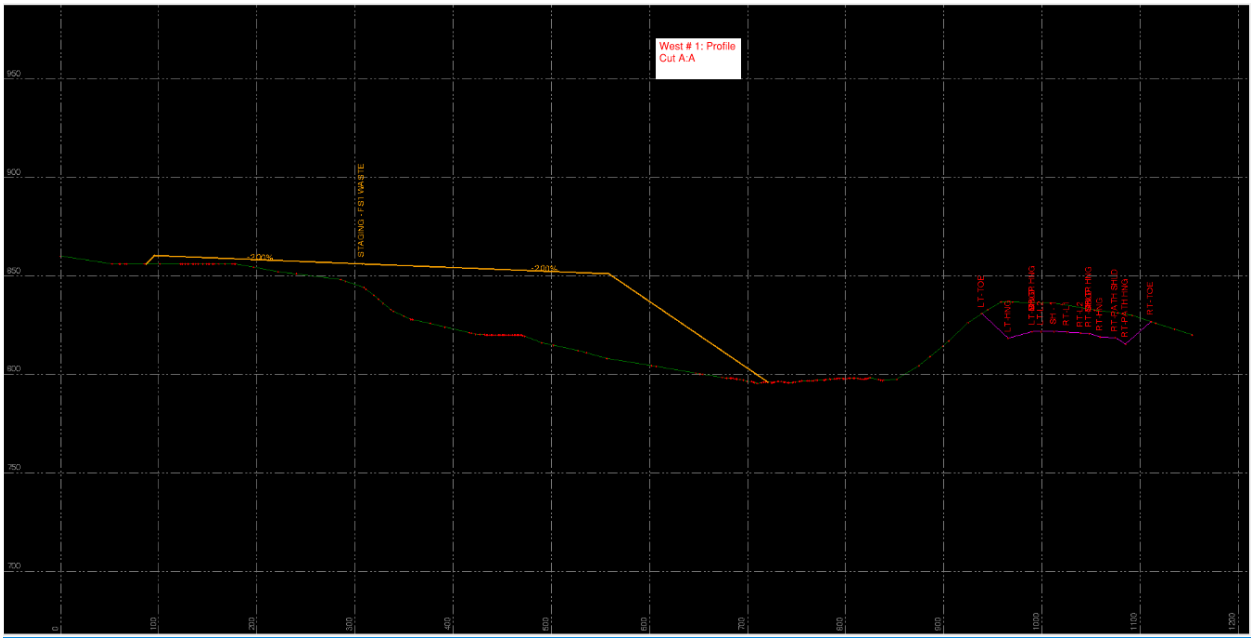
- In accordance with Title 18 of the Alaska Administrative Code, Chapter 75.300, discharges shall be reported to the Alaska Department of Environmental Conservation:
    - As soon as there is knowledge of a...
        - Discharge or release of a hazardous substance other than oil;
        - Discharge or release of oil to water; or
        - Discharge or release, including a cumulative discharge or release, of oil in excess of 55 gallons solely to land outside an impermeable secondary containment area or structure; and
    - Within 48 hours after there is knowledge of a discharge or release, including a cumulative discharge, of oil solely to land
        - In excess of 10 gallons, but 55 gallons or less; or
        - In excess of 55 gallons, if the discharge or release is the result of the escape or release of oil from its original storage tank, pipeline, or other immediate container into an impermeable secondary containment area or structure.
        - All spills between 1 and 10 gallons will be logged monthly and reported to Alaska Department of Environmental Conservation.
- The District Environmental Manager and Area Manager shall also be notified.
- In accordance with Title 18 of the Alaska Administrative Code, Chapter 75.007, the operator shall maintain for the life of the facility a history of spills over 42 gallons, including the source, cause, amount and corrective action taken.
- All reported spills will be documented as to what action was taken to clean up the material and prevent a similar type of spill from recurring. Photos will be taken of the area and stored with the spill documentation at the project office location.

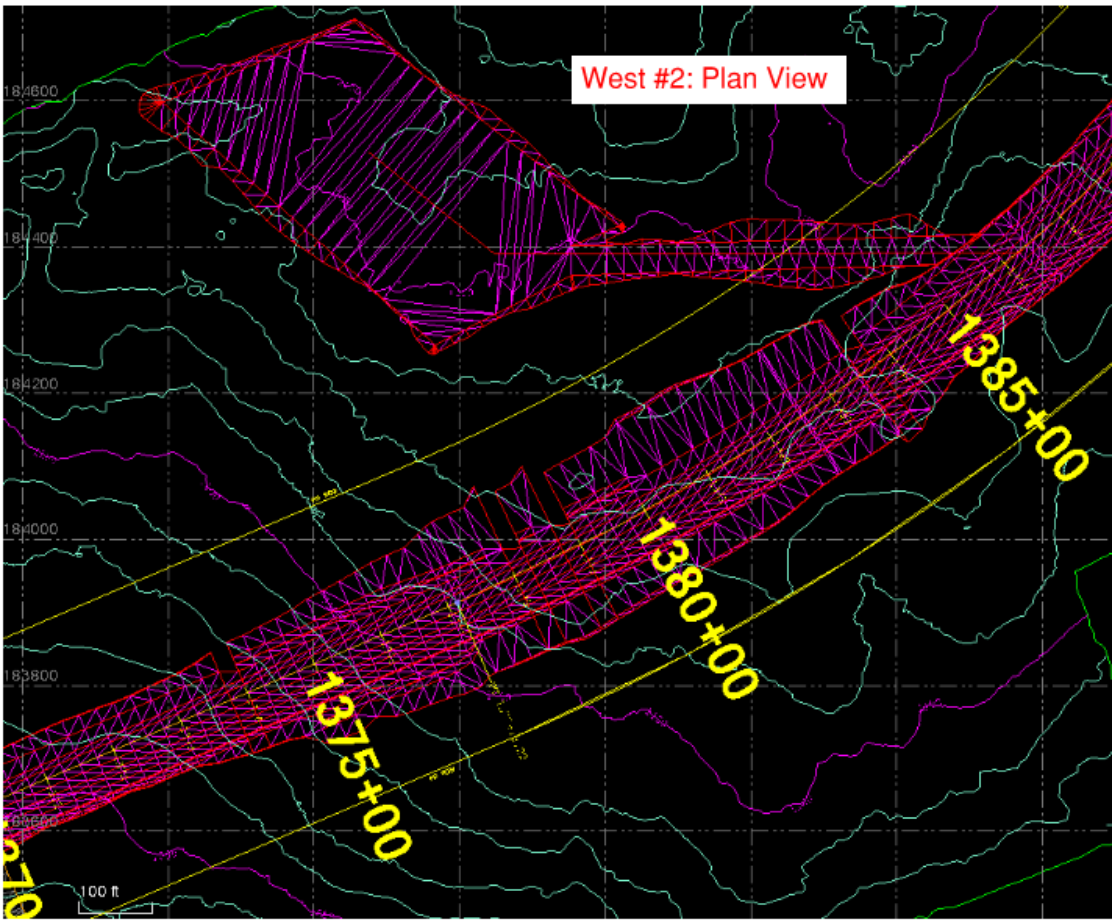
Appendix A – Site location and 3D Model

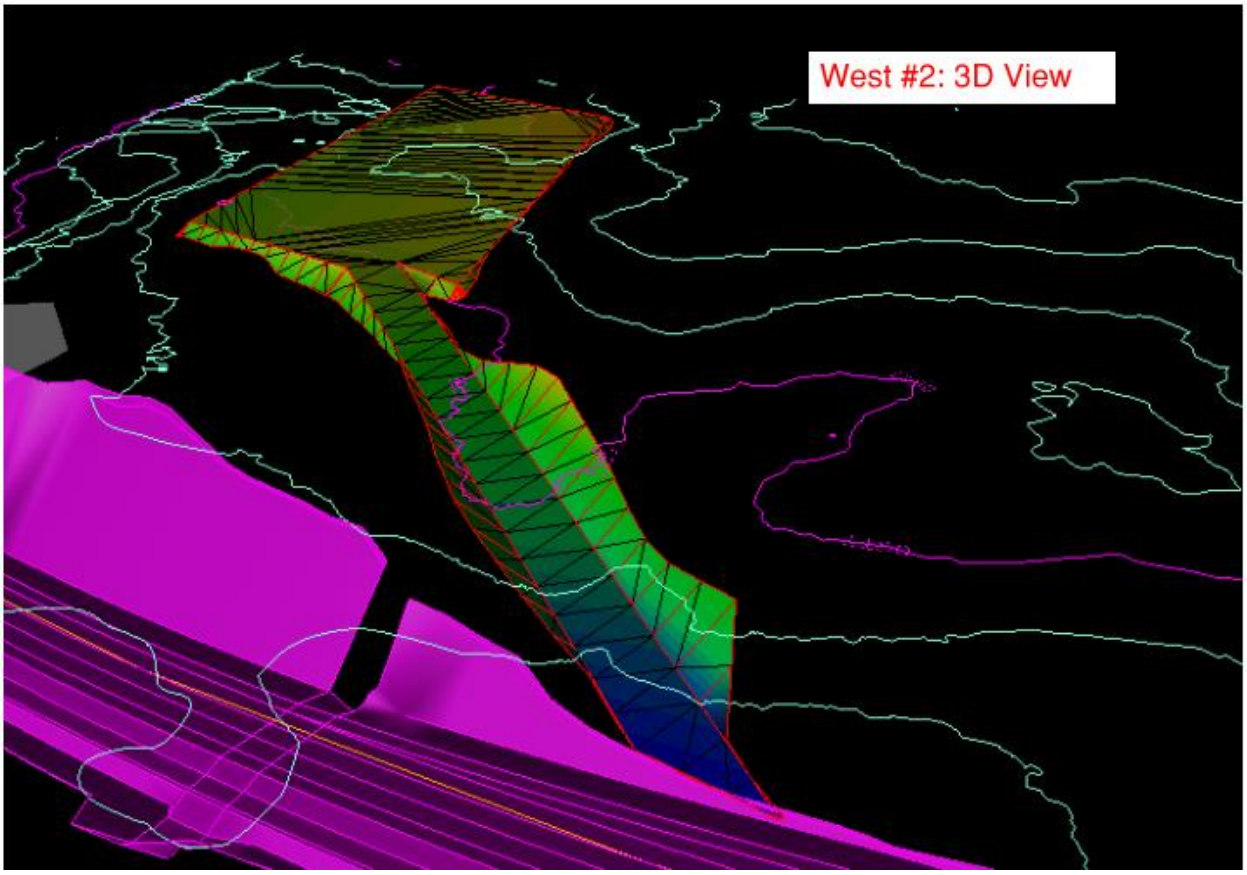

West # 1:
Plan View

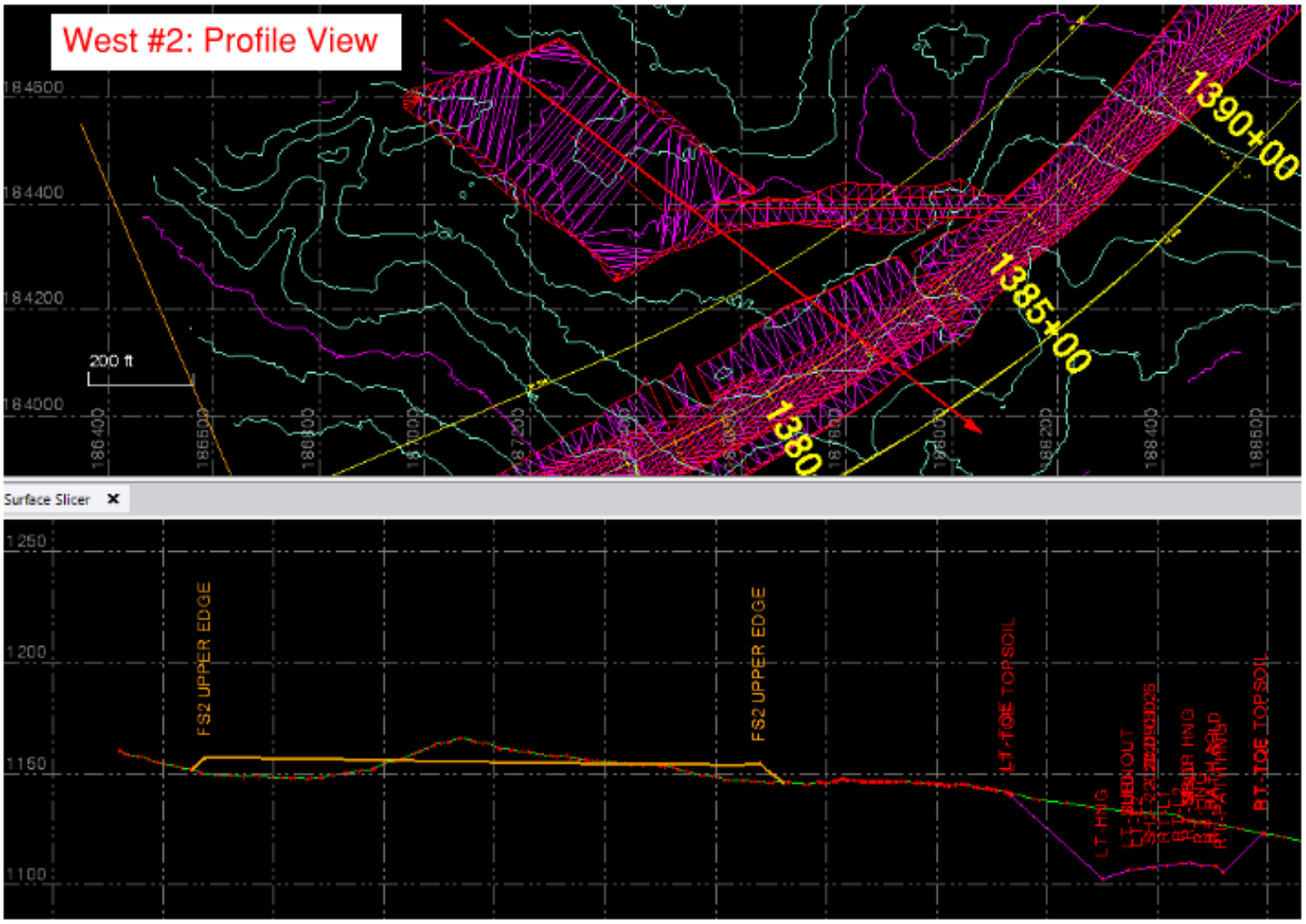

West # 1:
3D view

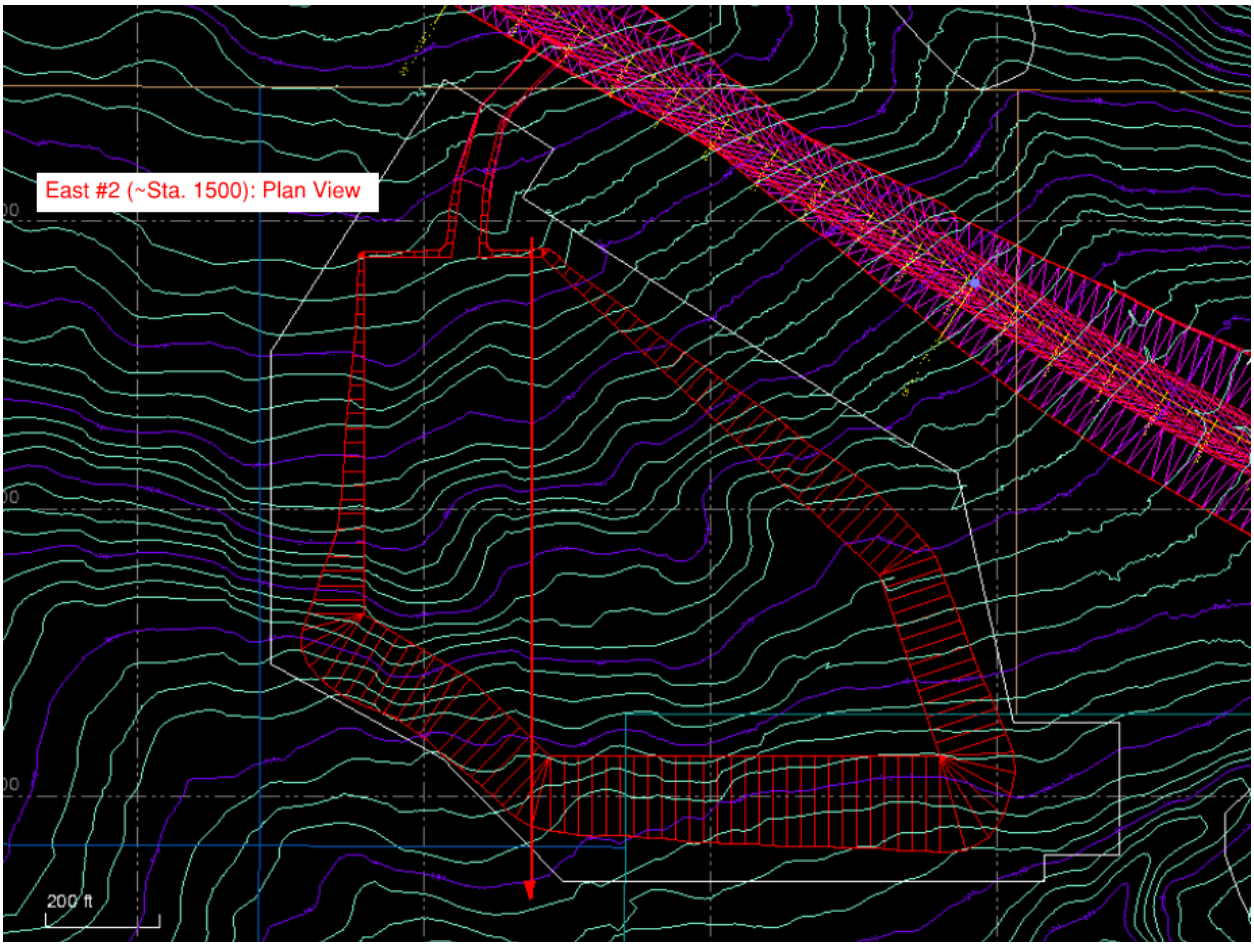

A
West # 1: Profile
Cut line
A

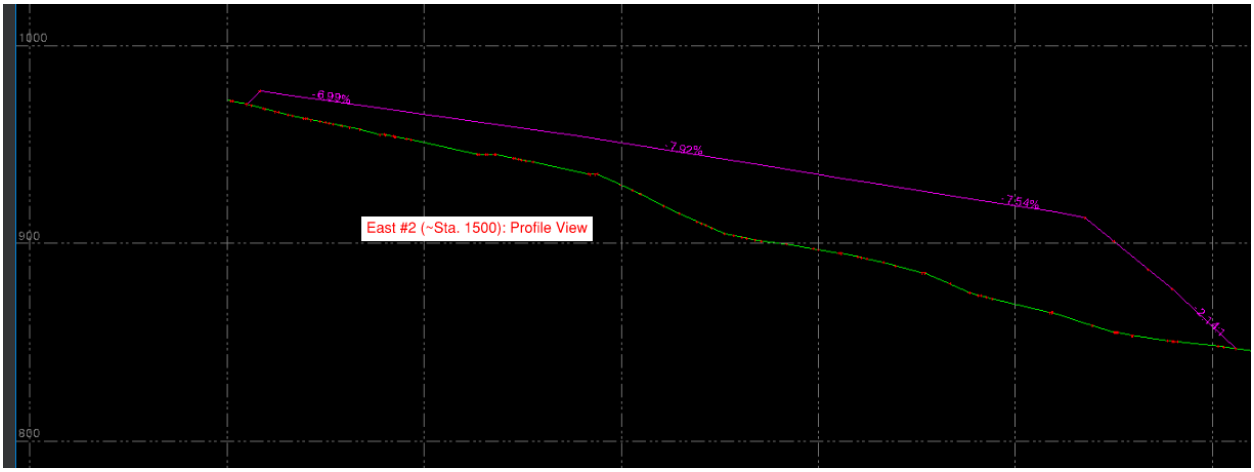

West # 1: Profile
Cut A:A
STAGING - FST WASTE
LT TOE
RT TOE

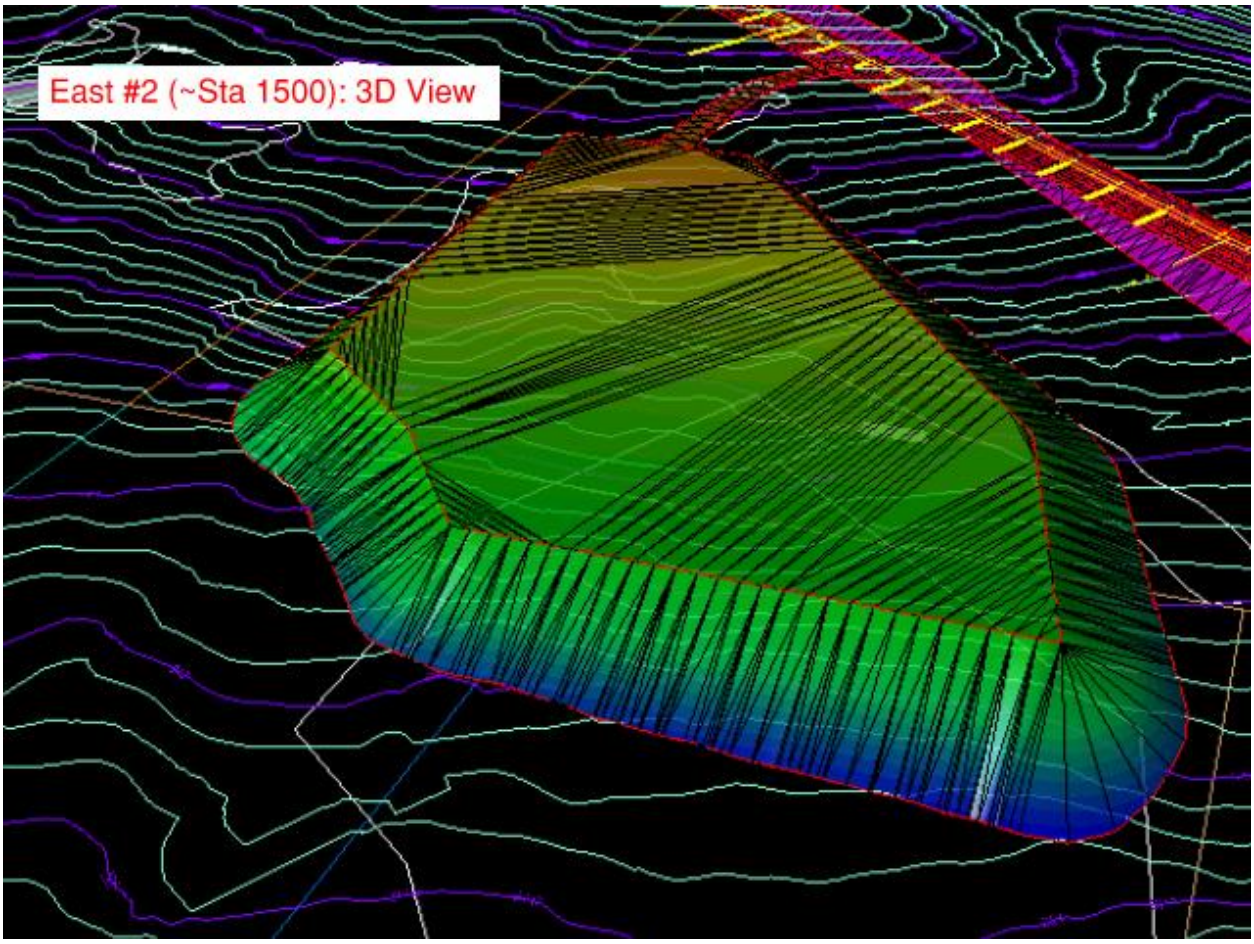

West #2: Plan View
1385+00
1380+00
1375+00
100 ft

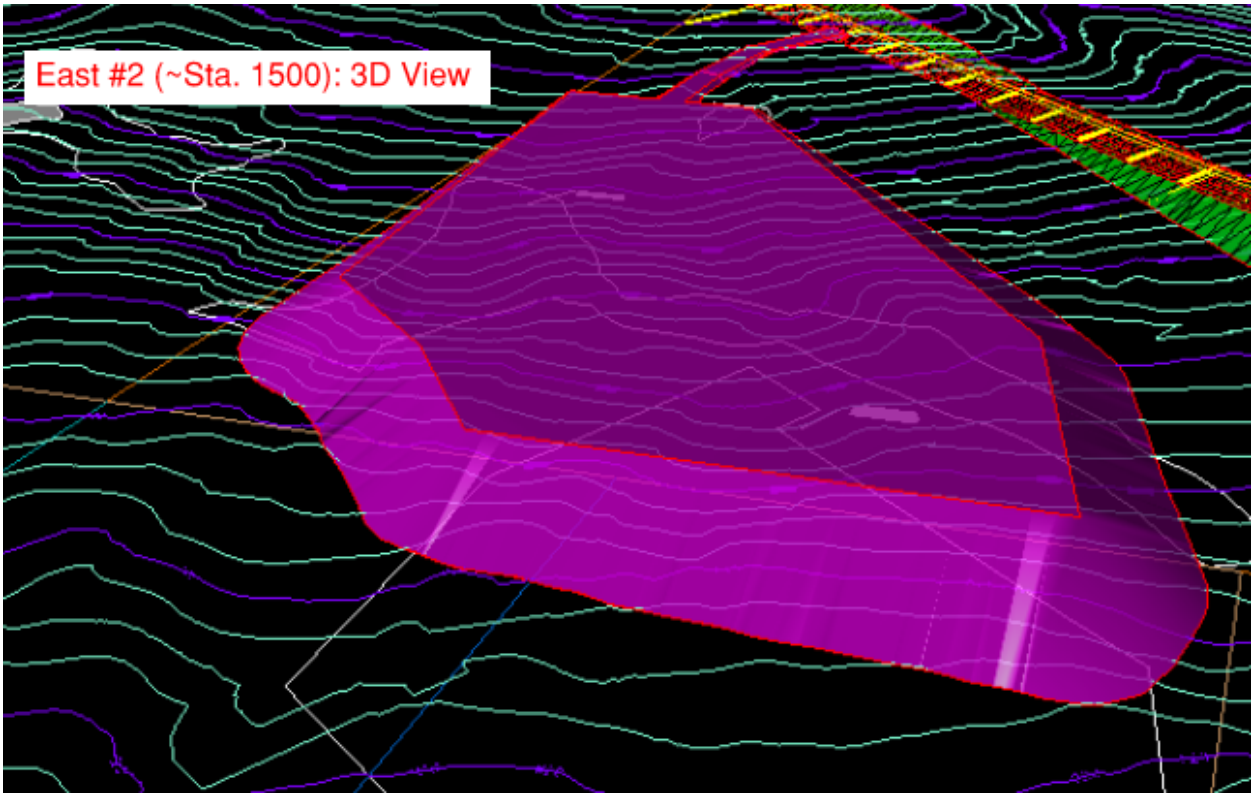

West #2: 3D View


West #2: Profile View
184500
184400
184200
184000
200 ft
1390+00
1385+00
1380
Surface Slicer
1250
1200
1150
1100
FS2 UPPER EDGE
FS2 UPPER EDGE
LT TOE TOPSOIL
RT TOE TOPSOIL


East #2 (~Sta. 1500): Plan View
200 ft

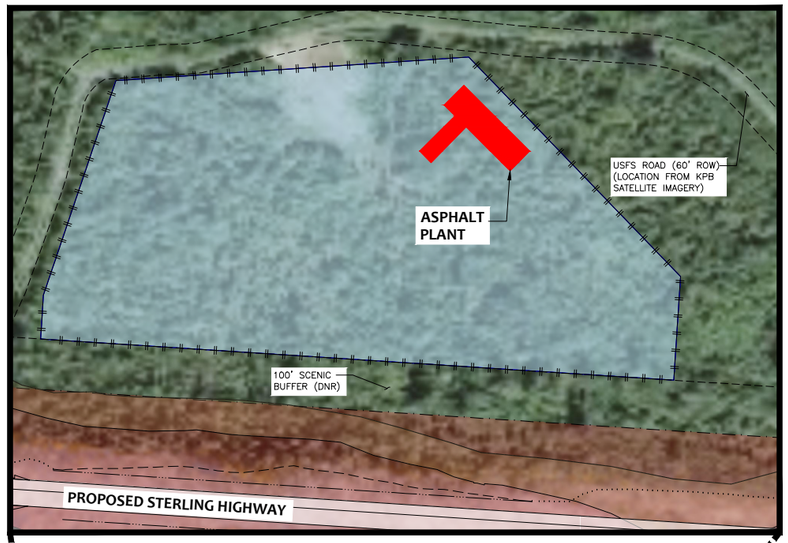

1000
900
800
-6.92%
7.92%
7.54%
East #2 (~Sta. 1500): Profile View


East #2 (~Sta 1500): 3D View


East #2 (~Sta. 1500): 3D View

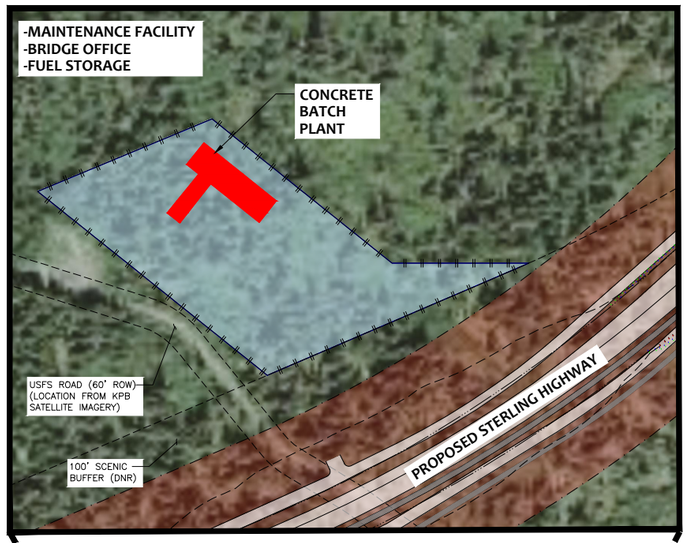
14.0 ACRE
STAGING AND DISPOSAL SITE
(19.9 Identified in EIS)

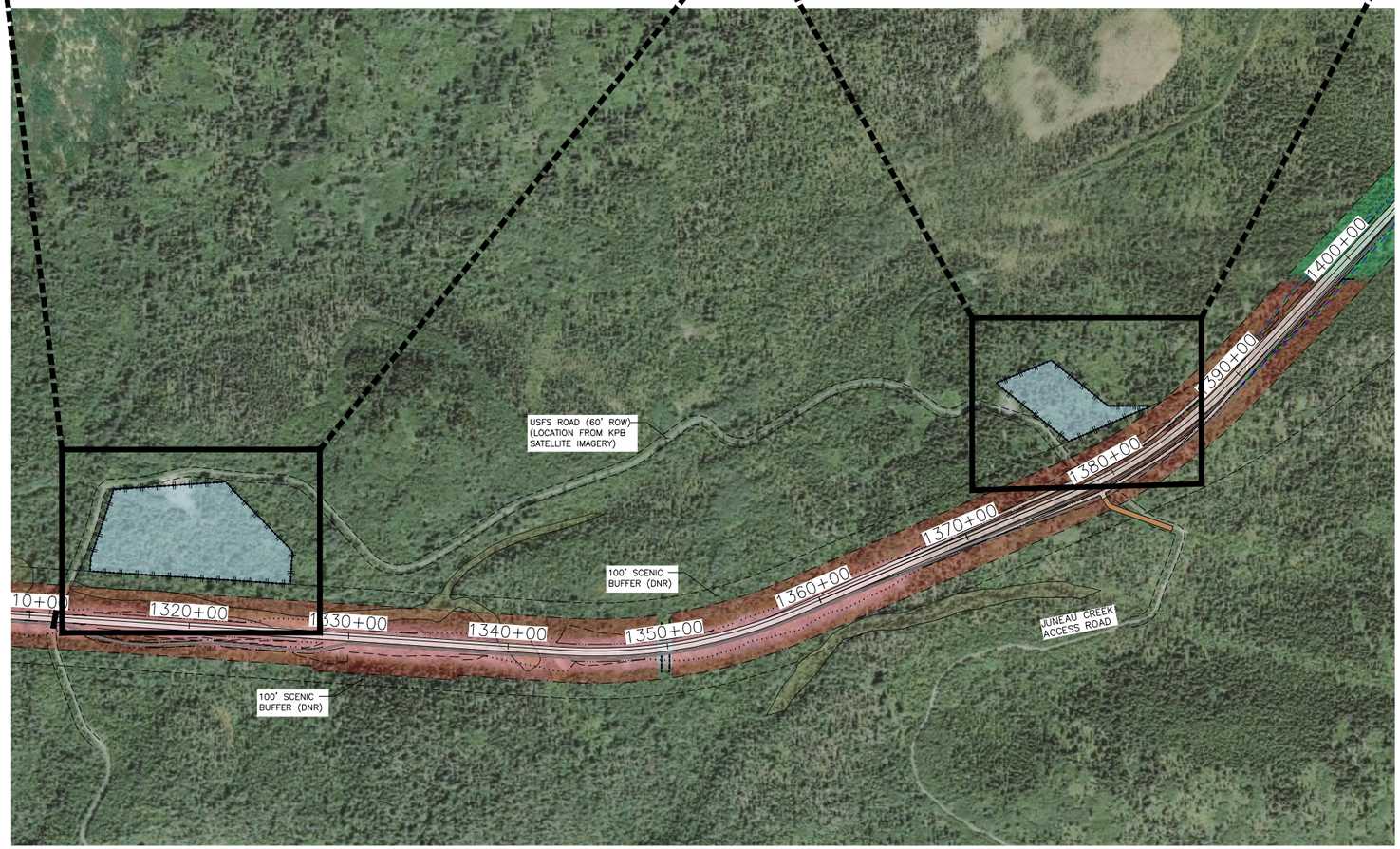
"WEST #1"



ALTERNATE 4.6 ACRE
STAGING SITE
(NOT Identified in EIS)

"WEST #2"





WEST #1 AND #2 STAGING AND DISPOSAL SITES

LEGEND

- STAGING/ DISPOSAL
- WETLANDS
- ROW (PROPOSED)

LAND OWNERSHIP

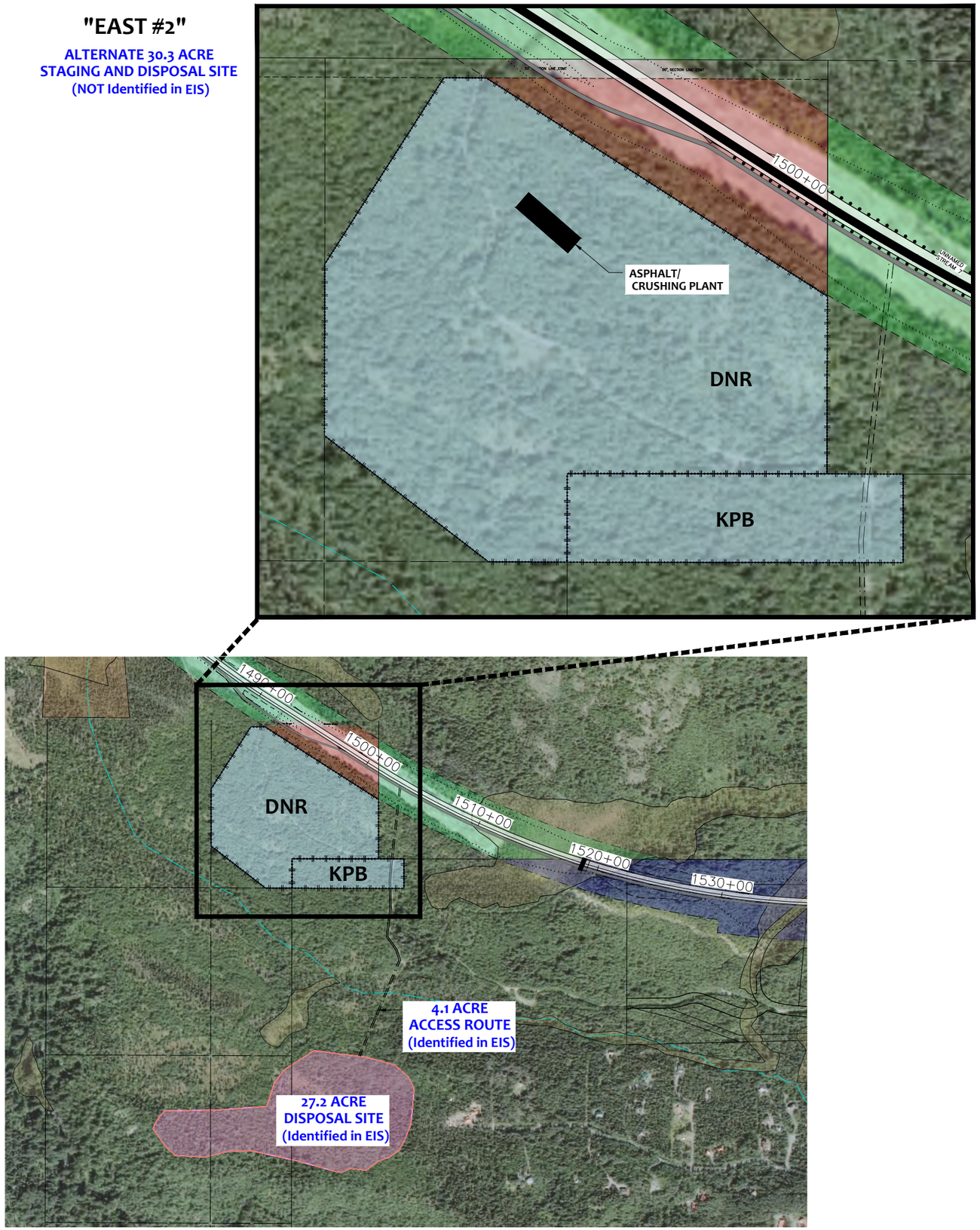
- USFS
- STATE

SITE	EIS		PROPOSED	
	DISPOSAL (ACRES)	STAGING (ACRES)	DISPOSAL (ACRES)	STAGING (ACRES)
WEST #1	19.9	NA	9.0	5.0
WEST #2	NA	NA	NA	4.6
TOTAL IMPACTED AREA				
	19.9 ACRES		18.6 ACRES	

January 12, 2021

"EAST #2"

ALTERNATE 30.3 ACRE
STAGING AND DISPOSAL SITE
(NOT Identified in EIS)



EAST #2
STAGING AND DISPOSAL SITE

LEGEND

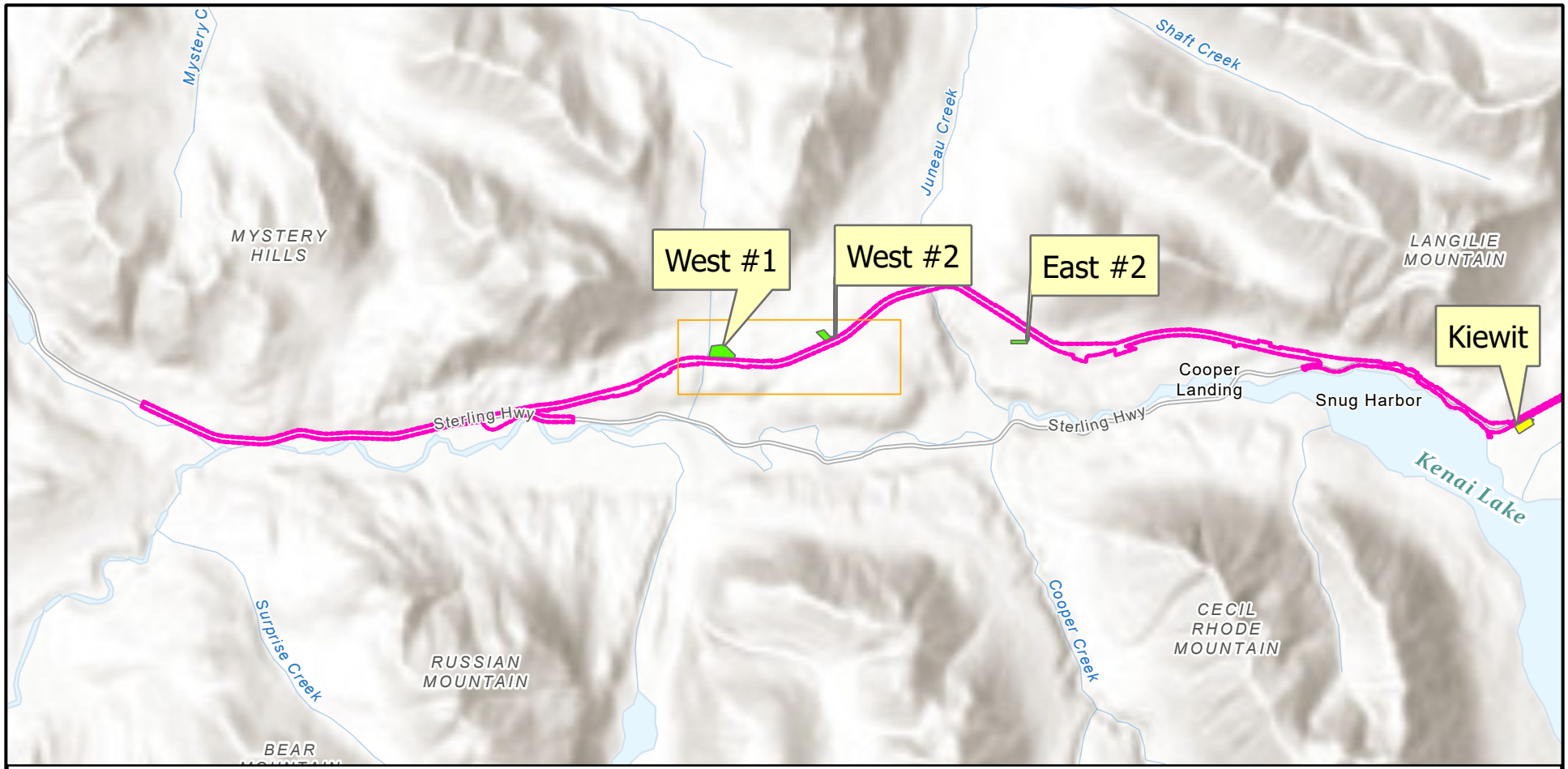
- STAGING/ DISPOSAL
- WETLANDS
- ROW (PROPOSED)

LAND OWNERSHIP

- USFS
- STATE
- KPB

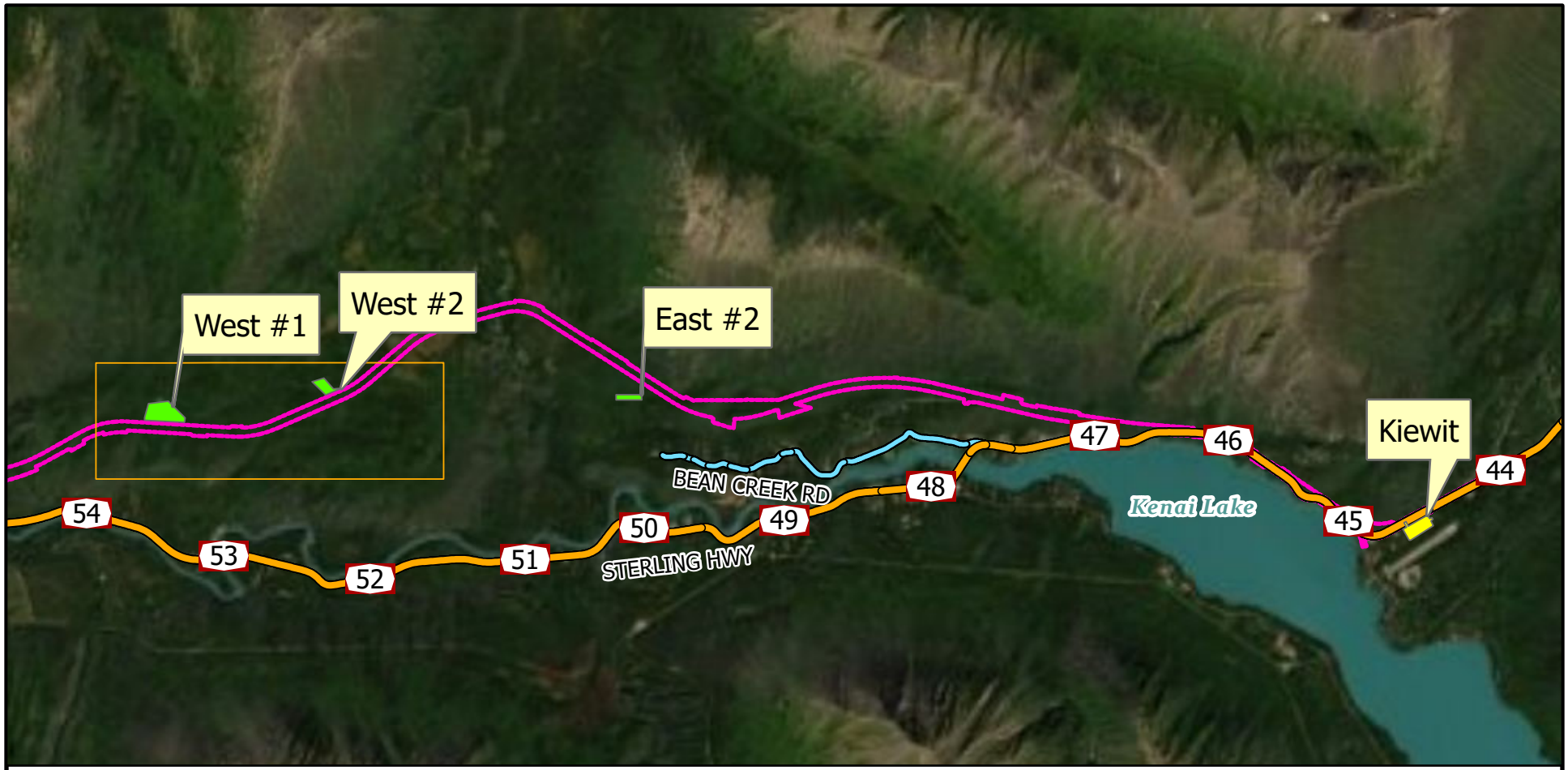
SITE	EIS		PROPOSED	
	DISPOSAL /ACCESS (ACRES)	STAGING (ACRES)	DISPOSAL (ACRES)	STAGING/ ACCESS (ACRES)
EAST #2	31.3	NA	20.4 (DNR)	4.7 (KPB) 5.2 (DNR)
TOTAL IMPACTED AREA				
	31.3 ACRES		30.3 ACRES	

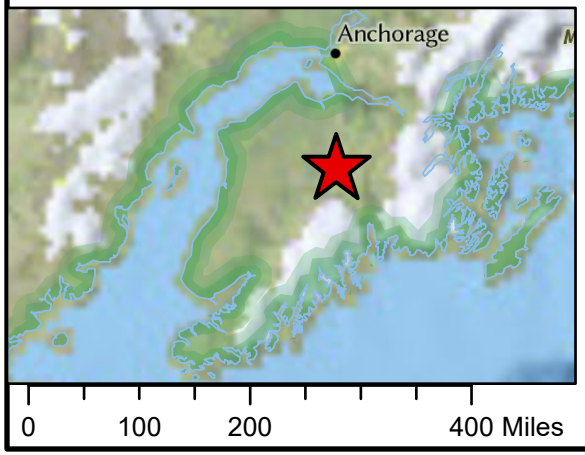
January 12, 2021



Sterling Highway MP 45-60
Proposed Staging Areas

Date Exported: 3/24/2021 1:09 PM





Legend

- DOT Staging Area
- Kiewit Staging Area
- Bypass Designed Alignment
- Unit 395
- State Hwy
- KPB Major Rd
- Mileposts

0 1.25 2.5 5 Miles

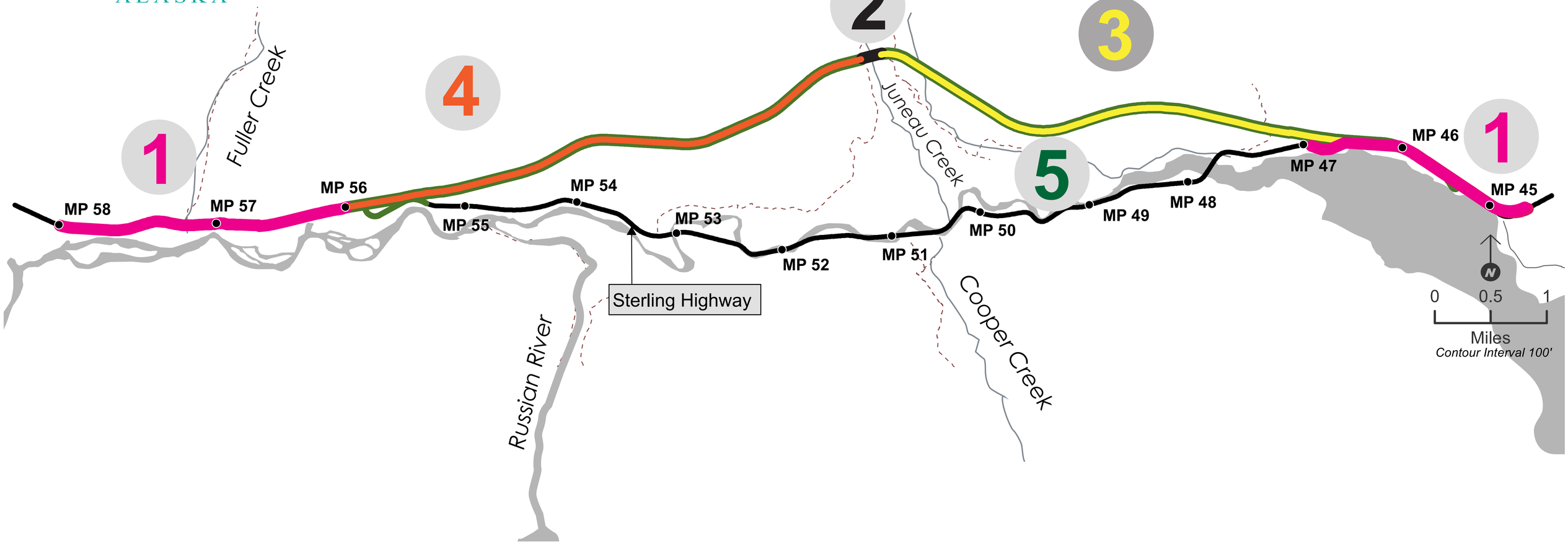
LAND MANAGEMENT
KENAI PENINSULA BOROUGH

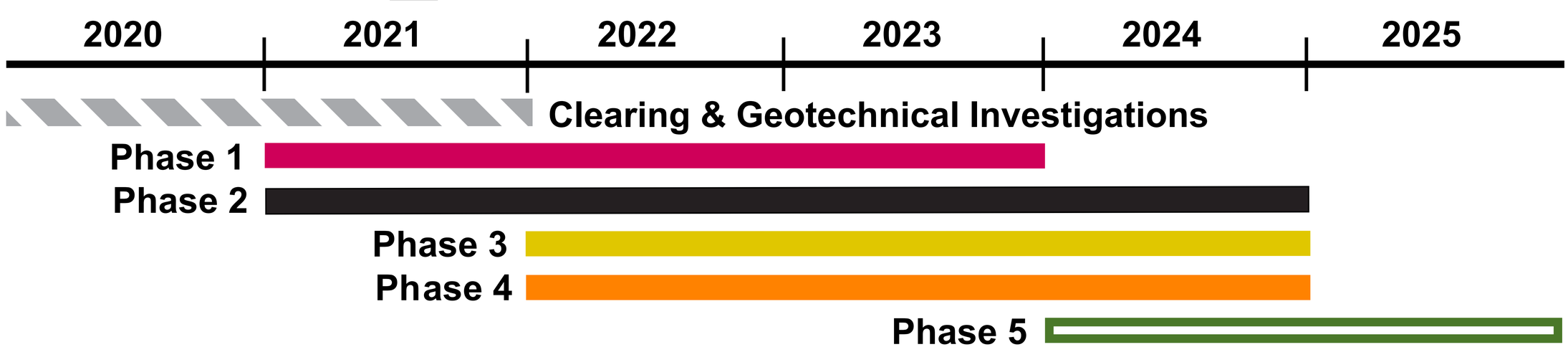
N

Sterling Highway MP 45-60
Proposed Staging Areas

Date Exported: 3/24/2021 12:59 PM

STERLING
HIGHWAY MILE POST 45 TO 60
ALASKA





Introduced by:	Mayor
Date:	03/02/21
Hearing:	04/06/21
Action:	Postponed as Amended to 04/2021
Vote:	9 Yes, 0 No, 0 Absent
Date:	04/20/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-11

AN ORDINANCE AUTHORIZING A COMMUNICATIONS SITE LEASE AGREEMENT WITH VERTICAL BRIDGE DEVELOPMENT, LLC

WHEREAS, Vertical Bridge Development, LLC is seeking to improve wireless services in the Summit Lake area; and

WHEREAS, Vertical Bridge Development, LLC is proposing to install a communication tower and equipment at Kenai Peninsula Borough ("borough") managed land in the rural community of Summit Lake; and

WHEREAS, in 2015, the borough received a final decision approving conveyance of the land; and

WHEREAS, Vertical Bridge Development, LLC has determined that a 2,187 square foot site on borough-managed land to the west of Summit Lake is the most desirable to meet its requirements; and

WHEREAS, the 2,187 square-foot site is located within the 317.86-acre borough-managed parcel described as Govt. Lot 1 excluding ASLS 97-32 and ASLS 2000-01, Section 5, Township 6 North, Range 1 West, Seward Meridian, Seward Recording District, Third Judicial District, State of Alaska; and

WHEREAS, Vertical Bridge Development, LLC proposes a market value lease; and

WHEREAS, entering into a negotiated lease of the property with Vertical Bridge Development, LLC is consistent with Goal 2 of the Moose Pass comprehensive plan, and furthers Goal 2, Focus Area: Land Use and Changing Environment, Objective C of the Kenai Peninsula Borough Comprehensive Plan; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of March 15, 2021, recommended approval by unanimous consent;

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

SECTION 1. The assembly finds that entering into a Communications Site Lease Agreement with Vertical Bridge Development, LLC is in the best interest of the public and the borough. This finding is based on the following facts:

a. The borough will receive a fair market rent for the term of the lease.

b. The land will be used to provide a new communications site that will benefit communication network users, including public safety providers.

c. The leasing of land for communication purposes is supported by Goal 2 of the Moose Pass Comprehensive Plan and Goal 2, Focus Area: Land Use and Changing Environment, Objective C of the Kenai Peninsula Borough Comprehensive Plan.

SECTION 2. The mayor is authorized, pursuant to KP 17.10.100(I), Negotiated Sale or Lease, to negotiate and enter into a lease of the above-described area to Vertical Bridge Development, LLC, subject to all lease conditions required by this ordinance and the applicable provisions of KPB 17.10, Borough Land and Resources.

SECTION 3. The assembly makes an exception to KPB 17.10.090 requiring classification prior to disposal. This exception is based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.

   a. KPB 17.10.080(A) states, classification of property is for review, plan implementation and management purposes. The classification system designates the most appropriate uses of the land and thereby guides borough management of such lands and implementation actions to provide for the identified users.

   b. KPB 17.10.080(E) states, classification or reclassification shall be based on a need identified in the borough Comprehensive Plan or upon recommendations from the mayor, the planning commission, an advisory planning commission, the public, or a local, state, or federal government agency. The borough has no identified management plan for this property at this time.

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is in the most practical manner of complying with the intent of this chapter.

a. The notice requirement is intended to make the public aware of an opportunity to purchase borough property, which is not applicable to the lease of property solely to Vertical Bridge Development, LLC.

3. That the granting of this exception will not be detrimental to the public welfare or injurious to other property in the area.

   a. The communication tower site is compatible with the surrounding vacant, utility and recreational land uses.

SECTION 4. Pursuant to KPB 17.10.230, the assembly authorizes an exception to the requirements of 17.10.110, Notice of Disposition, based on the following findings of facts:

1. Special circumstances or conditions exist.

   a. The proposed lease is solely with Vertical Bridge Development, LLC and for the purpose of operating and maintaining a communication tower site.

   b. The notice requirement is intended to make the public aware of an opportunity to purchase borough property, which is unnecessary since the intent of the disposal is to lease the property solely to Vertical Bridge Development, LLC.

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter.

   a. The notice requirement is intended to make the public aware of an opportunity to purchase property, which is not applicable to the lease of property solely to Vertical Bridge Development, LLC.

3. That the granting of this exception will not be detrimental to the public welfare or injurious to other property in the area.

   a. The communication tower site is compatible with the surrounding land uses.

SECTION 4. This lease is subject to a condition that the Director of the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water consents to the lease.

SECTION 5. The mayor is authorized to execute a Communications Site Lease Agreement with terms and conditions substantially similar to the agreements attached to this resolution.

SECTION 5. Vertical Bridge Development, LLC shall have 90 days from the date of enactment of this ordinance to execute the agreement.

SECTION 6. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

04/06/2021 Vote on motion to postpone as amended:

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

04/20/21 Vote on motion to enact:

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

OPTION AND COMMUNICATIONS SITE LEASE AGREEMENT

This OPTION AND COMMUNICATIONS SITE LEASE AGREEMENT (this "Agreement" or this "Lease") will become effective when all parties have signed the Agreement (the "Effective Date"). This Agreement is entered into by the **Kenai Peninsula Borough**, a municipal corporation, whose mailing address is 144 North Binkley Street, Soldotna, Alaska 99669 (the "Lessor" or the "Borough"), and **Vertical Bridge Development, LLC**, a Delaware limited liability company, whose mailing address is 750 Park of Commerce Drive, Suite 200, Boca Raton, FL 33487 (the "Lessee").

PART I. BACKGROUND, AUTHORIZED CONTACT AND CONTRACT DOCUMENTS

1. Background. Lessor owns certain real property located in the Kenai Peninsula Borough, in the State of Alaska, that is more particularly described and/or depicted in Exhibit 1 attached hereto (the "Property"). For good and valuable consideration, the parties agree that the Lessor will grant the Lessee the right to use a portion of the Property in accordance with the terms of this Agreement.

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.

LESSOR

Name: Kenai Peninsula Borough
Attn: Land Management Division
Re: Lease No. XX
Mailing Address: 144 N. Binkley St.
Soldotna, AK 99669

LESSEE

Name: Vertical Bridge Development, LLC
Attn: VP of Asset Management
Re: Site #: US-AK-5250; Site Name: Canyon Creek
Mailing Address: 750 Park of Commerce Drive, Suite 200
Boca Raton, FL 33487

For Notices required hereunder:
Name: Vertical Bridge Development, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, FL 33487
Attn: General Counsel
Re: Site #: US-AK-5250; Site Name: Canyon Creek

3. Contract Documents. As authorized by Kenai Peninsula Borough Ordinance 2021-11, this Agreement is the final and complete understanding of the parties. The following exhibits and appendices are attached and are considered part of this Agreement as well as anything incorporated by reference or attached to those exhibits or appendices:

Appendix A: Lease Provisions Required by KPB 17.10
Appendix B: Site Specific Lease Provisions
Exhibit 1: Description of the "Property" and the "Leased Premises"
Exhibit 2: Leased Premises site sketch
Exhibit 3: Memorandum of Lease

If in conflict, the Agreement shall control. If in conflict the order of precedence shall be: Appendix B, the Agreement, Appendix A, Exhibit 1, Exhibit 2, and then Exhibit 3.

PART II. LEASE DESCRIPTION AND TERMS

4. DESCRIPTION OF PROPERTY; OPTION.

(a) Subject to the terms and conditions of this Agreement, Lessor hereby grants to Lessee an exclusive option to lease a certain portion of the Property containing approximately 2,187 square feet (5-sided perimeter measuring 25'- 50'- 50'- 25'- 35.4') including the air space above such ground space as described and depicted on Exhibit 1 and Exhibit 2 attached hereto (the "Leased Premises") for the placement of the Communication Facilities. In addition, a buffer area ten (10) feet in width around the perimeter of the Leased Premises may be utilized by the Lessee strictly for purposes of complying with Section 11(b) below.

(b) During the Option Term, and during the Term, Lessee and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the "Tests"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Lessee's sole discretion for its use of the Leased Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Lessee, are necessary in Lessee's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Lessor's title to the Property and the feasibility or suitability of the Property for Lessee's permitted use, all at Lessee's expense. Lessee will not be liable to Lessor or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Lessee's inspection. Lessee will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control excepted.

(c) In consideration of Lessor granting Lessee an option to lease the Leased Premises (the "Option"), Lessee agrees to pay Lessor the sum of Three Thousand Five Hundred and No/100 Dollars ($3,500.00) within thirty (30) business days after the Effective Date. The Option may be exercised during an initial term of one (1) year commencing on the Effective Date (the "Option Term").

(d) Lessee may assign this Option to any person or entity, at any time with prior written consent of the Kenai Peninsula Borough's mayor, which will not be unreasonably withheld or delayed so long as the Assignee agrees to the assignment and novation and complies with all terms of this Agreement. Notwithstanding the foregoing, upon thirty (30) days' written notice to Lessor, Lessee may assign this Option or its rights or obligations to (a) any person or entity controlling, controlled by, or under common control with Lessee, or (b) in connection with the sale or other transfer of substantially all of Lessee's assets in the FCC market area where the Leased Premises is located. If this Option is assigned, the assignee shall comply with all terms of the assignment, this Agreement, and applicable Borough code.

(e) During the Option Term, Lessee may exercise the Option by notifying Lessor in writing. If Lessee exercises the Option, then Lessor leases the Leased Premises to Lessee subject to the terms and conditions of this Agreement. If Lessee does not exercise the Option during the Initial Option Term or any extension thereof, then this Agreement will terminate, and the parties will have no further liability to each other.

(f) If during the Option Term, or during the Term if the Option is exercised, Lessor decides to subdivide, sell, or change the status of the zoning of the Leased Premises, the Property or any of Lessor's contiguous, adjoining or surrounding property (the "Surrounding Property"), or in the event of a threatened foreclosure on any of the foregoing, Lessor shall immediately notify Lessee in writing. Lessor agrees that during the Option Term, or during the Term if the Option is exercised, Lessor shall not initiate or consent to any change in the zoning of the Leased Premises, the Property or the Surrounding Property or impose or consent to any other use or restriction that would prevent or limit Lessee from using the Leased Premises for the permitted use. Any and all terms and conditions of this Agreement that by their sense and context are intended to be applicable during the Option Term shall be so applicable.

5. TERM.

(a) The initial term will be five (5) years (the "Initial Term"), commencing on the effective date of written notification by Lessee to Lessor of Lessee's exercise of the Option (the "Term Commencement Date").

(b) Lessee will have the option to extend the term of this Agreement for four (4) successive terms of five (5) years each (each, a "Renewal Term"). Each Renewal Term will commence automatically, unless Lessee delivers notice to Lessor, not less than thirty (30) days prior to the end of the then-current Term, of Lessee's intent not to renew. For purposes of this Agreement**,** "Term" includes the Initial Term and any applicable Renewal Term(s).

(c) Should Lessee or any assignee, sublessee or licensee of Lessee hold over the Leased Premises or any part thereof after the expiration of this Agreement, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

6. CONDITIONAL LEASE.

The lands subject to this Lease are municipal entitlement lands. The Borough currently has management authority of the lands subject to this Lease but anticipates that the State of Alaska will complete its processes and convey fee title within the next 5 years. This Lease is issued on a conditional basis and shall be cancelled in whole or in part in the event the Borough is denied title to said lands. In such event, Lessor shall notify Lessee in writing as soon as reasonably possible. However, the Borough shall in no way be liable for any damage that may be done to the land by the Lessee or liable for any claim of any third party, or to any claim that may arise from ownership. In the event the Borough does receive title to the land under lease, the conditional lease shall have the same standing, force and effect as non-conditional leases issued under the provisions of KPB 17.10.

7. TERMINATION.

This Agreement may be terminated, without penalty or further liability, as follows:

(a) by Lessee upon written notice to Lessor if Lessee is unable to obtain, or maintain any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Lessee; or if Lessee determines, in its sole discretion, that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(b) by Lessee, upon written notice to Lessor if Lessee determines, in its sole discretion, due to the

title reports or survey results, that the condition of the Leased Premises is unsatisfactory for its intended uses;

(c) by Lessee upon written notice to Lessor for any reason or no reason at any time prior to commencement of construction by Lessee; or

(d) by Lessee upon sixty (60) days' prior written notice to Lessor for any reason or no reason so long as Lessee pays Lessor a termination fee equal to six (6) months' Rent at the then-current rate, and subject to removal requirements contained within Section 13. No such termination fee will be payable on account of the termination of this Agreement by Lessee under any termination provision contained in any other Section of this Agreement.

8. RENT. Beginning on the first day of the month following the date that Lessee exercises the Option (the "Rent Commencement Date"), Lessee shall pay to Lessor a monthly rent payment of One Thousand and No/100 Dollars ($1,000.00) (the "Rent") at the address set forth above on or before the fifth (5th) day of each calendar month in which Rent is due, in advance. Rent will be prorated for any partial month. On each anniversary of the Term Commencement Date, Rent shall adjust annually by Two percent (2%) over the prior year's Rent amount.

9. TAXES. Lessee shall pay any real or personal property taxes assessed on, or any portion of such taxes attributable to, the Communication Facilities located on the Leased Premises, including any taxable private leasehold interests.

10. USE. The Leased Premises are being leased for the purpose of erecting, installing, operating and maintaining radio or communications towers, transmitting and receiving equipment, antennas, dishes, mounting structures, equipment shelters and other supporting structures, and related equipment (collectively, the "**Communication Facilities**"). Lessee may, subject to the foregoing, make any improvement, alteration or modification to the Leased Premises as are deemed appropriate by Lessee for the permitted use herein. Lessee will have the right to clear the Leased Premises of any trees, vegetation, or undergrowth which interferes with Lessee's use of the Leased Premises for the intended purposes. Subject to Section 16 below, Lessee will have the exclusive right to install and operate upon the Leased Premises communications towers, buildings, equipment, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary.

11. SECURITY AND BUFFER LANDSCAPING.

(a) **Fence & Site Security**. Notwithstanding Section 4 above, the Lessee will install a locked, sight-obscuring fence at least six feet (6') in height around the perimeter of the Leased Premises to protect against unauthorized access to the Leased Premises. The fence must be of a color that blends in with the surrounding landscape (i.e. brown, green or similar color). Lessee may also elect, at its expense, to construct such other enclosures and/or fences as Lessee reasonably determines to be necessary to secure its improvements, including the tower(s), building(s), guy anchors, and related improvements situated upon the Leased Premises. Lessee may also undertake any other appropriate means to restrict access to its communications towers, buildings, applicable guy anchors, applicable guy wires, and related improvements, including, without limitation, posting signs for security purposes.

(b) **Buffer Landscaping**. To blend with the surrounding use of the Property as a trail system and outdoor space, the Lessee will only clear Leased Premises to the extent necessary for its Communication Facilities. Within thirty (30) days of completing fence installation around the Leased Premises, the Lessee will install a landscaping bed with a width of 10 feet outside of the fenced-in area of the Leased Premises, as

shown in Exhibit 2, excluding the access drive, to ensure a vegetative buffer exists between the leased area and the trail system and outdoor space. Trees must be planted within the landscaping bed at intervals no greater than 15 feet on center. Evergreen trees must be a minimum of 6 feet in height at time of planting, and deciduous trees must have a minimum caliper of one and one-half-inch. No more than 50 percent of planted trees may be deciduous. At least one shrub with a minimum height of 18 inches at planting will be planted for every 100 square feet of landscaping bed. Existing native trees and shrubs may be used to meet buffer landscaping requirements.

(c) **Performance Bond; Two-Year Replacement Period**. Lessee shall provide a performance bond either in the form of cash or through a corporate surety qualified to do business in the state in the amount of Two Thousand Five Hundred and No/100 Dollars ($2,500.00) prior to any exercise of the Option by Lessor. The bond may be used for the purpose of replacement of any dead trees or bushes within a period of two years after initial installation and any unused portion of the security will be released to the Lessee following the expiration of the two-year replacement period. Following the expiration of the two-year replacement period, Lessor shall be solely responsible for replacement of dead trees or bushes within the landscaping buffer.

12. ACCESS, MAINTENANCE, AND UTILITIES.

(a) **Access**. During the Term, Lessee, and its guests, agents, customers, lessees, sublessees and assigns will have the unrestricted, exclusive right to use, and will have free and unfettered access to, the Leased Premises seven (7) days a week, twenty-four (24) hours a day. Lessor for itself, its successors and assigns, hereby grants and conveys unto Lessee, its customers, employees, agents, invitees, sublessees, sublicensees, successors and assigns a nonexclusive easement to the extent depicted on Exhibit 2 (a) for ingress and egress, and (b) for the construction, installation, operation and maintenance of overhead and underground electric and other utility facilities (including fiber, backhaul, wires, poles, guys, cables, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change and remove such facilities, over, across and through any easement for the benefit of and access to the Leased Premises, subject to the terms and conditions herein set forth. Lessor agrees to cooperate with Lessee's efforts to obtain such utilities and services. If there are utilities already existing on the Leased Premises which serve the Leased Premises, Lessee may utilize such utilities and services. Upon Lessee's request, Lessor will execute and deliver to Lessee requisite recordable documents evidencing the easements contemplated hereunder within fifteen (15) days of Lessee's request.

(b) **Maintenance**. Lessee will keep and maintain the Leased Premises in good condition.

(c) **Utilities**. The Lessee is solely responsible for installing separate meters for utility use and payment, as applicable, and shall not connect to any Lessor-owned electrical, communication, or other utility without Lessor's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed.

13. EQUIPMENT, FIXTURES AND REMOVAL. The Communication Facilities will at all times be the personal property of Lessee and/or its sublessees and licensees, as applicable. Lessee or its customers shall have the right to erect, install, maintain, and operate on the Leased Premises such equipment, structures, fixtures, signs, and personal property as Lessee may deem necessary or appropriate, and such property, including the equipment, structures, fixtures, signs, and personal property currently on the Leased Premises, will not be deemed to be part of the Leased Premises, but will remain the property of Lessee or its customers. Unless otherwise agreed to in writing by the parties, within ninety (90) days after the expiration or earlier termination of this Agreement (the "Removal Period"), Lessee must remove its improvements and restore the Leased Premises to grade in a natural condition free of contamination, reasonable wear and tear excepted,

which shall include removal of all concrete and other foundation materials to a depth of five (5) feet below grade, and perform all obligations under this Agreement during the Removal Period, including without limitation, the payment of Rent on a prorated per diem basis, at the rate in effect upon the expiration or termination of this Agreement. Any property not so removed shall be deemed abandoned and may be removed and disposed of by Lessor in such manner as Lessor will determine, without any obligation on the part of Lessor to account to Lessee for any proceeds therefrom. Time is of the essence.

14. ASSIGNMENT. Lessee may assign this Agreement to any person or entity, at any time with prior written consent of Lessor which will not be unreasonably withheld or delayed so long as the Assignee agrees to the assignment and novation and complies with all terms of this Agreement. Notwithstanding the foregoing, upon thirty (30) days' written notice to Lessor, Lessee may assign this Agreement or its rights or obligations to (a) any person or entity controlling, controlled by, or under common control with Lessee, or (b) in connection with the sale or other transfer of substantially all of Lessee's assets in the FCC market area where the Leased Premises is located.

15. SUBLEASING AND REVENUE SHARE.

(a) **Subleasing**. Lessee will have the exclusive right to sublease or grant licenses to use the improvements or any other towers, structures, equipment, or ground space on the Leased Premises, provided that Lessee sends Lessor written notice within (15) days of such sublease or grant licenses.

(b) **Revenue Share.** In addition to and separate from the Rent, Lessee shall pay to the Lessor thirty-three percent (33%) of rents actually collected by Lessee from any applicable sublessees excluding the initial anchor sublessee of Lessee that shall not be subject to the Revenue Share, as defined herein, and exclusive of non-recurring fees (e.g. structural analysis fees, mount analysis fees, and capital expenditures) and reimbursements (such as for taxes and utilities) (the "Revenue Share"). The Revenue Share shall be paid to Lessor with the Rent in the month immediately following receipt by Lessee from the applicable sublessee. Upon reasonable written request, Lessee will provide Lessor redacted copies of any applicable Sublease (except that master lease agreements such as Verizon, AT&T, Dish, or T-Mobile or other national broadband carriers may be redacted to conceal confidential information, trade secrets or information subject to a non-disclosure agreement so long as the terms of the such agreement applicable to the subleasing or licensing of space at the Leased Premises, including amounts payable, are not redacted) for the purpose of confirming relevant financial terms and information. For the purposes of this Agreement: (i) "Sublease" is defined as any arrangement in which the Lessee or any sublessee leases to another party or entity, any portion of the Leased Premises described in this Agreement or improvements thereon, including but not limited to a sublease for an antenna, microwave dish, or wireless communications equipment; and (ii) "Sublessee" means any sublessee or licensee of Lessee, that: (A) has entered into a sublease or license with Lessee for the use of the improvements after the Effective Date; and (B) is not paying any rent or fees directly to Lessor for the use of ground space related to the use of Lessee's improvements.

(c) **Authorized Contact of Sublessee.** Lessee shall provide the Lessor the name, telephone number, and email address of the authorized contact for the sublessee who is responsible for sublessee's day-to-day operations or activities on the Leased Premises.

16. CO-LOCATE RIGHTS RESERVED BY LESSOR.

(a) Lessor reserves the right to install emergency response communication equipment on Lessee's tower. At no rent due from Lessor to Lessee nor any reduction in the Rent, Lessor shall be allowed, at Lessor's sole expense, to attach its emergency response communication equipment to Lessee's

telecommunications tower provided Lessor first obtains Lessee's written consent, with such consent not to be unreasonably withheld. Pursuant to the foregoing, Lessee hereby agrees to reserve on behalf of Lessor a twenty foot (20') vertical envelope at a height of fifty feet (50') to seventy feet (70') in the event Lessee builds a tower on the Leased Premises ("**Lessor's Tower Space**"). Any equipment installed on Lessor's Tower Space shall not exceed seven thousand and five hundred (7,500) square inches of wind loading capacity and the transmission from such equipment shall not result in any impairment or diminution in the quality of Lessee's service. Further, said approval shall be given only after Lessee has reviewed and approved Lessor's engineering plans for said antenna attachments. Approval shall not be unreasonably withheld. Upon written approval by Lessee, said attachments shall be installed, at Lessor sole expense, by qualified licensed and insured contractors and in accordance with Lessee's directives for the method of installment. In addition to Lessor being responsible for its own installation, Lessor shall also be responsible for its own utilities and operations and agrees that any ground space required for Lessor's Tower Space shall be outside the Leased Premises. Lessor acknowledges and agrees that Lessee reserves the right to relocate Lessor's antennas at any time(s) to accommodate modifications required for Lessee's future system requirements, provided such relocation shall provide equivalent quality of service after such relocation.

(b) Any reservation of right granted to Lessor pursuant to this Section is solely limited to Lessor's use only of the twenty foot (20') vertical envelope described above and Lessor acknowledges and agrees that Lessor does not have the right to lease, license, sublease, sublicense, etc. such space on the tower on the Leased Premises to any other party including, without limitation, any wireless communication entity.

17. COVENANTS, WARRANTIES AND REPRESENTATIONS.

(a) Lessor represents and warrants that Lessor is the owner in fee simple of the Property, free and clear of all liens and encumbrances except as to those which may have been disclosed to Lessee in writing prior to the execution hereof, and that Lessor alone has full right to lease the Leased Premises for the Term.

(b) Lessor shall not do or knowingly permit anything during the Term that will unreasonably interfere with or negate any Lessee's quiet enjoyment and use of the Leased Premises or cause Lessee's use of the Leased Premises to be in nonconformance with applicable local, state, or federal laws. Lessor will cooperate with Lessee in any effort by Lessee to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. Lessor agrees to promptly execute any necessary applications, consents or other documents as may be reasonably necessary for Lessee to apply for and obtain the proper zoning approvals required to use and maintain the Leased Premises and the Communication Facilities.

(c) To the best of Lessor's knowledge, Lessor has complied and will comply with all laws with respect to the Property. No asbestos-containing thermal insulation or products containing PCB, formaldehyde, chlordane, or heptachlor or other hazardous materials have been placed on or in the Property by Lessor or, to the knowledge of Lessor, by any prior owner or user of the Property. To the knowledge of Lessor, there has been no release of or contamination by hazardous materials on the Property.

(d) Subject to Section 11 above, Lessee will have access to all utilities required for the operation of Lessee's improvements on the Leased Premises that are existing on the Property.

(e) Except for the sublessees and licensees of Lessee, there currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Leased Premises; there are no outstanding options or rights of first refusal to purchase the Property or any portion thereof or interest therein, or any equity or interest in Lessor if Lessor is an entity; and there are no parties (other than Lessor) in possession of the Leased Premises except as to those that may have been

disclosed to Lessee in writing prior to the execution hereof.

(f) Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Agreement.

18. WAIVERS.

(a) Lessor hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Communication Facilities or any portion thereof, regardless of whether or not such is deemed real or personal property under applicable laws. Lessor will not assert any claim whatsoever against Lessee for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred by Lessor as a result of the construction, maintenance, operation or use of the Leased Premises by Lessee.

(b) EACH PARTY HERETO WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER FOR ANY LOSS, COST, DAMAGE, EXPENSE, INJURY OR OTHER LIABILITY WHICH IS IN THE NATURE OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH ARE SUFFERED OR INCURRED AS THE RESULT OF, ARISE OUT OF, OR ARE IN ANY WAY CONNECTED TO THE PERFORMANCE OF THE OBLIGATIONS UNDER THIS AGREEMENT.

19. INSURANCE. Lessee and any sublessees or assignees shall carry and maintain for the duration of the Term, including renewals and the Removal Period, insurance again claims for injuries to persons or property which may arise from or in connection with the Lessee's operation, use, or occupancy of the Leased Premises. The Lessee, including any sublessees or assignees, will bear the cost of such insurance. Coverage and policy limits will be as follows:

(a) Commercial General Liability (CGL): CGL insurance on ISO Form CG 00 01 (or its equivalent) on an "occurrence" basis, including property damage, bodily injury and personal injury with limits of $1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit.

(b) Umbrella / Excess policy: With limits of $2,000,000 per occurrence and in the aggregate. Lessee may use any combination of primary and excess insurance to meet the total limits required.

(c) Worker's Compensation Insurance: Insurance as required by the State of Alaska, with Statutory Limits, and Employer's liability Insurance limits of $500,000 per accident for bodily injury or disease and per disease policy limit.

(d) Property Insurance: Insuring against all risks of loss to any Lessee improvements at full replacement cost with no insurance penalty provision. Lessee shall have the right to self-insure such Property Insurance.

(e) Automobile Liability: Commercial automobile liability coverage for all owned, hired, and non-owned autos with limits of $1,000,000 per accident for bodily injury and property damage.

20. OTHER INSURANCE PROVISIONS.

(a) The insurance coverage provided for herein may be maintained pursuant to master policies of insurance covering other communication facilities of Lessee and its corporate affiliates. All insurance policies

required to be maintained by Lessee hereunder must be with responsible insurance companies, eligible to do business in the state of Alaska. Lessee shall provide at least thirty (30) days' prior written notice to Lessor of cancellation or nonrenewal of any required insurance that is not replaced. Lessee must evidence such insurance coverage by delivering to Lessor, if requested, a copy of a certificate of insurance of such policies issued by the insurance companies underwriting such risks or Lessee's form of self- insurance.

(b) The Lessor shall be included as additional insured with respect to liability caused, in whole or in part, by Lessee's operations under this Agreement.

(c) The Lessee's insurance coverage, except for workers' compensation/employer's liability insurance and self-insured property coverage, shall be primary insurance with respect to the Lessor and the Lessee's use and occupation of the Leased Premises. Any insurance maintained by the Lessor will be excess of the Lessee's insurance and will not contribute to it.

(d) The Property Insurance or self-insurance must include the Lessor as Joint Loss Payee as its interest may appear, and the provision of Joint Loss Payee status satisfies any requirement for waiver of subrogation for Lessee's self-insured property coverage.

(e) Notwithstanding the foregoing, Lessee may self-insure any required coverage under the same terms as required by this Agreement.

21. WAIVER OF SUBROGATION. To the extent allowed by law, Lessee hereby grants to Lessor a waiver of any right of subrogation which any insurer of said Lessee may acquire against the Lessor by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the Lessor has received a waiver of subrogation endorsement from the insurer.

22. NON-EXCLUSIVITY. Lessor acknowledges and agrees that, except as may be disclosed to Lessee in writing prior to the execution hereof, there are no prior existing rights, uses, or authorization granted to third parties or retained by Lessor to locate improvements below grade or in proximity to the Leased Premises. Upon at least sixty (60) days prior written notice to Lessee, Lessor reserves the right to grant further or additional rights or authorization to locate improvements below grade or in proximity to the Leased Premises to the extent such rights or authorizations do not unreasonably interfere with Lessee's equipment or operations.

23. LESSEE LIABILITIES. In addition to other liabilities under this Agreement, the Lessee has the following liabilities and agrees:

(a) The Lessee assumes all risk of loss, damage or destruction to Lessee's improvements on the Leased Premises.

(b) The Lessee will comply with all applicable federal, state, and local laws or regulations, including relevant environmental laws, as well as public health and safety laws and other laws relating to the sitting, permitting, construction, operation and maintenance of any facility, improvement or equipment on the Leased Premises.

(c) The Lessor has no duty, either before or during the lease term, to inspect the Leased Premises or warn of hazards and if the Lessor inspects the Leased premises, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This Section shall survive the termination or revocation of this Agreement, regardless of cause.

(d) The Lessee has an affirmative duty to protect from damage the Leased Premises and interests of the Lessor related to this Agreement.

23. INDEMNIFICATION.

(a) Lessee agrees to defend, indemnify, and hold harmless Lessor, its employees, public officials, and volunteers, with respect to any action claim or lawsuit arising out of (1) a breach of this Agreement or (2) the use and occupancy of the Leased Premises or the Property by the Lessee. This agreement to defend, indemnify, and hold harmless includes all loses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any reasonable attorney's fees actually incurred even if in excess of Alaska Civil Rule 82. The obligations of Lessee arise immediately upon notice to the Lessor of any action, claim, or lawsuit. Lessor will notify Lessee in a timely manner of the need for indemnification but such notice is not a condition precedent to Lessee's obligation and may be waived where the Lessee has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against Lessor relating to the Lessee's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, Lessee's duty to indemnify, defend, and hold harmless Lessor as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of Lessor, its employees, public officials, and volunteers.

(b) To the extent allowed by law and subject to a specific appropriation by the Kenai Peninsula Borough Assembly for this purpose, Lessor agrees to defend, indemnify, and hold harmless Lessee, its employees, affiliates, officers, directors, successors and assigns, with respect to any action claim or lawsuit arising out of (1) a breach of this Agreement or (2) the use and occupancy of the Leased Premises or the Property by the Lessor. This agreement to defend, indemnify, and hold harmless includes all loses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. The obligations of Lessor arise immediately upon notice to the Lessee of any action, claim, or lawsuit. Lessee will notify Lessor in a timely manner of the need for indemnification but such notice is not a condition precedent to Lessor's obligation and may be waived where the Lessor has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against Lessee relating to the Lessor's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, Lessor's duty to indemnify, defend, and hold harmless Lessee as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of Lessee, its employees, its employees, affiliates, officers, directors, successors and assigns. Lessee further acknowledges the following: (1) Lessor currently has no appropriation currently available to it to defend and indemnity Lessee under this provision; (2) the enactment of any such appropriation remains in the sole discretion of the Kenai Peninsula Borough Assembly; and (3) the Kenai Peninsula Borough Assembly's failure to make such an appropriation creates no further obligation or duty on behalf of Lessor.

24. INSPECTION. The Lessor reserves the right to enter upon and inspect the Leased Premises at any time to assure compliance with the conditions of this Lease. Except in case of emergency, Lessor shall provide Lessee with at least forty-eight (48) hours' prior written notice of Lessor's intention to enter upon and inspect the Leased Premises. Lessee reserves the right to have a representative present at all times during Lessor's inspection.

25. FORCE MAJEURE. The time for performance by Lessor or Lessee of any term, provision, or covenant of this Agreement will be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, and any other cause not within the control of Lessor or Lessee, as the case may be.

26. DEFAULT. The failure of Lessee or Lessor to perform any of the covenants of this Agreement will constitute a default. The non-defaulting party must give the other written notice of such default, and the defaulting party must cure such default within thirty (30) days after receipt of such notice. In the event any such default cannot reasonably be cured within such thirty (30) day period, the defaulting party must provide prompt notice of inability to cure and provide a plan to cure the default within a time frame provided. The time for curing a default will be extended for such period of time as may be necessary and reasonable; however, in no event will this extension of time to cure be in excess of ninety (90) days, unless agreed upon in writing by the non-defaulting party.

27. REMEDIES. Should the defaulting party fail to cure a default under this Agreement, the other party will have all remedies available either at law or in equity, including the right to terminate this Agreement.

28. LESSEE MORTGAGES.

(a) Lessor consents to the granting by Lessee of a lien and security interest (each, a "**Lessee Mortgage**") in Lessee's interest in this Agreement and all of Lessee's personal property and fixtures attached to the real property described herein to one or more lenders (any such lender, and any successor, assign, designee or nominee of such lender, hereinafter a "**Lender**") only to the extent and amount necessary to maintain improvements on the Leased Premises. The Lessee may not encumber the leasehold interest or the Leased Premises to finance projects or improvements outside of the Leased Premises. Lessor agrees to recognize Lender as Lessee hereunder upon any such exercise by Lender of its rights of foreclosure. Any such encumbrance shall be subordinate to Lessor's rights and interest in the Leased Premises and the Property. Any such encumbrance shall be limited to the Lessee's interest in the Leased Premises. It is a material breach of this Agreement for Lessee to attempt to encumber any interest in Lessor's title to or interest in the Leased Premises or the Property.

(b) Lessor acknowledges that nothing contained herein shall be deemed or construed to obligate Lender to take any action hereunder, or to perform or discharge any obligation, duty or liability of Lessee under this Agreement. No Lender shall become liable under the provisions of this Agreement unless and until such time as the Lender assumes ownership of the leasehold estate created hereby and agrees to comply with the terms and conditions of this Agreement or any extensions and modifications thereof.

29. MISCELLANEOUS.

(a) **Survival**. If any term of this Agreement is found to be void or invalid, such invalidity will not affect the remaining terms of this Agreement, which will continue in full force and effect.

(b) **Non-waiver**. Failure of party to insist on strict performance of any of the conditions or provisions of this Agreement, or failure to exercise any of a party's rights hereunder, will not waive such rights.

(c) **Governing Law**. This Agreement will be governed by and construed in accordance with the laws of the State of Alaska.

(d) **Bind and Benefit**. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

(e) **Memorandum**. A short-form Memorandum of Lease may be recorded at Lessor or Lessee's option in the form as depicted in Exhibit 3, attached hereto. Lessor will promptly execute any Memorandum

of Lease or Memorandum of Amendment to Lease, or corrective amendments thereto, upon written request of Lessee.

(f) **W-9**. As a condition precedent to payment, the Lessor agrees to provide the Lessee with a complete IRS Form W-9, or its equivalent, upon execution of this Agreement.

(g) **Counterparts**. This Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

(h) **Entire Agreement**. This Agreement and exhibits, appendices or incorporated attachments hereto, constitute the entire agreement and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement.

[**SIGNATURES BEGIN ON NEXT PAGE**]

PART III. EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date (date last signed by a party hereto).

LESSOR: Kenai Peninsula Borough
an Alaska municipal corporation

By:_____
Charlie Pierce, Borough Mayor

Date:_____

ATTEST:

_____
Johni Blankenship, Borough Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
Sean Kelley, Deputy Borough Attorney

LESSEE: Vertical Bridge Development, LLC
a Delaware limited liability company

By:_____

Print Name:_____

Its:_____

Date:_____

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of said corporation.

_____
Notary Public for State of Alaska

My commission expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF FLORIDA)
)ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by _____ (signing party), the _____ (title of signatory) of Vertical Bridge Development, LLC, a Delaware limited liability company, on behalf of said company.

_____
Notary Public for State of Florida

My commission expires: _____

APPENDIX A

LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current**. The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment**. Lessee may assign the lands upon which he has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement**. In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the Borough may cancel Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation**. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry**. In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection**. The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste**. The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification**. The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice**. Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default**. Notice of the default will be in writing as provided in paragraph 26 above.

(11) Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or his successors in interest, after paying to the Borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the Borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The Borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the Borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed**. Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent**. In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location**. It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder**. In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation**. The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement**. As established by AS 38.05, Borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Violation**. Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(19) **Written Waiver**. The receipt of payment by the Borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the Borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the Borough to enforce the same in the event of any subsequent breach or default. The receipt by the Borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

APPENDIX B

SITE SPECIFIC LEASE PROVISIONS

CO-LOCATE RIGHTS RESERVED BY KPB: In addition to paragraph 16 of the Communications Site Lease Agreement (the "Agreement"), the KPB reserves twenty (20) vertical feet of tower space. This reservation shall start from fifty (50) feet from the bottom of the tower structure, unless other space is mutually agreed to by the parties (the "Reserved Space"). To the extent this appendix conflicts with paragraph 16 of the Agreement, the terms of this appendix shall control.

The KPB may sublease the Reserved Space to other government agencies or organizations for the purpose of facilitating communications for first responders, disaster management, general government operations, or other public safety uses. The sublessee will provide an inventory of equipment and proposed vertical location to the Lessee for the purposes of ensuring that no interference is likely for the proposed installation. KPB and any sublessee will be responsible for frequency coordination and adherence to all applicable regulations to prevent interference.

KPB AND SUBLESSEE USAGE: The KPB and any sublessee (the "KPB") may use the Reserved Space solely for the purposes of providing public safety communications. The KPB may choose to install equipment to provide general government communications, monitoring equipment, and other similar uses. In general, equipment may include, but is not limited, to VHF Radio Frequency (RF) transceivers, RF repeaters, licensed or unlicensed point-to-point antennas, microwave backhaul, surveillance cameras and other monitoring devices, and associated items that may support conventional or trunked radio systems. All equipment or facilities placed within the Reserved Space or on the Leased Premises shall remain the personal property of the KPB or its sublessee.

INTERFERENCE WITH LESSEE EQUIPMENT: In the event that proposed or installed equipment from the KPB or sublessee interferes with equipment of the Lessee, all parties will work to explore technical solutions or changes to mitigate such interference. If mitigations are not available, the Lessee has the right to deny access to the tower for such equipment. All other provisions of paragraph 165 related to interference remain in effect.

ACCESS: The KPB may establish outdoor equipment cabinets or full equipment shelters on or within the Leased Premises, provided that such facilities do not interfere with similar facilities of the Lessee. Access will only be permitted to the Lessee upon separate mutual agreement. Such premises may have restrictions due to State or Federal policy and regulations, in such event, these regulations will prevail over the lease terms.

RENT: The Reserved Space is free of charge. The KPB is not responsible for any additional or direct rent payment to Lessee for the use of the tower or associated premises. The KPB is responsible for the costs of establishing, maintaining, and removing equipment during the life of this Agreement, as well as for any utilities required to maintain KPB equipment.

EXHIBIT 1

DESCRIPTION OF PROPERTY AND LEASED PREMISES
Page 1 of 1

The Property is legally described as follows:

Govt Lot 1, Section 5, Township 6 North, Range 1 West, Seward Meridian, Seward Recording District, Third Judicial District, State of Alaska, EXCEPTING THEREFROM ASLS 97-32, according to Plat No. 98-3 and also EXCEPTING THEREFROM, ASLS 2000-01, according to Plat No. 2001-10.

The Leased Premises are described as follows:

COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet , Easting: 1,730,462.97 feet; THENCE N47°53'40"W a distance of 291.19 feet to the **TRUE POINT OF BEGINNING;** THENCE from said True Point of Beginning, S68°08'19"E a distance of 50.00 feet; THENCE S21°51'41"W a distance of 50.00 feet; THENCE N68°08'19"W a distance of 25.00 feet; THENCE N23°08'19"W a distance of 35.36 feet; THENCE along said north easement line N21°51'41"E a distance of 22.72 feet to the **True Point of Beginning**. Containing 2,187 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

Access and Utility Easement(s):

Being a strip of land 15.00 feet in width lying 7.50 feet on each side of the following described centerline located within Government Lot 1, Section 5, Township 6 North, Range 1 West, Seward Meridian, AK located northwesterly of the Seward Highway, as shown on the Record of Survey filed as Plat No. 2017-6, recorded in the Seward Recording District, more particularly described as follows:

COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet, Easting: 1,730,462.97 feet; THENCE N48°29'57"E a distance of 49.21 feet to the **TRUE POINT OF BEGINNING,** said point being located on the westerly right-of-way line of the Seward Highway as shown on said record of survey**;** THENCE from said True Point of Beginning, N71°55'43"W A distance of 22.68 feet; THENCE N82°12'57"W a distance of 25.51 feet; THENCE N86°36'42"W a distance of 31.72 feet; THENCE N79°50'49"W a distance of 40.54 feet; THENCE N68°29'45"W a distance of 32.17 feet; THENCE N59°34'38"W a distance of 30.23 feet; THENCE N38°21'47"W a distance of 52.77 feet; THENCE N22°14'18"W a distance of 30.81 feet; THENCE N13°09'27"W a distance of 28.39 feet; THENCE N23°35'56"E a distance of 23.58 feet; THENCE N61°47'42"E a distance of 39.00 feet; THENCE N21°51'41"E a distance of 20.00 feet to the Point of Terminus, the side lines of said easement to be extended or shortened to meet at angle points and to terminate at said westerly right-of-way line and the westerly prolongation of the northerly line of the lease area. Containing 5,661 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

EXHIBIT 2

LEASED PREMISES
Page 1 of 1

The Leased Premises are depicted as follows:

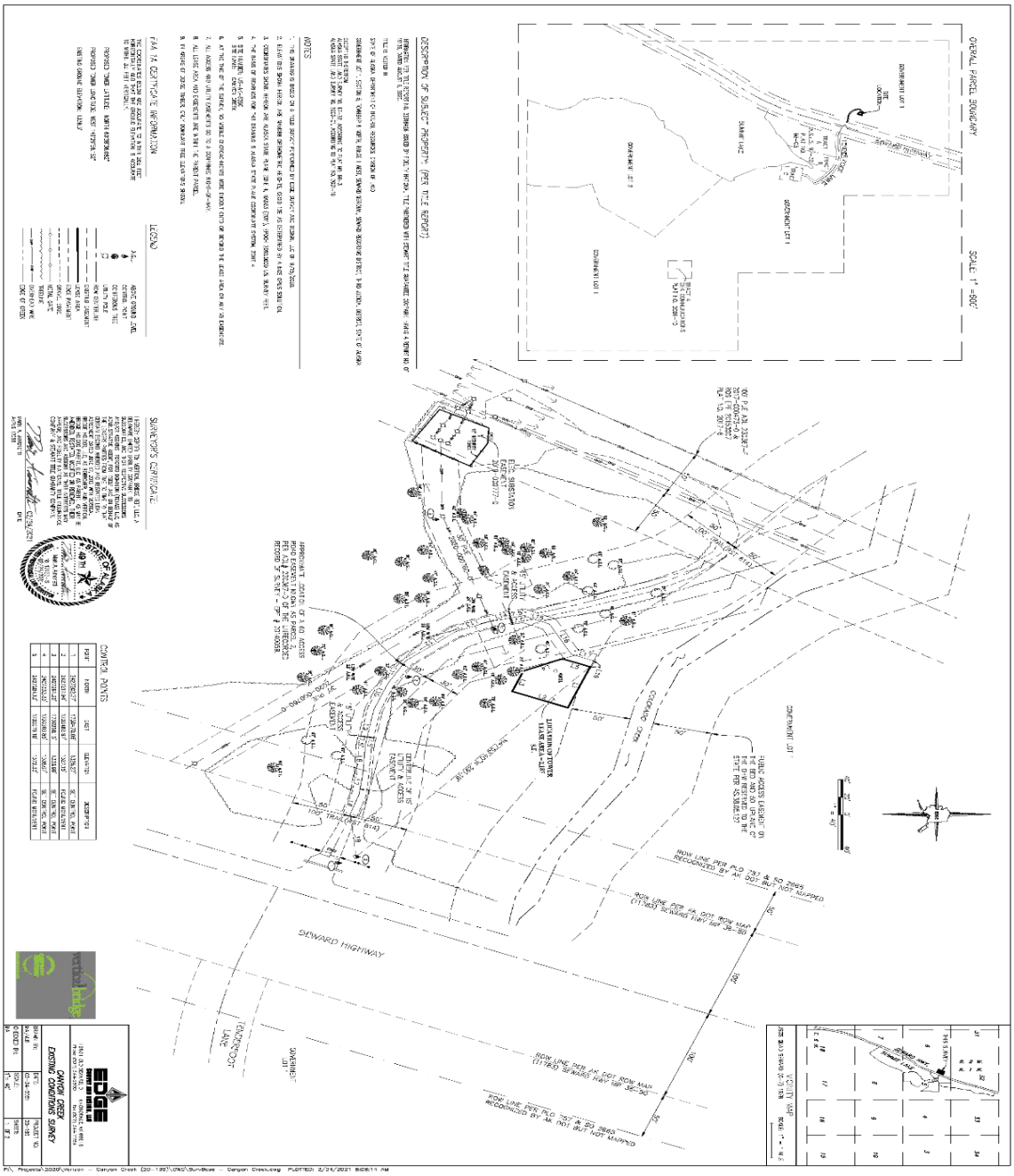


EXHIBIT 3

Memorandum of Lease

(Attached)

(Above 2" Space for Recorder's Use Only)

Upon Recording, Return to:
Vertical Bridge Development, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, FL 33487
Attn: Daniel Marinberg

Grantor: Kenai Peninsula Borough
Grantee: Vertical Bridge Development, LLC
Legal Description: Attached as Exhibit 1
Tax Parcel ID #: 03525005
Site Number: US-AK-5250
Site Name: Canyon Creek
State: Alaska
Borough: Kenai Peninsula Borough
Recording District: Seward, Third Judicial

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is entered into by and between **Kenai Peninsula Borough**, an Alaska municipal corporation, having a mailing address of 144 N. Binkley St., Soldotna, AK 99669 (the "**Lessor**"), and **Vertical Bridge Development, LLC**, a Delaware limited liability company, having a mailing address of 750 Park of Commerce Drive, Suite 200, Boca Raton, FL 33487 (the "**Lessee**").

1. Lessor and Lessee entered into a certain Option and Communications Site Lease Agreement (the "Agreement") on the _____ day of _____, 20_____ for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.

2. The initial lease term will be five (5) years commencing on the effective date of written notification by Lessee to Lessor of Lessee's exercise of the option, with four (4) successive automatic five (5) year options to renew.

3. The portion of the land being leased to Lessee (the "Leased Premises") and associated easements are described and depicted in **Exhibit 1** annexed hereto.

4. Lessee is entitled to sublease and/or license the Premises, including any communications tower located thereon.

5. Lessor and Lessee now desire to execute this Memorandum to provide constructive knowledge of Lessee's lease of the Leased Premises.

6. This Memorandum and Agreement are governed by the laws of the State of Alaska.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LESSOR: Kenai Peninsula Borough
an Alaska municipal corporation

By:_____
Charlie Pierce, Borough Mayor

Date:_____

ATTEST:

_____
Johni Blankenship, Borough Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
Sean Kelley, Deputy Borough Attorney

LESSEE: Vertical Bridge Development, LLC
a Delaware limited liability company

By:_____

Print Name:_____

Its:_____

Date:_____

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of said corporation.

_____
Notary Public for State of Alaska

My commission expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF FLORIDA)
)ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by _____ (signing party), the _____ (title of signatory) of Vertical Bridge Development, LLC, a Delaware limited liability company, on behalf of said company.

_____
Notary Public for State of Florida

My commission expires: _____

EXHIBIT 1 TO MEMORANDUM OF LEASE

DESCRIPTION OF PROPERTY AND LEASED PREMISES

The Property is legally described as follows:

Govt Lot 1, Section 5, Township 6 North, Range 1 West, Seward Meridian, Seward Recording District, Third Judicial District, State of Alaska, EXCEPTING THEREFROM ASLS 97-32, according to Plat No. 98-3 and also EXCEPTING THEREFROM, ASLS 2000-01, according to Plat No. 2001-10.

The Leased Premises are described and/or depicted as follows:

COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet , Easting: 1,730,462.97 feet; THENCE N47°53'40"W a distance of 291.19 feet to the **TRUE POINT OF BEGINNING;** THENCE from said True Point of Beginning, S68°08'19"E a distance of 50.00 feet; THENCE S21°51'41"W a distance of 50.00 feet; THENCE N68°08'19"W a distance of 25.00 feet; THENCE N23°08'19"W a distance of 35.36 feet; THENCE along said north easement line N21°51'41"E a distance of 22.72 feet to the **True Point of Beginning**. Containing 2,187 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

Access and Utility Easement(s):

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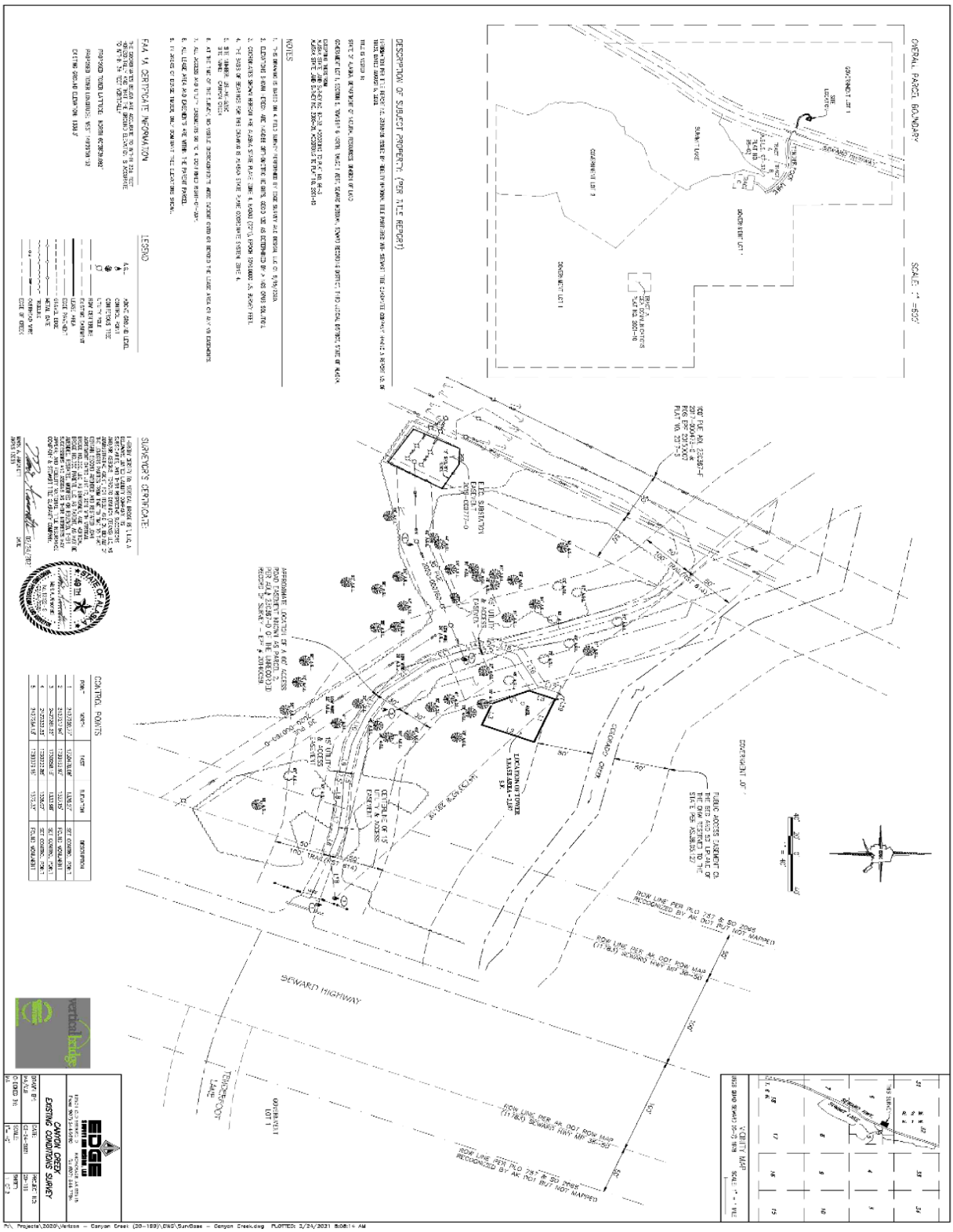
COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet, Easting: 1,730,462.97 feet; THENCE N48°29'57"E a distance of 49.21 feet to the **TRUE POINT OF BEGINNING,** said point being located on the westerly right-of-way line of the Seward Highway as shown on said record of survey**;** THENCE from said True Point of Beginning, N71°55'43"W A distance of 22.68 feet; THENCE N82°12'57"W a distance of 25.51 feet; THENCE N86°36'42"W a distance of 31.72 feet; THENCE N79°50'49"W a distance of 40.54 feet; THENCE N68°29'45"W a distance of 32.17 feet; THENCE N59°34'38"W a distance of 30.23 feet; THENCE N38°21'47"W a distance of 52.77 feet; THENCE N22°14'18"W a distance of 30.81 feet; THENCE N13°09'27"W a distance of 28.39 feet; THENCE N23°35'56"E a distance of 23.58 feet; THENCE N61°47'42"E a distance of 39.00 feet; THENCE N21°51'41"E a distance of 20.00 feet to the Point of Terminus, the side lines of said easement to be extended or shortened to meet at angle points and to terminate at said westerly right-of-way line and the westerly prolongation of the northerly line of the lease area.
Containing 5,661 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

DESCRIPTION OF PROPERTY AND LEASED PREMISES



Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Mayor
Melanie Aeschliman, Planning Director
Marcus Mueller, Land Management Officer

FROM: Julie Denison, Land Management Technician JD

DATE: February 18, 2021

RE: Ordinance 2021-11, Authorizing a Communications Site Lease Agreement to Vertical Bridge Development, LLC (Mayor)

Vertical Bridge Development, LLC has submitted an application for a lease of borough land in the Summit Lake area for a communication tower site. In 2015, the subject land was approved to the Kenai Peninsula Borough by the State of Alaska under municipal land entitlement ADL 227985. The communications site lease has been negotiated using standard practices.

This ordinance will be brought before the Kenai Peninsula Borough Planning Commission at its March 15, 2021 meeting. The recommendations of the Planning Commission will be provided to the assembly prior to the scheduled hearing on this ordinance.

Your consideration of this ordinance is appreciated.

Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Mayor
Melanie Aeschliman, Planning Director
Marcus Mueller, Land Management Officer

FROM: Julie Denison, Land Management Technician

DATE: April 19, 2021

RE: Ordinance 2021-11
Option and Communications Site Lease Agreement

The hearing on Ordinance 2021-11 was postponed to April 20 to provide additional time to finalize the negotiated terms of the agreement. The attached *Option and Communications Site Lease Agreement* is presented for your approval. Different than the *Communications Site Lease Agreement* previously introduced, this agreement provides an option term allowing for inspection, testing and sampling activities, and more clearly defines the space reserved for KPB's emergency communication apparatus.

Thank you.

OPTION AND COMMUNICATIONS SITE LEASE AGREEMENT

This OPTION AND COMMUNICATIONS SITE LEASE AGREEMENT (this "Agreement" or this "Lease") will become effective when all parties have signed the Agreement (the "Effective Date"). This Agreement is entered into by the **Kenai Peninsula Borough**, a municipal corporation, whose mailing address is 144 North Binkley Street, Soldotna, Alaska 99669 (the "Lessor" or the "Borough"), and **Vertical Bridge Development, LLC**, a Delaware limited liability company, whose mailing address is 750 Park of Commerce Drive, Suite 200, Boca Raton, FL 33487 (the "Lessee").

PART I. BACKGROUND, AUTHORIZED CONTACT AND CONTRACT DOCUMENTS

1. Background. Lessor owns certain real property located in the Kenai Peninsula Borough, in the State of Alaska, that is more particularly described and/or depicted in Exhibit 1 attached hereto (the "Property"). For good and valuable consideration, the parties agree that the Lessor will grant the Lessee the right to use a portion of the Property in accordance with the terms of this Agreement.

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.

LESSOR

Name: Kenai Peninsula Borough
Attn: Land Management Division
Re: Lease No. XX
Mailing Address: 144 N. Binkley St.
Soldotna, AK 99669

LESSEE

Name: Vertical Bridge Development, LLC
Attn: VP of Asset Management
Re: Site #: US-AK-5250; Site Name: Canyon Creek
Mailing Address: 750 Park of Commerce Drive, Suite 200
Boca Raton, FL 33487

For Notices required hereunder:
Name: Vertical Bridge Development, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, FL 33487
Attn: General Counsel
Re: Site #: US-AK-5250; Site Name: Canyon Creek

3. Contract Documents. As authorized by Kenai Peninsula Borough Ordinance 2021-11, this Agreement is the final and complete understanding of the parties. The following exhibits and appendices are attached and are considered part of this Agreement as well as anything incorporated by reference or attached to those exhibits or appendices:

Appendix A: Lease Provisions Required by KPB 17.10
Appendix B: Site Specific Lease Provisions
Exhibit 1: Description of the "Property" and the "Leased Premises"
Exhibit 2: Leased Premises site sketch
Exhibit 3: Memorandum of Lease

If in conflict, the Agreement shall control. If in conflict the order of precedence shall be: Appendix B, the Agreement, Appendix A, Exhibit 1, Exhibit 2, and then Exhibit 3.

PART II. LEASE DESCRIPTION AND TERMS

4. DESCRIPTION OF PROPERTY; OPTION.

(a) Subject to the terms and conditions of this Agreement, Lessor hereby grants to Lessee an exclusive option to lease a certain portion of the Property containing approximately 2,187 square feet (5-sided perimeter measuring 25'- 50'- 50'- 25'- 35.4') including the air space above such ground space as described and depicted on Exhibit 1 and Exhibit 2 attached hereto (the "Leased Premises") for the placement of the Communication Facilities. In addition, a buffer area ten (10) feet in width around the perimeter of the Leased Premises may be utilized by the Lessee strictly for purposes of complying with Section 11(b) below.

(b) During the Option Term, and during the Term, Lessee and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the "Tests"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Lessee's sole discretion for its use of the Leased Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Lessee, are necessary in Lessee's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Lessor's title to the Property and the feasibility or suitability of the Property for Lessee's permitted use, all at Lessee's expense. Lessee will not be liable to Lessor or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Lessee's inspection. Lessee will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control excepted.

(c) In consideration of Lessor granting Lessee an option to lease the Leased Premises (the "Option"), Lessee agrees to pay Lessor the sum of Three Thousand Five Hundred and No/100 Dollars ($3,500.00) within thirty (30) business days after the Effective Date. The Option may be exercised during an initial term of one (1) year commencing on the Effective Date (the "Option Term").

(d) Lessee may assign this Option to any person or entity, at any time with prior written consent of the Kenai Peninsula Borough's mayor, which will not be unreasonably withheld or delayed so long as the Assignee agrees to the assignment and novation and complies with all terms of this Agreement. Notwithstanding the foregoing, upon thirty (30) days' written notice to Lessor, Lessee may assign this Option or its rights or obligations to (a) any person or entity controlling, controlled by, or under common control with Lessee, or (b) in connection with the sale or other transfer of substantially all of Lessee's assets in the FCC market area where the Leased Premises is located. If this Option is assigned, the assignee shall comply with all terms of the assignment, this Agreement, and applicable Borough code.

(e) During the Option Term, Lessee may exercise the Option by notifying Lessor in writing. If Lessee exercises the Option, then Lessor leases the Leased Premises to Lessee subject to the terms and conditions of this Agreement. If Lessee does not exercise the Option during the Initial Option Term or any extension thereof, then this Agreement will terminate, and the parties will have no further liability to each other.

(f) If during the Option Term, or during the Term if the Option is exercised, Lessor decides to subdivide, sell, or change the status of the zoning of the Leased Premises, the Property or any of Lessor's contiguous, adjoining or surrounding property (the "Surrounding Property"), or in the event of a threatened foreclosure on any of the foregoing, Lessor shall immediately notify Lessee in writing. Lessor agrees that during the Option Term, or during the Term if the Option is exercised, Lessor shall not initiate or consent to any change in the zoning of the Leased Premises, the Property or the Surrounding Property or impose or consent to any other use or restriction that would prevent or limit Lessee from using the Leased Premises for the permitted use. Any and all terms and conditions of this Agreement that by their sense and context are intended to be applicable during the Option Term shall be so applicable.

5. TERM.

(a) The initial term will be five (5) years (the "Initial Term"), commencing on the effective date of written notification by Lessee to Lessor of Lessee's exercise of the Option (the "Term Commencement Date").

(b) Lessee will have the option to extend the term of this Agreement for four (4) successive terms of five (5) years each (each, a "Renewal Term"). Each Renewal Term will commence automatically, unless Lessee delivers notice to Lessor, not less than thirty (30) days prior to the end of the then-current Term, of Lessee's intent not to renew. For purposes of this Agreement**,** "Term" includes the Initial Term and any applicable Renewal Term(s).

(c) Should Lessee or any assignee, sublessee or licensee of Lessee hold over the Leased Premises or any part thereof after the expiration of this Agreement, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

6. CONDITIONAL LEASE.

The lands subject to this Lease are municipal entitlement lands. The Borough currently has management authority of the lands subject to this Lease but anticipates that the State of Alaska will complete its processes and convey fee title within the next 5 years. This Lease is issued on a conditional basis and shall be cancelled in whole or in part in the event the Borough is denied title to said lands. In such event, Lessor shall notify Lessee in writing as soon as reasonably possible. However, the Borough shall in no way be liable for any damage that may be done to the land by the Lessee or liable for any claim of any third party, or to any claim that may arise from ownership. In the event the Borough does receive title to the land under lease, the conditional lease shall have the same standing, force and effect as non-conditional leases issued under the provisions of KPB 17.10.

7. TERMINATION.

This Agreement may be terminated, without penalty or further liability, as follows:

(a) by Lessee upon written notice to Lessor if Lessee is unable to obtain, or maintain any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Lessee; or if Lessee determines, in its sole discretion, that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(b) by Lessee, upon written notice to Lessor if Lessee determines, in its sole discretion, due to the

title reports or survey results, that the condition of the Leased Premises is unsatisfactory for its intended uses;

(c) by Lessee upon written notice to Lessor for any reason or no reason at any time prior to commencement of construction by Lessee; or

(d) by Lessee upon sixty (60) days' prior written notice to Lessor for any reason or no reason so long as Lessee pays Lessor a termination fee equal to six (6) months' Rent at the then-current rate, and subject to removal requirements contained within Section 13. No such termination fee will be payable on account of the termination of this Agreement by Lessee under any termination provision contained in any other Section of this Agreement.

8. RENT. Beginning on the first day of the month following the date that Lessee exercises the Option (the "Rent Commencement Date"), Lessee shall pay to Lessor a monthly rent payment of One Thousand and No/100 Dollars ($1,000.00) (the "Rent") at the address set forth above on or before the fifth (5th) day of each calendar month in which Rent is due, in advance. Rent will be prorated for any partial month. On each anniversary of the Term Commencement Date, Rent shall adjust annually by Two percent (2%) over the prior year's Rent amount.

9. TAXES. Lessee shall pay any real or personal property taxes assessed on, or any portion of such taxes attributable to, the Communication Facilities located on the Leased Premises, including any taxable private leasehold interests.

10. USE. The Leased Premises are being leased for the purpose of erecting, installing, operating and maintaining radio or communications towers, transmitting and receiving equipment, antennas, dishes, mounting structures, equipment shelters and other supporting structures, and related equipment (collectively, the "**Communication Facilities**"). Lessee may, subject to the foregoing, make any improvement, alteration or modification to the Leased Premises as are deemed appropriate by Lessee for the permitted use herein. Lessee will have the right to clear the Leased Premises of any trees, vegetation, or undergrowth which interferes with Lessee's use of the Leased Premises for the intended purposes. Subject to Section 16 below, Lessee will have the exclusive right to install and operate upon the Leased Premises communications towers, buildings, equipment, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary.

11. SECURITY AND BUFFER LANDSCAPING.

(a) **Fence & Site Security**. Notwithstanding Section 4 above, the Lessee will install a locked, sight-obscuring fence at least six feet (6') in height around the perimeter of the Leased Premises to protect against unauthorized access to the Leased Premises. The fence must be of a color that blends in with the surrounding landscape (i.e. brown, green or similar color). Lessee may also elect, at its expense, to construct such other enclosures and/or fences as Lessee reasonably determines to be necessary to secure its improvements, including the tower(s), building(s), guy anchors, and related improvements situated upon the Leased Premises. Lessee may also undertake any other appropriate means to restrict access to its communications towers, buildings, applicable guy anchors, applicable guy wires, and related improvements, including, without limitation, posting signs for security purposes.

(b) **Buffer Landscaping**. To blend with the surrounding use of the Property as a trail system and outdoor space, the Lessee will only clear Leased Premises to the extent necessary for its Communication Facilities. Within thirty (30) days of completing fence installation around the Leased Premises, the Lessee will install a landscaping bed with a width of 10 feet outside of the fenced-in area of the Leased Premises, as

shown in Exhibit 2, excluding the access drive, to ensure a vegetative buffer exists between the leased area and the trail system and outdoor space. Trees must be planted within the landscaping bed at intervals no greater than 15 feet on center. Evergreen trees must be a minimum of 6 feet in height at time of planting, and deciduous trees must have a minimum caliper of one and one-half-inch. No more than 50 percent of planted trees may be deciduous. At least one shrub with a minimum height of 18 inches at planting will be planted for every 100 square feet of landscaping bed. Existing native trees and shrubs may be used to meet buffer landscaping requirements.

(c) **Performance Bond; Two-Year Replacement Period**. Lessee shall provide a performance bond either in the form of cash or through a corporate surety qualified to do business in the state in the amount of Two Thousand Five Hundred and No/100 Dollars ($2,500.00) prior to any exercise of the Option by Lessor. The bond may be used for the purpose of replacement of any dead trees or bushes within a period of two years after initial installation and any unused portion of the security will be released to the Lessee following the expiration of the two-year replacement period. Following the expiration of the two-year replacement period, Lessor shall be solely responsible for replacement of dead trees or bushes within the landscaping buffer.

12. ACCESS, MAINTENANCE, AND UTILITIES.

(a) **Access**. During the Term, Lessee, and its guests, agents, customers, lessees, sublessees and assigns will have the unrestricted, exclusive right to use, and will have free and unfettered access to, the Leased Premises seven (7) days a week, twenty-four (24) hours a day. Lessor for itself, its successors and assigns, hereby grants and conveys unto Lessee, its customers, employees, agents, invitees, sublessees, sublicensees, successors and assigns a nonexclusive easement to the extent depicted on Exhibit 2 (a) for ingress and egress, and (b) for the construction, installation, operation and maintenance of overhead and underground electric and other utility facilities (including fiber, backhaul, wires, poles, guys, cables, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change and remove such facilities, over, across and through any easement for the benefit of and access to the Leased Premises, subject to the terms and conditions herein set forth. Lessor agrees to cooperate with Lessee's efforts to obtain such utilities and services. If there are utilities already existing on the Leased Premises which serve the Leased Premises, Lessee may utilize such utilities and services. Upon Lessee's request, Lessor will execute and deliver to Lessee requisite recordable documents evidencing the easements contemplated hereunder within fifteen (15) days of Lessee's request.

(b) **Maintenance**. Lessee will keep and maintain the Leased Premises in good condition.

(c) **Utilities**. The Lessee is solely responsible for installing separate meters for utility use and payment, as applicable, and shall not connect to any Lessor-owned electrical, communication, or other utility without Lessor's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed.

13. EQUIPMENT, FIXTURES AND REMOVAL. The Communication Facilities will at all times be the personal property of Lessee and/or its sublessees and licensees, as applicable. Lessee or its customers shall have the right to erect, install, maintain, and operate on the Leased Premises such equipment, structures, fixtures, signs, and personal property as Lessee may deem necessary or appropriate, and such property, including the equipment, structures, fixtures, signs, and personal property currently on the Leased Premises, will not be deemed to be part of the Leased Premises, but will remain the property of Lessee or its customers. Unless otherwise agreed to in writing by the parties, within ninety (90) days after the expiration or earlier termination of this Agreement (the "Removal Period"), Lessee must remove its improvements and restore the Leased Premises to grade in a natural condition free of contamination, reasonable wear and tear excepted,

which shall include removal of all concrete and other foundation materials to a depth of five (5) feet below grade, and perform all obligations under this Agreement during the Removal Period, including without limitation, the payment of Rent on a prorated per diem basis, at the rate in effect upon the expiration or termination of this Agreement. Any property not so removed shall be deemed abandoned and may be removed and disposed of by Lessor in such manner as Lessor will determine, without any obligation on the part of Lessor to account to Lessee for any proceeds therefrom. Time is of the essence.

14. ASSIGNMENT. Lessee may assign this Agreement to any person or entity, at any time with prior written consent of Lessor which will not be unreasonably withheld or delayed so long as the Assignee agrees to the assignment and novation and complies with all terms of this Agreement. Notwithstanding the foregoing, upon thirty (30) days' written notice to Lessor, Lessee may assign this Agreement or its rights or obligations to (a) any person or entity controlling, controlled by, or under common control with Lessee, or (b) in connection with the sale or other transfer of substantially all of Lessee's assets in the FCC market area where the Leased Premises is located.

15. SUBLEASING AND REVENUE SHARE.

(a) **Subleasing**. Lessee will have the exclusive right to sublease or grant licenses to use the improvements or any other towers, structures, equipment, or ground space on the Leased Premises, provided that Lessee sends Lessor written notice within (15) days of such sublease or grant licenses.

(b) **Revenue Share.** In addition to and separate from the Rent, Lessee shall pay to the Lessor thirty-three percent (33%) of rents actually collected by Lessee from any applicable sublessees excluding the initial anchor sublessee of Lessee that shall not be subject to the Revenue Share, as defined herein, and exclusive of non-recurring fees (e.g. structural analysis fees, mount analysis fees, and capital expenditures) and reimbursements (such as for taxes and utilities) (the "Revenue Share"). The Revenue Share shall be paid to Lessor with the Rent in the month immediately following receipt by Lessee from the applicable sublessee. Upon reasonable written request, Lessee will provide Lessor redacted copies of any applicable Sublease (except that master lease agreements such as Verizon, AT&T, Dish, or T-Mobile or other national broadband carriers may be redacted to conceal confidential information, trade secrets or information subject to a non-disclosure agreement so long as the terms of the such agreement applicable to the subleasing or licensing of space at the Leased Premises, including amounts payable, are not redacted) for the purpose of confirming relevant financial terms and information. For the purposes of this Agreement: (i) "Sublease" is defined as any arrangement in which the Lessee or any sublessee leases to another party or entity, any portion of the Leased Premises described in this Agreement or improvements thereon, including but not limited to a sublease for an antenna, microwave dish, or wireless communications equipment; and (ii) "Sublessee" means any sublessee or licensee of Lessee, that: (A) has entered into a sublease or license with Lessee for the use of the improvements after the Effective Date; and (B) is not paying any rent or fees directly to Lessor for the use of ground space related to the use of Lessee's improvements.

(c) **Authorized Contact of Sublessee.** Lessee shall provide the Lessor the name, telephone number, and email address of the authorized contact for the sublessee who is responsible for sublessee's day-to-day operations or activities on the Leased Premises.

16. CO-LOCATE RIGHTS RESERVED BY LESSOR.

(a) Lessor reserves the right to install emergency response communication equipment on Lessee's tower. At no rent due from Lessor to Lessee nor any reduction in the Rent, Lessor shall be allowed, at Lessor's sole expense, to attach its emergency response communication equipment to Lessee's

telecommunications tower provided Lessor first obtains Lessee's written consent, with such consent not to be unreasonably withheld. Pursuant to the foregoing, Lessee hereby agrees to reserve on behalf of Lessor a twenty foot (20') vertical envelope at a height of fifty feet (50') to seventy feet (70') in the event Lessee builds a tower on the Leased Premises ("**Lessor's Tower Space**"). Any equipment installed on Lessor's Tower Space shall not exceed seven thousand and five hundred (7,500) square inches of wind loading capacity and the transmission from such equipment shall not result in any impairment or diminution in the quality of Lessee's service. Further, said approval shall be given only after Lessee has reviewed and approved Lessor's engineering plans for said antenna attachments. Approval shall not be unreasonably withheld. Upon written approval by Lessee, said attachments shall be installed, at Lessor sole expense, by qualified licensed and insured contractors and in accordance with Lessee's directives for the method of installment. In addition to Lessor being responsible for its own installation, Lessor shall also be responsible for its own utilities and operations and agrees that any ground space required for Lessor's Tower Space shall be outside the Leased Premises. Lessor acknowledges and agrees that Lessee reserves the right to relocate Lessor's antennas at any time(s) to accommodate modifications required for Lessee's future system requirements, provided such relocation shall provide equivalent quality of service after such relocation.

(b) Any reservation of right granted to Lessor pursuant to this Section is solely limited to Lessor's use only of the twenty foot (20') vertical envelope described above and Lessor acknowledges and agrees that Lessor does not have the right to lease, license, sublease, sublicense, etc. such space on the tower on the Leased Premises to any other party including, without limitation, any wireless communication entity.

17. COVENANTS, WARRANTIES AND REPRESENTATIONS.

(a) Lessor represents and warrants that Lessor is the owner in fee simple of the Property, free and clear of all liens and encumbrances except as to those which may have been disclosed to Lessee in writing prior to the execution hereof, and that Lessor alone has full right to lease the Leased Premises for the Term.

(b) Lessor shall not do or knowingly permit anything during the Term that will unreasonably interfere with or negate any Lessee's quiet enjoyment and use of the Leased Premises or cause Lessee's use of the Leased Premises to be in nonconformance with applicable local, state, or federal laws. Lessor will cooperate with Lessee in any effort by Lessee to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. Lessor agrees to promptly execute any necessary applications, consents or other documents as may be reasonably necessary for Lessee to apply for and obtain the proper zoning approvals required to use and maintain the Leased Premises and the Communication Facilities.

(c) To the best of Lessor's knowledge, Lessor has complied and will comply with all laws with respect to the Property. No asbestos-containing thermal insulation or products containing PCB, formaldehyde, chlordane, or heptachlor or other hazardous materials have been placed on or in the Property by Lessor or, to the knowledge of Lessor, by any prior owner or user of the Property. To the knowledge of Lessor, there has been no release of or contamination by hazardous materials on the Property.

(d) Subject to Section 11 above, Lessee will have access to all utilities required for the operation of Lessee's improvements on the Leased Premises that are existing on the Property.

(e) Except for the sublessees and licensees of Lessee, there currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Leased Premises; there are no outstanding options or rights of first refusal to purchase the Property or any portion thereof or interest therein, or any equity or interest in Lessor if Lessor is an entity; and there are no parties (other than Lessor) in possession of the Leased Premises except as to those that may have been

disclosed to Lessee in writing prior to the execution hereof.

(f) Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Agreement.

18. WAIVERS.

(a) Lessor hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Communication Facilities or any portion thereof, regardless of whether or not such is deemed real or personal property under applicable laws. Lessor will not assert any claim whatsoever against Lessee for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred by Lessor as a result of the construction, maintenance, operation or use of the Leased Premises by Lessee.

(b) EACH PARTY HERETO WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER FOR ANY LOSS, COST, DAMAGE, EXPENSE, INJURY OR OTHER LIABILITY WHICH IS IN THE NATURE OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH ARE SUFFERED OR INCURRED AS THE RESULT OF, ARISE OUT OF, OR ARE IN ANY WAY CONNECTED TO THE PERFORMANCE OF THE OBLIGATIONS UNDER THIS AGREEMENT.

19. INSURANCE. Lessee and any sublessees or assignees shall carry and maintain for the duration of the Term, including renewals and the Removal Period, insurance again claims for injuries to persons or property which may arise from or in connection with the Lessee's operation, use, or occupancy of the Leased Premises. The Lessee, including any sublessees or assignees, will bear the cost of such insurance. Coverage and policy limits will be as follows:

(a) Commercial General Liability (CGL): CGL insurance on ISO Form CG 00 01 (or its equivalent) on an "occurrence" basis, including property damage, bodily injury and personal injury with limits of $1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit.

(b) Umbrella / Excess policy: With limits of $2,000,000 per occurrence and in the aggregate. Lessee may use any combination of primary and excess insurance to meet the total limits required.

(c) Worker's Compensation Insurance: Insurance as required by the State of Alaska, with Statutory Limits, and Employer's liability Insurance limits of $500,000 per accident for bodily injury or disease and per disease policy limit.

(d) Property Insurance: Insuring against all risks of loss to any Lessee improvements at full replacement cost with no insurance penalty provision. Lessee shall have the right to self-insure such Property Insurance.

(e) Automobile Liability: Commercial automobile liability coverage for all owned, hired, and non-owned autos with limits of $1,000,000 per accident for bodily injury and property damage.

20. OTHER INSURANCE PROVISIONS.

(a) The insurance coverage provided for herein may be maintained pursuant to master policies of insurance covering other communication facilities of Lessee and its corporate affiliates. All insurance policies

required to be maintained by Lessee hereunder must be with responsible insurance companies, eligible to do business in the state of Alaska. Lessee shall provide at least thirty (30) days' prior written notice to Lessor of cancellation or nonrenewal of any required insurance that is not replaced. Lessee must evidence such insurance coverage by delivering to Lessor, if requested, a copy of a certificate of insurance of such policies issued by the insurance companies underwriting such risks or Lessee's form of self- insurance.

(b) The Lessor shall be included as additional insured with respect to liability caused, in whole or in part, by Lessee's operations under this Agreement.

(c) The Lessee's insurance coverage, except for workers' compensation/employer's liability insurance and self-insured property coverage, shall be primary insurance with respect to the Lessor and the Lessee's use and occupation of the Leased Premises. Any insurance maintained by the Lessor will be excess of the Lessee's insurance and will not contribute to it.

(d) The Property Insurance or self-insurance must include the Lessor as Joint Loss Payee as its interest may appear, and the provision of Joint Loss Payee status satisfies any requirement for waiver of subrogation for Lessee's self-insured property coverage.

(e) Notwithstanding the foregoing, Lessee may self-insure any required coverage under the same terms as required by this Agreement.

21. WAIVER OF SUBROGATION. To the extent allowed by law, Lessee hereby grants to Lessor a waiver of any right of subrogation which any insurer of said Lessee may acquire against the Lessor by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the Lessor has received a waiver of subrogation endorsement from the insurer.

22. NON-EXCLUSIVITY. Lessor acknowledges and agrees that, except as may be disclosed to Lessee in writing prior to the execution hereof, there are no prior existing rights, uses, or authorization granted to third parties or retained by Lessor to locate improvements below grade or in proximity to the Leased Premises. Upon at least sixty (60) days prior written notice to Lessee, Lessor reserves the right to grant further or additional rights or authorization to locate improvements below grade or in proximity to the Leased Premises to the extent such rights or authorizations do not unreasonably interfere with Lessee's equipment or operations.

23. LESSEE LIABILITIES. In addition to other liabilities under this Agreement, the Lessee has the following liabilities and agrees:

(a) The Lessee assumes all risk of loss, damage or destruction to Lessee's improvements on the Leased Premises.

(b) The Lessee will comply with all applicable federal, state, and local laws or regulations, including relevant environmental laws, as well as public health and safety laws and other laws relating to the sitting, permitting, construction, operation and maintenance of any facility, improvement or equipment on the Leased Premises.

(c) The Lessor has no duty, either before or during the lease term, to inspect the Leased Premises or warn of hazards and if the Lessor inspects the Leased premises, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This Section shall survive the termination or revocation of this Agreement, regardless of cause.

(d) The Lessee has an affirmative duty to protect from damage the Leased Premises and interests of the Lessor related to this Agreement.

23. INDEMNIFICATION.

(a) Lessee agrees to defend, indemnify, and hold harmless Lessor, its employees, public officials, and volunteers, with respect to any action claim or lawsuit arising out of (1) a breach of this Agreement or (2) the use and occupancy of the Leased Premises or the Property by the Lessee. This agreement to defend, indemnify, and hold harmless includes all loses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any reasonable attorney's fees actually incurred even if in excess of Alaska Civil Rule 82. The obligations of Lessee arise immediately upon notice to the Lessor of any action, claim, or lawsuit. Lessor will notify Lessee in a timely manner of the need for indemnification but such notice is not a condition precedent to Lessee's obligation and may be waived where the Lessee has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against Lessor relating to the Lessee's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, Lessee's duty to indemnify, defend, and hold harmless Lessor as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of Lessor, its employees, public officials, and volunteers.

(b) To the extent allowed by law and subject to a specific appropriation by the Kenai Peninsula Borough Assembly for this purpose, Lessor agrees to defend, indemnify, and hold harmless Lessee, its employees, affiliates, officers, directors, successors and assigns, with respect to any action claim or lawsuit arising out of (1) a breach of this Agreement or (2) the use and occupancy of the Leased Premises or the Property by the Lessor. This agreement to defend, indemnify, and hold harmless includes all loses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. The obligations of Lessor arise immediately upon notice to the Lessee of any action, claim, or lawsuit. Lessee will notify Lessor in a timely manner of the need for indemnification but such notice is not a condition precedent to Lessor's obligation and may be waived where the Lessor has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against Lessee relating to the Lessor's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, Lessor's duty to indemnify, defend, and hold harmless Lessee as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of Lessee, its employees, its employees, affiliates, officers, directors, successors and assigns. Lessee further acknowledges the following: (1) Lessor currently has no appropriation currently available to it to defend and indemnity Lessee under this provision; (2) the enactment of any such appropriation remains in the sole discretion of the Kenai Peninsula Borough Assembly; and (3) the Kenai Peninsula Borough Assembly's failure to make such an appropriation creates no further obligation or duty on behalf of Lessor.

24. INSPECTION. The Lessor reserves the right to enter upon and inspect the Leased Premises at any time to assure compliance with the conditions of this Lease. Except in case of emergency, Lessor shall provide Lessee with at least forty-eight (48) hours' prior written notice of Lessor's intention to enter upon and inspect the Leased Premises. Lessee reserves the right to have a representative present at all times during Lessor's inspection.

25. FORCE MAJEURE. The time for performance by Lessor or Lessee of any term, provision, or covenant of this Agreement will be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, and any other cause not within the control of Lessor or Lessee, as the case may be.

26. DEFAULT. The failure of Lessee or Lessor to perform any of the covenants of this Agreement will constitute a default. The non-defaulting party must give the other written notice of such default, and the defaulting party must cure such default within thirty (30) days after receipt of such notice. In the event any such default cannot reasonably be cured within such thirty (30) day period, the defaulting party must provide prompt notice of inability to cure and provide a plan to cure the default within a time frame provided. The time for curing a default will be extended for such period of time as may be necessary and reasonable; however, in no event will this extension of time to cure be in excess of ninety (90) days, unless agreed upon in writing by the non-defaulting party.

27. REMEDIES. Should the defaulting party fail to cure a default under this Agreement, the other party will have all remedies available either at law or in equity, including the right to terminate this Agreement.

28. LESSEE MORTGAGES.

(a) Lessor consents to the granting by Lessee of a lien and security interest (each, a "**Lessee Mortgage**") in Lessee's interest in this Agreement and all of Lessee's personal property and fixtures attached to the real property described herein to one or more lenders (any such lender, and any successor, assign, designee or nominee of such lender, hereinafter a "**Lender**") only to the extent and amount necessary to maintain improvements on the Leased Premises. The Lessee may not encumber the leasehold interest or the Leased Premises to finance projects or improvements outside of the Leased Premises. Lessor agrees to recognize Lender as Lessee hereunder upon any such exercise by Lender of its rights of foreclosure. Any such encumbrance shall be subordinate to Lessor's rights and interest in the Leased Premises and the Property. Any such encumbrance shall be limited to the Lessee's interest in the Leased Premises. It is a material breach of this Agreement for Lessee to attempt to encumber any interest in Lessor's title to or interest in the Leased Premises or the Property.

(b) Lessor acknowledges that nothing contained herein shall be deemed or construed to obligate Lender to take any action hereunder, or to perform or discharge any obligation, duty or liability of Lessee under this Agreement. No Lender shall become liable under the provisions of this Agreement unless and until such time as the Lender assumes ownership of the leasehold estate created hereby and agrees to comply with the terms and conditions of this Agreement or any extensions and modifications thereof.

29. MISCELLANEOUS.

(a) **Survival**. If any term of this Agreement is found to be void or invalid, such invalidity will not affect the remaining terms of this Agreement, which will continue in full force and effect.

(b) **Non-waiver**. Failure of party to insist on strict performance of any of the conditions or provisions of this Agreement, or failure to exercise any of a party's rights hereunder, will not waive such rights.

(c) **Governing Law**. This Agreement will be governed by and construed in accordance with the laws of the State of Alaska.

(d) **Bind and Benefit**. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

(e) **Memorandum**. A short-form Memorandum of Lease may be recorded at Lessor or Lessee's option in the form as depicted in Exhibit 3, attached hereto. Lessor will promptly execute any Memorandum

of Lease or Memorandum of Amendment to Lease, or corrective amendments thereto, upon written request of Lessee.

(f) **W-9**. As a condition precedent to payment, the Lessor agrees to provide the Lessee with a complete IRS Form W-9, or its equivalent, upon execution of this Agreement.

(g) **Counterparts**. This Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

(h) **Entire Agreement**. This Agreement and exhibits, appendices or incorporated attachments hereto, constitute the entire agreement and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement.

[**SIGNATURES BEGIN ON NEXT PAGE**]

PART III. EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date (date last signed by a party hereto).

LESSOR: Kenai Peninsula Borough
an Alaska municipal corporation

By:_____
Charlie Pierce, Borough Mayor

Date:_____

ATTEST:

_____
Johni Blankenship, Borough Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
Sean Kelley, Deputy Borough Attorney

LESSEE: Vertical Bridge Development, LLC
a Delaware limited liability company

By:_____

Print Name:_____

Its:_____

Date:_____

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of said corporation.

_____
Notary Public for State of Alaska

My commission expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF FLORIDA)
)ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by _____ (signing party), the _____ (title of signatory) of Vertical Bridge Development, LLC, a Delaware limited liability company, on behalf of said company.

_____
Notary Public for State of Florida

My commission expires: _____

APPENDIX A

LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current**. The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment**. Lessee may assign the lands upon which he has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement**. In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the Borough may cancel Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation**. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry**. In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection**. The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste**. The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification**. The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice**. Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default**. Notice of the default will be in writing as provided in paragraph 26 above.

(11) Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or his successors in interest, after paying to the Borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the Borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The Borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the Borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed**. Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent**. In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location**. It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder**. In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation**. The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement**. As established by AS 38.05, Borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Violation**. Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(19) **Written Waiver**. The receipt of payment by the Borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the Borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the Borough to enforce the same in the event of any subsequent breach or default. The receipt by the Borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

APPENDIX B

SITE SPECIFIC LEASE PROVISIONS

CO-LOCATE RIGHTS RESERVED BY KPB: In addition to paragraph 16 of the Communications Site Lease Agreement (the "Agreement"), the KPB reserves twenty (20) vertical feet of tower space. This reservation shall start from fifty (50) feet from the bottom of the tower structure, unless other space is mutually agreed to by the parties (the "Reserved Space"). To the extent this appendix conflicts with paragraph 16 of the Agreement, the terms of this appendix shall control.

The KPB may sublease the Reserved Space to other government agencies or organizations for the purpose of facilitating communications for first responders, disaster management, general government operations, or other public safety uses. The sublessee will provide an inventory of equipment and proposed vertical location to the Lessee for the purposes of ensuring that no interference is likely for the proposed installation. KPB and any sublessee will be responsible for frequency coordination and adherence to all applicable regulations to prevent interference.

KPB AND SUBLESSEE USAGE: The KPB and any sublessee (the "KPB") may use the Reserved Space solely for the purposes of providing public safety communications. The KPB may choose to install equipment to provide general government communications, monitoring equipment, and other similar uses. In general, equipment may include, but is not limited, to VHF Radio Frequency (RF) transceivers, RF repeaters, licensed or unlicensed point-to-point antennas, microwave backhaul, surveillance cameras and other monitoring devices, and associated items that may support conventional or trunked radio systems. All equipment or facilities placed within the Reserved Space or on the Leased Premises shall remain the personal property of the KPB or its sublessee.

INTERFERENCE WITH LESSEE EQUIPMENT: In the event that proposed or installed equipment from the KPB or sublessee interferes with equipment of the Lessee, all parties will work to explore technical solutions or changes to mitigate such interference. If mitigations are not available, the Lessee has the right to deny access to the tower for such equipment. All other provisions of paragraph 165 related to interference remain in effect.

ACCESS: The KPB may establish outdoor equipment cabinets or full equipment shelters on or within the Leased Premises, provided that such facilities do not interfere with similar facilities of the Lessee. Access will only be permitted to the Lessee upon separate mutual agreement. Such premises may have restrictions due to State or Federal policy and regulations, in such event, these regulations will prevail over the lease terms.

RENT: The Reserved Space is free of charge. The KPB is not responsible for any additional or direct rent payment to Lessee for the use of the tower or associated premises. The KPB is responsible for the costs of establishing, maintaining, and removing equipment during the life of this Agreement, as well as for any utilities required to maintain KPB equipment.

EXHIBIT 1

DESCRIPTION OF PROPERTY AND LEASED PREMISES
Page 1 of 1

The Property is legally described as follows:

Govt Lot 1, Section 5, Township 6 North, Range 1 West, Seward Meridian, Seward Recording District, Third Judicial District, State of Alaska, EXCEPTING THEREFROM ASLS 97-32, according to Plat No. 98-3 and also EXCEPTING THEREFROM, ASLS 2000-01, according to Plat No. 2001-10.

The Leased Premises are described as follows:

COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet , Easting: 1,730,462.97 feet; THENCE N47°53'40"W a distance of 291.19 feet to the **TRUE POINT OF BEGINNING;** THENCE from said True Point of Beginning, S68°08'19"E a distance of 50.00 feet; THENCE S21°51'41"W a distance of 50.00 feet; THENCE N68°08'19"W a distance of 25.00 feet; THENCE N23°08'19"W a distance of 35.36 feet; THENCE along said north easement line N21°51'41"E a distance of 22.72 feet to the **True Point of Beginning**. Containing 2,187 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

Access and Utility Easement(s):

Being a strip of land 15.00 feet in width lying 7.50 feet on each side of the following described centerline located within Government Lot 1, Section 5, Township 6 North, Range 1 West, Seward Meridian, AK located northwesterly of the Seward Highway, as shown on the Record of Survey filed as Plat No. 2017-6, recorded in the Seward Recording District, more particularly described as follows:

COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet, Easting: 1,730,462.97 feet; THENCE N48°29'57"E a distance of 49.21 feet to the **TRUE POINT OF BEGINNING,** said point being located on the westerly right-of-way line of the Seward Highway as shown on said record of survey**;** THENCE from said True Point of Beginning, N71°55'43"W A distance of 22.68 feet; THENCE N82°12'57"W a distance of 25.51 feet; THENCE N86°36'42"W a distance of 31.72 feet; THENCE N79°50'49"W a distance of 40.54 feet; THENCE N68°29'45"W a distance of 32.17 feet; THENCE N59°34'38"W a distance of 30.23 feet; THENCE N38°21'47"W a distance of 52.77 feet; THENCE N22°14'18"W a distance of 30.81 feet; THENCE N13°09'27"W a distance of 28.39 feet; THENCE N23°35'56"E a distance of 23.58 feet; THENCE N61°47'42"E a distance of 39.00 feet; THENCE N21°51'41"E a distance of 20.00 feet to the Point of Terminus, the side lines of said easement to be extended or shortened to meet at angle points and to terminate at said westerly right-of-way line and the westerly prolongation of the northerly line of the lease area. Containing 5,661 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

EXHIBIT 2

LEASED PREMISES
Page 1 of 1

The Leased Premises are depicted as follows:

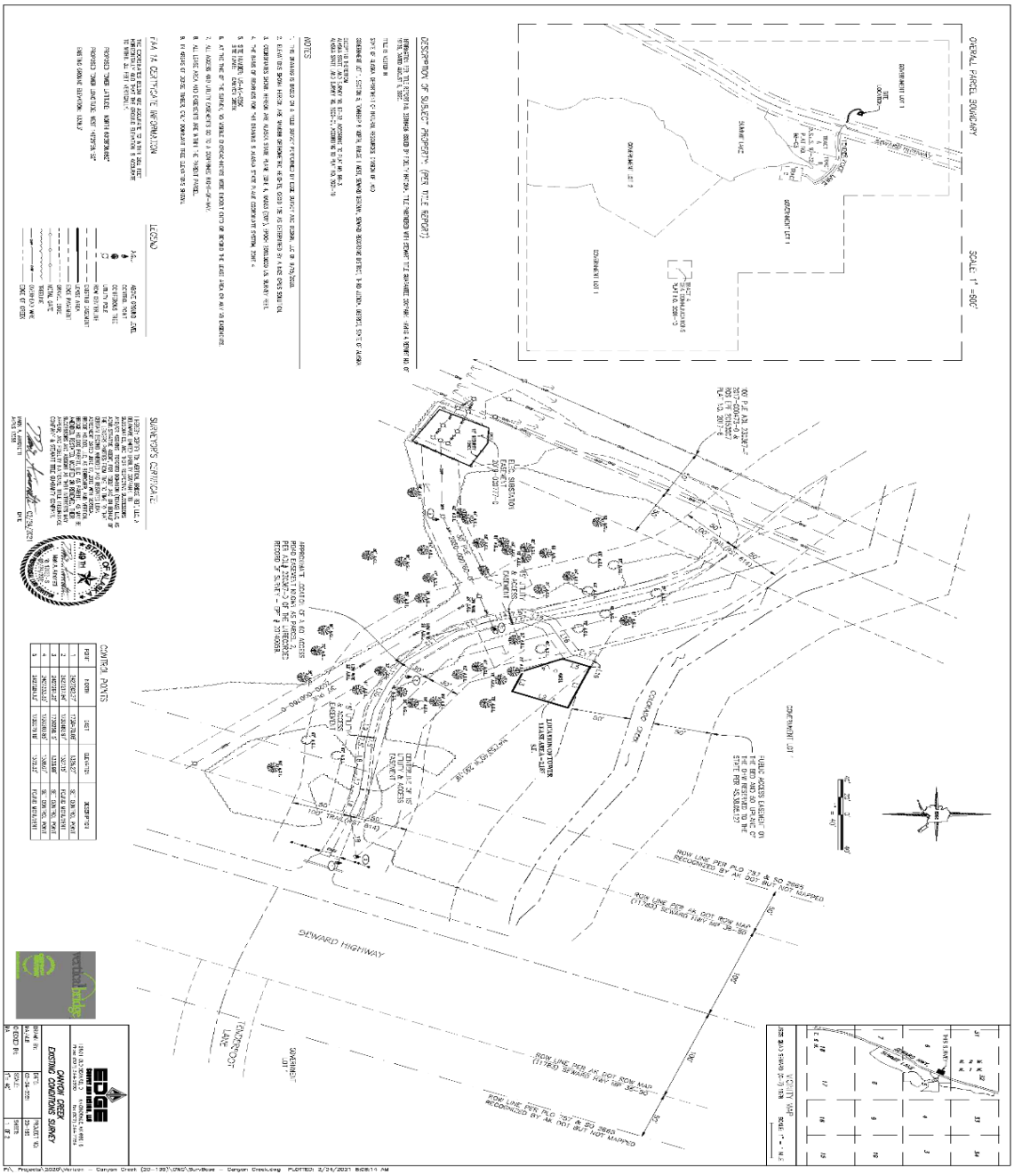


EXHIBIT 3

Memorandum of Lease

(Attached)

(Above 2" Space for Recorder's Use Only)

Upon Recording, Return to:
Vertical Bridge Development, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, FL 33487
Attn: Daniel Marinberg

Grantor: Kenai Peninsula Borough
Grantee: Vertical Bridge Development, LLC
Legal Description: Attached as Exhibit 1
Tax Parcel ID #: 03525005
Site Number: US-AK-5250
Site Name: Canyon Creek
State: Alaska
Borough: Kenai Peninsula Borough
Recording District: Seward, Third Judicial

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is entered into by and between **Kenai Peninsula Borough**, an Alaska municipal corporation, having a mailing address of 144 N. Binkley St., Soldotna, AK 99669 (the "**Lessor**"), and **Vertical Bridge Development, LLC**, a Delaware limited liability company, having a mailing address of 750 Park of Commerce Drive, Suite 200, Boca Raton, FL 33487 (the "**Lessee**").

1. Lessor and Lessee entered into a certain Option and Communications Site Lease Agreement (the "Agreement") on the _____ day of _____, 20_____ for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.

2. The initial lease term will be five (5) years commencing on the effective date of written notification by Lessee to Lessor of Lessee's exercise of the option, with four (4) successive automatic five (5) year options to renew.

3. The portion of the land being leased to Lessee (the "Leased Premises") and associated easements are described and depicted in **Exhibit 1** annexed hereto.

4. Lessee is entitled to sublease and/or license the Premises, including any communications tower located thereon.

5. Lessor and Lessee now desire to execute this Memorandum to provide constructive knowledge of Lessee's lease of the Leased Premises.

6. This Memorandum and Agreement are governed by the laws of the State of Alaska.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LESSOR: Kenai Peninsula Borough
an Alaska municipal corporation

By:_____
Charlie Pierce, Borough Mayor

Date:_____

ATTEST:

_____
Johni Blankenship, Borough Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
Sean Kelley, Deputy Borough Attorney

LESSEE: Vertical Bridge Development, LLC
a Delaware limited liability company

By:_____

Print Name:_____

Its:_____

Date:_____

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of said corporation.

_____
Notary Public for State of Alaska

My commission expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF FLORIDA)
)ss.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ _____, by _____ (signing party), the _____ (title of signatory) of Vertical Bridge Development, LLC, a Delaware limited liability company, on behalf of said company.

_____
Notary Public for State of Florida

My commission expires: _____

EXHIBIT 1 TO MEMORANDUM OF LEASE

DESCRIPTION OF PROPERTY AND LEASED PREMISES

The Property is legally described as follows:

Govt Lot 1, Section 5, Township 6 North, Range 1 West, Seward Meridian, Seward Recording District, Third Judicial District, State of Alaska, EXCEPTING THEREFROM ASLS 97-32, according to Plat No. 98-3 and also EXCEPTING THEREFROM, ASLS 2000-01, according to Plat No. 2001-10.

The Leased Premises are described and/or depicted as follows:

COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet , Easting: 1,730,462.97 feet; THENCE N47°53'40"W a distance of 291.19 feet to the **TRUE POINT OF BEGINNING;** THENCE from said True Point of Beginning, S68°08'19"E a distance of 50.00 feet; THENCE S21°51'41"W a distance of 50.00 feet; THENCE N68°08'19"W a distance of 25.00 feet; THENCE N23°08'19"W a distance of 35.36 feet; THENCE along said north easement line N21°51'41"E a distance of 22.72 feet to the **True Point of Beginning**. Containing 2,187 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

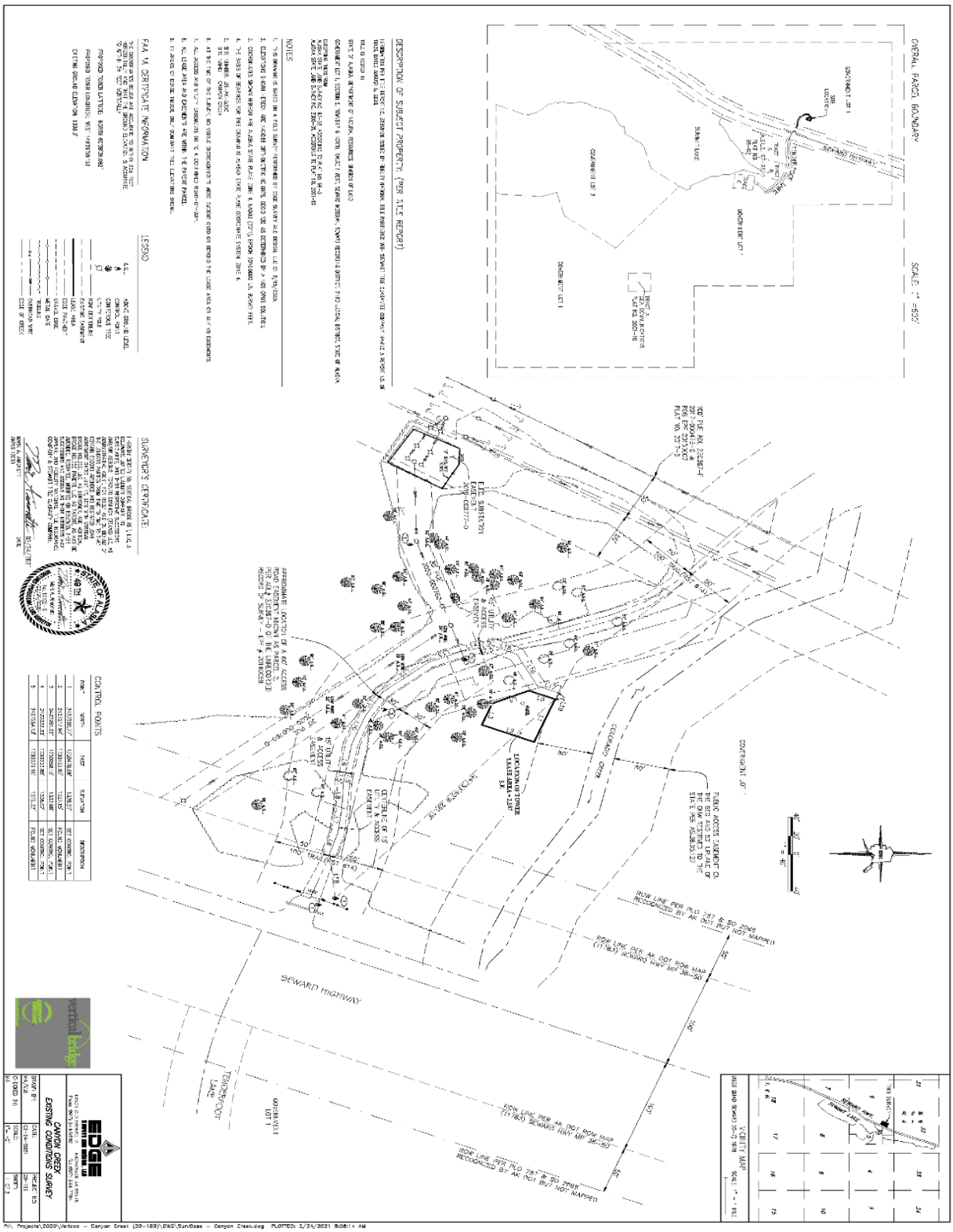
Access and Utility Easement(s):

Being a strip of land 15.00 feet in width lying 7.50 feet on each side of the following described centerline located within Government Lot 1, Section 5, Township 6 North, Range 1 West, Seward Meridian, AK located northwesterly of the Seward Highway, as shown on the Record of Survey filed as Plat No. 2017-6, recorded in the Seward Recording District, more particularly described as follows:

COMMENCING at a 2 inch aluminum cap as shown on said record of survey, located on the north side of the existing gravel access road and having NAD83, Zone 4, State Plane Coordinates of Northing: 2,427,217.94 feet, Easting: 1,730,462.97 feet; THENCE N48°29'57"E a distance of 49.21 feet to the **TRUE POINT OF BEGINNING,** said point being located on the westerly right-of-way line of the Seward Highway as shown on said record of survey**;** THENCE from said True Point of Beginning, N71°55'43"W A distance of 22.68 feet; THENCE N82°12'57"W a distance of 25.51 feet; THENCE N86°36'42"W a distance of 31.72 feet; THENCE N79°50'49"W a distance of 40.54 feet; THENCE N68°29'45"W a distance of 32.17 feet; THENCE N59°34'38"W a distance of 30.23 feet; THENCE N38°21'47"W a distance of 52.77 feet; THENCE N22°14'18"W a distance of 30.81 feet; THENCE N13°09'27"W a distance of 28.39 feet; THENCE N23°35'56"E a distance of 23.58 feet; THENCE N61°47'42"E a distance of 39.00 feet; THENCE N21°51'41"E a distance of 20.00 feet to the Point of Terminus, the side lines of said easement to be extended or shortened to meet at angle points and to terminate at said westerly right-of-way line and the westerly prolongation of the northerly line of the lease area.
Containing 5,661 square feet, more or less.

The BASIS OF BEARINGS for this description is the centerline line of Seward Highway as measured between two found 2 inch aluminum caps and bearing N21°51'41"E.

DESCRIPTION OF PROPERTY AND LEASED PREMISES



COMMUNICATIONS SITE LEASE AGREEMENT

This COMMUNICATIONS SITE LEASE AGREEMENT (this "Agreement") will become effective when all parties have signed the Agreement (the "Effective Date"). This Agreement is entered into by the **Kenai Peninsula Borough**, a municipal corporation, whose mailing address is 144 North Binkley Street, Soldotna, Alaska 99669 (hereinafter the "KPB" or "Lessor"), and **Vertical Bridge Development, LLC**, a Delaware limited liability company, whose mailing address is 750 Park of Commerce Drive, Suite 200, Boca Raton, FL 33487 (hereinafter "Lessee").

PART I. BACKGROUND, AUTHORIZED CONTACT AND CONTRACT DOCUMENTS

1. Background. The KPB owns certain real property located in the Kenai Peninsula Borough, in the state of Alaska, that is more particularly described and/or depicted in Exhibit 1 attached hereto (the "Property"). For good and valuable consideration, the parties agree that the KPB will grant the Lessee the right to use a portion of the Property in accordance with the terms of this Agreement.

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.

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

LESSEE
Name: Vertical Bridge Development, LLC
Attn:
Mailing Address: 750 Park of Commerce Dr., Suite 200
Boca Raton, FL 33487

Name:
Attn:
Mailing Address:

3. Contract Documents. As authorized by KPB Ordinance 2021-_____, this lease agreement ("Agreement") is the final and complete understanding of the parties. The following exhibits and appendices are attached and are considered part of this Agreement as well as anything incorporated by reference or attached to those exhibits or appendices:

Appendix A: Lease Provisions Required by KPB 17.10
Appendix B: Site Specific Lease Provisions
Exhibit 1: Description of the "Property" and the "Leased Premises"
Exhibit 2: Leased Premises site sketch
Exhibit 3: Memorandum of Lease

If in conflict, the Agreement shall control. If in conflict, the order of precedence shall be: Appendix B, the Agreement, Appendix A, Exhibit 1, Exhibit 2, and then Exhibit 3.

PART II. LEASE DESCRIPTION AND TERMS

4. DESCRIPTION OF PROPERTY.

(a) Subject to the terms and conditions of this Agreement, KPB hereby grants to Lessee an exclusive option to lease a certain portion of the Property containing approximately 2,187 square feet (5-sided perimeter measuring 25'- 50'- 50'- 25'- 35.4') including the air space above such ground space as described and depicted on Exhibit 1 and Exhibit 2 attached hereto (the "Leased Premises") for the placement of a Communication Facilities.

5. TERM.

(a) The initial term will be five (5) years (the "Initial Term"), commencing on the Effective Date.

(b) Lessee will have the option to extend the term of this Agreement for four (4) successive terms of five (5) years each (each, a "Renewal Term"). Each Renewal Term will commence automatically, unless Lessee delivers notice to KPB, not less than thirty (30) days prior to the end of the then-current Term, of Lessee's intent not to renew. For purposes of this Agreement, "Term" includes the Initial Term and any applicable Renewal Term(s).

(c) Should Lessee or any assignee, sublessee or licensee of Lessee hold over the Leased Premises or any part thereof after the expiration of this Agreement, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

6. CONDITIONAL LEASE.

This Lease is issued on a conditional basis and shall be cancelled in whole or in part in the event the borough is denied title to said lands. However, the borough shall in no way be liable for any damage that may be done to the land by the Lessee or liable for any claim of any third party, or to any claim that may arise from ownership. In the event the borough does receive title to the land under lease, the conditional lease shall have the same standing, force and effect as non-conditional leases issued under the provisions of KPB 17.10.

7. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by Lessee upon written notice to KPB, if Lessee is unable to obtain, or maintain any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Lessee; or if Lessee in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(b) by Lessee upon written notice to KPB, if Lessee determines, in its sole discretion, due to the title reports or survey results, that the condition of the Leased Premises is unsatisfactory for its intended uses;

(c) by Lessee upon written notice to KPB for any reason or no reason, at any time prior to commencement of construction by Lessee; or

(d) by Lessee upon sixty (60) days' prior written notice to KPB for any reason or no reason, so long as Lessee pays KPB a termination fee equal to six (6) months' Rent, at the then-current rate, and subject to removal requirements contained within Section 13. No such termination fee will be payable on account of the termination of this Agreement by Lessee under any termination provision contained in any other Section of this Agreement.

8. RENT. Beginning on the Effective Date, Lessee shall pay to KPB a monthly rent payment of One Thousand and No/100 Dollars ($1,000.00) ("Rent"), at the address set forth above on or before the fifth (5th) day of each calendar month in which Rent is due, in advance. Rent will be prorated for any partial month. On each anniversary of the Term Commencement Date, Rent shall adjust annually by Two percent (2%) over the prior year's Rent amount.

9. TAXES. Lessee shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Communication Facilities located on the Leased Premises, including private leasehold interests.

10. USE. The Leased Premises are being leased for the purpose of erecting, installing, operating and maintaining radio or communications towers, transmitting and receiving equipment, antennas, dishes, mounting structures, equipment shelters and other supporting structures, and related equipment (collectively, the "**Communication Facilities**"). Lessee may, subject to the foregoing, make any improvement, alteration or modification to the Leased Premises as are deemed appropriate by Lessee for the permitted use herein. Lessee will have the right to clear the Leased Premises of any trees, vegetation, or undergrowth which interferes with Lessee's use of the Leased Premises for the intended purposes. Notwithstanding Section 14 below, Lessee will have the exclusive right to install and operate upon the Leased Premises communications towers, buildings, equipment, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary.

11. SECURITY AND BUFFER LANDSCAPING.

(a) **Fence & Site Security**. Notwithstanding Section 4 above, the Lessee will install a locked, sight-obscuring fence at least six feet (6') in height around the perimeter of the Leased Premises to protect against unauthorized access to the Leased Premises. The fence must be of a color that blends in with the surrounding landscape (i.e. brown, green or similar color). Lessee may also elect, at its expense, to construct such other enclosures and/or fences as Lessee reasonably determines to be necessary to secure its improvements, including the tower(s), building(s), guy anchors, and related improvements situated upon the Leased Premises. Lessee may also undertake any other appropriate means to restrict access to its communications towers, buildings, applicable guy anchors, applicable guy wires, and related improvements, including, without limitation, posting signs for security purposes.

12. ACCESS, MAINTENANCE, AND UTILITIES.

(a) **Access**. During the Term, Lessee, and its guests, agents, customers, lessees, sublessees and assigns will have the unrestricted, exclusive right to use, and will have free and unfettered access to, the Leased Premises seven (7) days a week, twenty-four (24) hours a day. KPB for itself, its successors and assigns, hereby grants and conveys unto Lessee, its customers, employees, agents, invitees, sublessees, sublicensees, successors and assigns a nonexclusive easement to the extent depicted on Exhibit 2 (a) for ingress and egress, and (b) for the construction, installation, operation and maintenance of overhead and underground electric and other utility facilities (including fiber, backhaul, wires, poles, guys, cables, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change and remove such facilities, over, across and through any easement for the benefit of and access to the Leased

Premises, subject to the terms and conditions herein set forth. KPB agrees to cooperate with Lessee's efforts to obtain such utilities and services. If there are utilities already existing on the Leased Premises which serve the Leased Premises, Lessee may utilize such utilities and services. Upon Lessee's request, KPB will execute and deliver to Lessee requisite recordable documents evidencing the easements contemplated hereunder within fifteen (15) days of Lessee's request.

(b) **Maintenance**. Lessee will keep and maintain the Leased Premises in good condition.

(c) **Utilities**. The Lessee is solely responsible for installing separate meters for utility use and payment, as applicable, and shall not connect to any KPB-owned electrical, communication, or other utility without KPB's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed.

13. EQUIPMENT, FIXTURES AND REMOVAL. The Communication Facilities will at all times be the personal property of Lessee and/or its sublessees and licensees, as applicable. Lessee or its customers shall have the right to erect, install, maintain, and operate on the Leased Premises such equipment, structures, fixtures, signs, and personal property as Lessee may deem necessary or appropriate, and such property, including the equipment, structures, fixtures, signs, and personal property currently on the Leased Premises, will not be deemed to be part of the Leased Premises, but will remain the property of Lessee or its customers. Unless otherwise agreed to in writing by the parties, within ninety (90) days after the expiration or earlier termination of this Agreement, or upon cessation, abandonment, or non-use of the tower for communication purposes for a period of 6 consecutive months following construction of the tower (the "Removal Period"), Lessee must remove its improvements and restore the Leased Premises to grade in a natural condition free of contamination, reasonable wear and tear excepted, which shall include removal of all concrete and other foundation materials to a depth of ten feet (10') below grade, and perform all obligations under this Agreement during the Removal Period, including without limitation, the payment of Rent on a prorated per diem basis, at the rate in effect upon the expiration or termination of this Agreement. Any property not so removed shall be deemed abandoned and may be removed and disposed of by KPB in such manner as KPB will determine, without any obligation on the part of KPB to account to Lessee for any proceeds therefrom. Time is of the essence.

14. ASSIGNMENT. Lessee may assign this Agreement to any person or entity, at any time with prior written consent of KPB's mayor which will not be unreasonably withheld or delayed so long as the Assignee agrees to the assignment and novation and complies with all terms of this Agreement. Notwithstanding the foregoing, upon thirty (30) days' written notice to KPB, Lessee may assign this Agreement or its rights or obligations to (a) any person or entity controlling, controlled by, or under common control with Lessee, or (b) in connection with the sale or other transfer of substantially all of Lessee's assets in the FCC market area where the Leased Premises is located.

15. SUBLEASING AND REVENUE SHARE.

(a) **Subleasing**. Lessee will have the exclusive right to sublease or grant licenses to use the improvements or any other towers, structures, equipment, or ground space on the Leased Premises, provided that Lessee sends Lessor written notice within (15) days of such sublease or grant licenses.

(b) **Revenue Share.** In addition to and separate from the Rent, Lessee shall pay to the Lessor thirty-three percent (33%) of rents actually collected by Lessee from any applicable sublessees, sublicenses, collocation or similar vertical space rental agreements, exclusive of non-recurring fees (e.g. structural analysis fees, mount analysis fees, and capital expenditures) and reimbursements (such as for taxes and utilities) ("Revenue Share"). The Revenue Share shall be paid to Lessor with the Rent in the month immediately following receipt by Lessee from the applicable sublessee. Upon reasonable written request,

Lessee will provide Lessor redacted copies of any applicable Sublease for the purpose of confirming relevant financial terms and information. For the purposes of this Agreement: (i) "Sublease" is defined as any arrangement in which the Lessee or any sublessee leases to another party or entity, any portion of the Lease Premises described in this Agreement or improvements thereon, including but not limited to a sublease for an antenna, microwave dish, or wireless communications equipment; and (ii) "Sublessee" means any sublessee or licensee of Lessee, that: (A) has entered into a sublease or license with Lessee for the use of the improvements after the Effective Date; and (B) is not paying any rent or fees directly to Lessor for the use of ground space related to the use of Lessee's improvements.

(c) **Authorized Contact of Sublessee.** Lessee shall provide the KPB the name, telephone number, and email address of the authorized contact for the sublessee who is responsible for sublessees day-to-day operations or activities on the Leased Premises.

16. CO-LOCATE RIGHTS RESERVED BY KPB. KPB reserves the right to install emergency response communication equipment on Lessee's tower. Ninety (90) days prior to the exercise of this reservation, KPB shall provide Lessee with a complete inventory of equipment and proposed vertical location. Lessee shall confirm KPB's equipment will not interfere with Lessee's or then-existing sublessee's equipment or propose an alternate location. Upon installation of KPB's equipment on the Leased Premises, any future sublessee's equipment shall not interfere with KPB's emergency response communication equipment, provided such equipment is properly installed and lawfully operated. Notwithstanding the foregoing, KPB's right to install equipment on Lessee's tower will be subject to Lessee's reasonable determination that, at the time in which KPB proposes to install its equipment, Lessee's tower shall have sufficient space and structural capacity to accommodate the additional loading associated with KPB's proposed equipment installation. In connection with the foregoing, each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Section 15 and the consummation of the transactions contemplated hereby.

17. COVENANTS, WARRANTIES AND REPRESENTATIONS.

(a) KPB shall not do or knowingly permit anything during the Term that will unreasonably interfere with or negate any Lessee's quiet enjoyment and use of the Leased Premises or cause Lessee's use of the Leased Premises to be in nonconformance with applicable local, state, or federal laws. KPB will cooperate with Lessee in any effort by Lessee to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. KPB agrees to promptly execute any necessary applications, consents or other documents as may be reasonably necessary for Lessee to apply for and obtain the proper zoning approvals required to use and maintain the Leased Premises and the Communication Facilities.

(b) To the best of KPB's knowledge, KPB has complied and will comply with all laws with respect to the Property. No asbestos-containing thermal insulation or products containing PCB, formaldehyde, chlordane, or heptachlor or other hazardous materials have been placed on or in the Property by KPB or, to the knowledge of KPB, by any prior owner or user of the Property. To the knowledge of KPB, there has been no release of or contamination by hazardous materials on the Property.

(c) Subject to Section 11 above, Lessee will have access to all utilities required for the operation of Lessee's improvements on the Leased Premises that are existing on the Property.

(d) Except for the sublessees and licensees of Lessee, there currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Leased Premises; there are no outstanding options or rights of first refusal to purchase the Property or any portion thereof or interest therein, or any equity or interest in KPB if KPB is an entity; and there are no parties (other than KPB) in possession of the Leased Premises except as to those that may have been disclosed to Lessee in writing prior to the execution hereof.

(f) Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Agreement.

18. WAIVERS.

(a) KPB hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Communication Facilities or any portion thereof, regardless of whether or not such is deemed real or personal property under applicable laws. KPB will not assert any claim whatsoever against Lessee for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred by KPB as a result of the construction, maintenance, operation or use of the Leased Premises by Lessee.

(b) EACH PARTY HERETO WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER FOR ANY LOSS, COST, DAMAGE, EXPENSE, INJURY OR OTHER LIABILITY WHICH IS IN THE NATURE OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH ARE SUFFERED OR INCURRED AS THE RESULT OF, ARISE OUT OF, OR ARE IN ANY WAY CONNECTED TO THE PERFORMANCE OF THE OBLIGATIONS UNDER THIS AGREEMENT.

19. INSURANCE. Insurance coverage required under this Agreement shall be primary and exclusive of any other insurance carried by the Borough. Minimum levels of insurance coverage required under this Agreement shall remain in effect for the life of this Agreement and shall be a part of the contract price. If Contractor's policies contain higher limits, the KPB shall be entitled to coverage to the extent of such higher limits. There shall be no cancellation or material change of the insurance coverages, or intent not to renew the insurance coverages as specified in this Agreement, without thirty (30) calendar days' prior written notice to the Borough. Certificates of Insurance, acceptable in form and content, will be delivered to the Borough at the time of submission of the signed Agreement and updated certificates shall be provided upon insurance coverage renewal, where applicable. Lessee and subcontractor(s), sublessees, sublicenses, of any tier shall provide and maintain:

(a) Commercial General Liability (CGL): The CGL Policy shall be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.

(b) Umbrella / Excess policy: With limits of $2,000,000 per occurrence and in the aggregate. Lessee may use any combination of primary and excess insurance to meet the total limits required.

(c) Worker's Compensation Insurance: For all employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than FIVE HUNDRED THOUSAND AND NO/100 DOLLARS ($500,000.00) each accident, FIVE HUNDRED THOUSAND AND NO/100 DOLLARS ($500,000.00) each person and FIVE HUNDRED THOUSAND AND NO/100 DOLLARS ($500,000.00) policy limit. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.

(d) Property Insurance: Insuring against all risks of loss to any Lessee improvements at full replacement cost with no insurance penalty provision. Lessee shall have the right to self-insure such Property Insurance.

(e) Automobile Liability: The Auto Liability Policy shall include a Combined Single Limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND N0/100 DOLLARS ($1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.

(f) Full policies. At its option, the Borough may request copies of required policies and endorsements. Such copies shall be provided within (10) TEN CALENDAR DAYS of the Borough's request. All insurance required hereunder shall be maintained in full force and effect with insurers with Best's rating of AV or better and be licensed and admitted in Alaska.

(g) No Representation of Coverage Adequacy. By requiring insurance herein, the Borough does not represent that coverage and limits will necessarily be adequate to protect Lessee, sublessee, and/or contractor or subcontractor(s) of any tier, and such coverage and limits shall not be deemed as a limitation on the liability of the Contractor and subcontractor(s) of any tier under the indemnities granted to the Borough in this Agreement.

(h) Self-insurance. Notwithstanding the foregoing, Lessee may self-insure any required coverage under the same terms as required by this Agreement.

20. WAIVER OF SUBROGATION. To the extent allowed by law, Lessee hereby grants to KPB a waiver of any right of subrogation which any insurer of said Lessee may acquire against the KPB by virtue of the payment of any loss under such insurance. It is the Lessors sole and strict responsibility to notify its insurer of this obligation and obtain a waiver of subrogation endorsement from the insurer, if required.

21. NON-EXCLUSIVITY. KPB acknowledges and agrees that, except as may be disclosed to Lessee in writing prior to the execution hereof, there are no prior existing rights, uses, or authorization granted to third parties or retained by KPB to locate improvements below grade or in proximity to the Leased Premises. Upon at least sixty (60) days prior written notice to Lessee, KPB reserves the right to grant further or additional rights or authorization to locate improvements below grade or in proximity to the Leased Premises to the extent such rights or authorizations do not unreasonably interfere with Lessee's equipment or operations.

22. LESSEE LIABILITIES. In addition to other liabilities under this Agreement, the Lessee has the following liabilities and agrees:

(a) The Lessee assumes all risk of loss, damage or destruction to Lessee's improvements on the Leased Premises.

(b) The Lessee will comply with all applicable federal, state, and local laws or regulations, including relevant environmental laws, as well as public health and safety laws and other laws relating to the sitting, permitting, construction, operation and maintenance of any facility, improvement or equipment on the Leased Premises.

(c) The KPB has no duty, either before or during the lease term, to inspect the Leased Premises or warn of hazards and if the KPB inspects the Leased premises, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This Section shall survive the termination or revocation of this Agreement, regardless of cause.

(d) The Lessee has an affirmative duty to protect from damage the Property and interests of the KPB related to this Agreement.

23. INDEMNIFICATION.

(a) Lessee agrees to defend, indemnify, and hold harmless KPB, its employees, public officials, and volunteers, with respect to any action claim or lawsuit arising out of (1) a breach of this Agreement or (2) the use and occupancy of the Leased Premises or the Property by the Lessee. This agreement to defend, indemnify, and hold harmless includes all losses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. The obligations of Lessee arise immediately upon notice to the KPB of any action, claim, or lawsuit. KPB will notify Lessee in a timely manner of the need for indemnification but such notice is not a condition precedent to Lessee's obligation and may be waived where the Lessee has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against KPB relating to the Lessee's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, Lessee's duty to indemnify, defend, and hold harmless KBP as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of KBP, its employees, public officials, and volunteers.

(b) To the extent allowed by law and subject to a specific appropriation by the KPB Assembly for this purpose, KPB agrees to defend, indemnify, and hold harmless Lessee, its employees, affiliates, officers, directors, successors and assigns, with respect to any action claim or lawsuit arising out of (1) a breach of this Agreement or (2) the use and occupancy of the Leased Premises or the Property by the KPB. This agreement to defend, indemnify, and hold harmless includes all loses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. The obligations of KPB arise immediately upon notice to the Lessee of any action, claim, or lawsuit. Lessee will notify KPB in a timely manner of the need for indemnification but such notice is not a condition precedent to KPB's obligation and may be waived where the KPB has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against Lessee relating to the KPB's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, KPB's duty to indemnify, defend, and hold harmless Lessee as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of Lessee, its employees, its employees, affiliates, officers, directors, successors and assigns. Lessee further acknowledges the following: (1) KPB currently has no

appropriation currently available to it to defend and indemnity Lessee under this provision; (2) the enactment of any such appropriation remains in the sole discretion of the KPB Assembly; and (3) the KPB Assembly's failure to make such an appropriation creates no further obligation or duty on behalf of KPB.

24. INSPECTION. The KPB reserves the right to enter upon and inspect the Leased Premises at any time to assure compliance with the conditions of this Lease. Except in case of emergency, KPB shall provide Lessee with at least forty-eight (48) hours' prior written notice of KPB's intention to enter upon and inspect the Leased Premises. Lessee reserves the right to have a representative present at all times during KPB's inspection.

25. FORCE MAJEURE. The time for performance by KPB or Lessee of any term, provision, or covenant of this Agreement will be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, and any other cause not within the control of KPB or Lessee, as the case may be.

26. DEFAULT. The failure of Lessee or KPB to perform any of the covenants of this Agreement will constitute a default. The non-defaulting party must give the other written notice of such default, and the defaulting party must cure such default within thirty (30) days after receipt of such notice. In the event any such default cannot reasonably be cured within such thirty (30) day period, the defaulting party must provide prompt notice of inability to cure and provide a plan to cure the default within a time frame provided. The time for curing a default will be extended for such period of time as may be necessary and reasonable; however, in no event will this extension of time to cure be in excess of ninety (90) days, unless agreed upon in writing by the non-defaulting party.

27. REMEDIES. Should the defaulting party fail to cure a default under this Agreement, the other party will have all remedies available either at law or in equity, including the right to terminate this Agreement.

28. LESSEE MORTGAGES.

(a) KPB consents to the granting by Lessee of a lien and security interest (each, a "**Lessee Mortgage**") in Lessee's interest in this Agreement and all of Lessee's personal property and fixtures attached to the real property described herein to one or more lenders (any such lender, and any successor, assign, designee or nominee of such lender, hereinafter a "**Lender**") only to the extent and amount necessary to maintain improvements on the Leased Premises. The Lessee may not encumber the leasehold interest or the Leased Premises to finance projects or improvements outside of the Leased Premises. KPB agrees to recognize Lender as Lessee hereunder upon any such exercise by Lender of its rights of foreclosure. Any such encumbrance shall be subordinate to KPB's rights and interest in the Leased Premises and the Property. Any such encumbrance shall be limited to the Lessee's interest in the Leased Premises. It is a material breach of this Agreement for Lessee to attempt to encumber any interest in KPB's title to or interest in the Leased Premises or the Property.

(b) KPB acknowledges that nothing contained herein shall be deemed or construed to obligate Lender to take any action hereunder, or to perform or discharge any obligation, duty or liability of Lessee under this Agreement. No Lender shall become liable under the provisions of this Agreement unless and until such time as the Lender assumes ownership of the leasehold estate created hereby and agrees to comply with the terms and conditions of this Agreement or any extensions and modifications thereof.

29. MISCELLANEOUS.

(a) **Survival**. If any term of this Agreement is found to be void or invalid, such invalidity will not affect the remaining terms of this Agreement, which will continue in full force and effect.

(b) **Non-waiver**. Failure of party to insist on strict performance of any of the conditions or provisions of this Agreement, or failure to exercise any of a party's rights hereunder, will not waive such rights.

(c) **Governing Law**. This Agreement will be governed by and construed in accordance with the laws of the State of Alaska.

(d) **Bind and Benefit**. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

(e) **Memorandum**. A short-form Memorandum of Lease may be recorded at KPB or Lessee's option in the form as depicted in Exhibit 3, attached hereto. KPB will promptly execute any Memorandum of Lease or Memorandum of Amendment to Lease, or corrective amendments thereto, upon written request of Lessee.

(f) **W-9**. As a condition precedent to payment, the KPB agrees to provide the Lessee with a complete IRS Form W-9, or its equivalent, upon execution of this Agreement.

(g) **Counterparts**. This Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

(h) **Entire Agreement**. This Agreement and exhibits, appendices or incorporated attachments hereto, constitute the entire agreement and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement.

[**SIGNATURES BEGIN ON NEXT PAGE**]

PART III. EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date (date last signed by a party hereto).

LESSOR: The Kenai Peninsula Borough

_____

Charlie Pierce, Mayor

Date: _____

LESSEE: Vertical Bridge Development, LLC

By: _____

Print Name: _____

Its: _____

Date: _____

LESSEE: Vertical Bridge Development, LLC

By: _____

Print Name: _____

Its: _____

Date: _____

ATTEST:

_____

Johni Blankenship, Borough Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

Sean Kelley, Deputy Borough Attorney

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

_____
Notary Public for State of Alaska
My Commission Expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20____, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of Vertical Bridge Development, LLC, a Delaware limited liability company, the Lessee named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Lessee.

_____
Notary Public: _____
My Commission Expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20____, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of Vertical Bridge Development, LLC, a Delaware limited liability company, the Lessee named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Lessee.

_____
Notary Public: _____
My Commission Expires: _____

EXHIBIT 1

DESCRIPTION OF PROPERTY AND PREMISES

The Property is legally described as follows:

Govt Lot 1 excluding ASLS 97-32 and ASLS 2000-01, Section 5, Township 6 North, Range 1 West, Seward Meridian, Third Judicial District, State of Alaska.

The Leased Premises are described and/or depicted as follows:

On the above described Property, a 2,187 square foot area bounded by a 5-sided perimeter measuring 25'- 50'- 50'- 25'- 35.4' and a 15' wide non-exclusive access road as depicted on Exhibit 2.

EXHIBIT 2

Leased Premises

(Attached)

The Premises are described and/or depicted as follows:

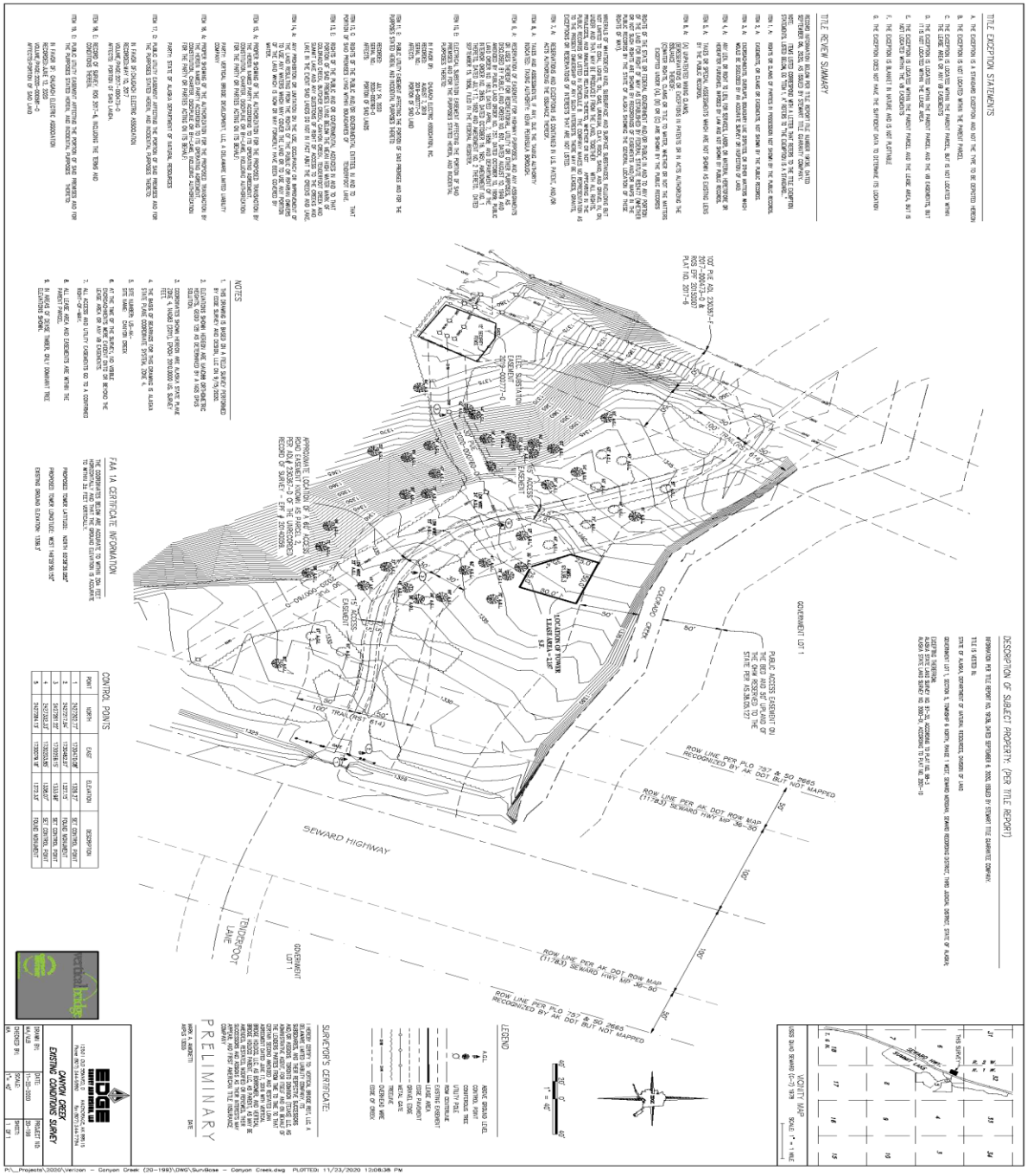


EXHIBIT 3

Memorandum of Lease

(Attached)

(Above 2" Space for Recorder's Use Only)

Prepared by and Return to:
Kenai Peninsula Borough
Attn: Land Management Division
144 N. Binkley Street
Soldotna, AK 99669

Grantor: Kenai Peninsula Borough
Grantee: Vertical Bridge Development, LLC
Legal Description: Attached as Exhibit 1
Tax Parcel ID #: 03525005
Site Name: AK3 Canyon Creek
State: Alaska
Borough: Kenai Peninsula Borough
Recording District: Seward Recording District

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is entered into by and between **KENAI PENINSULA BOROUGH**, an Alaska Municipal Corporation, having a mailing address of 144 N. Binkley St., Soldotna, AK 99669 (hereinafter called "**Lessor**") and **Vertical Bridge Development, LLC,** a Delaware limited liability company, having a mailing address of 750 Park of Commerce Drive, Boca Raton, FL 33487 ("**Lessee**").

1. Lessor and Lessee entered into a certain Communications Site Lease Agreement ("Agreement") on the ____day of _____, 20__, for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The initial lease term will be five (5) years commencing on the Effective Date with four (4) successive automatic five (5) year options to renew.
3. The portion of the land being leased to Tenant ("Premises") and associated easements are described in Exhibit 1 annexed hereto.
4. Lessor and Lessee now desire to execute this Memorandum to provide constructive knowledge of Tenant's lease of the Premises.
5. This Memorandum and Agreement are governed by the laws of the state of Alaska.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LESSOR: The Kenai Peninsula Borough

_____

Charlie Pierce, Mayor

Date: _____

LESSEE:

Vertical Bridge Development, LLC

By: _____

Print Name: _____

Its: _____

Date: _____

LESSEE:

Vertical Bridge Development, LLC

By: _____

Print Name: _____

Its: _____

Date: _____

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____ 20___, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

_____
Notary Public for State of Alaska
My Commission Expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20___, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of Vertical Bridge Development, LLC, a Delaware limited liability company, the Lessee named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Lessee.

_____
Notary Public: _____
My Commission Expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF _____)
) ss:
THIRD JUDICIAL DISTRICT)

On the _____ day of _____, 20___, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of Vertical Bridge Development, LLC, a Delaware limited liability company, the Lessee named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Lessee.

_____
Notary Public: _____
My Commission Expires: _____

EXHIBIT 1 TO MEMORANDUM OF LEASE

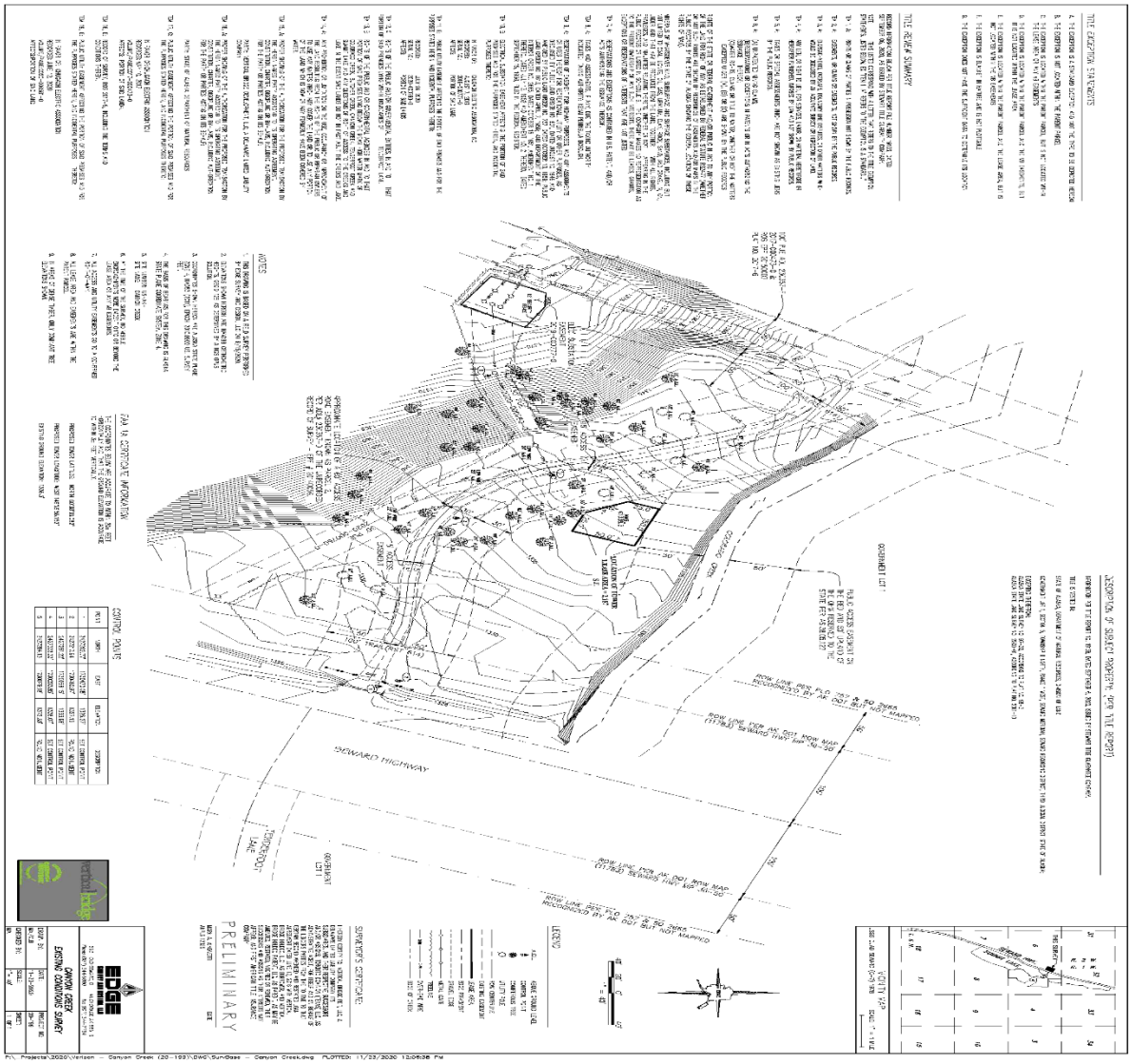
DESCRIPTION OF PROPERTY AND PREMISES

Pursuant to the Memorandum of Lease dated _____, 20__, by and between The Kenai Peninsula Borough, as Lessor, and Vertical Bridge Development, LLC, a Delaware limited liability company, as Lessee.

The Property is legally described as follows:

Govt Lot 1 excluding ASLS 97-32 and ASLS 2000-01, Section 5, Township 6 North, Range 1 West, Seward Meridian, Third Judicial District, State of Alaska.

The Premises are described and/or depicted as follows:



APPENDIX A: LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current**. The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment**. Lease may assign the lands upon which he has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement**. In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the borough may cancel Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation**. This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry**. In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection**. The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste**. The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification**. The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice**. Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default**. Notice of the default will be in writing as provided in paragraph 10 above.

(11) Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or his successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed**. Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent**. In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location**. It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder**. In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation**. The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement**. As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Subleasing**. No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

(19) **Violation**. Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(20) **Written Waiver**. The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

APPENDIX B

SITE SPECIFIC LEASE PROVISIONS

CO-LOCATE RIGHTS RESERVED BY KPB: In addition to paragraph 15 of the Communications Site Lease Agreement (the "Agreement"), the KPB reserves forty (40) vertical feet of tower space. This reservation shall start from twenty (20) feet from the top of the tower structure and descent 40 feet, unless other space is mutually agreed to by the parties (the "Reserved Space"). To the extent this appendix conflicts with paragraph 15 of the Agreement, the terms of this appendix shall control.

The KPB may sublease the Reserved Space to other government agencies or organizations for the purpose of facilitating communications for first responders, disaster management, general government operations, or other public safety uses. The sublessee will provide an inventory of equipment and proposed vertical location to the Lessee for the purposes of ensuring that no interference is likely for the proposed installation. KPB and any sublessee will be responsible for frequency coordination and adherence to all applicable regulations to prevent interference.

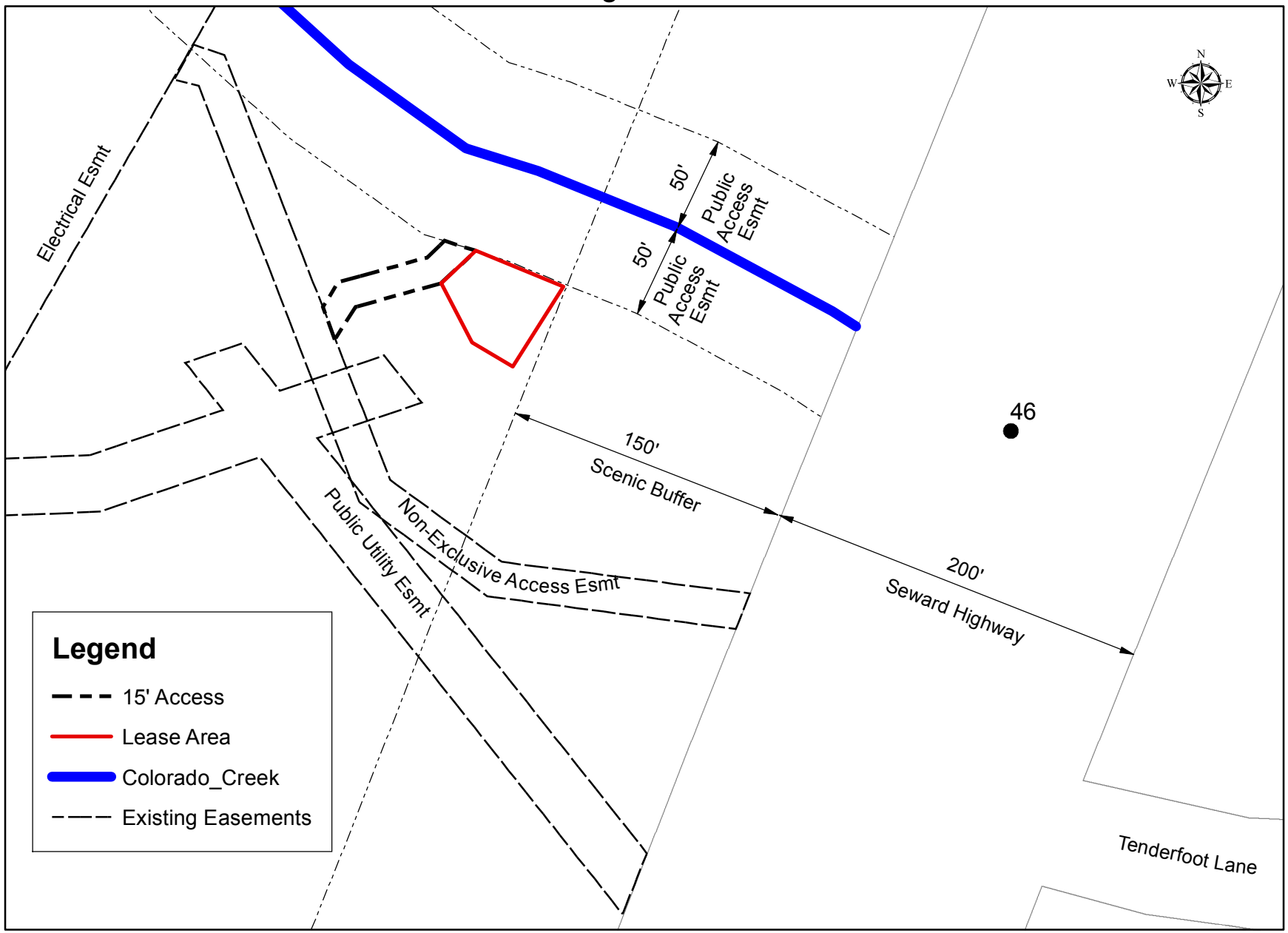
KPB AND SUBLESSEE USAGE: The KPB and any sublessee (the "KPB") may use the Reserved Space for the purposes of providing public safety communications. The KPB may choose to install equipment to provide general government communications, monitoring equipment, and other similar uses. In general, equipment may include, but is not limited, to VHF Radio Frequency (RF) transceivers, RF repeaters, licensed or unlicensed point to point antennas, microwave backhaul, surveillance cameras and other monitoring devices, and associated items that may support conventional or trunked radio systems. All equipment or facilities placed within the Reserved Space or on the Leased Premises shall remain the personal property of the KPB or its sublessee.

INTERFERENCE WITH LESSEE EQUIPMENT: In the event that proposed or installed equipment from the KPB or sublessee interferes with equipment of the Lessee, all parties will work to explore technical solutions or changes to mitigate such interference. If mitigations are not available, the Lessee has the right to deny access to the tower for such equipment. All other provisions of paragraph 15 related to interference remain in effect.

ACCESS: The KPB may establish outdoor equipment cabinets or full equipment shelters on or within the Leased Premises, provided that such facilities do not interfere with similar facilities of the Lessee. Access will only be permitted to the Lessee upon separate mutual agreement. Such premises may have restrictions due to State or Federal policy and regulations, in such event, th3ese regulations will prevail over the lease terms.

RENT: The Reserved Space is free of charge. The KPB is not responsible for any additional or direct rent payment to Lessee for the use of the tower or associated premises. The KPB is responsible for the costs of establishing, maintaining, and removing equipment during the life of this agreement, as well as for any utilities required to maintain KPB equipment.

LMD 20-24; Communications Site Lease Agreement



Applicant: Vertical Bridge Development, LLC
APN: 03525001

LMD 20-24; Communications Site Lease Agreement

Applicant: Vertical Bridge Development, LLC
APN: 03525001

Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Mayor
Melanie Aeschliman, Planning Director
Marcus Mueller, Land Management Officer

FROM: Julie Denison, Land Management Technician

DATE: March 25, 2021

RE: Postponement of Ordinance 2021-11
Option and Communications Site Lease Agreement

Ordinance 2021-11 is scheduled for hearing on April 6, 2021. Additional time is needed to finalize the negotiated terms. We respectfully request that the hearing be postponed until the next assembly meeting on April 20th.

Thank you.

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director

DATE: March 18, 2021

RE: Ordinance 2021-11: An ordinance authorizing a communications site lease agreement with Vertical Bridge Development, LLC

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled March 15, 2020 meeting.

A motion passed by unanimous vote (10 Yes, 0 No, 1 Absent) to recommend approval of Ordinance 2021-11.

In the ordinance, please amend the last WHEREAS statement:

> WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of March 15, 2021 recommended approval by unanimous vote.

Attached are the unapproved minutes of the subject portion of the meeting.

March 15, 2021 Planning Commission Draft Meeting Minutes

AGENDA ITEM E ORDINANCE

5. Ordinance 2021-11: Authorizing a communications site lease agreement with Vertical Bridge Development, LLC.

Staff report given by Marcus Mueller

Vertical Bridge Development, LLC has submitted an application for a lease of borough land in the Summit Lake area for a communication tower site. In 2015, the subject land was approved to the Kenai Peninsula Borough by the State of Alaska under municipal land entitlement ADL 227985. The communications site lease has been negotiated using standard practices.

This ordinance will be brought before the Kenai Peninsula Borough Planning Commission at its March 15, 2021 meeting. The recommendations of the Planning Commission will be provided to the assembly prior to the scheduled hearing on this ordinance.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Ecklund to forward to the Assembly a recommendation to approve Ordinance 2021-11: An ordinance authorizing a communications site lease agreement with Vertical Bridge Development, LLC.

Commissioner Ecklund asked staff if the tower will be camouflaged. Mr. Mueller replied that it would sit off the roadway and would have a 150-foot vegetative buffer. He also noted there was no camouflaging planned for the steel framed tower. Commissioner Ecklund then asked if this tower would sit up high enough to be visible from the road. Mr. Mueller replied that the side of the road where the tower will sit slopes up so it will sit higher than the road and will be visible.

MOTION PASSED: Hearing no discussion or objection, the motion was carried by the following vote.

Yes	10	No	0	Absent	1
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					
Absent	Bentz				

AGENDA ITEM E. ANADROMOUS WATERS HABITATE PROTECTION DISTRICT

6. A Conditional Use Permit is sought pursuant to KPB 21.18 to replace existing twin culverts with a box culvert within the 50-foot Habitat Protection District of the North Fork Anchor River as established in KPB 21.18.081(B)(5). KPB Planning Commission Resolution 2021-07

Staff report given by Nancy Carver

Applicant: Kenai Watershed Forum
44129 Sterling Highway
Soldotna, Alaska 99669

Alaska Resource Solutions, LLC
48460 Lakeside Avenue
Soldotna, Alaska 99669

Project Location: Section 26, T4S R14W, Seward Meridian, HM N1/2 SE1/4 within the Nikolaevsk Road ADOT right-of-way on both banks of the North Fork Anchor River.

KPB Parcel #: 165-200-49

UNAPPROVED

Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-024

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION REFUNDING BONDS, 2011 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2011 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), refunded its Central Kenai Peninsula Hospital Service Area General Obligation Bonds, Series 2003, dated December 18, 2003, with proceeds of its Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011, in the original principal amount of $27,905,000 (the "2011 Bond"); and

WHEREAS, the 2011 Bond was issued pursuant to Borough Resolution 2011-73, adopted by the Assembly on July 5, 2011 (the "Bond Resolution") and purchased by the Alaska Municipal Bond Bank (the "Bond Bank"), based on the terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of September 15, 2011 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2011 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2011 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2011 Bond may be adjusted to reduce debt service on the 2011 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings;

WHEREAS, the Assembly approved Resolution No. 2020-043 on June 16, 2020 (the "Original Resolution") which authorized the Borough's participation in the refinancing; and

WHEREAS, this resolution will supersede in all respects the Original Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1 Approval of Refinancing. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2011 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2011 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2021 Refunding Bond") to be issued in exchange for the 2011 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2011 Bond is refinanced, the 2011 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2011 Bond (the "Exchanged 2011 Bond").

The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2021 Refunding Bond and Exchanged 2011 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2011 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2 Tax Matters. The 2011 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2021 Refunding Bond may be issued on a tax-exempt or taxable basis, as determined by the Mayor or Finance Director. The Exchanged 2011 Bond shall retain its original tax treatment under the Code.

If the 2021 Refunding Bond is issued on a tax-exempt basis: (i) the Borough covenants not to take or omit to take any action that if taken or omitted would cause interest on such Bond to be includable in gross income for federal income tax purposes, and (ii) without limiting the generality of the foregoing, the Borough covenants that it will not take or permit any action that would cause the 2021 Refunding Bond to be a "private activity bond" as defined in Section 141 of the Code. Further, if the 2021 Refunding Bond is issued on a tax-exempt basis, the Borough's bond counsel is hereby authorized to rely on the Borough's tax covenants herein contained and as set forth in related documents.

SECTION 3 General Authorization. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4 Prior Acts. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2011 Bond are hereby ratified and confirmed.

SECTION 5 Resolution Supersedes the Original Resolution. This resolution supersedes the Original Resolution in all respects and all actions taken by the Borough pursuant to the Original Resolution are hereby ratified and confirmed.

SECTION 6 Recitals. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 7 Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2021-024 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 20th day of April, 2021, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of April, 2021.

KENAI PENINSULA BOROUGH 1964

Johni Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB

FROM: Brandi Harbaugh, Finance Director BH

DATE: April 8, 2021

SUBJECT: Resolution 2021- 024, Approving The Kenai Peninsula Borough's Participation in a Proposed Refinancing by the Alaska Municipal Bond Bank of its General Obligation Bonds that Provided Funds to Purchase the Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011 of the Kenai Peninsula Borough, Under a Loan Agreement Between the Kenai Peninsula Borough and the Alaska Municipal Bond Bank; and Authorizing the Kenai Peninsula Borough Mayor or Designee to Approve a Revised Schedule of Principal and Interest Payments on the Kenai Peninsula Borough's 2011 Bond, in Accordance with the Loan Agreement, if the Alaska Municipal Bond Bank Successfully Refinances its Bonds (Mayor)

Due to reductions in long term interest rates, the Alaska Municipal Bond Bank (AMBB) has determined that a portion of the outstanding 2011 Central Peninsula Hospital Bonds could be refinanced, with potential savings to the residents of the Kenai Peninsula Borough of approximately $171,726 in interest over the remaining life of the debt.

The attached resolution authorizes the AMBB to refinance the current outstanding bonds to take advantage of the current lower long-term interest rates.

Introduced by:	Mayor
Date:	06/16/20
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2020-043

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION REFUNDING BONDS, 2011 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2011 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), refunded its Central Kenai Peninsula Hospital Service Area General Obligation Bonds, Series 2003, dated December 18, 2003, with proceeds of its Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011, in the original principal amount of $27,905,000 (the "2011 Bond"); and

WHEREAS, the 2011 Bond was issued pursuant to Borough Resolution 2011-73, adopted by the Assembly on July 5, 2011 (the "Bond Resolution") and purchased by the Alaska Municipal Bond Bank (the "Bond Bank"), based on the terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of September 15, 2011 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2011 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2011 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2011 Bond may be adjusted to reduce debt service on the 2011 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, the Assembly wishes to approve the Borough's participation in this refinancing and to authorize the Borough Mayor or his designee to accept a revised debt service schedule for the 2011 Bond if the Bond Bank successfully refinances the Bond Bank Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1. **Approval of Refinancing**. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2011 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2011 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2020 Refunding Bond") to be issued in exchange for the 2011 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2011 Bond is refinanced, the 2011 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2011 Bond (the "Exchanged 2011 Bond"). The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2020 Refunding Bond and Exchanged 2011 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2011 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2. **Tax Matters**. The 2011 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2020 Refunding Bond may be issued on a tax-exempt or taxable basis, as determined by the Mayor or Finance Director. The Exchanged 2011 Bond shall retain its original tax treatment under the Code.**SECTION 3**. **General Authorization**. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4. **Prior Acts**. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2011 Bond are hereby ratified and confirmed.

SECTION 5. Recitals. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 6. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

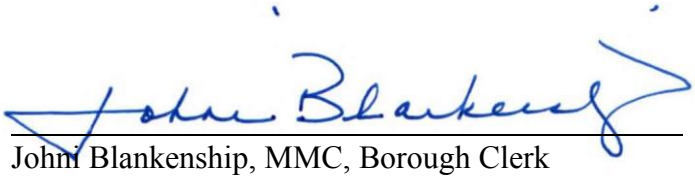
CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2020-043 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 16th day of June, 2020, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2020.



John Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-025

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE BEAR CREEK FIRE SERVICE AREA GENERAL OBLIGATION BONDS, SERIES 2013 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2013 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain capital improvements in the Bear Creek Service Area, issued and sold its Bear Creek Fire Service Area General Obligation Bonds, Series 2013, dated March 12, 2013, in the original principal amount of $1,215,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2012-091 of the Borough adopted on December 4, 2012 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of March 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2013 Series One (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, the Assembly approved Resolution No. 2020-044 on June 16, 2020 (the "Original Resolution") which authorized the Borough's participation in the refinancing; and

WHEREAS, this resolution will supersede in all respects the Original Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1 Approval of Refinancing. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2013 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2013 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2021 Refunding Bond") to be issued in exchange for the 2013 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2013 Bond is refinanced, the 2013 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2013 Bond (the "Exchanged 2013 Bond").

The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2021 Refunding Bond and Exchanged 2013 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2013 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2 Tax Matters. The 2013 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2021 Refunding Bond may be issued on a tax-exempt or taxable basis, as determined by the Mayor or Finance Director. The Exchanged 2013 Bond shall retain its original tax treatment under the Code.

SECTION 3 General Authorization. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4 Prior Acts. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2013 Bond are hereby ratified and confirmed.

SECTION 5 Resolution Supersedes the Original Resolution. This resolution supersedes the Original Resolution in all respects and all actions taken by the Borough pursuant to the Original Resolution are hereby ratified and confirmed.

SECTION 6 Recitals. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 7 Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2021-025 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 20th day of April, 2021, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 22 day of April, 2021.

KENAI PENINSULA BOROUGH 1964

John Blankenship

Johni Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB

FROM: Brandi Harbaugh, Finance Director BH

DATE: April 8, 2021

SUBJECT: Resolution 2021- 025, Approving the Kenai Peninsula Borough's Participation in a Proposed Refinancing by the Alaska Municipal Bond Bank of its General Obligation Bonds that Provided Funds to Purchase the Bear Creek Fire Service Area General Obligation Bonds, Series 2013 of the Kenai Peninsula Borough, Under a Loan Agreement Between the Kenai Peninsula Borough ad the Alaska Municipal Bond Bank; and the Alaska Municipal Bond Bank; and Authorizing the Kenai Peninsula Borough Mayor or Designee to Approve a Revised Schedule of Principal and Interest Payments on the Kenai Peninsula Borough's 2013 Bond, in Accordance with the Loan Agreement, if the Alaska Municipal Bond Bank Successfully Refinances its Bonds (Mayor)

Due to reductions in long term interest rates, the Alaska Municipal Bond Bank (AMBB) has determined that a portion of the outstanding 2013 Bear Creek Service Area Bonds could be refinanced, with potential savings to the residents of the Kenai Peninsula Borough of approximately $52,925 in interest over the remaining life of the debt.

The attached resolution authorizes the AMBB to refinance the current outstanding bonds to take advantage of the current lower long-term interest rates.

Introduced by:	Mayor
Date:	06/16/20
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2020-044

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE BEAR CREEK FIRE SERVICE AREA GENERAL OBLIGATION BONDS, SERIES 2013 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2013 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain capital improvements in the Bear Creek Fire Service Area, issued and sold its Bear Creek Fire Service Area General Obligation Bonds, Series 2013, dated March 12, 2013, in the original principal amount of $1,215,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2012-091 of the Borough adopted on December 4, 2012 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of March 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2013 Series One (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, the Assembly wishes to approve the Borough's participation in this refinancing and to authorize the Borough Mayor or his designee to accept a revised debt service schedule for the 2013 Bond if the Bond Bank successfully refinances the Bond Bank Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1. **Approval of Refinancing**. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2013 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2013 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2020 Refunding Bond") to be issued in exchange for the 2013 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2013 Bond is refinanced, the 2013 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2013 Bond (the "Exchanged 2013 Bond"). The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2020 Refunding Bond and Exchanged 2013 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2013 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2. **Tax Matters**. The 2013 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2020 Refunding Bond may be issued on a tax-exempt or taxable basis, as determined by the Mayor or Finance Director. The Exchanged 2013 Bond shall retain its original tax treatment under the Code.

SECTION 3. **General Authorization**. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4. **Prior Acts**. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2013 Bond are hereby ratified and confirmed.**SECTION 5. Recitals**. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 6. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

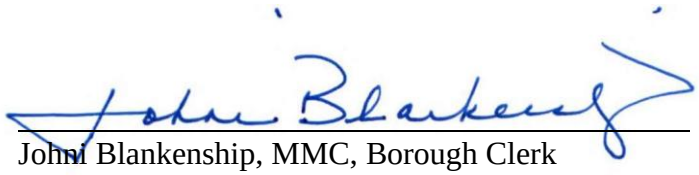
CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2020-044 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 16th day of June, 2020, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2020.



Johni Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-026

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE EDUCATION CAPITAL IMPROVEMENT GENERAL OBLIGATION BOND, SERIES 2013 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2013 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain educational capital improvements, issued and sold its Education Capital Improvement General Obligation Bond, Series 2013, dated November 14, 2013, in the original principal amount of $20,860,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2013-071 of the Borough adopted on October 8, 2013 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of November 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation Bonds, 2013 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings;

WHEREAS, the Assembly approved Resolution 2020-042 on June 16, 2020 (the "Original Resolution") which authorized the Borough's participation in the refinancing; and

WHEREAS, this resolution will supersede in all respects the Original Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1 Approval of Refinancing. The Assembly hereby approves the Borough′s participation in the Bond Bank′s refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2013 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2013 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the ″2021 Refunding Bond") to be issued in exchange for the 2013 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2013 Bond is refinanced, the 2013 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2013 Bond (the "Exchanged 2013 Bond").

The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2021 Refunding Bond and Exchanged 2013 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2013 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2 Tax Matters. The 2013 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2021 Refunding Bond may be issued on a tax-exempt or taxable basis as determined by the Mayor or Finance Director. The Exchanged 2013 Bond shall retain its original tax treatment under the Code.

SECTION 3 General Authorization. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4 **Prior Acts**. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2013 Bond are hereby ratified and confirmed.

SECTION 5 **Resolution Supersedes the Original Resolution**. This resolution supersedes the Original Resolution in all respects and all actions taken by the Borough pursuant to the Original Resolution are hereby ratified and confirmed.

SECTION 6 **Recitals**. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 7 **Effective Date.** This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2021-026 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 20th day of April, 2021, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of April, 2021.

KENAI PENINSULA BOROUGH 1964

John Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB

FROM: Brandi Harbaugh, Finance Director BH

DATE: April 8, 2021

SUBJECT: Resolution 2021- 026, Approving the Kenai Peninsula Borough's Participation in a Proposed Refinancing by the Alaska Municipal Bond Bank of its General Obligation Bonds that Provided Funds to Purchase the Education Capital Improvement General Obligation Bond, Series 2013 of the Kenai Peninsula Borough, Under a Loan Agreement Between the Kenai Peninsula Borough ad the Alaska Municipal Bond Bank; and the Alaska Municipal Bond Bank; and Authorizing the Kenai Peninsula Borough Mayor or Designee to Approve a Revised Schedule of Principal and Interest Payments on the Kenai Peninsula Borough's 2013 Bond, in Accordance with the Loan Agreement, if the Alaska Municipal Bond Bank Successfully Refinances its Bonds (Mayor)

Due to reductions in long term interest rates, the Alaska Municipal Bond Bank (AMBB) has determined that a portion of the outstanding 2013 School Bond could be refinanced, with potential savings to the residents of the Kenai Peninsula Borough of approximately $913,037 in interest over the remaining life of the debt.

The attached resolution authorizes the AMBB to refinance the current outstanding bonds to take advantage of the current lower long-term interest rates.

Introduced by:	Mayor
Date:	06/16/20
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2020-042

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE EDUCATION CAPITAL IMPROVEMENT GENERAL OBLIGATION BOND, SERIES 2013 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2013 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain educational capital improvements, issued and sold its Education Capital Improvement General Obligation Bond, Series 2013, dated November 14, 2013, in the original principal amount of $20,860,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2013-071 of the Borough adopted on October 8, 2013 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of November 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation Bonds, 2013 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, the Assembly wishes to approve the Borough's participation in this refinancing and to authorize the Borough Mayor or his designee to accept a revised debt service schedule for the 2013 Bond if the Bond Bank successfully refinances the Bond Bank Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1. **Approval of Refinancing**. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2013 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2013 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2020 Refunding Bond") to be issued in exchange for the 2013 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2013 Bond is refinanced, the 2013 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2013 Bond (the "Exchanged 2013 Bond"). The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2020 Refunding Bond and Exchanged 2013 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2013 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2. **Tax Matters**. The 2013 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2020 Refunding Bond may be issued on a tax-exempt or taxable basis as determined by the Mayor or Finance Director. The Exchanged 2013 Bond shall retain its original tax treatment under the Code.

SECTION 3. **General Authorization**. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4. **Prior Acts**. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2013 Bond are hereby ratified and confirmed.

SECTION 5. Recitals. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 6. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

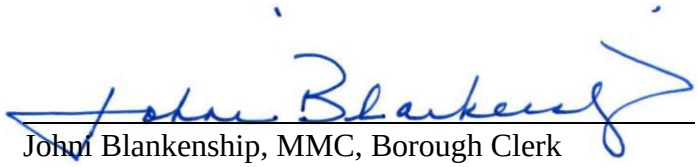
CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2020-042 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 16th day of June, 2020, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2020.



Johni Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-027

A RESOLUTION ACCEPTING FITNESS EQUIPMENT FROM THE NIKISKI FIREFIGHTERS ASSOCIATION, INC. ON BEHALF OF NORTH PENINSULA RECREATION SERVICE AREA

WHEREAS, the North Peninsula Recreation Service Area ("NPRSA") received a donation of fitness equipment provided through the Nikiski Firefighters Association, Inc.; and

WHEREAS, miscellaneous weightlifting equipment was purchased for NPRSA valued at $6,382.50; and

WHEREAS, at its regularly scheduled meeting held March 22, 2021, the NPRSA Board recommended acceptance of the equipment valued at $6,382.50;

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

SECTION 1. That the Mayor is authorized to accept the fitness equipment valued at $6,382.50 from the Nikiski Firefighters Association, Inc. on behalf of the North Peninsula Recreation Service Area.

SECTION 2. This resolution shall become effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB
Brandi Harbaugh, Finance Director BH
Rachel M. Parra, Recreation Director RP

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager BA

DATE: April 8, 2021

RE: Resolution 2021-027, Accepting Fitness Equipment from the Nikiski Firefighters Association, Inc. on Behalf of North Peninsula Recreation Service Area (Mayor)

The Nikiski Firefighters Association ("NFA"), Inc. received a donation from Mr. Joseph Nightingale, a Nikiski resident, to purchase fitness equipment that supports the North Peninsula Recreation Service Area's (NPRSA) mission. This memo recognizes that the service area will accept the items in the attached list from the NFA. There is no match requirement.

The NFA and NPRSA often collaborate on community events and programs. NPRSA uses NFA as their nonprofit 501C3.

During the regular meeting of the NPRSA on March 22, 2021, the service area board unanimously recommended acceptance of the fitness equipment. The equipment will be used to enhance the current fitness facility.

Alaska Fitness Equipment
5201 E Tudor Road
Anchorage, AK 99507 US
(907) 205-9773
Rdeckard@alaskafitnessequipment.com
www.AlaskaFitnessEquipment.com

Sales Estimate

ADDRESS
Joe Nightingale Hilcorp

SALES ESTIMATE #	DATE
01292021/Hilcorp_v5	02/09/2021

PLEASE DETACH TOP PORTION AND RETURN WITH YOUR PAYMENT.

ACTIVITY	QTY	RATE	AMOUNT
ORST455 Rubber/Hand Grip/Oly Plate 455LBS	1	1,046.50	1,046.50
GWT66 Body Solid X Factor Weight Tree • 2"x3" and 2"x4" heavy gauge steel frame Chrome plated weight posts • 8- 9" weight posts • Spacing permits any size bumper or Olympic plate on any post • No plastic, welded metal foot caps and end caps	1	242.00	242.00
SPR500BACK Body Solid ProClub Line Commerical Half Rack w/ rear extension (4 weight horns included)	1	1,134.00	1,134.00
OB86EXT Body Solid CHICAGO EXTREME BAR • Shaft-black zinc & sleeves-hardened chrome • 28mm Knurl, dual knurl-no center knurl • 4 x Needle Bearing pivot • 1500lb Wght Cap, 205,000 PSI Tensile Strength • 16.25" loadable sleeve length	1	286.00	286.00
OB47B Body Solid Oly Curl Bar-47", Black	1	81.50	81.50
SFID325b Adjustable bench	1	572.00	572.00
SPRDIP dip attachment	1	220.00	220.00
GDR60 Body Solid Dumbbell Rack	1	280.00	280.00
SDR10 Body Solid Rubber Hex 10LB Dumbbell	2	22.00	44.00
SDR15 Body Solid Rubber Hex 15LB Dumbbell	2	33.00	66.00
SDR20 Body Solid Rubber Hex 20LB Dumbbell	2	44.00	88.00

Alaska Fitness Equipment is the only authorized vertical market commercial dealer of new Precor fitness products/services in Alaska; i.e. corporations, hotels, multi-housing, schools, small personal training studios, medical, and municipalities. Any purchase of Precor products for these applications made through any dealer besides Alaska Fitness Equipment may have their warranty null and void.

ACTIVITY	QTY	RATE	AMOUNT
SDR25 Body Solid Rubber Hex 25 Lb. Dumbbell	2	55.00	110.00
SDR30 Body Solid Rubber Hex 30LB Dumbbell	2	66.00	132.00
SDR35 Body Solid Rubber Hex 35 Lb.Dumbbell	2	77.00	154.00
SDR40 Body Solid Rubber Hex 40LB Dumbbell	2	88.00	176.00
SDR45 Body Solid Rubber Hex 45LB Dumbbell	2	99.00	198.00
SDR50 Body Solid Rubber Hex 50 Lb. Dumbbell	2	110.00	220.00
OC06PR Body Solid Olympic Spring Collar (pair)	1	11.50	11.50
Freight/Shipping Shipping estimate to Anchorage, AK. Note: Freight cost is an estimate and will be adjusted accordingly when final shipping charges are received and applied; plus a 15% handling fee.	1	1,321.00	1,321.00

Freight cost is an estimate and will be adjusted accordingly when final shipping charges are received and applied.

TOTAL **$6,382.50**

Installation amounts are estimates only and will be adjusted accordingly upon completion.

PAYMENT TERMS:
Existing Customers: NET30 Terms. Purchase limit varies per customer.
New Customers: Alaska Fitness Equipment requires a 50% deposit upon receipt of purchase order; the remaining balance is due upon receipt of product(s) and/or completion of installation.
Please note: A monthly late charge (0.875% of remaining balance) is accrued for each 30 days past due.

Accepted By

Accepted Date

Alaska Fitness Equipment is the only authorized vertical market commercial dealer of new Precor fitness products/services in Alaska; i.e. corporations, hotels, multi-housing, schools, small personal training studios, medical, and municipalities. Any purchase of Precor products for these applications made through any dealer besides Alaska Fitness Equipment may have their warranty null and void.

Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-028

A RESOLUTION INCREASING THE NUMBER OF BOROUGH PERSONNEL IN THE 911 COMMUNICATIONS CENTER USING AVAILABLE FY2021 FUNDS

WHEREAS, the Kenai Peninsula Borough ("Borough") is in negotiations with the State of Alaska ("State") and other local municipalities to transition the 911 communications center operations to an entirely Borough staffed 911 communications center; and

WHEREAS, to minimize impact on incumbent State 911 dispatchers a transition plan has been undertaken to replace State employees with Borough employees through attrition as they vacate; and

WHEREAS, KPB 3.04.100 provides the assembly shall authorize all positions of employment in the classified service either through the annual budget or by resolution; and

WHEREAS, two current State employees are anticipated to vacate their 911 communications center positions within the next 30 days; and

WHEREAS, filling the vacancies is critical to the continued operations of the 911 communications center; and

WHEREAS, the recruiting and training for a 911 dispatcher can require a year to complete; and

WHEREAS, funding to include two additional 911 dispatch employees is available with existing funds in an amount of up to $36,648.89; and

WHEREAS, funding to support the continued employment of the additional personnel will be secured through the negotiated contract with the State and other local municipalities;

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

SECTION 1. That the Kenai Peninsula Borough Assembly authorizes two new borough 911 dispatch positions and authorizes the use of up to $36,648.89 in available FY2021 funds to support an increase of personnel for the remainder of FY2021 as requested by the Mayor's Office in support of the 911 communication center.

SECTION 2. This resolution shall become effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB

FROM: Kim Saner, Human Resources Director KS
Tammy Goggia, Emergency Management Coordinator TG

DATE: April 8, 2021

RE: Resolution 2021-028, Increasing the Number of Borough Personnel in the 911 Communications Center Using Available FY202 1 Funds (Mayor)

The Soldotna Public Safety Communication Center (SPSCC) is a state-of-the-art emergency communications center owned and operated by the Kenai Peninsula Borough (KPB), providing comprehensive, consolidated dispatch services to multiple user agencies.

Since 2006, the SPSCC has been physically located at the KPB owned Emergency Response Center. Historically, SPSCC has been staffed with both KPB and Department of Public Safety (DPS) employees.

Beginning in the fall of 2019, the KPB has been working in partnership with the DPS to transition the nine state employees to KPB employment. There are currently four remaining DPS employees working at SPSCC, two of whom have given notice they will be leaving employment in the near future. In an effort to effectively meet the mission critical public safety communications needs as we enter into the summer months and busiest time of the year, we request approval to fill two of the imminent vacancies.

Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-029

A RESOLUTION APPROVING TWENTY-SEVEN UNINCORPORATED COMMUNITIES FOR PARTICIPATION IN THE STATE'S FISCAL YEAR 2022 COMMUNITY ASSISTANCE PROGRAM

WHEREAS, the Community Assistance Program ("CAP") as governed by AS 29.60.865 and 3 AAC 180.010 require the assembly of a borough or unified municipality to adopt a resolution identifying those unincorporated communities located within their municipal boundaries that the assembly determines meet the CAP eligibility criteria established under AS 29.60.865, AS 29.60.879, and 3 AAC 180.110; and

WHEREAS, AS 29.60.865 requires the unincorporated community to have either a native village council or incorporated nonprofit entity within its boundaries that will agree to receive and spend the CAP payment for the public benefit of the unincorporated community; and

WHEREAS, AS 29.60.865(a) requires eligible native village councils must be willing to waive immunity from suit for claims arising out of activities of the council related to the payment; and

WHEREAS, AS 29.60.865(c) requires that at least three of the following services be available to all residents of the unincorporated community: fire protection, emergency medical, water and sewer, solid waste management, public road or ice road maintenance, public health, and search and rescue, and that each of the three services, in any combination, be provided by one or more qualifying incorporated nonprofit entity or a native village council, or are substantially paid for by the residents of the unincorporated community through taxes, charges, or assessments levied or authorized by the borough; and

WHEREAS, AS 29.60.879(1) requires the unincorporated community to have 25 or more residents residing as a social unit as defined under 3 AAC 180.110;

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

SECTION 1. That the assembly hereby determines that the following 27 unincorporated communities and their respective native village council or incorporated nonprofit entity are eligible for funding under the state's fiscal year 2022 Community Assistance Program:

Unincorporated Community	Possible Community Recipient
Anchor Point	Anchor Point Cemetery Anchor Point Chamber of Commerce Anchor Point Safewater Corporation Anchor Point Public Library Anchor Point Senior Citizens Anchor Point Volunteer Fire & EMS Kachemak Gun Club Snomads, Inc.
Bear Creek	Bear Creek Volunteer Fire & EMS
Clam Gulch	Caribou Hills Cabin Hoppers
Cohoe	Kasilof Community Library (located in Cohoe) Boys & Girls Club of the Kenai Peninsula
Cooper Landing	Cooper Landing Community Club
Crown Point	Moose Pass Volunteer Fire Co. (Crown Point Unit)
Diamond Ridge	Homer Cycling Club Kachemak Nordic Ski Club Kachemak Ski Club Snomads, Inc.
Fritz Creek	Kachemak Nordic Ski Club McNeil Canyon Elementary School Community Council, Inc. Snomads, Inc.
Funny River	Funny River Chamber of Commerce
Hope	Hope, Inc.
Kachemak Selo Village	Village of Kachemak Selo Water Co., Inc.
Kalifornsky	Cook Inlet Aquaculture Association Kenai Peninsula Food Bank Love, Inc. Bridges *dba* Peninsula Spay/Neuter Fund Tsalteshi Trails Association
Kasilof	Kasilof Regional Historical Association Kasilof-Cohoe Cemetery Assoc.
Lowell Point	Lowell Point Community Council
Moose Pass	Moose Pass Volunteer Fire Co. Moose Pass Chamber of Commerce & Visitor Bureau Moose Pass Sportsmen's Club
Nanwalek	Nanwalek IRA Council Project GRAD Chugachmiut, Inc.
Nikiski	North Peninsula Community Council Nikiski Senior Citizens, Inc.
Nikolaevsk	Nikolaevsk, Inc.
Ninilchik	Kenai Peninsula Fair Association Ninilchik Community Library Bridges *dba* Ninilchik Saturday Lunch Program Ninilchik Senior Citizens
Primrose	Moose Pass Volunteer Fire Co. (Primrose Unit)

Unincorporated Community	Possible Community Recipient
Port Graham	Port Graham Village Council
Razdolna Village	Village of Razdolna, Inc.
Salamatof	Alaska Children's Institute of the Performing Arts
Seldovia Village	Seldovia Village Tribe
Sterling	Sterling Community Club Sterling Area Senior Citizens Sterling RuralCAP Headstart Program
Tyonek	Boys & Girls Clubs of Southcentral Alaska
Voznesenka Village	Voznesenka Community Council, Inc. Project GRAD

SECTION 2. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB
Brandi Harbaugh, Finance Director BH

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager BA

DATE: April 8, 2021

RE: Resolution 2021-029, Approving Twenty-Seven Unincorporated Communities for Participation in the State's Fiscal Year 2022 Community Assistance Program (Mayor)

The Community Assistance Program provides state funding for unincorporated communities to complete public projects or services through nonprofit or tribal entities that agree to be the fiduciary.

The borough is tasked with annually evaluating the eligibility of unincorporated communities, ensuring that communities meet the required program regulations as outlined in the Alaska Administrative Code and Alaska Statute Title 29.

Eligibility requirements are abridged as follows:

1. Minimum population of 25 persons.

2. Must provide 3 of 7 services paid for by tax levy, the Native or nonprofit entity:
   - ✓ Fire protection
   - ✓ Emergency medical
   - ✓ Water/sewer
   - ✓ Solid waste management
   - ✓ Public road/ice road maintenance
   - ✓ Public health
   - ✓ Search & rescue

3. Native or incorporated nonprofit *within* the community willing to be the fiscal agent and providing the program or product to the public.

This resolution will recognize twenty-seven unincorporated communities and entities eligible to participate in the 2021/2022 Community Assistance Program, which must be submitted with the borough's application to the State of Alaska. The estimated amount to be allocated to each community is undetermined at this time.

The Community & Fiscal Project Manager will oversee the program.

Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-030

A RESOLUTION ACCEPTING EMERGENCY RESPONSE EQUIPMENT FROM THE SOUTHERN REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC., ON BEHALF OF ANCHOR POINT FIRE & EMERGENCY MEDICAL SERVICE AREA AND RECOGNIZING THE TRANSFER OF ASSETS TO THE WESTERN EMERGENCY SERVICE AREA

WHEREAS, Anchor Point Fire & Emergency Medical Service Area (APFEMSA) submitted an application under the Southern Region Emergency Medical Services Council, Inc. (Southern Region) phase 17 and phase 20 application periods for equipment grants; and

WHEREAS, the Southern Region notified APFEMSA that the applications to purchase a transport insert stretcher system and the power gurney system were approved; and

WHEREAS, Southern Region purchased the equipment and contributed $9,835.25 using state funding sources; and

WHEREAS, APFEMSA provided the local matching funds of $515 for the transport insert stretcher system through FY20 operational funds; and

WHEREAS, APFEMSA provided the local matching funds of $18,637.75 for the power gurney system through FY20 operational funds; and

WHEREAS, the APFEMSA was recently expanded and renamed the Western Emergency Service Area; and

WHEREAS, at its regularly scheduled meeting held April 14, 2021, the Western Emergency Service Area Board recommended approval by unanimous consent of the equipment grant transfer from APFEMSA;

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

SECTION 1. That the Mayor is authorized to accept the emergency response equipment valued at $28,988 from the Southern Region Emergency Medical Services Council, Inc., on behalf of the Western Emergency Service Area.

SECTION 2. That matching funds in the amount of $515.00 was expended from FY20 account no. 209.51410.00000.48515 for the transport insert stretcher system.

SECTION 3. That matching funds in the amount of $18,637.75 was expended from FY20 account no. 209.51410.20GUR.48515 power gurney system.

SECTION 4. This resolution shall become effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

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Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB
Brandi Harbaugh, Finance Director BH
Jon Marsh, Western Emergency Services Fire Chief JM

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager BA

DATE: April 8, 2021

RE: Resolution 2021-030, Accepting Emergency Response Equipment from the Southern Region Emergency Medical Services Council, Inc. on Behalf of the Anchor Point Fire & Emergency Medical Service Area and Recognizing the Transfer of Assets to the Western Emergency Service Area (Mayor)

Southern Region Emergency Medical Services Council, Inc., ("Southern Region") is a nonprofit corporation that serves as a resource center for emergency medical response agencies located in low to moderate income, rural communities.

Anchor Point Fire & Emergency Medical Service Area (APFEMSA) received notification from Southern Region for purchase of equipment under the Code Blue program. The approved equipment included one transport insert, stretcher system for an all-terrain vehicle response unit and one power gurney unit. Southern Region purchased the equipment on behalf of the service area; however, APFEMSA experienced delivery delays due to the pandemic.

APFEMSA provided the match requirement; the match amounts vary for each purchase because Southern Region had limited funding available (see chart below). As the APFEMSA recently expanded and is now the Western Emergency Service Area ("WESA"), the WESA service area board will make recommendations on accepting the equipment at its April 14, 2021 meeting.

Code Blue Equipment Grant	Total	Match	Received	Account No.
Phase 17 - transport insert stretcher system	$3,350	$515.00	06/2020	209.51410.00000.48515
Phase 20 - power gurney system	$25,638	$18,637.75	02/2021	209.51410.20GUR.48515

Attachment: SREMSC notification letter. Chief Marsh will oversee grant requirements for equipment inventory and maintenance.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Michele Turner, Deputy Borough Clerk (MT)

DATE: April 20, 2021

RE: Resolution 2021-030: Accepting Emergency Response Equipment from the Southern Region Emergency Medical Services Council, Inc. on Behalf of the Anchor Point Fire & Emergency Medical Service Area and Recognizing the Transfer of Assets to the Western Emergency Service Area (Mayor)

The Western Emergency Service area board addressed the referenced resolution. Please amend the final Whereas clauses to read:

"**WHEREAS,** at its regularly scheduled meeting held April 14, 2021, the Western Emergency Service Area Board recommended approval by unanimous consent of the equipment grant transfer from APFEMSA;"

Thank you.

Southern Region EMS Council
Anchorage, Alaska
Mission: Improve the quality, availability and sustainability of emergency patient care

6130 Tuttle Place, Suite B, Anchorage, AK 99507-7102
(907) 562-6449 FAX: (907) 562-9893 www.sremsc.org

April 23, 2020

John Marsh, Chief
Anchor Point Fire & EMS
PO Box 350
Anchor Point, AK 99556

RE: Code Blue Phase 20

Dear Chief Marsh:

The following information was previously sent to your agency however, the Code Blue Phases under which the items will be funded were backwards. I have highlighted the correct funding phase in "yellow" to clarify. Our Finance Manager, Julie Pannone, has contacted Cassie directly via telephone today to let her know of the discrepancy.

The Code Blue Phase 19 equipment requests submitted by your agency for consideration have gone through a rigorous review process. There have been multiple review steps along the way, which include Southern Region staff, Board of Directors Equipment Review Committee, the Southern Region Board of Directors, and finally the Statewide Code Blue Steering Committee.

The portion of funding we receive from the State via the Governor's Capital Equipment bill for this phase was vetoed by the Governor. The Code Blue Steering Committee approved to move all approved projects from this phase as priorities into Phase 20. The Governor has put funding back into the budget for FY21 and if the legislation is signed, we hope to receive funding sometime in September 2020. Once we have been notified, we will be contacting you to see if you still need the items and if you still have the community match available.

There were leftover funds from previous phases of which some of your projects may have been moved into. It will be noted below if any of your projects were moved into this phase. If that was the case, we will be contacting you soon regarding the purchasing process.

If your item is listed below as ***Approved***, your project(s) are on the State Code Blue Equipment list and pending grant processes. If it is ***Changed***, it was altered within the review process and an explanation will be detailed below. If it is listed as ***Not Funded***, it will not be considered in this Code Blue phase and an explanation will be detailed below.

Item	Status	Local Match	STATE	UNMET	Total
Medlite Transport Insert	Approved	$ 335.00	$3,015	$ 0.00	$ 3,350 **Funded under PH17**
Stretcher Power Load System	Approved	$2,563.80	*$7,000	$16,074.20	$25,638 **Funded under PH20**

*maximum funding allowed

Thank you for all you do for EMS in Alaska. At Southern Region, we are working hard to support you in every way that we can.

Sincerely,

Michael M. Forcier, CEO

CC: Ryon Turley, Subarea Coordinator

From:	Parkinson, Cassandra
To:	Ahlberg, Brenda
Subject:	FW: <EXTERNAL-SENDER>Code Blue Grant
Date:	Tuesday, April 06, 2021 1:48:27 PM

From: Julie Pannone <jpannone@sremsc.org>
Sent: Thursday, April 16, 2020 2:07 PM
To: Parkinson, Cassandra <CParkinson@kpb.us>
Subject: RE: <EXTERNAL-SENDER>Code Blue Grant

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Cassie,

I am sure you have been busy but did you get an answer on if Anchor Point has the money to purchase the Code Blue item listed below?

Let me know.

Thank you,
Julie

Julie Pannone
Finance Manager
Southern Region EMS Council
907-562-6449
jpannone@sremsc.org

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From: Parkinson, Cassandra <CParkinson@kpb.us>
Sent: Monday, March 23, 2020 10:09 AM
To: Julie Pannone <jpannone@sremsc.org>
Subject: RE: <EXTERNAL-SENDER>Code Blue Grant

Julie,

Talked with Chief about this. There is a budget meeting with the Mayor today and
He (chief) is going to verify with him about purchasing this item. So, I will send you an email
Tomorrow after the budget meeting and let you know if all is a go for this fiscal year.

Thx for all you do,
Cassie

From: Julie Pannone [mailto:jpannone@sremsc.org]
Sent: Friday, March 20, 2020 3:46 PM
To: Parkinson, Cassandra <CParkinson@kpb.us>
Cc: Marsh, Jon <JMarsh@kpb.us>
Subject: <EXTERNAL-SENDER>Code Blue Grant
Importance: High

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Cassie,

You may or may not have received your Code Blue Grant award letter but I wanted to check with you on the one item that we currently have funding for: Stretcher Power Load System & Upgrade Kit. The quote you submitted with your application was for $25,638, the State award is for $7,000, leaving Anchor Point Fire with a balance of $16,074.20. Before I go out to get current quotes I need to know if you still need the item and still have the funding for your portion.

Please let me know at your earliest convenience.

Thank you,
Julie

Julie Pannone
Finance Manager
Southern Region EMS Council
907-562-6449
jpannone@sremsc.org

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Introduced by:	Mayor
Date:	04/20/21
Action:	Adopted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-031

A RESOLUTION APPROVING AN INTERGOVERNMENTAL COOPERATIVE FIRE PROTECTION AGREEMENT BETWEEN THE STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF FORESTRY, AND THE KENAI PENINSULA BOROUGH ON BEHALF OF THE WESTERN EMERGENCY SERVICE AREA

WHEREAS, pursuant to AS 41.15.010, *et seq.*, the State of Alaska is responsible for the protection of natural resources and watersheds on all state, private, and municipal lands; and

WHEREAS, pursuant to Title 16 of the Kenai Peninsula Borough Code of Ordinances, the borough is responsible for fire protection within its fire service area boundaries; and

WHEREAS, an intergovernmental cooperative agreement has been negotiated between the borough and the State of Alaska, Department of Natural Resources, Division of Forestry, in order to provide more comprehensive fire protection from wildland fires to protect persons within the service area; and

WHEREAS, Alaska Statute 18.70.150 provides that "A city, other incorporated entity, and other fire protection groups may organize a mutual-aid program by adopting an ordinance or resolution authorizing and permitting their fire department, fire company, emergency relief squad, fire police squad, or fire patrol to go to the aid of another city, incorporated entity, or fire protection group, or territory outside of it; and

WHEREAS, the borough administration has examined the proposed agreement and has concluded that it should be adopted by the assembly; and

WHEREAS, at its regularly scheduled meeting held on April 14, 2021, the Western Emergency Service Area Board recommended approval by unanimous consent;

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

SECTION 1. That the Cooperative Fire Protection Agreement between the State of Alaska, Department of Natural Resources, Division of Forestry, and the Kenai Peninsula Borough on behalf of the Western Emergency Service Area is adopted, and the mayor, or his designee, is authorized to enter this agreement.

SECTION 2. That the 2021 Annual Operating Plan format is approved, and the mayor, or his designee, is authorized to execute the 2021 Annual Operating Plan, and authorized to execute future annual operating plans substantially in this format after considering recommendations by service area board.

SECTION 3. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

2021

Annual Operating Plan

State of Alaska, Department of Natural Resources, Division of Forestry and Cooperator Fire Departments

Area: **Kenai-Kodiak Area Forestry**
42499 Sterling Highway
Soldotna, AK 99669

Fire Department: **Western Emergency Service Area**
72440 Milo Fritz Ave.
Anchor Point, AK 99556

Sections

A. Fire Response and Notification Procedures in the FD Service Area
B. Discretionary Response Procedures
C. Communications
D. Command
E. Fire Reports and Reporting
F. Prepositioning
G. Investigation Procedures
H. Prevention
I. Training Standards and Physical Fitness
J. Fire Department IMT and National Participation
K. Fire Stores/Equipment
L. Operating Procedures

Purpose

The Annual Operating Plan (AOP) is a supplement to the Cooperative Fire Protection Agreement (CFPA) and outlines the procedures to be followed in this agreement. The CFPA implements the intent of AS 41.15.010 - 41.15.170 to provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on forested land that is owned privately, by the state, or by a municipality. It is also recognized by the Cooperator (FD) that an obligation exists to provide protection to life and property from wildland fires within their area of responsibility, subject to available resources, funding, and personnel. Therefore, it is to the mutual advantage of the FD's and the State of Alaska to coordinate efforts in the prevention, detection, and suppression of wildland fires. It is in the best interests of both the FD's and the State of Alaska to suppress wildland fires quickly and efficiently to minimize the destruction of natural resources and threat to life and property.

A. Fire Response and Notification Procedures in the FD Primary Service Area

1. Within a FD's Primary Service Area, State of Alaska Division of Forestry (Forestry) will generally not respond to wildland fires after normal work shift during Low or Moderate Fire Danger Levels listed in the Fire Staffing and Action Guide. This section does not preclude a FD from requesting Forestry assistance on any wildland incident that exceeds the capability of their resources for control.
2. Upon receipt of an incoming call for a wildland fire within State's protection area, the FD's Dispatch Center will contact local Area Forestry Dispatch or the Area Forestry Duty Officer to forward fire information.
3. The FD's Senior Fire Officer (SFO) will notify Forestry, either through the State's primary radio frequency (ALMR) or call local Area Forestry Dispatch for any response to a wildland fire within the FD's primary response area. The FD's SFO may instruct their dispatch center to make this call to Forestry at the time of dispatch.

B. Discretionary Response Procedures

1. Within the FD's Primary Response Area: Forestry is responsible for FD costs after a fire has been contained and Forestry assumes single command of the wildland fire. At that time, specific requests for FD apparatus and personnel to remain on scene by the Incident Commander (IC) will be eligible for compensation. Forestry is responsible for FD costs for fires that go beyond the first operational period, also referred to as extended attack fires. When extended attack fires occur, the Forestry IC will determine apparatus and personnel necessary to complete the objectives of the incident. Only apparatus and personnel determined necessary by the IC will be compensated back from the original time of dispatch.
2. The FD's Fire Chief will be contacted prior to apparatus or staff responding to Discretionary Response inside or outside FD's response area by the Forestry FMO or Area Forester.
3. Outside of the Primary Response Area: When requesting a discretionary response outside the FD's service area, Forestry FMO will contact the Fire Chief who will notify their appropriate dispatch office. The decision of accepting a discretionary response request is at the sole discretion of the Fire Chief. In accordance with their department's policy, the Fire Chief will make all appropriate notifications prior to the acceptance of the discretionary response request. When requesting a FD's discretionary response, Forestry will designate the type and number of apparatus or equipment needed. If available and with FMO and Fire Chief approval, a department SFO may accompany the

unit(s). Forestry is solely responsible for costs associated with Discretionary Responses.

C. Communications

1. For multiple agency response and helicopter communications, Tactical Frequencies are recommended for initial contact only. Incident frequencies will be established and coordinated by responding agencies once on scene and reported back to local Area Forestry Dispatch. Responding units may contact the FD dispatch as a back-up for the communications plan.
2. On scene communications between ground forces and any aircraft will be routed through a single point Forestry contact as designated by the incident commander. The primary frequency for aircraft communication is State Air to Ground channels (A/G1 or A/G2).

D. Command

1. Upon arrival at a wildland fire incident, the first unit on the scene establishes command until it is determined that a unified command is needed.
2. Upon transfer of command by a FD Incident Commander, a Forestry Incident Commander must be established as either Unified or Single Command when Forestry resources remain on scene. This command change must be documented by calling local Area Forestry Dispatch with notification of change.
3. Forestry will maintain control of all Forestry contracted aviation resources.

E. Fire Reports and Reporting

1. FD's will provide Forestry with a copy of:
   - Incident map
   - Alaska National Fire Incident Reporting System (ANFIRS) report with a narrative stating pertinent information and suspected cause.
   - Email ANFIRS report to local Area Forestry Dispatch within 48 hours of the incident being called out.

F. Prepositioning

1. Forestry will provide the FD with a daily fire danger rating and hours of availability during fire season.
2. Forestry Dispatch will always have discretion when assigning Forestry resources and can direct them to a higher priority fire at any time.
3. Local Area Forestry Offices and local FD's may establish different protocols and procedures for prepositioning. Differences in preposition procedures need to be established prior to the start of fire season.

G. Investigation Procedures

1. Upon arrival at a wildland fire incident, the first arriving units on the scene shall establish a chain of custody on scene, secure any suspected fire origin areas from encroachment or tampering, protect evidence in place and identify any potential witnesses and/or suspects prior to the arrival of Forestry. Forestry will provide fire investigators to determine the cause of wildland fires. The request for an investigator must be placed early in the incident and every effort must be made to protect the point of origin of the fire until the investigator arrives on scene to begin a formal investigation.

2. During the established wildland fire season, the FD, if they are the first arriving agency on an incident, will establish and maintain a chain of custody for both escaped or non-escaped fires which may involve any potential violations of State wildland fire protection laws under AS 41.15 and/or 11 AAC 95. This chain of custody shall be maintained until transferred by the FD to Forestry. In the event the FD has insufficient resources to maintain a chain of custody due to fire activity or staffing, they shall be responsible for documenting the incident, both in writing and pictures, prior to departing. Investigation information shall be provided to Forestry as soon as possible.

3. The FD may be requested to assist or provide information to Forestry for both escaped and non-escaped fires that may be in violation of State wildland fire protection laws under AS 41.15 and/or 11 AAC 95. Should criminal or civil legal action be taken by Forestry against a party for violation of State wildland fire protection laws under AS 41.15 and/or 11 AAC 95, the FD may be required to provide additional information and/or be called to testify in court on Forestry's behalf. The FD and Forestry may establish a separate agreement for any costs that would be incurred to either party should this occur.

4. The FD may not enforce, through verbal or written warnings or citation, State wildland fire protection laws under AS 41.15 and/or 11 AAC 95 unless the FD has collateral law enforcement duties and has been granted authority to undertake such actions.

H. Prevention

1. The statewide Wildland Fire Prevention Program Office coordinates all wildland fire public education outreach, engineering, investigation and enforcement efforts on all lands under Forestry's statutory authority. Area specific Wildland Prevention programs are managed by local Area Forestry Offices. The FD may assist Forestry with public education about wildland fire prevention, permitted burning, safe burning practices and providing them with Forestry approved public education materials where available.

2. When requested, Forestry will assist with FD fire prevention programs contingent on staff availability and fire activity.

3. Forestry has authority under Sec. 41.15.060 to establish and maintain burn permit requirements on all State, municipal and private forested lands. FD's under 11 AAC 95.412(d)(4) may implement their own local burn permit program if the requirements are equal to or more stringent than those required by the State.

4. Forestry has established two type of permitted burning during the designated fire season:

   - Small-Scale permitted burning which is limited to one burn barrel of up to 55 gallons in size, one brush pile up to 10 foot in diameter and four feet in height, **or** the burning of up to one acre of maintained lawn no more than four inches in height. This permit does not require a site inspection by Forestry prior to burning.

   - Large-Scale permitted burning that involves operations that are more complex than those allowed under a Small-Scale permit. This permit may require a site inspection by Forestry prior to burning. The Cooperator may assist Forestry in distributing Small-Scale Burn Permits within their Primary Response Area when applicable.

5. Forestry has authority under 11 AAC 95.445. to temporarily suspend Small and Large-Scale permitted burning on all state, municipal and private forested lands. Forestry will announce temporary burn suspensions by notifications on the Division of Forestry's Internet website and by recorded telephone message at local Area Forestry offices. The announcement will specify the area under suspension and the effective dates and time period of the suspension. Forestry will notify the

FD of burning suspensions, wind advisories, closures, and Red Flag Warnings through the Daily Prepositioning Report. Additional information about weather and burning conditions may be found at http://forestry.alaska,gov/burn. Telephone notification will be made for emergencies not covered in the Prepositioning Report.

6. The Commissioner of Department of Natural Resources (DNR) may immediately close an area to the setting of fires, smoking, use of specified approved burning devices, entry, or other use on the land when the commissioner determines that these activities would significantly increase the fire danger. (b) An emergency burn closure applies to all activities and on all state, municipal, and private land identified in the closure, including burning conducted under 11 AAC 95.412(d)(4). Forestry will announce an Emergency Burn Closure by notification on the Division of Forestry's Internet website, local radio, and local print media if any exist. Notices will specify the area closed, the activities restricted, and the effective dates of closure.

   - The FD may close open burning in accordance with the provisions of the local fire codes or ordinances.
   - The FD's SFO may request through their local Area Forestry Office to open, suspend or close both permitted and/or non-permitted burning under Forestry's jurisdiction by contacting the Forestry Fire Management Officer (FMO) by email, phone or in person. Requests of this nature will follow Forestry policies and procedures.

I. Training Standards and Physical Fitness

1. Forestry and their delegated agencies will issue National Wildfire Coordinating Group (NWGC) Interagency Red Cards after proof of training and physical fitness. Qualifications will be demonstrated by possession of a current, valid Red Card appropriate to the position being hired. All personnel hired as Emergency Fire Fighter (EFF) by Forestry must meet established physical fitness and training standards for the position hired. There will be no exceptions.
2. FD personnel assigned to a Discretionary Response **within the FD's Primary and Mutual Aid Response Area** shall be certified by the FD's Chief or designee as trained and fit for the duty(s) requested. Personnel not possessing NWCG Interagency Red Cards shall remain employees of the FD. They are the liability of the cooperator and are not eligible to be hired as EFF.
3. For other positions, FD's will follow NWCG training and Certification guidelines under PMS 310-1.
4. Consideration for fully qualified NWCG position requires attending appropriate position classroom training, successful performance on assignments and completing an NWCG Position Task Book (PTB).
5. Personnel shall meet all established physical fitness and training standards for these positions.
6. Mutual Aid requests from other FD's follow FD certification process.
7. Forestry may assist in the training of agency personnel in preseason wildland fire protection, refresher and pack test.
8. Red card certification must be made prior to any assignments (preferably at the beginning of wildfire season) for FD personnel assigned to Discretionary Response **outside the FD'S Primary and Mutual Aid Response Area** and sent to the local Area Forestry Training Officer by **May 1st of every year.**

J. Fire Department IMT and National Participation

1. Individual FD personnel fulfilling Incident Management Team (IMT) positions, qualified or trainee are not subject to preparedness level thresholds. As such, these resource orders will be filled accordingly through local Area Dispatch Office.

2. Qualified FD personnel will be made available, after mutual consent of Forestry and FD Chief, for assignments by notifying local Area Dispatch

3. In the interest of advancing FD employee experience, "trainees" may be assigned to incidents under this agreement where FD will cover all costs except travel, food, and lodging through prior mutual agreement of Forestry on a case by case basis.

4. On National assignments, all regular full-time FD personnel will be reimbursed at their regular FD rates to include benefits for the hours worked. The FD will not be reimbursed for associated costs for backfill or minimum staffing levels.

5. FD personnel must be self-sufficient; they must have the ability to provide for food, lodging, fuel and miscellaneous maintenance for equipment.

K. Fire Stores/Equipment

1. Discretionary assignment outside the Fire Response/Service Area, Forestry will issue to the FD additional supplies as needed to complete the required minimum equipment inventory. The FD will maintain the fire equipment issued under this Agreement in an operable condition. Issued equipment will be returned to the issuing Forestry Office upon completion of the assignment. Forestry will not hold the FD accountable for consumable fire supplies. Upon return from fire assignment all stores items will be returned to the local Area Forestry Warehouse.

2. FD's will outfit apparatus based on Minimum Required Equipment and Supply Table. Wildland fire issued from FD supplies that are lost or damaged can be replaced through the State Fire Warehouse, with appropriate Resource Order (RO) and fire number. Any lost or damaged supplies or equipment may also be replaced by filling out the appropriate Property Loss Damage Report and submitting with Finance Packet.

3. All personnel responding to wildland fire shall be equipped with proper personal protective equipment as stipulated in the Division of Forestry (DOF) Policy and Procedures Manual Section 2120. This includes a fire-retardant shirt and jeans or coveralls, helmet (non-metal), eye protection, heavy-duty leather gloves, 8" tall lace up leather boots, and a fire shelter for each person.

L. Operating Procedures

1. Timekeeping: The start of the rental period begins upon passing inspection and receiving a completed Pre-use inspection form (OF-296). Time shall be documented on the initial shift ticket. Each service call will be documented via shift tickets to an Emergency Equipment Use Invoice, OF-286, or equivalent. Crew Time Reports (CTR) and Equipment Shift Tickets must be signed by Fireline Supervisor.

2. Crew Time Reports (CTR) should be started for apparatus staff once equipment is inspected and placed in service.

3. Apparatus Staffing: The FD shall furnish the required staffing as listed in Tables 1-6, for each apparatus. The FD will ensure that the personnel provided are qualified to staff the apparatus.

    - Additional FD personnel above minimum staffing levels listed in the rate table may staff the

apparatus. Variations from staffing levels listed in the AOP rate tables must be mutually agreed upon by Area Forestry FMO and the FD and adjustments must be noted on the RO and documented daily with the Equipment Shift Tickets (OF-297).

- Apparatus may be staffed below recommended minimums with approval from FMO. If staffed below minimum it will be noted on RO at the time of hire and the rate will be reduced proportionately from Combined Rate amount listed.
- At the end of rental agreement, the release inspection portion of the OF-286 must be performed and completed.
- **All personnel staffing apparatus will be listed legibly daily on Equipment Shift Ticket's (OF-297) with FD status next to each name and position filled on the apparatus. (i.e. FFT1, FFT2, ENOP) (example: Jane Smith FFT1)**

4. Transportation of Apparatus: Apparatus shall be delivered, at Forestry's expense, from point of hire to the work site (incident) and returned to the point of hire.

5. Performance and Direction of Work: The FD staff are always responsible for the safe and efficient operation of apparatus and may refuse to work in a situation:

   - exceeding FD staff ability
   - that exceeds the capability of the apparatus
   - that may result in damage to the apparatus

   The FD staff receive work assignments from and perform work under the general direction of Forestry. In the event Forestry terminates an operator for cause**,** replacement FD staff may be requested from the FD. A performance evaluation will be completed for each operator/apparatus.

6. Servicing and Repairs: The FD is responsible for the cost of all servicing to include providing and maintaining the apparatus with fuel, oil, lubricants, filters, and other operating supplies to maintain the apparatus in a safe operating condition. It is the responsibility of the FD staff to determine that the fuel used is the proper fuel for the apparatus. Forestry will provide fuel or reimburse fuel receipts once apparatus is placed on RO. Fuel receipts should be submitted during invoice process.

7. Tools, Spares, and Accessories: The FD staff are responsible, always, for tools, spares, and accessories belonging to the FD and shall secure them in the apparatus if possible. Items that cannot be so secured may be placed in a Forestry-designated storage area, if available.

8. Required Equipment: The FD agrees to furnish apparatus, except command vehicles, with the following equipment:

   - All apparatus listed in the Online Application System (OLAS) will be accompanied by a complete vehicle inventory in hard copy format.
   - All fire apparatus resource ordered as part of an Engine Task Force/Strike Team are required to carry structural firefighting equipment necessary to conform with FD Standard Operating Procedures and are required to carry the following minimum equipment upon leaving for the incident. These items will be supplied by Forestry upon request of the FD and shall be returned to the same Area Forestry Warehouse upon completion of the assignment.

Minimum Equipment and Supply Tables

3 ea. 100' length of 1½" hose (Forestry)	1 ea. Fire Shelter per seat
2 ea. 1" nozzles to fit 1" hose	1 ea. EFF bag per Firefighter
2 ea. 1½" nozzle to fit 1 ½" hose	1 ea. Radio w/Clam Shell & Batteries
3 ea. 100' length of 1" hose (Forestry)	24 ea. AA battery
1 ea. Shovel	3 ea. Pulaski
1 ea. 1½" NHx1½ NH double female	1 ea. First Aid Kit, Crew, Belt Type
1 ea. 1½" NHx1½ NH double male	2 ea. Backpack pump (FEDCO) (empty)
2 ea. 1½" NHx1" NPSH (female-male)	2 ea. Cases MRE's
1 ea. 1" NPSH x1½" NH (female/male)	2 ea. Cubitainer Water
2 ea. 1½" NH x 1 ½" NH x 1 ½" NH	2 ea. Pack of fusees (10 ea./pk) OR
1 ea. Hose clamp for 1" and 1½" hose	1 ea. Drip torch w/5 gallons drip torch fuel
1 ea. Portable Tank, 1500 gallons or larger (Water Tenders only, all types)	

9. Apparatus Loss, Damage or Destruction: Equipment furnished under a contractual agreement with Forestry may be subject to extreme environmental and/or strenuous operating conditions which could include, but are not limited to, unimproved roads, steep, rocky, brushy, hilly terrain, dust, heat, and smoky conditions. Thus, what is considered normal wear and tear under any agreement with the State for fire suppression or other all-risk incident actions is more than what equipment is subjected to under normal highway operations. Wear and tear include worn or cracked tire tread on the running surfaces, chips and scratches to the vehicles painted and other surfaces; small dings and scratches to the bumpers, and surface chips and scratches to the vehicle's windshield, glass, and mirrors.

- If the FD wishes to file a claim for non-Forestry provided equipment, a State Property Loss/Damage Report documenting lost, stolen, or damaged equipment not arising from the above conditions or as the result of negligence on the part of Forestry must be completed and submitted to the State within thirty days of demobilization. Incomplete or unsupported claims will be returned to the FD for further information and/or documentation.
- In the event damage or destruction occurs because of negligence on the part of the State, Forestry's liability is limited to the lesser of the actual repair costs or market value. Forestry is not responsible for the costs of loss or physical damage to FD's equipment due to negligence on the part of FD's personnel, for indirect damages such as loss of use or lost profits, or for wear and tear.
- State Property Loss/Damage Report forms and claims procedures may be found in the Alaska Incident Business Management Handbook (AIBMH), Chapter 11, Contractor and Employee Property Claims.
- Loss, Damage or Destruction claims will **not be accepted** without Post Inspection documentation from the incident.

10. Accessories for Apparatus: All apparatus must have seat belts for all occupants, three portable emergency reflectors, one 5-lb. functional ABC fire extinguisher, and any additional accessories as specified in the AOP.

11. Travel, Meals and Lodging: Travel time between the point of hire and the incident is reimbursable. Forestry will either pay per diem at established State of Alaska, rates or provide meals and lodging for FD employees on assignment away from their Primary Fire Response Service Area.

    Compensable meal periods - Personnel assigned to the fire may be compensated for their meal period if all the following conditions are met:

    The fire is not controlled, and

    - The Operations Section Chief decides that it is critical to the effort of controlling the fire that personnel remain at their post of duty and continue to work as they eat, and
    - The compensable meal break is approved by the supervisor and documented on the CTR and/or Shift Ticket at the next level.
    - ½ hour lunch must be taken while in travel status over eight hours (unless superseded by the FD'S collective bargaining agreement.)
    - In those situations, where incident support personnel cannot be relieved from performing work and must remain at a post of duty, a meal period may be recorded as time worked for which compensation shall be allowed and documented on the CTR/Shift Ticket in "Remarks" section as "No lunch taken due to uncontrolled fire line". If a meal break is not documented on the CTR or Shift ticket, the break will be automatically deducted by the State. (unless superseded by the FD'S collective bargaining agreement.)

12. Fatigue Management: FD personnel hired as EFF or FD staff will follow SOA work rest guidelines. To maintain safe and productive incident activities, personnel must appropriately manage work and rest periods, assignment duration and shift length.

    Personnel should receive adequate time off to safely perform the essential functions of their positions. The following is established to promote safety, limit fatigue, and reduce work- related injuries while adhering to specific bargaining unit contract provisions.

    - 2 to 1 Work-Rest Ratio
    - Requires at least 1 calendar day off in 14 Days or 2 calendar days off in 21 days
    - Provide for Meal Breaks (unless superseded by FD'S collective bargaining agreement)
    - On travel days, employees should be at home or in a hotel for the night by 22:00 HRS.
    - Drivers are limited to driving 10 hours/day in a 16-hour shift.

    For complete Fatigue Management Policy Reference: Dept. Natural Resources, Division of Forestry, Policy and Procedures Manual, 2100 Wildland Fire Safety.

13. Rate Definitions: FD's may choose between two options for rates, **Standard** *or* **Combined Daily Rate**.

    Standard Daily Rate (Apparatus and personnel are invoiced separately).

    Standard Daily Rate is commonly used for assignments with minimal personnel rotation or long

duration (up to 14 days away from home station). The Standard Daily Rate has separate rates for apparatus and personnel, (see Tables 1 through 3).

- Firefighter pay rates are based on actual FD pay rate or EFF skill-based pay rate.
- Administrative fees may be assessed for FD personnel.

Combined Daily Rate (Apparatus with Personnel in one rate):

Combined Daily Rate is commonly used for FD's that rotate personnel frequently (daily) on apparatus. This is tracked using the Emergency Shift Ticket (OF-297) only. The Combined Daily Rate includes a single established rate for both the apparatus and personnel, (See Tables 4 through 6).

- All apparatus personnel remain FD employees, as single rate for both apparatus and personnel. The FD shall furnish the required minimum staffing as listed in the Combined Daily Rate tables. The FD will ensure that the operator/personnel are qualified to operate the apparatus.
- FD's will not be allowed to invoice for administrative fees when using the Combined Daily Rate.
- Under the Combined Daily Rate, all FD resources will be tracked on the Emergency Shift Ticket (OF-297) and paid via the Emergency Equipment Use Invoice (OF-286)

14. Personnel Pay Rates: FD staff will be paid for all hours they are on-shift at the appropriate hourly rate of pay. Note: personnel may be on a shorter or longer shift than the apparatus to which they are assigned. The number of FD staff listed on the rate charts is the minimum required staffing. Any changes to standard staffing will be agreed to in the AOP and document on RO's. No additional personnel will be paid by Forestry unless resource ordered.

Hourly Rates for FD employees by position only, will be established when the AOP is signed. FD's will provide a position qualification list with hourly rates to Forestry. No private information will be included in this list. This list will be used for cross reference at the time of invoice, for FD employee name, position on apparatus and hourly rate.

Example:

Position	**Hourly Rate**	**Backfill Overtime Hourly Rate**
Non-Supervisory, Structural Firefighter, Advanced	$27.82/Hour	$35.42/Hour
Driver/Operator/Engineer	$33.14/Hour	$41.23/Hour

15. Backfill: Forestry will reimburse backfill overtime costs only. Forestry only pays for the overtime above what the regular salary would have been for the employee(s) deployed. Backfill reimbursement will be approved only when the FD is required to supply a firefighter at their station to comply with Fire Department policy, municipal ordinance, or union contract.

16. Administrative Rate: Forestry will not pay administrative fees more than **13.5%.**

- The administrative rate is only applied to the personnel cost, not the total invoice. As a cost containment measure, higher paid FD's shall be considered for release first.

17. Apparatus Pay Rates: Apparatus rates have been determined by Forestry for all categories, types, and classes of Apparatus and are included in the OLAS. OLAS is used by the FD to register or list their

apparatus and by the dispatcher and others to search for and hire Apparatus. Any FD using rates that are non-compliant with Forestry specified rates will normally be the last hired and the first released. The link to OLAS is https://dnr.alaska.gov/olas/. Rates are also listed in Tables 1 through 6.

- Non-apparatus equipment rates have been determined by Forestry for all categories, types, and classes of equipment and are included in the OLAS. Any equipment or vehicle owned by the FD and not reflected in the Apparatus Rate Tables, will be paid at the rates shown in Chapter 6 of the AIBMH and OLAS. Any FD using rates that are non-compliant with Forestry specified rates will normally be the last hired and the first released.
- Non-apparatus equipment needs to be registered on the "Vendor" entry tab of OLAS prior to hire. Non-apparatus includes but not limited to heavy equipment, tracked vehicles, ATV/UTV, sedans or trucks, boats, generators, aviation crash and rescue trucks, chainsaws, portable pumps, light towers and Ambulances.
- Each shift for apparatus or equipment must be documented on an Equipment Shift Ticket (OF-297) and must be signed by the FD's personnel and the supervisor on the incident as the duly authorized representative for certification as to the number of hours or other units of pay earned. Hours shall consist of the period working (assigned), ordered standby, or compensable travel time.
- **All personnel staffing apparatus will be listed legibly daily on Equipment Shift Ticket's (OF-297) with FD status next to each name and position filled on the apparatus. (i.e. FFT1, FFT2, ENOP) (example: Jane Smith FFT1)**
- Apparatus pay rates will be based on resource type ordered. If agreed to by both the FMO and Fire Chief prior to hire and documented on RO at the time of hire as a change, a different apparatus may be substituted.
- All apparatus pre and post inspections can be performed at local Area Forestry Office or on incident if apparatus leaves directly from station directly to assignment.
- A Mobilization Finance packet will be given to each apparatus at the start of the hiring process. Upon completion of an assignment a Demobilization Finance Packet will need to be submitted to the local Area Administrative staff.

The incident or dispatch office will compile the amount earned on the Emergency Equipment Use Invoice (OF-286) which both parties will sign to show concurrence of the amount due the FD at the time of release from assignment. OF-288s will be posted for FD staff by the incident or Area.

18. Rate Calculations: The rates are calculated for Interagency use based on the Consumer Price Index (CIP) for Anchorage. The rates are fair and reasonable for apparatus or equipment in generally new and good operating condition. Rates are effective pending any modifications resulting from the previous fiscal year, directives, and/or changes in the applicable Service Contract Act Wage Determination (SCA) or marketplace realities.

- Rates are reviewed annually for OLAS, CFPA, AOP and the AIBMH.
- Rates are reviewed by SOA and Federal Interagency partners. A fair market rate that is allowable under all (State of Alaska & Federal partners) agency procurement policies is adopted.
- Daily rates may fluctuate between annual changes.

Invoice Matrix

Invoice Matrix: Apparatus and Personnel Billing				
Use TABLE's for specific rates	**Invoice for Apparatus**	**Invoice for FD Staff**	**Invoice for DOF Technicians or EFF Personnel**	**Additional Invoice Billable Documentation Items*** **
Apparatus Only	**YES**	NO	NO	Refurb** and incidentals
Apparatus w/FD Staff only	**YES**	**YES**	NO*	Refurb** and incidentals, FD staff @ Dept rates and Admin Fees
Apparatus w/Mixed FD and DOF/EFF Personnel	**YES**	**YES, For FD staff only**	NO*	Refurb** and incidentals, FD staff @ Dept rates and Admin Fees
Apparatus w/All DOF/EFF Personnel	**YES**	NO	NO*	Refurb** and incidentals
Non-apparatus equipment or vehicles	**YES,** Equipment Shift Tickets	NO	NO	Incidentals.
Federal Excess Personal Property (FEPP) Apparatus Only	**YES, @ 66% of Daily Rate**	****	****	Refurb** and incidentals
Combined Daily Rate	**YES,** invoice includes personnel	**NO**, personnel cost included in rate	NO	Refurb**, incidentals Equipment Shift Tickets (OF-297), Emergency Equipment Use Invoice (OF-286)

*EFF are managed by SOA, no invoice from FD is needed.
**Refurb rate based on length of time on assignment, 4 hours for an assignment of 10 days or less, 8 hours for an assignment greater than 10 days.
*** Not all inclusive, additional documentation may be required. Claims packets need to be included but not invoiced. (i.e. Per Diem if approved, fuel, maintenance)
**** For FEPP Staffing follow procedures in all non-FEPP Apparatus categories in the matrix.
Apparatus rental rates include routine maintenance; normal wear and tear (minor scratches, chips and scratches in windshield, punctured or flat tires etc.); insurance; and other pertinent overhead expenses. Rental rates will not exceed the rates listed below (Tables 1-6). Federal Excess Personal Property (FEPP) apparatus provided by a FD will be paid 66% of the normal rate.

19. For fractional days at the beginning and ending time under hire, payment will be based on 50 percent of the Daily Rate for periods less than eight hours. To clarify, apparatus initially hired after 1600 (4:00 pm) shall receive half the daily rate for the first day of hire, and apparatus released back to the point of hire before 0800 (8:00 am) on the last day of hire shall receive half the daily rate for the final day of hire.

20. For shifts under hire or assignment between the first and last, the FD shall be paid at the daily rate, if the apparatus is operable and available the entire shift. A shift is the hours worked as stated by the Incident Action Plan and/or as determined by the dispatching office.

21. If the apparatus is inoperable or unavailable during an on-shift period, this will be considered down time and charges will not accrue. Payment will be based on the hours the apparatus was operational during the assigned shift as documented on the shift ticket versus the designated shift times shown on the Incident Action Plan (IAP). If the apparatus was not operational for the full shift, the deduction from the daily rate is calculated by converting the length of shift from the IAP to determine the hourly rate and deducting pay for the total hours the apparatus was non-operational, i.e., daily rate ÷ # hours of shift in IAP = hourly rate to be deducted.

22. Invoicing: For invoicing include apparatus and FD staff on the same invoice. If a new RO is created to transfer assignments, a separate invoice should be done.

    Examples for apparatus under both **Standard** and **Combined** Daily Rates:

    - Example #1 - The apparatus spends 7 days on Incident A and is then transferred to Incident B with a new RO for 7 days. Two separate invoices need to be submitted in one package.
    - Example #2 - If the apparatus stays on one incident the whole time, one invoice with personnel and apparatus may be submitted.
    - Example #3 – The apparatus goes to Incident C for ten days and returns home for a break in service. If the apparatus is then RO to the same or a different incident, separate invoices need to be submitted.

    Following these examples will speed up the payment cycle and reduce billing errors.

23. **The Area Forester or designee has the authority to correct or change the invoice in case of accounting errors or needed additions or subtractions from invoice, or if the FD chose the improper category, type, class or rate in OLAS.**

24. Insurance: The FD must carry and maintain motor vehicle liability insurance as required by AS 28.22.01. In the case of the FD staff being hired by the State as an EFF, the State covers Worker's Compensation and potential liability based on apparatus operations in response to and operation on a wildland fire. In the case of the FD's staff remaining an employee of the FD, the FD must carry and maintain Worker's Compensation coverage as required by AS 23.30.045.

25. Evaluations: All FD Engines will be evaluated by the incident supervisor and the evaluation form will be included in the documentation packet upon release from the incident.

26. Refurb/Rehab: With the local Area Forester's approval, FD's are allowed up to 4 hours of refurb for an assignment less than or up to 10 days and up to 8 hours of refurb for an assignment longer than 10 days for refurb and rehab of their equipment.

27. Documentation Requirements for Assignments

One (1) copy of each of the following documents is required for Out-of-Area Assignments.

- Mobilization packets will be created at the local Area Dispatch office.
- Prior to inspection Documentation package will be reviewed with Area Dispatch and FD.

Finance Packet Matrix

Mobilization Finance Package	**Demobilization Finance Package**
Packet received upon successful inspection. Maintained for duration of assignment.	*Turn completed packet in at completion of assignment.*
This Finance Packet needs to stay with apparatus and used at check-in on the incident.	**This Finance Packet needs to be turned in at the end of an assignment to the local Area Administrative staff.**
*Fire Department Position Rates Sheet	*Fire Department Position Rates Sheet
*Apparatus Inventory Sheet (FD Equipment)	*Apparatus Inventory Sheet (FD Equipment)
Resource Order	Resource Order: Multiple RO's will be needed when re-assigned to different Incidents
Billing Type (**Standard Daily Rate** w/FD, EFF or Mixed personnel: Or **Combined Daily Rate**)	Billing Type (**Standard Daily Rate** w/FD, EFF or Mixed personnel: Or **Combined Daily Rate**)
Emergency Equipment Rental Agreement (OF-284):	Emergency Equipment Rental Agreement (OF-284):
Current Annual Operating Plan - AOP	Current Annual Operating Plan - AOP
Current Cooperator Fire Protection Agreement - CFPA	Current Cooperator Fire Protection Agreement - CFPA
Pre-Hire Inspection Checklist (OF-296)	Pre & Post Hire Inspection Checklist (OF-296)
Initial Equipment Shift Ticket Book (OF-297)	Completed Equipment Shift Tickets (OF-297)
Blank Contractor Evaluation	Completed Contractor Evaluation
Crew Time Report Book (SF-261)	Completed OF-288, Emergency Firefighter Time Report
*Crew Manifest with Contact information	*Crew Manifest with Contact information
	Emergency Equipment Use Invoice (OF-286):
	Claims Documentation, if applicable
	Any additional receipts/documentation for reimbursable expense accrued on assignment.

*Responsibility of FD to provide at the time of hire to the local Area Dispatch.

28. Rate Tables.

- **Standard Daily Rate:** tables 1-2 are for FD Apparatus only. Table 3 is Command Vehicle rate.
- **Combined Daily Rate:** tables 4-5 are for FD Apparatus and Personnel combined rate. Table 6 is Command Vehicle rate.

Table 1- **STANDARD DAILY RATE:** Table for Water Tender Types, Rates & Minimum Requirements

Rates & Components *(excludes personnel costs)*	**Water Tender Types**				
	Support			**Tactical**	
	S1	**S2**	**S3**	**T1**	**T2**
Daily Rate	$1,950	$1,630	$1,300	$1,630	$1,300
Hourly Rate for refurb	$170	$145	$120	$170	$145
Tank Capacity (gal)	4000	2500	1000	2000	1000
Pump Min. Flow (GPM)	300	200	200	250	250
At Rates Pressure (psi)	50	50	50	150	150
Max. Refill Time (minutes)	30	20	15	-	-
Pump and roll	-	-	-	Yes	Yes
Personnel minimum	1	1	1	2	2

Table 2- **STANDARD DAILY RATE:** Table for Engine Types, Rates & Minimum Staffing Requirements

Rates & Components *(excludes personnel costs)*	**Structure Apparatus**		**Wildland Apparatus**				
	1	**2**	**3**	**4**	**5**	**6**	**7**
Daily Rate	$2,840	$2,680	$1,785	$1,545	$1,265	$1,070	$860
Hourly Rate for refurb	$285	$275	$180	$165	$145	$130	$115
Tank minimum capacity (gal)	300	300	500	750	400	150	50
Pump Min Flow (GPM)	1000	500	150	50	50	30	10
Rated pressure (psi)	150	150	250	100	100	100	100
Hose (feet) 2 1/2 inch	1200	1000	-	-	-	-	-
Hose (feet) 1 1/2 inch	400	500	1000	300	300	300	-
Hose (feet) 1 inch	-	-	500	300	300	300	200
Ladders per NFPA 1901	Yes	Yes	-	-	-	-	-
Master Stream 500 GPM Min	Yes	-	-	-	-	-	-
4-Wheel Drive Required	-	-	Yes	Yes	Yes	Yes	Yes
Personnel (minimum)	3	3	3	2	2	2	2

Table 3- **STANDARD DAILY RATE:** Table for Command Vehicles & Minimum Staffing Requirements

COMMAND VEHICLE RATE *(Excludes personnel costs)*	
Daily Rate	$545
Hourly Refurb	$70
Personnel	1, may be hired as vehicle only

Table 4- **COMBINED DAILY RATE:** Tables for Water Tender Types & Minimum Staffing Requirements

Rates & Components *(includes personnel costs)*	**Water Tender Types**				
	Support			**Tactical**	
	S1	**S2**	**S3**	**T1**	**T2**
Daily Rate	$2,365	$2,045	$1,715	$2,370	$2,040
Hourly Rate for refurb	$170	$145	$120	$170	$145
Tank Capacity (gal)	4000	2500	1000	2000	1000
Pump Min. Flow (GPM)	300	200	200	250	250
At Rates Pressure (psi)	50	50	50	150	150
Max. Refill Time (minutes)	30	20	15	-	-
Pump and roll	-	-	-	Yes	Yes
Personnel minimum	1	1	1	2	2

Table 5- **COMBINED DAILY RATE:** Tables for Engine Types, Rates & Minimum Staffing Requirements

Rates & Components *(includes personnel costs)*	**Structure Apparatus**		**Wildland Apparatus**				
	1	**2**	**3**	**4**	**5**	**6**	**7**
Daily Rate	$4,005	$3,845	$2,525	$2,285	$2,005	$1,810	$1,600
Hourly Rate for refurb	$285	$275	$180	$165	$145	$130	$115
Tank minimum capacity (gal)	300	300	500	750	400	150	50
Pump Min Flow (GPM)	1000	500	150	50	50	30	10
Rated pressure (psi)	150	150	250	100	100	100	100
Hose (feet) 2 1/2 inch	1200	1000	-	-	-	-	-
Hose (feet) 1 1/2 inch	400	500	1000	300	300	300	-
Hose (feet) 1 inch	-	-	500	300	300	300	200
Ladders per NFPA 1901	Yes	Yes	-	-	-	-	-
Master Stream 500 GPM Min	Yes	-	-	-	-	-	-
4-Wheel Drive Required	-	-	Yes	Yes	Yes	Yes	Yes
Personnel (minimum)	3	3	3	2	2	2	2

Table 6- **COMBINED DAILY RATE:** Tables for Command Vehicles & Minimum Staffing Requirements

COMMAND VEHICLE RATE *(includes personnel costs)*	
Daily Rate	$960
Hourly Refurb	$70
Personnel	1

29. Command Vehicles: When ordered by Forestry, command vehicle rates will be applicable when an individual in any of the following positions uses the vehicle Command Vehicles must meet the following criteria and come equipped with the following equipment:

- Four Wheel Drive
- Seating for 3 Persons
- First Aid Kit
- Fire Extinguisher
- Emergency Lighting
- Field Programmable Radio

When ordered by Forestry, command vehicle rates will be applicable when an individual in any of the following positions uses the vehicle:

- Incident Commander
- Branch Director
- Water Handling Specialist
- Operations Section Chief
- Division/Group Supervisor
- Fire Chief/Designee
- Structure Protection Specialist
- Strike Team/Task Force

30. Ambulance: There are two Types of ambulances: Basic Life Support (BLS) and Advanced Life Support (ALS). The ambulances are owned and staffed by a Fire Departments, Emergency Response agency, vendor or sometimes large hospitals. The difference between BLS and ALS ambulances is the ALS ambulance is equipped with higher trained medical personnel, an EMT and a paramedic as a minimum certification level. The BLS ambulance is staffed with two EMTs as a minimum certification level. The price of the personnel is included in the ambulance daily rate. Both types of ambulances are required to be staffed with a minimum of two personnel and one will serve as a driver. The State provides fuel for the ambulance and the owner or sponsoring agency will provide all medical supplies. The ambulances are listed under the Other Support Items in OLAS.

- All vendor ambulance service personnel must have meet State of Alaska specific certifications or reciprocity requirements.
- All ambulance personnel must meet all scope of practice requirements (medical sponsorship may be required for highly trained and qualified medical personnel)
- Daily Rates are based on one 24-hour period of hire. Personnel changes during this 24-hour period are the fiscal responsibility of ambulance owner.
- FD ambulances are not considered “apparatus”, they are list on the non-FD or Vendor side of OLAS.
- Refurb Rates used for FD equipment only. Refurb Rate requirements follow the same policy as FD apparatus.

Table 7 - **Ambulance Daily Rate**

AMBULANCE DAILY RATE (with staff and fully supplied)		
Type	Advanced Life Support (ALS)	Basic Life Support (BLS)
Daily Rate	$3500	$2500
Hourly Refurb	$125	$125

31. Workplace Conduct: *The State of Alaska is an equal opportunity employer and does not discriminate in employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, changes in marital status, pregnancy, and parenthood.* This includes behavior such as making threats, abusive language, slurs, unwelcome jokes, teasing and other such verbal or physical conduct. Creating a hostile work environment will not be condoned. This includes verbal or physical conduct of a sexual nature, making unwelcome sexual advances or requests for sexual favors, and unreasonably interfering with the work of others.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION (49 CFR Part 29): The bidder/offeror certifies, by submission of this proposal or acceptance of this contract/agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by signature on this agreement to include this clause without modification in all lower tier transactions, solicitation, proposals, contracts and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this agreement.

I certify that I have read and agree to the conditions and rates contained on this form.

This document supersedes all prior versions of this agreement. Earlier versions must be deleted/destroyed and replaced with this document.

Annual Operating Plan
Signatures

For State of Alaska, Department of Natural Resources, Division of Forestry

_____

Area Forester Date

_____

Fire Management Officer Date

For Cooperator Fire Department

_____

Jon Marsh, Fire Chief - Western Emergency Service Area Date

_____

Charlie Pierce, Mayor - Kenai Peninsula Borough Date

ATTEST:

_____

Johni Blankenship, Borough Clerk

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Michele Turner, Deputy Borough Clerk (MT)

DATE: April 20, 2021

RE: Resolution 2021-031: Approving an Intergovernmental Cooperative Fire Protection Agreement between the State of Alaska, Department of Natural Resources, Division of Forestry, and the Kenai Peninsula Borough on behalf of the Western Emergency Service Area (Mayor)

The Western Emergency Service area board addressed the referenced resolution. Please amend the final Whereas clauses to read:

"**WHEREAS,** at its regularly scheduled meeting held April 14, 2021, the Western Emergency Service Area Board recommended approval by unanimous consent;"

Thank you.

Kenai Peninsula Borough
Western Emergency Service Area

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB

FROM: Jon Marsh, Fire Chief JM
Western Emergency Service Area

DATE: April 8, 2021

RE: Resolution 2021-031, Approving an Intergovernmental Cooperative Fire Protection Agreement between the State of Alaska, Department of Natural Resources, Division of Forestry, and the Kenai Peninsula Borough on behalf of the Western Emergency Service Area (Mayor)

Alaska Statute 41.15.010 provides that it is the intent of AS 41.15.010 - 41.15.170 that the State of Alaska provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on land that is owned privately, by the state, or by a municipality. The Kenai Peninsula Borough ("borough") and its service areas also recognize an obligation to provide protection to life and property from wildland fires within the service areas, subject to available resources, funding, and personnel. Therefore, it is to the mutual advantage of the borough, its service areas, and the state to coordinate efforts in the prevention, detection, and suppression of wildland fires. It is also in the best interests of the borough, its service areas, and the state that wildland fires be suppressed quickly and efficiently to minimize the destruction of natural resources and the threat to life, property, and communities.

On June 20, 2017, the assembly adopted Resolution 2017-045, on behalf of the borough and its service areas, approving an Intergovernmental Cooperative Agreement for the cooperative provision of comprehensive fire protection from wildland fires. The Anchor Point Fire and Emergency Medical Service Area ("APFEMSA") was among the approved service areas in the Resolution. However, since entering into the 2017 Agreement, the APFEMSA has been expanded and renamed the Western Emergency Service Area, necessitating a new agreement. In order to keep it on the same timeframe as the agreements approved by Resolution 2017-045, this resolution is seeking approval of a limited one-year cooperative agreement to include the newly created service area. This will ensure that all of the Agreements retain the same expiration dates and return to the Assembly at the same time for ease of tracking.

Your approval is respectfully requested.

2021

Cooperative Fire Protection Agreement

State of Alaska, Department of Natural Resources, Division of Forestry and Cooperator Fire Departments

Area: **Kenai Kodiak Area**
42499 Sterling Highway
Soldotna, AK 99669

Fire Department: **Western Emergency Service Area**
72440 Milo Fritz Ave.
Anchor Point, AK 99556

Components

1. **Recitals**
2. **Scope**
3. **Definitions**
4. **Appropriate Response**
5. **Non-Suppression Activities**
6. **Command of Incident**
7. **Rates, Billing and Status of Employees and Apparatus**
8. **Backfill Reimbursement**
9. **Travel, Meals and Lodging**
10. **Refurb/Rehab**
11. **Mutual Aid**
12. **Automatic Aid**
13. **Worker's Compensation**
14. **Liability Insurance**
15. **Fire Stores/Equipment Guidelines**
16. **Land Use and Facility Agreements**
17. **Training Standards**
18. **Investigation and Prevention**
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20. **Notification**
21. **Parties Responsible for their own Acts.**
22. **Permits and Laws**
23. **Non-Waiver**
24. **Review and Modifications**
25. **Fair Intent**
26. **Agreement Effective Date and Termination**
27. **Workplace Conduct**

1. **Recitals**

It is the intent of AS 41.15.010 that the Alaska Division of Forestry (Forestry) provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on land that is owned privately, by the state, or by a municipality. It is also recognized by the fire department (Cooperator) that an obligation exists to provide protection to life and property from fires within their area of responsibility, subject to available resources, funding, and personnel. Therefore, it is to the mutual advantage of the Cooperator and Forestry to coordinate efforts in the prevention, detection, and suppression of wildland fires.

2. **Scope**

This agreement outlines the roles and responsibilities for cooperating Fire Departments (FD) when responding to and suppressing Wildland/Urban Interface fires.

3. **Definitions**

Annual Operating Plan (AOP): Negotiated annually between the FD and Forestry to define operational details: Rate Tables, Required Equipment, Training, Documentation and Administrative responsibilities. The local Area Forester or designee signs the AOP for the Division of Forestry. The AOP may be different for each fire department due to department policy, city ordinance or union contract.

Automatic Aid: The assistance that is dispatched automatically by contract or agreement between two fire departments, communities or fire districts.

Back Fill: When the FD is required to supply a firefighter at their station to comply with Fire Department policy, municipal ordinance, or union contract. Forestry will reimburse backfill overtime costs only. Forestry only pays for the overtime above what the regular salary would have been for the employee(s) deployed

Cooperator: A structural fire department that is in good standing and certified by the State Fire Marshall. For the purpose of this document FD shall be used in all descriptors of a Cooperating Fire Department.

Contained or Containment: When a wildland fire has a natural barrier, dozer line, wet line, roads, scratch line, retardant line, etc. around it to keep the fire from spreading.

Cooperative Fire Protection Agreement (CFPA): The FD establishes a formal relationship with the Division by signing a Cooperative Fire Protection Agreement (CFPA). The agreement is signed by the fire department's Chief or governing official and sent from the Area, through the Region, to the Central Office for the State Foresters and the Department signatures. The CFPA will be the same statewide for all FD's; all cooperating fire departments will have a signed CFPA prior to hire or use of equipment.

Custody: When the operator/personnel remain employees of the FD's, the apparatus remains in operator/personnel custody. When the operator/personnel are hired as Emergency Fire Fighter (EFF), the apparatus remains in Forestry custody during the period of use**.** During such time, Forestry, as custodian, will exercise ordinary prudence and diligence in the use and care of the apparatus. Control of apparatus and personnel shall follow the Incident Command System.

EERA Equipment: Emergency Equipment Rental Agreement (EERA) Equipment includes equipment rented to Forestry that is not fire apparatus. The EERA equipment is registered into On-

Line Application System (OLAS) using Agency Suggested Rates.

Fire Apparatus: Fire engine, pumper, tender, tanker, brush rig, fire command vehicle, maintenance truck or such other rolling stock as it's typically used by fire departments for fire suppression purposes. Rates for Apparatus are detailed in the AOP.

Fire Response/Service Area: The FD's Fire Service Area or designated area where the FD has primary responsibility for fire protection. This may also include an Auto Response or Mutual Aid Response Area. Mutual Aid Response Area also includes DNR Forestry local Area of responsibility.

Fire Stores: Items as needed to complete required minimum equipment inventory or Nominal Unit Supply (NUS) as specified in AOP.

Incident Command System: An emergency response management system defined by the National Incident Management System (NIMS), and endorsed by the Governor of Alaska via Administrative Order 170.

Incident Business Management Handbook: The AIBMH applies existing State of Alaska administrative, contracting, and financial regulations and Department procedures within the framework of fire business management operations. Chapter 7 of the AIBMH, Cooperator Fire Departments, addresses FD apparatus; this is a separate compartment within the OLAS, "Fire Department". Chapter 6 AIBMH, Equipment Acquisition; addresses FD non-apparatus equipment, this compartment within OLAS is "Vendors".

Land Use and Facility Agreements: Temporary rental of property for fire purposes. Land Use and Facility Agreements (LUA) may include, but are not limited to; potable water sources, apparatus water sources, parking facilities, land line services, meeting and training rooms and restroom facilities. LUA pre-season inspections and Letter of Agreements (LOA) are preferred over actual incident occurrence.

Licenses and Permits and Insurance - The FD is responsible for obtaining at their own expense, carrying a copy of, and showing proof at the time of hire all necessary licenses and permits required by state and federal law/regulation for both the apparatus and operator/personnel.

Mutual Aid: Assistance that is dispatched, upon request, by the responding fire department. Usually it is requested upon the arrival on scene but can be requested in route if circumstances dictate. Mutual aid should be defined by a signed agreement.

OLAS: On-line Application System is used to register, hire, and track FD fire apparatus and EERA equipment. OLAS will be used in the future for entering and tracking the CFPA's and AOPs submitted by FD's.

Order for Service: Upon acceptance of an order for service, either verbally or accepting a Resource Order, a binding contract between the FD and Forestry is created incorporating the terms of the CFPA and the AOP, when the apparatus or equipment passes inspection.

Property: Structures and other property located within a fire response area excluding forested land as defined in AS 41.15.170.

Reporting for Service - The FD is responsible for providing apparatus to Forestry in a good and safe operating condition and will be subject to pre-use inspection at time of hire. If, in the determination of Forestry, the apparatus is not in good, safe operating condition based upon the manufacturer's general safety specifications when it arrives for work, Forestry may reject it. If equipment is rejected, Forestry

will not pay any costs, including transportation costs. The operator/personnel shall keep a copy of the CFPA and AOP documents with the apparatus.

Termination of Order for Service - There is no guaranteed length of hire under any order for service. Forestry may terminate an order for service when it is determined by Forestry that the apparatus is no longer needed. When the order for service is terminated, Forestry shall be liable only for payments in accordance with payment provisions of this contract for services rendered prior to the effective date and time of termination. In the event the FD requires return of apparatus, the FD shall notify Forestry, and the equipment shall be released within eight hours or at the beginning of the next operational period.

Wildland Fire: Uncontrolled burning of grass, brush, timber and other natural vegetative material. Any non-structure fire that occurs in vegetation or natural fuels. Wildland fire includes prescribed fire and wildfire.

4. Appropriate Response

Standard/Initial Response:

A response that a FD undertakes in order to meet its general obligation to protect life and property from fires within its Primary Fire Response/Service Area. A Response in a wildland fire begins at the time of notification and ends when the fire has been contained as determined by the Unified Command and no longer poses a threat to life and property. Unless agreed upon by Forestry Fire Management Officer (FMO) and the FD's Fire Chief, Forestry is not responsible for FD costs. By mutual agreement when *containment* has been reached **if** FD apparatus are requested by Forestry to remain on incident to support Forestry operations, Forestry Dispatch will be notified and Resource Orders for all FD apparatus, personnel and equipment shall be created.

Discretionary Response:

Within the FD Primary Response Area: a response that occurs after a fire has been *contained* and Forestry assumes single command of a wildland fire and requests that the FD remain on scene. Forestry is responsible for FD costs. Resource Orders for all FD apparatus, personnel and equipment shall be created.

Outside of the FD Primary Response Area: a response to a wildland fire at the request of Forestry to a wildland fire outside a FD's Primary Fire Response/*Service* Area. Forestry is responsible for FD costs. Resource Orders for all FD apparatus, personnel and equipment shall be created, apparatus and equipment shall pass inspection prior to start of service.

Unified Command: A method for all agencies or individuals who have jurisdictional responsibility and in some case those who have functional responsibility at an incident to contribute to:

- Determining overall objectives for the incident
- Selection of a strategy to achieve the objectives
- Joint command of the incident for the first shift during initial attack

5. Non-Suppression Activities

Prescribed fire (RX) and other fire management projects:

Under the direction of Forestry, the AOP may be used for procuring personnel and equipment for other fire management activities such as fuels mitigation and RX projects, inside and outside the FD

jurisdictional area. Project work conducted for federal agencies must be performed under the conditions of agreements specific to their agency specific procurement requirements.

All Risk Assignments:

It is common for wildland fire resources to assist with non-fire incidents. When requested under the authority of the Stafford Act, it is possible for Alaska state and FD resources to assist with these incidents. All such incidents must be handled on a case-by-case basis. FD's should check with the local Division of Forestry (DOF) Area Office, Forester or FMO prior to accepting all risk assignments under the CFPA and AOP agreements.

6. Command of Incident

Standard/Initial Response: The first responder on-scene shall assume functional command of the incident until the arrival of other responders, after which a Unified Command may be established.

Extended Response: By mutual agreement between Forestry and FD's, Forestry will assume single command of the incident once a fire escapes initial attack or is contained. Forestry is fiscally responsible for costs incurred suppressing the wildland fire during extended attack and mop-up when Forestry is in command.

7. Rates, Billing and Status of Employees and Apparatus

- All FD apparatus and EERA equipment will be registered in OLAS. Rate tables for FD apparatus are available in the AOP; for other FD equipment rates review Chapter 6 of the AIBMH..
- Apparatus may be hired unstaffed (apparatus only), Staffed or a mix of FD and Department of Natural Resources (DNR) personnel or staffed by all DNR personnel.
- Rate tables are reviewed annually by DNR.
- The Area Forester or designee has the authority to correct or change the invoice in case of accounting errors or needed additions or subtractions from invoice, or if the FD chose the improper category, type, class or rate in OLAS.
- Billing for fire personnel that will remain FD employees (not EFF) needs to be communicated during the resource ordering process and documented on the Resource Order (RO) prior to hire. During the time of hire FD employee names and position on the apparatus will be documented and manifested.
- Hourly Rates for FD staff by position only, will be established when the AOP is signed. FD's will provide a position qualification list with hourly rates to Forestry. No private information will be included in this list. This list will be used for cross reference at the time of invoice, for FD employee name, position on apparatus and hourly rate.
- If FD personnel will be hired as EFF this needs to be communicated during the resource ordering process and documented in the Resource Ordering and Status System (ROSS) program prior to hire. EFF personnel will get individual resource orders. Rates will be established EFF rates based on position being filled.
- Personnel changes or crew swaps during assignments will be communicated through the home area fire dispatch, regardless of hiring method or management level of fire or location of fire.

- In the event where an AOP has not been signed by Forestry, rates paid for apparatus will not exceed the latest version of the rates listed in the AOP.
- State of Alaska, Division of Forestry employees remain employees of the State whether they work under FD or Forestry command. FD personnel if hired by Forestry as EFF, will become Forestry employee(s), and are subject to the Conditions of Hire for EFF established in the latest version of the Alaska Emergency Firefighter Type 2 Crew Management Guide and the Alaska Single Resource AD/EFF Casual Hire Guide.

8. Backfill Reimbursement

Forestry will reimburse backfill overtime costs only. Forestry only pays for the overtime above what the regular salary would have been for the employee(s) deployed. Backfill reimbursement will be approved only when the FD is required to supply a firefighter at their station to comply with Fire Department policy, municipal ordinance, or union contract.

- Backfill reimbursement costs will be billed and segregated from the deployed personnel.
- Rates for backfill reimbursement should be attached as an addendum to this document.

9. Travel, Meals and Lodging

Travel time between the point of hire and the incident is reimbursable, if the incident is outside of a 50-mile radius of FD service area and authorization for per diem and travel is documented on Resource Order. Forestry will either pay per diem at established State of Alaska, Forestry rates or provide meals and lodging for FD employees on assignment away from their Primary Fire Response Service Area.

10. Refurb/Rehab

With the local Area Forester or Fire Management Officer (FMO) approval, FD's are allowed up to 4 hours of refurb for an assignment less than or up to 10 days and up to 8 hours of refurb for an assignment longer than 10 days for refurb and rehab of their equipment.

11. Mutual Aid resources requested for a mutual aid request must be pre-approved by Forestry to be eligible for reimbursement.

12. Automatic Aid resources will not be reimbursed unless otherwise requested by Forestry as outlined in their AOP.

13. Worker's Compensation

The FD's and Forestry are responsible for Worker's Compensation for their own personnel.

14. Liability Insurance

The FD's and Forestry are responsible for their own liability insurance coverage.

15. Fire Stores/Equipment Guidelines

Upon discretionary assignment outside the Fire Response/Service Area, Forestry will issue to the FD fire stores as needed to complete the required minimum equipment inventory as specified in AOP. The FD will maintain the fire equipment issued under this Agreement in an operable condition. Issued equipment will be returned to the issuing Forestry Office upon completion of the assignment. Forestry will not hold the FD accountable for consumable fire supplies. Upon return from fire assignment all stores items will be returned to the local Area Forestry Warehouse.

If non-consumable fire stores become broken, or otherwise unusable, the FD will return the damaged item, along with a statement (or appropriate forms) of how the item was damaged, to Forestry for repair or replacement. If an item becomes lost or damaged as a result of negligence by the FD, the FD will be liable for replacement.

16. Land Use and Facility Agreements

Temporary rental of property for fire purposes requires the same degree of good business judgment, including reasonable price determinations, as any other procurement action. In making the determinations as to price fairness, consideration should be given, but not limited, to the following items:

- Fair market rental rates for the property in the area
- Costs to the property owner, loss of rental fees from other sources, disruption of business
- Alterations needed and who will make them in a written scope of work
- Impacts on the property
- Costs of restoration, and who will do the restoration work
- Duration of the rental, (emphasis should be on weekly or monthly rates), with a limit on total costs

Pre-inspection and post-inspection shall be made of the premises using the forms found in the Forms section of the AIBMH, Chapter 16. The inspections can be documented on separate inspection documents if additional details or information are needed. Pre- and post-inspection photographs are required showing where actual damages occur that may result in a claim. Pre- and post-inspections shall note all improvements and conditions, including items such as fences, buildings, wells, cisterns, road conditions, etc.

Further information can be found in the AIBMH, Chapter 16, Land/Facilities Acquisition.

17. Training Standards

When responding outside its Fire Response/Service Area, all FD employees will be National Wildfire Coordinating Group (NWCG) certified at a minimum of Wildland Firefighter 2, which includes an annual fire line refresher Training and Work Capacity Test. All personnel hired as EFF by Forestry must meet established NWCG physical fitness and training standards for the position hired. Forestry may provide wildfire training material to the FD upon request. Training funds may be available through the Volunteer Fire Assistance (VFA) grants program. For further information see AOP.

18. Investigation and Prevention

See AOP for Investigation and Prevention policy and procedures.

19. Annual Operating Plan (AOP)

As soon as practical after this Agreement is executed and prior to March 15th, then annually thereafter, the FD and the State Forester or his designee shall meet to negotiate an AOP. The subject matter of the AOP shall define the necessary operational details. At a minimum, the AOP should include mobilization procedures; approved rates; staffing; a map or description of response area; training and qualifications; contact information; education, prevention, investigation, and coordination procedures; and radio frequencies (communication coordination).

20. Notification

Notification procedures are outlined in the AOP.

21. Parties Responsible for their own Acts

The Cooperator Fire Departments and the State of Alaska, including but not limited to the Alaska Department of Natural Resources and/or the Alaska Division of Forestry, each agree that they will be responsible for their own acts, omissions, or other culpable conduct and neither shall be responsible for the actions or inactions of the other. Each party agrees to defend itself individually from claims, demands, or liabilities arising out of any activities authorized by this Agreement or the performance thereof. In any claim arising out of the performance of this Agreement, whether sounding in tort, contract, or otherwise, and whether alleging sole liability, joint liability, vicarious liability, or otherwise, each party shall defend itself but may assert comparative fault, the sole liability of another, or any other defense, affirmative defense, or request for relief.

22. Permits and Laws

The parties shall acquire and maintain in good standing all permits, licenses, and other entitlement necessary to the performance under this Agreement. All actions taken by the parties under this Agreement shall comply with all applicable laws, statues, ordinances, rules and regulations.

23. Non-Waiver

The failure of the FD or Forestry at any time to enforce a provision of this Agreement shall in no way constitute a waiver of any provision in this Agreement, nor shall it in any way affect the validity of this Agreement.

24. Review and Modifications

Forestry and FD agree to review this Agreement at least every five (5) years, but, Forestry and FD may agree to modifications to this agreement at any time. All modifications to the Agreement shall be incorporated by written amendments to this Agreement and signed by Division of Natural Resources and FD prior to becoming effective.

25. Fair Intent

This Agreement has been jointly drafted by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole and not for or against any party.

26. Agreement Effective Date and Termination

This Agreement supersedes all other versions of this document. This agreement is effective as of the date of most recent signature and remains in effect until terminated in writing. Either party may terminate this Agreement at any time by giving written notice to the other party at least thirty (30) days before the effective date of such termination.

- **The CFPA is valid for 1 year after signing.**
- **The AOP is valid for 1 year. Every year it shall be reviewed and resigned.**

The State of Alaska is an equal opportunity employer and does not discriminate in employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, changes in marital status, pregnancy, and parenthood. This includes behavior such as making threats, abusive language, slurs, unwelcome jokes, teasing and other such verbal or physical conduct. Creating a hostile work environment will not be condoned. This includes verbal or physical conduct of a sexual nature, making unwelcome sexual advances or requests for sexual favors, and unreasonably interfering with the work of others.

Cooperative Fire Protection Agreement
Signatures

For State of Alaska, Department of Natural Resources, Division of Forestry

Area Forester	Date
State Forester	Date
DNR Procurement Officer	Date

For Cooperator Fire Department

Jon Marsh, Chief - Western Emergency Service Area or Designee	Date
Charlie Pierce, Mayor - Kenai Peninsula Borough or Designee	Date

ATTEST:

_____
Johni Blankenship, Borough Clerk

2021

Annual Operating Plan

State of Alaska, Department of Natural Resources, Division of Forestry and Cooperator Fire Departments

Area: **Kenai-Kodiak Area Forestry**
42499 Sterling Highway
Soldotna, AK 99669

Fire Department: **Western Emergency Service Area**
72440 Milo Fritz Ave.
Anchor Point, AK 99556

Sections

A. Fire Response and Notification Procedures in the FD Service Area
B. Discretionary Response Procedures
C. Communications
D. Command
E. Fire Reports and Reporting
F. Prepositioning
G. Investigation Procedures
H. Prevention
I. Training Standards and Physical Fitness
J. Fire Department IMT and National Participation
K. Fire Stores/Equipment
L. Operating Procedures

Purpose

The Annual Operating Plan (AOP) is a supplement to the Cooperative Fire Protection Agreement (CFPA) and outlines the procedures to be followed in this agreement. The CFPA implements the intent of AS 41.15.010 - 41.15.170 to provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on forested land that is owned privately, by the state, or by a municipality. It is also recognized by the Cooperator (FD) that an obligation exists to provide protection to life and property from wildland fires within their area of responsibility, subject to available resources, funding, and personnel. Therefore, it is to the mutual advantage of the FD's and the State of Alaska to coordinate efforts in the prevention, detection, and suppression of wildland fires. It is in the best interests of both the FD's and the State of Alaska to suppress wildland fires quickly and efficiently to minimize the destruction of natural resources and threat to life and property.

A. Fire Response and Notification Procedures in the FD Primary Service Area

1. Within a FD's Primary Service Area, State of Alaska Division of Forestry (Forestry) will generally not respond to wildland fires after normal work shift during Low or Moderate Fire Danger Levels listed in the Fire Staffing and Action Guide. This section does not preclude a FD from requesting Forestry assistance on any wildland incident that exceeds the capability of their resources for control.
2. Upon receipt of an incoming call for a wildland fire within State's protection area, the FD's Dispatch Center will contact local Area Forestry Dispatch or the Area Forestry Duty Officer to forward fire information.
3. The FD's Senior Fire Officer (SFO) will notify Forestry, either through the State's primary radio frequency (ALMR) or call local Area Forestry Dispatch for any response to a wildland fire within the FD's primary response area. The FD's SFO may instruct their dispatch center to make this call to Forestry at the time of dispatch.

B. Discretionary Response Procedures

1. Within the FD's Primary Response Area: Forestry is responsible for FD costs after a fire has been contained and Forestry assumes single command of the wildland fire. At that time, specific requests for FD apparatus and personnel to remain on scene by the Incident Commander (IC) will be eligible for compensation. Forestry is responsible for FD costs for fires that go beyond the first operational period, also referred to as extended attack fires. When extended attack fires occur, the Forestry IC will determine apparatus and personnel necessary to complete the objectives of the incident. Only apparatus and personnel determined necessary by the IC will be compensated back from the original time of dispatch.
2. The FD's Fire Chief will be contacted prior to apparatus or staff responding to Discretionary Response inside or outside FD's response area by the Forestry FMO or Area Forester.
3. Outside of the Primary Response Area: When requesting a discretionary response outside the FD's service area, Forestry FMO will contact the Fire Chief who will notify their appropriate dispatch office. The decision of accepting a discretionary response request is at the sole discretion of the Fire Chief. In accordance with their department's policy, the Fire Chief will make all appropriate notifications prior to the acceptance of the discretionary response request. When requesting a FD's discretionary response, Forestry will designate the type and number of apparatus or equipment needed. If available and with FMO and Fire Chief approval, a department SFO may accompany the

unit(s). Forestry is solely responsible for costs associated with Discretionary Responses.

C. Communications

1. For multiple agency response and helicopter communications, Tactical Frequencies are recommended for initial contact only. Incident frequencies will be established and coordinated by responding agencies once on scene and reported back to local Area Forestry Dispatch. Responding units may contact the FD dispatch as a back-up for the communications plan.
2. On scene communications between ground forces and any aircraft will be routed through a single point Forestry contact as designated by the incident commander. The primary frequency for aircraft communication is State Air to Ground channels (A/G1 or A/G2).

D. Command

1. Upon arrival at a wildland fire incident, the first unit on the scene establishes command until it is determined that a unified command is needed.
2. Upon transfer of command by a FD Incident Commander, a Forestry Incident Commander must be established as either Unified or Single Command when Forestry resources remain on scene. This command change must be documented by calling local Area Forestry Dispatch with notification of change.
3. Forestry will maintain control of all Forestry contracted aviation resources.

E. Fire Reports and Reporting

1. FD's will provide Forestry with a copy of:
   - Incident map
   - Alaska National Fire Incident Reporting System (ANFIRS) report with a narrative stating pertinent information and suspected cause.
   - Email ANFIRS report to local Area Forestry Dispatch within 48 hours of the incident being called out.

F. Prepositioning

1. Forestry will provide the FD with a daily fire danger rating and hours of availability during fire season.
2. Forestry Dispatch will always have discretion when assigning Forestry resources and can direct them to a higher priority fire at any time.
3. Local Area Forestry Offices and local FD's may establish different protocols and procedures for prepositioning. Differences in preposition procedures need to be established prior to the start of fire season.

G. Investigation Procedures

1. Upon arrival at a wildland fire incident, the first arriving units on the scene shall establish a chain of custody on scene, secure any suspected fire origin areas from encroachment or tampering, protect evidence in place and identify any potential witnesses and/or suspects prior to the arrival of Forestry. Forestry will provide fire investigators to determine the cause of wildland fires. The request for an investigator must be placed early in the incident and every effort must be made to protect the point of origin of the fire until the investigator arrives on scene to begin a formal investigation.

2. During the established wildland fire season, the FD, if they are the first arriving agency on an incident, will establish and maintain a chain of custody for both escaped or non-escaped fires which may involve any potential violations of State wildland fire protection laws under AS 41.15 and/or 11 AAC 95. This chain of custody shall be maintained until transferred by the FD to Forestry. In the event the FD has insufficient resources to maintain a chain of custody due to fire activity or staffing, they shall be responsible for documenting the incident, both in writing and pictures, prior to departing. Investigation information shall be provided to Forestry as soon as possible.

3. The FD may be requested to assist or provide information to Forestry for both escaped and non-escaped fires that may be in violation of State wildland fire protection laws under AS 41.15 and/or 11 AAC 95. Should criminal or civil legal action be taken by Forestry against a party for violation of State wildland fire protection laws under AS 41.15 and/or 11 AAC 95, the FD may be required to provide additional information and/or be called to testify in court on Forestry's behalf. The FD and Forestry may establish a separate agreement for any costs that would be incurred to either party should this occur.

4. The FD may not enforce, through verbal or written warnings or citation, State wildland fire protection laws under AS 41.15 and/or 11 AAC 95 unless the FD has collateral law enforcement duties and has been granted authority to undertake such actions.

H. Prevention

1. The statewide Wildland Fire Prevention Program Office coordinates all wildland fire public education outreach, engineering, investigation and enforcement efforts on all lands under Forestry's statutory authority. Area specific Wildland Prevention programs are managed by local Area Forestry Offices. The FD may assist Forestry with public education about wildland fire prevention, permitted burning, safe burning practices and providing them with Forestry approved public education materials where available.

2. When requested, Forestry will assist with FD fire prevention programs contingent on staff availability and fire activity.

3. Forestry has authority under Sec. 41.15.060 to establish and maintain burn permit requirements on all State, municipal and private forested lands. FD's under 11 AAC 95.412(d)(4) may implement their own local burn permit program if the requirements are equal to or more stringent than those required by the State.

4. Forestry has established two type of permitted burning during the designated fire season:

   - Small-Scale permitted burning which is limited to one burn barrel of up to 55 gallons in size, one brush pile up to 10 foot in diameter and four feet in height, **or** the burning of up to one acre of maintained lawn no more than four inches in height. This permit does not require a site inspection by Forestry prior to burning.

   - Large-Scale permitted burning that involves operations that are more complex than those allowed under a Small-Scale permit. This permit may require a site inspection by Forestry prior to burning. The Cooperator may assist Forestry in distributing Small-Scale Burn Permits within their Primary Response Area when applicable.

5. Forestry has authority under 11 AAC 95.445. to temporarily suspend Small and Large-Scale permitted burning on all state, municipal and private forested lands. Forestry will announce temporary burn suspensions by notifications on the Division of Forestry's Internet website and by recorded telephone message at local Area Forestry offices. The announcement will specify the area under suspension and the effective dates and time period of the suspension. Forestry will notify the

FD of burning suspensions, wind advisories, closures, and Red Flag Warnings through the Daily Prepositioning Report. Additional information about weather and burning conditions may be found at http://forestry.alaska,gov/burn. Telephone notification will be made for emergencies not covered in the Prepositioning Report.

6. The Commissioner of Department of Natural Resources (DNR) may immediately close an area to the setting of fires, smoking, use of specified approved burning devices, entry, or other use on the land when the commissioner determines that these activities would significantly increase the fire danger. (b) An emergency burn closure applies to all activities and on all state, municipal, and private land identified in the closure, including burning conducted under 11 AAC 95.412(d)(4). Forestry will announce an Emergency Burn Closure by notification on the Division of Forestry's Internet website, local radio, and local print media if any exist. Notices will specify the area closed, the activities restricted, and the effective dates of closure.

   - The FD may close open burning in accordance with the provisions of the local fire codes or ordinances.
   - The FD's SFO may request through their local Area Forestry Office to open, suspend or close both permitted and/or non-permitted burning under Forestry's jurisdiction by contacting the Forestry Fire Management Officer (FMO) by email, phone or in person. Requests of this nature will follow Forestry policies and procedures.

I. Training Standards and Physical Fitness

1. Forestry and their delegated agencies will issue National Wildfire Coordinating Group (NWGC) Interagency Red Cards after proof of training and physical fitness. Qualifications will be demonstrated by possession of a current, valid Red Card appropriate to the position being hired. All personnel hired as Emergency Fire Fighter (EFF) by Forestry must meet established physical fitness and training standards for the position hired. There will be no exceptions.
2. FD personnel assigned to a Discretionary Response **within the FD's Primary and Mutual Aid Response Area** shall be certified by the FD's Chief or designee as trained and fit for the duty(s) requested. Personnel not possessing NWCG Interagency Red Cards shall remain employees of the FD. They are the liability of the cooperator and are not eligible to be hired as EFF.
3. For other positions, FD's will follow NWCG training and Certification guidelines under PMS 310-1.
4. Consideration for fully qualified NWCG position requires attending appropriate position classroom training, successful performance on assignments and completing an NWCG Position Task Book (PTB).
5. Personnel shall meet all established physical fitness and training standards for these positions.
6. Mutual Aid requests from other FD's follow FD certification process.
7. Forestry may assist in the training of agency personnel in preseason wildland fire protection, refresher and pack test.
8. Red card certification must be made prior to any assignments (preferably at the beginning of wildfire season) for FD personnel assigned to Discretionary Response **outside the FD'S Primary and Mutual Aid Response Area** and sent to the local Area Forestry Training Officer by **May 1st of every year.**

J. Fire Department IMT and National Participation

1. Individual FD personnel fulfilling Incident Management Team (IMT) positions, qualified or trainee are not subject to preparedness level thresholds. As such, these resource orders will be filled accordingly through local Area Dispatch Office.

2. Qualified FD personnel will be made available, after mutual consent of Forestry and FD Chief, for assignments by notifying local Area Dispatch

3. In the interest of advancing FD employee experience, "trainees" may be assigned to incidents under this agreement where FD will cover all costs except travel, food, and lodging through prior mutual agreement of Forestry on a case by case basis.

4. On National assignments, all regular full-time FD personnel will be reimbursed at their regular FD rates to include benefits for the hours worked. The FD will not be reimbursed for associated costs for backfill or minimum staffing levels.

5. FD personnel must be self-sufficient; they must have the ability to provide for food, lodging, fuel and miscellaneous maintenance for equipment.

K. Fire Stores/Equipment

1. Discretionary assignment outside the Fire Response/Service Area, Forestry will issue to the FD additional supplies as needed to complete the required minimum equipment inventory. The FD will maintain the fire equipment issued under this Agreement in an operable condition. Issued equipment will be returned to the issuing Forestry Office upon completion of the assignment. Forestry will not hold the FD accountable for consumable fire supplies. Upon return from fire assignment all stores items will be returned to the local Area Forestry Warehouse.

2. FD's will outfit apparatus based on Minimum Required Equipment and Supply Table. Wildland fire issued from FD supplies that are lost or damaged can be replaced through the State Fire Warehouse, with appropriate Resource Order (RO) and fire number. Any lost or damaged supplies or equipment may also be replaced by filling out the appropriate Property Loss Damage Report and submitting with Finance Packet.

3. All personnel responding to wildland fire shall be equipped with proper personal protective equipment as stipulated in the Division of Forestry (DOF) Policy and Procedures Manual Section 2120. This includes a fire-retardant shirt and jeans or coveralls, helmet (non-metal), eye protection, heavy-duty leather gloves, 8" tall lace up leather boots, and a fire shelter for each person.

L. Operating Procedures

1. Timekeeping: The start of the rental period begins upon passing inspection and receiving a completed Pre-use inspection form (OF-296). Time shall be documented on the initial shift ticket. Each service call will be documented via shift tickets to an Emergency Equipment Use Invoice, OF-286, or equivalent. Crew Time Reports (CTR) and Equipment Shift Tickets must be signed by Fireline Supervisor.

2. Crew Time Reports (CTR) should be started for apparatus staff once equipment is inspected and placed in service.

3. Apparatus Staffing: The FD shall furnish the required staffing as listed in Tables 1-6, for each apparatus. The FD will ensure that the personnel provided are qualified to staff the apparatus.

    - Additional FD personnel above minimum staffing levels listed in the rate table may staff the

apparatus. Variations from staffing levels listed in the AOP rate tables must be mutually agreed upon by Area Forestry FMO and the FD and adjustments must be noted on the RO and documented daily with the Equipment Shift Tickets (OF-297).

- Apparatus may be staffed below recommended minimums with approval from FMO. If staffed below minimum it will be noted on RO at the time of hire and the rate will be reduced proportionately from Combined Rate amount listed.
- At the end of rental agreement, the release inspection portion of the OF-286 must be performed and completed.
- **All personnel staffing apparatus will be listed legibly daily on Equipment Shift Ticket's (OF-297) with FD status next to each name and position filled on the apparatus. (i.e. FFT1, FFT2, ENOP) (example: Jane Smith FFT1)**

4. Transportation of Apparatus: Apparatus shall be delivered, at Forestry's expense, from point of hire to the work site (incident) and returned to the point of hire.

5. Performance and Direction of Work: The FD staff are always responsible for the safe and efficient operation of apparatus and may refuse to work in a situation:

   - exceeding FD staff ability
   - that exceeds the capability of the apparatus
   - that may result in damage to the apparatus

   The FD staff receive work assignments from and perform work under the general direction of Forestry. In the event Forestry terminates an operator for cause**,** replacement FD staff may be requested from the FD. A performance evaluation will be completed for each operator/apparatus.

6. Servicing and Repairs: The FD is responsible for the cost of all servicing to include providing and maintaining the apparatus with fuel, oil, lubricants, filters, and other operating supplies to maintain the apparatus in a safe operating condition. It is the responsibility of the FD staff to determine that the fuel used is the proper fuel for the apparatus. Forestry will provide fuel or reimburse fuel receipts once apparatus is placed on RO. Fuel receipts should be submitted during invoice process.

7. Tools, Spares, and Accessories: The FD staff are responsible, always, for tools, spares, and accessories belonging to the FD and shall secure them in the apparatus if possible. Items that cannot be so secured may be placed in a Forestry-designated storage area, if available.

8. Required Equipment: The FD agrees to furnish apparatus, except command vehicles, with the following equipment:

   - All apparatus listed in the Online Application System (OLAS) will be accompanied by a complete vehicle inventory in hard copy format.
   - All fire apparatus resource ordered as part of an Engine Task Force/Strike Team are required to carry structural firefighting equipment necessary to conform with FD Standard Operating Procedures and are required to carry the following minimum equipment upon leaving for the incident. These items will be supplied by Forestry upon request of the FD and shall be returned to the same Area Forestry Warehouse upon completion of the assignment.

Minimum Equipment and Supply Tables

3 ea. 100' length of 1½" hose (Forestry)	1 ea. Fire Shelter per seat
2 ea. 1" nozzles to fit 1" hose	1 ea. EFF bag per Firefighter
2 ea. 1½" nozzle to fit 1 ½" hose	1 ea. Radio w/Clam Shell & Batteries
3 ea. 100' length of 1" hose (Forestry)	24 ea. AA battery
1 ea. Shovel	3 ea. Pulaski
1 ea. 1½" NHx1½ NH double female	1 ea. First Aid Kit, Crew, Belt Type
1 ea. 1½" NHx1½ NH double male	2 ea. Backpack pump (FEDCO) (empty)
2 ea. 1½" NHx1" NPSH (female-male)	2 ea. Cases MRE's
1 ea. 1" NPSH x1½" NH (female/male)	2 ea. Cubitainer Water
2 ea. 1½" NH x 1 ½" NH x 1 ½" NH	2 ea. Pack of fusees (10 ea./pk) OR
1 ea. Hose clamp for 1" and 1½" hose	1 ea. Drip torch w/5 gallons drip torch fuel
1 ea. Portable Tank, 1500 gallons or larger (Water Tenders only, all types)	

9. Apparatus Loss, Damage or Destruction: Equipment furnished under a contractual agreement with Forestry may be subject to extreme environmental and/or strenuous operating conditions which could include, but are not limited to, unimproved roads, steep, rocky, brushy, hilly terrain, dust, heat, and smoky conditions. Thus, what is considered normal wear and tear under any agreement with the State for fire suppression or other all-risk incident actions is more than what equipment is subjected to under normal highway operations. Wear and tear include worn or cracked tire tread on the running surfaces, chips and scratches to the vehicles painted and other surfaces; small dings and scratches to the bumpers, and surface chips and scratches to the vehicle's windshield, glass, and mirrors.

- If the FD wishes to file a claim for non-Forestry provided equipment, a State Property Loss/Damage Report documenting lost, stolen, or damaged equipment not arising from the above conditions or as the result of negligence on the part of Forestry must be completed and submitted to the State within thirty days of demobilization. Incomplete or unsupported claims will be returned to the FD for further information and/or documentation.
- In the event damage or destruction occurs because of negligence on the part of the State, Forestry's liability is limited to the lesser of the actual repair costs or market value. Forestry is not responsible for the costs of loss or physical damage to FD's equipment due to negligence on the part of FD's personnel, for indirect damages such as loss of use or lost profits, or for wear and tear.
- State Property Loss/Damage Report forms and claims procedures may be found in the Alaska Incident Business Management Handbook (AIBMH), Chapter 11, Contractor and Employee Property Claims.
- Loss, Damage or Destruction claims will **not be accepted** without Post Inspection documentation from the incident.

10. Accessories for Apparatus: All apparatus must have seat belts for all occupants, three portable emergency reflectors, one 5-lb. functional ABC fire extinguisher, and any additional accessories as specified in the AOP.

11. Travel, Meals and Lodging: Travel time between the point of hire and the incident is reimbursable. Forestry will either pay per diem at established State of Alaska, rates or provide meals and lodging for FD employees on assignment away from their Primary Fire Response Service Area.

    Compensable meal periods - Personnel assigned to the fire may be compensated for their meal period if all the following conditions are met:

    The fire is not controlled, and

    - The Operations Section Chief decides that it is critical to the effort of controlling the fire that personnel remain at their post of duty and continue to work as they eat, and
    - The compensable meal break is approved by the supervisor and documented on the CTR and/or Shift Ticket at the next level.
    - ½ hour lunch must be taken while in travel status over eight hours (unless superseded by the FD'S collective bargaining agreement.)
    - In those situations, where incident support personnel cannot be relieved from performing work and must remain at a post of duty, a meal period may be recorded as time worked for which compensation shall be allowed and documented on the CTR/Shift Ticket in "Remarks" section as "No lunch taken due to uncontrolled fire line". If a meal break is not documented on the CTR or Shift ticket, the break will be automatically deducted by the State. (unless superseded by the FD'S collective bargaining agreement.)

12. Fatigue Management: FD personnel hired as EFF or FD staff will follow SOA work rest guidelines. To maintain safe and productive incident activities, personnel must appropriately manage work and rest periods, assignment duration and shift length.

    Personnel should receive adequate time off to safely perform the essential functions of their positions. The following is established to promote safety, limit fatigue, and reduce work- related injuries while adhering to specific bargaining unit contract provisions.

    - 2 to 1 Work-Rest Ratio
    - Requires at least 1 calendar day off in 14 Days or 2 calendar days off in 21 days
    - Provide for Meal Breaks (unless superseded by FD'S collective bargaining agreement)
    - On travel days, employees should be at home or in a hotel for the night by 22:00 HRS.
    - Drivers are limited to driving 10 hours/day in a 16-hour shift.

    For complete Fatigue Management Policy Reference: Dept. Natural Resources, Division of Forestry, Policy and Procedures Manual, 2100 Wildland Fire Safety.

13. Rate Definitions: FD's may choose between two options for rates, **Standard** *or* **Combined Daily Rate**.

    Standard Daily Rate (Apparatus and personnel are invoiced separately).

    Standard Daily Rate is commonly used for assignments with minimal personnel rotation or long

duration (up to 14 days away from home station). The Standard Daily Rate has separate rates for apparatus and personnel, (see Tables 1 through 3).

- Firefighter pay rates are based on actual FD pay rate or EFF skill-based pay rate.
- Administrative fees may be assessed for FD personnel.

Combined Daily Rate (Apparatus with Personnel in one rate):

Combined Daily Rate is commonly used for FD's that rotate personnel frequently (daily) on apparatus. This is tracked using the Emergency Shift Ticket (OF-297) only. The Combined Daily Rate includes a single established rate for both the apparatus and personnel, (See Tables 4 through 6).

- All apparatus personnel remain FD employees, as single rate for both apparatus and personnel. The FD shall furnish the required minimum staffing as listed in the Combined Daily Rate tables. The FD will ensure that the operator/personnel are qualified to operate the apparatus.
- FD's will not be allowed to invoice for administrative fees when using the Combined Daily Rate.
- Under the Combined Daily Rate, all FD resources will be tracked on the Emergency Shift Ticket (OF-297) and paid via the Emergency Equipment Use Invoice (OF-286)

14. Personnel Pay Rates: FD staff will be paid for all hours they are on-shift at the appropriate hourly rate of pay. Note: personnel may be on a shorter or longer shift than the apparatus to which they are assigned. The number of FD staff listed on the rate charts is the minimum required staffing. Any changes to standard staffing will be agreed to in the AOP and document on RO's. No additional personnel will be paid by Forestry unless resource ordered.

Hourly Rates for FD employees by position only, will be established when the AOP is signed. FD's will provide a position qualification list with hourly rates to Forestry. No private information will be included in this list. This list will be used for cross reference at the time of invoice, for FD employee name, position on apparatus and hourly rate.

Example:

Position	**Hourly Rate**	**Backfill Overtime Hourly Rate**
Non-Supervisory, Structural Firefighter, Advanced	$27.82/Hour	$35.42/Hour
Driver/Operator/Engineer	$33.14/Hour	$41.23/Hour

15. Backfill: Forestry will reimburse backfill overtime costs only. Forestry only pays for the overtime above what the regular salary would have been for the employee(s) deployed. Backfill reimbursement will be approved only when the FD is required to supply a firefighter at their station to comply with Fire Department policy, municipal ordinance, or union contract.

16. Administrative Rate: Forestry will not pay administrative fees more than **13.5%.**

- The administrative rate is only applied to the personnel cost, not the total invoice. As a cost containment measure, higher paid FD's shall be considered for release first.

17. Apparatus Pay Rates: Apparatus rates have been determined by Forestry for all categories, types, and classes of Apparatus and are included in the OLAS. OLAS is used by the FD to register or list their

apparatus and by the dispatcher and others to search for and hire Apparatus. Any FD using rates that are non-compliant with Forestry specified rates will normally be the last hired and the first released. The link to OLAS is https://dnr.alaska.gov/olas/. Rates are also listed in Tables 1 through 6.

- Non-apparatus equipment rates have been determined by Forestry for all categories, types, and classes of equipment and are included in the OLAS. Any equipment or vehicle owned by the FD and not reflected in the Apparatus Rate Tables, will be paid at the rates shown in Chapter 6 of the AIBMH and OLAS. Any FD using rates that are non-compliant with Forestry specified rates will normally be the last hired and the first released.
- Non-apparatus equipment needs to be registered on the "Vendor" entry tab of OLAS prior to hire. Non-apparatus includes but not limited to heavy equipment, tracked vehicles, ATV/UTV, sedans or trucks, boats, generators, aviation crash and rescue trucks, chainsaws, portable pumps, light towers and Ambulances.
- Each shift for apparatus or equipment must be documented on an Equipment Shift Ticket (OF-297) and must be signed by the FD's personnel and the supervisor on the incident as the duly authorized representative for certification as to the number of hours or other units of pay earned. Hours shall consist of the period working (assigned), ordered standby, or compensable travel time.
- **All personnel staffing apparatus will be listed legibly daily on Equipment Shift Ticket's (OF-297) with FD status next to each name and position filled on the apparatus. (i.e. FFT1, FFT2, ENOP) (example: Jane Smith FFT1)**
- Apparatus pay rates will be based on resource type ordered. If agreed to by both the FMO and Fire Chief prior to hire and documented on RO at the time of hire as a change, a different apparatus may be substituted.
- All apparatus pre and post inspections can be performed at local Area Forestry Office or on incident if apparatus leaves directly from station directly to assignment.
- A Mobilization Finance packet will be given to each apparatus at the start of the hiring process. Upon completion of an assignment a Demobilization Finance Packet will need to be submitted to the local Area Administrative staff.

The incident or dispatch office will compile the amount earned on the Emergency Equipment Use Invoice (OF-286) which both parties will sign to show concurrence of the amount due the FD at the time of release from assignment. OF-288s will be posted for FD staff by the incident or Area.

18. Rate Calculations: The rates are calculated for Interagency use based on the Consumer Price Index (CIP) for Anchorage. The rates are fair and reasonable for apparatus or equipment in generally new and good operating condition. Rates are effective pending any modifications resulting from the previous fiscal year, directives, and/or changes in the applicable Service Contract Act Wage Determination (SCA) or marketplace realities.

- Rates are reviewed annually for OLAS, CFPA, AOP and the AIBMH.
- Rates are reviewed by SOA and Federal Interagency partners. A fair market rate that is allowable under all (State of Alaska & Federal partners) agency procurement policies is adopted.
- Daily rates may fluctuate between annual changes.

Invoice Matrix

Invoice Matrix: Apparatus and Personnel Billing				
Use TABLE's for specific rates	**Invoice for Apparatus**	**Invoice for FD Staff**	**Invoice for DOF Technicians or EFF Personnel**	**Additional Invoice Billable Documentation Items*** **
Apparatus Only	**YES**	NO	NO	Refurb** and incidentals
Apparatus w/FD Staff only	**YES**	**YES**	NO*	Refurb** and incidentals, FD staff @ Dept rates and Admin Fees
Apparatus w/Mixed FD and DOF/EFF Personnel	**YES**	**YES, For FD staff only**	NO*	Refurb** and incidentals, FD staff @ Dept rates and Admin Fees
Apparatus w/All DOF/EFF Personnel	**YES**	NO	NO*	Refurb** and incidentals
Non-apparatus equipment or vehicles	**YES,** Equipment Shift Tickets	NO	NO	Incidentals.
Federal Excess Personal Property (FEPP) Apparatus Only	**YES, @ 66% of Daily Rate**	****	****	Refurb** and incidentals
Combined Daily Rate	**YES,** invoice includes personnel	**NO**, personnel cost included in rate	NO	Refurb**, incidentals Equipment Shift Tickets (OF-297), Emergency Equipment Use Invoice (OF-286)

*EFF are managed by SOA, no invoice from FD is needed.
**Refurb rate based on length of time on assignment, 4 hours for an assignment of 10 days or less, 8 hours for an assignment greater than 10 days.
*** Not all inclusive, additional documentation may be required. Claims packets need to be included but not invoiced. (i.e. Per Diem if approved, fuel, maintenance)
**** For FEPP Staffing follow procedures in all non-FEPP Apparatus categories in the matrix.
Apparatus rental rates include routine maintenance; normal wear and tear (minor scratches, chips and scratches in windshield, punctured or flat tires etc.); insurance; and other pertinent overhead expenses. Rental rates will not exceed the rates listed below (Tables 1-6). Federal Excess Personal Property (FEPP) apparatus provided by a FD will be paid 66% of the normal rate.

19. For fractional days at the beginning and ending time under hire, payment will be based on 50 percent of the Daily Rate for periods less than eight hours. To clarify, apparatus initially hired after 1600 (4:00 pm) shall receive half the daily rate for the first day of hire, and apparatus released back to the point of hire before 0800 (8:00 am) on the last day of hire shall receive half the daily rate for the final day of hire.

20. For shifts under hire or assignment between the first and last, the FD shall be paid at the daily rate, if the apparatus is operable and available the entire shift. A shift is the hours worked as stated by the Incident Action Plan and/or as determined by the dispatching office.

21. If the apparatus is inoperable or unavailable during an on-shift period, this will be considered down time and charges will not accrue. Payment will be based on the hours the apparatus was operational during the assigned shift as documented on the shift ticket versus the designated shift times shown on the Incident Action Plan (IAP). If the apparatus was not operational for the full shift, the deduction from the daily rate is calculated by converting the length of shift from the IAP to determine the hourly rate and deducting pay for the total hours the apparatus was non-operational, i.e., daily rate ÷ # hours of shift in IAP = hourly rate to be deducted.

22. Invoicing: For invoicing include apparatus and FD staff on the same invoice. If a new RO is created to transfer assignments, a separate invoice should be done.

    Examples for apparatus under both **Standard** and **Combined** Daily Rates:

    - Example #1 - The apparatus spends 7 days on Incident A and is then transferred to Incident B with a new RO for 7 days. Two separate invoices need to be submitted in one package.
    - Example #2 - If the apparatus stays on one incident the whole time, one invoice with personnel and apparatus may be submitted.
    - Example #3 – The apparatus goes to Incident C for ten days and returns home for a break in service. If the apparatus is then RO to the same or a different incident, separate invoices need to be submitted.

    Following these examples will speed up the payment cycle and reduce billing errors.

23. **The Area Forester or designee has the authority to correct or change the invoice in case of accounting errors or needed additions or subtractions from invoice, or if the FD chose the improper category, type, class or rate in OLAS.**

24. Insurance: The FD must carry and maintain motor vehicle liability insurance as required by AS 28.22.01. In the case of the FD staff being hired by the State as an EFF, the State covers Worker's Compensation and potential liability based on apparatus operations in response to and operation on a wildland fire. In the case of the FD's staff remaining an employee of the FD, the FD must carry and maintain Worker's Compensation coverage as required by AS 23.30.045.

25. Evaluations: All FD Engines will be evaluated by the incident supervisor and the evaluation form will be included in the documentation packet upon release from the incident.

26. Refurb/Rehab: With the local Area Forester's approval, FD's are allowed up to 4 hours of refurb for an assignment less than or up to 10 days and up to 8 hours of refurb for an assignment longer than 10 days for refurb and rehab of their equipment.

27. Documentation Requirements for Assignments

One (1) copy of each of the following documents is required for Out-of-Area Assignments.

- Mobilization packets will be created at the local Area Dispatch office.
- Prior to inspection Documentation package will be reviewed with Area Dispatch and FD.

Finance Packet Matrix

Mobilization Finance Package	**Demobilization Finance Package**
Packet received upon successful inspection. Maintained for duration of assignment.	*Turn completed packet in at completion of assignment.*
This Finance Packet needs to stay with apparatus and used at check-in on the incident.	**This Finance Packet needs to be turned in at the end of an assignment to the local Area Administrative staff.**
*Fire Department Position Rates Sheet	*Fire Department Position Rates Sheet
*Apparatus Inventory Sheet (FD Equipment)	*Apparatus Inventory Sheet (FD Equipment)
Resource Order	Resource Order: Multiple RO's will be needed when re-assigned to different Incidents
Billing Type (**Standard Daily Rate** w/FD, EFF or Mixed personnel: Or **Combined Daily Rate**)	Billing Type (**Standard Daily Rate** w/FD, EFF or Mixed personnel: Or **Combined Daily Rate**)
Emergency Equipment Rental Agreement (OF-284):	Emergency Equipment Rental Agreement (OF-284):
Current Annual Operating Plan - AOP	Current Annual Operating Plan - AOP
Current Cooperator Fire Protection Agreement - CFPA	Current Cooperator Fire Protection Agreement - CFPA
Pre-Hire Inspection Checklist (OF-296)	Pre & Post Hire Inspection Checklist (OF-296)
Initial Equipment Shift Ticket Book (OF-297)	Completed Equipment Shift Tickets (OF-297)
Blank Contractor Evaluation	Completed Contractor Evaluation
Crew Time Report Book (SF-261)	Completed OF-288, Emergency Firefighter Time Report
*Crew Manifest with Contact information	*Crew Manifest with Contact information
	Emergency Equipment Use Invoice (OF-286):
	Claims Documentation, if applicable
	Any additional receipts/documentation for reimbursable expense accrued on assignment.

*Responsibility of FD to provide at the time of hire to the local Area Dispatch.

28. Rate Tables.

- **Standard Daily Rate:** tables 1-2 are for FD Apparatus only. Table 3 is Command Vehicle rate.
- **Combined Daily Rate:** tables 4-5 are for FD Apparatus and Personnel combined rate. Table 6 is Command Vehicle rate.

Table 1- **STANDARD DAILY RATE:** Table for Water Tender Types, Rates & Minimum Requirements

Rates & Components *(excludes personnel costs)*	**Water Tender Types**				
	Support			**Tactical**	
	S1	**S2**	**S3**	**T1**	**T2**
Daily Rate	$1,950	$1,630	$1,300	$1,630	$1,300
Hourly Rate for refurb	$170	$145	$120	$170	$145
Tank Capacity (gal)	4000	2500	1000	2000	1000
Pump Min. Flow (GPM)	300	200	200	250	250
At Rates Pressure (psi)	50	50	50	150	150
Max. Refill Time (minutes)	30	20	15	-	-
Pump and roll	-	-	-	Yes	Yes
Personnel minimum	1	1	1	2	2

Table 2- **STANDARD DAILY RATE:** Table for Engine Types, Rates & Minimum Staffing Requirements

Rates & Components *(excludes personnel costs)*	**Structure Apparatus**		**Wildland Apparatus**				
	1	**2**	**3**	**4**	**5**	**6**	**7**
Daily Rate	$2,840	$2,680	$1,785	$1,545	$1,265	$1,070	$860
Hourly Rate for refurb	$285	$275	$180	$165	$145	$130	$115
Tank minimum capacity (gal)	300	300	500	750	400	150	50
Pump Min Flow (GPM)	1000	500	150	50	50	30	10
Rated pressure (psi)	150	150	250	100	100	100	100
Hose (feet) 2 1/2 inch	1200	1000	-	-	-	-	-
Hose (feet) 1 1/2 inch	400	500	1000	300	300	300	-
Hose (feet) 1 inch	-	-	500	300	300	300	200
Ladders per NFPA 1901	Yes	Yes	-	-	-	-	-
Master Stream 500 GPM Min	Yes	-	-	-	-	-	-
4-Wheel Drive Required	-	-	Yes	Yes	Yes	Yes	Yes
Personnel (minimum)	3	3	3	2	2	2	2

Table 3- **STANDARD DAILY RATE:** Table for Command Vehicles & Minimum Staffing Requirements

COMMAND VEHICLE RATE *(Excludes personnel costs)*	
Daily Rate	$545
Hourly Refurb	$70
Personnel	1, may be hired as vehicle only

Table 4- **COMBINED DAILY RATE:** Tables for Water Tender Types & Minimum Staffing Requirements

Rates & Components *(includes personnel costs)*	**Water Tender Types**				
	Support			**Tactical**	
	S1	**S2**	**S3**	**T1**	**T2**
Daily Rate	$2,365	$2,045	$1,715	$2,370	$2,040
Hourly Rate for refurb	$170	$145	$120	$170	$145
Tank Capacity (gal)	4000	2500	1000	2000	1000
Pump Min. Flow (GPM)	300	200	200	250	250
At Rates Pressure (psi)	50	50	50	150	150
Max. Refill Time (minutes)	30	20	15	-	-
Pump and roll	-	-	-	Yes	Yes
Personnel minimum	1	1	1	2	2

Table 5- **COMBINED DAILY RATE:** Tables for Engine Types, Rates & Minimum Staffing Requirements

Rates & Components *(includes personnel costs)*	**Structure Apparatus**		**Wildland Apparatus**				
	1	**2**	**3**	**4**	**5**	**6**	**7**
Daily Rate	$4,005	$3,845	$2,525	$2,285	$2,005	$1,810	$1,600
Hourly Rate for refurb	$285	$275	$180	$165	$145	$130	$115
Tank minimum capacity (gal)	300	300	500	750	400	150	50
Pump Min Flow (GPM)	1000	500	150	50	50	30	10
Rated pressure (psi)	150	150	250	100	100	100	100
Hose (feet) 2 1/2 inch	1200	1000	-	-	-	-	-
Hose (feet) 1 1/2 inch	400	500	1000	300	300	300	-
Hose (feet) 1 inch	-	-	500	300	300	300	200
Ladders per NFPA 1901	Yes	Yes	-	-	-	-	-
Master Stream 500 GPM Min	Yes	-	-	-	-	-	-
4-Wheel Drive Required	-	-	Yes	Yes	Yes	Yes	Yes
Personnel (minimum)	3	3	3	2	2	2	2

Table 6- **COMBINED DAILY RATE:** Tables for Command Vehicles & Minimum Staffing Requirements

COMMAND VEHICLE RATE *(includes personnel costs)*	
Daily Rate	$960
Hourly Refurb	$70
Personnel	1

29. Command Vehicles: When ordered by Forestry, command vehicle rates will be applicable when an individual in any of the following positions uses the vehicle Command Vehicles must meet the following criteria and come equipped with the following equipment:

- Four Wheel Drive
- Seating for 3 Persons
- First Aid Kit
- Fire Extinguisher
- Emergency Lighting
- Field Programmable Radio

When ordered by Forestry, command vehicle rates will be applicable when an individual in any of the following positions uses the vehicle:

- Incident Commander
- Branch Director
- Water Handling Specialist
- Operations Section Chief
- Division/Group Supervisor
- Fire Chief/Designee
- Structure Protection Specialist
- Strike Team/Task Force

30. Ambulance: There are two Types of ambulances: Basic Life Support (BLS) and Advanced Life Support (ALS). The ambulances are owned and staffed by a Fire Departments, Emergency Response agency, vendor or sometimes large hospitals. The difference between BLS and ALS ambulances is the ALS ambulance is equipped with higher trained medical personnel, an EMT and a paramedic as a minimum certification level. The BLS ambulance is staffed with two EMTs as a minimum certification level. The price of the personnel is included in the ambulance daily rate. Both types of ambulances are required to be staffed with a minimum of two personnel and one will serve as a driver. The State provides fuel for the ambulance and the owner or sponsoring agency will provide all medical supplies. The ambulances are listed under the Other Support Items in OLAS.

- All vendor ambulance service personnel must have meet State of Alaska specific certifications or reciprocity requirements.
- All ambulance personnel must meet all scope of practice requirements (medical sponsorship may be required for highly trained and qualified medical personnel)
- Daily Rates are based on one 24-hour period of hire. Personnel changes during this 24-hour period are the fiscal responsibility of ambulance owner.
- FD ambulances are not considered “apparatus”, they are list on the non-FD or Vendor side of OLAS.
- Refurb Rates used for FD equipment only. Refurb Rate requirements follow the same policy as FD apparatus.

Table 7 - **Ambulance Daily Rate**

AMBULANCE DAILY RATE (with staff and fully supplied)		
Type	Advanced Life Support (ALS)	Basic Life Support (BLS)
Daily Rate	$3500	$2500
Hourly Refurb	$125	$125

31. Workplace Conduct: *The State of Alaska is an equal opportunity employer and does not discriminate in employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, changes in marital status, pregnancy, and parenthood.* This includes behavior such as making threats, abusive language, slurs, unwelcome jokes, teasing and other such verbal or physical conduct. Creating a hostile work environment will not be condoned. This includes verbal or physical conduct of a sexual nature, making unwelcome sexual advances or requests for sexual favors, and unreasonably interfering with the work of others.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION (49 CFR Part 29): The bidder/offeror certifies, by submission of this proposal or acceptance of this contract/agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by signature on this agreement to include this clause without modification in all lower tier transactions, solicitation, proposals, contracts and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this agreement.

I certify that I have read and agree to the conditions and rates contained on this form.

This document supersedes all prior versions of this agreement. Earlier versions must be deleted/destroyed and replaced with this document.

Annual Operating Plan
Signatures

For State of Alaska, Department of Natural Resources, Division of Forestry

_____

Area Forester Date

_____

Fire Management Officer Date

For Cooperator Fire Department

_____

Jon Marsh, Fire Chief - Western Emergency Service Area Date

_____

Charlie Pierce, Mayor - Kenai Peninsula Borough Date

ATTEST:

_____

Johni Blankenship, Borough Clerk

Introduced by:	Bjorkman, Elam, Derkevorkian, Mayor
Date:	04/20/21
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-032

A RESOLUTION ADOPTING A POLICY THAT THE BOROUGH WILL CONDUCT A PRE-ELECTION SECURITY RISK AND VULNERABILITY ASSESSMENT AND DEVELOP A SECURITY DESIGN FOR ANY ELECTION SYSTEM USED TO ADMINISTER BOROUGH ELECTIONS

WHEREAS, the peoples' confidence in the integrity of election results is reliant on their confidence in the security of the election equipment, election workers, and infrastructure that make elections possible; and

WHEREAS, free and fair elections play a vital and integral role in a democratic society; and

WHEREAS, all election equipment must be independently validated as secure and accountable in order to prove its reliability; and

WHEREAS, a policy providing for a pre-election security risk and vulnerability assessment of the borough's election infrastructure, a security design, where needed, and a post-implementation audit of any new election system, equipment or software used by the borough to administer elections is in the best interests of the borough;

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

SECTION 1. To the extent authorized by law and within available resources, a policy is hereby adopted that the borough, with the assistance of an independent third party cybersecurity professional, will conduct a security risk and vulnerability assessment, and develop a security design for the election system used to administer borough elections.

SECTION 2. That, within available resources, the borough will conduct an election security risk and vulnerability assessment, carried out by a provider of cybersecurity services, prior to the October 2021 borough election.

SECTION 3. That, within available resources, a security design, developed by a provider of cybersecurity services in coordination with the borough's information technology department, will be in place prior to the October 2021 borough election.

SECTION 4. That, within available resources, a security audit, performed by a provider of cybersecurity services in coordination with the borough's information technology department, will be performed immediately after the initial implementation of any election system used to administer borough elections.

SECTION 5. That this resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

MEMORANDUM

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

FROM: Jesse Bjorkman, Assembly Member
Bill Elam, Assembly Member

DATE: April 13, 2021

RE: Resolution 2021-032, Adopting a Policy that the Borough Will Conduct a Pre-Election Security Risk and Vulnerability Assessment and Develop a Security Design for Any Election System Used to Administer Borough Elections (Bjorkman, Elam)

This resolution would establish a borough policy providing for a pre-election security risk and vulnerability assessment of the borough's election infrastructure, a security design, where needed, and a post-implementation audit of any new election system, equipment or software used by the borough to administer elections is in the best interests of the borough.

The security and vulnerability assessment and security design would be conducted and developed by an independent third party professional IT security provider prior to the October 2021 borough election.

Your consideration is appreciated.

Fiscal Note

Kenai Peninsula Borough
Fiscal Year 2021

Title: Resolution 2021-032, Adopting a Policy that the Borough Will Conduct a Pre-Election Security Risk and Vulnerability Assessment and Develop a Security Design for Any Election System Used to Administer Borough Elections (Bjorkman, Elam)

Resolution 2021-032
Fiscal Note Number: CY2021-01
Publish Date: 4/20/2021

Department: Assembly- Elections

Sponsor: Assemblymembers Bjorkman and Elam

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

	Current Year Estimate	Out-Year Cost Estimates	
	Current Year	Year1	Year 2
Operating Expenditures	**FY 21**	**FY22**	**FY23**
Personnel	$0	$0	$0
Supplies	$0	$0	$0
Services	$20,000	$0	$0
Capital Outlay	$0	$0	$0
Other			
Total Operating	**$20,000**	**$0**	**$0**

Revenue Sources			
Federal			
State	$0	$0	$0
Local			
Total	**0.0**	**0.0**	**0.00**

Number of Positions			
Full-Time			
Part-Time			
Temporary			

Estimated Supplemental Funding: Estimated range between $4,000-$85,000, with main cluster between $10,000-$20,000

ASSOCIATED REGULATIONS

Will the legislation result in procedural or regulation changes within a department? Y **N** (circle one)

If yes, by what date are the regulations to be adopted, amended or repealed? Upon adoption

Prepared By: Brandi Harbaugh, Finance Director

Harbaugh, Brandi
Digitally signed by Harbaugh, Brandi
DN: dc=us, dc=ak, dc=kenai, dc=borough, ou=KPB_Users, ou=FIN, ou=ADM, cn=Harbaugh, Brandi, email=BHarbaugh@kpb.us
Date: 2021.04.15 11:32:49 -08'00'

Introduced by:	Mayor
Date:	04/20/21
Hearing:	05/04/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-28

AN ORDINANCE APPROPRIATING $46,000 FROM THE SEWARD-BEAR CREEK FLOOD SERVICE AREA FUND BALANCE TO COMPLETE GROUND CONTROL SURVEYS, ESTABLISH BENCHMARKS AND CHANNEL DESIGN IN THREE SITES FOR THE SEDIMENT MANAGEMENT AND MAINTENANCE PROGRAM

WHEREAS, the Seward-Bear Creek Flood Service Area (SBCFSA) provides flood planning, protection, and mitigation services for flooding within the service area; and

WHEREAS, during high water events, large volumes of sediments and debris are transported throughout the watersheds of Seward, Bear Creek and Lowell Point neighborhoods through channelized stream corridors; and

WHEREAS, the SBCFSA completes periodic channel and embankment maintenance projects at strategic locations in five area creeks; and

WHEREAS, in recent years the SBCFSA has prioritized the development of standardized maintenance and sediment management plans for these project sites; and

WHEREAS, the SBCFSA proposes to establish a sediment management and maintenance program to reduce costs and extend the time between necessary maintenance projects; and

WHEREAS, the SBCFSA has developed maintenance plans in two sites and completed a successful project in Sawmill Creek; and

WHEREAS, to finalize the standardization and maintenance plans for this program, SBCFSA will contract the completion of ground control surveys, establishment of benchmarks and channel design plans for three maintenance sites; and

WHEREAS, at the February 8, 2021 regular meeting, the SBCFSA Board of Directors unanimously recommended approval of this appropriation;

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

SECTION 1. That $46,000 is appropriated from the Seward Bear Creek Flood Service Area Fund, fund balance to account number 259.21212.21SED.49999 to support the standardization and maintenance plans for three sites, Lost Creek, Box Canyon Creek and the Salmon Creek diversion.

SECTION 2. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF MAY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Kenai Peninsula Borough
Seward-Bear Creek Flood Service Area

MEMORANDUM

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

THRU: Charlie Piece, Mayor JCB
Brandi Harbaugh, Finance Director BH
John Hedges, Purchasing & Contracting Director JH
Dan Nelson, Emergency Manager DN

FROM: Stephanie Presley, SBCFSA Program Lead SP

DATE: April 8, 2021

RE: Ordinance 2020-19-28, Appropriating $46,000 from the Seward-Bear Creek Flood Service Area Fund Balance to Complete Ground Control Surveys, Establish Benchmarks and Channel Design in Three Sites for the Sediment Management and Maintenance Program (Mayor)

Neighborhoods within the Seward, Bear Creek and Lowell Point communities were developed on alluvial fans with active stream corridors channelized by a series of gravel embankments, armored banks, and bridge infrastructure. During storm events, sediments and debris are mobilized from the mountainsides and transported throughout the watershed, moving large volumes of boulders, cobbles, gravel, and woody debris, and eroding embankments that protect public and private property from flood damages.

The Seward – Bear Creek Flood Service Area (SBCFSA) completes periodic maintenance in five area creeks: Box Canyon, Lost, Kwechak, Salmon, and Sawmill Creeks.

The SBCFSA is establishing a sediment management and maintenance program for these five creeks. Combining channel and embankment maintenance with sediment management at these strategic locations will reduce costs, extend the time between necessary maintenance projects, and allow for quicker mobilization during emerging situations. Removal of streambed materials from active channels improves conveyance of floodwaters and provides a catch basin for debris transported during high water events, decreasing the deposition of sediments in downstream areas.

To finalize the standardization and maintenance plans for this program, SBCFSA will contract the establishment of ground control at Lost and Box Canyon Creeks and complete an initial survey and baseline design plans for the Salmon Creek diversion area.

At the February 8, 2021 regular meeting, the SBCFSA board of directors unanimously recommended approval of $46,000 from fund balance to complete ground control surveys, establish benchmarks and complete channel design in these three project sites for the sediment management and maintenance program.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 259.27910

Amount: $46,000.00

By: PP Date: 4/5/2021

Introduced by:	Mayor
Date:	04/20/21
Hearing:	05/04/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-29

AN ORDINANCE APPROPRIATING FUNDING FROM THE CENTRAL PENINSULA HOSPITAL PLANT REPLACEMENT AND EXPANSION FUND FOR COMPLETION OF THE MOUNTAIN TOWER HANDICAP ACCESSIBLE PARKING LOT AND ACCESS UPGRADE PROJECT

WHEREAS, the Kenai Peninsula Borough has entered into an Operating Agreement with Central Peninsula General Hospital, Inc. for operation of Central Peninsula Hospital ("CPH") and other medical facilities, and to provide other healthcare programs and services, on a nonprofit basis, to ensure the continued availability of services to the service area residents; and

WHEREAS, Central Peninsula General Hospital , Inc. ("CPGH Inc.) recently completed a major expansion to facilities with the addition of new obstetric facilities and cardiac catheterization laboratory ("OB Cath Lab") and many other smaller department changes; and

WHEREAS, plans for the recently completed project include an upgrade to the Americans with Disabilities ("ADA") accessible parking area and access improvements to the Mountain Tower handicap accessible parking area, which includes parking closer to the building, improving sidewalk slope and installing heated sidewalks; and

WHEREAS, heated ADA accessible parking at the CPH's Mountain Tower entrance was identified as a priority need in the development of the OB Cath Lab project; and

WHEREAS, heated ADA accessible parking and other access is a standard at CPH due to the high demand for ADA access at healthcare facilities; and

WHEREAS, the use of heated ADA accessible parking and heated ADA access has also proven to reduce the occurrences of weather related slips, trips and falls on the hospital campus; and

WHEREAS, the estimated cost of the ADA accessible parking project is $1,500,000; and

WHEREAS, additional funds in the amount of $1,500,000 will be needed to complete the project as no funding remains from the OB Cath Lab project; and

WHEREAS, sufficient funds are available in the Central Peninsula Hospital Plant Replacement and Expansion Fund to fund this project; and

WHEREAS, under Section 16(b) of the Operating Agreement, transfers in or out of the Central Peninsula Hospital's Plant Replacement and Expansion Fund shall first be considered by the Central Peninsula General Hospital, Inc. Board and its recommendations forwarded to the assembly; and

WHEREAS, on March 25, 2021, the CPGH Inc. Board approved the transfer of funds from the Plant Replacement and Expansion Fund in the amount of $1,500,000 for the project by the passage of Central Peninsula General Hospital Resolution 2021-06;

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

SECTION 1. Funds in the amount of $1,500,000 are appropriated from the Central Peninsula Hospital Plant Replacement and Expansion Fund account number 490.20602 to account number 490.81110.21PRK.49999 for the purpose of completing the Mountain Tower ADA Parking and Access Upgrade Project.

SECTION 2. That the appropriations made in this ordinance are project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 3. This ordinance takes effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF MAY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Kenai Peninsula Borough
Purchasing & Contracting Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB

FROM: John Hedges, Purchasing & Contracting Director JH
Brandi Harbaugh, Finance Director BH

DATE: April 8, 2021

RE: Ordinance 2020-19-29, Appropriating Funding from the Central Peninsula Hospital Plant Replacement and Expansion Fund for Completion of the Mountain Tower Handicap Accessible Parking Lot and Access Upgrade Project (Mayor)

Improved handicap accessible heated parking at the hospital's Mountain Tower Entrance was identified as a priority need for Central Peninsula Hospital (CPH). A partial reconstruction of the parking lot was designed and bid for construction in 2020, but came in over available budget. It was determined that a better use of funds would be to reconstruct the entire parking area between the Mountain Tower and River Tower entrances to provide an increase in total Americans with Disabilities Act (ADA) accessible parking spaces. These spaces will be heated and provide a heated walkway between the two entrances.

Heated ADA accessible parking and access is a standard at CPH due to the high demand for ADA access at healthcare facilities. The use of heated ADA accessible parking and other heated ADA access has also proven to reduce occurrences of weather related slips, trips and falls on the hospital campus. Currently a design effort is underway to complete the handicap portion of the parking lot in 2021 as described. The estimated cost of the project is $1,500,000.

The Central Peninsula General Hospital, Inc. Board has approved funding of this project. Your consideration of this complete this project is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 490.20602

Amount: $1,500,000

By: PP Date: 4/8/2021

central peninsula general hospital, inc. d/b/a
central peninsula
hospital | heritage place | serenity house
250 Hospital Place, Soldotna, AK 99669

RESOLUTION 2021-06

A RESOLUTION APPROVING THE COMPLETION OF THE MOUNTAIN TOWER PARKING LOT HANDICAP PARKING AND ACCESS UPGRADE PROJECT AND AUTHORIZING THE TRANSFER OF FUNDS FROM THE PLANT REPLACEMENT AND EXPANSION FUND (PREF) IN THE AMOUNT OF $1,500,000

1. **WHEREAS**, the Kenai Peninsula Borough ("Borough") has entered into an Operating Agreement with Central Peninsula General Hospital, Inc. for operation of Central Peninsula Hospital and other Medical Facilities, and to provide other healthcare programs and services, on a nonprofit basis in order to ensure continued availability to the Service Area residents; and,

2. **WHEREAS**, Central Peninsula General Hospital, Inc. recently completed a major expansion to facilities with the addition of new obstetric facilities and cardiac catheterization laboratory in addition to many other smaller department changes; and,

3. **WHEREAS,** plans for the recently completed project included an upgrade to the handicapped parking area and access improvements to the Mountain Tower handicap parking area which includes situating parking closer to the building, improving sidewalk slope and installing heated sidewalks; and

4. **WHEREAS,** heated handicap parking at the CPH's Mountain Tower entrance was identified as a priority need in the development of the OB Cath Lab project; and

5. **WHEREAS,** heated handicap parking and access is a standard at CPH due to the high demand for Americans with Disabilities Act ("ADA") access at healthcare facilities; and

6. **WHEREAS,** the use of heated handicap parking and heated ADA access has also proven to reduce the occurrences of weather related slips, trips and falls on the hospital campus; and

7. **WHEREAS**, the estimated cost of the handicapped parking project is $1,500,000; and

8. **WHEREAS**, additional funds in the amount of $1,500,000 will be needed to complete the project as no funding remains from the OB Cath Lab project; and

9. **WHEREAS,** sufficient funds are available in the Central Peninsula Hospital Plant, Replacement and Expansion Fund to fund this project; and,

10. **WHEREAS,** under Section 16(b) of the Operating Agreement, transfers in or out of the CPH Plant Replacement and Expansion Fund shall first be considered by the CPGH, Inc. Board and its recommendations forwarded to the assembly; and,

11. **WHEREAS,** Administration recommends that the CPGH, Inc. Board of Directors approve and authorize the appropriation of $1,500,000 from the Plant, Replacement and Expansion Fund for this project; and,

THEREFORE, BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF CENTRAL PENINSULA GENERAL HOSPITAL, INC., A NOT-FOR-PROFIT ALASKA CORPORATION, THAT:

SECTION 1. The CPGH, Inc. Board of Directors approves the handicap parking and access project at central peninsula hospital and authorizes the transfer of funds from the plant replacement and expansion fund (pref) in the amount of $1,500,000

SECTION 2. The CPGH, Inc. Board of Directors requests the Kenai Peninsula Borough Assembly approve the project and appropriate funds for the project.

SECTION 3. That this resolution takes effect immediately upon approval.

Date: 03/25/21

Carrie Couey

Carrie Couey, Secretary/Treasurer,
CPGH, Inc. Board of Directors

Introduced by:	Mayor
Date:	04/20/21
Hearing:	05/04/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-16

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF THE FY2022 LATE-FILED SENIOR CITIZEN GRANT APPLICATION FOR THE SEWARD SENIOR CITIZEN PROGRAM

WHEREAS, pursuant to KPB 5.22.010 the Kenai Peninsula Borough may provide for grants to senior citizen centers located within the Kenai Peninsula Borough; and

WHEREAS, KPB 5.22.060 requires grant applications be filled out and submitted not later than March 15 of each year; and

WHEREAS, the Seward Senior Center has historically practiced good grant oversight and requests consideration for its late submission dated March 31, 2021; and

WHEREAS, because the deadline requirement to submit the application is established by ordinance, an exception to code can only be granted by ordinance;

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

SECTION 1. That the assembly authorizes the acceptance of the FY2022 late-filed Seward Senior Center grant application.

SECTION 2. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF MAY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB
Brandi Harbaugh, Finance Director BH

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager BA

DATE: April 8, 2021

RE: Ordinance 2021-16, Authorizing the Acceptance of the FY2022 Late-Filed Senor Citizen Grant Application for the Seward Senior Citizen Program (Mayor)

KPB 5.22.010 authorizes the borough to provide grants to senior citizen centers and adult daycare facilities within the Kenai Peninsula Borough. The grant application must be submitted not later than March 15th annually.

The Seward Senior Center submitted a late filing of the FY2022 application, which included a justification letter for the assembly's consideration. Because the requirement to submit the application is established by ordinance, an exception can only be granted by ordinance.

This ordinance requests that the assembly authorize the acceptance of the late-filed FY2022 grant application for the Seward Senior Center program.

Attachments:
Seward Senior Center FY2022 application 03/31/21
Seward Senior Center Letter 04/05/21

RECEIVED 03/31/21

Pass Due - Ordinance Required

KENAI PENINSULA BOROUGH
FY22 SENIOR CITIZEN GRANT APPLICATION

EMAIL TO: Brenda Ahlberg
Community & Fiscal Projects Manager
bahlberg@kpb.us
907-714-2153 or 800-478-4441

DUE DATE: March 15, 2021
Emailed: March 30, 2021

Seward Senior Citizens, Inc

1. **Applicant Organization** *(Provide legal corporate name as listed on current AK Biennial Report.)*

336 3rd Ave — **907-224-5604**

2. **Business Address:** — 3. **Telephone:**

PO Box 1195, Seward, AK 99664

4. **Mailing Address:**

ssc@seward.net — **N/A**

5. **E-mail address:** — 6. **Fax Number:**

7. **Eligibility** (KPB Code 5.22.020)

X Nonprofit

- o Tax Exempt
- o City Sponsorship
- o Recognized by KPB Assembly
- o Recognized by Older Alaskans Commission of State of Alaska
- o Received 1985-86 Borough funding but do not meet other sponsorship requirements

8. **Date Organization Formed/Date of Incorporation:**

July 28th, 1978

9. **Individuals Authorized to Sign Purchase Orders and Payment Requests:**

	Name	Title	Telephone
a.	Mark Kansteiner	Board Chair	907-224-3589
b.	Nicole Lawrence	Board Vice Chair	907-491-0778
c.	Diane Hunt	Board Sec/Treasure	907-202-2460
d.	Dana Paperman	Executive Director	907-224-5604

Attach the organization's State of Alaska Biennial Report, which lists current officers.

10. **Services to be provided from Borough funding and grant amount requested:** Use attached form "KPB Senior Grant Program - Budget Request."

11. Provide a copy of current State of Alaska Biennial Report listing current officers that are authorized to sign the grant agreement.

Terms and Conditions: The undersigned certifies that the information presented in this application is true and correct and that the applicant agency will abide by the requirements outlined in Kenai Peninsula Borough Code Chapter 5.22.

Mark Ranstrom — **Board Chair** — 3/31/21

Authorized Signature — **Title** — **Date**

The application can only be signed by a board officer as listed on the current biennial report.

KPB OFFICE USE ONLY

1. Eligible: _____Yes _____No

2. Start-up Grant: _____Yes _____No

3. Activities approved by Assembly _____
Date

4. a. Number of persons eligible to be served by organization per 5.22.050 _____
b. Percentage of total of those eligible to be served _____

5. Amount of Grant Award _____

Kenai Peninsula Borough Senior Grant Program - FY22 Budget Request

Seward Senior Center March 15, 2021

Service or Objective to be completed with Borough Funds	Anticipated Completion Date	Borough Grant Funds Requested	Matching Funds (State/Federal)	Total Program
Briefly describe the service or objective and funding amount.	Indicate Quarter			
Seward Senior Center Labor/Personnel		$ 11,809.50	$ 40,000.00	$ 51,809.50
The Seward Senior Center provides Nutrition, Transporation		$ 11,809.50	$ 40,000.00	$ 51,809.50
and support services to seniors, 60 and older, Seward to Moose Pass.		$ 11,809.50	$ 40,000.00	$ 51,809.50
We support the human service industry, making payroll our greatest		$ 11,809.50	$ 40,000.00	$ 51,809.50
expenses to the organization, which includes:				
Daily meals delivered and curb side pick up until we open again.				
Transportation services will resume by June 1st, 2021, to provide asscess				
to the center, senior shopping, USPO, mental health services, etc.				
Support services include but not limited to: Outreach; health promotion				
programs in alignment with seniors; social security and medicare				
counseling and enrollment; referrals to public assistance, adult protective serivces				
and wellness check referrals to the Seward Police Department		$ 47,238.00	$ 160,000.00	$ 207,238.00
BUDGET CATEGORIES (Eligible expenses per KPB Code 5.22):				
Labor		$ -	$ -	$ -
Contractual Services		$ -	$ -	$ -
Equipment (>$500 must be prior approved)		$ -	$ -	$ -
Supplies		$ -	$ -	$ -
Travel		$ -	$ -	$ -
TOTALS		$ -	$ -	$ -

The borough does not require matching funds; however, other funding sources for the program should be indicated to reflect separation of funds. Borough funds cannot be used to reimburse costs that have been reimbursed by other funding sources.

2021 Board of Directors

Mark Kansteiner, Chair

Nicole Lawrence, V. Chair

Diane Hunt, Sec/Treas.

Sandie Roach

Angie Duncan

Mark Hendsbee

Francis Azzad-Smith

Sharon Dillon

Sharon Ganser

Executive Director
Dana Paperman

Our Mission Statement
To insure honor, dignity, security, and independence for older Alaskans; assistance in maintaining meaningful and quality lives.

Serving senior citizens since 1978

A non-profit agency
TAX ID: 92-0072425

Email: ssc@seward.net
Web: www.sewardsenior.org
Facebook:
www.facebook.com/sewardseniors

April 5, 2021

Mayor Charlie Pierce
144 N. Binkley
Soldotna, AK 99669

RE: Acceptance of the SSCI FY22 Senior Citizen Grant

Dear Mayor Pierce,

The Seward Senior Center has served the community of Seward since 1978, essential and unduplicated senior services, providing valuable nutrition, transportation and a wealth of support services, aiding our senior community between Seward and Moose Pass, the success to live independently in their respective communities.

Please accept this letter as a request to honor the tardy FY22 grant application, due to an oversight from the Executive Director, a first in 20 years. Of all years, this is one of the most important years to not fall short in our strained budget, possibly forcing us to add a wait list to our nutritional services if we lose access to this valuable partnership with the Kenai Peninsula Borough, where senior citizens are taken into consideration in every borough conversation.

Please do not hold this lack of timeliness against Seward's elderly population, whom heavily rely on the center to meet their activities of daily living.

I apologize for this oversight on missing this annual deadline and encourage you to see that this action is out of character of our staff at the Seward Senior Center. We strive daily to serve our senior community empowering and educational services. Together we uphold and strengthen senior citizens ability to age in place.

Thank you for your serious consideration of this request.

Dana Paperman, Executive Director

Introduced by:	Mayor
Date:	04/20/21
Action:	05/18/21
Vote:	Adopted

KENAI PENINSULA BOROUGH
ORDINANCE 2021-17

AN ORDINANCE AMENDING KPB 21.06 FLOODPLAIN MANAGEMENT TO ADOPT FLOOD DEPTHS FOR THREE NEIGHBORHOODS IN THE SEWARD MAPPED FLOOD DATA AREA AND TO INCORPORATE THE SEWARD MAPPED FLOOD DATA AREA INTO THE MINIMUM NATIONAL FLOOD INSURANCE STANDARDS

WHEREAS, since 1988 the Kenai Peninsula Borough has had an accredited floodplain management program under the National Flood Insurance Program (NFIP) which makes federal disaster insurance, federal hazard mitigation grants, federal subsidized mortgages, and affordable individual homeowner flood insurance available within the borough; and

WHEREAS, continued participation in the NFIP is contingent upon continued good standing in that program by meeting the minimum requirements set forth by the Federal Emergency Management Agency (FEMA); and

WHEREAS, the Seward Bear Creek Flood Service Area (SBCFSA) was created in 2003 to provide flood planning, protection, and mitigation services for flooding within the service area; and

WHEREAS, the Seward Mapped Flood Data Area (SMFDA) was established in 2009 by Ordinance 2009-09 to regulate areas of known riverine and alluvial flood hazards outside the FEMA mapped flood hazard areas; and

WHEREAS, the SMFDA was scheduled to sunset in 2013 when FEMA updated the Flood Insurance Study for the Seward-Bear Creek area; and

WHEREAS, in 2013, the FEMA mapping update of the Seward-Bear Creek area only included riverine flood zones and did not include known flood hazard areas on alluvial fans as delineated in the SMFDA; and

WHEREAS, on August 6, 2013, the assembly voted to enact Ordinance 2013-29 to continue the administration of KPB 21.06.045 as it pertained to the SMFDA; and

WHEREAS, the SBCFSA contracted with Alaska Water Resources (AWR) Engineering to acquire a flood risk assessment and hydraulic and hydrologic report of three flood-prone neighborhoods within the SMFDA; and

WHEREAS, the borough is required by FEMA, and through its floodplain ordinances, to utilize the best available data; and

WHEREAS, this ordinance will clarify and define different flood protection elevation standards based on minimum NFIP regulations; and

WHEREAS, each flood protection elevation standard will be integrated into code using a new term, "Flood Protection Elevation"; and

WHEREAS, the borough and its residents' best interests will be served by adopting the 2021 Flood Risk Assessment and Hydrologic & Hydraulic Report prepared by AWR Engineering and amending its floodplain management ordinance; and

WHEREAS, the Seward-Bear Creek Flood Service Area Board, at its regular meeting of April 5, 2021, recommended approval; and

WHEREAS, the Kenai Peninsula Borough Planning Commission, at its regular meeting of April 26, 2021, recommended approval by unanimous consent;

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

SECTION 1. That KPB 21.06.030 is hereby amended as follows:

21.06.030. General provisions.

A. *Lands to Which this Chapter Applies.* This chapter shall apply to all flood hazard areas within the Kenai Peninsula Borough exclusive of the cities of Homer, Kenai, Seward, and Soldotna.

B. *Basis for Establishing Flood Hazard Areas.* Flood hazard areas are identified as follows:

1. By the areas of special flood hazard identified by the Federal Insurance Administration in the scientific and engineering report entitled "Flood Insurance Study" (FIS) for the Kenai Peninsula Borough, Alaska dated May 19, 1981, revised on July 5, 1983, December 6, 1999, [AND] September 27, 2013, and October 20, 2016. These areas are depicted on the effective [F]Flood Insurance Rate Map (FIRM) and Digital Flood Insurance Rate Map (DFIRM) Panels. The map panels numbered 020012-1350 and 1700 have been deleted and the areas depicted by these panels are not subject to the terms of this chapter. Excluding these panels, the [FLOOD INSURANCE RATE MAPS]FIRMs are adopted by reference and declared to be a part of this chapter. The [FLOOD INSURANCE

RATE MAPS]FIRMs are on file at the planning department. The best available information for flood hazard as outlined in KPB 21.06.040(C)(3) shall be the basis for regulation until a new FIRM or DFIRM is issued which incorporates the base flood plain data obtained pursuant to that section.

2. The 1986, 1995, and 2006 KPB GIS mapped the Seward [M]Mapped [F]Flood [D]Data [A]Area (SMFDA) within the Seward-Bear Creek Flood Service Area [(SMFDA)] outside the city limits of Seward, not including any Special Flood Hazard Area identified in a current, effective FIRM or DFIRM. A map showing this floodplain and flood data and a list of properties represented by this map shall be retained by the planning department and made available to the public. If any portion of a lot is included in the flood data mapped area, the entire lot shall be subject to [THE PROVISIONS OF THIS CHAPTER]the permit application review process set forth in 21.06.040(A). [SPECIAL PROVISIONS FOR DEVELOPMENT PERMITS IN THE KPB MAPPED FLOOD DATA AREA ARE SET FORTH IN KPB 21.06.045.]Data available from other federal, state or other sources shall be reviewed and reasonably utilized including but not limited to the following:

   a. "Flood of October 1986 at Seward Alaska," USGS Water-Resources Investigation Report 87-4278. Jones, S.H., and Zenone, Chester. (1988).

   b. "Hydrologic Reconnaissance near Fourth of July Creek, Seward, Alaska." USGS Water Resources Investigations 81-21. Nelson, G.L. (1981).

   c. "Flood Hazard Analyses Seward Mapped Flood Data Area," Flood Risk Assessment and Hydrologic & Hydraulic Report, AWR Engineering: 1% annual exceedance probability, flood depths, embankment failure, and aggradation. (2021).

C. *Basis for Establishing Flood Protection Elevation*. The Flood Protection Elevation (FPE) shall be the elevation to which structures and utilities must be raised as required in the building standards in KPB .21.06.050.

1. Base Flood Elevation (BFE). In Special Flood Hazards Areas of the Kenai Peninsula Borough, the Flood Protection Elevation shall be the Base Flood Elevation delineated on the 100-year flood profiles in the Flood Insurance Study.

2. Base Flood Depth (BFD)

a. In any AH or AO zone, the Flood Protection Elevation shall be the depth delineated on the FIRM or DFIRM (at least two (2) feet if no number is specified).

b. In areas of the SMFDA where a Base Flood Depth has been calculated, the Flood Protection Elevation shall be the Base Flood Depth, which will be measured from the highest adjacent grade.

3. No Elevation Data

a. In the SMFDA where no Base Flood Elevation or Base Flood Depth is available, the Flood Protection Elevation shall be at minimum two (2) feet above the highest adjacent grade. When data is available, the Flood Protection Elevation shall be determined locally by the criteria set out in KPB 21.06.040(C)(3) and KPB 21.06.050(A)(5).

b. In any unnumbered A zone where the Flood Protection Elevation has not been determined, it shall be determined locally when data is available, and by the criteria set out in KPB 21.06.040(C)(3) and KPB 21.06.050(A)(5). A minimum of two (2) feet above highest adjacent grade may result in a lower insurance premium.

[C]D. *Warning and Disclaimer of Liability*. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Kenai Peninsula Borough, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

[D]E. *Noncompliance—Enforcement.* Structures and activities which are not permitted or allowed by this chapter are prohibited. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply

with any of its requirements shall be enforced by the remedies set forth in KPB 21.50. Each day a violation continues is a separate violation.

…

SECTION 2. That KPB 21.06.045. - KPB GIS mapped flood data area, is hereby repealed. :

SECTION 3. That KPB 21.06.050 is hereby amended as follows:

21.06.050. Standards.

A. *General Standards.* In all flood hazard areas, the following standards are required:

1. *Anchoring.*

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

b. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

2. *Construction Materials and Methods.*

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. *Utilities.*

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and,

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. *Subdivision Proposals.*

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All proposed improvements such as water, sewer, natural gas, telephone and electrical facilities shall be located and constructed in a manner which will minimize damage in the event of a flood.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals which contain 50 lots or 5 acres, whichever is less. The floodplain requirements for subdivision plats, detailed in KPB 20.30.280, apply to all subdivision proposals.

e. It is the responsibility of the subdivider to provide all necessary information regarding flood protection measures at the time the preliminary plat is presented for consideration by the planning commission.

5. *Review of Development Permits.* Where elevation data is not available, applications for development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding and will minimize adverse impacts to neighboring properties. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

B. *Specific Standards.* In all flood hazard areas, [WHERE BASE FLOOD ELEVATION DATA HAS BEEN PROVIDED]as set forth in KPB 21.06.030(B), the following provisions are required:

1. *Residential Construction.*

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the [BASE FLOOD ELEVATION] Flood Protection Elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings located on separate walls and having a total net area of not less than 1 square inch for every square foot of enclosed space subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than 1 foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

iv. Enclosed areas below the [BASE FLOOD ELEVATION]Flood Protection Elevation must be unfinished and usable only for parking, access or storage of materials easily moved during a flood event.

v. Before a final floodplain development permit is issued by the planning department for a residential structure with enclosed areas below the base flood elevation, the owners shall sign a non-conversion agreement stating that the enclosed space shall remain in compliance with KPB 21.06.050(B)(1)(b)(iv). The non-conversion agreement shall be recorded by the Kenai Peninsula Borough placing future buyers of properties on

notice of the hazards of enclosed spaces below the [BASE FLOOD ELEVATION]Flood Protection Elevation and the requirements to keep the permitted structure compliant with KPB floodplain regulations.

c. For zones AH, [AND]AO, and areas of the SMFDA, drainage paths are required around structures on slopes to drain floodwaters away from proposed structures.

d. A garage attached to a residential structure, constructed with the garage floor slab below the Flood Protection Elevation, must be designed to allow for the automatic entry and exit of flood waters. See KPB 21.06.050(B)(1)(b).

2. *Nonresidential Construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the [BASE FLOOD ELEVATION]Flood Protection Elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in KPB 21.06.040(C)(4)(b).

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standard for space below the lowest floor as described in KPB 21.06.050(B)(1)(b).

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as 1 foot below that level).

f. For zones AH, [AND]AO, and areas of the SMFDA, drainage paths are required around structures on slopes to drain floodwaters away from proposed structures.

…

D. Coastal High Hazard Areas. Where FEMA has identified coastal high hazard areas (Zones V, VE, and V1-V30) on the FIRM or DFIRM, construction shall meet the following requirements in addition to all other provisions in this chapter:

1. All new construction shall be located landward of the reach of mean high tide and shall be anchored to prevent unintended lateral movement, floatation or collapse.

2. All new construction, manufactured homes, and substantial improvements within coastal high hazard areas shall be elevated on adequately anchored pilings or columns such that:

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the [BASE FLOOD LEVEL]Flood Protection Elevation; and

b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a 1 percent chance of being equaled or exceeded in any given year (100-year or 1-percent annual [EXCEEDENCE]exceedance probability mean recurrence interval); and

c. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall provide a certification that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subdivisions (2)(a) and (2)(b) of this subsection. The certification and related records will be maintained in the planning department permit files in perpetuity.

3. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such enclosed space shall not be used for human habitation and must be in compliance with the residential construction standards in KPB 21.06.050(B)(1)(b)(iv) and (v). For the purpose of this section, a breakaway wall shall have a design

safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a 1 percent chance of being equaled or exceeded in any given year (100-year or 1-percent annual [EXCEEDENCE]exceedance probability mean recurrence interval).

4. The use of fill for structural support of buildings within coastal high hazard areas on the FIRM or DFIRM is prohibited.

5. Manufactured Homes. All manufactured homes to be placed or substantially improved within coastal high hazard areas shall meet the requirements for new and substantial improvement construction.

…

SECTION 4. That KPB 21.06.060 is hereby amended as follows:

21.06.060. Exceptions procedure.

…

B. *Conditions for Exceptions.*

1. Generally, the only condition under which an exception from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subparagraphs (a) through (k) of subsection (A)(4) of this section have been fully considered. As the lot size increases the technical justification required for issuing the exception increases.

2. Exceptions may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

3. Exceptions shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

4. Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

5. Exceptions shall only be issued upon:

   a. A showing of good and sufficient cause;

   b. A determination that failure to grant the exception would result in exceptional hardship to the applicant;

   c. A determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

6. Exceptions, or variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, or to economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, exceptions from the flood elevations should be quite rare.

7. Exceptions may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-flood proofing where it can be determined that such action will have low damage potential, complies with all other exception criteria except subsection (B)(1) of this section, and otherwise complies with KPB 21.06.060(A) and (B).

8. Any applicant to whom an exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 5. That KPB 21.06.070 is hereby amended as follows:

21.06.070. Definitions.

For the purposes of this chapter, the following words and phrases shall be defined as follows:

"100-year or 1-percent annual [EXCEEDENCE]exceedance probability flood" (also called "regulatory flood," "base flood", "base flood depth", or "special flood hazard area") means a flood with a 1 percent chance of being equaled or exceeded in any year. Statistical analysis of available streamflow or storm records, or analysis of rainfall and runoff characteristics of the watershed, or topography and storm characteristics are used to determine the extent and depth of the 100-year or 1-percent annual [EXCEEDENCE]exceedance probability flood.

…

" Flood hazard area" means the land area covered by the flood, having a 1 percent chance of occurring in any given year. See also "100-year or 1-percent annual [EXCEEDENCE]exceedance probability flood."

"Flood Insurance Rate Map (FIRM) and Digital Flood Insurance Rate Map (DFIRM)" means the map of the community issued by the FEMA which delineates the area subject to the 100-year or 1-percent annual [EXCEEDENCE]exceedance probability flood, the water surface elevation of the base flood and the flood insurance rate zones.

"Flood Protection Elevation (FPE)" is the elevation to which new and substantially improved structures within the flood hazard areas defined in KPB 21.06.030(B) must be elevated to be protected from flood damage.

…

["MINIMUM FLOOD CORRIDOR" MEANS THE ACTIVE PHYSICAL BANK FULL CHANNEL OF THE STREAM, RIVER OR CREEK AS MEASURED AT THE SEASONAL HIGH WATER FLOWS.]

…

SECTION 6. That this ordinance shall become effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 18TH DAY OF MAY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director

DATE: April 28, 2021

RE: Ordinance 2021-17: Amending KPB 21.06 Floodplain Management to adopt flood depths for three neighborhoods in the Seward Mapped Flood Data Area and to incorporate the Seward Mapped Flood Data Area into the minimum National Flood Insurance Standards.

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled April 26, 2021 meeting.

A motion passed by unanimous vote (11-Yes, 0-No) to recommend approval of Ordinance 2021-17.

In the ordinance, please amend the last WHEREAS statement:

> WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting April 26, 2021 recommended approval by unanimous vote.

Attached are the unapproved minutes of the subject portion of the meeting.

April 26, 2021 Planning Commission Draft Meeting Minutes

Multi-agency application
Draft Resolution

Staff Recommendation
Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for some of the habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2021-15.

Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Gillham to approve PC Resolution 2021-15, issuing a conditional use permit to the Alaska Department of Transportation & Public Facilities.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluscio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

4. Ordinance 2021-17: An Ordinance amending KPB 21.06 Floodplain Management to adopt flood depths for three neighborhoods in the Seward Mapped Flood Data Area and to incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards.

Staff report given by Samantha Lopez.

Since 1988, the borough has participated in the National Flood Insurance Program (NFIP), making federal disaster assistance, federal hazard mitigation grants, federal subsidized mortgages, and individual homeowner insurance available within the borough. The Federal Emergency Management Agency (FEMA) oversees the NFIP and provides participating communities with the minimum regulations and regulatory flood maps for each community to enforce.

The borough established the Seward Mapped Flood Data Area (SMFDA) in 2009 to regulate areas of known riverine and alluvial flood hazards outside the FEMA regulatory maps. The SMFDA was scheduled to sunset when FEMA provided an updated flood insurance study with new regulatory flood maps for the service area. In 2013, FEMA mapped some of the service area, but not many areas of known flood hazard, so the SMFDA was kept as a minimum regulatory tool to continue to protect residents against flood hazards.

The SMFDA was designed to be a short-term regulatory tool, and was based on anecdotal flooding evidence from three floods of record in 1986, 1995, and 2006. In 2020, the SBCFSA contracted with Alaska Water Resources Engineering to create hydraulic and hydrologic models for three neighborhoods in the SMFDA, providing flood hazard boundaries and flood depths for the 100-year flood event. These additional data provide the flood protection elevation necessary to regulate development within the SMFDA to the minimum NFIP standards.

This ordinance will integrate development within the SMFDA into the same minimum NFIP standards as the FEMA flood hazard areas. The ordinance will also clarify and define the different flood protection elevation standards based on minimum NFIP regulations.

At its April 5, 2021 regular meeting, the SBCFSA Board of Directors recommended approval of this ordinance.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Gillham to forward to the assembly a recommendation to approve Ordinance 2021-17: Amending KPB 21.06 Floodplain Management to adopt flood depths for three neighborhoods in the Seward Mapped Flood Data Area and to incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

5. Resolution 2021-12: Recommending Adoption of the City of Soldotna All Hazard Mitigation Plan 2019 Update as Part of the Kenai Peninsula Borough Hazard Mitigation Plan.

Staff report given by Bryan Taylor.

The KPB is part of a multi-jurisdictional team that works to keep the hazard mitigation plans of several communities within the borough up-to-date. The City of Soldotna has recently completed an update to its All Hazard Mitigation Plan and is requesting that the Kenai Peninsula Borough adopt the updated plan. Keeping this plan updated is required in order to be eligible for certain types of non-emergency disaster funding, including funding for mitigation projects.

Adopting the city's updated plan furthers goals outlined within the borough's 2019 Comprehensive Plan to maintain preparedness to respond and recover from natural and human-caused emergencies among the borough's communities.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Brantley to approve PC Resolution 2021-12, recommending adoption of the City of Soldotna All Hazard Mitigation Plan 2019 Update as part of the Kenai Peninsula Borough Hazard Mitigation Plan.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

Kenai Peninsula Borough
Planning Department – River Center

MEMORANDUM

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

THRU: Charlie Pierce, Mayor JCB
Melanie Aeschliman, Planning Director MA
Stephanie Presley, SBCFSA Program Lead SP
Dan Nelson, Emergency Manager DN

FROM: Samantha Lopez, Acting River Center Manager SL

DATE: April 8, 2021

RE: Ordinance 2021-17, Amending KPB 21.06 Floodplain Management to Adopt Flood Depths for Three Neighborhoods in the Seward Mapped Flood Data Area) and to Incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards (Mayor)

Since 1988, the borough has participated in the National Flood Insurance Program (NFIP), making federal disaster assistance, federal hazard mitigation grants, federal subsidized mortgages, and individual homeowner insurance available within the borough. The Federal Emergency Management Agency (FEMA) oversees the NFIP and provides participating communities with the minimum regulations and regulatory flood maps for each community to enforce.

The borough established the Seward Mapped Flood Data Area (SMFDA) in 2009 to regulate areas of known riverine and alluvial flood hazards outside the FEMA regulatory maps. The SMFDA was scheduled to sunset when FEMA provided an updated flood insurance study with new regulatory flood maps for the service area. In 2013, FEMA mapped some of the service area, but not many areas of known flood hazard, so the SMFDA was kept as a minimum regulatory tool to continue to protect residents against flood hazards.

The SMFDA was designed to be a short-term regulatory tool, and was based on anecdotal flooding evidence from three floods of record in 1986, 1995, and 2006. In 2020, the SBCFSA contracted with Alaska Water Resources Engineering to create hydraulic and hydrologic models for three neighborhoods in the SMFDA, providing flood hazard boundaries and flood depths for the 100-year flood event. These additional data provide the flood protection elevation necessary to regulate development within the SMFDA to the minimum NFIP standards.

This ordinance will integrate development within the SMFDA into the same minimum NFIP standards as the FEMA flood hazard areas. The ordinance will also

clarify and define the different flood protection elevation standards based on minimum NFIP regulations.

At its April 5, 2021 regular meeting, the SBCFSA Board of Directors recommended approval of this ordinance.

The Planning Commission will review this ordinance at the April 12, 2021 meeting, and their recommendation will be provided to the assembly prior to the scheduled hearing on this ordinance.

Your consideration of this ordinance is appreciated.

FLOOD HAZARD ANALYSES
SEWARD MAPPED FLOOD DATA AREA

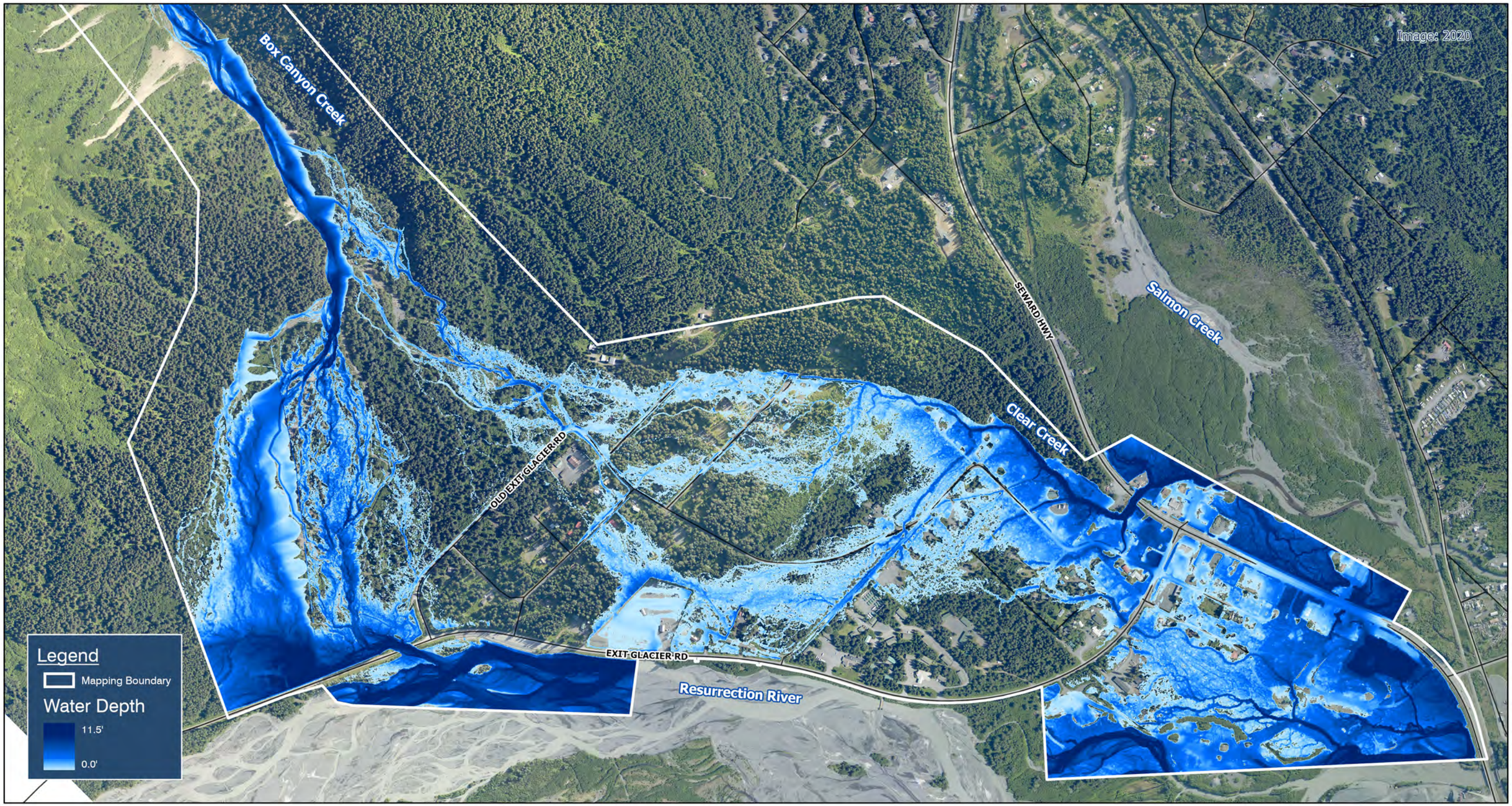
Flood Risk Assessment and
Hydrologic & Hydraulic Report

January 2021

Prepared For:
Kenai Peninsula Borough
Seward-Bear Creek Flood Service Area

Prepared By:
AWR Engineering, LLC

4011 Arctic Blvd, Suite 106
Anchorage, AK 995**778**



Map 08

Flood Hazard Analyses Project

Old Exit Glacier Subdivision

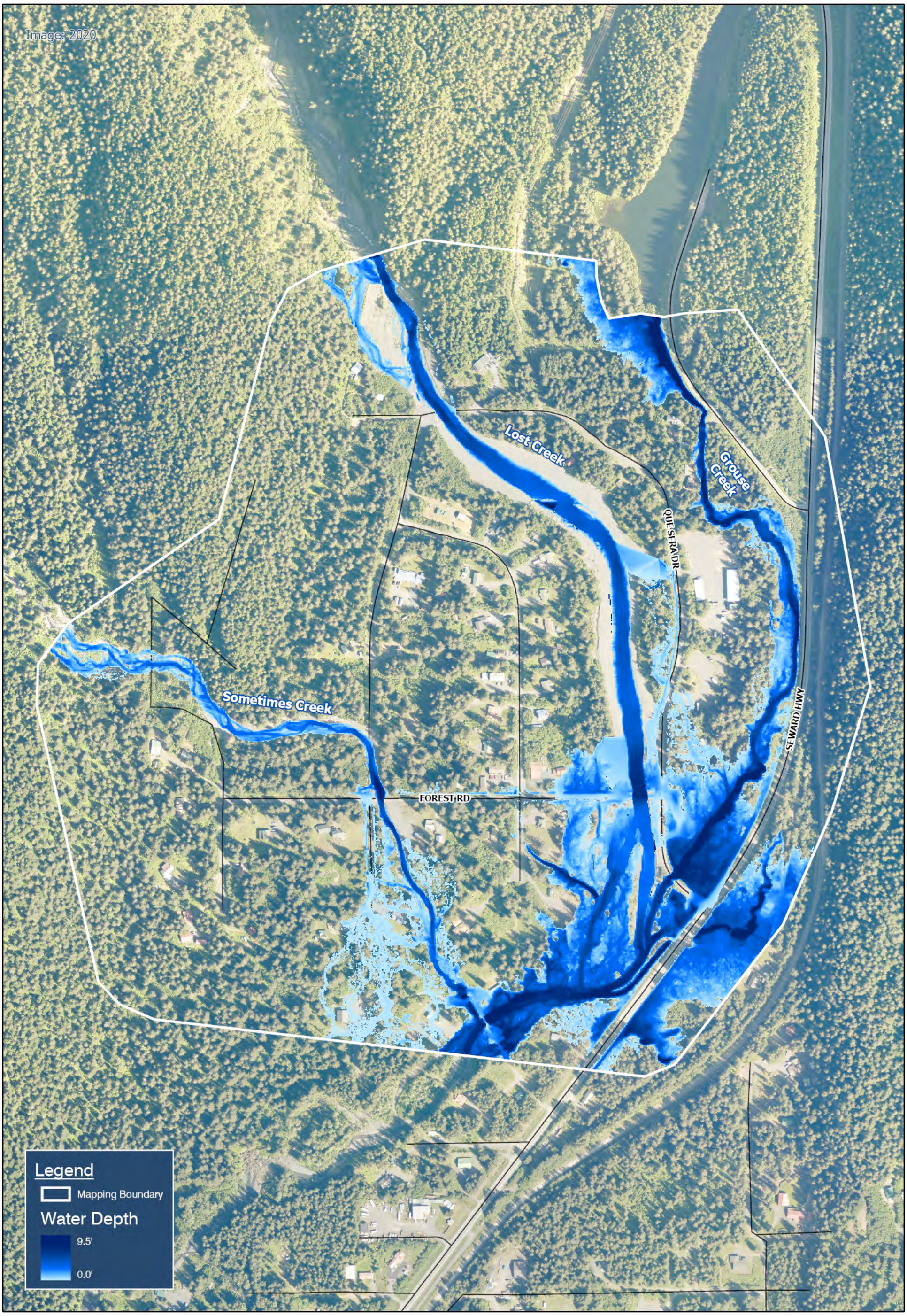
Embankment Failure & Aggradation 1% AEP Flood Depths

January 2021

N

0 200 400 800
Feet

Seward-Bear Creek Flood Service Area



Map 21

Flood Hazard Analyses Project

Old Mill Subdivision

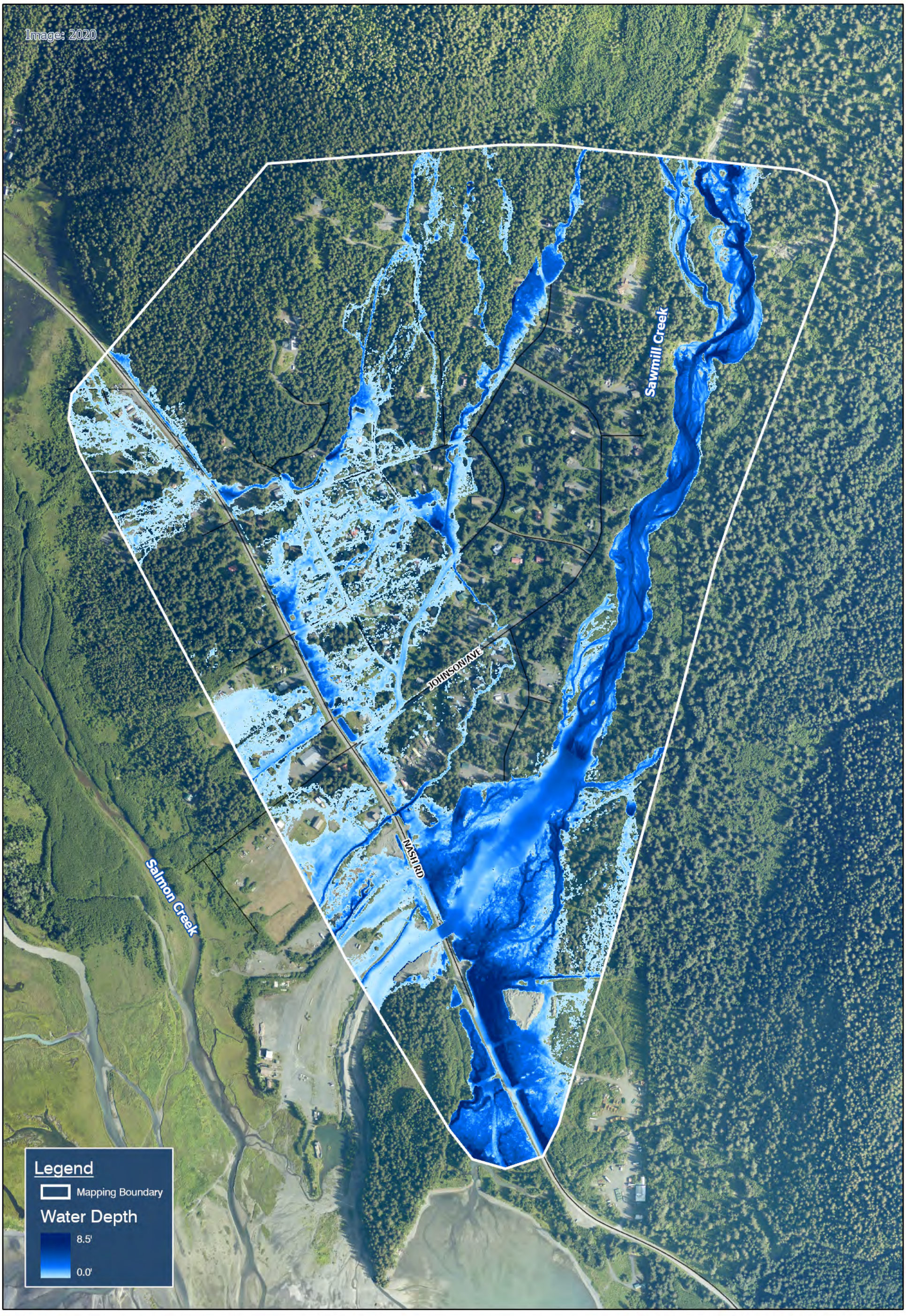
Embankment Failure & Aggradation 1% AEP Flood Depths

January 2021

N

0 100 200 400 Feet

Seward-Bear Creek Flood Service Area



Map 33

Flood Hazard Analyses Project

Nashwoods Subdivision

Embankment Failure & Aggradation 1% AEP Flood Depths

January 2021

N

0 150 300 600

Feet

KENAI PENINSULA BOROUGH

Seward-Bear Creek Flood Service Area

Introduced by:	Long
Substitute Introduced:	02/17/09
O2009-09 (Long):	See Original for Prior History
Hearings:	02/17/09 and 03/24/09
Action:	Postponed Until 03/24/09
Date	03/24/09
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2009-09
(LONG) SUBSTITUTE

AN ORDINANCE CREATING A FLOOD HAZARD DISTRICT, OUTSIDE THE FLOOD INSURANCE RATE MAP AREA, WITHIN THE SEWARD-BEAR CREEK FLOOD SERVICE AREA TO INCLUDE THE 1986, 1995, AND 2006 KPB GIS MAPPED FLOOD DATA AREAS

WHEREAS, flooding has occurred in the Seward-Bear Creek Flood Service Area (SBCFSA) repeatedly; and

WHEREAS, a federal disaster has been proclaimed within SBCFSA three times since 1986; and

WHEREAS, the Flood Insurance Rate Maps (FIRMs) are outdated and inaccurate; and

WHEREAS, the Federal Emergency Management Agency (FEMA) is in the process of preparing new FIRMs; and

WHEREAS, there have been millions of dollars in damage to private properties and public infrastructure caused by flooding events in the area; and

WHEREAS, flooding places the public health and safety at risk; and

WHEREAS, gravel deposits are steadily and rapidly increasing in SBCFSA streams, and the risk of flooding and related loss increases; and

WHEREAS, subdivision and development in SBCFSA has increased dramatically since 1996, increasing flood loss potential; and

WHEREAS, FEMA Disaster Assistance only provides a minimal amount of funding to repair damages to a home not covered by flood insurance to return it to a safe, sanitary, and functioning condition, but not to rebuild the home to current codes; and

WHEREAS, merely returning the structures to their preexisting condition results in potential for repeated flood damage and destruction to the same properties; and

WHEREAS, according to the 2005 KPB comprehensive plan, enforcement of floodplain requirements is primarily through voluntary compliance and assistance from mortgage companies since the borough does not require building permits or inspections; and

WHEREAS, the City of Seward has permitting regulations in place to assist with flood issues in the area of the SBCFSA within city limits; and

WHEREAS, KPB Chapter 21.06 contains the minimal regulations required by FEMA for floodplain management, and these regulations alone have not proved an effective tool for mitigating flood damage in the SBCFSA; and

WHEREAS, goal 6.7, objective 1, implementation action G of the comprehensive plan is to identify wetlands, floodplains, and erosion areas and minimize adverse impacts of flooding or erosion on neighboring properties; and

WHEREAS, goal 6.7, objective 2, of the comprehensive plan is to increase local participation in decisions regarding development in floodplains and wetlands; and

WHEREAS, goal 6.7, objective 3, implementation action A of the comprehensive plan is to improve the borough's floodplain ordinance; and

WHEREAS, a one year sunset clause is appropriate as FEMA is the process of developing new FIRM maps; and

WHEREAS, at its March 2, 2009, meeting, the SBCFSA board recommended enactment; and

WHEREAS, at its March 9, 2009, meeting, the Kenai Peninsula Borough Planning Commission recommended enactment by majority consent;

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

SECTION 1. That KPB 21.06.020 is hereby amended by adding the following definitions:

Q. "SMFDA" means the Seward Mapped Flood Data Area which includes the 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area outside the FIRM and city limits of Seward.

R. "Primary structure" means a dwelling, a building suitable for commercial use, or any structure which will be served by water or wastewater disposal systems or a fuel storage tank. This definition is applicable only in the SMFDA.

S. "Substantial Evidence" means evidence a reasonable mind might accept to support a conclusion.

T. Minimum Flood Corridor means the active physical bank full channel of the stream, river or creek as measured at the seasonal high water flows.

SECTION 2. That KPB 21.06.030(B) is hereby amended as follows:

B. Basis for establishing flood hazard areas. Flood hazard areas are identified as follows:

1. By the flood insurance rate maps with an effective date of May 19, 1981, revised on July 5, 1983 and December 6, 1999. The map panels numbered 020012-1350 and 1700 have been deleted and the areas depicted by these panels are not subject to the terms of this chapter. Excluding these panels, the flood insurance rate maps are adopted by reference and declared to be a part of this chapter. The flood insurance rate maps are on file at the planning department.

2. The 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area (SMFDA) outside the city limits of Seward. A map showing this floodplain and flood data and a list of properties represented by this map shall be retained by the planning department and made available to the public. If any portion of a lot is included in the flood data mapped area, the entire lot shall be subject to the provisions of this chapter. Special provisions for development permits in the KPB mapped flood data area are set forth in KPB 21.06.045. Data available from other Federal, State of other sources shall be reviewed and reasonably utilized including but not limited to the following:

a. **"Flood of October 1986 at Seward Alaska,"** USGS Water-Resources Investigation Report 87-4278. Jones, S.H., and Zenone, Chester. (1988).

b. **"Hydrologic Reconnaissance near Fourth of July Creek, Seward, Alaska."** USGS Water Resources Investigations 81-21. Nelson, G.L. (1981).

SECTION 3. That KPB 21.06.045 is hereby enacted as follows:

21.06.045. KPB GIS mapped flood data area.

A. Base flood elevation in the SMFDA district. Based upon a digital elevation model provided by the borough base flood elevation in the SMFDA district is established by a licensed professional registered land surveyor or professional civil engineer at the highest point within the lot measured downslope from the specific construction site.

B. Exemption from application of SMFDA district. A property owner may request an exemption for application of SMFDA to his proposed

development upon a showing by substantial evidence that his property was not inundated by flood waters in the 1986, 1995, or 2006 floods; adverse bank erosion has not occurred during the property owner's ownership, erosion can not be determined by analysis of KPB aerial photos beginning in 1986; the property is not a Corps of Engineers regulated wetland; or adjacent property owners concur there has been no adverse impact to their properties by flooding from the property of ownership making the request for SMFDA exemption. Staff shall verify whether the application for exemption meets the criteria and shall issue a written determination regarding the same. This determination may be appealed to the planning commission within 15 days of issuance.

C. Conditions. Only primary structures, substantial improvements to primary structures, and development in the minimum flood corridor in the SMFDA district require a development permit. The permits in the SMFDA district are subject to the following conditions:

1. Primary structures in the SMFDA district shall be a minimum of two feet above base flood elevation. Below-grade supports shall be at a two-to-one ratio as compared to the support above grade;

2. Foundations shall have an erosion resistant design; and

3. Where applicable, the standards for the permit is subject to the standards set forth in KPB 21.06.050; and

4. The permitted activity shall not increase the risk of flood damage to downstream or adjacent properties.

D. Currently active channels within the SMFDA district. All development in the SMFDA district in the minimum flood corridor within the Resurrection River watershed, Spruce and Sawmill Creeks, shall be subject to the permitting requirements of KPB 21.06.050(C).

E. If review of the permit application by staff indicates that the conditions set forth in KPB 21.06.045(C) cannot be met, staff shall deny the application. The applicant may apply for a permit from the planning commission by submitting a project-specific design under the waiver provisions of KPB 21.06.045(F).

F. Waivers. The variance procedure in KPB 21.06.060 only applies to permitting in the FIRM area. A project-specific design prepared by a licensed professional civil engineer may be submitted for consideration to the planning commission in lieu of meeting the conditions set forth in KPB 21.06.045(C). Based upon written findings of fact, the planning commission may grant or deny the permit and place conditions on the permit it grants in order that the risk of flood damage to downstream or adjacent property or

flood damage to public infrastructure will not be increased. The grant or denial of a permit may be appealed to the Board of Adjustment within 15 days of distribution of the planning commission's written decision.

SECTION 4. That this ordinance shall automatically expire on March 24, 2010 unless the assembly by ordinance alters or extends that date.

SECTION 5. That this ordinance is effective on the date of its enactment. The ordinance is not applicable to parcels where the "actual start of construction" has commenced as defined by KPB 21.06.020(M) prior to the date of enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 24TH DAY OF MARCH, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes:	Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin
No:	None
Absent:	None

Introduced by:	Mayor, McClure
Date:	07/02/13
Hearing:	08/06/13
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2013-29

AN ORDINANCE AMENDING KPB TITLES 20, 21 AND 29 TO SATISFY NATIONAL FLOOD INSURANCE PROGRAM REQUIREMENTS FOR MINIMUM NECESSARY UPDATES, ADOPTING FEMA FLOOD INSURANCE STUDY AND ASSOCIATED FLOOD MAPS FOR SEWARD DATED SEPTEMBER 27, 2013, AND REPEALING THE SUNSET CLAUSE FOR THE SEWARD MAPPED FLOOD DATA AREA (SMFDA)

WHEREAS, federal disaster assistance, federal hazard mitigation grants, federally subsidized mortgages, and individual homeowner flood insurance are available within the borough because the Kenai Peninsula Borough has had an accredited floodplain management program under the National Flood Insurance Program (NFIP) since 1986; and

WHEREAS, continued participation in the NFIP is predicated upon continued good standing in that program; and

WHEREAS, in a June 14, 2013 letter, the Federal Emergency Management Agency (FEMA) indicated that, in order to maintain good standing in the NFIP, appropriate measures must be taken with adoption of proposed new FEMA flood mapping for areas within the Seward-Bear Creek Flood Service Area (SBCFSA); and

WHEREAS, FEMA has identified specific minimum necessary changes to the KPB Code of Ordinances; and

WHEREAS, during its meeting of July 15, 2013, the KPB Planning Commission recommended enactment by unanimous consent; and

WHEREAS, the KPB Assembly established provisions in Ordinances 2009-09, 2010-17, and 2011-02 establishing the Seward Mapped Flood Data Area (SMFDA) in anticipation of proposed new FEMA flood mapping; and

WHEREAS, the proposed new FEMA flood mapping does not include areas shown in the SMFDA that are known to be at flood risk based on three major flood events in 1986, 1995, and 2006; and

WHEREAS, during its meeting of May 20, 2013, the SBCFSA Board passed SBCFSA Resolution 2013-03 recommending continued administration of KPB 21.06.045 as it pertains to the SMFDA; and

WHEREAS, at its meeting of August 5, 2013, the SBCFSA Board considered this ordinance and recommended enactment by majority consent; and

WHEREAS, the SMFDA is set to expire with adoption of new proposed FEMA flood mapping; and

WHEREAS, the borough's best interests would be served by maintaining a good standing in the NFIP and by its continued administration of the SMFDA, KPB 21.06.045;

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

SECTION 1. That KPB 20.20.260 is hereby amended as follows:

20.20.260. Flood plain requirements.

A. All subdivision plats which are within areas where the flood plain has been identified by FEMA, and which involve 50 lots or five acres whichever is lesser, shall include base flood elevation data and delineate the area involved within the flood plain on the plat. This plat notation shall be consistent with the effective flood insurance study (FIS) and any current effective FIRM or DFIRM.

B. All subdivisions or replats within the FIRM area, DFIRM area or SMFDA, as amended, as defined by KPB[21.06.020] 21.06.070, shall contain the following note or a substantially similar note:

FLOOD PRONE NOTICE: Some or all of the property shown on this plat has been designated by FEMA or the Kenai Peninsula Borough as a flood hazard area district as of the date this plat is filed with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations.

C. Each plat within a city which has met the requirements of this section shall contain the following statement: "The first finished and habitable floor of a building constructed within a flood plain shall be built at or above the base flood elevation for 100-year or 1-percent annual exceedence probability flood level."

D. This section applies to all cities which adopt a resolution requesting participation in the program and which are subsequently recognized by the state as participants.

E. A city which wishes greater restrictions than those contained in subsection A may do so by passing a more restrictive ordinance as a part of their building code.

F. Exceptions to this section under this chapter are prohibited.

SECTION 2. That KPB 20.24.010 is hereby amended as follows:

20.24.010. Exceptions to regulations—Procedure—Commission authority.

A. The commission may authorize exceptions to any of the requirements set forth in these regulations. Application for any such exception shall present the commission with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. The commission shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

B. Where a design requirement of this title is addressed by a zoning regulation adopted by the borough assembly, the variance procedures of the applicable zoning code, if any, shall be utilized in lieu of the exception procedures.

C. An appeal of a decision of the planning commission made under this section shall be filed to the board of adjustment, in accordance with the requirements of KPB Chapter 21.20

D. Exceptions to the floodplain requirements for subdivisions set forth in KPB 20.20.260 are prohibited.

SECTION 3. That KPB 21.06.020-Definitions is repealed and reenacted as amended at KPB 21.06.070-Definitions.

SECTION 4. That KPB 21.06.030 is hereby amended as follows:

21.06.030. General provisions.

A. *Lands to Which this Chapter Applies.* This chapter shall apply to all flood hazard areas within the Kenai Peninsula Borough exclusive of the cities of Homer, Kenai, Seward, and Soldotna.

B. *Basis for Establishing Flood Hazard Areas.* Flood hazard areas are identified as follows:

1. By the areas of special flood hazard identified by the Federal Insurance Administration in scientific and engineering report entitled "Flood Insurance Study" (FIS) for the Kenai Peninsula Borough, Alaska dated [FLOOD INSURANCE

RATE MAPS WITH AN EFFECTIVE DATE OF]May 19, 1981, revised on July 5, 1983,[AND]December 6, 1999, and September 27, 2013. These areas are depicted on the effective flood FIRM and DFIRM Panels. The map panels numbered 020012-1350 and 1700 have been deleted and the areas depicted by these panels are not subject to the terms of this chapter. Excluding these panels, the flood insurance rate maps are adopted by reference and declared to be a part of this chapter. The flood insurance rate maps are on file at the planning department. The best available information for flood hazard as outlined in KPB 21.06.040(C)(3) shall be the basis for regulation until a new FIRM or DFIRM is issued which incorporates the base flood plain data obtained pursuant to that section.

2. The 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area (SMFDA) outside the city limits of Seward, not including any Special Flood Hazard Area identified in a current, effective FIRM or DFIRM. A map showing this floodplain and flood data and a list of properties represented by this map shall be retained by the planning department and made available to the public. If any portion of a lot is included in the flood data mapped area, the entire lot shall be subject to the provisions of this chapter. Special provisions for development permits in the KPB mapped flood data area are set forth in KPB 21.06.045. Data available from other federal, state of other sources shall be reviewed and reasonably utilized including but not limited to the following:

a. "Flood of October 1986 at Seward Alaska," USGS Water-Resources Investigation Report 87-4278. Jones, S.H., and Zenone, Chester. (1988).

b. "Hydrologic Reconnaissance near Fourth of July Creek, Seward, Alaska." USGS Water Resources Investigations 81-21. Nelson, G.L. (1981).

C. *Warning and Disclaimer of Liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Kenai Peninsula Borough, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

D. *Noncompliance—Enforcement.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements shall be enforced by the remedies set forth in KPB 21.50. Each day a violation continues is a separate violation.

SECTION 5. That KPB 21.06.040 is hereby amended as follows:

21.06.040. Administration.

A. *Development Permit Required.* A development permit shall be obtained before construction or development begins within flood hazard areas established in [SECTION]KPB 21.06.030(B). The permit shall be for all structures and for all other development including fill and other activities. Application for a development permit shall be made on forms furnished by the borough and shall include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; logging, placement of storage tanks (fuel or other), existing or proposed structures, substantial improvements of existing structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

2. Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in [SECTION]KPB 21.06.050(B)(2);

4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. *Designation of the Borough Administrator.* The planning department is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

C. *Duties and Responsibilities of the Planning Department.* Duties of the planning department shall include, but not be limited to:

1. Permit Application Review.

a. Review all development permit applications to determine that the permit requirements have been met,

b. Review all development permit applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required,

c. Review all development permit applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of [SECTION]KPB 21.06.050(C)(1) are met.

2. Issue Permit.

a. Upon determination that the submitted and recorded information connected with the permit application meets the terms of this chapter, the planning department shall issue a floodplain development permit to the original applicant.

b. The floodplain development permit shall be valid for a period of 1 year from the issue date, and the start of construction must occur within 180 days of the permit issue date. The planning department floodplain management office shall be notified at least three days prior to start of construction for possible site inspection and notice-to-proceed.

c. The floodplain development permit is not assignable without permission from the planning department.

3. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with [SECTION]KPB 21.06.030(B), the Planning Department shall obtain, review, and reasonably utilize any base flood and floodway elevation data available from a federal, state or other source, in order to administer subsections (B)(1), (B)(2) and (C) of [SECTION]KPB 21.06.050

4. Information to be Obtained and Maintained.

a. Where base flood elevation data is provided through the Flood Insurance Study or required in subsection (C)(2) of this section, record the actual elevation as submitted (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

b. For all new or substantially improved floodproofed structures:

i. Record the actual elevation as submitted (in relation to mean sea level), and

ii. Maintain the floodproofing certifications required in [SECTION]KPB 21.06.040(A)(3);

c. Maintain for public inspection all records pertaining to the provisions of this chapter in perpetuity.

5. Alteration of Watercourses.

a. Notify adjacent communities and the Department of Community and Regional Affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

6. Fee Required. The planning department shall charge fees for permits and [VARIANCES] exceptions. Fees shall be [ESTABLISHED BY IN] the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees

to be paid by the applicant at the time that the floodplain development permit application is submitted.

SECTION 6. That KPB 21.06.045 is hereby amended as follows:

21.06.045. KPB GIS mapped flood data area.

A. *Base flood elevation in the SMFDA district.* Based upon a digital elevation model provided by the borough, base flood elevation in the SMFDA district, which does not include any area of the Special Flood Hazard Area represented in an effective FIRM or DFIRM, is established by a [LICENSED] professional [REGISTERED] land surveyor licensed in the State of Alaska or professional [CIVIL] engineer licensed in the State of Alaska at the highest point within the lot measured downslope from the specific construction site.

B. *Exemption from application of SMFDA district.*

1. A property owner may request an exemption for application of SMFDA, which does not include any area of the Special Flood Hazard Area represented in an effective FIRM or DFIRM, to his proposed development upon a showing by substantial evidence that his property was not inundated by flood waters in the 1986, 1995, or 2006 floods; adverse bank erosion has not occurred during the property owner's ownership, erosion cannot be determined by analysis of KPB aerial photos beginning in 1986; the property is not a Corps of Engineers regulated wetland; or adjacent property owners concur there has been no adverse impact to their properties by flooding from the property of ownership making the request for SMFDA exemption. Staff shall verify whether the application for exemption meets the criteria and shall issue a written determination regarding the same. This determination may be appealed to the planning commission within 15 days of issuance.

2. Where elevation and conveyance data is not available, applications for development permits shall be reviewed to assure that proposed development will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes the use of historical data, high water marks, photographs of past flooding, best management practices, and other available reasonably reliable data.

C. *Conditions.* Only primary structures, substantial improvements to primary structures, and development in the minimum flood corridor in the SMFDA district require a development permit. The permits in the SMFDA district are subject to the following conditions:

1. Primary structures, including the crawl space, basement, or any part of the structure other than the supports, in the SMFDA district, which does not include any area of the Special Flood Hazard Area represented in an effective FIRM or DFIRM, shall be a minimum of two feet above base flood elevation;

2. Foundations shall have an erosion resistant design; and

3. Where applicable, including for attached garages and similar construction, the standards for the permit is subject to the standards set forth in KPB 21.06.050; and

4. The permitted activity shall not increase the risk of flood damage to downstream or adjacent properties.

D. Currently active channels within the SMFDA district. All development in the SMFDA district in the minimum flood corridor within the Resurrection River watershed, Spruce and Sawmill Creeks, shall require a permit that is based on best management practices to minimize adverse impacts to properties in the vicinity of the subject activity.

E. If review of the permit application by staff indicates that the conditions set forth in KPB 21.06.045(C) cannot be met, staff shall deny the application. The applicant may apply for a permit from the planning commission by submitting a project-specific design under the waiver provisions of KPB 21.06.045(F).

F. [*WAIVERS]**Exceptions***. The [VARIANCE]exception procedure in KPB 21.06.060 only applies to permitting in Special Flood Hazard Area of the current effective [THE] FIRM or DFIRM area. For the SMFDA area, [A]a project-specific design prepared by a licensed professional [CIVIL] engineer may be submitted for consideration to the planning commission in lieu of meeting the conditions set forth in KPB 21.06.045(C). Based upon written findings of fact, the planning commission may grant or deny the permit and place conditions on the permit it grants in order that the risk of flood damage to downstream or adjacent property or flood damage to public infrastructure will not be increased. The grant or denial of a permit may be appealed to the board of adjustment within 15 days of distribution of the planning commission's written decision.

SECTION 7. That KPB 21.06.050 is hereby amended as follows:

21.06.050. Standards.

A. General Standards. In all flood hazard areas, the following standards are required:

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

b. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and,

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All proposed improvements such as water, sewer, natural gas, telephone and electrical facilities shall be located and constructed in a manner which will minimize damage in the event of a flood.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals [AND] which contain[S] 50 lots or 5 acres, [OR GREATER]<u>whichever is less</u>.

e. It is the responsibility of the subdivider to provide all necessary information regarding flood protection measures at the time the preliminary plat is presented for consideration by the planning commission.

5. Review of Building Permits. Where elevation data is not available, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

B. Specific Standards. In all flood hazard areas where base flood elevation data has been provided as set forth in [SECTION]KPB 21.06.030(B), the following provisions are required:

1. Residential Construction.

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than 1 foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

c. For zones AH and AO, drainage paths are required around structures on slopes to drain floodwaters away from proposed structures.

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in [SECTION]KPB 21.06.040(C)(4)(b).

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standard for space below the lowest floor as described in [SECTION]KPB 21.06.050(B)(1)(b).

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the

floodproofed level (e.g. a building constructed to the base flood level will be rated as 1 foot below that level).

f. For zones AH and AO, drainage paths are required around structures on slopes to drain floodwaters away from proposed structures.

3. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (A)(1) of this section.

4. Recreational vehicles. Recreational vehicles that are placed on sites within a Special Flood Hazard Area as identified by the current effective FIRM or DFIRM panel are required to either:

a. Meet the requirements of chapter 21.06.050(A) and (B), or

b. Be on the site for fewer than 180 consecutive days, or

c. Be fully licensed and ready for highway use, on its wheels or jacking system, and attached to the site only by a quick disconnect type utilities and security devices,

5. Before regulatory floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Special Flood Hazard Area zones AE, A1-A30 as identified in the current effective FIRM or DFIRM panel at that location unless the applicant demonstrates in the application that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

6. Fuel storage tanks. Any fuel storage tanks shall be elevated above the base flood elevation or made watertight and anchored to resist flotation, collapse, and lateral movement. The tank must also be installed within an impervious containment basin of a size sufficient to contain 110 percent of storage capacity plus 12 inches of freeboard.

7. Logging or clearing. Within any special flood hazard area of the current effective FIRM or DFIRM, logging or clearing is allowed only for 20 percent of the total area of a parcel, except clearing for the footprint of a building may exceed this 20 percent limit. Multiple cleared areas may exist on a parcel, but the total of all such areas may not exceed 50 percent of the total area of the parcel. Logging or clearing may not increase runoff and/or erosion to such levels that it may significantly damage the floodplain function, riparian habitat or wetlands.

C. Floodways. Located within flood hazard areas established in [SECTION]KPB 21.06.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to erosion potential and the velocity of floodwaters which carry debris, the following provisions apply:

1. All encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Letter-of-Map-Revision-Based-On-Fill for projects within a floodway are not allowed.

2. If subdivision (1) of this subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

D. Coastal High Hazard Areas. When FEMA has identified [ON THE COMMUNITIES] FIRM or DFIRM Zones VE, V1-V30, and V (coastal high hazard areas) construction shall meet the following requirements in addition to all other provisions in this chapter:

1. All new construction shall be located landward of the reach of mean high tide.

2. All new construction, manufactured homes, and substantial improvements within Zones V1-V30 on the FIRM shall be elevated on adequately anchored pilings or columns such that:

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and

b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a 1 percent chance of being equaled or exceeded in any given year (100-year or 1-percent annual exceedence probability mean recurrence interval); and

c. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall provide a certification[CERTIFY] that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subdivisions (2)(a) and (2)(b) of this subsection. The certification and related records will be maintained in the planning department permit files in perpetuity.

3. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such [TEMPORARILY] enclosed space shall not be used for human habitation. For

the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a 1 percent chance of being equaled or exceeded in any given year (100-year or 1-percent annual exceedence probability mean recurrence interval).

4. The use of fill for structural support of buildings within Zones V1-V30 on the FIRM is prohibited.

5. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones VE, V1-30, and V shall meet the requirements for new and substantial improvement construction.

SECTION 8. That KPB 21.06.055 is hereby repealed.

SECTION 9. That KPB 21.06.060 is hereby amended as follows:

21.06.060. [VARIANCE] Exceptions procedure.

A. Appeal Board.

1. The Kenai Peninsula Borough Planning Commission shall hear and decide appeals and requests for [VARIANCES] exceptions from the requirements of this chapter.

2. The planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the planning department in the enforcement or administration of this chapter.

3. Those aggrieved by the decision of the planning commission[, OR ANY TAXPAYER,] may appeal such decision to the board of adjustment, as provided in AS 29.40.050.

4. In passing upon such applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other section of this chapter, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with the existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this chapter, the planning commission may attach such conditions to the granting of [VARIANCES]exceptions as it deems necessary to further the purposes of this chapter,

6. The planning department shall maintain the records of all appeal actions and report any [VARIANCES]exceptions to the Federal Insurance Administration upon request.

B. Conditions for [VARIANCES]Exceptions.

1. Generally, the only condition under which an [VARIANCE]exception from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subparagraphs (a) through (k) of subsection (A)(4) of this

section have been fully considered. As the lot size increases the technical justification required for issuing the [VARIANCE]exception increases.

2. [VARIANCES]Exceptions may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

3. [VARIANCES]Exceptions shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

4. [VARIANCES]Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

5. [VARIANCES]Exceptions shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the [VARIANCE]exception would result in exceptional hardship to the applicant;

c. A determination that the granting of a [VARIANCE]exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

6. [VARIANCES]Exceptions, or variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, [VARIANCE]exceptions from the flood elevations should be quite rare.

7. [VARIANCES]Exceptions may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-flood proofing where it can be determined that such action will have low damage potential, complies with all other [VARIANCE]exception criteria except subsection (B)(1) of this section, and otherwise complies with [SECTION]KPB 21.06.060(A) and (B).

8. Any applicant to whom a [VARIANCE]exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 10. That KPB 21.06.070 is hereby enacted as follows:

21.06.070. Definitions.

For the purposes of this chapter, the following words and phrases shall be defined as follows:

"100-year or 1-percent annual exceedence probability flood" (also called "regulatory flood," "base flood" or "special flood hazard area") means a flood with a 1 percent chance of being equaled or exceeded in any year. Statistical analysis of available streamflow or storm records, or analysis of rainfall and runoff characteristics of the watershed, or topography and storm characteristics are used to determine the extent and depth of the 100-year or 1-percent annual exceedence probability flood.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building.

“Clearing” means the act of removing trees or vegetation on a cumulative 20 percent or more of a given parcel of land.

"Coastal high hazard area" means the area subject to high velocity waters due to wind, tidal action, storm, tsunami or any similar force, acting singly or in any combination resulting in a wave or series of waves of sufficient magnitude, velocity or frequency to endanger property and lives.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Exception" means a grant of relief from the requirements of this chapter, which permits construction in a manner that would otherwise be prohibited by this chapter.

"Federal Emergency Management Agency" is the agency responsible for administration of the National Flood Insurance Program.

"Flood hazard area" means the land area covered by the flood, having a 1 percent chance of occurring in any given year. See also "100-year or 1-percent annual exceedence probability flood".

"Flood Insurance Rate Map (FIRM) and Digital Flood Insurance Rate Map (DFIRM)" means the map of the community issued by the FEMA which delineates the area subject to the 100-year or 1-percent annual exceedence probability flood, the water surface elevation of the base flood and the flood insurance rate zones.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

“Logging” means the process, work, or business of cutting down trees and transporting the logs to sawmill(s), or for sale or export.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than the basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at KPB 21.06.050(B)(1) and (B) (2).

"Manufactured home" means a structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Minimum Flood Corridor" means the active physical bank full channel of the stream, river or creek as measured at the seasonal high water flows.

"Planning department" means the planning department of the Kenai Peninsula Borough.

"Primary structure" means a dwelling, a building suitable for commercial use, or any structure which will be served by water or wastewater disposal systems or a fuel storage tank. This definition is applicable only in the SMFDA.

"SMFDA" means the Seward Mapped Flood Data Area which includes the 1986, 1995, and 2006 KPB GIS mapped flood data area within the Seward-Bear Creek Flood Service Area outside of the current, affective FIRM or DFIRM, and outside the city limits of Seward.

“Special Flood Hazard Area (SFHA)” means areas of high risk as defined in the current effective FIRM and DFIRM panels for the Kenai Peninsula Borough.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing,

grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building including liquid or gas storage tank, as well as a manufactured home that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damage condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

"Substantial evidence" means evidence a reasonable mind might accept to support a conclusion.

"Substantial improvement" means any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started or, if the property has been damaged and is being restored, before the damage occurred. This term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified or cited by the local code enforcement official, and which are necessary to assure safe living conditions, or,

(2) Any alteration of a structure listed on the National Register of Historic Places or State Register of Historic Places.

SECTION 11. That KPB 21.29.010 is hereby amended as follows:

21.29.010. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 20 feet of a right-of-way or within ten feet of a lot line.

B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area does not require a permit, however, operators subject to this exemption shall provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.

C. A prior existing use under KPB 21.29.120 does not require a material extraction permit, but a floodplain development permit is required for all activities within any mapped special flood hazard area.

SECTION 12. That the FEMA Flood Insurance Study Number 02122CV000A and associated flood insurance rate maps dated September 27, 2013, be adopted.

SECTION 13. That the expiration date or "sunset clause" for administration of the Seward Mapped Flood Data Area (SMFDA) is repealed. The SMFDA will continue to be administered as a mapped flood data area under KPB 21.06.045 of the KPB Code of Ordinances until which time the Assembly deems otherwise.

SECTION 14. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF AUGUST, 2013.

_____
Linda Murphy, Assembly President

ATTEST:

_____
Johni Blankenship, MMC, Borough Clerk

Yes:	Haggerty, Johnson, McClure, Pierce, Smalley, Smith, Tauriainen, Wolf, Murphy
No:	None
Absent:	None

Introduced by:	Bjorkman, Elam
Date:	04/20/21
Hearing:	05/18/21
Action:	Postponed as Amended to 06/15/21
Vote:	8Yes, 1 No, 0 Absent
Date:	06/01/21
Action:	Enacted as Amended
Vote:	8 Yes, 0 No, 1 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-18

AN ORDINANCE AMENDING TITLE 4 REGARDING BOROUGH ELECTIONS AND ENACTING A NEW CHAPTER OF CODE, KPB 4.60, ELECTION SECURITY AND INTEGRITY, TO ENSURE BOROUGH ELECTIONS ARE ACCESSIBLE, RELIABLE AND SECURE

WHEREAS, the peoples' confidence in the integrity of election results is reliant on their confidence in the security of the election equipment, election workers, and infrastructure that make elections possible; and

WHEREAS, free and fair elections play a vital and integral role in a democratic society; and

WHEREAS, all election equipment must be publicly tested, secure, and accountable in order to prove its reliability; and

WHEREAS, poll watchers must be able to closely observe elections; and

WHEREAS, voters must show proper identification to an election official before voting; and

WHEREAS, any absentee by-mail ballots must be witnessed and the voter's identity verified; and

WHEREAS, any reasonable suspicion of election fraud should be forwarded to the Alaska Attorney General; and

WHEREAS, this ordinance enacts a new chapter in borough code to establish election security and publicity procedures to protect the integrity of local elections;

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

SECTION 1. That KPB 4.50.110 is hereby amended as follows:

4.50.110. Closing of the polls.

A. Fifteen minutes before the closing of the polls, and at the time of closing the polls, an election official shall announce both the designated closing time and the actual time at which the announcement is made. Failure to make the announcement at 15 minutes before closing time shall not in any way invalidate the election or extend the time for closing of the polls. After closing, no person will be allowed to enter the polling place for purposes of voting. Every qualified voter present and in line at the time prescribed for closing the polls may vote.

B. When the polls are closed and the last vote has been cast, the election board shall account for all ballots by completing a ballot statement containing, in a manner prescribed by the clerk, the number of official ballots supplied.

C. The election board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted on the ballot statement.

D. The election board shall announce the total vote tally and sign the final results tape. No less than two members of the election board shall transport the election tabulator and election materials to the election supervisor in accordance with KPB 4.60.050.

SECTION 2. That KPB Chapter 4.60. Election Integrity and Security is enacted as follows:

4.60.010. Purpose; Scope.

The purpose of this chapter is to ensure borough elections are secure and reliable, and to provide added public trust in the integrity of borough election results. This chapter only applies to local elections administered by the borough.

4.60.020. Elections security.

A. A ballot printer who prepares ballots for use at a borough election will be provided a certificate to sign indicating that any overruns have been destroyed and that all official ballots ordered by the borough have been delivered to the election supervisor. Upon receipt of the official ballots from the printer, the election supervisor and one additional designee shall secure the ballots. A locked room with access limited to election personnel will be provided wherever possible.

B. When voted absentee ballots begin to arrive in the election supervisor's office, the ballots will be secured and access limited to personnel of the Clerk's Office and the Canvass Board. The absentee ballots will be bundled, date stamped by bundle, and processed according to the date stamped for the bundle. The information contained on the affidavit envelope will be compared to the master list of registered voters. The register may be reviewed by interested persons at any time during the election process at the election supervisor's offices.

C. The security of the polling place and electronic voting equipment must be maintained by the Election Board during the hours when election equipment is present at the polling place. The Election Board shall inspect the tamper-evident seal on electronic voting equipment upon receipt and before the polls open on the day of the election and shall immediately report any evidence of tampering to the election supervisor.

D. After the counting of voted ballots has been completed in a precinct, the Election Board shall seal the ballots in the envelopes provided and place their initials across the seal.

E. The central ballot counting center is located in Soldotna at the Borough Administration Building in the Clerk's Office. Access into the central ballot counting center is restricted to those persons approved by the election supervisor. The election supervisor will prepare the listing of persons who will have access to the restricted area and provide those persons with the appropriate identification.

F. Following the counting of absentee and questioned ballots at the central ballot counting center, the ballot containers must be sealed. The election supervisor shall prepare a receipt indicating the number of containers of ballots. When the count is completed, the ballots must be transported to the arranged secured storage areas previously determined by the election supervisor.

G. The Canvas Board is defined and described in KPB 4. 90. References to an election official or precinct election board in this chapter shall mean the same persons described in KPB 4.50.010. Any terms not specifically defined in this chapter or in KPB 4.10.020 shall have their ordinary and common meaning.

4.60.030. Ballot tabulator tests and security.

A. The automatic tabulating equipment used for counting ballots (tabulator) at voting places shall be tested publically two times for each election: before the election, and before the counting of ballots. After the counting of ballots a post-election audit shall be performed.

B. Before an election, the tabulator must be tested as follows:

1. The election coordinator board is responsible for performing and certifying the initial logic and accuracy test of the ballot counting program and memory cards;

2. The election review board is responsible for performing a second logic and accuracy test of the ballot counting program memory cards and preparing the memory cards for election use.

C. Before the opening of the polls on election day at locations where there is a tabulator, the Election Board is responsible for certifying that the precinct tabulator prints a zero totals report. In addition, before counting absentee or questioned ballots, the Canvass Board will verify that a zero totals report is printed before each memory card is used; if the same memory card is used in a subsequent count, the board will print a totals report before resuming count, and verify that it matches the totals report from the subsequent count.

D. Upon completion of the automatic count, a post-election audit shall be performed, and if the audit confirms the automatic count and does not present any discrepancies the automatic count is valid for the purpose of certifying the election returns. If discrepancies are identified a recount shall take place for that precinct prior to certification.

E. A test is successful if a perfect count of the test ballots is obtained and the tabulator otherwise functions properly during the counting of the test ballots. The testing authorities shall determine whether a test is successful.

F. Tabulator tests are open to the public. The borough clerk shall provide public notice of the election and testing calendar as follows:

1. By publication in a newspaper of general circulation at least one week prior to the scheduled election;

2. By posting on the borough's website; and

3. By physically posting at the borough administration building in Soldotna.

G. In addition to the public notice required under subsection F, the borough clerk shall provide notice, via e-mail if known and if not known by U.S. mail delivery, to all candidates and interested parties. For the purposes of this subsection the term "interested parties" shall mean any initiative or referendum sponsors.

4.60.040. Security of Test Materials.

A. On completing each test, the testing authority shall place the test ballots and other test materials in a container provided for that purpose and seal the container so it cannot be opened without breaking the seal. The election supervisor, election coordinators, and not more than two watchers, if one or more watchers are present, shall sign the seal. The watchers must be of opposing interests if such watchers are present.

B. The test materials shall remain sealed for the period for preserving the precinct election records, per the Kenai Peninsula Borough's Assembly approved retention schedule.

C. The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter, a criminal investigation, election contest, or other official proceeding under this code. If the container is unsealed, the authority in charge of the proceeding shall reseal the contents when not in use.

4.60.050. Transportation and receipt of ballots.

A. In locations where an automatic tabulating equipment used for counting ballots (tabulator) is used, the voted ballots counted by the tabulator must be transported on election night to a secured storage area prearranged by the election supervisor.

B. On the day following the election the ballots described in (a) of this section that were not transported to the central ballot counting center will be transported by ground by an election official. If transported by air the container must be secured with tamper proof seal. The ballots must be accompanied from the secured storage area to the airport of departure, and from the airport of destination to a designated secured storage area by an election official.

C. A chain of custody document will accompany each ballot shipment. Access to the secured area will be limited to election personnel.

D. On each day after the election designated by the clerk for the counting of absentee and questioned ballots and after the completion of the counting by Canvass Board, the counted absentee and questioned ballots will be secured in a locked room as determined by the election supervisor.

4.60.060. Questioned and absentee facsimile ballots.

A. The procedures in this section apply to a voted questioned or absentee ballot that has been received at central office for a determination as to whether the ballot is eligible for counting. Board members shall temporarily set aside a questioned ballot, and therefore not immediately count the questioned ballot, for a eligibility determination if:

1. The voted ballot cannot be counted by the tabulator because

(A) the voter marked the ballot in a manner that causes the tabulator to reject the ballot; or

(B) the ballot is otherwise damaged; and

2. The board members determined that the ballot contains clear and convincing evidence of the voter's intent.

B. The board members shall make an exact copy of a voted ballot described in subsection A above, for substitution as a facsimile ballot.

C. The original of a voted ballot for which a facsimile ballot is prepared under this section must be clearly labeled "original." A facsimile ballot prepared under this section must be clearly labeled "facsimile." After completion of the counting process, the original and the facsimile of a voted ballot must be placed in envelopes and the envelopes must be sealed.

D. In this section, "board members" means members of the Canvass Board, designated by the election supervisor and confirmed by the assembly to perform the functions described in this section.

4.60.070. Uncounted ballots at tabulator precincts.

A. The procedures set out in this section apply to a voted ballot that was unable to be counted by the automatic tabulating equipment used for counting ballots (tabulator) and subsequently reviewed by the Canvass Board for a determination as to whether the ballot is eligible for counting.

B. The Canvass Board shall instruct voters to place the voter's ballot in the emergency compartment of the tabulator ballot box if the voted ballot cannot be counted in the tabulator because:

1. The tabulator is unable to accept ballots due to a malfunction or power loss;

2. The voter marked the ballot in a manner that causes the tabulator to reject the ballot and the voter does not wish to correct the ballot; or

3. The tabulator rejects the ballot for an unknown reason.

C. When the polls have closed and all eligible voters have voted, the Election Board shall remove all ballots from the emergency compartment and feed the ballots through the tabulator. If there are any ballots that are unable to be counted by the tabulator, the Election Board shall place those ballots in an envelope labeled "uncounted ballot envelope" and seal the envelope in a manner that the envelope cannot be opened without breaking the seal and the seal must be signed by two members of the Election Board. The envelope will then be placed inside the precinct register.

D. The Canvass Board will conduct its review and count ballots that have been sent in the uncounted ballot envelope, described in subsection B above, using the rules specified in KPB 4.90.030 or KPB Chapter 4.70

4.60.080. Poll Watcher.

A. Each candidate and interested parties may appoint a poll watcher for each voting place. For the purposes of this subsection, the term "interested parties" shall mean any initiative or referendum sponsors and parties that timely submitted statements supporting or opposing initiative or referendum.

B. A poll watcher shall have the right to

1. Observe the conduct of the election.

2. Monitor the preliminaries of opening the polls.

3. Remain at the polling place through the election until the results of the election have been posted and the voting machines sealed, as provided by law.

4. Observe the ballots as they are counted.

5. Observe absentee ballots when they are called during the count.

6. See, at a distance of normal reading ability, all oaths administered and signed, the record of assisted voters, the list of qualified voters, the poll list, and any and all records made in connection with the election.

C. Each poll watcher shall be sworn to faithfully observe the rule of law prescribed for the conduct of elections. Poll watchers may be present to be sworn in with the precinct election officials, or as time allows, but so as not to interfere with the election. Each poll watcher shall be a resident and qualified voter of the State of Alaska and the Kenai Peninsula Borough. Election officials, including returning officers, may not serve as poll watchers. Poll watchers are not permitted to take pictures or make copies of any ballot, list, or record provided in accordance with subsection B above.

D. A poll watcher shall not disturb voters, attempt to influence voters, campaign at the polling place, nor display or wear any campaign material or buttons while inside any polling place.

SECTION 3. That KPB 4.80.070 is amended as follows:

4.80.070. Absentee voting—By mail.

A. A qualified voter may apply for an absentee ballot by mail, on-line, by fax or by mail if postmarked not earlier than the first of the year in which the election is to be held nor less than seven days before an election. A voter may request [HIS]their name be placed on permanent absentee application by mail status. The application shall include the address to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature.

B. After receipt of an application by mail, on-line, by fax or by mail, the borough clerk shall send the absentee ballot and other absentee voting material to the applicant by first class mail. The materials shall be sent as soon as they are ready for distribution. The return envelope sent with the materials shall be addressed to the borough clerk.

C. Upon receipt of an absentee ballot by mail, the voter[, IN THE PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE ARMED FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE OR MAGISTRATE, UNITED STATES POSTAL OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER OATHS,] may proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certificate on the back of the larger envelope in the presence of an official[LISTED IN THIS SUBSECTION] who shall sign as attesting official and shall date [HIS]their signature. Officials recognized to attest to the veracity of signatures listed in this subsection are: a notary public, a commissioned officer of the armed forces including the National Guard, state court judge, United States postal official, or other person qualified to administer oaths. If none of the officials listed in this subsection are

reasonably accessible, an absentee voter shall have the ballot witnessed by a person over the age of 18 years.

D. An absentee ballot must be marked and attested on or before the date of the election. If the voter returns the ballot by mail, he shall use the most expeditious mail service and mail the ballot not later than the day of the election to the borough clerk. It must be postmarked on or before midnight of election day and received by the clerk no later than the Tuesday following the election. Ballot envelopes received after that time shall not be opened but shall be marked "invalid", with the date of receipt noted thereon, and shall be preserved with other ballots of the election.

E. The clerk [MAY]shall require a voter casting an absentee ballot by mail to provide proof of identification, including one of three unique pieces of personal identification data which shall include the voter's date of birth, last four digits of the voter's social security number, or the voter's voter identification number[, OR OTHER INFORMATION]to aid in the establishment of [HIS]the voter's identity. These unique identifiers shall be provided by the voter on the ballot package and sworn to be the voter's signature and the signature of an official as described in subsection C above.

F. The clerk shall maintain a record of the name of each voter to whom an absentee ballot is sent by mail. The record must list the date on which the ballot is mailed and the date on which the ballot is received by the borough clerk and the dates on which the ballot was executed and postmarked.

G. Upon reasonable suspicion of fraud, misconduct, or plural voting by a registered voter, the clerk shall notify the attorney general and request that the matter be prosecuted to the fullest extent of the law.

SECTION 4. That KPB 4.90.020(A) is amended as follows:

4.90.020. Canvass of returns.

A. No later than the Monday following each election, the election canvass board shall meet in public session and canvass all election returns. In full view of those present, and in accordance with the procedures set forth in KPB Chapter 4.60, the election canvass board shall judge the applicability of absentee and questioned ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. The canvass of the ballot vote counted by the precinct election boards shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical error by comparing totals with the precinct's certificate of results. All obvious errors found by the election canvass in the transfer of totals from the precinct tally sheets to the precinct certificate of results shall be corrected by the canvass board. A mistake which has been made in precinct returns that is not clearly an error in the transfer of the results from the tallies to

the certificate of results empowers the canvassing board to recommend a recount of the results of the precinct or precincts for that portion of the returns in question.

B. Upon completion of the canvass, the canvassing board shall prepare a final certificate of the results of votes cast by absentee, questioned and challenged ballots and of votes cast by regular ballot, and shall prepare a written report of the results to be submitted to the assembly.

C. If election materials have not been received from a precinct prior to completion of the canvass, but election results have been transmitted by telephone, telegram, radio or electronic transmission, the canvassing board shall count the election results received. If the borough clerk has reason to believe that a missing precinct certificate, if received, would affect the result of the election, the clerk shall await the receipt of the certificate until 2:00 p.m. on the Tuesday following the election. If the certificate is not received by the clerk by 2:00 p.m., Tuesday, then the certificate shall not be counted nor included in the final certification of the canvassing board.

SECTION 5. That this ordinance is effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 15TH DAY OF JUNE, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

(

Yes: Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert

No: Bjorkman

Absent: None

06/15/21 Motion to Enact as Amended:

Yes: Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Johnson, Hibbert

No: None

Absent: Elam

Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Brent Hibbert, Assembly President
Assembly Members

FROM: Jesse Bjorkman, Assembly Member

DATE: June 15, 2021

RE: Ordinance 2021-18: An Ordinance Amending Title 4 Regarding Borough Elections and Enacting A New Chapter of Code, KPB 4.60, Election Security and Integrity, to Ensure Borough Elections Are Accessible, Reliable and Secure (Bjorkman, Elam)

At the May 1, 2021 meeting the assembly received recommended amendments from members of the public; therefore, I submit the following which incorporate many of those ideas into this ordinance:

[Please note the underlined bold text is new and the strikeout bold language in brackets is to be deleted)

- Amend Section 2 as follows:

4.60.020. - Elections security.

A. A ballot printer who prepares ballots for use at a borough election will be provided a certificate to sign indicating that any overruns have been destroyed and that all official ballots ordered by the borough have been delivered to the election supervisor. Upon receipt of the official ballots from the printer, the election supervisor **and one additional designee** shall secure the ballots. A locked room with access limited to election personnel will be provided wherever possible.

...

G. The Canvas Board is defined and described in KPB 4.90. References to an election official or precinct election board in this chapter shall mean the same persons described in KPB 4.50.010. Any terms not

specifically defined in this chapter or in KPB 4.10.020 shall have their ordinary and common meaning.

4.60.050. Transportation and receipt of ballots.

...

B. On the day following the election the ballots described in (a) of this section that were not transported to the central ballot counting center will be transported by ground by an election official**[, i]**. **I**f transported by air the container must be secured with tamper proof seal. The ballots must be accompanied from the secured storage area to the airport of departure, and from the airport of destination to a designated secured storage area by an election official.

- Amend Section 3 as follows:

4.80.070. Absentee voting—By mail.

A. A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first of the year in which the election is to be held nor less than seven days before an election. A voter may request [HIS]their name be placed on permanent absentee **application** by mail status. The application shall include the address to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Jesse Bjorkman, Assemblyman

DATE: April 8, 2021

RE: Ordinance 2021-18, Amending Title 4 Regarding Borough Elections and Enacting a New Chapter of Code, KPB 4.60, Election Security and Integrity, to Ensure Borough Elections are Accessible, Reliable and Secure (Bjorkman)

The purpose of this ordinance is to ensure public confidence in the integrity of election results.

Section 1 of this ordinance amends KPB 4.50.110, -Closing of the polls, to state that results will be announced at the polling location and that the signed results tape along with the election equipment and materials will be transported by two members of the election board to the election supervisor (the borough clerk).

Section 2 enacts a new chapter of borough election code to clarify and codify borough election practices by providing code provisions that address:

- security of election equipment (KPB 4.60.020),
- chain of custody procedures for voting equipment (KPB 4.60.020, 4.60.030);
- public testing of ballot tabulators (KPB 4.60.030);
- chain of custody for transportation and receipt of ballots (KPB 4.60.050);
- procedures for questioned or uncounted ballots (KPB 4.60.070); and
- a process for candidates appointing poll watchers (KPB 4.60.080);

Section 3 amends KPB 4.80.070 to provide a list of officials recognized to attest to signature verification on absentee ballots and establishes that at least one of three unique pieces of personal identification data shall be required for absentee ballots. The unique identifiers are a voter's voter identification number, date of birth, and last four digits of the voter's social security number. A new subsection G is added that addresses suspected voter fraud, misconduct and/or plural voting.

Section 4 amends KPB 4.90.020(A) for cross-reference and consistency purposes.

Your consideration is appreciated.

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, June 8, 2021 11:16 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Good morning

Public comment

From: bubba@horizonsatellite.com <bubba@horizonsatellite.com>
Sent: Tuesday, June 8, 2021 11:10 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Cc: Johnson, Brent <bjohnson@kpb.us>; Dunne, Willy <WDunne@kpb.us>; Chesley, Lane <lchesley@kpb.us>; Bjorkman, Jesse <JBjorkman@kpb.us>
Subject: <EXTERNAL-SENDER>Good morning

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi Johni,

This is the official letter that we would like to submit for ordinance 2021-18 that would go into the public record and to all the assembly members.

Have a good one.

Alex

June 8, 2021

Dear Borough Assembly,

A committee of Lois Pillifant, Kelly Behan, Cindy Koplin, and myself met to review Ordinance 2021-18, and came up with the following suggestions. These suggestions are to help promote the idea that poll watchers can add a sense of security and transparency and that all elections are fair and run appropriately.

We feel strongly that all poll watchers receive some formalized training by the Borough and sign an oath to that effect. After reading about the past Anchorage election and the alleged misconduct by poll watchers, we feel this takes on additional meaning. We believe that all poll watchers should read the, "Guide For Poll Watchers," written by the State of Alaska Division of Elections.

Here are the suggestions that we made for poll watchers regarding this ordinance.

4.60.080. Poll Watcher.

A. Each candidate may appoint a poll watcher for each voting place

Notes:

* Consider adding: The poll watcher's role is to help increase transparency and security of the election.

Under the new amendment where it says interested party, we feel there should also be mention of civic organizations as well-i.e. League of Women Voters -this is also mentioned in the, "Guide for Poll Watchers."

B. A poll watcher shall have the right to:

1. Observe the conduct of the election

2. Monitor the preliminaries of opening the poll

3. Remain at the polling place through the election until the results of the election have been posted and the voting machines sealed, as provided by law.

4. Observe the ballots as they are counted.

5. Observe absentee ballots when they are called during the count.

6. See, at a distance of normal reading ability, all oaths administered and signed, the record of assisted voters, the list of qualified voters, the poll list, and any and all records made in connection with the election.

NOTES FOR SECTION B:

* language in the bill should include that the poll watcher will complete a brief report to the Assembly regarding what they felt worked and didn't work. We feel this is important because the general public also needs to be aware of what the poll watcher (s) learned that day.

*Report to poll center and let the Poll chair know that they are there and when they leave.

*If a poll watcher feels that election misconduct has taken place, they will fill out the complaint form on page 13 of the State Guidelines and give it to the Borough Clerk. There can be no direct intervention with the voter.

*All poll watchers should read "The Guide for Poll Workers." https://www.elections.alaska.gov/doc/forms/B02.pdf

*We suggest that poll watchers not have campaign material on their vehicle as they may be parked in that polling center area for an extended time. A person in our group, when being trained by Gail Fenumiai, recommended that poll workers who park at polling centers make an attempt to cover any material on their car. However, we also know the state law and realize that will take precedence. We were just hoping that cars parked for long periods of time not have election material in site.

C. Each poll watcher shall be sworn to faithfully observe the rule of law prescribed for the conduct of elections. Poll watchers may be present to be sworn in with the precinct election officials, or as time allows, but so as not to interfere with the election. Each poll watcher shall be a resident and qualified voter of the State of Alaska and the Kenai Peninsula Borough. Election officials, including returning officers, may not serve as poll watchers.

Poll watchers are not permitted to take pictures or make copies of any ballot, list, or record provided in accordance with subsection B above.

Notes: Last sentence should be moved to Section B as number 7

We felt that the way the ordinance was written that Section B regarded the job description of the poll watcher so organize it in that section.

D. A poll watcher shall not disturb voters, attempt to influence voters, campaign at the polling place, nor display or wear any campaign material or buttons while inside any polling place.

Note: This should be moved to Section B as number 8 and language should be stronger (such as: Poll watcher cannot have contact with voters).

NEW SECTION D (Poll Chair/Poll Center/Borough Clerk)

1. State that designated areas should be defined for each polling center before they arrive.

2. If a poll worker sees a poll watcher not following the guidelines, they should text the Borough Clerk immediately to address their concerns.
3. A copy of the State Guidelines for Poll Watchers should be provided to the poll watcher. https://www.elections.alaska.gov/doc/forms/B02.pdf
4. Polling Chair should notify poll watcher when they will be setting up for the election and closing down the election. When I worked in an election center we set up the night before the election.
5. There should be designated areas for the poll watcher to be.
6. The poll watcher should always be visible to the poll workers. https://www.elections.alaska.gov/doc/forms/B02.pdf
7. A notice shall be placed on the door that a poll watcher is present and contact is not allowed by the voter and the poll watcher since it is likely that a poll watcher may know a voter.
8. Attention should be paid to the number of poll watchers who want to be at a particular polling center. The law states that each candidate or interested party is allowed to assign a poll watcher to each election center. The concern we have is that there may end up being too many poll watchers at one center.
9. Poll watcher will be issued a poll watcher badge similar to the one example in the poll watcher guide provided by the state.

This part of our letter deals with the new amendment that Jesse added.

4.80.070. Absentee voting-By mail. A. A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first of the year in which the election is to be held nor less than seven days before an election. A voter may request [HIS]their name be placed on permanent absentee application by mail status. The application shall include the address to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature.

In regards to this amendment, we feel that additional language needs to be added to include that a voter can apply online for a ballot. We feel that with the number of people using online applications so they can receive a ballot that this language should to be included in Jesse's amendment. I don't know the exact number of people who applied this way, but I do know we had over 4,000 absentee ballots sent in. Just saying that "you can apply by mail" is just one way to get your absentee ballot. So, it is important to list all of the ways.

Again, we appreciate the work you all do and hope that some of these suggestions will help in the process of giving the people a sense that elections are secure. However, as we all know on

the Peninsula, our elections have been secure and run by the very best people in our Borough. We would really like to see more ways we can increase voter turnout and voter education.

Sincerely,

Alex Koplin, Lois Pillifant, Kelly Behan, Cindy Koplin

Broyles, Randi

From: Blankenship, Johni
Sent: Tuesday, June 15, 2021 7:43 AM
To: Broyles, Randi
Subject: Fwd: <EXTERNAL-SENDER>Fwd: 2021-18

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Landfield <keng2013@gmail.com>
> **Date:** June 14, 2021 at 7:15:07 PM AKDT
> **To:** "Blankenship, Johni" <JBlankenship@kpb.us>
> **Subject: <EXTERNAL-SENDER>Fwd: 2021-18**
>
> CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.
>
> Hi,
> I think I had a slightly incorrect email address.
> If it's not too late, here's my 2 cents' worth.
> Thanks!
>
> Sent from my iPad
>
> Begin forwarded message:
>
> > **From:** Ken Landfield <keng2013@gmail.com>
> > **Date:** June 14, 2021 at 1:27:12 PM AKDT
> > **To:** j.blankenship@kpb.us
> > **Subject: 2021-18**
> >
> > Hello-
> >
> > Regarding this bill, I strongly encourage thorough training of poll watchers. This is too important not to be taken seriously.
> >
> > As long as identity can be securely established and protected, I can think of no reason why absentee ballots should not be made permanently available via the internet.
> >
> > Thank you for accepting my input.
> >
> > Ken Landfield
> > Homer

Broyles, Randi

From: Turner, Michele
Sent: Tuesday, June 15, 2021 11:18 AM
To: Broyles, Randi
Cc: Blankenship, Johni
Subject: FW: <EXTERNAL-SENDER>2021-18

Michele Turner, CMC
Deputy Clerk / Records Manager
Kenai Peninsula Borough
(907) 714-2165 direct

From: Sammy Crawford <scrawfordak68@gmail.com>
Sent: Tuesday, June 15, 2021 10:42 AM
To: Turner, Michele <MicheleTurner@kpb.us>
Subject: <EXTERNAL-SENDER>2021-18

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Thank you for your support of 2021-18. I would appreciate your addition of complete training for poll watchers as well as having permanent absentee voting by mail OR online.
Sammy Crawford
Kenai

Broyles, Randi

From: Blankenship, Johni
Sent: Friday, June 18, 2021 10:38 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>2021-18

Public comment on passed legislation

From: Trisha Davis <deadfallmtn@gmail.com>
Sent: Tuesday, June 15, 2021 2:24 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>2021-18

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Please share my support for the current proposed amendments to 2021-18. These make sense by making our officials responsible for the results while encouraging voter turnout. This is a win:win for us all.

Thank you for making our voting system beyond reproach....all the bickering across our nation has weakened our democracy. This appears to be a bipartisan project, as it should be to benefit all of our citizens.
As a senior citizen, I appreciate being able to cast my votes by mail...as you know our weather may not be pleasant and could keep some folks from venturing out.
Hurray for our Borough to ensure sufficient and properly trained election officials to oversee and guarantee our elections accuracy.
Thank you,

Broyles, Randi

From: Turner, Michele
Sent: Tuesday, June 15, 2021 5:28 PM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>comment on Ord 2021-18 : replace section 4.60.080 with "State of AK, Div of Elections, Guide for Poll Watchers"
Attachments: image001.jpg; B02-SoAK-PollWatchersGuide.pdf

From: Dunne, Willy <WDunne@kpb.us>
Sent: Tuesday, June 15, 2021 5:17 PM
To: Turner, Michele <MicheleTurner@kpb.us>
Subject: Fwd: <EXTERNAL-SENDER>comment on Ord 2021-18 : replace section 4.60.080 with "State of AK, Div of Elections, Guide for Poll Watchers"

Sent from my iPad

Begin forwarded message:

> **From:** Wayne Aderhold <aderhold@xyz.net>
> **Date:** June 14, 2021 at 9:56:57 PM AKDT
> **To:** "Blankenship, Johni" <JBlankenship@kpb.us>
> **Cc:** "Dunne, Willy" <WDunne@kpb.us>, "Chesley, Lane" <lchesley@kpb.us>
> **Subject: <EXTERNAL-SENDER>comment on Ord 2021-18 : replace section 4.60.080 with "State of AK, Div of Elections, Guide for Poll Watchers"**
>
> CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.
>
> Please pass this comment to the Assembly regarding Ord. 2021-18:
>
> Regarding section 4.60.080. Poll Watcher (Ord. 2021-18):
>
> - When it comes to elections, I believe (and recent events have proven) that **Clerks and Election Workers do an excellent (and largely thankless) job of delivering fair and accurate elections**, … and (amazingly) in a timely fashion. Getting responsible citizens to fill these jobs (Election Workers, as well as Clerks) is clearly difficult and any "election ordinance" should support the work of Election Officials, not make it more difficult.
> - Any doubts cast on recent elections have proven to be baseless disinformation efforts compounded by the failure of elected officials to counter disinformation efforts from nefarious sources and thereby provide their constituents with accurate information (by replacing mis & disinformation with known facts)
> - I have no problem with legitimate "poll watchers", however section 4.60.080. as currently written in this ordinance is a recipe for potential chaos and disaster, and should be replaced

with a reference to the **"State of Alaska, Division of Elections, Guide for Poll Watchers"** (attached here for reference)

- Some examples of a clear deficiencies in 4.60.080 is a total lack of mandatory training, identification, and consequences (removal) for misbehavior by poll watchers.
- An assignment as a "poll watcher" should be treated as a **privilege**, not a right: (excerpt from State Guide)
    -
-
-

Sincerely,
Wayne Aderhold
Homer

Privileges and Conduct of Poll Watchers

Poll Watcher Conduct

Poll watchers shall produce their identification badges upon the request of the election board and shall have their identification badges visible and attached to their person at all times. The election board must ensure that the poll watcher has a complete view of the election process. The poll watcher may not sit in the area behind the election table where election officials are working or in between election officials handling precinct registers and must remain a distance away from the voting machines and voting booths to ensure the privacy of the ballots. The poll watcher may be in close enough proximity to hear and record the name of a person who is voting.

It is important for each poll watcher to realize that election officials are honest, diligent citizens trying to do an important job that requires long hours of hard work. A poll watcher should establish a cooperative relationship with the election board to best facilitate the election process. A negative attitude by the poll watcher may create unnecessary stress.

Only one poll watcher for each party, candidate, or organized group may be present in the polling place at a time.

Poll Watcher Interference

Poll watchers shall not interfere with the election process and may not handle any election supplies or materials, including the precinct registers.

Poll watcher may not campaign or try to persuade voters to vote a certain way inside the polling place or within 200 feet of any entrance.

A poll watcher who creates a public disturbance may be removed from the polling place.

Guide For Poll Watchers

State of Alaska
DIVISION OF ELECTIONS

B02 (Rev: 03/22/2021)

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Division of Elections Directory

Alaska Division of Elections Website:

www.elections.alaska.gov

Director of Elections
240 Main Street, Suite 400
PO Box 110017
Juneau, Alaska 99811-0017

Phone: (907) 465-4611
Fax: (907) 465-3203
Toll Free: 1-866-952-8683

Region I Elections Office
9109 Mendenhall Mall Road, Suite 3
PO Box 110018
Juneau, Alaska 99811-0018

Phone: (907) 465-3021
Fax: (907) 465-2289
Toll Free: 1-866-948-8683

Region II Elections Office
Anchorage Office
2525 Gambell Street, Suite 100
Anchorage, Alaska 99503-2838

Phone: (907) 522-8683
Fax: (907) 522-2341
Toll Free: 1-866-958-8683

Matanuska-Susitna Office
North Fork Professional Building
1700 E Bogard Road, Suite B102
Wasilla, Alaska 99654-6565

Phone: (907) 373-8952
Fax: (907) 373-8953

Region III Elections Office
675 7th Avenue, Suite H3
Fairbanks, Alaska 99701-4542

Phone: (907) 451-2835
Fax: (907) 451-2832
Toll Free: 1-866-959-8683

Region IV Elections Office
Sitnasuak Office Building
214 Front Street, Suite 130
PO Box 577
Nome, Alaska 99762-0577

Phone: (907) 443-5285
Fax: (907) 443-2973
Toll Free: 1-866-953-8683

Absentee and Petition Office
By-Mail, Electronic Voting and Petition Programs
2525 Gambell Street, Suite 105
Anchorage, Alaska 99503-2838

Phone: (907) 270-2700
Fax: (907) 270-2780
Toll Free: 1-877-375-6508

Native Language Assistance

Toll Free: 1-866-954-8683

Becoming a Poll Watcher

Introduction

The Division of Elections has developed this handbook to familiarize poll watchers with relevant election laws and to define the responsibilities and limitations of a poll watcher.

The integrity of elections is a concern of all citizens. Although you as a poll watcher may represent a particular candidate, political party, or civic organization, your principal interest is in the conduct of a fair and honest election. This handbook is an overview intended to help you understand your basic responsibilities.

Before assuming your duties as a poll watcher, review this handbook to gain an understanding of the polling place activities. The right to vote is a cornerstone of our democracy. It should be the objective of the election officials and poll watchers together to protect this right of the voter.

If you have any questions regarding the election process, please contact the regional election supervisor for your area.

Appointment

One or more persons may be appointed as a poll watcher for each precinct or counting center for any election. Poll watchers must be citizens of the United States. Poll watchers are appointed by:

- The precinct party committee where an organized precinct committee exists
- The district party committee where no organized precinct committee exists
- The state party chair where no precinct or district committee exists
- Candidates
- Organizations or organized groups that sponsor or oppose an initiative, referendum, or recall

Distribution of Poll Watcher Badges

Poll watchers will be required to present written proof showing they are an authorized poll watcher when reporting to a voting location. In addition, while at the voting location, poll watchers must identify that they are a poll watcher by wearing an identification badge with their name.

The poll watcher badge is used as the identification badge. The authorized person writes their name on one side and on the other side writes who they are representing. Once completed, the poll watcher badge serves as the written proof. Poll watcher badges may be obtained from a regional election supervisor prior to Election Day.

Poll Watcher Training

The regional election supervisor shall provide this handbook as the written guideline to conduct poll watcher duties.

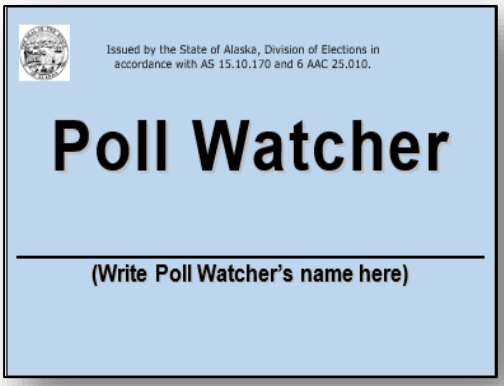
Persons authorized to distribute poll watcher badges are responsible for the training of all poll watchers under their authority on the proper conduct of poll watchers according to the provided guidelines and are responsible for the conduct of poll watchers.

Identification of Poll Watchers

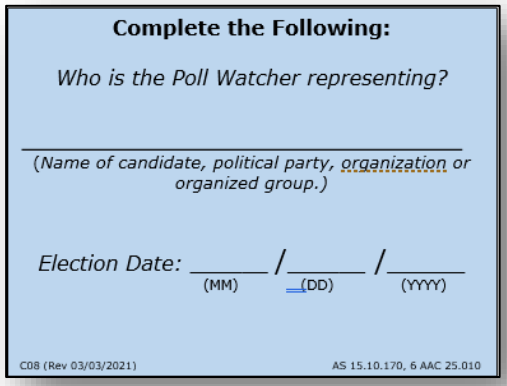
Poll watcher identification badges are available in each of the regional election supervisor's offices. To be valid, the poll watcher identification badge must indicate:

- The name of the poll watcher, listed on the front of the badge
- The title "poll watcher", listed on the front of the badge
- The date of the election, listed on the back of the badge
- The name of the party, candidate, or organization the poll watcher is representing

Front of Badge:



Back of Badge:



The name of the party, candidate, or organization the poll watcher is representing listed on the back of the poll watcher identification badge cannot be exhibited to voters as this is electioneering. This side is only to be viewed by the election board when arriving.

Without the proper identification badge, the poll watcher will be asked to leave the polling place.

Persons Authorized in the Polling Place

Election Board Members

In each precinct, an election board is appointed to conduct the election. The board is composed of at least three election officials. Election officials must be citizens of the United States. One of the officials is appointed chairperson and is primarily responsible for the administration of the election in the precinct. In many precincts, a second official is appointed as a co-chairperson and is primarily responsible for the counting system.

All election officials have equal authority. They conduct the election, administer the voting procedures, determine voter qualifications, and maintain the decorum of the polling place. By majority decision, the election officials determine the action required on any questions that arise during the election.

All persons present in the polling place or within 200 feet of any entrance to the polling place must obey the lawful orders of the election board members. **Only election board members may handle election supplies and materials.**

Poll Watchers

There can be only one poll watcher representing each political party, organized group, or candidate in the polling place at a time.

Poll Watchers must have proper identification. **Poll watchers have no duties in the conduct of the election.**

Candidates may serve as poll watchers; however, they must have proper poll watcher credentials to remain in the polling place.

Others

Other persons allowed to remain in the polling place are:

- Voters while voting
- Division of Elections representatives
- Attorney General's Office representatives

Privileges and Conduct of Poll Watchers

Poll Watcher Conduct

Poll watchers shall produce their identification badges upon the request of the election board and shall have their identification badges visible and attached to their person at all times. The election board must ensure that the poll watcher has a complete view of the election process. The poll watcher may not sit in the area behind the election table where election officials are working or in between election officials handling precinct registers and must remain a distance away from the voting machines and voting booths to ensure the privacy of the ballots. The poll watcher may be in close enough proximity to hear and record the name of a person who is voting.

It is important for each poll watcher to realize that election officials are honest, diligent citizens trying to do an important job that requires long hours of hard work. A poll watcher should establish a cooperative relationship with the election board to best facilitate the election process. A negative attitude by the poll watcher may create unnecessary stress.

Only one poll watcher for each party, candidate, or organized group may be present in the polling place at a time.

Poll Watcher Interference

Poll watchers shall not interfere with the election process and may not handle any election supplies or materials, including the precinct registers.

Poll watcher may not campaign or try to persuade voters to vote a certain way inside the polling place or within 200 feet of any entrance.

A poll watcher who creates a public disturbance may be removed from the polling place.

The Poll Watcher's Role

Before the Polls Open

Poll watchers may observe the set-up procedures and check that the ballot box is empty before the polls open. They may closely observe the election officials as official ballots are prepared for distribution.

During Voting Hours

Poll watchers may observe the general conduct of the election throughout the day.

When a voter enters the polling place, an election official will ask for their name and a piece of identification. **The ID requirement may be waived if someone working on the election board personally knows the voter, except when "Must Show ID" is printed in the signature block above the voter's name and, in this case, the voter must present identification.**

If a voter does not have identification and is not personally known by an election official, the voter must vote a questioned ballot.

Before issuing ballots, the election official will ask voters to sign their name on the precinct register. Voters having difficulty in signing their name may make a mark on an "X" in the signature space.

Poll watchers may not closely observe the signatures appearing on the precinct register. However, the poll watcher may sit close enough to hear the election official say the voter's name.

Poll watchers may check the polling booths after each voter leaves the booth to make sure no campaign materials have been left in the booth.

Campaigning

Campaigning is an act that is meant to persuade voters to vote in a particular way. **It is against the law for campaigning to take place within 200 feet of any entrance to a polling place.**

Campaigning includes the following:

- Discussion of an issue or candidate
- Displaying a large campaign sign or vehicle bumper sticker
- Wearing campaign buttons, pins, etc.
- Displaying marked sample ballots or election pamphlets

A voter may bring along, for personal use, notes, and reminders such as a pre-marked sample ballot or an official election pamphlet. A voter may take these items into a polling booth. Materials left behind should be disposed of immediately.

It is the duty of the election board to prohibit campaigning. The election board may not discuss any political party, candidate, or issue while on duty. The election board may not inform a voter or anyone else that a person is a candidate for a specific race.

Poll watchers may not campaign while on duty at a voting location as a poll watcher. Any type of campaigning observed by the poll watcher should be reported immediately to the election board or the regional election supervisor.

After Polls Close

Poll watchers may remain in the polling place until all procedures are completed.

In the precincts where the precinct scanner or voting tablet is used, the poll watcher may request the election board to print an additional copy of the results tape for the poll watcher. For the rank choice general elections, only the first choice will be tabulated by the precinct scanner on election night.

Observing Ballot Counting

In those precincts where hand counting of the ballots is completed, a poll watcher may observe the counting of the ballots. For rank choice general elections, only the first choice will be counted by the election board on election night.

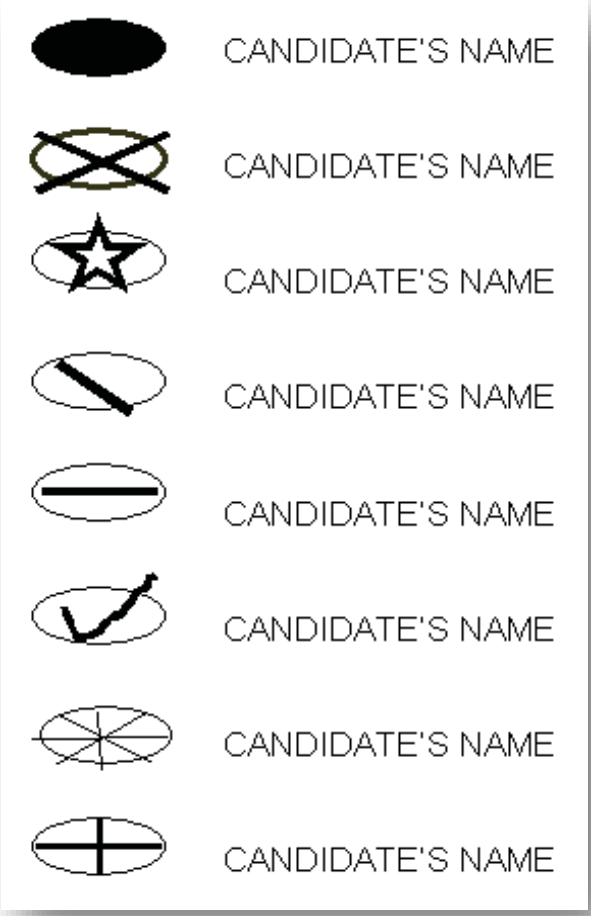
Valid and Invalid Ballot Marking

Only those marks that are **substantially** inside the oval will be counted. The marks must indicate clearly that the voter intended for that particular oval to be designated. **Improper marks invalidate only that section of the ballot in which they appear.**

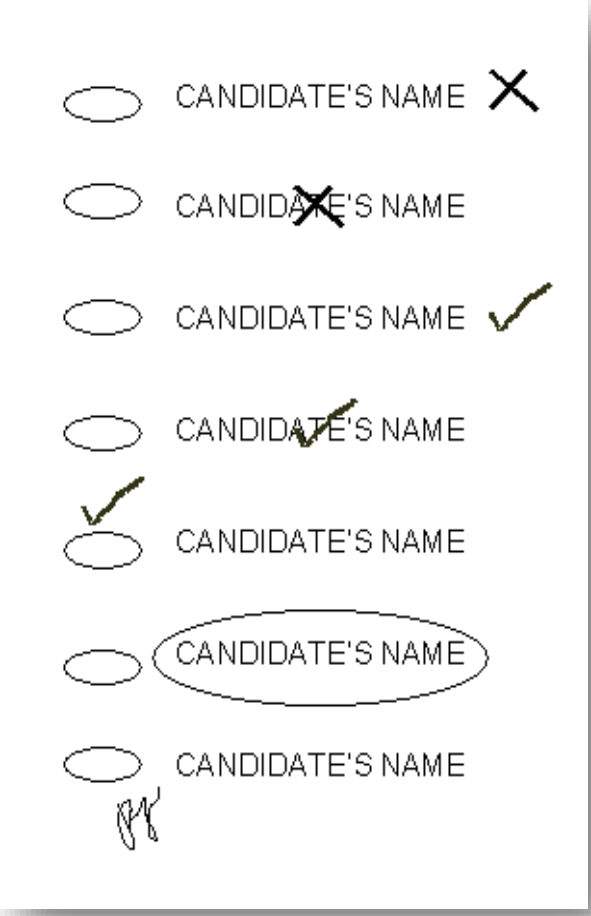
Only the following ballot marks are valid:

- Solid marks
- Diagonal, horizontal, or vertical marks
- "X" marks
- Stars, circles, asterisk, checks, or plus signs

Examples of VALID Marks:



Examples of INVALID Marks



Providing Assistance to Voters

Providing Assistance

Voters who have difficulty because of a disability, who do not speak English, or who cannot read or write, may receive assistance while voting. This help may be provided by the election board, or anyone who is **not** a candidate for office, the voter's employer, agent of the employer, or from the voter's union. (Section 208, Voting Rights Act, 42 U.S.C. 107aa-6)

If a person other than a member of the election board assists the voter, the person must take a verbal oath not to divulge how the voter voted.

The person assisting may accompany the voter into the voting booth.

The person assisting may read the ballot to the voter and may mark the voter's ballot. The person may complete any form for the voter except that the person **cannot sign** forms requiring the voter's signature.

Native Language Assistance

If a voter requests bilingual voting assistance and an election official is proficient in the local native language, the election official may assist in translating the ballot instructions and ballot language to the voter.

If the precinct election officials are not proficient in the local native language, a voter may request language assistance from the native language translator listed on the native language poster as displayed in the polling place.

Voter Instructions

It may be necessary for an election board member to explain to the voter, in full view of everyone in the polling place, how to properly cast a ballot. To the extent possible, instructions to the voter are given by posting informative and pictorial signs in the polling place and in each voting booth.

Any instructions necessary should be given before the voter enters the voting booth.

Questioning Voter Eligibility

Questioning a Person's Right to Vote

A poll watcher may question a person attempting to vote if the poll watcher has good reason to suspect that the person is not qualified under Alaska Statute 15.05.

All questions regarding a person's voting qualifications must be made in writing stating the reason why the person has been questioned.

Reasons for questioning a voter under Alaska Statute 15.05:

- Voter is not a citizen of the United States
- Voter is not 18 years of age or older
- The voter is not a resident of the state and of the house district in which the person seeks to vote at least 30 days before Election Day
- Voter is registered to vote in another state

Poll Watcher's Complaint

When a poll watcher observes a potential irregularity by the election board, the poll watcher should courteously discuss the perceived irregularity with the chair of the election board. If the chair or election board disagrees or fails to correct the potential irregularity, then the poll watcher should contact the regional election supervisor.

Poll watchers should submit their complaint to the regional election supervisor in writing using the Poll Watcher's Complaint Form at the end of this handbook.

Poll Watcher's Complaint Form

Name of Poll Watcher: _____

Representative of:

- ☐ Party: _____
- ☐ Candidate: _____
- ☐ Organized Group: _____

Voting Location: District _____ Precinct _____ Precinct Name _____

Nature of Complaint: _____

_____

_____

_____

_____

_____

Disposition of complaint (if unresolved by election board):

- ☐ Referred to Regional Election Supervisor
- ☐ Referred to Director of Elections
- ☐ Referred to Attorney General's Office

Name(s) of election officials:

_____

_____

_____

Name, address, and phone number of witness (if any):

Name: _____ Phone Number: _____

Address: _____

Poll Watcher's Signature: _____

Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Brent Hibbert, Assembly President
Assembly Members

THRU: Jesse Bjorkman, Assembly Member
Bill Elam, Assembly Member

FROM: Johni Blankenship, Borough Clerk

DATE: May 18, 2021

RE: Ordinance 2021-18: An Ordinance Amending Title 4 Regarding Borough Elections and Enacting A New Chapter of Code, KPB 4.60, Election Security and Integrity, to Ensure Borough Elections Are Accessible, Reliable and Secure (Bjorkman, Elam)

Upon further review of the ordinance and the expectations regarding the third test, the following amendments are recommended to reflect current procedures:

Section 2, 4.60.030. Ballot tabulator tests and security.

A. The automatic tabulating equipment used for counting ballots (tabulator) at voting places shall be tested publicly **[THREE] two** times for each election: before the election, **[IMMEDIATELY] *and*** before the counting of ballots**.[,] [AND IMMEDIATELY] A[a]fter** the counting of ballots **a post-election audit shall be performed**.

D. Upon completion of the automatic count, **[the tabulator shall again be tested] a post-election audit shall be performed**, and if the **[INITIAL TEST IS] audit confirms the automatic count and does not present any discrepancies [SUCCESSFUL]** the automatic count is valid for the purpose of certifying the election returns. **[OTHERWISE, THE AUTOMATIC BALLOT COUNT IS VOID.] If discrepancies are identified a recount shall take place for that precinct prior to certification.**

Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Brent Hibbert, Assembly President
Assembly Members

FROM: Jesse Bjorkman, Assembly Member

DATE: May 18, 2021

RE: Ordinance 2021-18: An Ordinance Amending Title 4 Regarding Borough Elections and Enacting A New Chapter of Code, KPB 4.60, Election Security and Integrity, to Ensure Borough Elections Are Accessible, Reliable and Secure (Bjorkman, Elam)

This language change clarifies the intent of these sections. It further solidifies the security, integrity, and accountability of our local elections' written code procedures. The changes specify the source for retention of election records and insures access for poll watchers who represent a position on a ballot initiative or referendum.

Your consideration is appreciated.

4.60.040. Security of Test Materials.

...

B. The test materials shall remain sealed for the period for preserving the precinct election records, **per the Kenai Peninsula Borough's Assembly approved retention schedule.**

4.60.080. Poll Watcher.

A. Each candidate **and interested parties** may appoint a poll watcher for each voting place. **For the purposes of this subsection, the term "interested parties" shall mean any initiative or referendum sponsors and parties that timely submitted statements supporting or opposing initiative or referendum.**

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk

FROM: Tatyanah Shassetz, Borough Clerk Administrative Assistant

DATE: April 13, 2021

RE: Greenstar Flower Outlet – Retail Marijuana Store – New License 23694

Kenai Peninsula Borough Code 7.30.010 provides that the Assembly shall review and make recommendations to the state on applications for new licenses located within the Borough. Accordingly, the attached application filed by Greenstar Flower Outlet is being submitted to you for review and recommendation.

The Borough Finance Department reviewed the application and has no objection to the new license based on unpaid taxes. The Planning Commission reviewed the application at its Monday, April 12, 2021 meeting and has no objection to the new license based on the standards set forth in KPB 7.30.

RECOMMENDATION:

That the Assembly approves the issuance of a letter of non-objection to the Alcohol Marijuana Control Office regarding the new Retail Marijuana Store license as requested by **Greenstar Flower Outlet** with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

March 1, 2021

Kenai Peninsula Borough
Attn: Johni Blankenship
VIA Email: jblankenship@kpb.us
CC: micheleturner@kpb.us
tshassetz@kpb.us
sness@kpb.us
mjenkins@kpb.us
btaylor@kpb.us
MBerg@kpb.us
shuff@kpb.us

License Number:	23694
License Type:	Retail Marijuana Store
Licensee:	Greenstar, Inc.
Doing Business As:	Greenstar Flower Outlet
Physical Address:	40593 Kalifornsky Beach Rd Suite B Kenai, AK 99611 - 7426
Designated Licensee:	Jason Bott
Phone Number:	907-252-4342
Email Address:	jason.greenstar.cultivators@gmail.com

☒ **New Application** ☐ **New Onsite Consumption Endorsement Application (Retail Only)**

AMCO has received a complete application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.025(d)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license, but require the applicant to show to the board's satisfaction that the requirements of the local government have been met before the director issues the license.

3 AAC 306.010, 3 AAC 306.080, and 3 AAC 306.250 provide that the board will deny an application for a new license if the board finds that the license is prohibited under AS 17.38 as a result of an ordinance or election conducted under AS 17.38 and 3 AAC 306.200, or when a local government protests an application on the grounds that the proposed licensed premises are located in a place within the local

government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

This application will be in front of the Marijuana Control Board at our 3/31-4/1, 2021 meeting.
Sincerely,

Glen Klinkhart, Interim Director
amco.localgovernmentonly@alaska.gov

Alaska Business License # **2094945**

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

Greenstar Flower Outlet

PO box 3208, Soldotna, AK 99669

owned by

Greenstar, Inc.

is licensed by the department to conduct business for the period

November 10, 2019 to December 31, 2020
for the following line(s) of business:

42 - Trade

#233694

JUL 21 2020
AMCO

THE SEAL OF THE STATE OF ALASKA

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Anderson
Commissioner

Details

ENTITY DETAILS

Name(s)

Type	Name
Legal Name	Greenstar, Inc.

Entity Type: Business Corporation

Entity #: 10055488

Status: Good Standing

AK Formed Date: 4/4/2017

Duration/Expiration: Perpetual

Home State: ALASKA

Next Biennial Report Due: 1/2/2021

Entity Mailing Address: PO BOX 3208, SOLDOTNA, AK 99669

Entity Physical Address: 54843 KENAI SPUR HWY, NIKISKI, AK 99635

Registered Agent

Agent Name: JASON BOTT

Registered Mailing Address: 35835 RYAN LANE, SOLDOTNA, AK 99669

Registered Physical Address: 35835 RYAN LANE, SOLDOTNA, AK 99669

Officials

☐ Show Former

AK Entity #	Name	Titles	Owned
	Jason Bott	Director, President, Shareholder, Treasurer, Secretary	100.00

Filed Documents

Date Filed	Type	Filing	Certificate
4/04/2017	Creation Filing	Click to View	Click to View
4/24/2017	Entity Address Change	Click to View	
5/15/2017	Initial Report	Click to View	
6/28/2018	Change of Officials	Click to View	
4/09/2019	Biennial Report	Click to View	

Close Details | Print Friendly Version

23694

AMCO
JUL 21 2020

Alaska Entity #10055488

State of Alaska
Department of Commerce, Community, and Economic Development
Corporations, Business, and Professional Licensing

Certificate of Incorporation

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

Greenstar, Inc.

IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective **April 04, 2017**.

Chris Hladick
Commissioner

AMCO

JUL 21 2020

#23694

BY-LAWS

OF

Greenstar, Inc.

ADOPTED: May 10, 2017

ARTICLE I

OFFICES

1. **Registered Office and Agent.** The registered or statutory office of the Corporation in the State of Alaska is at 35835 Ryan Lane, Soldotna, Alaska, 99669. The registered, statutory or resident agent of the Corporation at such office is JASON BOTT.

2. **Other Places of Business.** Branch or subordinate offices or places of business may be established at any time by the Board if Directors at any place or places where the corporation is qualified to do business.

ARTICLE II

SHAREHOLDERS

1. **Annual Meeting.** The annual meeting of shareholders shall be held upon not less than ten nor more than fifty days written notice of the time, place and purpose of the meeting, at 10 o'clock A.m. on the 15th day of the January of each year at the principal office of the Corporation or at such other time and place as shall be specified in the notice of meeting, in order to elect directors and transact such other business as shall come before the meeting, including the election of any officers as required by law. If that date is a legal holiday, the meeting shall be held at the same hour on the next succeeding business day.

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AMCO

JUL 21 2020

2. **Special Meeting.** A special meeting of shareholders may be called for any purpose by the president or the Board of Directors as permitted by law. A special meeting shall be held upon not less than ten nor more than fifty days written notice of the time, place and purposes of the meeting.

3. **Action Without a Meeting.** The shareholders may act without a meeting if, prior or subsequent to such action, each shareholder who would have been entitled to vote upon such action shall consent in writing to such action. Such written consent or consents shall be filed in the minute book.

4. **Quorum.** The presence at a meeting in person or by proxy of the holders of shares entitled to cast a majority of all shares issued and outstanding shall constitute a quorum.

5. **Record Date.** The record date for all meetings of shareholders shall be as fixed by the Board of Directors or as provided by Statute.

ARTICLE III

BOARD OF DIRECTORS

1. **Number and Term of Office.** The Board of Directors shall consist of two members. Each director shall be elected by the shareholders at each annual meeting and shall hold office until the next annual meeting of shareholders and until that director's successor shall have been elected and qualified.

2. **Regular Meetings.** A regular meeting of the Board shall be held without notice immediately following and at the same place as the annual shareholder's meeting for the purpose of electing officers and conducting such other business as may come before the regular meetings which may be held without notice, except to members not present at the time of the adoption of the resolution.

3. **Special Meetings.** A special meeting of the Board may be called at any time by the President or by one directors for any purpose. Such meeting shall be held upon not less than one days notice if given orally, (either by telephone or in person,) or by telegraph, or upon not less than one days notice if given by depositing the notice in the United States Mail, postage prepaid. Such notice shall specify the time, place and purposes of the meeting.

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JUL 21 2020

4. **Action Without a Meeting.** The Board may act without a meeting if, prior to such action, each member of the Board shall consent in writing thereto. Such consent or consents shall be filed in the minute book.

5. **Quorum.** A majority of the entire Board shall constitute a quorum for the transaction of business.

6. **Vacancies in Board of Directors.** Vacancies in the Board, whether caused by removal, death, mental or physical incapacitation or any other reason, including vacancies caused by an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors, even though less than a quorum of the Board, or by a sole remaining director.

ARTICLE IV

WAIVER OF NOTICE

Any notice required by these By-laws, the certificate of incorporation or the laws of the State of Alaska may be waived in writing by the person entitled to notice. The waiver or waivers may be executed either before, at or after the event with respect to which notice is waived. Each director or shareholder attending a meeting without protesting the lack of proper notice, prior to the conclusion of the meeting, shall be deemed conclusively to have waived such notice.

ARTICLE V

OFFICES

1. **Election.** At its regular meeting following the annual meeting of the shareholders, the Board shall elect a President, Vice-President, Secretary and Treasurer, except such officers as shall be elected by the shareholders. It may elect such other officers, including one or more vice presidents, as it shall deem necessary. One person may hold two or more offices, but no person shall hold the office of president and secretary at the same time.

2. **Duties and Authority of President.** The president shall be chief executive officer of the Corporation. Subject only to the authority of the Board, he shall have general charge and supervision over, and responsibility for, the business and affairs of the Corporation. Unless otherwise directed by the Board, all other officers shall be subject to the authority and supervision of the president. The president

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AMCO

JUL 21 2020

may enter into and execute in the name of the Corporation contracts and other instruments in the regular course of business or contracts or other instruments not in the regular course of business which are authorized, either generally or specifically, by the Board. He shall have the general powers and duties of management usually vested in the office of the president of a corporation.

3. **Duties and Authority of Vice President**. The vice president shall perform such duties and have such authority as from time to time may be delegated to him by the president or by the Board. In the event of the absence, death, inability or refusal to act by the president, the vice president shall perform the duties and be vested with the authority of the president.

4. **Duties and Authority of Treasurer**. The treasurer shall have the custody of the funds and securities of the Corporation and shall keep or cause to be kept regular books of account for the Corporation. The treasurer shall perform such other duties and possess such other powers as are incident to that office or as shall be assigned by the president or the Board.

5. **Duties and Authority of Secretary**. The Secretary shall cause notices of all meetings to be served as prescribed in these By-laws and shall keep or cause to be kept the minutes of all meetings of the shareholders and the be kept the minutes of all meetings of the shareholders and the Board. The secretary shall have charge of the seal of Board. The secretary shall perform such other duties and possess such other powers as are incident to that office or as are assigned by the president or the Board.

6. **Removal of Officers**. The Board may remove any officer or agent of the Corporation if such action, in the judgment of the Board, is in the best interest of the Corporation. Appointment or election to a corporate office shall not, of itself, establish or create contract rights.

7. **Vacancies in Offices**. The Board, in its absolute discretion, may fill all vacancies in offices, regardless of the cause of such vacancies, for the remainder of the terms of the offices.

#23694

AMCO

JUL 21 2020

ARTICLE VI

AMENDMENTS TO AND EFFECT OF BY-LAWS

1. **Force and Effect of By-laws.** These By-laws are subject to the provisions of the laws of the State of Alaska and the Corporation's Certificate of Incorporation, as it may be amended from time to time. If any provision in these By-laws is inconsistent with a provision in the State statutes or the Certificate of Incorporation, the provision of the State of Alaska statutes or the Certificate of Incorporation shall govern.

Wherever in these By-laws references are made to more than one incorporator, director or shareholder, they shall, if this is a sole incorporator, director, shareholder corporation, be construed to mean the solitary person; and all provisions dealing with the quantum of majorities or quorums shall be deemed to mean the action by the one person constituting the corporation.

2. **Amendment to By-laws.** These By-laws may be altered, amended or repealed by the shareholders or the Board. Any By-laws adopted, amended or repealed by the shareholders may be amended or repealed by the Board, unless the resolution of the shareholders adopting such By-laws expressly reserves to the shareholders the right to amend or repeal it.

ARTICLE VII

FISCAL YEAR

1. **Fiscal Year.** The fiscal year of the Corporation shall begin on the first day of January of each year.

DATED and approved on the 10th day of May, 2017.

President

Secretary

#23694

AMCO

JUL 21 2020

Alaska Business License # **2094945**

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

Greenstar Flower Outlet

PO box 3208, Soldotna, AK 99669

owned by

Greenstar, Inc.

is licensed by the department to conduct business for the period

December 30, 2020 to December 31, 2022
for the following line(s) of business:

42 - Trade

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Anderson
Commissioner

Alaska Business License # **2094945**

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

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Julie Anderson
Commissioner

License Detail

LICENSE DETAILS

License #: 2094945

Print Business License

Business Name: Greenstar Flower Outlet

Status: Active

Issue Date: 11/10/2019

Expiration Date: 12/31/2022

Mailing Address: PO box 3208
Soldotna, AK 99669

Physical Address: 40593 Kalifornsky Beach Rd.
Suite B
Kenai, AK 99611

Owners

Greenstar, Inc.

Activities

Line of Business	NAICS	Professional License #
42 - Trade	453998 - ALL OTHER MISCELLANEOUS STORE RETAILERS (EXCEPT TOBACCO STORES)	

Endorsements

No Endorsements Found

License Lapse(s)

If this business license lapsed within the last four years the lapsed periods will appear below. Lapsed periods are the unlicensed period between an expiration date and renewal date.

No Lapses on record for the last 4 years.

Close License Detail Print Friendly Version

Alaska Business License # **1052982**

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

GREENSTAR, INC.

Po box 3208, Soldotna, AK 99669-9342

owned by

GREENSTAR, INC.

is licensed by the department to conduct business for the period

December 30, 2020 to December 31, 2022
for the following line(s) of business:

11 - Agriculture, Forestry, Fishing and Hunting

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Anderson
Commissioner

Alaska Food Code
2021 Establishment Permit

Division of Environmental Health
Food Safety & Sanitation Program

Permit Number:	11296
Issued to:	**GREENSTAR INC.**
For:	**Greenstar Flower Outlet**
For Operation of:	**FM-1 Convenience Store**
Located at:	**40593 Kalifornsky Beach RD STE B Kenai, AK 99611**

This permit, issued under the provisions of 18 AAC 31, is valid until the noted expiration date or unless suspended or revoked by the department.

This permit is not transferable for change of ownership, facility location, or type of operation. It must be posted in plain view in the establishment and is the property of the State of Alaska.

Expiration Date:
December 31, 2021

Program Manager:

If you have questions or concerns regarding safe food handling practices call toll free:

1-87-SAFE-FOOD

(in Anchorage call 334-2560)

Alaska Food Code
2020 Establishment Permit

Division of Environmental Health
Food Safety & Sanitation Program

Permit Number:	11296
Issued to:	**GREENSTAR INC.**
For:	**Greenstar Flower Outlet**
For Operation of:	**FM-1 Convenience Store**
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December 31, 2020

Program Manager:

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1-87-SAFE-FOOD

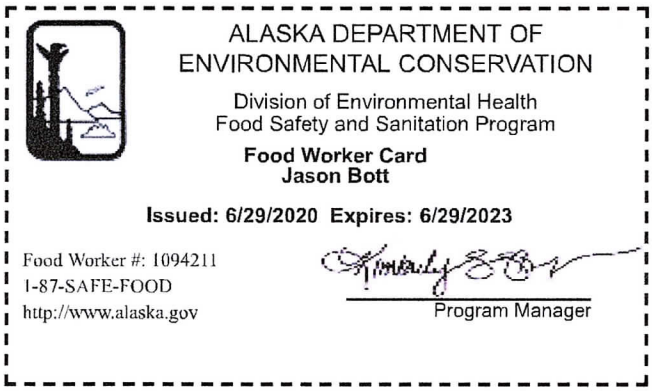
(in Anchorage call 334-2560)

[EH / Food Safety and Sanitation]

PRINT YOUR FOOD WORKER CARD

Congratulations on passing the State of Alaska's Food Safety test and meeting all of the qualifications necessary to obtain a Food Worker Card and work in Alaska's food industry. You will need to print two copies: one copy for your employer and one to keep on your person.

Note, your Food Worker Card is good for a period of three years from today's date. Please keep your Test ID. It is your proof of qualifying to work in Alaska's food industry. If your card is lost or stolen, you will need your Test ID to come back to this page and print out a replacement.



ALASKA DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Division of Environmental Health
Food Safety and Sanitation Program

Food Worker Card
Jason Bott

Issued: 6/29/2020 Expires: 6/29/2023

Food Worker #: 1094211
1-87-SAFE-FOOD
http://www.alaska.gov

Program Manager

State of Alaska © 2013 Webmaster (mailto:beth.johnson@alaska.gov)

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-00: Application Certifications

What is this form?

This application certifications form is required for all marijuana establishment license applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306.

This form must be completed and submitted to AMCO's main office by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	GREENSTAR INC.	**License Number:**	23694		
License Type:	RETAIL MARIJUANA FACILITY				
Doing Business As:	GREENSTAR FLOWER OUTLET				
Premises Address:	40593 KALIFORNSKY BEACH RD STE B				
City:	KENAI	**State:**	AK	**ZIP:**	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	JASON M BOTT
Title:	PRESIDENT

Section 3 – Other Licenses

Ownership and financial interest in other licenses: Yes No

Do you currently have or plan to have an ownership interest in, or a direct or indirect financial interest in another marijuana establishment license? ☒ Yes ☐ No

If "Yes", which license numbers (for existing licenses) and license types do you own or plan to own?

#12972 STANDARD CULTIVATION FACILITY
#23692 CONCENTRATES MANUFACTURING FACILITY

AMCO

JUL 21 2020

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Form MJ-00: Application Certifications

Section 4 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement: Initials

I certify that I have not been convicted of a felony in any state or the United States, including a suspended imposition of sentence, for which less than five years have elapsed from the time of the conviction to the date of this application.

I certify that I am not currently on felony probation or felony parole.

I certify that I have not been found guilty of selling alcohol without a license in violation of AS 04.11.010.

I certify that I have not been found guilty of selling alcohol to an individual under 21 years of age in violation of 04.16.051 or AS 04.16.052.

I certify that I have not been convicted of a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the five years preceding this application.

I certify that I have not been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed within the two years preceding this application.

I certify that my proposed premises is not within 500 feet of a school ground, recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility, as set forth in 3 AAC 306.010(a).

I certify that my proposed premises is not located in a liquor licensed premises.

I certify that I meet the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which I am initiating this application.

I certify that all proposed licensees (as defined in 3 AAC 306.020(b)(2)) have been listed on my online marijuana establishment license application. Additionally, if applicable, all proposed licensees have been listed on my application with the Division of Corporations.

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by AMCO is grounds for denial of my application.

AMCO
JUL 21 2020

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Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Read each line below, and then sign your initials in the box to the right of each statement: Initials

I certify and understand that I must operate in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees. JMB

I certify and understand that I must operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of this state and the local government in which my premises is located. JMB

Read each line below, and then sign your initials in the box to the right of only the applicable statement: Initials

Only initial next to the following statement if this form is accompanying an application for a marijuana testing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility. ☐

Only initial next to the following statement if this form is accompanying an application for a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a marijuana testing facility license. JMB

All marijuana establishment license applicants:

As an applicant for a marijuana establishment license, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that the online application and this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

JASON M Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 20th day of July, 2020.

AMCO
JUL 21 2020

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550 W 7th Avenue, Suite 1600
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Alaska Marijuana Control Board

Form MJ-01: Marijuana Establishment Operating Plan

What is this form?

An operating plan is required for all marijuana establishment license applications. Applicants should review **Title 17.38** of **Alaska Statutes** and **Chapter 306** of the **Alaska Administrative Code.** This form will be used to document how an applicant intends to meet the requirements of those statutes and regulations. If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020(c).

What must be covered in an operating plan?

Applicants must identify how the proposed premises will comply with applicable statutes and regulations regarding the following:

- Control plan for persons under the age of 21
- Security
- Business records
- Inventory tracking of all marijuana and marijuana product on the premises
- Employee qualification and training
- Health and safety standards
- Transportation and delivery of marijuana and marijuana products
- Signage and advertising

Applicants must also complete the corresponding operating plan supplemental forms **(Form MJ-03, Form MJ-04, Form MJ-05,** or **Form MJ-06)** to meet the additional operating plan requirements for each license type.

Section 1 – Establishment & Contact Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc.	**MJ License #:**	23694		
License Type:	Retail Marijuana Store				
Doing Business As:	Greenstar Flower Outlet				
Premises Address:	40593 Kalifornsky Beach Rd. Ste B				
City:	Kenai	**State:**	Alaska	**ZIP:**	99611

Mailing Address:	PO Box 3208				
City:	Soldotna	**State:**	Alaska	**ZIP:**	99669

Designated Licensee:	Jason M Bott		
Main Phone:		**Cell Phone:**	907 252 4342
Email:	jason.greenstar.cultivators@gmail.com		

Section 2 – Control Plan for Persons Under the Age of 21

2.1. Describe how the marijuana establishment will prevent persons under the age of 21 from gaining access to any portion of the licensed premises and marijuana items:

All persons entering the establishment will be required to present valid photo ID. All staff are to be trained to examine the presented identification for:
A: type/condition and validity/acceptability of identification
B: Date of Birth
C: Photo matches person presenting the ID
D: Expiration date

Section 3 – Security

Restricted Access Areas (3 AAC 306.710):

3.1. Describe how you will prevent unescorted members of the public from entering restricted access areas:

Restricted areas are clearly delineated by signage, and a physical barrier is to be present between the publicly accessable and restricted areas. (brass chain with applicable signage also attached)

3.2. Describe your recordkeeping and processes for admitting visitors into and escorting them through restricted access areas:

All visitors must present valid ID, sign in, be issued a visitor's badge, and must be accompanied by staff at all times. A 1:5 maximum employee to visitor ratio will be maintained. Sign in includes ID #, reason for visit, visitors badge #, date, time, and visitor's signature and printed name.

3.3. Provide samples of licensee-produced identification badges that will be displayed by each licensee, employee, or agent while on the premises, and of visitor identification badges that will be worn by all visitors while in restricted access areas:

Security Alarm Systems and Lock Standards (3 AAC 306.715):

3.4. Exterior lighting is required to facilitate surveillance. Describe how the exterior lighting will meet this requirement:

All exterior lighting is on a photocell, and all surveillance cameras are designed for night vision as a secondary precaution. The entire exterior perimeter is lit.

3.5. An alarm system is required for all license types that must be activated on all exterior doors and windows when the licensed premises is closed for business. Describe the security alarm system for the proposed premises, explain how it will meet all regulatory requirements, and outline your policies and procedures regarding the actions to be taken by a licensee, employee, or agent when the alarm system alerts of an unauthorized breach:

The alarm system is monitored by an off site company. The control panel is located within the retail area behind the counter. All exterior exits are sensored, with motion detectors located within any area having an exit to the exterior. Individuals are recognizable from 20'.

In the event of an alarm, the licensee or manager is notified and can access the system remotely while the monitoring company is notifying the authorities. If motion is detected within the facility, the licensee/manager is to also notify the authorities and advise them of the situation, and then proceed to the facility to await the authorities and assist them in gaining entry and searching and securing the premises.

3.6. Describe your policies and procedures for preventing diversion of marijuana or marijuana product, including by employees:

All cannabis products are under constant surveillance, and are subject to daily count/audit. in the event of a discrepancy, the surveillance footage is to be reviewed. Any person found to be diverting products will be immediately reported to both the police and AMCO, and footage/evidence will be forwarded so as to aid in prosecution and/or applicable AMCO proceedings.

3.7. Describe your policies and procedures for preventing loitering:

No loitering signs are to be posted on the property,and upon noticing such activity, a manager/assistant manager will ask how they may help the person, and if no valid reason for being there is forthcoming, the person will be asked to leave the property. if the person refuses to leave, or fails to comply, or escalates the situation the police are to be called, and that person is to be trespassed from the property.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right: Initials

3.8. I certify that if any additional security devices are used, such as a motion detector, pressure switch, and duress, panic, or hold-up alarm, to enhance security of the licensed premises, I will have written policies and procedures describing their use.

Video Surveillance (3 AAC 306.720):

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

3.9. The video surveillance and camera recording system for the licensed premises covers each restricted access area, and both the interior and exterior of each entrance to the facility.

3.10. Each video surveillance recording: is preserved for a minimum of 40 days, in a format that can be easily accessed for viewing (consistent with the Alcohol & Marijuana Control Office's approved format list); clearly and accurately displays the time and date; and is archived in a format that does not permit alteration of the recorded image.

3.11. The surveillance room or area is clearly defined on the Form MJ-02: Premises Diagram that is submitted with this application.

3.12. Surveillance recording equipment and video surveillance records are housed in a designated, locked, and secure area or in a lock box, cabinet, closet or other secure area where access is limited to the licensee(s), an authorized employee, and law enforcement personnel (including an agent of the Marijuana Control Board).

3.13. Describe how the video cameras will be placed to produce a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises:

The entire exterior perimeter is to be under surveillance, with opposing view cameras (2) on every side. All rooms that may at any time contain cannabis prtoducts, or an exit to the exterior are to have at least two opposing cameras with diagonally opposed views so that the entire room is under surveillance coverage

3.14. Describe the locked and secure area where video surveillance recording equipment and original copies of surveillance records will be housed and stored, and how you will ensure the area is accessible only to authorized personnel, law enforcement, or an agent of the Marijuana Control Board. If you will be using an offsite monitoring service and offsite storage of video surveillance records, your response must include how the offsite facility will meet these security requirements:

All security cameras terminate to a 40 TB DVR located within the vault that is entirely of poured concrete. No access to the vault is permitted except by management or appropriately authorized persons. The memory capacity is sufficient to maintain video footage for a minimum of 40 days, so as to have said footage available to AMCO or applicable authorities upon request.

Section 4 – Business Records

Review the requirements under 3 AAC 306.755. All licensed marijuana establishments must maintain, in a format that is readily understood by a reasonably prudent business person, certain business records.

4.1. I certify that the following business records will be maintained and kept on the licensed premises: Initials

a. **all books and records necessary to fully account for each business transaction conducted under my license for the current year and three preceding calendar years** *(records for the last six months must be maintained on the licensed premises; older records may be archived on or off-premises)*;

b. **a current employee list setting out the full name and marijuana handler permit number of each licensee, employee, and agent who works at the marijuana establishment;**

c. **the business contact information for vendors that maintain video surveillance systems and security alarm systems for the licensed premises;**

d. **records related to advertising and marketing;**

e. **a current diagram of the licensed premises, including each restricted access area;**

f. **a log recording the name, and date and time of entry of each visitor permitted into a restricted access area;**

g. **all records normally retained for tax purposes;**

h. **accurate and comprehensive inventory tracking records that account for all marijuana inventory activity from seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a consumer, to another marijuana establishment, or destroyed;**

i. **transportation records for marijuana and marijuana product, as required by 3 AAC 306.750(f); and**

j. **registration and inspection reports of scales registered under the Weights and Measures Act, as required by 3 AAC 306.745.**

4.2. A marijuana establishment is required to exercise due diligence in preserving and maintaining all required records. Describe how you will prevent records and data, including electronically maintained records, from being lost or destroyed:

All required records are to be maintained on site in hard copy form for one year, and also scanned and transferred to an external hard drive to be additionally stored on site for the requisite term. After one year, hard copies may be stored off site, but digital copies on external hard drive(s) will be available on site for the remainder of the required term.

Section 5 – Inventory Tracking of All Marijuana and Marijuana Product

Review the requirements under 3 AAC 306.730. All licensed marijuana establishments must use a marijuana inventory tracking system capable of sharing information with Metrc to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a marijuana product, to a completed sale of marijuana or marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

5.1. My marijuana establishment will be using Metrc, and if any other tracking software is used, it will be capable of sharing information with Metrc.

5.2. All marijuana delivered to a marijuana establishment will be weighed on a scale registered in compliance with 3 AAC 306.745.

5.3. My marijuana establishment will use registered scales in compliance with AS 45.75.080 (Weights and Measures Act), as required by 3 AAC 306.745.

Section 6 – Employee Qualification and Training

Review the requirements under 3 AAC 306.700. All licensees, and every employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

6.1. All licensees, and each employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or marijuana product, or who checks the identification of a consumer or visitor, shall obtain a marijuana handler permit from the board before being licensed or beginning employment at the marijuana establishment.

6.2. Each licensee, employee, or agent who is required to have a marijuana handler permit shall keep that person's marijuana handler permit card in that person's immediate possession (or a valid copy on file on the licensed premises) when on the licensed premises.

6.3. Each licensee, employee, or agent who is required to have a marijuana handler permit shall ensure that that person's marijuana handler permit card is valid and has not expired.

6.4. Describe any in-house training that will be provided to employees and agents (apart from a marijuana handler course):

All staff will be educated in marijuana regulations, safe practices in the handling of cannabis, operation and security protocols, point of sale system (Greenbits) operation, an overview of METRC, proper examination of presented ID, required reporting protocols, and proper cleaning, hygiene, and waste handling procedures.

Section 7 – Health and Safety Standards

Review the requirements under 3 AAC 306.735.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box:	Initials
7.1. I understand that a marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that health or safety concerns are not present.	
7.2. I have policies regarding health and safety standards (including: ensuring a person with an illness or infection does not come into contact with marijuana or marijuana product; good hygienic practices; cleaning and maintenance of equipment and the premises; pest deterrence; chemical storage; sanitation principles; and proper handling of marijuana and marijuana product) and will take all reasonable measures and precautions to ensure that they are met or exceeded.	
7.3. I have policies to ensure that any marijuana or marijuana product that has been stored beyond its usable life, or was stored improperly, is not salvaged and returned to the marketplace.	
7.4. I have policies to ensure that in the event information about the age or storage conditions of marijuana or marijuana product is unreliable, the marijuana or marijuana product will be handled in accordance with 3 AAC 306.735(d).	

Answer "Yes" or "No" to each of the following questions:	Yes	No
7.5. Adequate and readily accessible toilet facilities that are maintained and in good repair and sanitary condition are clearly indicated on my Form MJ-02: Premises Diagram.	☑	☐
7.6. Convenient handwashing facilities with running water at a suitable temperature are clearly indicated on my Form MJ-02: Premises Diagram.	☑	☐

7.7. If you answered "No" to either 7.5 or 7.6 above, describe how toilet and/or handwashing facilities are made accessible, as required by 3 AAC 306.735(b)(2):

Section 8 – Transportation and Delivery of Marijuana and Marijuana Products

Review the requirements under 3 AAC 306.750.

8.1. Describe how marijuana or marijuana product will be prepared, packaged, and secured for shipment. Include a description of the type of locked, safe, and secure storage compartments to be used in vehicles transporting marijuana or marijuana product:

All cannabis and cannabis products subject to transport will be weighed and sealed in a package with weight/amount of product and gross weight of the total package clearly marked, along with the strain/contents. All packages will have a METRC package tag affixed. Sealed packages then go into a rigid, lockable container, that is then secured with a lock and/or a tamper resistant fastener/closure. All transportation of cannabis and/or cannabis products is to be done by persons in posession of a valid MJ handler's card, and with all information clearly documented by METRC manifest.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

8.2. The marijuana establishment from which a shipment of marijuana or marijuana product originates will ensure that any individual transporting marijuana shall have a marijuana handler permit required under 3 AAC 306.700.

8.3. The marijuana establishment that originates the transport of any marijuana or marijuana product will use the marijuana inventory tracking system to record the type, amount, and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model, and license plate number of the transporting vehicle.

8.4. The marijuana establishment that originates the transport of any marijuana or marijuana product will ensure that a complete printed transport manifest on a form prescribed by the board must be kept with the marijuana or marijuana product at all times during transport.

8.5. During transport, any marijuana or marijuana product will be in a sealed package or container in a locked, safe, and secure storage compartment in the vehicle transporting the marijuana or marijuana product, and the sealed package will not be opened during transport.

8.6. Any vehicle transporting marijuana or marijuana product will travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and will not make any unnecessary stops in between except to deliver or pick up marijuana or marijuana product at any other licensed marijuana establishment.

8.7. When the marijuana establishment receives marijuana or marijuana product from another licensed marijuana establishment, the recipient of the shipment will use the marijuana inventory tracking system to report the type, amount, and weight of marijuana or marijuana product received.

8.8. The marijuana establishment will refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

Section 9 – Signage and Advertising

Review the requirements under 3 AAC 306.770.

9.1. Describe any signs that you intend to post on your establishment, including quantity, dimensions, graphics, and location on your establishment (photos or drawings may be attached):

One sign affixed to the front of the building, and one sign adjacent to the road as permitted, with a surface area designed to fit within a 6 foot circle, with an area equal to or less than 4,100 inches. Please see photo.

9.2. Describe any advertising you intend to distribute for your establishment. Include medium types and business logos (photos or drawings may be attached):

Radio ads with all applicable warnings as prescribed, and trade related periodicals (i.e.-Alaska Leaf and Cannabist magazines)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M. Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

Jason M. Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

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Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(8). **All areas designated as the licensed premises of a single license must be contiguous. All diagrams must have the licensed premises area labeled, and outlined or shaded as appropriate.**

What must be submitted with this form?

Applicants must attach multiple diagrams to this form, including (as applicable):

- **Diagram 1:**
  a diagram showing only the licensed premises areas that will be ready to be **operational at the time of your preliminary inspection** and license issuance;

- **Diagram 2:**
  if different than Diagram 1, a diagram outlining **all areas for which the licensee has legal right of possession** (a valid lease or deed), and clearly showing those areas' relationship to the current proposed licensed premises *(details of any planned expansion areas do not need to be included; a complete copy of Form MJ-14: Licensed Premises Diagram Change must be submitted and approved before any planned expansion area may be added to the licensed premises);*

- **Diagram 3:**
  a **site plan or as-built of the entire lot,** showing all structures on the property and clearly indicating which area(s) will be part of the licensed premises;

- **Diagram 4:**
  an **aerial photo of the entire lot and surrounding lots,** showing a view of the entire property and surrounding properties, and clearly indicating which area(s) will be part of the licensed premises *(this can be obtained from sources like Google Earth)*; and

- **Diagram 5:**
  a diagram of the **entire building in which the licensed premises is located**, clearly distinguishing the licensed premises from unlicensed areas and/or premises of other licenses within the building. If your proposed licensed premises is located within a building or building complex that contains multiple business and/or tenants, please provide the addresses and/or suite numbers of the other businesses and/or tenants *(a separate diagram is not required for an establishment that is designating the entire building as a single licensed premises).*

This form, and all necessary diagrams that meet the requirements on Page 2 of this form, must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

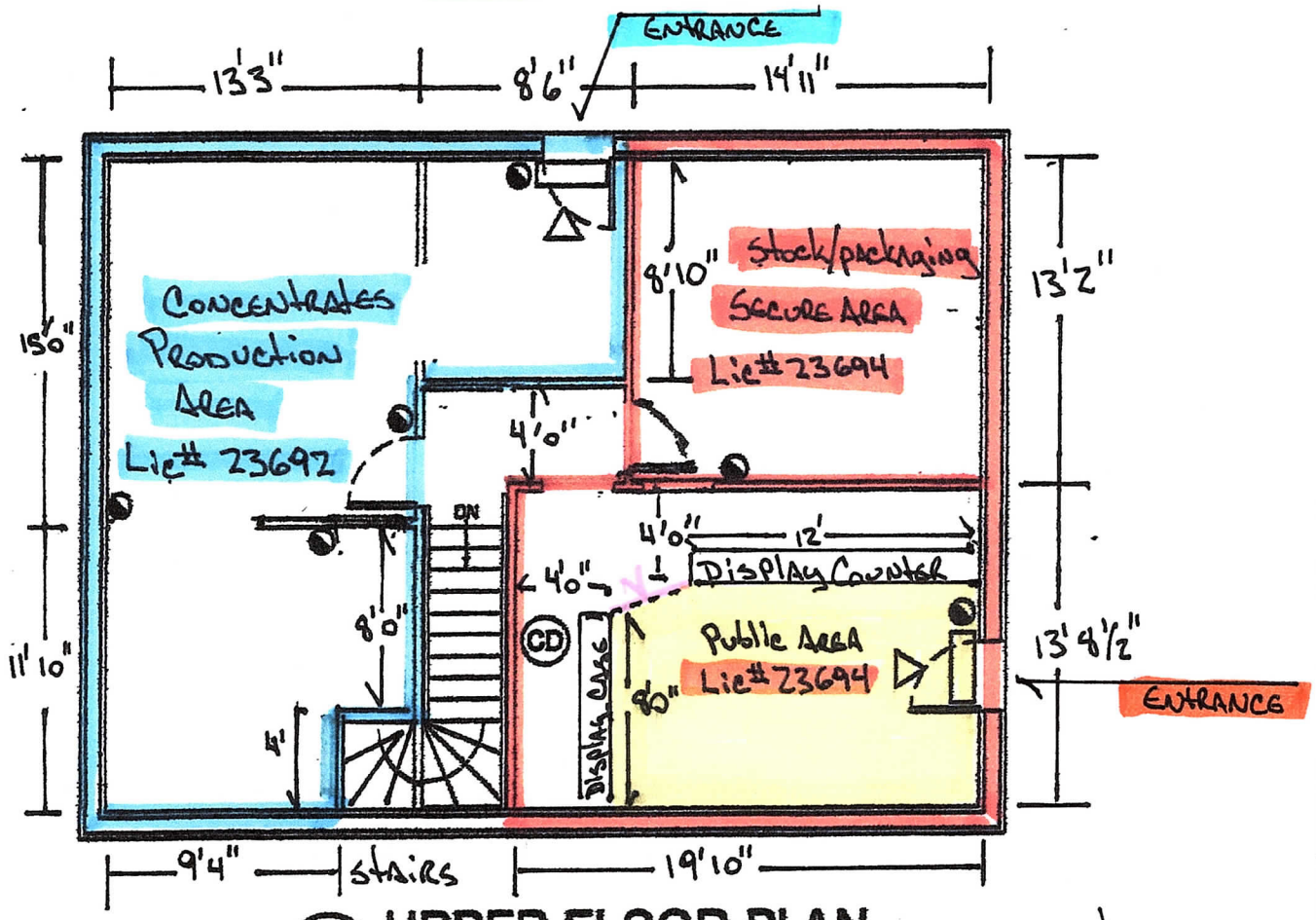
Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc	**MJ License #:**	23694		
License Type:	Retail Marijuana Store				
Doing Business As:	Greenstar Flower Outlet				
Premises Address:	40593 Kalifornsky Beach Rd. Ste B				
City:	Kenai	**State:**	Alaska	**ZIP:**	99611

DIAGRAMS 1, 2, AND 5

ENTIRE building in possession of one licensee.
(GREENSTAR INC.)



1 / LS1 UPPER FLOOR PLAN
SCALE: 1/8" = 1'-0"

N.

LEGEND

- LIGHTED EMERGENCY EXIT SIGN
- CD — COMBINATION SMOKE DETECTOR AND CARBON MONOXIDE ALARM
- FIRE EXTINGUISHER
- EGRESS

— BRASS CHAIN W/ SIGN "RESTRICTED ACCESS, ALL VISITORS MUST BE ESCORTED"

LICENSED PREMISES FOR #23692

LICENSED PREMISES FOR #23694

#23694 DBA GREENSTAR GROWER OUTLET

#23692 DBA GOLD STAR CONCENTRATES

STATE OF ALASKA
49th
Mike Taurianen
No. 14338-E
REGISTERED PROFESSIONAL ENGINEER

REVISIONS

LIFE SAFETY PLAN

J & M FARMS LLC
Kenai, Alaska

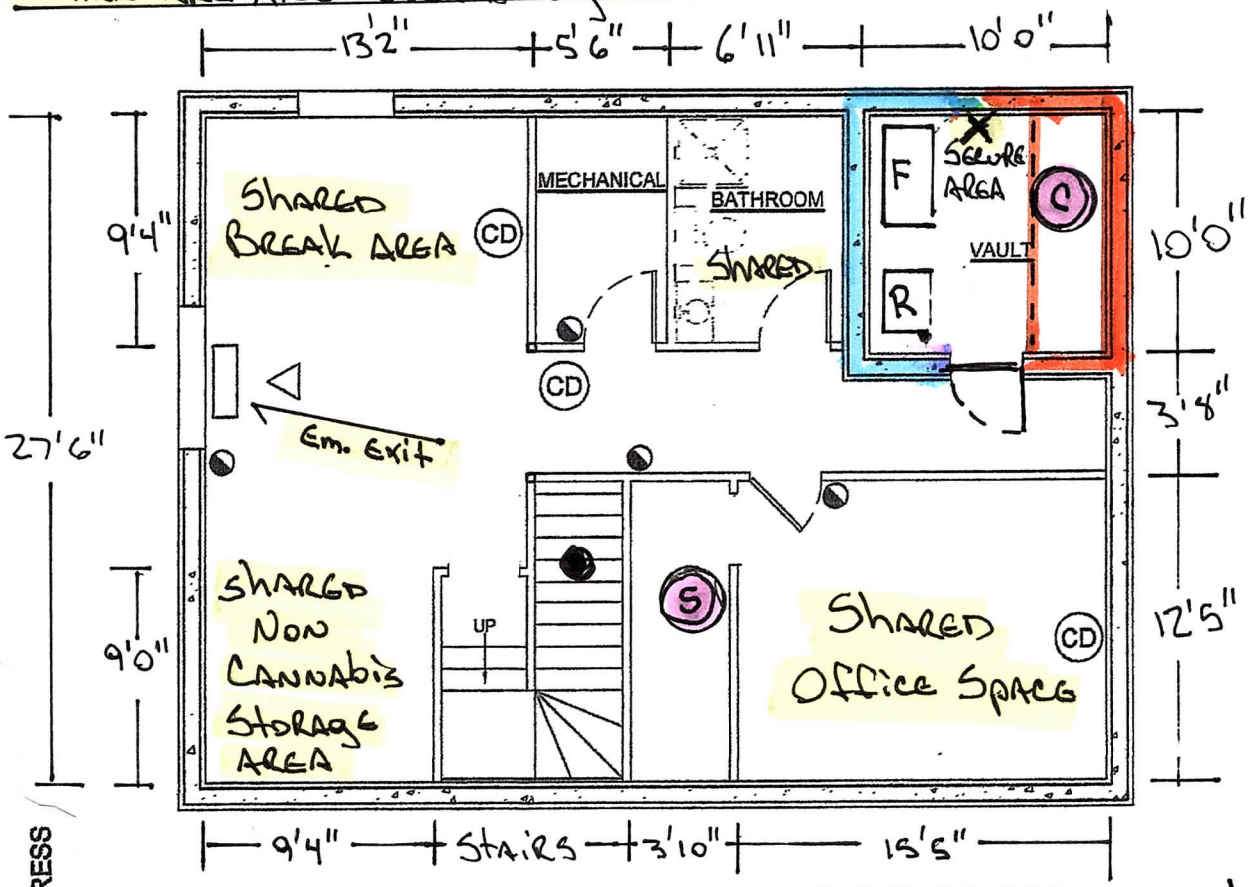
TAURIANEN ENGINEERING & TESTING
35186 Spur Hwy Soldotna, AK 99669 (907)262-4824 FAX 262-5777 enghsaringalaska@gci.net

DATE	NOV 2019
DRAWN	HBW
CHECKED	MR
FILE NAME	GST
PROJ #	19109

SHEET LS1 OF 11

DIAGRAMS 1, 2, AND 5

VAULT AND ALL AREAS ARE COMPLETELY COVERED BY SURVEILLANCE CAMERAS, EXCEPT BATHROOM, MECH RM, AND CLOSET. STAIRS ARE ALSO COVERED BY CAMERAS



2 / LS1 LOWER FLOOR PLAN
SCALE: 1/8" = 1'-0"

LEGEND

- LIGHTED EMERGENCY EXIT SIGN
- COMBINATION SMOKE DETECTOR AND CARBON MONOXIDE ALARM (CD)
- FIRE EXTINGUISHER
- EGRESS

(S) — SECURE STORAGE (NON CANNABIS) IS SHARED

LIC 23694 DBA GREENSTAR FLOWER OUTLET

(C) — CANNABIS ITEM STORAGE LIC# 23694 IN LOCKING STEEL CAGE WITHIN VAULT (SECURE)

LIC 23692 DBA GOLD STAR CONCENTRATES

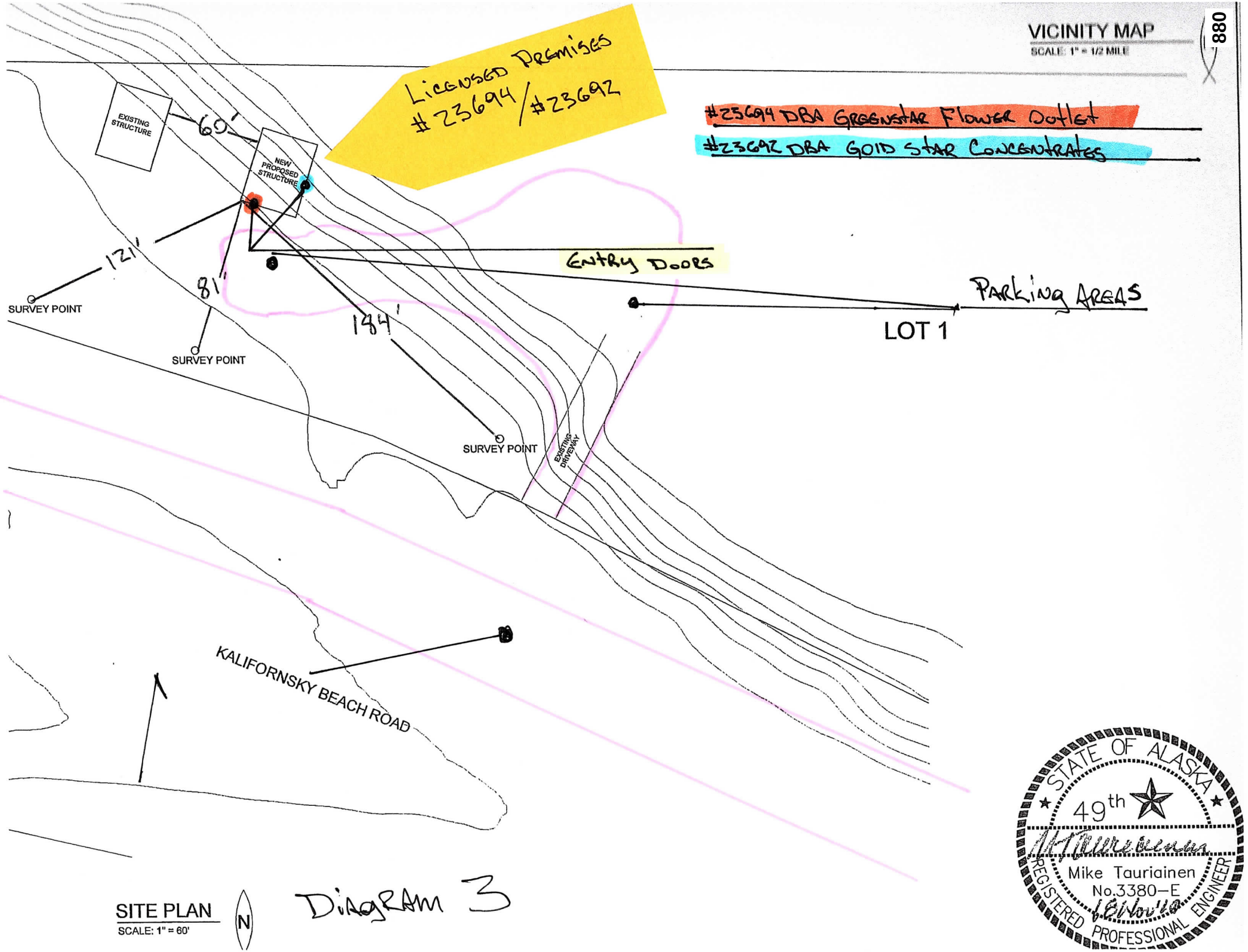
[F] — LARGE LOCKING FREEZER WITHIN VAULT CANNABIS ITEM STORAGE FOR LIC# 23692

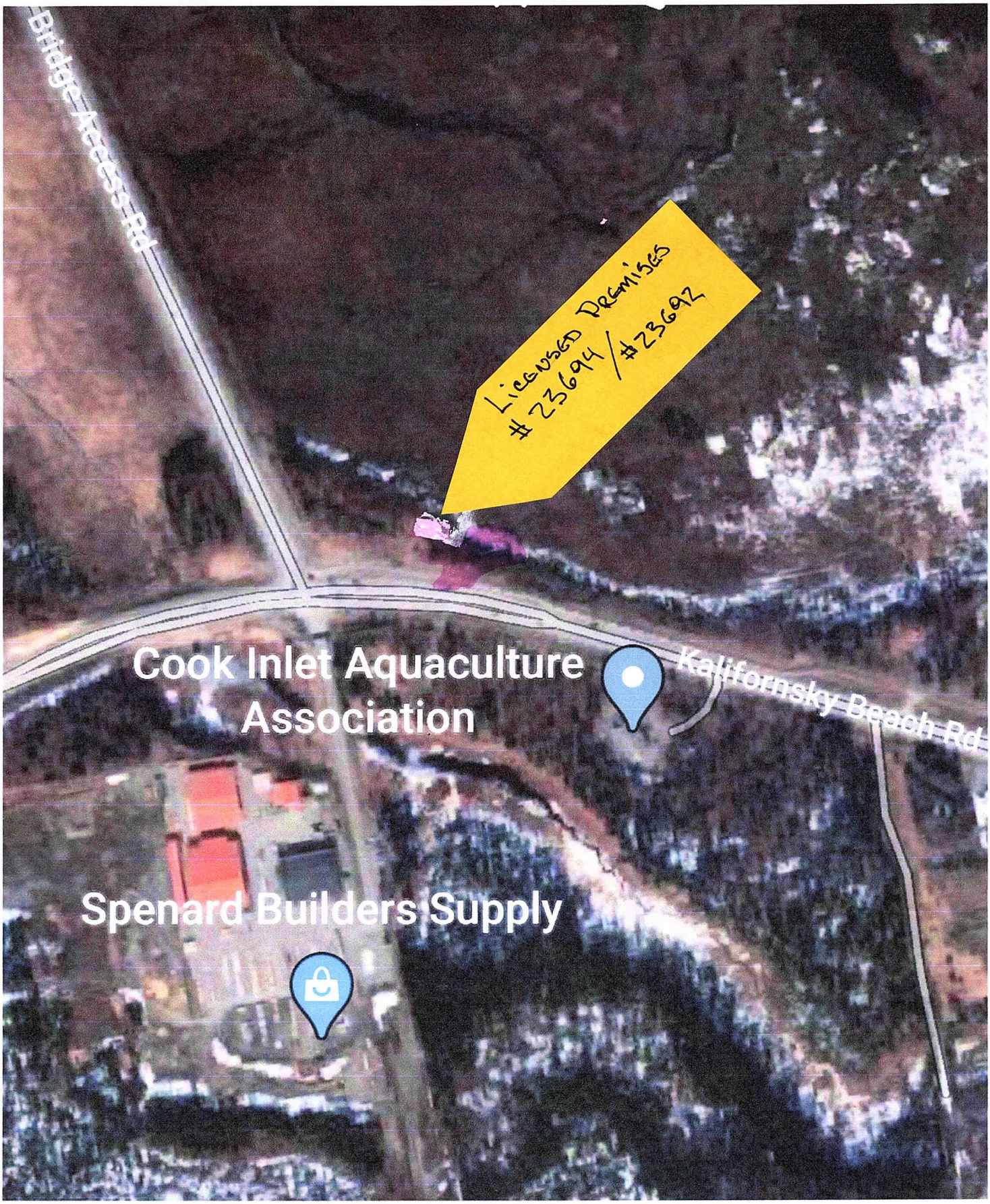
[R] — LOCKING FRIDGE FOR CONCENTRATE STORAGE WITHIN VAULT FOR LIC # 23692

X — 40 TB DVR FOR CAMERAS WITHIN VAULT

● — CLOSET UNDER STAIRS FOR EMPLOYEE USE FOR PERSONAL ITEMS (COATS ETC.) SHARED IS 3'6" X 8'

J:\2019\1109 Forever Young\SET.dwg, LS1, 11/18/2019 1:44:55 PM


VICINITY MAP
SCALE: 1" = 1/2 MILE
880
LICENSED PREMISES
#23694/#23692
#25694 DBA GREENSTAR FLOWER OUTLET
#23692 DBA GOLD STAR CONCENTRATES
EXISTING STRUCTURE
60'
NEW PROPOSED STRUCTURE
121'
81'
194'
ENTRY DOORS
PARKING AREAS
LOT 1
SURVEY POINT
SURVEY POINT
SURVEY POINT
EXISTING DRIVEWAY
KALIFORNSKY BEACH ROAD
SITE PLAN
SCALE: 1" = 60'
N
DIAGRAM 3
STATE OF ALASKA
49th
Mike Tauriainen
No.3380-E
REGISTERED PROFESSIONAL ENGINEER



#23694 DBA GREENSTAR Flower Outlet
#23692 DBA Gold Star Concentrates

N.

DIAGRAM 4

Alaska Marijuana Control Board

Form MJ-02: Premises Diagram

Section 2 – Required Information

For your security, do not include locations of security cameras, motion detectors, panic buttons, and other security devices.
Items marked with a double asterisks (**) are only required for those retail marijuana establishments that are also applying for an onsite consumption endorsement.

The following details must be included in all diagrams:

- [X] License number and DBA
- [X] Legend or key
- [X] Color coding
- [X] Licensed Premises Area Labeled and Shaded, or Outlined as appropriate
- [X] Dimensions
- [X] Labels
- [X] True north arrow

The following additional details must be included in Diagram 1:

- [X] Surveillance room
- [X] Restricted access areas
- [X] Storage areas
- [X] Entrances, exits, and windows
- [X] Walls, partitions, and counters
- [ ] Any other areas that must be labeled for specific license or endorsement types
- [ ] ** Serving area(s)
- [ ] **Employee monitoring area(s)
- [ ] **Ventilation exhaust points, if applicable

The following additional details must be included in Diagram 2:

- [X] Areas of ingress and egress
- [X] Entrances and exits
- [X] Walls and partitions

The following additional details must be included in Diagrams 3 and 4:

- [X] Areas of ingress and egress
- [X] Cross streets and points of reference

The following additional details must be included in Diagram 5:

- [X] Areas of ingress and egress
- [X] Entrances and exits
- [X] Walls and partitions
- [X] Cross streets and points of reference

Note: All areas beyond public area are technically secure, as there is No public access beyond that point without escort.

I declare under penalty of unsworn falsification that I have attached all necessary diagrams that meet the above requirements, and that this form, including all accompanying schedules, statements, and depictions is true, correct, and complete.

Jason M Bott
Signature of licensee

Jason M. Bott
Printed name of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Operating Plan Supplemental
Form MJ-03: Retail Marijuana Store

What is this form?

This operating plan supplemental form is required for all applicants seeking a retail marijuana store license and must accompany **Form MJ-01: Marijuana Establishment Operating Plan**, per 3 AAC 306.020(b)(11). Applicants should review **Chapter 306: Article 3** of the **Alaska Administrative Code.** This form will be used to document how an applicant intends to meet the requirements of the statutes and regulations.

If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020 and 3 AAC 306.315(2).

What additional information is required for retail stores?

Applicants must identify how the proposed establishment will comply with applicable regulations regarding the following:

- Prohibitions
- Signage and advertising
- Displays and sales
- Exit packaging and labeling
- Security
- Waste disposal

This form must be completed and submitted to AMCO's main office before any new or transfer application for a retail marijuana store license will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc.	**MJ License #:**		23694	
License Type:	Retail Marijuana Store				
Doing Business As:	Greenstar Flower Outlet				
Premises Address:	40593 Kalifornsky Beach Rd. Ste. B				
City:	Kenai	**State:**	Alaska	**ZIP:**	99611

Form MJ-03: Retail Marijuana Store Operating Plan Supplemental

Section 2 – Overview of Operations

2.1. Provide an overview of your proposed facility's operations. Include information regarding the intake and flow of marijuana and marijuana product at your premises, and a description of what a standard customer visit to your establishment would entail:

Delivery/acceptance of cannabis and/or cannabis products: All transfers will only occur with a valid Metrc manifest.
Upon arrival, transporter will be asked to present ID and sign in. They will then receive a visitor's badge and be escorted to the stock/packaging area where the package tag #, contents, weight, and test results sheet are then verified to match the Metrc manifest. If any one of these do not match, the package will be refused/rejected. The manifest is to be filled out and accepted/rejected in METRC. payment is made as applicable, and the transporter is signed out and escorted to their vehicle for safety. The package is to then be placed in secure storage by staff with tag still affixed.

Customer visit: Upon entering, customers will be greeted and asked to present valid ID. ID is to be scrutinized for DOB, condition, type, a comparison of the photo, and expiration date. Customer is then asked how they may be helped, and assisted in making their selection(s) by staff. Items are to be UPC scanned (Greenbits) and transaction completed. The customer is provided an exit bag and receipt.

Section 3 – Prohibitions

Review the requirements under 3 AAC 306.310.

3.1. Describe how you will ensure that the retail marijuana store will not sell, give, distribute, or deliver marijuana or marijuana product to a person who is under the influence of an alcoholic beverage, inhalant, or controlled substance:

Any person seen as being visibly or noticeably impaired, or under the influence will be refused service and immediately asked to leave the premises. All staff sre to be educated in recognizing the signs of intoxication/impairment.

3.2. I certify that the retail marijuana store will not: Initials

a. **sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or marijuana product in a quantity exceeding the limit set out in 3 AAC 306.355;** JMB

b. **sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or marijuana product over the internet;** JMB

c. **offer or deliver to a consumer, as a marketing promotion or for any other reason, free marijuana or marijuana product, including a sample;** JMB

d. **offer or deliver to a consumer, as a marketing promotion or for any other reason, alcoholic beverages, free or for compensation; or** JMB

e. **allow a person to consume marijuana or a marijuana product on the licensed premises.** JMB

Answer "Yes" or "No" to the following question:	Yes	No
3.3. Do you plan to request future approval of the Marijuana Control Board to permit consumption of marijuana or marijuana product in a designated area on the proposed premises?	☐	☑

Form MJ-03: Retail Marijuana Store Operating Plan Supplemental

Section 4 – Signage and Advertising

Review the requirements under 3 AAC 306.360 and 3 AAC 306.365. All licensed retail marijuana stores must meet minimum standards for signage and advertising.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

4.1. I understand and agree to follow the limitations regarding the number, placement, and size of signs on my proposed establishment, set forth in 3 AAC 306.360(a).

4.2. The retail marijuana store will not use giveaway coupons as promotional materials, or conduct promotional activities such as games or competitions to encourage the sale of marijuana or marijuana products.

4.3. All advertising for marijuana or marijuana product will contain the warnings required under 3 AAC 306.360(e).

4.4. I understand and agree to post, in a conspicuous location visible to customers, the notification signs required under 3 AAC 306.365.

4.5. I certify that no advertisement for marijuana or marijuana product will contain any statement or illustration that:

a. **is false or misleading;**

b. **promotes excessive consumption;**

c. **represents that the use of marijuana has curative or therapeutic effects;**

d. **depicts a person under the age of 21 consuming marijuana; or**

e. **includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21, that promotes consumption of marijuana.**

4.6. I certify that no advertisement for marijuana or marijuana product will be placed:

a. **within 1,000 feet of the perimeter of any child-centered facility, including a school, childcare facility, or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under the age of 21;**

b. **on or in a public transit vehicle or public transit shelter;**

c. **on or in a publicly owned or operated property;**

d. **within 1,000 feet of a substance abuse or treatment facility; or**

e. **on a campus for postsecondary education.**

Section 5 – Displays and Sales

5.1. Describe how marijuana and marijuana products at the retail marijuana store will be displayed and sold:

All products containing THC are to be either displayed within a secured glass display counter, or on shelves/racks behind the counter. A small sample of flower may be placed in a sealed (against product removal) sniff jar for display/examination by customer under supervision of staff. All product containing THC is to be PRE PACKAGED, LABELED (INCLUDING REQUISITE WARNINGS), AND SEALED FOR RETAIL SALE. All items containing THC will be sealed and in child resistant packages PRIOR to sale.

Section 6 – Exit Packaging and Labeling

Review the requirements under 3 AAC 306.345.

6.1. Describe how the retail marijuana store will ensure that marijuana and marijuana products sold on its licensed premises will meet the packaging and labeling requirements set forth in 3 AAC 306.345(a):

All products containing THC are to be prepackaged either from the manufacturer (in the case of edibles, concentrates, etc from outside licensed manufacturers) or packaged in house in approved, tamper evident, and child resistant packaging. (I.E.- hermetically sealed mylar bags, child resistant pop top containers, or sealed "clamshell/blister" packs)
Any transparent packaging will be placed in an opaque "exit bag" at the time of sale.
All items containing THC will have pre affixed labels on packaging that will clearly show
Store name, store license #, the cultivator or manufacturer, the harvest batch, total THC, and the warnings as prescribed (verbatim)

6.2. Provide a sample label that the retail marijuana store will use to meet the labeling requirements set forth in 3 AAC 306.345(b):

Greenstar Flower Outlet: AK LIC. # 3a-23694

Strain: Geezy

Qty: 1 gram

Harvest Batch METRC ID: 1A4020300003055000000001

Total THC: 27% (270 mg)

Total CBD: .11% (1.1 mg)

Cultivated by: Greenstar Inc #4a-12872

---------BARCODE---------

WARNING: Marijuana has intoxicating effects and may be habit forming and addictive.

Marijuana impairs concentration, coordination, and judgement.

Do not operate a vehicle or machinery under its influence.

There are health risks associated with consumption of marijuana.

For use only by adults 21 and older. Keep out of the reach of children.

Marijuana should not be used by women who are pregnant or breastfeeding.

Form MJ-03: Retail Marijuana Store Operating Plan Supplemental

Section 7 – Security

Review the requirements under 3 AAC 306.350 and 3 AAC 306.720.

7.1. Describe the retail marijuana store's procedures for ensuring a form of valid photographic identification has been produced before selling marijuana or marijuana product to a person, as required by 3 AAC 306.350(a):

All staff will be trained to observe the type and condition of ID, the DOB, make a photo and age comparison, check the expiration date, and look for discrepancies. only approved forms of ID will be accepted. With no exceptions.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right: Initials

7.2. The video surveillance and camera recording system for the licensed premises covers each point-of-sale area.

Section 8 – Waste Disposal

Review the requirements under 3 AAC 306.740.

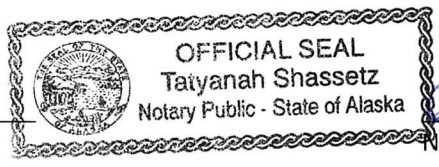
8.1. Describe how you will store, manage, and dispose of any marijuana waste, including expired marijuana or marijuana products, in compliance with any applicable laws. Include details about the material(s) you will mix with ground marijuana waste and the processes that you will use to make the marijuana waste unusable for any purpose for which it was grown or produced:

All marijuana waste is to be recorded/reported per originating package #, stored in a secure area for the requisite 3 days before being ground and mixed with soil (minimum 50% soil to MJ waste ratio), and then be discarded into a locked/secured dumpster pending pickup by waste management company for disposal at landfill.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right: Initials

8.2. The retail marijuana store shall give the board at least three days written notice required under 3 AAC 306.740(c) before making marijuana waste unusable and disposing of it.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.



Signature of licensee

Notary Public in and for the State of Alaska

Jason M. Bott

Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-07: Public Notice Posting Affidavit

What is this form?

A public notice posting affidavit is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(10). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by posting a true copy of the application for ten (10) days at the location of the proposed licensed premises and one other conspicuous location in the area of the proposed premises, per 3 AAC 306.025(b)(1).

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc.	**License Number:**	23694		
License Type:	Retail Marijuana Store				
Doing Business As:	Greenstar Flower Outlet				
Premises Address:	40593 Kalifornsky Beach Rd., Ste. B				
City:	Kenai	**State:**	AK	**ZIP:**	99611

Section 2 – Certification

I certify that I have met the public notice requirement set forth under 3 AAC 306.025(b)(1) by posting a copy of my application for the following 10-day period at the location of the proposed licensed premises and at the following conspicuous location in the area of the proposed premises:

Start Date: 12-04-2020 End Date: 12-18-2020

Other conspicuous location: Kenai Post Office

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Signature of licensee

Jason M Bott

Printed name of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

Public Notice

Application for Marijuana Establishment License

License Number: 23694
License Status: Initiated
License Type: Retail Marijuana Store
Doing Business As: Greenstar Flower Outlet
Business License Number: 2094945
Email Address: jason.greenstar.cultivators@gmail.com
Latitude, Longitude: 60.310400, -151.121239
Physical Address: 40593 Kalifornsky Beach Rd
Suite B
Kenai, AK 99611-7426
UNITED STATES

Licensee #1

Type: Entity
Alaska Entity Number: 10055488
Alaska Entity Name: Greenstar, Inc.
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: po box 3208
Soldotna, AK 99669-7905
UNITED STATES

Entity Official #1

Type: Individual
Name: Jason Bott
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: po box 3208
Soldotna, AK 99669-7905
UNITED STATES

Note: *No affiliates entered for this license.*

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at https://www.commerce.alaska.gov/web/amco. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W 7th Ave, Suite 1600, Anchorage, AK 99501.

POSTING DATE 12-4-2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-08: Local Government Notice Affidavit

What is this form?

A local government notice affidavit is required for all marijuana establishment license applications with a proposed premises that is located within a local government, per 3 AAC 306.025(b)(3). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by submitting a copy of the application to each local government and any community council in the area of the proposed licensed premises. For an establishment located inside the boundaries of city that is within a borough, both the city and the borough must be notified.

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	GREENSTAR INC	**License Number:**	23694		
License Type:	Retail Marijuana Store				
Doing Business As:	Greenstar Flower Outlet				
Premises Address:	40593 Kalifornsky Beach Rd Ste B				
City:	Kenai	**State:**	AK	**ZIP:**	99611

Section 2 – Certification

I certify that I have met the local government notice requirement set forth under 3 AAC 306.025(b)(3) by submitting a copy of my application to the following local government (LG) official(s) and community council (if applicable):

Local Government(s): Kenai Peninsula Borough Date Submitted: 6/30/2020

Name/Title of LG Official 1: Tatyanah Shassetz - KPB Clerks office Name/Title of LG Official 2: _____

Community Council: _____ Date Submitted: _____
(Municipality of Anchorage and Matanuska-Susitna Borough only)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

JASON M Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 30th day of June, 2020.

AMCO
JUL 21 2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-08: Local Government Notice Affidavit

What is this form?

A local government notice affidavit is required for all marijuana establishment license applications with a proposed premises that is located within a local government, per 3 AAC 306.025(b)(3). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by submitting a copy of the application to each local government and any community council in the area of the proposed licensed premises. For an establishment located inside the boundaries of city that is within a borough, both the city and the borough must be notified.

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	GREENSTAR INC.	**License Number:**	23694		
License Type:	Retail Marijuana Store				
Doing Business As:	Greenstar Flower Outlet				
Premises Address:	40593 Kalifornsky Beach Rd Ste B				
City:	Kenai	**State:**	AK	**ZIP:**	99611

Section 2 – Certification

I certify that I have met the local government notice requirement set forth under 3 AAC 306.025(b)(3) by submitting a copy of my application to the following local government (LG) official(s) and community council (if applicable):

Local Government(s): Kenai Peninsula Borough Date Submitted: 6/30/2020

Name/Title of LG Official 1: Tatyanah Shassetz - KPB Clerks office Name/Title of LG Official 2: _____

Community Council: _____ Date Submitted: _____
(Municipality of Anchorage and Matanuska-Susitna Borough only)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

JASON M Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 30th day of June, 2020.

AMCO
JUL 21 2020

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550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

What is this form?

A statement of financial interest completed by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(4). A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each proposed licensee before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc	**License Number:**	23694
License Type:	Retail Marijuana Store		
Doing Business As:	Greenstar Flower Outlet		
Premises Address:	40593 Kalifornsky Beach Rd Ste B		
City:	Kenai	**State:** AK	**ZIP:** 99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Jason M Bott		
Title:	President		
SSN:	[redacted]	**Date of Birth:**	[redacted]

JUL 21 2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

Section 3 – Certifications

I certify that no person other than a proposed licensee listed on my marijuana establishment license application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which a marijuana establishment license is being applied for.

I further certify that any ownership change shall be reported to the board as required under 3 AAC 306.040.

I understand that my fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI), and that I have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record.
The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

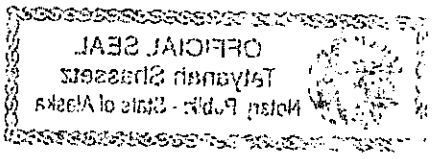
Jason M Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 20th day of July, 2020.

AMCO

JUL 21 2020


OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Alcohol & Marijuana Control Office

License Number: 23694
License Status: New
License Type: Retail Marijuana Store
Doing Business As: Greenstar Flower Outlet
Business License Number: 2094945
Designated Licensee: Jason Bott
Email Address: jason.greenstar.cultivators@gmail.com
Local Government: Kenai Peninsula Borough
Community Council:
Latitude, Longitude: 60.310400, -151.121239
Physical Address: 40593 Kalifornsky Beach Rd
Suite B
Kenai, AK 99611-7426
UNITED STATES

Licensee #1

Type: Entity
Alaska Entity Number: 10055488
Alaska Entity Name: Greenstar, Inc.
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: po box 3208
Soldotna, AK 99669-7905
UNITED STATES

Entity Official #1

Type: Individual
Name: Jason Bott
SSN [redacted]
Date of Birth: [redacted]
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: po box 3208
Soldotna, AK 99669-7905
UNITED STATES

Note: *No affiliates entered for this license.*

REMOVING ANY ITEMS FROM THE PREMISES/PROPERTY UNTIL SUCH A TIME AS AMCO, OR THEIR REPRESENTATIVES HAVE BEEN CONTACTED, AND PROVIDED EITHER ASSISTANCE, OR WRITTEN INSTRUCTION/GUIDANCE, AS TO HOW THE LANDLORD/LESSOR AND/OR THEIR AGENT(S) ARE TO PROCEED. THE PROPERTY/PREMISES IS TO BE SECURED, WITH ABSOLUTELY NO ACTION CONCERNING THE REMOVAL OF ANY MARIJUANA RELATED ITEMS TO BE REMOVED WITHOUT THE EXPRESS WRITTEN DIRECTION OF AMCO, THE STATE OF ALASKA, OR THEIR AUTHORIZED AGENTS.THIS IS TO BE DONE AS A MEANS OF PREVENTING ANY POSSIBLE DIVERSION OF MARIJUANA OR MARIJUANA PRODUCTS, AD IS TO BE SEEN AS PART OF AND REQUISTE TO THE EXECUTION OF THE LEASE AGREEMENT.

Signed in agreement, by:

Jason M. Bott, as true and legal representative for Greenstar, Inc.

Blair Martin, as true and legal representative for Otium Sanctum, LLC.

And witnessed by:

I CERTIFY that Jason M. Bott and Blair Martin did appear before me and sign the foregoing document freely and voluntarily for the stated purposes and reasons set forth therein on the 23rd day of February, 2021.

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz

Notary Public in the State of Alaska

My Commission Expires 10/23/2022

Addendum to Lease Agreement

For the subject property located at 40593 Kalifornsky Beach Road,

Suites B & C,

Kenai, Ak 99611

Legally described as:

LOT 1, CARROL MARTIN SUBDIVISION NO. 2, according to Plat No. 94-82, Kenai, Ak

The following additions and statements, as pertaining to the previously signed and executed lease agreement denoting right of possession for the above mentioned property, in exchange for monies, as specified in the original lease agreement, are to be, upon signing by the same duly responsible representatives for both parties Jason M. Bott, as true and legal representative for Greenstar, Inc., and Blair Martin as true and legal representative for Otium Sanctum, LLC are to be binding, and in all considerations made, identically legally binding and enforceable, as addendums to, and in all considerations henceforth, parts of, the original executed lease agreement document.

ADDITIONAL CLAUSE IN ADDENDUM TO LEASE AGREEMENT:

DEFAULT AND EVICTION FROM/VACATION OF, PREMISES/PROPERTY BY TENTANT/LESSEE:

In the event of any default on the lease agreement, as is defined in the signed and executed lease agreement, by the tenant/lessee, resulting in either the eviction from, or the voluntary vacation of the property/premises by the tenant/lessee, the following statements are made, and the directive and procedures contained therein are to be strictly adhered to and enforced.

As the lessee/tenant is to be conducting business at the property as a **Cannabis Retail store and Marijuana Concentrate manufacturing facility, duly and legally licensed by the Sate of Alaska, to conduct business and commercial activity as such,** any plants, and any marijuana, marijuana products, marijuana waste materials, or any products associated with marijuana are to be viewed as falling directly under the strict regulatory provisions as set forth by the State of Alaska Alcohol and Marijuana Control Office (AMCO) and their applicable regulatory and enforcement divisions/departments. To that end, in the event of any default on the lease agreement, and subsequent eviction from/vacation of the property and premises by the tenant/lessee, the landlord/lessor is to immediately secure the premises and property, and notify the proper authorities (AMCO/AMCO enforcement) of the default, eviction/vacation, and keep the premises secured, while **NOT CONFISCATING, TAKING, SEIZING, OR IN ANY WAY**

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA } **SS:**

Jeff Hayden being first duly sworn, on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing / Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

Marijuana license
12/06/20
12/13/20
12/20/20

New Retail Marijuana Store License Application

Greenstar, Inc is applying under **3AAC 306.300** for a **new Retail Marijuana Store License, License #23694**, doing business as **Greenstar Flower Outlet**, located at **40593 Kalifornsky Beach Rd, Suite B, Kenai, AK 99611-7426, United States**

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at http://www.commerce.alaska.gov/web/amco. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W. 7th ave, Suite 1600, Anchorage, Ak 99501.

Pub:December 6, 13 & 20, 2020 915168

X _____

SUBSCRIBED AND SWORN before me on this

22 **day of** Dec, **2020.**

_____

NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3-6-24.

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024

Office of the Borough Clerk
144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS

8/20/2020

Greenstar Flower Outlet
jason.greenstar.cultivators@gmail.com

RE: *Greenstar Flower Outlet – Application for Retail Marijuana Store (License Number: 23964)*

We received your public notice for application for Marijuana Establishment License on 6/30/2020. Once your complete application is received by the Borough Clerk's office from the Alcohol & Marijuana Control Office (AMCO) it will be forwarded to the Kenai Peninsula Borough (Borough) Planning and Finance Departments for review. The borough has 60 days from receipt of your complete application from AMCO to make recommendations to the Marijuana Control Board (MCB). A staff report will be prepared based upon standards set out in KPB 7.30. The Planning Commission will hold a public hearing on the application and forward its recommendation to the Borough Assembly. The Assembly is the borough's commenting authority to the MCB. The Assembly will also hold a public hearing regarding the license application prior to making its recommendation to the MCB.

In order for the Borough to determine compliance with standards set out in KPB 7.30.020(C)(1), you will need to provide a site development plan with adequate detail to accurately depict the following:

If your parcel is accessed from a borough road:

- The width and location of the entrance and exit;
- a clear route for delivery vehicles which shall allow vehicles to turn safely;
- the location of on-site parking and loading areas designed to preclude vehicles from backing out into the roadway;

If your parcel is accessed from a state road:

- a clear route for delivery vehicles which shall allow vehicles to turn safely;
- the location of on-site parking and loading areas designed to preclude vehicles from backing out into the roadway; and

The Kenai Peninsula Borough's standards and process are more completely set forth in the enclosed copy of KPB Chapter 7.30 "Marijuana License Protests." If you have any questions regarding the boroughs role in the state's processing of marijuana license applications please contact the Borough Clerk's office at 714-2160. Please return your completed acknowledge form and site development plan within the next two (2) weeks in order to facilitate the process.

Included with this packet please find the following documents:

- KPB 7.30
- Acknowledgement Form

Thank you,

Johni Blankenship, MMC
Borough Clerk

Office of the Borough Clerk
144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS ACKNOWLEDGEMENT FORM

Please review the statements below and acknowledge your understanding of the conditions and intent to comply by your signature below.

There shall be no parking in borough rights-of-way generated by the marijuana establishment.

If I have a retail marijuana license, I will not conduct any business on, or allow any consumer to access, the premises, between the hours of 2:00 a.m. and 8:00 a.m. each day.

I must stay current in obligations owed to the Kenai Peninsula Borough or my license may be subject to a protest by the KPB Assembly.

It is my responsibility to abide by all federal, state, and local laws applicable to my marijuana establishment.

I understand Kenai Peninsula Borough staff will enter my property for purposes of evaluating ongoing compliance with KPB 7.30 and any conditions placed on the license by the State of Alaska Marijuana Control Board.

I have received, read and understand the additional review standards and conditions set out in KPB 7.30.

Greenstar Flower Outlet
40593 Kalifornsky Beach Road, Kenai, AK 99611; T 5N R 11W SEC 15 SEWARD MERIDIAN KN 0940082 CARROL MARTIN SUB NO 2 LOT 1
Application for Retail Marijuana Store (License Number: 23964)

_____ _____

Signature Date

Please return completed form along with site development plan to the KPB Clerk's

Office within the next two (2) weeks. The KPB has 60 days to review your application after receipt from AMCO.

CHAPTER 7.30. MARIJUANA LICENSE PROTESTS

7.30.010. - Applications—Renewals—Hearings—Action.

A. The assembly shall review and make recommendations to the state on applications submitted to the State Marijuana Control Board for marijuana establishment licenses within the borough in the following situations:

   1. Applications for a new license; or

   2. Applications requesting approval of a relocation of the licensed premises.

B. Prior to the assembly making a recommendation to the Marijuana Control Board the planning commission shall hold a public hearing and make a recommendation to the assembly on the license application applying the standards set forth in KPB 7.30.020. The planning department shall prepare a staff report for the planning commission addressing items set forth in KPB 7.30.020. Notice of the public hearing shall be given in accord with the provisions of KPB 21.11.

C. After assembly public hearing, review and action as provided in KPB 7.30.010(A) and 7.30.020, the borough clerk shall provide a letter to the State of Alaska Marijuana Control Board informing it of the assembly's non-objection, protest, or recommended conditional approval as appropriate.

D. Applications requesting renewal of a license or transfer of ownership shall be reviewed by the finance department and planning department for continued compliance. If the facility, licensee and licensee's affiliates are in compliance with KPB 17.30.020 the borough clerk shall provide a letter of non-objection to the State of Alaska Marijuana Control Board. If the facility, licensee or affiliate is non-compliant with KPB 7.30.020, the process in KPB 7.30.010(B) and (C) shall be followed.

7.30.020. - Assembly review—Standards.

A. The assembly shall cause a protest to be filed with the State of Alaska Marijuana Control Board on any application submitted for a new marijuana license, or any application requesting approval of a relocation of the licensed premises, or any application requesting approval of a transfer of a license to another person, or the application for renewal of a license, within the borough, in the following situations:

   1. Where borough records indicate that the applicant, applicant's affiliates and/or transferor is in violation of the borough sales, and/or personal and real property tax ordinances and regulations, has any unpaid balance due on tax accounts for

which the applicant and/or transferor is liable or has failed to comply with any of the filing, reporting or payment provisions of the borough ordinances or regulations. A protest shall not be filed for balances due secured by a payment agreement authorized by borough ordinances, as long as:

a. The applicant, applicant's affiliates or transferor is in compliance with the payment agreement; and

b. The payment agreement requires payment in full by the end of the next license year; and

c. The applicant, applicant's affiliates or transferor is involved in no more than two payment agreements within the prior five (5) years.

d. Notwithstanding the provisions of this subsection, the borough is not required to file a protest if the transferor and/or applicant or applicant's affiliates have made satisfactory arrangements with the borough for the discharge of a tax obligation from the proceeds of the transfer or by payment from the person to whom the license is to be transferred. Further, if the proposed transferee holds a security interest in the license or licensed premises and seeks the transfer as part of an action foreclosing or protecting that security interest the borough will not protest a transfer to the holder of the security interest so long as satisfactory arrangements have been made by the transferee to pay the delinquent taxes in accordance with this chapter and other provisions of the borough code and no other provisions of this chapter would cause or allow a protest to be made.

B. Marijuana establishments shall not:

1. Be located within 1,000 feet of any school. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer parcel boundaries of the school.

2. Be located within 500 feet of a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the recreation or youth center, or the main public entrance of the building in which religious services are regularly conducted, or the correctional facility.

3. Be located within a local option zoning district.

C. Marijuana establishments shall:

1. Be located where there is sufficient ingress and egress for traffic to the parcel including:

   a. Except for limited cultivation facilities the approach shall be constructed to a minimum of 24 feet in width where it accesses a borough right-of-way;

   b. There shall be no parking in borough rights-of-way generated by the marijuana establishment;

   c. The site development shall delineate a clear route for delivery vehicles which shall allow vehicles to turn safely;

   d. On-site parking and loading areas shall be designed to preclude vehicles from backing out into the roadway; and

2. Not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m. each day; and

3. Be current in all Kenai Peninsula Borough obligations consistent with KPB 7.30.020(A); and

4. Maintain a state license issued pursuant to AS 17.38 and 3 AAC 306.

D. Applicant is responsible for complying with all federal, state and local laws applicable to marijuana. By issuing a recommendation to the Marijuana Control Board the borough is not authorizing the violation of local, state, or federal law.

E. The assembly may recommend conditions on a license to meet the following standards: protection against damage to adjacent properties, offsite odors, noise, visual impacts, road damage, and criminal activity, and protection of public safety.

7.30.900. - Definitions.

Unless the context requires otherwise, the following definitions apply:

Affiliate means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, a partnership, limited liability company, or corporation subject to AS 17.38 and 3 AAC 306.

Marijuana has the meaning given in Alaska Statute 17.38.900.

Marijuana cultivation facility means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store as defined in AS 17.38.

Marijuana product manufacturing facility means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Marijuana testing facility means an entity registered to analyze and certify the safety and potency of marijuana.

Recreation or Youth Center means a building, structure, athletic playing field, or playground:

(A) Run or created by a local government or the state to provide athletic, recreational, or leisure activities for minors; or

(B) Operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age.

Registered means issued a registration or license by the State of Alaska.

Retail marijuana store means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-08: Local Government Notice Affidavit

What is this form?

A local government notice affidavit is required for all marijuana establishment license applications with a proposed premises that is located within a local government, per 3 AAC 306.025(b)(3). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by submitting a copy of the application to each local government and any community council in the area of the proposed licensed premises. For an establishment located inside the boundaries of city that is within a borough, both the city and the borough must be notified.

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc.	**License Number:**	23694		
License Type:	Retail Marijuana Store				
Doing Business As:	Greenstar Flower Outlet				
Premises Address:	40593 Kalifornsky Beach Rd Ste B				
City:	Kenai	**State:**	AK	**ZIP:**	99611

Section 2 – Certification

I certify that I have met the local government notice requirement set forth under 3 AAC 306.025(b)(3) by submitting a copy of my application to the following local government (LG) official(s) and community council (if applicable):

Local Government(s): Kenai Peninsula Borough Date Submitted: 6/30/2020

Name/Title of LG Official 1: Tatyanah Shassetz - KPB Clerks Office Name/Title of LG Official 2: _____

Community Council: _____ Date Submitted: _____
(Municipality of Anchorage and Matanuska-Susitna Borough only)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

JASON M Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 30th day of June, 2020.

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA } **SS:**

ELizabeth A Ulricksen being first duly sworn, on oath deposes and says:
That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing / Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

Marijuana
11/13/19
11/20/19
11/27/19

New Retail Marijuana Store License Application

Greenstar, Inc is applying under **3AAC 306.300** for a **new Retail Marijuana Store License, License #23694**, doing business as **Greenstar Flower Outlet**, located at **40593 Kalifornsky Beach Rd, Suite B, Kenai, AK 99611-7426, United States**

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at http://www.commerce.alaska.gov/web/amco. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W. 7th ave, Suite 1600, Anchorage, Ak 99501.

Pub: November 13, 20 & 27, 2019 881005

x _____

SUBSCRIBED AND SWORN before me on this
23rd **day of** December **2019.**

_____
NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 07/10/22.

NOTARY PUBLIC
RANDALEE J. KEATON
STATE OF ALASKA
My Commission Expires July 10, 2022

Public Notice

Application for Marijuana Establishment License

License Number: 23694
License Status: Initiated
License Type: Retail Marijuana Store
Doing Business As: Greenstar Flower Outlet
Business License Number: 2094945
Email Address: jason.greenstar.cultivators@gmail.com
Latitude, Longitude: 60.310400, -151.121239
Physical Address: 40593 Kalifornsky Beach Rd
Suite B
Kenai, AK 99611-7426
UNITED STATES

Licensee #1

Type: Entity
Alaska Entity Number: 10055488
Alaska Entity Name: Greenstar, Inc.
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: po box 3208
Soldotna, AK 99669-7905
UNITED STATES

Entity Official #1

Type: Individual
Name: Jason Bott
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: po box 3208
Soldotna, AK 99669-7905
UNITED STATES

Note: *No affiliates entered for this license.*

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at https://www.commerce.alaska.gov/web/amco. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W 7th Ave, Suite 1600, Anchorage, AK 99501.

POSTING DATE 11-11-19

RECEIVED

JUN 30 2020

Borough Clerk's Office
Kenai Peninsula Borough

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director

DATE: April 13, 2021

RE: Application for a new Retail Marijuana Store License. Applicant: Greenstar, Inc. dba Greenstar Flower Outlet; Land Owner: Otium Sanctum, LLC; Parcel ID#: 055-040-33; Location: 40593 Kalifornsky Beach Road.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled April 12, 2021 meeting.

A motion to recommend approval of the *Greenstar, Inc. dba Greenstar Flower Outlet* a Retail Marijuana Store application passed by unanimous vote (9-Yes, 0-No, 2-Absent) subject to the following conditions:

1. The marijuana establishment shall conduct their operations consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 A.M. and 8:00 A.M.

Attached are the unapproved minutes of the subject portion of the meeting.

April 12, 2021 Planning Commission Draft Meeting Minutes

AGENDA ITEM E. PUBLIC HEARING

9. State application for a marijuana establishment license; Kalifornsky area.

Applicant: Greenstar, Inc. dba Gold Star Concentrates
Landowner: Otium Sanctum, LLC
Parcel ID#: 055-040-33
Legal Description: T05N, R11W. S.M., KN 0940082 Carrol Martin Sub. No. 2, Lot 1
Location: 40593 Kalifornsky Beach Road

Staff report given by Bryan Taylor

BACKGROUND INFORMATION: On June 30, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Retail Marijuana Store license. The AMCO notified the borough that the application was complete on March 1, 2021. On March 16, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed Retail Marijuana Store on the above-described parcel. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.

2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.

3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.

5. The proposed facility is located where there is sufficient ingress and egress for traffic to the parcel.

    - The site plan indicates that the approach is or will be constructed to a minimum width of 24 feet where it accesses the right-of-way.
    - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
    - The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely.
    - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway.

6. The signed acknowledgement form indicates that the proposed facility will not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

KPB 7.30.020(E) allows the recommendation of additional conditions on a license to meet the following standards:

- protection against damage to adjacent properties,
- protection against offsite odors,
- protection against noise,
- protection against visual impacts,
- protection against road damage,

- protection against criminal activity, and
- protection of public safety.

The Alaska Marijuana Control Board will impose a condition that a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable (3 ACC 306.060b). If the Planning Commission recommends additional conditions, additional findings must be adopted to support the conditions.
PUBLIC NOTICE: Public notice of the application was mailed on March 19, 2021, to the 8 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the April 1, 2021 & April 8, 2021 issues of the Peninsula Clarion.

ATTACHMENTS

- State marijuana establishment application with associated submitted documents
- Site Plan
- Acknowledgement form
- Aerial map
- Area land use map with 500' & 1,000' parcel radius

STAFF RECOMMENDATION

Staff recommends that the planning commission forward this application to the assembly with the findings contained in this staff report and with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

END OF STAFF REPORT

Vice Chair Ruffner opened the item for public comment.

Asonya Brown; 1152 Norton Ave., Columbus, OH 43212: Ms. Brown owns a parcel directly across K-Beach Rd. from the proposed new marijuana facilities and she has several concerns. She wondered if the ingress/egress for the facility would affect any of the other surrounding properties. She has a small frontage on her property and is concerned this new facility could possibly have a negative effect on her property. She also wondered how many of these types of licenses have been issued in the borough and whether or not there is a sufficient demand for another marijuana license. She also noted that her property is vacant and she has concerns of trespassers squatting on it.
Commissioner Fikes noted Ms. Brown had concerns this new facility could affect the ingress/egress to her property and asked her if she shares a driveway with this property. Ms. Brown replied no, and that her property was across the road from the proposed new facility. Ms. Brown noted that her property has the potential for development, that access to her property is very important, and just wants to make sure that it will not be negatively affected which could affect the value of her property.

Hearing no one else wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Gillham to forward to the Assembly the application of the retail Marijuana Store License for Greenstar, Inc. with staff's findings and pursuant to 3 AAC 306.060(b) the four conditions be place on the state license.

Vice Chair Ruffner stated that he would like to address some of Ms. Brown's concerns. He noted the commission is given a set of laws from the Assembly, which they follow when reviewing these applications. Generally, if the applications fit within those parameters we approve them to move on to the Assembly. The commission has not been asked to take into consideration the number of marijuana licenses issued within the borough or whether or not there is a market demand for these types of products, so this is not something that we would take into consideration.

Commissioner Ecklund informed Ms. Brown if issues do arise regarding this new facility she can report them to the borough and that they will consider them when they review the business licensees for renewal.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	9	No	0	Absent	2
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Martin				

AGENDA ITEM E. PUBLIC HEARING

10. State application for a marijuana establishment license; Kalifornsky area.

Applicant: Greenstar, Inc. dba Gold Star Concentrates
Landowner: Otium Sanctum, LLC
Parcel ID#: 055-040-33
Legal Description: T05N, R11W. S.M., KN 0940082 Carrol Martin Sub. No. 2, Lot 1
Location: 40593 Kalifornsky Beach Road

Staff report given by Bryan Taylor

BACKGROUND INFORMATION: On June 30, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Marijuana Concentrate Manufacturing Facility license. The AMCO notified the borough that the application was complete on March 1, 2021. On March 22, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed manufacturing facility on the above-described parcel. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.

2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.

3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.

5. The proposed facility is located where there is sufficient ingress and egress for traffic to the parcel.

   - The site plan indicates that the approach is or will be constructed to a minimum width of 24 feet where it accesses the right-of-way.
   - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
   - The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely.
   - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway.

T 5N R 11W SEC 15 SEWARD MERIDIAN KN
N1/2 SW1/4 & N1/2 S1/2 SW1/4 & NW1/4 SE1/4

BRIDGE ACCESS ROAD

EXISTING STRUCTURE

NEW PROPOSED STRUCTURE

60'

121'

81'

SURVEY POINT

SURVEY POINT

SURVEY POINT

PARKING

184'

EXISTING DRIVEWAY

135'±

LOT 1

KALIFORNSKY BEACH ROAD

Kalifornsky Beach Rd

Solid Outline

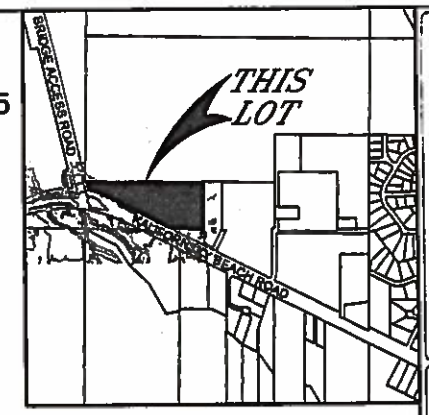
broken Outline

Parking Area Extension

Additional Gravel Area

SITE PLAN
SCALE: 1" = 60'

T 5N
R 11W
SEC 15



VICINITY MAP
SCALE: 1" = 1/2 MILE

REVISIONS

SITE PLAN

J & M FARMS LLC
Kenai, Alaska

35186 Spur Hwy Soldotna, AK 99669 (907)262-4624 FAX 262-5777 engineeringalaska@gci.net
TAURIAINEN ENGINEERING & TESTING

STATE OF ALASKA
49th
Mike Tauriainen
No.3380-E
REGISTERED PROFESSIONAL ENGINEER

DATE	NOV 2019
DRAWN	HSW
CHECKED	MR
FILE NAME	SITE
PROJ #	19109

SHEET
C1
OF 10

Office of the Borough Clerk
144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS ACKNOWLEDGEMENT FORM

Please review the statements below and acknowledge your understanding of the conditions and intent to comply by your signature below.

There shall be no parking in borough rights-of-way generated by the marijuana establishment.

If I have a retail marijuana license, I will not conduct any business on, or allow any consumer to access, the premises, between the hours of 2:00 a.m. and 8:00 a.m. each day.

I must stay current in obligations owed to the Kenai Peninsula Borough or my license may be subject to a protest by the KPB Assembly.

It is my responsibility to abide by all federal, state, and local laws applicable to my marijuana establishment.

I understand Kenai Peninsula Borough staff will enter my property for purposes of evaluating ongoing compliance with KPB 7.30 and any conditions placed on the license by the State of Alaska Marijuana Control Board.

I have received, read and understand the additional review standards and conditions set out in KPB 7.30.

Greenstar Flower Outlet
40593 Kalifornsky Beach Road, Kenai, AK 99611; T 5N R 11W SEC 15 SEWARD MERIDIAN KN 0940082 CARROL MARTIN SUB NO 2 LOT 1
Application for Retail Marijuana Store (License Number: 23964)

Signature

03/16/2021
Date

Please return completed form along with site development plan to the KPB Clerk's

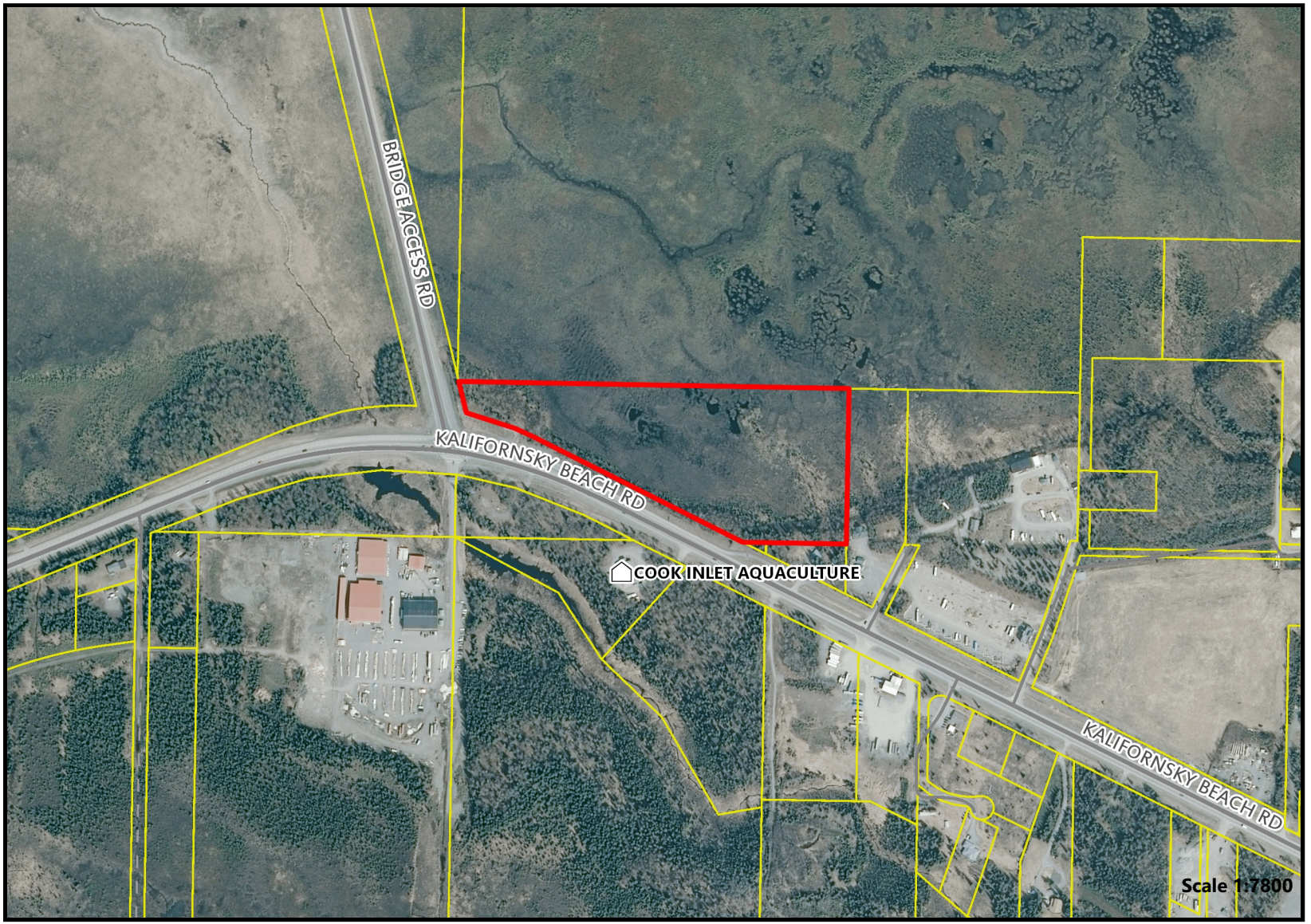
Kenai Peninsula Borough Planning Department

Recommendation on State Application for Retail Marijuana Store

Applicant: Greenstar Flower Outlet

KPB Parcel ID: 05504033

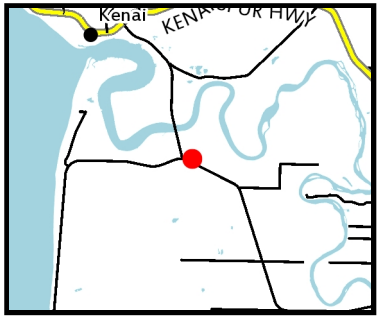
Aerial Imagery Map



Parcel Boundary

All Other Parcels

Vicinity



The data displayed herein is neither a legally recorded map nor survey and should only be used for general reference purposes. It is not intended to be used for measurement. Kenai Peninsula Borough assume liability as to the accuracy of any data displayed herein. Original source documents should be consulted for accuracy verification.

3/17/2021 12:21

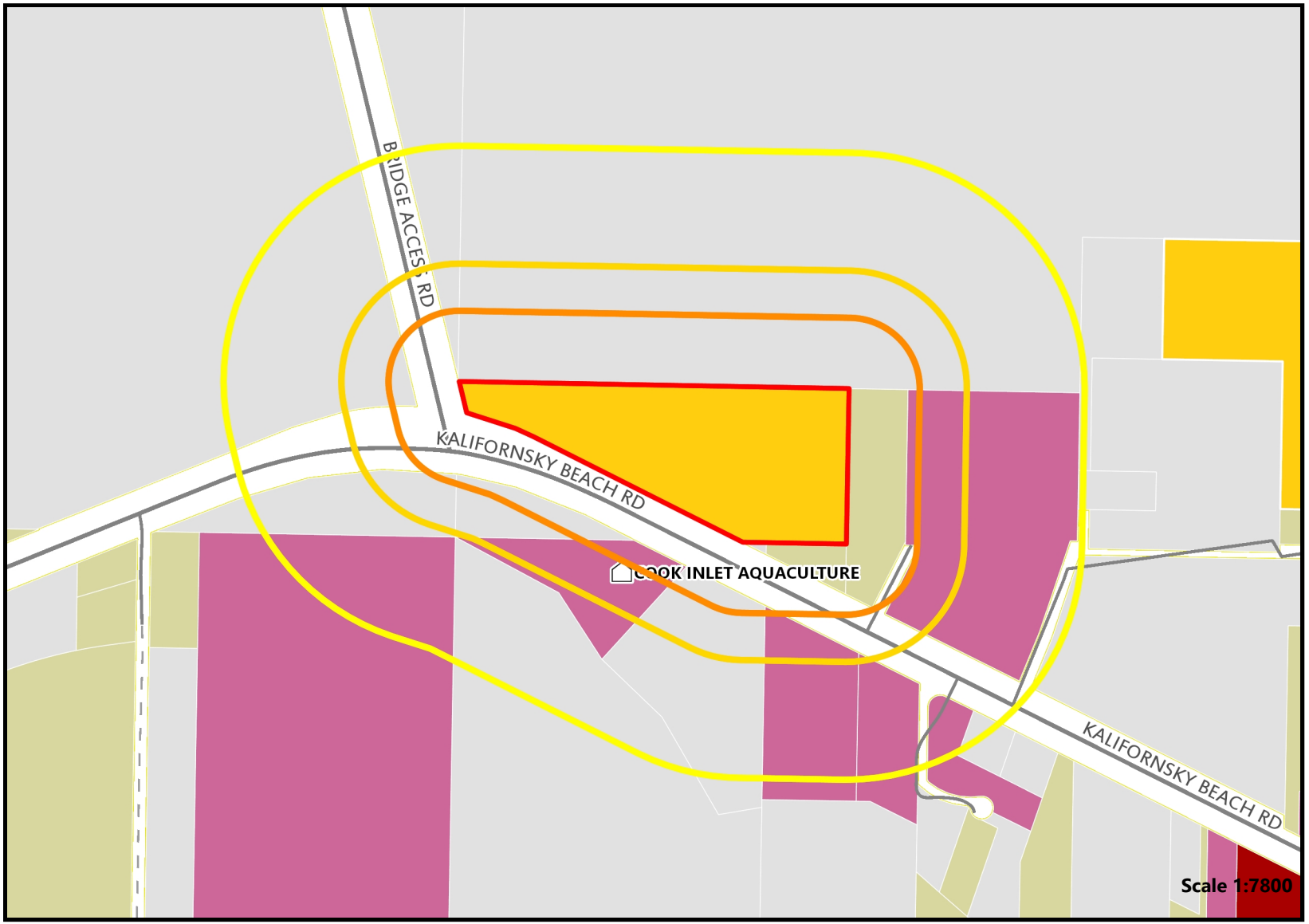
Kenai Peninsula Borough Planning Department

Recommendation on State Application for Retail Marijuana Store

Applicant: Greenstar Flower Outlet

KPB Parcel ID: 05504033

Adjacent Land Use Map



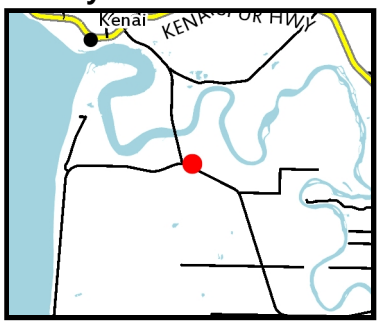
AMCO # 23964

- 1000ft Radius
- 500ft Radius
- 300ft Notification Area
- Parcel Boundary

Land Usage in 1000ft radius

- Accessory Building
  1 parcels
- Commercial
  6 parcels
- Residential
  2 parcels
- Vacant
  10 parcels

Vicinity



Radii shown depict the distance from the parcel boundaries. KPB 7.30 states that the distance must be measured by the shortest pedestrian route. If there were relevant facilities within the 500-foot or 1,000-foot radius, the shortest pedestrian path would be measured and depicted here.

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3/17/2021 12:21

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk

FROM: Tatyanah Shassetz, Borough Clerk Administrative Assistant

DATE: April 13, 2021

RE: Gold Star Concentrates – Marijuana Product Manufacturing Facility – New License 23692

Kenai Peninsula Borough Code 7.30.010 provides that the Assembly shall review and make recommendations to the state on applications for new licenses located within the Borough. Accordingly, the attached application filed by Gold Star Concentrates is being submitted to you for review and recommendation.

The Borough Finance Department reviewed the application and has no objection to the new license based on unpaid taxes. The Planning Commission reviewed the application at its Monday, April 12, 2021 meeting and has no objection to the new license based on the standards set forth in KPB 7.30.

RECOMMENDATION:

That the Assembly approves the issuance of a letter of non-objection to the Alcohol Marijuana Control Office regarding the new Marijuana Product Manufacturing Facility license as requested by **Gold Star Concentrates** with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

March 1, 2021

Kenai Peninsula Borough
Attn: Johni Blankenship
VIA Email: jblankenship@kpb.us
CC: micheleturner@kpb.us
tshassetz@kpb.us
sness@kpb.us
mjenkins@kpb.us
btaylor@kpb.us
MBerg@kpb.us
shuff@kpb.us

License Number:	23692
License Type:	Marijuana Concentrate Manufacturing Facility
Licensee:	Greenstar, Inc.
Doing Business As:	Gold Star Concentrates
Physical Address:	40593 Kalifornsky Beach Rd Suite C Kenai, AK 99611 - 7426
Designated Licensee:	Jason Bott
Phone Number:	907-252-4342
Email Address:	jason.greenstar.cultivators@gmail.com

☒ **New Application** ☐ **New Onsite Consumption Endorsement Application (Retail Only)**

AMCO has received a complete application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.025(d)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license, but require the applicant to show to the board's satisfaction that the requirements of the local government have been met before the director issues the license.

3 AAC 306.010, 3 AAC 306.080, and 3 AAC 306.250 provide that the board will deny an application for a new license if the board finds that the license is prohibited under AS 17.38 as a result of an ordinance or election conducted under AS 17.38 and 3 AAC 306.200, or when a local government protests an application on the grounds that the proposed licensed premises are located in a place within the local

government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

This application will be in front of the Marijuana Control Board at our 3/31-4/1, 2021 meeting.
Sincerely,

Glen Klinkhart, Interim Director
amco.localgovernmentonly@alaska.gov

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-00: Application Certifications

What is this form?

This application certifications form is required for all marijuana establishment license applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306.

This form must be completed and submitted to AMCO's main office by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	GREENSTAR INC	**License Number:**	23692		
License Type:	MARIJUANA CONCENTRATE MANUFACTURING FACILITY				
Doing Business As:	GOLD STAR CONCENTRATES				
Premises Address:	40593 KALIFORNSKY BEACH RD STE C				
City:	KENAI	**State:**	AK	**ZIP:**	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	JASON M BOTT
Title:	PRESIDENT

Section 3 – Other Licenses

Ownership and financial interest in other licenses: Yes No

Do you currently have or plan to have an ownership interest in, or a direct or indirect financial interest in another marijuana establishment license? ☒ ☐

If "Yes", which license numbers (for existing licenses) and license types do you own or plan to own?

#12472 STANDARD CULTIVATION FACILITY
#23694 MARIJUANA RETAIL STORE

AMCO
JUL 21 2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Section 4 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement: Initials

I certify that I have not been convicted of a felony in any state or the United States, including a suspended imposition of sentence, for which less than five years have elapsed from the time of the conviction to the date of this application.

I certify that I am not currently on felony probation or felony parole.

I certify that I have not been found guilty of selling alcohol without a license in violation of AS 04.11.010.

I certify that I have not been found guilty of selling alcohol to an individual under 21 years of age in violation of 04.16.051 or AS 04.16.052.

I certify that I have not been convicted of a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the five years preceding this application.

I certify that I have not been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed within the two years preceding this application.

I certify that my proposed premises is not within 500 feet of a school ground, recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility, as set forth in 3 AAC 306.010(a).

I certify that my proposed premises is not located in a liquor licensed premises.

I certify that I meet the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which I am initiating this application.

I certify that all proposed licensees (as defined in 3 AAC 306.020(b)(2)) have been listed on my online marijuana establishment license application. Additionally, if applicable, all proposed licensees have been listed on my application with the Division of Corporations.

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by AMCO is grounds for denial of my application.

AMCO
JUL 21 2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Read each line below, and then sign your initials in the box to the right of each statement: Initials

I certify and understand that I must operate in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees. JMB

I certify and understand that I must operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of this state and the local government in which my premises is located. JMB

Read each line below, and then sign your initials in the box to the right of only the applicable statement: Initials

Only initial next to the following statement if this form is accompanying an application for a marijuana testing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility. ☐

Only initial next to the following statement if this form is accompanying an application for a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a marijuana testing facility license. JMB

All marijuana establishment license applicants:

As an applicant for a marijuana establishment license, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that the online application and this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

Jason M Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 20th day of July, 2020.

AMCO
JUL 21 2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-01: Marijuana Establishment Operating Plan

What is this form?

An operating plan is required for all marijuana establishment license applications. Applicants should review **Title 17.38** of **Alaska Statutes** and **Chapter 306** of the **Alaska Administrative Code.** This form will be used to document how an applicant intends to meet the requirements of those statutes and regulations. If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020(c).

What must be covered in an operating plan?

Applicants must identify how the proposed premises will comply with applicable statutes and regulations regarding the following:

- Control plan for persons under the age of 21
- Security
- Business records
- Inventory tracking of all marijuana and marijuana product on the premises
- Employee qualification and training
- Health and safety standards
- Transportation and delivery of marijuana and marijuana products
- Signage and advertising

Applicants must also complete the corresponding operating plan supplemental forms **(Form MJ-03, Form MJ-04, Form MJ-05,** or **Form MJ-06)** to meet the additional operating plan requirements for each license type.

Section 1 – Establishment & Contact Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc.	**MJ License #:**	23692		
License Type:	Marijuana Concentrates Manufacturing Facility				
Doing Business As:	Gold Star Concentrates				
Premises Address:	40593 Kalifornsky Beach Rd. Ste C				
City:	Kenai	**State:**	Alaska	**ZIP:**	99611

Mailing Address:	PO Box 3208				
City:	Soldotna	**State:**	Alaska	**ZIP:**	99669

Designated Licensee:	Jason M Bott		
Main Phone:		**Cell Phone:**	907 252 4342
Email:	jason.greenstar.cultivators@gmail.com		

Section 2 – Control Plan for Persons Under the Age of 21

2.1. Describe how the marijuana establishment will prevent persons under the age of 21 from gaining access to any portion of the licensed premises and marijuana items:

All persons entering the establishment will be required to present valid photo ID. All staff are to be trained to examine the presented identification for:
A: type/condition and validity/acceptability of identification
B: Date of Birth
C: Photo matches person presenting the ID
D: Expiration date

Section 3 – Security

Restricted Access Areas (3 AAC 306.710):

3.1. Describe how you will prevent unescorted members of the public from entering restricted access areas:

Restricted areas are clearly delineated by signage, and all doors to this facility are posted "restricted area, all visitors must be escorted" in addition to every door requiring a key or code to gain entry.

3.2. Describe your recordkeeping and processes for admitting visitors into and escorting them through restricted access areas:

All visitors must presentvalid ID, sign in, be issued a visitor's badge, and must be accompanied by staff at all times. A 1:5 minimum employee to visitor ratio will be maintained. Sign in includes ID #, reason for visit, visitors badge #, date, time, and visitor's signature and printed name.

3.3. Provide samples of licensee-produced identification badges that will be displayed by each licensee, employee, or agent while on the premises, and of visitor identification badges that will be worn by all visitors while in restricted access areas:

Security Alarm Systems and Lock Standards (3 AAC 306.715):

3.4. Exterior lighting is required to facilitate surveillance. Describe how the exterior lighting will meet this requirement:

All exterior lighting is on a photocell, and all surveillance cameras are designed for night vision as a secondary precaution. The entire exterior perimeter is lit.

3.5. An alarm system is required for all license types that must be activated on all exterior doors and windows when the licensed premises is closed for business. Describe the security alarm system for the proposed premises, explain how it will meet all regulatory requirements, and outline your policies and procedures regarding the actions to be taken by a licensee, employee, or agent when the alarm system alerts of an unauthorized breach:

The alarm system is monitored by an off site company. The control panel is located within the retail area behind the counter. All exterior exits are sensored, with motion detectors located within any area having an exit to the exterior.

In the event of an alarm, the licensee or manager is notified and can access the system remotely while the monitoring company is notifying the authorities. If motion is detected within the facility, the licensee/manager is to also notify the authorities and advise them of the situation, and then proceed to the facility to await the authorities and assist them in gaining entry and searching and securing the premises.

3.6. Describe your policies and procedures for preventing diversion of marijuana or marijuana product, including by employees:

All cannabis products are under constant surveillance, and are subject to daily count/audit. in the event of a discrepancy, the surveillance footage is to be reviewed. Any person found to be diverting products will be immediately reported to both the police and AMCO, and footage/evidence will be forwarded so as to aid in prosecution and/or applicable AMCO proceedings.

3.7. Describe your policies and procedures for preventing loitering:

No loitering signs are to be posted on the property,and upon noticing such activity, a manager/assistant manager will ask how they may help the person, and if no valid reason for being there is forthcoming, the person will be asked to leave the property. if the person refuses to leave, or fails to comply, or escalates the situation the police are to be called, and that person is to be trespassed from the property.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right: Initials

3.8. I certify that if any additional security devices are used, such as a motion detector, pressure switch, and duress, panic, or hold-up alarm, to enhance security of the licensed premises, I will have written policies and procedures describing their use. JMB

Video Surveillance (3 AAC 306.720):

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

3.9. The video surveillance and camera recording system for the licensed premises covers each restricted access area, and both the interior and exterior of each entrance to the facility.

3.10. Each video surveillance recording: is preserved for a minimum of 40 days, in a format that can be easily accessed for viewing (consistent with the Alcohol & Marijuana Control Office's approved format list); clearly and accurately displays the time and date; and is archived in a format that does not permit alteration of the recorded image.

3.11. The surveillance room or area is clearly defined on the Form MJ-02: Premises Diagram that is submitted with this application.

3.12. Surveillance recording equipment and video surveillance records are housed in a designated, locked, and secure area or in a lock box, cabinet, closet or other secure area where access is limited to the licensee(s), an authorized employee, and law enforcement personnel (including an agent of the Marijuana Control Board).

3.13. Describe how the video cameras will be placed to produce a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises:

The entire exterior perimeter is to be under surveillance, with opposing view cameras (2) on every side. All rooms that may at any time contain cannabis prtoducts, or an exit to the exterior are to have at least two opposing cameras with diagonally opposed views so that the entire room is under surveillance coverage

3.14. Describe the locked and secure area where video surveillance recording equipment and original copies of surveillance records will be housed and stored, and how you will ensure the area is accessible only to authorized personnel, law enforcement, or an agent of the Marijuana Control Board. If you will be using an offsite monitoring service and offsite storage of video surveillance records, your response must include how the offsite facility will meet these security requirements:

All security cameras terminate to a 40 TB DVR located within the vault that is entirely of poured concrete. No access to the vault is permitted except by management or appropriately authorized persons. The memory capacity is sufficient to maintain video footage for a minimum of 40 days, so as to have said footage available to AMCO or applicable authorities upon request.

Section 4 – Business Records

Review the requirements under 3 AAC 306.755. All licensed marijuana establishments must maintain, in a format that is readily understood by a reasonably prudent business person, certain business records.

4.1. I certify that the following business records will be maintained and kept on the licensed premises: Initials

a. **all books and records necessary to fully account for each business transaction conducted under my license for the current year and three preceding calendar years** *(records for the last six months must be maintained on the licensed premises; older records may be archived on or off-premises)*; JMB

b. **a current employee list setting out the full name and marijuana handler permit number of each licensee, employee, and agent who works at the marijuana establishment;** JMB

c. **the business contact information for vendors that maintain video surveillance systems and security alarm systems for the licensed premises;** JMB

d. **records related to advertising and marketing;** JMB

e. **a current diagram of the licensed premises, including each restricted access area;** JMB

f. **a log recording the name, and date and time of entry of each visitor permitted into a restricted access area;** JMB

g. **all records normally retained for tax purposes;** JMB

h. **accurate and comprehensive inventory tracking records that account for all marijuana inventory activity from seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a consumer, to another marijuana establishment, or destroyed;** JMB

i. **transportation records for marijuana and marijuana product, as required by 3 AAC 306.750(f); and** JMB

j. **registration and inspection reports of scales registered under the Weights and Measures Act, as required by 3 AAC 306.745.** JMB

4.2. A marijuana establishment is required to exercise due diligence in preserving and maintaining all required records. Describe how you will prevent records and data, including electronically maintained records, from being lost or destroyed:

All required records are to be maintained on site in hard copy form for one year, and also scanned and transferred to an external hard drive to be additionally stored on site for the requisite term. After one year, hard copies may be stored off site, but digital copies on external hard drive(s) will be available on site for the remainder of the required term.

Section 5 – Inventory Tracking of All Marijuana and Marijuana Product

Review the requirements under 3 AAC 306.730. All licensed marijuana establishments must use a marijuana inventory tracking system capable of sharing information with Metrc to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a marijuana product, to a completed sale of marijuana or marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

5.1. My marijuana establishment will be using Metrc, and if any other tracking software is used, it will be capable of sharing information with Metrc.

5.2. All marijuana delivered to a marijuana establishment will be weighed on a scale registered in compliance with 3 AAC 306.745.

5.3. My marijuana establishment will use registered scales in compliance with AS 45.75.080 (Weights and Measures Act), as required by 3 AAC 306.745.

Section 6 – Employee Qualification and Training

Review the requirements under 3 AAC 306.700. All licensees, and every employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

6.1. All licensees, and each employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or marijuana product, or who checks the identification of a consumer or visitor, shall obtain a marijuana handler permit from the board before being licensed or beginning employment at the marijuana establishment.

6.2. Each licensee, employee, or agent who is required to have a marijuana handler permit shall keep that person's marijuana handler permit card in that person's immediate possession (or a valid copy on file on the licensed premises) when on the licensed premises.

6.3. Each licensee, employee, or agent who is required to have a marijuana handler permit shall ensure that that person's marijuana handler permit card is valid and has not expired.

6.4. Describe any in-house training that will be provided to employees and agents (apart from a marijuana handler course):

All staff will be educated in marijuana regulations, safe practices in the handling of cannabis, operation and security protocols, an overview of METRC, proper examination of presented ID, required reporting protocols, and proper cleaning, hygiene, and waste handling procedures.

Section 7 – Health and Safety Standards

Review the requirements under 3 AAC 306.735.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

7.1. I understand that a marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that health or safety concerns are not present.

7.2. I have policies regarding health and safety standards (including: ensuring a person with an illness or infection does not come into contact with marijuana or marijuana product; good hygienic practices; cleaning and maintenance of equipment and the premises; pest deterrence; chemical storage; sanitation principles; and proper handling of marijuana and marijuana product) and will take all reasonable measures and precautions to ensure that they are met or exceeded.

7.3. I have policies to ensure that any marijuana or marijuana product that has been stored beyond its usable life, or was stored improperly, is not salvaged and returned to the marketplace.

7.4. I have policies to ensure that in the event information about the age or storage conditions of marijuana or marijuana product is unreliable, the marijuana or marijuana product will be handled in accordance with 3 AAC 306.735(d).

Answer "Yes" or "No" to each of the following questions:	Yes	No
7.5. Adequate and readily accessible toilet facilities that are maintained and in good repair and sanitary condition are clearly indicated on my Form MJ-02: Premises Diagram.	☑	☐
7.6. Convenient handwashing facilities with running water at a suitable temperature are clearly indicated on my Form MJ-02: Premises Diagram.	☑	☐

7.7. If you answered "No" to either 7.5 or 7.6 above, describe how toilet and/or handwashing facilities are made accessible, as required by 3 AAC 306.735(b)(2):

Section 8 – Transportation and Delivery of Marijuana and Marijuana Products

Review the requirements under 3 AAC 306.750.

8.1. Describe how marijuana or marijuana product will be prepared, packaged, and secured for shipment. Include a description of the type of locked, safe, and secure storage compartments to be used in vehicles transporting marijuana or marijuana product:

All cannabis and cannabis products subject to transport will be weighed and sealed in a package with weight/amount of product and gross weight of the total package clearly marked, along with the strain/contents. All packages will have a METRC package tag affixed. Sealed packages then go into a rigid, lockable container, that is then secured with a lock and/or a tamper resistant fastener/closure. All transportation of cannabis and/or cannabis products is to be done by persons in posession of a valid MJ handler's card, and with all information clearly documented by METRC manifest.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

8.2. The marijuana establishment from which a shipment of marijuana or marijuana product originates will ensure that any individual transporting marijuana shall have a marijuana handler permit required under 3 AAC 306.700.

8.3. The marijuana establishment that originates the transport of any marijuana or marijuana product will use the marijuana inventory tracking system to record the type, amount, and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model, and license plate number of the transporting vehicle.

8.4. The marijuana establishment that originates the transport of any marijuana or marijuana product will ensure that a complete printed transport manifest on a form prescribed by the board must be kept with the marijuana or marijuana product at all times during transport.

8.5. During transport, any marijuana or marijuana product will be in a sealed package or container in a locked, safe, and secure storage compartment in the vehicle transporting the marijuana or marijuana product, and the sealed package will not be opened during transport.

8.6. Any vehicle transporting marijuana or marijuana product will travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and will not make any unnecessary stops in between except to deliver or pick up marijuana or marijuana product at any other licensed marijuana establishment.

8.7. When the marijuana establishment receives marijuana or marijuana product from another licensed marijuana establishment, the recipient of the shipment will use the marijuana inventory tracking system to report the type, amount, and weight of marijuana or marijuana product received.

8.8. The marijuana establishment will refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

Section 9 – Signage and Advertising

Review the requirements under 3 AAC 306.770.

9.1. Describe any signs that you intend to post on your establishment, including quantity, dimensions, graphics, and location on your establishment (photos or drawings may be attached):

NONE

9.2. Describe any advertising you intend to distribute for your establishment. Include medium types and business logos (photos or drawings may be attached):

Trade rtelated periodicals (i.e.-Alaska Leaf and Cannabist magazines)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Notary Public in and for the State of Alaska

Jason M. Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(8). **All areas designated as the licensed premises of a single license must be contiguous. All diagrams must have the licensed premises area labeled, and outlined or shaded as appropriate.**

What must be submitted with this form?

Applicants must attach multiple diagrams to this form, including (as applicable):

- **Diagram 1:**
  a diagram showing only the licensed premises areas that will be ready to be **operational at the time of your preliminary inspection** and license issuance;

- **Diagram 2:**
  if different than Diagram 1, a diagram outlining **all areas for which the licensee has legal right of possession** (a valid lease or deed), and clearly showing those areas' relationship to the current proposed licensed premises *(details of any planned expansion areas do not need to be included; a complete copy of Form MJ-14: Licensed Premises Diagram Change must be submitted and approved before any planned expansion area may be added to the licensed premises);*

- **Diagram 3:**
  a **site plan or as-built of the entire lot,** showing all structures on the property and clearly indicating which area(s) will be part of the licensed premises;

- **Diagram 4:**
  an **aerial photo of the entire lot and surrounding lots,** showing a view of the entire property and surrounding properties, and clearly indicating which area(s) will be part of the licensed premises *(this can be obtained from sources like Google Earth)*; and

- **Diagram 5:**
  a diagram of the **entire building in which the licensed premises is located**, clearly distinguishing the licensed premises from unlicensed areas and/or premises of other licenses within the building. If your proposed licensed premises is located within a building or building complex that contains multiple business and/or tenants, please provide the addresses and/or suite numbers of the other businesses and/or tenants *(a separate diagram is not required for an establishment that is designating the entire building as a single licensed premises).*

This form, and all necessary diagrams that meet the requirements on Page 2 of this form, must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

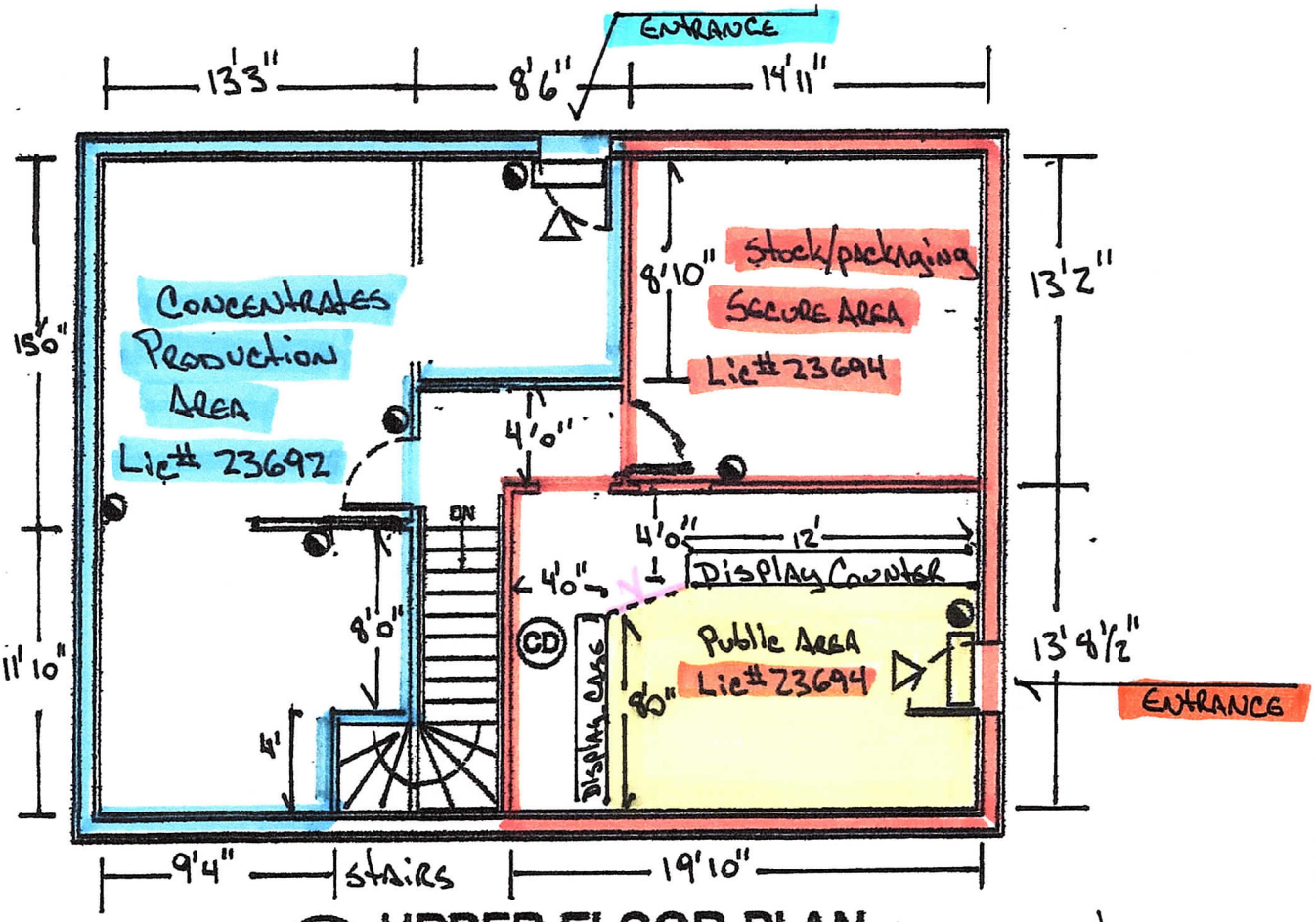
Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc.	**MJ License #:**	23692		
License Type:	Marijuana Concentrates Manufacturing Facility				
Doing Business As:	Gold Star Concentrates				
Premises Address:	40593 Kalifornsky Beach Rd., Ste. C				
City:	Kenai	**State:**	Alaska	**ZIP:**	99611

DIAGRAMS 1, 2, AND 5

ENTIRE building in possession of one licensee.
(GREENSTAR INC.)



1 LS1 **UPPER FLOOR PLAN**
SCALE: 1/8" = 1'-0"

N.

LEGEND

- LIGHTED EMERGENCY EXIT SIGN
- CD — COMBINATION SMOKE DETECTOR AND CARBON MONOXIDE ALARM
- FIRE EXTINGUISHER
- EGRESS

BRASS CHAIN w/ SIGN "RESTRICTED ACCESS, ALL VISITORS MUST BE ESCORTED"

LICENSED PREMISES FOR #23692

LICENSED PREMISES FOR #23694

#23694 DBA GREENSTAR Flower Outlet
#23692 DBA Gold Star Concentrates

STATE OF ALASKA 49th
Mike Taurianen
No. 14338-E
REGISTERED PROFESSIONAL ENGINEER

REVISIONS

LIFE SAFETY PLAN

J & M FARMS LLC
Kenai, Alaska

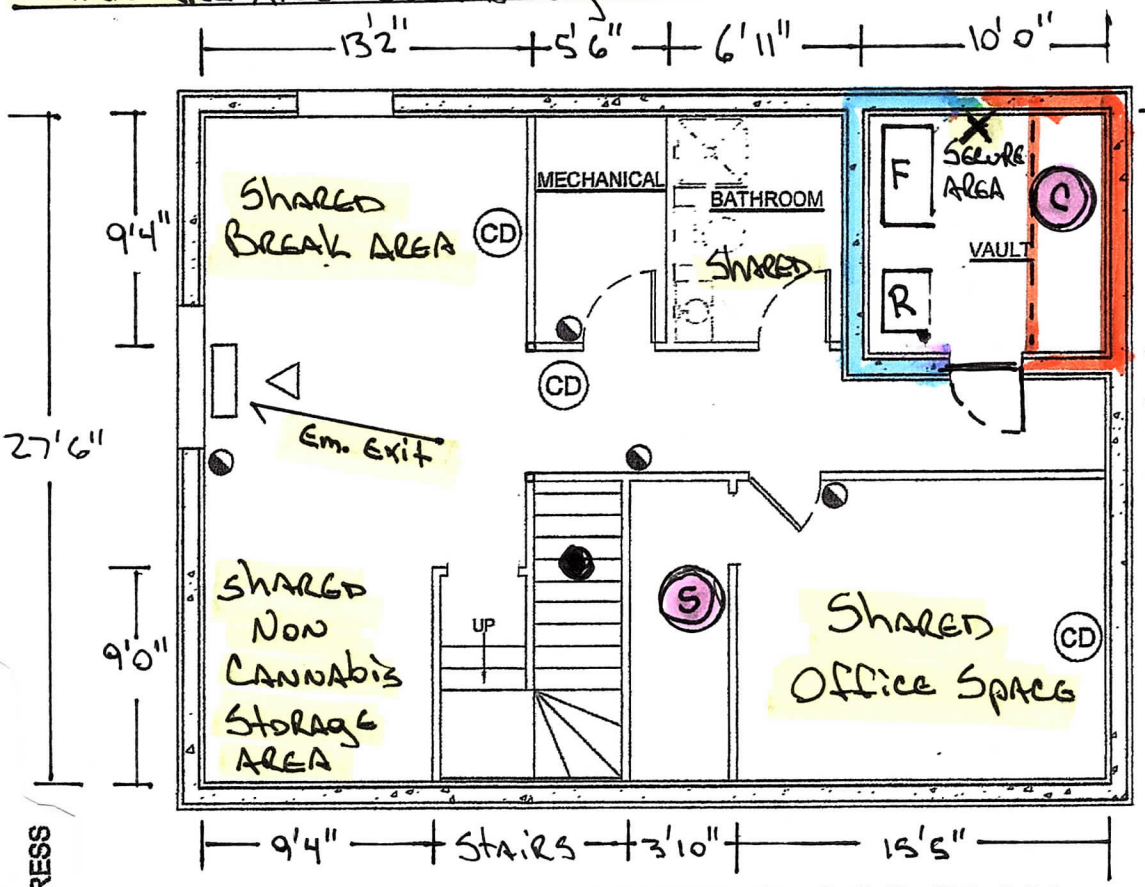
TAURIANEN ENGINEERING & TESTING
35186 Spur Hwy Soldotna, AK 99669 (907)262-4824 FAX 262-5777 enghsecingalaska@gci.net

DATE NOV 2019
DRAWN HBW
CHECKED MR
FILE NAME SET
PROJ # 19109

SHEET LS1

DIAGRAMS 1, 2, AND 5

VAULT AND ALL AREAS ARE COMPLETELY COVERED BY SURVEILLANCE CAMERAS, EXCEPT BATHROOM, MECH RM, AND CLOSET. STAIRS ARE ALSO COVERED BY CAMERAS



2 / LS1 LOWER FLOOR PLAN
SCALE: 1/8" = 1'-0"

NL

LEGEND

- LIGHTED EMERGENCY EXIT SIGN
- COMBINATION SMOKE DETECTOR AND CARBON MONOXIDE ALARM (CD)
- FIRE EXTINGUISHER
- EGRESS

Lic 23694 DBA GREENSTAR flower outlet

Lic 23692 DBA Gold STAR CONCENTRATES

(S) — SECURE STORAGE (NON CANNABIS) IS SHARED

(C) — CANNABIS ITEM STORAGE Lic# 23694 IN locking steel CAGE within VAULT (SECURE)

(F) — LARGE locking FREEZER within VAULT CANNABIS ITEM STORAGE for Lic# 23692

(R) — Locking FRIDGE for CONCENTRATE STORAGE within VAULT for Lic # 23692

X — 40 TB DVR for CAMERAS within VAULT

● — closet UNDER STAIRS for EMPLOYEE USE for PERSONAL ITEMS (coats etc.) SHARED is 3'6" X 8'

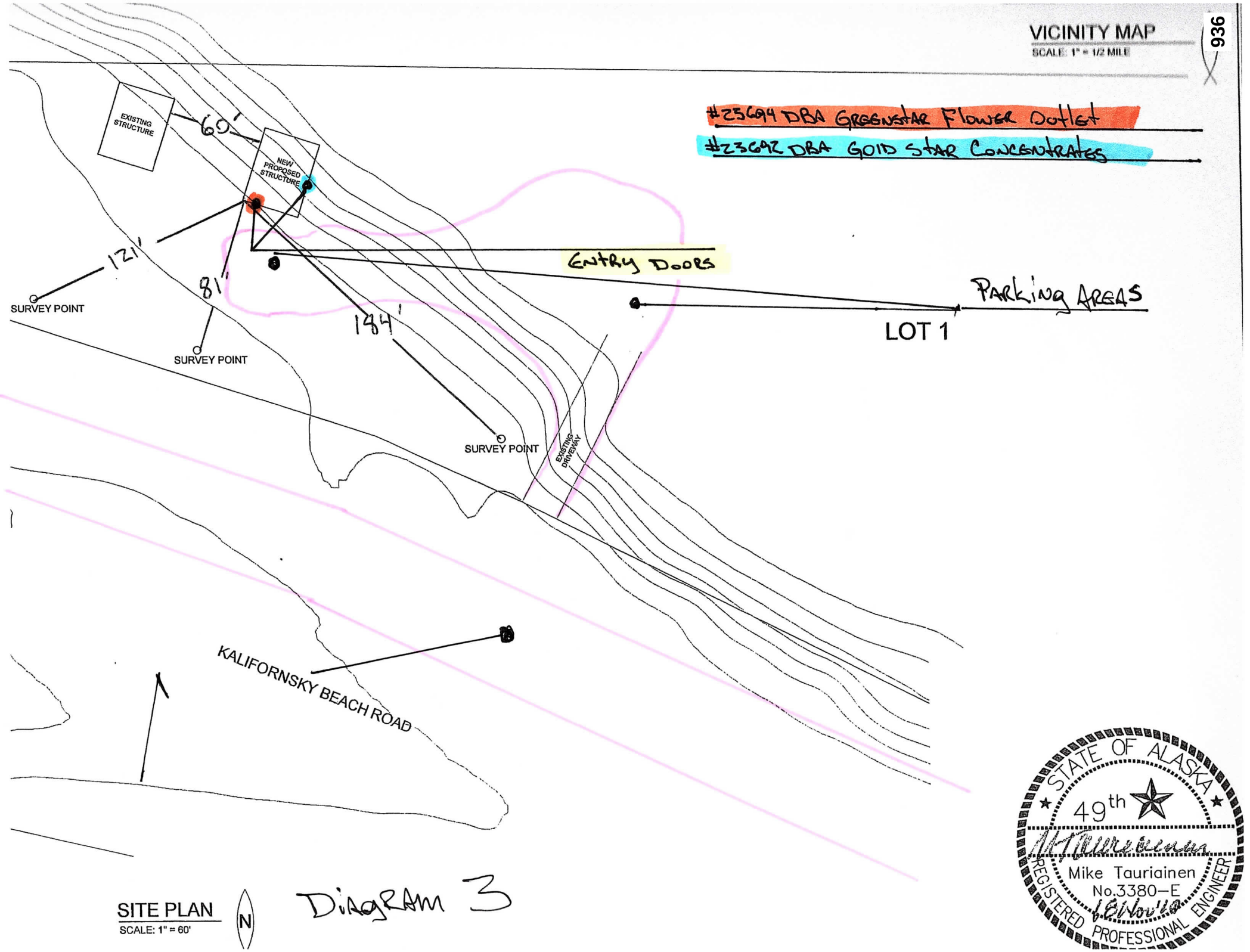
J:\20191109 Forever Young\SET.dwg, LS1, 11/18/2019 1:44:55 PM

VICINITY MAP

SCALE: 1" = 1/2 MILE

#25694 DBA GREENSTAR FLOWER OUTLET

#23692 DBA GOLD STAR CONCENTRATES



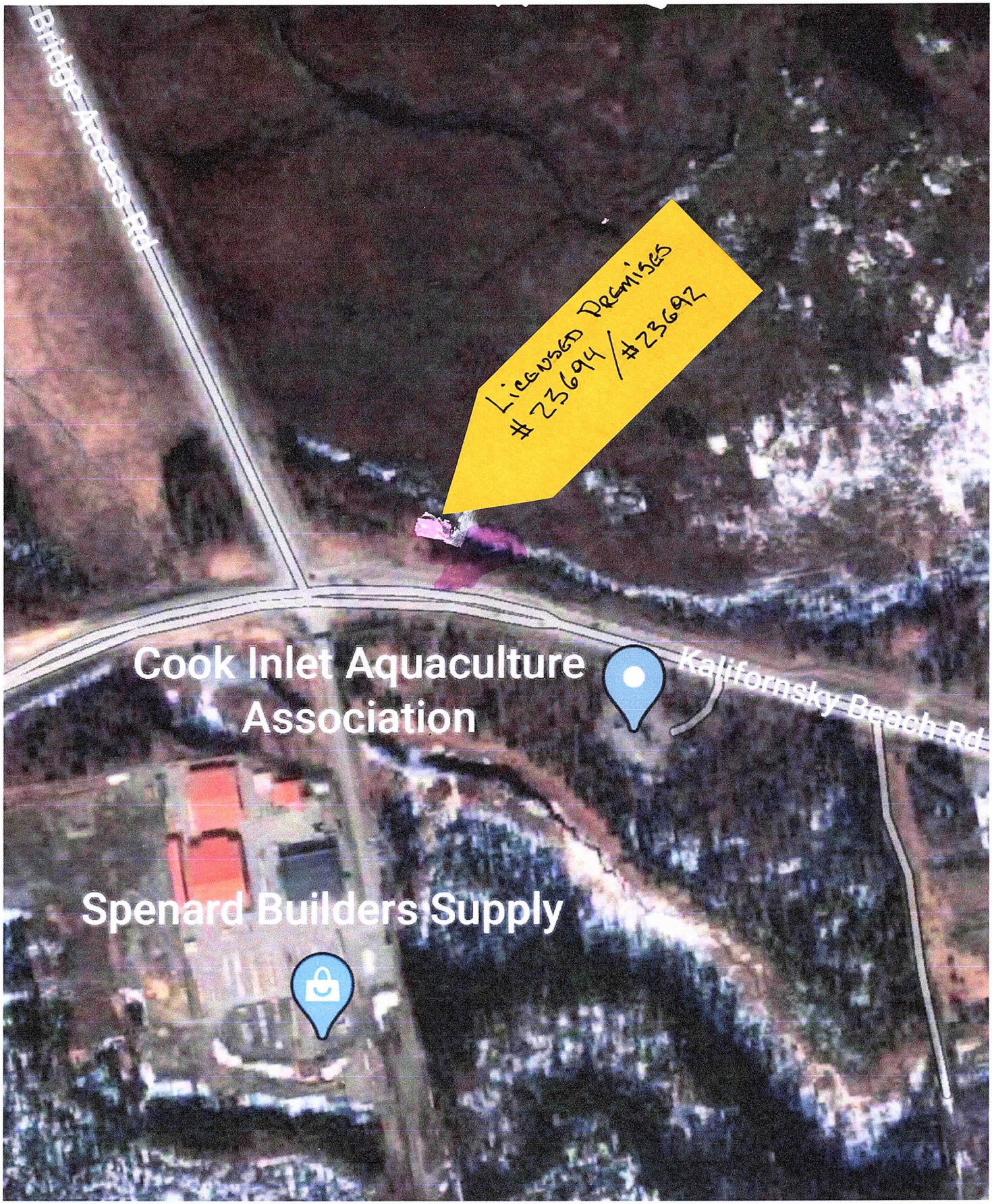
SITE PLAN

SCALE: 1" = 60'

N

DIAGRAM 3

STATE OF ALASKA
49th
Mike Tauriainen
No.3380-E
REGISTERED PROFESSIONAL ENGINEER



#23694 DBA GREENSTAR Flower Outlet
#23692 DBA Gold Star Concentrates

N.

DIAGRAM 4

Form MJ-02: Premises Diagram

Section 2 – Required Information

For your security, do not include locations of security cameras, motion detectors, panic buttons, and other security devices.
Items marked with a double asterisks (**) are only required for those retail marijuana establishments that are also applying for an onsite consumption endorsement.

The following details must be included in all diagrams:

- ☐ License number and DBA
- ☐ Legend or key
- ☐ Color coding
- ☐ Licensed Premises Area Labeled and Shaded, or Outlined as appropriate
- ☐ Dimensions
- ☐ Labels
- ☐ True north arrow

The following additional details must be included in Diagram 1:

- ☐ Surveillance room
- ☐ Restricted access areas
- ☐ Storage areas
- ☐ Entrances, exits, and windows
- ☐ Walls, partitions, and counters
- ☐ Any other areas that must be labeled for specific license or endorsement types
- ☐ ** Serving area(s)
- ☐ **Employee monitoring area(s)
- ☐ **Ventilation exhaust points, if applicable

The following additional details must be included in Diagram 2:

- ☐ Areas of ingress and egress
- ☐ Entrances and exits
- ☐ Walls and partitions

The following additional details must be included in Diagrams 3 and 4:

- ☐ Areas of ingress and egress
- ☐ Cross streets and points of reference

The following additional details must be included in Diagram 5:

- ☐ Areas of ingress and egress
- ☐ Entrances and exits
- ☐ Walls and partitions
- ☐ Cross streets and points of reference

Note: All areas beyond public area are technically secure, as there is No public access beyond that point without escort.

I declare under penalty of unsworn falsification that I have attached all necessary diagrams that meet the above requirements, and that this form, including all accompanying schedules, statements, and depictions is true, correct, and complete.

Jason M Bott
Signature of licensee

Jason M. Bott
Printed name of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska
My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

Alcohol and Marijuana Control Office
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Phone: 907.269.0350

Alaska Marijuana Control Board

Operating Plan Supplemental
Form MJ-05: Marijuana Product Manufacturing Facility

What is this form?

This operating plan supplemental form is required for all applicants seeking a marijuana product manufacturing facility license and must accompany **Form MJ-01: Marijuana Establishment Operating Plan**, per 3 AAC 306.020(b)(11). Applicants should review **Chapter 306: Article 5** of the **Alaska Administrative Code.** This form will be used to document how an applicant intends to meet the requirements of the statutes and regulations.

If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020 and 3 AAC 306.520(3).

What additional information is required for cultivation facilities?

Applicants must identify how the proposed establishment will comply with applicable regulations regarding the following:

- Equipment, compounds, and processes to be used
- Waste disposal
- Testing procedure and protocols
- Proposed marijuana concentrates and marijuana products
- Proposed product packaging and sample labels
- Prohibitions

This form must be completed and submitted to AMCO's main office before any new or transfer application for a marijuana product manufacturing facility or marijuana concentrate manufacturing facility license will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc	**MJ License #:**		29632	
License Type:	Marijuana Concentrates Manufacturing Facility				
Doing Business As:	Gold Star Concentrates				
Premises Address:	40593 Kalifornsky Beach Rd., Ste. C				
City:	Kenai	**State:**	Alaska	**ZIP:**	99611

AMCO RECEIVED 02/26/21

Section 2 – Overview of Operations

2.1. Provide an overview of your proposed facility's operations. Include information regarding the intake, flow, and transfer of marijuana, marijuana concentrate, and marijuana product at and from your premises:

All incoming cannabis materials are to be accompanied by a valid METRC manifest, and transported by persons in posession of a valid MJ Handler's card. Upon arrival at the facility, the transporter must present valid ID to be examined for DOB, photo match, condition/acceptability, expiration as staff are trained/required to do. After being signed into the facility as a visitor, transporter is escorted to restricted area where the manifest and package(s) are examined and weighed. All packages must have a METRC package tag affixed, and tag #, contents and weight must match the manifest or the package is rejected. Transporter is paid upon acceptance of manifested packages in Metrc, signed out, and escorted to their vehicle for safety.

From this point, packages either go to the vault for secure storage, or directly to processing area. Processing for Trim will either entail Ice water extraction, or dry sifting depending on its target end product, while flower may be directed to either ice water extraction or Rosin press stations for processing. Depending on targeted end product, cannabis material may be further refined from these points. All cannabis products are followed through the entire process by their applicable METRC package or batch tags.

Post manufacturing, all concentrate products are segregated and securely stored, with associated METRC batch tags, until testing is complete and results received.

Upon receipt of testing results, product is then weighed, packaged, and labeled as required per regulation, while type of packaging may vary depending on indivual product specifics.

All transfers of product from the facility are to be tagged and manifested through METRC, and transported to their end destination licensees by persons in posession of a valid MJ handler's card. Packages as tagged and manifested are placed in a rigid, lockable transport container, and secured with a lock or tamper evident closure device for transport. All transfers are to be accompanied by their applicable Metrc manifest, and all packages will have package tags affixed, and be clearly labeled with count/weight of tyhe contents, and gross weight of the package.

Section 3 – Equipment and Compounds to be Used

Review the requirements under 3 AAC 306.555.

3.1. Describe the equipment and solvents, gases, chemicals, and other compounds the marijuana product manufacturing facility will use to create marijuana concentrates:

Equipment to be used consists of the following:

Commercial Rosin Presses

Ice Machine fed with Reverse Osmosis Water

Ice Water Extraction Vessel(s)

Graduated Mesh Sieves for classifying/grading water extracted materials

Pharmaceutical Grade Freeze Dryer

Electric Vacuum Oven

Electric Pressure Oven

Roto-Vap

Ultra Low Temp Freezer

Buchner Funnel (vacuum assisted)

SOLVENTS AND CHEMICALS CONSIST ONLY OF REVERSE OSMOSIS WATER AND ORGANICALLY SOURCED ETHANOL (ethanol is only used for dewaxing when making vape cartridges, and cleaning equipment)

AMCO RECEIVED 02/26/21

Section 4 – Waste Disposal

Review the requirements under 3 AAC 306.740.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right: Initials

4.1. The marijuana product manufacturing facility shall give the board at least three days written notice required under 3 AAC 306.740(c) before making marijuana waste unusable and disposing of it.

4.2. Describe how you will store, manage, and dispose of any solid or liquid marijuana waste, including expired or outdated marijuana or marijuana product, in compliance with any applicable laws. Include details about the material(s) you will mix with ground marijuana waste and the processes that you will use to make the marijuana waste unusable for any purpose for which it was grown or produced:

All solid waste generated is to be stored in sealed bags/containers, labeled with the associated METRC tag #, pending notification to AMCO and expiration of 3 day period prior to disposal, at which time it is to be ground with no less than 50% soil, and placed into locked dumpster pending pickup by waste management company for deposit in landfill.

Liquid waste from the ice water extraction process will be dumped down the sink as per our DEC approved wastewater plan, as it is only R.O. water tinted green with chlorophyl, with all solids classified out via the mesh seives.

The organic ethanol will be reclaimed and purified utilizing the Roto-Vap, and is then able to be reused. Any residual waste generated by this process will essentially be waxes or minute amounts of cannabis oils, and will be subsequently also mixed with soil and disposed of in the afore mentioned locked dumpster after notification to AMCO and the expiration of the 3 day period.

AMCO RECEIVED 02/26/21

Section 5 – Testing Procedure and Protocols

Review the requirements under 3 AAC 306.520 and 3 AAC 306.550.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right: Initials

5.1. I will ensure that any individual responsible for collecting random samples for required laboratory testing under 3 AAC 306.550 will prepare the necessary accompanying signed statement, provide the signed statement to the marijuana testing facility, and maintain a copy as a business record under 3 AAC 306.755.

Answer "Yes" or "No" to the following question: Yes No

5.2. Will the marijuana product manufacturing facility be performing in-house testing (as defined under 3 AAC 306.990(b)(20)? ☐ Yes ☑ No

If "Yes" to 5.2, you must be able to certify the statement below. Read the following and then sign your initials in the box: Initials

5.3. The area where in-house testing will occur is clearly identified on the Form MJ-02: Premises Diagram that is submitted with this application.

5.4. Describe the testing procedures and protocols the marijuana product manufacturing facility will follow:

All finished cannabis products are to be tested as per state regulation, via certified and licensed testing facility (i.e.-Canntest) for potency, Terpenes, solvents, and Microbials. No product will leave the facility without the batch having received test results, and any batch will be segregated in its entirety until results are received. Only after having appropriately "passed" testing results will any product be packaged, labeled, and marketed.

Upon completion of processing, the batch will be segregated, and a sample pulled from the batch for testing of the "finished" product. The sample will be submitted for testing through Metrc as representative of the batch it was pulled from, packaged, and manifested for delivery to the lab. When the results have been entered into METRC by the lab, and received by the facility, packaging and sales of that batch may commence.

AMCO RECEIVED 02/26/21

Section 8 – Prohibitions

Review the requirements under 3 AAC 306.510.

8.1. I certify that the marijuana product manufacturing facility will not: Initials

a. **sell, deliver, distribute, or transfer any marijuana, marijuana concentrate, or marijuana product directly to a consumer, with or without compensation;** JMB

b. **allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or marijuana product on the licensed premises; or** JMB

c. **manufacture or sell any product that is an adulterated food or drink, closely resembles a familiar food or drink item including candy, or is packaged to look like candy, or in bright colors or with cartoon characters or other pictures or images that would appeal to children.** JMB

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M. Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

Jason M. Bott
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

AMCO RECEIVED 02/26/21

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-08: Local Government Notice Affidavit

What is this form?

A local government notice affidavit is required for all marijuana establishment license applications with a proposed premises that is located within a local government, per 3 AAC 306.025(b)(3). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by submitting a copy of the application to each local government and any community council in the area of the proposed licensed premises. For an establishment located inside the boundaries of city that is within a borough, both the city and the borough must be notified.

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	GREENSTAR INC	**License Number:**	23692		
License Type:	CONCENTRATES MANUFACTURING FACILITY				
Doing Business As:	GOLD STAR CONCENTRATES				
Premises Address:	40593 KALIFORNSKY BEACH RD STE C				
City:	KENAI	**State:**	AK	**ZIP:**	99611

Section 2 – Certification

I certify that I have met the local government notice requirement set forth under 3 AAC 306.025(b)(3) by submitting a copy of my application to the following local government (LG) official(s) and community council (if applicable):

Local Government(s): KENAI PENINSULA BOROUGH Date Submitted: 6/30/2020

Name/Title of LG Official 1: Tatyanah Shassetz KPB Clerks office Name/Title of LG Official 2: _____

Community Council: _____ Date Submitted: _____
(Municipality of Anchorage and Matanuska-Susitna Borough only)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

JASON M BOTT
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 30th day of June, 2020.

JUL 21 2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

What is this form?

A statement of financial interest completed by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(4). A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each proposed licensee before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	GREENSTAR INC	**License Number:**	23692		
License Type:	mj CONCENTRATES MANUFACTURE FACILITY				
Doing Business As:	GOLD STAR CONCENTRATES				
Premises Address:	40593 Kalifornsky Beach Rd Ste C				
City:	KENAI	**State:**	AK	**ZIP:**	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	JASON M BOTH		
Title:	PRESIDENT		
SSN:	[redacted]	**Date of Birth:**	[redacted]

AMCO

JUL 21 2020

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

Section 3 – Certifications

I certify that no person other than a proposed licensee listed on my marijuana establishment license application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which a marijuana establishment license is being applied for.

I further certify that any ownership change shall be reported to the board as required under 3 AAC 306.040.

I understand that my fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI), and that I have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record.
The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

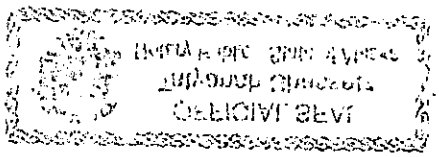
Tatyanah Shassetz
Notary Public in and for the State of Alaska

JASON M BOTT
Printed name of licensee

My commission expires: 10/23/2022

Subscribed and sworn to before me this 20th day of July, 2020.

AMCO
JUL 21 2020



Alaska Business License # **2094943**

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

AMCO
JUL 21 2020

This is to certify that

Gold Star Concentrates

PO box 3208, Soldotna, AK 99669

owned by

Greenstar, Inc.

is licensed by the department to conduct business for the period

November 10, 2019 to December 31, 2020
for the following line(s) of business:

31 - Manufacturing

THE SEAL OF THE STATE OF ALASKA

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Anderson
Commissioner

ENTITY DETAILS

Name(s)

Type	Name
Legal Name	Greenstar, Inc.

Entity Type: Business Corporation

Entity #: 10055488

Status: Good Standing

AK Formed Date: 4/4/2017

Duration/Expiration: Perpetual

Home State: ALASKA

Next Biennial Report Due: 1/2/2021

Entity Mailing Address: PO BOX 3208, SOLDOTNA, AK 99669

Entity Physical Address: 54843 KENAI SPUR HWY, NIKISKI, AK 99635

Registered Agent

Agent Name: JASON BOTT

Registered Mailing Address: 35835 RYAN LANE, SOLDOTNA, AK 99669

Registered Physical Address: 35835 RYAN LANE, SOLDOTNA, AK 99669

Officials

☐ Show Former

AK Entity #	Name	Titles	Owned
	Jason Bott	Director, President, Shareholder, Treasurer, Secretary	100.00

Filed Documents

Date Filed	Type	Filing	Certificate
4/04/2017	Creation Filing	Click to View	Click to View
4/24/2017	Entity Address Change	Click to View	
5/15/2017	Initial Report	Click to View	
6/28/2018	Change of Officials	Click to View	
4/09/2019	Biennial Report	Click to View	

Close Details **Print Friendly Version**

AMCO

JUL 21 2020

Alaska Entity #10055488

State of Alaska
Department of Commerce, Community, and Economic Development
Corporations, Business, and Professional Licensing

Certificate of Incorporation

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

Greenstar, Inc.

IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective **April 04, 2017**.

Chris Hladick
Commissioner

AMCO
JUL 21 2020

BY-LAWS

OF

Greenstar, Inc.

ADOPTED: May 10, 2017

ARTICLE I

OFFICES

1. **Registered Office and Agent.** The registered or statutory office of the Corporation in the State of Alaska is at 35835 Ryan Lane, Soldotna, Alaska, 99669. The registered, statutory or resident agent of the Corporation at such office is JASON BOTT.

2. **Other Places of Business.** Branch or subordinate offices or places of business may be established at any time by the Board if Directors at any place or places where the corporation is qualified to do business.

ARTICLE II

SHAREHOLDERS

1. **Annual Meeting.** The annual meeting of shareholders shall be held upon not less than ten nor more than fifty days written notice of the time, place and purpose of the meeting, at 10 o'clock A.m. on the 15th day of the January of each year at the principal office of the Corporation or at such other time and place as shall be specified in the notice of meeting, in order to elect directors and transact such other business as shall come before the meeting, including the election of any officers as required by law. If that date is a legal holiday, the meeting shall be held at the same hour on the next succeeding business day.

AMCO
JUL 21 2020

2. **Special Meeting.** A special meeting of shareholders may be called for any purpose by the president or the Board of Directors as permitted by law. A special meeting shall be held upon not less than ten nor more than fifty days written notice of the time, place and purposes of the meeting.

3. **Action Without a Meeting.** The shareholders may act without a meeting if, prior or subsequent to such action, each shareholder who would have been entitled to vote upon such action shall consent in writing to such action. Such written consent or consents shall be filed in the minute book.

4. **Quorum.** The presence at a meeting in person or by proxy of the holders of shares entitled to cast a majority of all shares issued and outstanding shall constitute a quorum.

5. **Record Date.** The record date for all meetings of shareholders shall be as fixed by the Board of Directors or as provided by Statute.

ARTICLE III

BOARD OF DIRECTORS

1. **Number and Term of Office.** The Board of Directors shall consist of two members. Each director shall be elected by the shareholders at each annual meeting and shall hold office until the next annual meeting of shareholders and until that director's successor shall have been elected and qualified.

2. **Regular Meetings.** A regular meeting of the Board shall be held without notice immediately following and at the same place as the annual shareholder's meeting for the purpose of electing officers and conducting such other business as may come before the regular meetings which may be held without notice, except to members not present at the time of the adoption of the resolution.

3. **Special Meetings.** A special meeting of the Board may be called at any time by the President or by one directors for any purpose. Such meeting shall be held upon not less than one days notice if given orally, (either by telephone or in person,) or by telegraph, or upon not less than one days notice if given by depositing the notice in the United States Mail, postage prepaid. Such notice shall specify the time, place and purposes of the meeting.

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4. **Action Without a Meeting.** The Board may act without a meeting if, prior to such action, each member of the Board shall consent in writing thereto. Such consent or consents shall be filed in the minute book.

5. **Quorum.** A majority of the entire Board shall constitute a quorum for the transaction of business.

6. **Vacancies in Board of Directors.** Vacancies in the Board, whether caused by removal, death, mental or physical incapacitation or any other reason, including vacancies caused by an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors, even though less than a quorum of the Board, or by a sole remaining director.

ARTICLE IV

WAIVER OF NOTICE

Any notice required by these By-laws, the certificate of incorporation or the laws of the State of Alaska may be waived in writing by the person entitled to notice. The waiver or waivers may be executed either before, at or after the event with respect to which notice is waived. Each director or shareholder attending a meeting without protesting the lack of proper notice, prior to the conclusion of the meeting, shall be deemed conclusively to have waived such notice.

ARTICLE V

OFFICES

1. **Election.** At its regular meeting following the annual meeting of the shareholders, the Board shall elect a President, Vice-President, Secretary and Treasurer, except such officers as shall be elected by the shareholders. It may elect such other officers, including one or more vice presidents, as it shall deem necessary. One person may hold two or more offices, but no person shall hold the office of president and secretary at the same time.

2. **Duties and Authority of President.** The president shall be chief executive officer of the Corporation. Subject only to the authority of the Board, he shall have general charge and supervision over, and responsibility for, the business and affairs of the Corporation. Unless otherwise directed by the Board, all other officers shall be subject to the authority and supervision of the president. The president

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may enter into and execute in the name of the Corporation contracts and other instruments in the regular course of business or contracts or other instruments not in the regular course of business which are authorized, either generally or specifically, by the Board. He shall have the general powers and duties of management usually vested in the office of the president of a corporation.

3. **Duties and Authority of Vice President**. The vice president shall perform such duties and have such authority as from time to time may be delegated to him by the president or by the Board. In the event of the absence, death, inability or refusal to act by the president, the vice president shall perform the duties and be vested with the authority of the president.

4. **Duties and Authority of Treasurer**. The treasurer shall have the custody of the funds and securities of the Corporation and shall keep or cause to be kept regular books of account for the Corporation. The treasurer shall perform such other duties and possess such other powers as are incident to that office or as shall be assigned by the president or the Board.

5. **Duties and Authority of Secretary**. The Secretary shall cause notices of all meetings to be served as prescribed in these By-laws and shall keep or cause to be kept the minutes of all meetings of the shareholders and the be kept the minutes of all meetings of the shareholders and the Board. The secretary shall have charge of the seal of Board. The secretary shall perform such other duties and possess such other powers as are incident to that office or as are assigned by the president or the Board.

6. **Removal of Officers**. The Board may remove any officer or agent of the Corporation if such action, in the judgment of the Board, is in the best interest of the Corporation. Appointment or election to a corporate office shall not, of itself, establish or create contract rights.

7. **Vacancies in Offices**. The Board, in its absolute discretion, may fill all vacancies in offices, regardless of the cause of such vacancies, for the remainder of the terms of the offices.

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ARTICLE VI

AMENDMENTS TO AND EFFECT OF BY-LAWS

1. **Force and Effect of By-laws.** These By-laws are subject to the provisions of the laws of the State of Alaska and the Corporation's Certificate of Incorporation, as it may be amended from time to time. If any provision in these By-laws is inconsistent with a provision in the State statutes or the Certificate of Incorporation, the provision of the State of Alaska statutes or the Certificate of Incorporation shall govern.

Wherever in these By-laws references are made to more than one incorporator, director or shareholder, they shall, if this is a sole incorporator, director, shareholder corporation, be construed to mean the solitary person; and all provisions dealing with the quantum of majorities or quorums shall be deemed to mean the action by the one person constituting the corporation.

2. **Amendment to By-laws.** These By-laws may be altered, amended or repealed by the shareholders or the Board. Any By-laws adopted, amended or repealed by the shareholders may be amended or repealed by the Board, unless the resolution of the shareholders adopting such By-laws expressly reserves to the shareholders the right to amend or repeal it.

ARTICLE VII

FISCAL YEAR

1. **Fiscal Year.** The fiscal year of the Corporation shall begin on the first day of January of each year.

DATED and approved on the 10th day of May, 2017.

President

Secretary

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Alaska Food Code
2021 Establishment Permit

Division of Environmental Health
Food Safety & Sanitation Program

Permit Number:	11296
Issued to:	**GREENSTAR INC.**
For:	**Greenstar Flower Outlet**
For Operation of:	**FM-1 Convenience Store**
Located at:	**40593 Kalifornsky Beach RD STE B Kenai, AK 99611**

This permit, issued under the provisions of 18 AAC 31, is valid until the noted expiration date or unless suspended or revoked by the department.

This permit is not transferable for change of ownership, facility location, or type of operation. It must be posted in plain view in the establishment and is the property of the State of Alaska.

Expiration Date:
December 31, 2021

Program Manager:

If you have questions or concerns regarding safe food handling practices call toll free:

1-87-SAFE-FOOD

(in Anchorage call 334-2560)

[EH / Food Safety and Sanitation]

PRINT YOUR FOOD WORKER CARD

Congratulations on passing the State of Alaska's Food Safety test and meeting all of the qualifications necessary to obtain a Food Worker Card and work in Alaska's food industry. You will need to print two copies: one copy for your employer and one to keep on your person.

Note, your Food Worker Card is good for a period of three years from today's date. Please keep your Test ID. It is your proof of qualifying to work in Alaska's food industry. If your card is lost or stolen, you will need your Test ID to come back to this page and print out a replacement.

ALASKA DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Division of Environmental Health
Food Safety and Sanitation Program

Food Worker Card
Jason Bott

Issued: 6/29/2020 Expires: 6/29/2023

Food Worker #: 1094211
1-87-SAFE-FOOD
http://www.alaska.gov

Program Manager

State of Alaska © 2013 Webmaster (mailto:beth.johnson@alaska.gov)

Gmail **jason bott <greenstar.cultivators@gmail.com>**

Greenstar Flower Outlet

Isernhagen, Heidi L (DEC) <heidi.isernhagen@alaska.gov> Thu, Jul 2, 2020 at 8:35 AM
To: jason bott <greenstar.cultivators@gmail.com>

Good Morning,

You are correct, if you are only manufacturing products that are intended to be smoked then you do not need a permit from us for the manufacturing. I was unsure what products you intend to make at your facility. I would not need to see any labels of products that are intended to be smoked.

Please submit the application and plan review paperwork for the retail store. Please also include a list of the products you intend to sell (i.e. edibles, edibles that require refrigeration, etc.).

Thank you!

Heidi Isernhagen

ADEC

Food Safety and Sanitation

43335 Kalifornsky Beach Rd, Suite 11

Soldotna, AK 99669

(907) 262-3416 phone

(907) 262-2294 fax

heidi.isernhagen@alaska.gov

From: jason bott [mailto:greenstar.cultivators@gmail.com]
Sent: Tuesday, June 30, 2020 4:56 PM
To: Isernhagen, Heidi L (DEC) <heidi.isernhagen@alaska.gov>
Subject: Re: Greenstar Flower Outlet

Hi again,

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Diamonds and Sauce		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	This product has the appearance of crystalline pieces "diamonds", in a viscous liquid " sauce" that is amber to yellow, to clear in color.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is the result of placing our Terp Sauce product in a pressure oven at low heat and moderate pressure within a covered glass vessel until the THC-a precipitates out of solution and agglomerates into larger thc-a crystals that are present in a liquid constituted of the other cannabinoids present in the "sauce". This results in a product that is a mixture of THC-a isolate crystals and the extruded oils, terpenes, and other cannabinoids in a viscous liquid form. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Diamonds and Sauce
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Diamonds and Sauce Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Flower Rosin		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The final color and consistency of the Rosin is generally, a light greenish tan to amber/yellow color which can vary from strain differences and pressing times and temps. Consistency of the final product can likewise vary for the same reasons, from a slightly crumbly texture, to a wax like, or a sticky sap like consistency at room temp. May be a blend of strains or strain specific.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis flower.
Standard Production Procedure and Detailed Manufacturing Process:	This is derived by pressing tested flower in a rosin press, the flower is broken up, contained in mesh bags to retain plant material, and pressed at a given pressure and temperature, to mechanically separate resins, oils, and waxes from the plant material. Again, the final color of the Rosin is generally, a light greenish tan to amber/yellow color which can vary from strain differences and pressing times and temps. Consistency of the final product can likewise vary for the same reasons, from a slightly crumbly texture, to a wax like, or a sticky sap like consistency at room temp. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Flower Rosin
Product Type:	*marijuana concentrate*

Packaging Description:
Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.

This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.

Sample Labels:
Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.

Gold Star Concentrates: AK LIC. # 5b-23692

Gold Star Flower Rosin

Qty: 1 gram

METRC ID: 1A4020300003055000000001

Total THC: 75% (750 mg)

Total CBD: 1.1% (11 mg)

--------BARCODE --------

WARNING: Marijuana has intoxicating effects and may be habit forming and addictive.

Marijuana impairs concentration, coordination, and judgement.

Do not operate a vehicle or machinery under its influence.

There are hearth risks associated with consumption of marijuana.

For use only by adults 21 and older. Keep out of the reach of children.

Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Full Melt		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	90 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	Granular, semi crystalline in appearance, similar to very fine sand, usually light tan to white in color. May clump together or be loose in consistency.
Ingredients:	Glandular trichome heads, isolated so as not to contain plant material. Can be made from flower or trim material.
Standard Production Procedure and Detailed Manufacturing Process:	An ice water extraction done by agitation of either wet or dry cannabis material in a bath of Reverse Osmosis water and ice, to break off capitate glands made brittle by low temps. The water is then filtered through a graduation of mesh sieves from 220 micron to 25 micron. Plant material is filtered out, and the glands caught in the finest mesh sizes are classed as full melt. This product is then removed, additionally cleaned up if necessary, freeze dried, and is then ready for testing and packaging. May be a blend of strains, or strain specific. All glands are to be freeze dried to preserve terpenes and cannabinoids, and the product garnered from the larger sized mesh sieves will be used in other products.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Full Melt
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Full Melt Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 47% (470 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Glass Hash		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	A semi translucent solid that is pliable at room temperature, but brittle when cold. ilt can be yellowish, light tan, to clear or white in color.
Ingredients:	Glandular trichome heads, isolated so as not to contain plant material. This product can be made from flower or trim material.
Standard Production Procedure and Detailed Manufacturing Process:	An ice water extraction done by agitation of either wet or dry cannabis material in a bath of Reverse Osmosis water and ice, to break off capitate glands made brittle by low temps. The water is then filtered through a graduation of mesh sieves from 220 micron to 25 micron. Plant material is filtered out, and the glands caught in the finest mesh sizes are classed as full melt. This product is then removed, additionally cleaned up if necessary, freeze dried, and is then pressed under low heat and pressure on a rosin press with a gauge set for uniform thickness, to form an amalgamate of the capitate gland heads before being cooled and dried again to be ready for testing and packaging.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Glass Hash
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Glass Hash Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin Carts		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The product will be an oil, and will be dark amber to clear in color, depending on input material. This oil will be very viscous at room temperature, can solidify at low temps, and viscosity decreases corresponding to an increase in temperature.
Ingredients:	Oils, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	Our Hash Rosin product is further refined to be suitable for use in a vape cartridge by dewaxing. This process is accomplished by dissolving the HASH ROSIN in organic, lab grade, pure ethanol, and placing it in an ultra low temp lab freezer until the waxes solidify. The waxes are then able to be removed via filtering through a Buchner (vacuum) funnel and fitted paper filters. The process may be repeated depending on wax content. The dewaxed solution will then be placed into a Rotovap with a condensing unit to remove and recover the organic ethanol. Once the ethanol has been removed, the product is suitable for use in cartridges/vape pens. Terpenes derived solely from cannabis may be added.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin Carts
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be injected via a set measure filling machine into vape cartridges, in 1/2 and 1 gram sizes, capped as per manufacturers specifications, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Hash Rosin Cart Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The finished product will generally be a tan color with a waxy to sap like appearance and consistency, but can vary depending on the properties of the input material. It may be soft and pliable like a putty to sticky and somewhat oily at room temperature.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is derived from pressing the glands captured in the larger micron sized sieves as a byproduct of the making of our Full Melt or Temple Hash product in a rosin press. The glands not fine enough to classify as Full Melt, or to be put into our Temple Hash products are also freeze dried after the ice water or dry sift extraction and are subsequently placed into mesh filter bags and pressed under low heat to extract the oils, terpenes, and cannabinoids from the gland heads. Again,the finished product will generally be a tan color with a waxy appearance and consistency, but can vary with different input material. This product can be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

AMCO RECEIVED 02/26/21

Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin
Product Type:	*marijuana concentrate*

Packaging Description:
Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.

This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.

Sample Labels:
Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.

Gold Star Concentrates: AK LIC. # 5b-23692

Gold Star Hash Rosin

Qty: 1 gram

METRC ID: 1A4020300003055000000001

Total THC: 75% (750 mg)

Total CBD: 1.1% (11 mg)

-------BARCODE --------

WARNING: Marijuana has intoxicating effects and may be habit forming and addictive.

Marijuana impairs concentration, coordination, and judgement.

Do not operate a vehicle or machinery under its influence.

There are hearth risks associated with consumption of marijuana.

For use only by adults 21 and older. Keep out of the reach of children.

Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Temple Hash		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	A solid that is pliable at room temperature, but brittle when cold. ilt can be light tan, to dark tan, or brown in color.
Ingredients:	Glandular trichome heads, isolated so as not to contain plant material. This product can be made from flower or trim material.
Standard Production Procedure and Detailed Manufacturing Process:	An extraction done by agitation of dry cannabis material in a graduation of mesh sieves from 220 micron to 25 micron. Plant material is filtered out, and the glands caught in the finer mesh sizes are captured. This product is then removed, additionally cleaned up if necessary, freeze dried, and is then pressed under low heat and pressure on a rosin press with a gauge set for uniform thickness, to form an amalgamate of the captured material before being cooled and dried again to be ready for testing and packaging.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Temple Hash
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Temple Hash Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sauce		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	This product is a very viscous liquid to sap consistency. Color can range from dark brown to amber/yellow to honey in appearance,
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is a further refinement of our HASH ROSIN product. The finished HASH ROSIN is wrapped in a stainless steel mesh filter fabric, of smaller micron size, and is again pressed under low heat and moderate pressure. The resulting product is a very viscous liquid to sap consistency. Color can range from tan to amber/yellow. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sauce
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Terp Sauce Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sugar		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The finished product will generally be a amber to yellow in color The consistency of this product will be slightly waxy to sap textured and slightly crystalline in appearance., but can vary depending on the properties of the input material. It may be soft and pliable like a putty to sticky and somewhat oily or crumbly at room temperature.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is made from the further refinement of our Flower Rosin product. After pressing, the Flower Rosin product is placed in a pressure oven under low heat in a covered glass container and is stirred/agitated once the THC-a has just begun to crystalize and precipitate from solution. This results in a different consistency and flavor profile for the product. The consistency of this product will be slightly waxy to sap textured and slightly crystalline in appearance. This product May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sugar
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Terp Sugar Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Zombie Rosin		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The finished product will generally be a tan to amber/yellow color with a waxy to sap like appearance and consistency, but can vary depending on the properties of the input material. It may be soft and pliable like a putty to sticky and somewhat oily or crumbly at room temperature.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands that are freeze dried immediately upon harvest at the cultivation.
Standard Production Procedure and Detailed Manufacturing Process:	This product is derived by pressing the freeze dried glands as garnered in the in the ice water extraction process, just as for our HASH ROSIN product, but is differentiated by only utilizing material garnered from fresh (wet) cannabis material that is immediately freeze dried at the cultivation upon harvest, as this material has a higher terpene, flavonoid, and cannabinoid content. The freeze dried gland heads garnered from fresh material are placed in a mesh filter bag, and pressed under low temps and moderate pressure to extract the oils, terpenes and cannabinoids. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Zombie Rosin
Product Type:	*marijuana concentrate*

Packaging Description:
Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.

This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.

Sample Labels:
Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.

Gold Star Concentrates: AK LIC. # 5b-23692

Gold Star Zombie Rosin

Qty: 1 gram

METRC ID: 1A4020300003055000000001

Total THC: 75% (750 mg)

Total CBD: 1.1% (11 mg)

--------BARCODE --------

WARNING: Marijuana has intoxicating effects and may be habit forming and addictive.

Marijuana impairs concentration, coordination, and judgement.

Do not operate a vehicle or machinery under its influence.

There are hearth risks associated with consumption of marijuana.

For use only by adults 21 and older. Keep out of the reach of children.

Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Flower Rosin		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The final color and consistency of the Rosin is generally, a light greenish tan to amber/yellow color which can vary from strain differences and pressing times and temps. Consistency of the final product can likewise vary for the same reasons, from a slightly crumbly texture, to a wax like, or a sticky sap like consistency at room temp. May be a blend of strains or strain specific.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis flower.
Standard Production Procedure and Detailed Manufacturing Process:	This is derived by pressing tested flower in a rosin press, the flower is broken up, contained in mesh bags to retain plant material, and pressed at a given pressure and temperature, to mechanically separate resins, oils, and waxes from the plant material. Again, the final color of the Rosin is generally, a light greenish tan to amber/yellow color which can vary from strain differences and pressing times and temps. Consistency of the final product can likewise vary for the same reasons, from a slightly crumbly texture, to a wax like, or a sticky sap like consistency at room temp. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Flower Rosin
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Flower Rosin Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Full Melt		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	90 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	Granular, semi crystalline in appearance, similar to very fine sand, usually light tan to white in color. May clump together or be loose in consistency.
Ingredients:	Glandular trichome heads, isolated so as not to contain plant material. Can be made from flower or trim material.
Standard Production Procedure and Detailed Manufacturing Process:	An ice water extraction done by agitation of either wet or dry cannabis material in a bath of Reverse Osmosis water and ice, to break off capitate glands made brittle by low temps. The water is then filtered through a graduation of mesh sieves from 220 micron to 25 micron. Plant material is filtered out, and the glands caught in the finest mesh sizes are classed as full melt. This product is then removed, additionally cleaned up if necessary, freeze dried, and is then ready for testing and packaging. May be a blend of strains, or strain specific. All glands are to be freeze dried to preserve terpenes and cannabinoids, and the product garnered from the larger sized mesh sieves will be used in other products.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Full Melt
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Full Melt Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 47% (470 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Temple Hash		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	A solid that is pliable at room temperature, but brittle when cold. ilt can be light tan, to dark tan, or brown in color.
Ingredients:	Glandular trichome heads, isolated so as not to contain plant material. This product can be made from flower or trim material.
Standard Production Procedure and Detailed Manufacturing Process:	An extraction done by agitation of dry cannabis material in a graduation of mesh sieves from 220 micron to 25 micron. Plant material is filtered out, and the glands caught in the finer mesh sizes are captured. This product is then removed, additionally cleaned up if necessary, freeze dried, and is then pressed under low heat and pressure on a rosin press with a gauge set for uniform thickness, to form an amalgamate of the captured material before being cooled and dried again to be ready for testing and packaging.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Temple Hash
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Temple Hash Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Glass Hash		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	A semi translucent solid that is pliable at room temperature, but brittle when cold. ilt can be yellowish, light tan, to clear or white in color.
Ingredients:	Glandular trichome heads, isolated so as not to contain plant material. This product can be made from flower or trim material.
Standard Production Procedure and Detailed Manufacturing Process:	An ice water extraction done by agitation of either wet or dry cannabis material in a bath of Reverse Osmosis water and ice, to break off capitate glands made brittle by low temps. The water is then filtered through a graduation of mesh sieves from 220 micron to 25 micron. Plant material is filtered out, and the glands caught in the finest mesh sizes are classed as full melt. This product is then removed, additionally cleaned up if necessary, freeze dried, and is then pressed under low heat and pressure on a rosin press with a gauge set for uniform thickness, to form an amalgamate of the capitate gland heads before being cooled and dried again to be ready for testing and packaging.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Glass Hash
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Glass Hash Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

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Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin Carts		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The product will be an oil, and will be dark amber to clear in color, depending on input material. This oil will be very viscous at room temperature, can solidify at low temps, and viscosity decreases corresponding to an increase in temperature.
Ingredients:	Oils, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	Our Hash Rosin product is further refined to be suitable for use in a vape cartridge by dewaxing. This process is accomplished by dissolving the HASH ROSIN in organic, lab grade, pure ethanol, and placing it in an ultra low temp lab freezer until the waxes solidify. The waxes are then able to be removed via filtering through a Buchner (vacuum) funnel and fitted paper filters. The process may be repeated depending on wax content. The dewaxed solution will then be placed into a Rotovap with a condensing unit to remove and recover the organic ethanol. Once the ethanol has been removed, the product is suitable for use in cartridges/vape pens. Terpenes derived solely from cannabis may be added.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin Carts
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be injected via a set measure filling machine into vape cartridges, in 1/2 and 1 gram sizes, capped as per manufacturers specifications, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Hash Rosin Cart Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sauce		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	This product is a very viscous liquid to sap consistency. Color can range from dark brown to amber/yellow to honey in appearance,
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is a further refinement of our HASH ROSIN product. The finished HASH ROSIN is wrapped in a stainless steel mesh filter fabric, of smaller micron size, and is again pressed under low heat and moderate pressure. The resulting product is a very viscous liquid to sap consistency. Color can range from tan to amber/yellow. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

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Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sauce
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Terp Sauce Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

AMCO RECEIVED 02/26/21

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sugar		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The finished product will generally be a amber to yellow in color The consistency of this product will be slightly waxy to sap textured and slightly crystalline in appearance., but can vary depending on the properties of the input material. It may be soft and pliable like a putty to sticky and somewhat oily or crumbly at room temperature.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is made from the further refinement of our Flower Rosin product. After pressing, the Flower Rosin product is placed in a pressure oven under low heat in a covered glass container and is stirred/agitated once the THC-a has just begun to crystalize and precipitate from solution. This results in a different consistency and flavor profile for the product. The consistency of this product will be slightly waxy to sap textured and slightly crystalline in appearance. This product May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

AMCO RECEIVED 02/26/21

Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Terp Sugar
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Terp Sugar Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Zombie Rosin		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The finished product will generally be a tan to amber/yellow color with a waxy to sap like appearance and consistency, but can vary depending on the properties of the input material. It may be soft and pliable like a putty to sticky and somewhat oily or crumbly at room temperature.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands that are freeze dried immediately upon harvest at the cultivation.
Standard Production Procedure and Detailed Manufacturing Process:	This product is derived by pressing the freeze dried glands as garnered in the in the ice water extraction process, just as for our HASH ROSIN product, but is differentiated by only utilizing material garnered from fresh (wet) cannabis material that is immediately freeze dried at the cultivation upon harvest, as this material has a higher terpene, flavonoid, and cannabinoid content. The freeze dried gland heads garnered from fresh material are placed in a mesh filter bag, and pressed under low temps and moderate pressure to extract the oils, terpenes and cannabinoids. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

AMCO RECEIVED 02/26/21

Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Zombie Rosin
Product Type:	*marijuana concentrate*

Packaging Description:
Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.

This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.

Sample Labels:
Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.

Gold Star Concentrates: AK LIC. # 5b-23692

Gold Star Zombie Rosin

Qty: 1 gram

METRC ID: 1A4020300003055000000001

Total THC: 75% (750 mg)

Total CBD: 1.1% (11 mg)

--------BARCODE --------

WARNING: Marijuana has intoxicating effects and may be habit forming and addictive.

Marijuana impairs concentration, coordination, and judgement.

Do not operate a vehicle or machinery under its influence.

There are hearth risks associated with consumption of marijuana.

For use only by adults 21 and older. Keep out of the reach of children.

Marijuana should not be used by women who are pregnant or breastfeeding.

AMCO RECEIVED 02/26/21

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	The finished product will generally be a tan color with a waxy to sap like appearance and consistency, but can vary depending on the properties of the input material. It may be soft and pliable like a putty to sticky and somewhat oily at room temperature.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is derived from pressing the glands captured in the larger micron sized sieves as a byproduct of the making of our Full Melt or Temple Hash product in a rosin press. The glands not fine enough to classify as Full Melt, or to be put into our Temple Hash products are also freeze dried after the ice water or dry sift extraction and are subsequently placed into mesh filter bags and pressed under low heat to extract the oils, terpenes, and cannabinoids from the gland heads. Again,the finished product will generally be a tan color with a waxy appearance and consistency, but can vary with different input material. This product can be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

AMCO RECEIVED 02/26/21

Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Hash Rosin
Product Type:	*marijuana concentrate*

Packaging Description:
Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.

This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.

Sample Labels:
Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.

Gold Star Concentrates: AK LIC. # 5b-23692

Gold Star Hash Rosin

Qty: 1 gram

METRC ID: 1A4020300003055000000001

Total THC: 75% (750 mg)

Total CBD: 1.1% (11 mg)

-------BARCODE --------

WARNING: Marijuana has intoxicating effects and may be habit forming and addictive.

Marijuana impairs concentration, coordination, and judgement.

Do not operate a vehicle or machinery under its influence.

There are hearth risks associated with consumption of marijuana.

For use only by adults 21 and older. Keep out of the reach of children.

Marijuana should not be used by women who are pregnant or breastfeeding.

AMCO RECEIVED 02/26/21

Section 6 – Proposed Marijuana Concentrates and Marijuana Products

Review the requirements under 3 AAC 306.520, 3 AAC 306.525, and 3 AAC 306.560.

Attach a completed copy of this page for each proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Diamonds and Sauce		
Product Type: Choose one.	Marijuana Concentrate		
Perishable: Yes/No	Yes	**Shelf Life:** If perishable.	180 days
Intended Use: Smokable/ edible/topical/wholesale/etc.	Smokeable		

Product Description: Details must include the color, shape, and texture.	This product has the appearance of crystalline pieces "diamonds", in a viscous liquid " sauce" that is amber to yellow, to clear in color.
Ingredients:	Oils, waxes, terpenes and cannabinoids from pressed cannabis capitate glands.
Standard Production Procedure and Detailed Manufacturing Process:	This product is the result of placing our Terp Sauce product in a pressure oven at low heat and moderate pressure within a covered glass vessel until the THC-a precipitates out of solution and agglomerates into larger thc-a crystals that are present in a liquid constituted of the other cannabinoids present in the "sauce". This results in a product that is a mixture of THC-a isolate crystals and the extruded oils, terpenes, and other cannabinoids in a viscous liquid form. May be a blend of strains or strain specific.
Depiction: Provide a photograph, drawing, or graphic representation of the expected appearance of the final product.	

AMCO RECEIVED 02/26/21

Section 7 – Proposed Product Packaging and Sample Labels

Review the requirements under 3 AAC 306.520, 3 AAC 306.565, and 3 AAC 306.570.
Attach a completed copy of this page for <u>each</u> proposed marijuana concentrate or marijuana product.

Product Name:	Gold Star Diamonds and Sauce
Product Type:	*marijuana concentrate*

Packaging Description: Details must include the color(s), size, packaging materials used, total amount of THC, individual serving sizes (if multiple), and other specifics showing compliance with 3 AAC 306.565. Please include photos, drawings, or graphic representations.	This product will be weighed and packaged in a 1 gram quantity, in a glass cosmetic jar with a screw on lid, and then sealed in a child resistant, hermetically sealed mylar bag that is clear on the front, with an opaque back. The labeling is to be applied to the back of the bag in the form of a printed label with potency, THC specifics (%/mg), source, licensing, METRC, and testing information, as well as required warnings, printed on the label.
Sample Labels: Provide sample labels showing how the labeling requirements set forth in 3 AAC 306.570 will be met.	Gold Star Concentrates: AK LIC. # 5b-23692 Gold Star Diamonds and Sauce Qty: 1 gram METRC ID: 1A4020300003055000000001 Total THC: 75% (750 mg) Total CBD: 1.1% (11 mg) --------BARCODE -------- WARNING: Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. There are hearth risks associated with consumption of marijuana. For use only by adults 21 and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.

AMCO RECEIVED 02/26/21

Alcohol & Marijuana Control Office

License Number: 23692
License Status: New
License Type: Marijuana Concentrate Manufacturing Facility
Doing Business As: Gold Star Concentrates
Business License Number: 2094943
Designated Licensee: Jason Bott
Email Address: jason.greenstar.cultivators@gmail.com
Local Government: Kenai Peninsula Borough
Community Council:
Latitude, Longitude: 60.310400, -151.121239
Physical Address: 40593 Kalifornsky Beach Rd
Suite C
Kenai, AK 99611-7426
UNITED STATES

Licensee #1

Type: Entity
Alaska Entity Number: 10055488
Alaska Entity Name: Greenstar, Inc.
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: PO Box 3208
Soldotna, AK 99669-7905
UNITED STATES

Entity Official #1

Type: Individual
Name: Jason Bott
SSN: [redacted]
Date of Birth: [redacted]
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: PO Box 3208
Soldotna, AK 99669-7905
UNITED STATES

Note: *No affiliates entered for this license.*

Addendum to Lease Agreement

For the subject property located at 40593 Kalifornsky Beach Road,

Suites B & C,

Kenai, Ak 99611

Legally described as:

LOT 1, CARROL MARTIN SUBDIVISION NO. 2, according to Plat No. 94-82, Kenai, Ak

The following additions and statements, as pertaining to the previously signed and executed lease agreement denoting right of possession for the above mentioned property, in exchange for monies, as specified in the original lease agreement, are to be, upon signing by the same duly responsible representatives for both parties Jason M. Bott, as true and legal representative for Greenstar, Inc., and Blair Martin as true and legal representative for Otium Sanctum, LLC are to be binding, and in all considerations made, identically legally binding and enforceable, as addendums to, and in all considerations henceforth, parts of, the original executed lease agreement document.

ADDITIONAL CLAUSE IN ADDENDUM TO LEASE AGREEMENT:

DEFAULT AND EVICTION FROM/VACATION OF, PREMISES/PROPERTY BY TENTANT/LESSEE:

In the event of any default on the lease agreement, as is defined in the signed and executed lease agreement, by the tenant/lessee, resulting in either the eviction from, or the voluntary vacation of the property/premises by the tenant/lessee, the following statements are made, and the directive and procedures contained therein are to be strictly adhered to and enforced.

As the lessee/tenant is to be conducting business at the property as a **Cannabis Retail store and Marijuana Concentrate manufacturing facility, duly and legally licensed by the Sate of Alaska, to conduct business and commercial activity as such,** any plants, and any marijuana, marijuana products, marijuana waste materials, or any products associated with marijuana are to be viewed as falling directly under the strict regulatory provisions as set forth by the State of Alaska Alcohol and Marijuana Control Office (AMCO) and their applicable regulatory and enforcement divisions/departments. To that end, in the event of any default on the lease agreement, and subsequent eviction from/vacation of the property and premises by the tenant/lessee, the landlord/lessor is to immediately secure the premises and property, and notify the proper authorities (AMCO/AMCO enforcement) of the default, eviction/vacation, and keep the premises secured, while **NOT CONFISCATING, TAKING, SEIZING, OR IN ANY WAY**

REMOVING ANY ITEMS FROM THE PREMISES/PROPERTY UNTIL SUCH A TIME AS AMCO, OR THEIR REPRESENTATIVES HAVE BEEN CONTACTED, AND PROVIDED EITHER ASSISTANCE, OR WRITTEN INSTRUCTION/GUIDANCE, AS TO HOW THE LANDLORD/LESSOR AND/OR THEIR AGENT(S) ARE TO PROCEED. THE PROPERTY/PREMISES IS TO BE SECURED, WITH ABSOLUTELY NO ACTION CONCERNING THE REMOVAL OF ANY MARIJUANA RELATED ITEMS TO BE REMOVED WITHOUT THE EXPRESS WRITTEN DIRECTION OF AMCO, THE STATE OF ALASKA, OR THEIR AUTHORIZED AGENTS.THIS IS TO BE DONE AS A MEANS OF PREVENTING ANY POSSIBLE DIVERSION OF MARIJUANA OR MARIJUANA PRODUCTS, AD IS TO BE SEEN AS PART OF AND REQUISTE TO THE EXECUTION OF THE LEASE AGREEMENT.

Signed in agreement, by:

Jason M. Bott, as true and legal representative for Greenstar, Inc.

Blair Martin, as true and legal representative for Otium Sanctum, LLC.

And witnessed by:

I CERTIFY that Jason M. Bott and Blair Martin did appear before me and sign the foregoing document freely and voluntarily for the stated purposes and reasons set forth therein on the 23rd day of February, 2021.

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in the State of Alaska

My Commission Expires 10/23/2022

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA } **SS:**

Jeff Hayden being first duly sworn, on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing / Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

Marijuana license
12/06/20
12/13/20
12/20/20

New Marijuana Concentrate Manufacturing Facility License Application

Greenstar, Inc is applying under **3AAC 306.500(a)(2)** for a **new Marijuana Concentrate Manufacturing Facility License, License #23692**, doing business as **Gold Star Concentrates**, located at **40593 Kalifornsky Beach Rd, Suite C, Kenai, AK 99611-7426, United States**

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at http://www.commerce.alaska.gov/web/amco. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W. 7th ave, Suite 1600, Anchorage, Ak 99501.

Pub:December 6, 13 & 20, 2020 915167

X _____

SUBSCRIBED AND SWORN before me on this

11 **day of** Dec, **2020.**

_____

NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3-6-24.

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-07: Public Notice Posting Affidavit

What is this form?

A public notice posting affidavit is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(10). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by posting a true copy of the application for ten (10) days at the location of the proposed licensed premises and one other conspicuous location in the area of the proposed premises, per 3 AAC 306.025(b)(1).

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Greenstar Inc.	**License Number:**	23692		
License Type:	Marijuana Concentrates Manufacturing Facility				
Doing Business As:	Gold Star Concentrates				
Premises Address:	40593 Kalifornsky Beach Rd., Ste. C				
City:	Kenai	**State:**	AK	**ZIP:**	99611

Section 2 – Certification

I certify that I have met the public notice requirement set forth under 3 AAC 306.025(b)(1) by posting a copy of my application for the following 10-day period at the location of the proposed licensed premises and at the following conspicuous location in the area of the proposed premises:

Start Date: 12-04-2020 End Date: 12-18-2020

Other conspicuous location: Kenai Post Office

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jason M Bott
Signature of licensee

Jason M. Bott
Printed name of licensee

OFFICIAL SEAL
Tatyanah Shassetz
Notary Public - State of Alaska

Tatyanah Shassetz
Notary Public in and for the State of Alaska

My commission expires: 10/23/2022

Subscribed and sworn to before me this 23rd day of February, 2021.

Public Notice

Application for Marijuana Establishment License

License Number: 23692
License Status: Initiated
License Type: Marijuana Concentrate Manufacturing Facility
Doing Business As: Gold Star Concentrates
Business License Number: 2094943
Email Address: jason.greenstar.cultivators@gmail.com
Latitude, Longitude: 60.310400, -151.121239
Physical Address: 40593 Kalifornsky Beach Rd
Suite C
Kenai, AK 99611-7426
UNITED STATES

Licensee #1

Type: Entity
Alaska Entity Number: 10055488
Alaska Entity Name: Greenstar, Inc.
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: PO Box 3208
Soldotna, AK 99669-7905
UNITED STATES

Entity Official #1

Type: Individual
Name: Jason Bott
Phone Number: 907-252-4342
Email Address: jason.greenstar.cultivators@gmail.com
Mailing Address: PO Box 3208
Soldotna, AK 99669-7905
UNITED STATES

Note: *No affiliates entered for this license.*

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at https://www.commerce.alaska.gov/web/amco. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W 7th Ave, Suite 1600, Anchorage, AK 99501.

POSTING DATE 12-4-2020

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director MA

DATE: April 13, 2021

RE: Application for a new Retail Marijuana Concentrate Manufacturing Facility License. Applicant: Greenstar, Inc. dba Gold Star Concentrates; Land Owner: Otium Sanctum, LLC; Parcel ID#: 055-040-33; Location: 40593 Kalifornsky Beach Road.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled April 12, 2021 meeting.

A motion to recommend approval of the *Greenstar, Inc. dba Gold Star Concentrates* a Retail Marijuana Manufacturing Facility License application passed by unanimous vote (9-Yes, 0-No, 2-Absent) subject to the following conditions:

1. The marijuana establishment shall conduct their operations consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 A.M. and 8:00 A.M.

Attached are the unapproved minutes of the subject portion of the meeting.

April 12, 2021 Planning Commission Draft Meeting Minutes

potential for development, that access to her property is very important, and just wants to make sure that it will not be negatively affected which could affect the value of her property.

Hearing no one else wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Gillham to forward to the Assembly the application of the retail Marijuana Store License for Greenstar, Inc. with staff's findings and pursuant to 3 AAC 306.060(b) the four conditions be place on the state license.

Vice Chair Ruffner stated that he would like to address some of Ms. Brown's concerns. He noted the commission is given a set of laws from the Assembly, which they follow when reviewing these applications. Generally, if the applications fit within those parameters we approve them to move on to the Assembly. The commission has not been asked to take into consideration the number of marijuana licenses issued within the borough or whether or not there is a market demand for these types of products, so this is not something that we would take into consideration.

Commissioner Ecklund informed Ms. Brown if issues do arise regarding this new facility she can report them to the borough and that they will consider them when they review the business licensees for renewal.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	9	No	0	Absent	2
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Martin				

AGENDA ITEM E. PUBLIC HEARING

10. State application for a marijuana establishment license; Kalifornsky area.

Applicant: Greenstar, Inc. dba Gold Star Concentrates
Landowner: Otium Sanctum, LLC
Parcel ID#: 055-040-33
Legal Description: T05N, R11W. S.M., KN 0940082 Carrol Martin Sub. No. 2, Lot 1
Location: 40593 Kalifornsky Beach Road

Staff report given by Bryan Taylor

BACKGROUND INFORMATION: On June 30, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Marijuana Concentrate Manufacturing Facility license. The AMCO notified the borough that the application was complete on March 1, 2021. On March 22, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed manufacturing facility on the above-described parcel. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.

2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.

3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.

5. The proposed facility is located where there is sufficient ingress and egress for traffic to the

parcel.

- The site plan indicates that the approach is or will be constructed to a minimum width of 24 feet where it accesses the right-of-way.
- The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
- The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely.
- On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway.

6. The signed acknowledgement form indicates that the proposed facility will not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

KPB 7.30.020(E) allows the recommendation of additional conditions on a license to meet the following standards:

- protection against damage to adjacent properties,
- protection against offsite odors,
- protection against noise,
- protection against visual impacts,
- protection against road damage,
- protection against criminal activity, and
- protection of public safety.

The Alaska Marijuana Control Board will impose a condition that a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable (3 ACC 306.060b). If the Planning Commission recommends additional conditions, additional findings must be adopted to support the conditions.

PUBLIC NOTICE: Public notice of the application was mailed on March 26, 2021, to the 8 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the April 1, 2021 & April 8, 2021 issues of the Peninsula Clarion.

ATTACHMENTS

- State marijuana establishment application with associated submitted documents
- Site Plan
- Acknowledgement form
- Aerial map
- Area land use map with 500' & 1,000' parcel radius

STAFF RECOMMENDATION

Staff recommends that the planning commission forward this application to the assembly with the findings contained in this staff report and with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m.

and 8:00 a.m.

END OF STAFF REPORT

Vice Chair Ruffner opened the item for public comment.

Asonya Brown; 1152 Norton Ave., Columbus, OH 43212: Ms. Brown noted that her concerns with this license were similar to the earlier one. Would the addition of marijuana extraction business increase the traffic in the area? She is also concerned that this business coming into the area would negatively affect the value of her property by limiting the types of buyers that might be interested in her property. She also wanted to know what the zoning was for this area.

Bryan Taylor stated that both properties were within the Borough's Rural District, which generally allows for unrestricted land uses. However, the following types of uses within this district require a conditional land use permit, correctional community residential centers, concentrated animal feeding operations & commercial sand, gravel or material extraction sites. The ingress/egress issues would not come under borough jurisdiction as both Ms. Brown's and Otium Sanctum properties front onto Kalifornsky Beach Road, which is a State of Alaska maintained road. The State would be the issuing authority for driveway permits. Mr. Taylor stated in his assessment with Ms. Brown's property being across the road he does not see any change to the ingress/egress to her property.

Hearing no one else wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Gillham moved, seconded by Commissioner Chesser to forward to the Assembly the application of the retail Marijuana Manufacturing Facility License to Gold Star Concentrates, with staff's findings and pursuant to 3 AAC 306.060(b) the four conditions be place on the state license.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	9	No	0	Absent	2
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Martin				

AGENDA ITEM K. DIRECTOR'S COMMENTS

AGENDA ITEM L. COMMISSIONER COMMENTS - None

AGENDA ITEM M. ADJOURNMENT – Commissioner Carluccio moved to adjourn the meeting at 10:25 p.m.

Ann E. Shirnberg
Administrative Assistant

Office of the Borough Clerk
144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS ACKNOWLEDGEMENT FORM

Please review the statements below and acknowledge your understanding of the conditions and intent to comply by your signature below.

There shall be no parking in borough rights-of-way generated by the marijuana establishment.

If I have a retail marijuana license, I will not conduct any business on, or allow any consumer to access, the premises, between the hours of 2:00 a.m. and 8:00 a.m. each day.

I must stay current in obligations owed to the Kenai Peninsula Borough or my license may be subject to a protest by the KPB Assembly.

It is my responsibility to abide by all federal, state, and local laws applicable to my marijuana establishment.

I understand Kenai Peninsula Borough staff will enter my property for purposes of evaluating ongoing compliance with KPB 7.30 and any conditions placed on the license by the State of Alaska Marijuana Control Board.

I have received, read and understand the additional review standards and conditions set out in KPB 7.30.

Gold Star Concentrates
40593 Kalifornsky Beach Road, Kenai, AK 99611; T 5N R 11W SEC 15 SEWARD MERIDIAN KN 0940082 CARROL MARTIN SUB NO 2 LOT 1
Application for Marijuana Product Manufacturing Facility (License Number: 23692)

Signature

03/22/2021
Date

Please return completed form along with site development plan to the KPB Clerk's

T 5N R 11W SEC 15 SEWARD MERIDIAN KN
N1/2 SW1/4 & N1/2 S1/2 SW1/4 & NW1/4 SE1/4

BRIDGE ACCESS ROAD

EXISTING STRUCTURE

NEW PROPOSED STRUCTURE

60'

121'

81'

194'

PARKING

SURVEY POINT

SURVEY POINT

SURVEY POINT

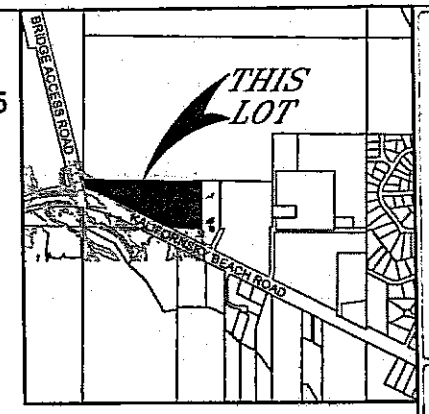
135'±

KALIFORNSKY BEACH ROAD

KALIFORNSKY BEACH RD

LOT 1

T 5N
R 11W
SEC 15



VICINITY MAP
SCALE: 1" = 1/2 MILE

SITE PLAN
SCALE: 1" = 80'

Solid Outline
PARKING AREA W/TURN AROUND

broken Outline
ADDITIONAL TURN AROUND

REVISIONS

SITE PLAN

J & M FARMS LLC
Kenai, Alaska

TAURIAINEN ENGINEERING & TESTING
35186 Spur Hwy Soldotna, AK 99669 (907)262-4624 FAX 262-5777 engineeringalaska@gci.net

STATE OF ALASKA
49th
Mike Tauriainen
No.3380-E
REGISTERED PROFESSIONAL ENGINEER

DATE	NOV 2019
DRAWN	HSW
CHECKED	MR
FILE NAME	SITE
PROJ #	19109

SHEET
C1
OF 10

1010

Office of the Borough Clerk
144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS ACKNOWLEDGEMENT FORM

Please review the statements below and acknowledge your understanding of the conditions and intent to comply by your signature below.

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I must stay current in obligations owed to the Kenai Peninsula Borough or my license may be subject to a protest by the KPB Assembly.

It is my responsibility to abide by all federal, state, and local laws applicable to my marijuana establishment.

I understand Kenai Peninsula Borough staff will enter my property for purposes of evaluating ongoing compliance with KPB 7.30 and any conditions placed on the license by the State of Alaska Marijuana Control Board.

I have received, read and understand the additional review standards and conditions set out in KPB 7.30.

Gold Star Concentrates
40593 Kalifornsky Beach Road, Kenai, AK 99611; T 5N R 11W SEC 15 SEWARD MERIDIAN KN 0940082 CARROL MARTIN SUB NO 2 LOT 1
Application for Marijuana Product Manufacturing Facility (License Number: 23692)

Signature _____ Date 03/22/2021

Please return completed form along with site development plan to the KPB Clerk's

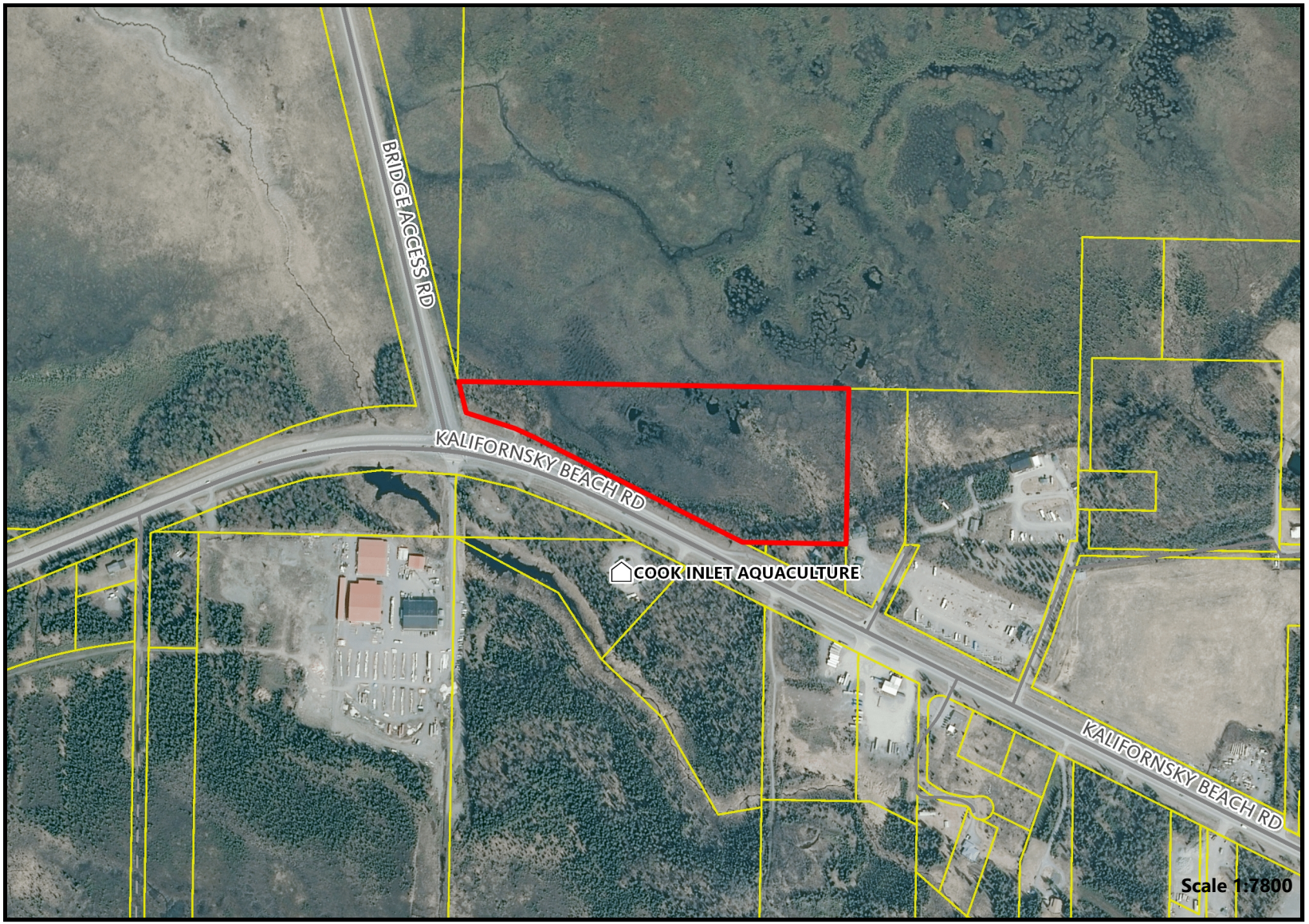
Kenai Peninsula Borough Planning Department

Recommendation on State Application for Marijuana Product Manufacturing Facility

Applicant: Gold Star Concentrates

KPB Parcel ID: 05504033

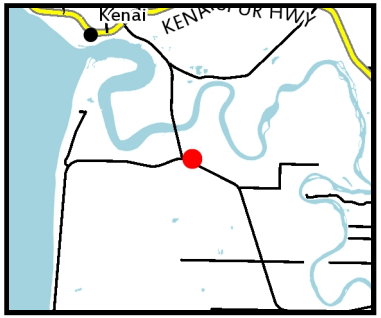
Aerial Imagery Map



Parcel Boundary

All Other Parcels

Vicinity



The data displayed herein is neither a legally recorded map nor survey and should only be used for general reference purposes. It is not intended to be used for measurement. Kenai Peninsula Borough assun liability as to the accuracy of any data displayed herein. Original source documents should be consulted for accuracy verification.

4/8/2021 4:08

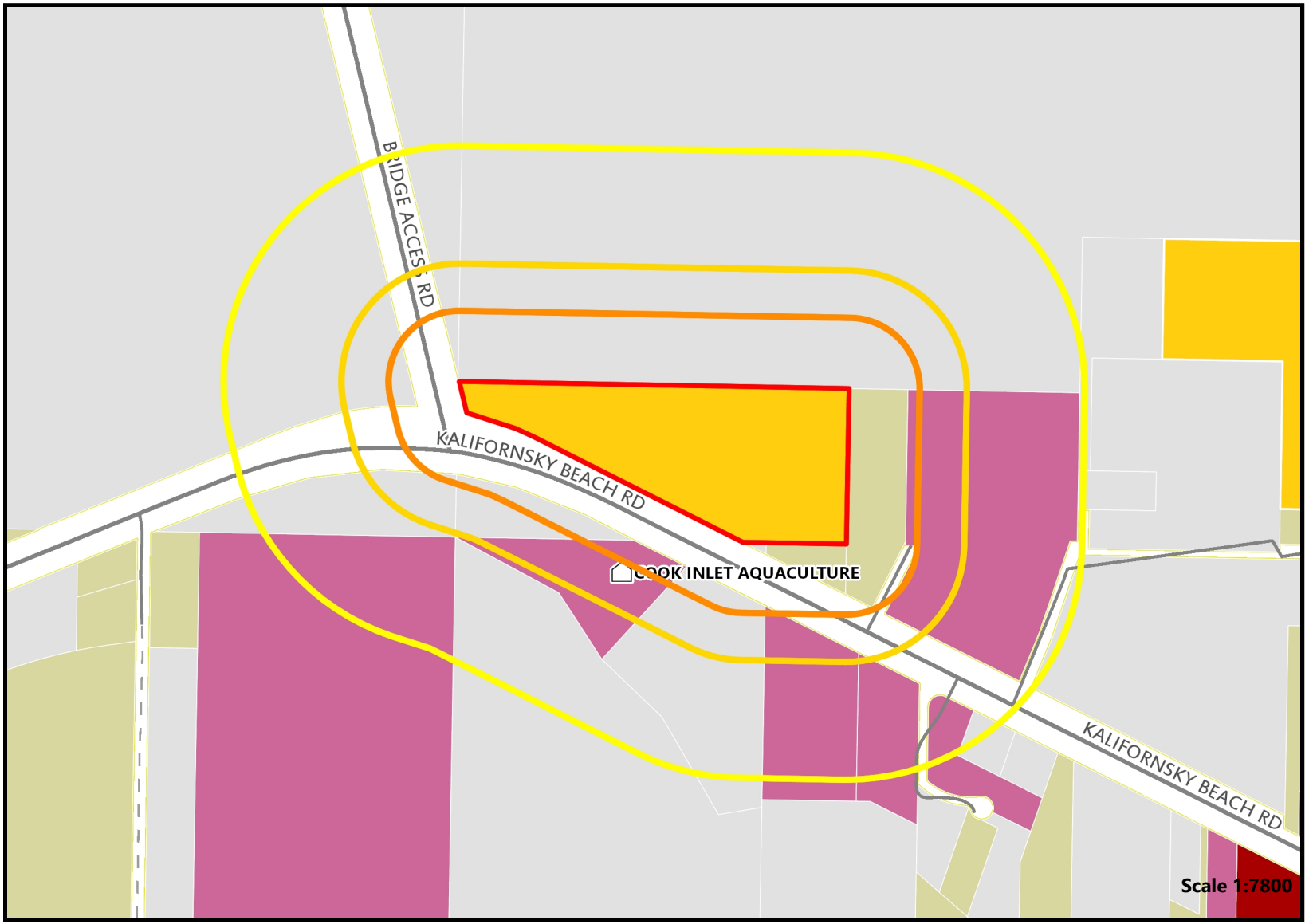
Kenai Peninsula Borough Planning Department

Recommendation on State Application for Marijuana Product Manufacturing Facility

Applicant: Gold Star Concentrates

KPB Parcel ID: 05504033

Adjacent Land Use Map



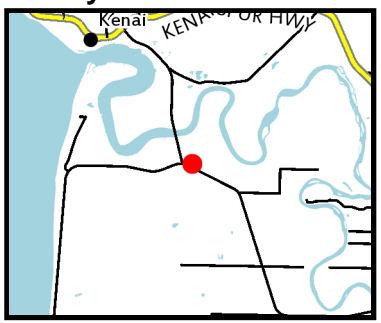
AMCO # 23692

- 1000ft Radius
- 500ft Radius
- 300ft Notification Area
- Parcel Boundary

Land Usage in 1000ft radius

- Accessory Building
  1 parcels
- Commercial
  6 parcels
- Residential
  2 parcels
- Vacant
  10 parcels

Vicinity



Radii shown depict the distance from the parcel boundaries. KPB 7.30 states that the distance must be measured by the shortest pedestrian route. If there were relevant facilities within the 500-foot or 1,000-foot radius, the shortest pedestrian path would be measured and depicted here.

The data displayed herein is neither a legally recorded map nor survey and should only be used for general reference purposes. It is not intended to be used for measurement. Kenai Peninsula Borough assun liability as to the accuracy of any data displayed herein. Original source documents should be consulted for accuracy verification.

4/8/2021 4:08

Kenai Peninsula Borough
Office of the Borough Mayor

MAYOR'S REPORT TO THE ASSEMBLY

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

FROM: Charlie Pierce, Kenai Peninsula Borough Mayor

DATE: May 4, 2021

Assembly Request / Response

None

Agreements and Contracts

a. Authorization to Award a Contract for ITB21-021 North Peninsula Recreation Service Area Nikiski Pool Reroof to Earhart Roofing Co. Inc., Anchorage, Alaska.

b. Authorization to Award a Contract for RFP21-006 Homer High School Roof Professional Design Service's to K+A designstudios, Kenai AK.

Other

a. Revenue – Expenditure Report – March 2021
b. Budget Revisions – March 2021
c. Tax Adjustment Request Approval
d. Litigation Status Report – Quarter Ending 03/31/21

DocuSign Envelope ID: 04DA1D12-AEA7-49E7-B4F9-E8183E7D0D09

Kenai Peninsula Borough
Purchasing and Contracting Department

MEMORANDUM

TO: Charlie Pierce, Mayor

THRU: John Hedges, Purchasing & Contracting Director JH

FROM: Carmen Vick, Project Manager CV

DATE: March 23, 2021

RE: Authorization to Award a Contract for ITB21-021
North Peninsula Recreation Service Area Nikiski Pool Reroof

The Purchasing and Contracting Office formally solicited and received bids for ITB21-021 North Peninsula Recreation Service Area Nikiski Pool Reroof. Bid packets were released on February 10, 2021 and the Invitation to Bid was advertised in the Peninsula Clarion and the Anchorage Daily News on February 10, 2021.

The project consists of providing all labor and materials to remove and replace the roof assemblies and associated work indicated / specified in the Contract Documents for the Nikiski Pool Reroof, 55525 Poolside Avenue, Kenai, Alaska 99611.

On the due date of March 16, 2021 four (4) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of $436,000.00 was submitted by Earhart Roofing Co., Inc., Anchorage, Alaska.

Your approval for this bid award is hereby requested. Funding for this project is in account number 459.61110.21451.49101.

Charlie Pierce
Charlie Pierce, Mayor

3/25/2021
Date

NOTES:

FINANCE DEPARTMENT
FUNDS VERIFIED

Acct. No. 459.61110.21451.49101

Amount $436,000.00

By: PP BH Date: 3/24/2021

DocuSign Envelope ID: 04DA1D12-AEA7-49E7-B4F9-E8183E7D0D09

KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING

BID TAB FOR: ITB21-021 Earhart Roofing Co., Inc.

CONTRACTOR	LOCATION	BASE BID
Earhart Roofing Co., Inc	Anchorage, AK	$436,000.00
RPR, Inc., dba Rain Proof Roofing	Anchorage, AK	$446,250.00
Anchorage Roofing and Contracting Inc.	Anchorage, AK	$479,440.00
Orion Construction Inc.	Wasilla, AK	$620,000.00

DUE DATE: March 16, 2021

KPB OFFICIAL: _____
John Hedges, Purchasing & Contracting Director

DocuSign Envelope ID: 513885D5-BAAC-4F73-8472-E1ECD82BE379

Kenai Peninsula Borough
Purchasing and Contracting Department

MEMORANDUM

TO: Charlie Pierce, Mayor

THRU: John Hedges, Purchasing & Contracting Director JH

FROM: Carmen Vick, Project Manager CV

DATE: April 6, 2021

RE: Authorization to Award a Contract for RFP21-006
Homer High School Roof Professional Design Services

The Purchasing and Contracting Office formally solicited and received proposals for RFP21-006 Homer High School Roof Professional Design Services. Proposal packets were released and the Request for Proposal was advertised in the Peninsula Clarion and the Anchorage Daily News on February 24, 2021 and the Homer News on February 25, 2021.

The project consists of professional architectural and engineering design and CA services for the purpose of preparing comprehensive construction documents to be used for soliciting bids for construction to replace part of the roof at Homer High School.

On the due date of March 23, 2021 two (2) proposals were received and ranked by a review committee as follows:

FIRM	LOCATION	TOTAL SCORE
K+A designstudios	Kenai, Alaska	350
BDS Archiects, Inc.	Anchorage, Alaska	340

The highest ranking proposal, which includes a cost factor, was submitted by K+A designstudios with a lump sum cost proposal of $156,215.00. The proposal review committee recommends award of a contract to K+A designstudios. Your approval for this award is hereby requested.

Funding for this project is in account number 401.72010.22SCH.49311.

Charlie Pierce, Mayor — 4/6/2021 Date

NOTES:

FINANCE DEPARTMENT
FUNDS VERIFIED

Acct. No. 401.72010.22SCH.49311

Amount $156,215.00

By: PP BH Date: 4/6/2021

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

THRU: Brandi Harbaugh, Finance Director

FROM: Sarah Hostetter, Payroll Accountant

DATE: April 6, 2021

RE: Revenue-Expenditure Report – March 2021

Attached is the Revenue-Expenditure Report of the General Fund for the month of March 2021. Please note that 75.00% of the year has elapsed, 82.98% of budgeted revenues have been collected, and 64.76% of budgeted expenditures have been made.

KENAI PENINSULA BOROUGH

Revenue Report

For the Period

March 1 through March 31, 2021

ACCOUNT NUMBER	DESCRIPTION	ESTIMATED REVENUE	YEAR TO DATE RECEIPTS	MONTH TO DATE RECEIPTS	VARIANCE	% COLLECTED
31100	Real Property Tax	$ 31,332,188	$ 30,867,654	$ 299,101	$ (464,534)	98.52%
31200	Personal Property Tax	1,814,997	2,159,841	25,057	344,844	119.00%
31300	Oil Tax	7,019,116	7,025,200	-	6,084	100.09%
31400	Motor Vehicle Tax	676,400	294,975	31,215	(381,425)	43.61%
31510	Property Tax Penalty & Interest	590,931	526,794	77,911	(64,137)	89.15%
31610	Sales Tax	27,431,594	19,995,726	845,775	(7,435,868)	72.89%
33110	In Lieu Property Tax	3,600,000	-	-	(3,600,000)	0.00%
33117	Other Federal Revenue	160,000	69,988	38,467	(90,012)	43.74%
34221	Electricity & Phone Revenue	155,000	-	-	(155,000)	0.00%
34222	Fish Tax Revenue Sharing	500,000	(50,616)	1,222	(550,616)	-10.12%
34210	Revenue Sharing	312,893	312,893	312,893	-	100.00%
37350	Interest on Investments	352,913	434,111	33,792	81,198	123.01%
39000	Other Local Revenue	275,000	237,042	34,059	(37,958)	86.20%
290	Solid Waste	802,000	383,021	2,190	(418,979)	47.76%
Total Revenues		$ 75,023,032	$ 62,256,630	$ 1,701,680	$ (12,766,402)	82.98%

KENAI PENINSULA BOROUGH

Expenditure Report

For the Period

March 1 through March 31, 2021

DESCRIPTION	REVISED BUDGET	YEAR TO DATE EXPENDED	MONTH TO DATE EXPENDED	AMOUNT ENCUMBERED	AVAILABLE BALANCE	% EXPENDED
Assembly:						
Administration	$ 484,528	$ 335,592	$ 38,374	$ 17,344	$ 131,592	69.26%
Clerk	579,316	380,796	42,839	8,841	189,680	65.73%
Elections	182,920	129,720	24	314	52,886	70.92%
Records Management	327,678	216,762	23,403	11,491	99,425	66.15%
Mayor Administration	792,424	493,789	60,263	417	298,218	62.31%
Purch/Contracting/Cap Proj	648,943	397,360	47,852	3,869	247,715	61.23%
Human Resources:						
Administration	700,918	473,927	52,983	3,245	223,746	67.62%
Print/Mail	204,217	100,059	8,753	22,959	81,199	49.00%
Custodial Maintenance	95,548	80,349	9,579	39	15,160	84.09%
Information Technology	2,093,923	1,286,085	125,516	68,963	738,875	61.42%
Emergency Management	933,183	668,106	56,489	48,526	216,551	71.59%
Legal Administration	1,120,116	618,285	66,078	148,825	353,005	55.20%
Finance:						
Administration	505,711	358,661	41,138	2,006	145,044	70.92%
Services	1,072,179	709,092	72,536	595	362,492	66.14%
Property Tax	1,141,576	643,675	59,875	75,691	422,210	56.38%
Sales Tax	901,144	644,745	61,023	3,748	252,650	71.55%
Assessing:						
Administration	1,350,530	882,573	84,974	3,825	464,132	65.35%
Appraisal	1,993,482	1,125,851	109,668	7,641	859,990	56.48%
Resource Planning:						
Administration	1,261,643	660,937	80,026	15,952	584,754	52.39%
GIS	499,590	346,198	26,001	1,013	152,379	69.30%
River Center	675,967	404,092	37,146	16,415	255,460	59.78%
Senior Citizens Grant Program	719,494	409,085	-	310,409	-	56.86%
School District Operations	55,004,255	38,033,681	-	-	16,970,574	69.15%
Solid Waste Operations	9,102,389	4,262,640	675,001	1,339,889	3,499,860	46.83%
Economic Development	360,000	158,085	17,296	154,248	47,667	43.91%
Non-Departmental	3,683,109	2,152,494	20,480	371	1,530,245	58.44%
Total Expenditures	$ 86,434,783	$ 55,972,637	$ 1,817,314	$ 2,266,636	$ 28,195,509	64.76%

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

THRU: Brandi Harbaugh, Finance Director

FROM: Sarah Hostetter, Payroll Accountant

DATE: April 6, 2021

RE: Budget Revisions – March 2021

Attached is a budget revision listing for March 2021. The attached list contains budget revisions between major expenditure categories (i.e., maintenance & operations and capital outlay). Other minor transfers were processed between object codes within major expenditure categories.

MARCH 2021	INCREASE	DECREASE

CENTRAL EMERGENCY SERVICES
Moving funds to cover a janitorial services contract, services were previously performed by Borough custodians.

211-51610-00000-60000 (Charges (to) from Other Departments)		$1,566.30
211-51610-00000-43011 (Contract Services)	$1,566.30	

CLERK'S OFFICE - ASSEMBLY
To purchase Extron equipment for the Assembly chambers podium.

100-11110-00000-43215 (Travel Out of State)		$1,360.00
100-11110-00000-48710 (Minor Office Equipment)	$1,360.00	

CLERK'S OFFICE - RECORDS MANAGEMENT
To purchase parts to fix a scanner.

100-11140-00000-43720 (Equipment Maintenance)		$403.00
100-11140-00000-42310 (Repair & Maintenance Supplies)	$403.00	

LEGAL DEPARTMENT
To purchase a sit-to-stand unit and replace a monitor and sound bar.

100-11310-00000-40120 (Temporary Wages)		$1,700.00
100-11310-00000-48710 (Minor Office Equipment)	$1,700.00	

MAINTENANCE DEPARTMENT
Moving funds to cover additional snow removal expense.

241-41010-00000-42310 (Repair & Maintenance Supplies)		$100,000.00
241-41010-00000-43764 (Snow Removal)	$100,000.00	

PLANNING - ADMINISTRATION
To purchase new iPads for Planning Commissioners that are compatible with their new Granicus Meeting Software.

100-21110-00000-43210 (Transportation & Subsistence)		$4,007.40
100-21110-00000-48710 (Minor Office Equipment)	$4,007.40	

SEWARD BEAR CREEK FLOOD SERVICE AREA
To replace old printer/copier.

259-21212-00000-42120 (Computer Software)		$51.00
259-21212-00000-48710 (Minor Office Equipment)	$51.00	

	INCREASE	DECREASE
SOLID WASTE - LANDFILL & ADMINISTRATION		
To cover expense for the Leachate Management design study.		
290-32010-00000-50411 (Trfs Solid Waste Cap Proj Fund)		$39,500.00
290-32010-00000-43600 (Project Management)		$2,000.00
290-32122-21LEA-43011 (Contract Services)	$37,500.00	
290-32122-21LEA-49999 (Contingency)	$2,807.55	
290-32122-21LEA-40110 (Regular Wages)	$676.96	
290-32122-21LEA-40210 (FICA)	$51.09	
290-32122-21LEA-40221 (PERS)	$148.92	
290-32122-21LEA-40321 (Health Insurance)	$210.41	
290-32122-21LEA-40322 (Life Insurance)	$1.66	
290-32122-21LEA-40410 (Leave)	$63.53	
290-32122-21LEA-43110 (Communications)	$12.19	
290-32122-21LEA-43220 (Car Allowance)	$27.69	
SOLID WASTE - ADMINISTRATION & MISC LANDFILLS		
To cover temp wages for Solid Waste Admin position.		
290-32570-00000-40120 (Temporary Wages)		$1,500.00
290-32010-00000-40120 (Temporary Wages)	$1,500.00	
SOLID WASTE - ADMINISTRATION & LANDFILL		
Moving funds to cover Landfill communication expense.		
290-32010-00000-43110 (Communications)		$3,500.00
290-32122-00000-43110 (Communications)	$3,500.00	
WESTERN EMERGENCY SERVICES		
Moving funds to cover a VFA grant match requirement.		
209-51410-00000-43780 (Building & Grounds Maintenance)		$279.22
209-51410-00000-48760 (Minor Fire Fighting Equipment)	$279.22	

Kenai Peninsula Borough
Assessing Department

MEMORANDUM

TO: Charlie Pierce, Borough Mayor

FROM: Adeena Wilcox, Director of Assessing

DATE: April 6, 2021

RE: Tax Adjustment Request Approval

Attached is a spreadsheet of tax adjustment requests required by changes to the assessment roll. These adjustments are being submitted to the Finance Department for processing.

Borough code 5.12.119 (D) authorizes the mayor to approve tax adjustment requests prepared by the borough assessor.

I hereby certify that I have reviewed the tax adjustment requests submitted for your signature and I find them to be proper and correct.

DATED: April 6, 2021

Adeena Wilcox
Director of Assessing

APPROVED

Charlie Pierce
Borough Mayor

APRIL TARS

	2020	2019	2018	2017	2016
TAG 10 (assessed)					
(taxable)					
TAG 11 (assessed)					
(taxable)					
TAG 20 (assessed)					
(taxable)					
TAG 21 (assessed)					
(taxable)					
TAG 30 (assessed)					
(taxable	($50,000)	($50,000)	($50,000)		
TAG 40 (assessed)					
(taxable)					
TAG 41 (assessed)					
(taxable)					
TAG 42 (assessed)					
(taxable)					
TAG 43 (assessed)					
(taxable)					
TAG 52 (assessed)					
(taxable)					
TAG 53 (assessed)					
(taxable)					
TAG 54 (assessed)					
(taxable)					
TAG 55 (assessed)					
(taxable)					
TAG 57 (assessed)					
(taxable)					
TAG 58 (assessed)					
(taxable)	($241,200)				
TAG 61 (assessed)					
(taxable)					
TAG 63 (assessed)					
(taxable)					
TAG 64 (assessed)					
(taxable)					
TAG 65 (assessed)					
(taxable)					
TAG 67 (assessed)					
(taxable)					
TAG 68 (assessed)					
(taxable)					
TAG 70 (assessed)					
(taxable)					
TAG 80 (assessed)					
(taxable)					
TAG 81 (assessed)					
(taxable)					
TOTAL ASSESSED	$0	$0	$0	$0	$0
TOTAL TAXABLE	($291,200)	($50,000)	($50,000)	$0	$0
KPB FLAT TAX					

APRIL TARS CITY VALUES

	2020	2019	2018	2017	2016
TAG 10 (assessed)					
(taxable)					
Seldovia Flat Tax					
TAG 20 (assessed)					
(taxable)					
Homer Flat Tax					
TAG 21 (assessed)					
(taxable)					
TAG 30 (assessed)					
(taxable					
Disability Tax Credit					
TAG 40 (assessed)					
(taxable)					
TAG 41 (assessed)					
(taxable)					
TAG 70 (assessed)					
(taxable)					
Soldotna Flat Tax					
TAG 80 (assessed)					
(taxable)					

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2020 **TAR NUMBER** 30-20-008

PARCEL ID 043-040-30

PRIMARY OWNER PENROD, DINELLE

	CURRENT VALUE	CORRECTED VALUE
TAG	30	30
CLASS CODE	110	110
LAND ASSESSED (VT4)	13,800	13,800
IMPROVEMENT ASSESSED (VT5)	113,200	113,200
KPB ASSESSED (VT 1001)	127,000	127,000
KPB TAXABLE (VT 1003)	127,000	77,000
CITY ASSESSED (VT 1011)	127,000	127,000
CITY TAXABLE (VT 1013)	127,000	127,000

EXPLANATION CLERICAL ERROR - EXEMPTION APPROVED IN 2018 AND NEVER ENTERED.

OWNER WOULD LIKE REFUND OF ANY AMOUNT OVERPAID.

DATE 03/19/21

SUBMITTED BY SGUZMAN

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	($50,000)
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	
CITY FLAT TAX	

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2019 **TAR NUMBER** 30-19-009

PARCEL ID 043-040-30

PRIMARY OWNER PENROD DINELLE

	CURRENT VALUE	CORRECTED VALUE
TAG	30	30
CLASS CODE	110	110
LAND ASSESSED (VT4)	13,800	13,800
IMPROVEMENT ASSESSED (VT5)	113,500	113,500
KPB ASSESSED (VT 1001)	127,300	127,300
KPB TAXABLE (VT 1003)	127,300	77,300
CITY ASSESSED (VT 1011)	127,300	127,300
CITY TAXABLE (VT 1013)	127,300	127,300

EXPLANATION CLERICAL ERROR - EXEMPTION WAS NOT ENTERED IN 2018 WHEN IT WAS APPROVED

OWNER REQUESTS A REFUND.

DATE 03/19/21

SUBMITTED BY SGUZMAN

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	($50,000)
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	
CITY FLAT TAX	

Real Property

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2018 **TAR NUMBER** 30-18-006

PARCEL ID 043-040-30

PRIMARY OWNER PENROD DINELLE

	CURRENT VALUE	CORRECTED VALUE
TAG	30	30
CLASS CODE	110	110
LAND ASSESSED (VT4)	13,800	13,800
IMPROVEMENT ASSESSED (VT5)	113,300	113,300
KPB ASSESSED (VT 1001)	127,100	127,100
KPB TAXABLE (VT 1003)	127,100	77,100
CITY ASSESSED (VT 1011)	127,100	127,100
CITY TAXABLE (VT 1013)	127,100	127,100

EXPLANATION CLERICAL ERROR - EXEMPTION WAS NOT ENTERED IN 2018 WHEN IT WAS APPROVED - OWNER REQUESTED A REFUND

DATE 03/19/21

SUBMITTED BY SGUZMAN

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	($50,000)
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	
CITY FLAT TAX	

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2020 **TAR NUMBER** 58-20-049

PARCEL ID 055-430-42

PRIMARY OWNER COLLEGE HEIGHTS BAPTIST CHURCH

	CURRENT VALUE	CORRECTED VALUE
TAG	58	58
CLASS CODE	840	840
LAND ASSESSED (VT4)	365,400	365,400
IMPROVEMENT ASSESSED (VT5)	1,449,500	1,449,500
KPB ASSESSED (VT 1001)	1,814,900	1,814,900
KPB TAXABLE (VT 1003)	241,200	0
CITY ASSESSED (VT 1011)	0	0
CITY TAXABLE (VT 1013)	0	0

EXPLANATION CLERICAL ERROR-ADMIN ASSISTANT DID NOT CHANGE PROVAL PERCENTAGE CALCULATION TO REFLECT FULL EXEMPTION TIMELY.

DATE 03/31/21

SUBMITTED BY P. DOMBOVY

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	($241,200)
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	
CITY FLAT TAX	

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Legal Department
144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2120 • (907) 714-2379 Fax

Charlie Pierce
Borough Mayor

LITIGATION STATUS REPORT

TO: Brent Hibbert, Assembly President
Zen Kelly, President, Board of Education
Members, Kenai Peninsula Borough Assembly
Members, Kenai Peninsula Borough School District

THRU: Charlie Pierce, Mayor JCB

FROM: Colette Thompson, Borough Attorney CT
Sean Kelley, Deputy Borough Attorney SK
Patty Burley, Deputy Borough Attorney PB

DATE: April 8, 2021

RE: Litigation Status Report – Quarter Ending 03/31/21

This report includes brief descriptions of pending non-routine court cases, as well as administrative appeals and code compliance enforcement actions set for hearing before the administrative hearing officer.

A. Following is a summary of the non-routine litigation in which the borough and school district are involved. This list does not include the real property tax foreclosures and numerous standard tax collection cases pursued by the borough:

1. *John Does 1–3 v. Kenai Peninsula Borough School District, Case No. 3KN-18-00155CI.* Three former students sued the school district, the Kenai Peninsula Hockey Association and former coach Bradley Elliott for damages stemming from alleged sexual abuse of minors, alleged negligent hiring and alleged vicarious liability. Mediations were held individually with each plaintiff on March 25, 26 and 27, 2020. Doe 1 settled at mediation and has been dismissed from the lawsuit. Mediation attempts with Does 2 and 3 were unsuccessful. The School District has filed two summary judgment motions that are pending. One seeks a ruling that the statute of limitations bars plaintiffs' cases and the other requests a ruling that the district may not be held vicariously liable for plaintiffs' claimed damages. Oral argument on the

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statute of limitations motion was held on January 19, 2021 and the court issued a confidential order. The trial is scheduled for the week of November 8, 2021. Discovery is continuing.

2. *Halstead v. Jeremy T. Anderson and Kenai Peninsula School District, Case No. 3KN-18-00744CI.* Plaintiff has sued Mr. Anderson and the Kenai Peninsula Borough School District for damages relating to Mr. Anderson's alleged sexual abuse of her as a minor. The complaint against the school district claims it failed to protect her from Mr. Anderson and seeks damages and actual attorney fees. The district has filed an answer and discovery is in process. The district also filed a motion for summary judgment against the plaintiff's claims for punitive damages against the district that was granted by the court. This means plaintiff may not seek punitive damages from the district. Trial is scheduled for the week of October 18, 2021. Discovery is continuing.

3. *Kenai Peninsula Borough School District v. Fischer*, Case No. 3KN-19-00185CI. This case was filed against a school district employee for the reimbursement of substantial health care costs paid by the health care plan ("Plan"). The Plan requires that employees who receive medical care paid by the Plan, for injuries caused by a third party, must reimburse the Plan out of any recovery received from the party at fault. Reimbursement is owed because the employee received enough insurance funds from the party who caused the injuries to fully reimburse the Plan for its costs. Defendant has failed to pay the amount owed. Defendant filed a Partial Motion to Dismiss which was denied. Numerous other motions are pending. On March 9, 2021, this case was referred to mediation. Trial is scheduled for the week of November 1, 2021.

4. *Fischer v. KPBSD*, Case No. 3KN-20-00495CI. This case was filed on July 14, 2020 by Matthew Fischer on behalf of his minor child. The complaint alleges the minor sustained damages while using the pull-up bars at Skyview Middle School on November 13, 2015. The district filed its answer to plaintiffs' complaint on August 18, 2020. Trial is scheduled for the week of February 14, 2022. Discovery is continuing.

5. *Nelson v. KPB*, Case No. 3AN-20-07408CI. Mark Nelson filed this case on August 26, 2020 against a laundry list of defendants including the borough. The complaint seeks quiet title to a parcel of land in Seward, Alaska. The crux of the complaint is that Mr. Nelson purchased land only to discover that the land has a number of liens for unpaid monies owed by the

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previous owner. Mr. Nelson wants to have those liens extinguished without having to pay for them. The borough has timely filed an answer and affirmative defenses. As discovery has not commenced due to the early stages of this case, no meaningful evaluation can be made at this time. Discovery has not yet commenced in this case due to Covid related delays.

6. *Bilben, et al. v. KPB PC, Beachcomber LLC, et al.*, Case No. 3KN-20-00034CI. This case involves an appeal of a planning commission conditional land use permit (CLUP) approval. The borough is currently not participating in this appeal because only private interests are at stake. Briefing has been completed and oral argument was held on March 1, 2021. The court has taken the matter under advisement and will issue a written decision in due course.

B. Following are open or recently resolved administrative appeals from Planning Commission decisions:

1. *Case No. 2020-01 PCA.* Neighboring property owners appealed a planning commission's decision approving a modification of a conditional land use permit. The borough filed a notice of non-participation in the matter and is not a party to the appeal. This case is stayed until a decision is issued in Case No. 3KN-20-34CI, discussed above at (A)(6).

2. Case No. 2020-03 PCA. A neighboring property owner appealed a planning commission's decision approving a conditional land use material site permit in the Soldotna/Sterling area on a parcel off Pine Street. The hearing officer granted the Applicant's Motion to Dismiss on March 15, 2021, citing the Appellant's failure to submit an opening statement as required by KPB 21.20.280(A), and dismissed the case. This case is currently within the 30-day period in which a party could appeal the hearing officer's decision to superior court.

Introduced by:	Mayor
Date:	09/15/20
Hearing:	10/13/20
Action:	Postponed as Amended to 12/01/20
Vote:	9 Yes, 0 No, 0 Absent
Date:	12/01/20
Action:	Tabled as Amended
Vote:	9 Yes, 0 No, 0 Absent
Date:	07/06/21
Action:	Removed from the Table and Enacted as Amended
Vote:	8 Yes, 0 No, 1 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-07

AN ORDINANCE APPROPRIATING REFINANCED 2013 BEAR CREEK FIRE SERVICE AREA GENERAL OBLIGATION BOND PROCEEDS FOR THE PURPOSE OF PAYING BOND REFINANCING ISSUANCE COSTS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain capital improvements in the Bear Creek Fire Service Area, issued and sold its Bear Creek Fire Service Area General Obligation Bonds, Series 2013, dated March 12, 2013, in the original principal amount of $1,215,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2012-091 of the Borough adopted on December 4, 2012 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of March 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2013 Series One (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, through Resolution 2020-044, the assembly approved the Borough's participation in this refinancing and to authorize the mayor or his designee to accept a revised debt service schedule for the 2013 Bond if the Bond Bank successfully refinances the Bond Bank Bonds; and

WHEREAS, the Bond Bank anticipates a refinancing closing date following October 1, 2020;

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

SECTION 1. That 2013 refinanced Bear Creek Fire Service Area bond proceeds in the amount of up to $8,100 are appropriated to the Bear Creek Fire Service Area Capital Project Fund, account number 442.51210.21BND.49999 to pay costs related to the issuance.

SECTION 2. That the appropriations made in this ordinance are of a project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 3. That eligible costs incurred prior to the appropriation date will be charged to the project.

SECTION 4. This ordinance is effective retroactively on June 30, 2021.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JULY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

10/13/20 Vote on motion to postpone as amended to 12/01/20:

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

12/01/20 Vote on motion to table:

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

07/06/21 Vote on motion to remove from the table:

Yes:	Bjorkman, Carpenter, Chesley, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	Cox

07/06/21 Vote on motion to enact as amended:

Yes:	Bjorkman, Carpenter, Chesley, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	Cox

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor

FROM: Brandi Harbaugh, Finance Director
Colette Thompson, Borough Attorney

DATE: June 24, 2021

SUBJECT: Request that the Assembly Remove Ord. 2020-19-07, Ord. 2020-19-08, and Ord. 2020-19-09 from the table to be heard at their Regular Scheduled Meeting of July 6, 2021.

Due to the three refunding bond sales being completed on June 16, 2021, the administration requests that the appropriating ordinances be removed from the table to be heard at the Assembly's regularly scheduled meeting of July 6, 2021 so bond counsel can be paid for services rendered over the past year in a timely manner.

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor BH for CP

FROM: Brandi Harbaugh, Finance Director BH
Colette Thompson, Borough Attorney CT

DATE: June 24, 2021

SUBJECT: Amendment to Ordinance 2020-19-07, Appropriating Refinanced 2013 Bear Creek Fire Service Area General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance (Mayor)

Due to delays, a change in the tax status of a bond transaction and preparation of superseding resolutions, the Borough has agreed to increase the original fee to bond counsel to $8,100 including estimated out of pocket costs.

(Please note the bold underlined language is new and the bracketed strikeout language is to be deleted.)

- Amend Section 1, as follows:

SECTION 1. That 2013 refinanced Bear Creek Fire Service Area bond proceeds in the amount of up to [~~$6,860~~] **$8,100** are appropriated to the Bear Creek Fire Service Area Capital Project Fund, account number 442.51210.21BND.49999 to pay costs related to the issuance.

SECTION 4. [~~This ordinance takes effect immediately upon its enactment~~] **This ordinance is effective retroactively on June 30, 2021.**

FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED

Acct. No. 442.00000.21BND.39010

Amount: $8,100

By: PP Date: 6/24/2021

Your consideration is appreciated.

Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: September 3, 2020

SUBJECT: Ordinance 2020-19-07, Appropriating Refinanced 2013 Bear Creek Fire Service Area General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

In May 2020, the Kenai Peninsula Borough Assembly approved Resolution 2020-044, authorizing the Borough's participation in the refinancing of select series for the 2013 Bear Creek Fire Service Area general obligation bonds.

Due to reductions in long term interest rates, the Alaska Municipal Bond Bank has determined that a portion of the outstanding 2013 Bear Creek Fire Service Area bonds could be refinanced, with potential savings to borough residents of approximately $50,000 in interest over the remaining life of the debt. This ordinance appropriates refinanced bond proceeds for the purpose of paying costs related to the issuance of the bond refinancing.

Your consideration is appreciated.

FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED

Acct. No. 442.00000.21BND.39010

Amount: $6,860.00

By: PP Date: 9/2/2020

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Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: November 19, 2020

SUBJECT: Request to Table Ordinance 2020-19-07, Appropriating Refinanced 2013 Bear Creek Fire Service Area General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

The Alaska Supreme Court's recent decision which invalidated a plan to sell bonds to pay oil tax credits has caused a certain amount of uncertainty in the Alaska bond market. The Alaska Department of Law has requested a rehearing to better define the scope of the ruling.

The Alaska Municipal Bond Bank has delayed its bond issue for a time uncertain as a result of the recent decision. Therefore, pending further analysis of the effect of the Supreme Court ruling we are looking to postpone the refinancing of the 2013 Bear Creek Service Area General Obligation Bonds until calendar year 2021.

Therefore, we are requesting to table this ordinance until early 2021, providing more time for analysis and review of the market

Your consideration is appreciated.

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Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: October 1, 2020

SUBJECT: Amendment to Ordinance 2020-19-07, Appropriating Refinanced 2013 Bear Creek Fire Service Area General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs & Request to Postpone Hearing (Mayor)

The Alaska Supreme Court's recent decision which invalidated a plan to sell bonds to pay oil tax credits has caused a certain amount of uncertainty in the Alaska bond market. The Alaska Department of Law has requested a rehearing to better define the scope of the ruling. The Alaska Municipal Bond Bank has delayed its bond issue for a time uncertain as a result of the recent decision. Therefore, pending further analysis of the effect of the Supreme Court ruling we are seeking to postpone the refinancing of the Bear Creek Fire Service Area General Obligation Bonds until after October 2020.

Based on the above circumstances, postponement of the hearing on this ordinance to the December 1, 2020, meeting is requested as well as the following amendment:

(Please note the bold underlined language is new and the bracketed strikeout language is to be deleted.)

- Amend the last whereas clause, as follows:

WHEREAS, the Bond Bank anticipates a refinancing closing date **[of September 2020] ~~following October 1, 2020~~;**

Your consideration is appreciated.

{01058438}

Introduced by:	Mayor
Date:	06/16/20
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2020-044

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE BEAR CREEK FIRE SERVICE AREA GENERAL OBLIGATION BONDS, SERIES 2013 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2013 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain capital improvements in the Bear Creek Fire Service Area, issued and sold its Bear Creek Fire Service Area General Obligation Bonds, Series 2013, dated March 12, 2013, in the original principal amount of $1,215,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2012-091 of the Borough adopted on December 4, 2012 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of March 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2013 Series One (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, the Assembly wishes to approve the Borough's participation in this refinancing and to authorize the Borough Mayor or his designee to accept a revised debt service schedule for the 2013 Bond if the Bond Bank successfully refinances the Bond Bank Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1. **Approval of Refinancing**. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2013 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2013 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2020 Refunding Bond") to be issued in exchange for the 2013 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2013 Bond is refinanced, the 2013 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2013 Bond (the "Exchanged 2013 Bond"). The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2020 Refunding Bond and Exchanged 2013 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2013 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2. **Tax Matters**. The 2013 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2020 Refunding Bond may be issued on a tax-exempt or taxable basis, as determined by the Mayor or Finance Director. The Exchanged 2013 Bond shall retain its original tax treatment under the Code.

SECTION 3. **General Authorization**. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4. **Prior Acts**. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2013 Bond are hereby ratified and confirmed.**SECTION 5. Recitals**. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 6. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

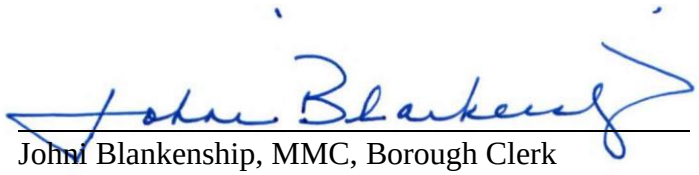
CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2020-044 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 16th day of June, 2020, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2020.



Johni Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Introduced by:	Mayor
Date:	12/04/12
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2012-091

A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE KENAI PENINSULA BOROUGH IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED ONE MILLION FOUR HUNDRED THOUSAND DOLLARS ($1,400,000) TO PAY THE COSTS OF CAPITAL IMPROVEMENTS IN THE BEAR CREEK FIRE SERVICE AREA, FIXING CERTAIN DETAIL OF SUCH BONDS, AND PLEDGING THE FULL FAITH AND CREDIT OF THE BEAR CREEK FIRE SERVICE AREA TO THE PAYMENT THEREOF

WHEREAS, pursuant to Ordinance 2007-24 of the Kenai Peninsula Borough (the "Borough") passed and approved on August 7, 2007, and as further clarified by the assembly on August 21, 2007, the following question, referred to at the election held on October 2, 2007, as Proposition No. 4, ("Proposition 4") was passed and approved:

PROPOSITION NO. 4
BEAR CREEK FIRE SERVICE AREA CAPITAL IMPROVEMENT PROJECT AND ISSUANCE OF GENERAL OBLIGATION BONDS

Shall the Kenai Peninsula Borough spend $3,500,000 for capital improvements related to the Bear Creek Fire Service Area and issue up to $1,400,000 of general obligation bonds to provide funding for the project?

The bond proceeds of $1,400,000 will be used to pay the costs of planning, designing, acquiring property for, site preparation, financing, constructing, acquiring, renovating, expanding, installing and equipping the Bear Creek Fire Service Area facility located within the Bear Creek Fire Service Area. Issuance of the bonds is subject to availability of grant funds for the remaining costs of the project; if the grant funding is not received the bonds will not be issued.

The general obligation bond debt will be paid from operating revenues generated by the Bear Creek Fire Service Area and from ad valorem taxes on all taxable property levied and collected in the Bear Creek Fire Service Area. The Bear Creek Fire Service Area will pledge its full faith and credit for payment of the general obligation bond debt.

Voter approval of this bond proposition authorizes for each $100,000 of assessed real and personal property value in the Bear Creek Fire Service Area (based on the estimated 2007 tax year assessed valuation) an annual tax of approximately $100.00 (an amount equal to approximately 1.0 mill) to retire the proposed general obligation bond debt.

YES [A Yes vote approves the sale of the bonds and construction of a new fire and emergency services facility – based on receiving $2,100,000 of additional grant funding.]

NO [A No vote prohibits the issuance of the bonds and the construction project.]

WHEREAS, Section 29.47.410 of the Alaska Statutes provides that the Assembly by ordinance or resolution may provide for the form and manner of sale of bonds and notes; and

WHEREAS, it is necessary and in the best interest of the Borough and its residents that the Borough proceed to plan, design, do site preparation for, construct, acquire, renovate, install, and equip the capital improvements within the Borough described in Proposition 4 (the "Project"), and issue not to exceed $1,400,000 principal amount of the general obligation bonds referred to in Proposition 4, constituting all of the unsold general obligation bonds referred to therein, to pay a portion of costs of the Project; and

WHEREAS, a Loan Agreement would be entered into between the Alaska Municipal Bond Bank and the Borough, which provides for the Alaska Municipal Bond Bank to purchase the Bonds on the terms and conditions set forth therein and in this resolution, and it is in the best interest of the Borough that it sell the bonds to the Alaska Municipal Bond Bank under such terms and conditions;

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

SECTION 1. Definitions. The following terms shall have the following meanings in this resolution:

(a) "Acquired Obligations" means and includes any of the following securities, if and to the extent the same are at the time legal for investment of funds of the Borough: any noncallable bonds or other noncallable obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America.

(b) "Assembly" means the Assembly of the Borough, as the general legislative authority of the Borough, as the same shall be duly and regularly constituted from time to time.

(c) "Bond" or "Bonds" means any of the Bonds of the Borough, the issuance and sale of which are authorized herein as the evidence of the indebtedness referred to in Proposition 4.

(d) "Bond Bank" means the Alaska Municipal Bond Bank.

(e) "Bond Register" means the registration books maintained by the Registrar, which include the names and addresses of the owners or nominees of the Registered Owners of the Bonds.

(f) "Borough" means the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, organized as a second class borough under Title 29 of the Alaska Statutes.

(g) "Code" means the Internal Revenue Code of 1986, as amended from time to time, together with all regulations applicable thereto.

(h) "Cost" or "Costs" means the cost of planning, designing, site preparation, constructing, acquiring, renovating, installing, and equipping the Project, including interest on the Bonds during the period of planning, designing, site preparation, constructing, acquiring, renovating, installing, and equipping the Project, the cost whether incurred by the Borough, the Service Area, or by another of field surveys and advance planning undertaken in connection with the Project properly allocable to the Project, the cost of acquisition of any land or interest therein required as the site or sites of the Project or for use in connection therewith, the cost of any indemnity and surety bonds and premiums on insurance incurred in connection with the Project prior to or during construction thereof, all related direct administrative and inspection expenses whether incurred by the Borough, the Service Area, or by another in connection with the Project prior to or during construction thereof, and allocation of portions of direct costs of the Borough or the Service Area, legal fees, costs of issuance of the Bonds by the Borough, including financing charges and fees and expenses of bond counsel, financial advisors, and consultants in connection therewith, the cost of any bond insurance premium, the cost of audits, the cost of all machinery, apparatus, and equipment, cost of engineering, architectural services, designs, plans, specifications, and surveys, estimates of cost, the reimbursement of all moneys advanced from whatever source for the payment of any item or items of cost of the Project, and all other expenses necessary or incidental to determining the feasibility or practicability of the Project, and such other expenses not specified herein as may be necessary or incidental to the acquisition and

development of the Project, the financing thereof and the putting of the same in use and operation.

(i) "Loan Agreement" means the Loan Agreement between the Borough and the Bond Bank, dated as of the first day of the month in which the Bonds are delivered.

(j) "Registered Owner" means the person named as the registered owner of a Bond in Bond Register.

(k) "Registrar" means the Finance Director of the Borough, or any successor that the Borough may appoint by resolution.

(l) "Service Area" means the Bear Creek Fire Service Area located within the Borough.

SECTION 2. Authorization of Bonds and Purpose of Issuance. For the purpose of providing the funds required to pay a portion of the Costs of the Project, to provide for original issue premium or discount, if any, and to pay all costs incidental thereto and to the issuance of the Bonds, the Borough hereby authorizes and determines to issue and to sell the Bonds in the aggregate principal amount of not to exceed $1,400,000. The Bonds shall be designated "Kenai Peninsula Borough, Alaska Bear Creek Fire Service Area General Obligation Bonds."

The Borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this resolution is necessary in order to carry out and effectuate the purpose of the Borough in accordance with the Constitution and the statutes of the State of Alaska and to incur the indebtedness and issue the Bonds as referred to in Proposition 4.

SECTION 3. Obligation of Bonds. The Bonds shall be direct and general obligations of the Service Area and the full faith and credit of the Service Area are hereby pledged to the payment of the principal of and interest on the Bonds. The Borough hereby irrevocably pledges and covenants that it will levy and collect taxes upon all taxable property within the Service Area without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bonds as the same become due and payable.

SECTION 4. Date, Maturities, Interest Rates, and Other Details of Bonds. The Bonds shall be dated the date of delivery, shall be in the denomination of $5,000 or any integral multiple thereof, or such other date and denominations as may be determined by the Mayor or Finance Director, and shall be numbered separately in such manner and with any additional designation as the Registrar deems necessary for purposes of identification.

The Bonds shall bear interest from the date thereof, payable and semiannually on such dates as may be determined by the Mayor or Finance Director. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. The Mayor or Finance Director is authorized to fix and determine the maturity dates and the rate of interest on each principal installment of the Bonds, provided that (i) no rate of interest on a principal installment shall exceed the rate of interest on the corresponding maturity of the bonds of the Bond Bank issued to provide funds to purchase the Bonds; (ii) the true interest cost of the Bonds shall not exceed 6.0% unless approved by resolution of the Assembly; and (iii) all of the Bonds shall mature on or before December 31, 2033.

SECTION 5. Place and Medium of Payment. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. For so long as all outstanding Bonds are registered in the name of the Alaska Municipal Bond Bank, payments of principal and interest thereon shall be made as provided in the Loan Agreement. In the event that the Bonds are no longer owned by the Alaska Municipal Bond Bank, payments of principal and interest on the Bonds will be made by check or draft mailed by first class mail to the Registered Owners of the Bonds at the addresses for such Registered Owners appearing on the Bond Register on or before the payment date, provided that the final installment of principal and interest on the Bonds will be payable upon presentation and surrender of the Bonds by the Registered Owner at the principal office of the Registrar.

SECTION 6. Optional Redemption. The Bonds may be subject to redemption, at the Borough's option, as provided in the Loan Agreement.

SECTION 7. Form of Bond. Each Bond shall be in substantially the following form, subject to the provisions of the Loan Agreement:

UNITED STATES OF AMERICA
STATE OF ALASKA

KENAI PENINSULA BOROUGH
(A Municipal Corporation of the State of Alaska)

NO. ____ $_____

KENAI PENINSULA BOROUGH, ALASKA BEAR CREEK FIRE SERVICE AREA GENERAL OBLIGATION BONDS

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The Kenai Peninsula Borough, Alaska (the "Borough"), a municipal corporation of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or its registered assigns, the Principal Amount indicated above in the following installments on ____ 1 of each of the following years, and to pay interest on such installments from the date hereof, payable on **[____ 1, 20__]** and semiannually thereafter on the first days of June and December of each year, at the rates per annum as follows:

Year	Principal Amount	Interest Rate
_____	_____	_____

For so long as this Bond is owned by the Alaska Municipal Bond Bank (the "Bank"), payment of principal and interest shall be made as provided in the Loan Agreement between the Bank and the Borough (the "Loan Agreement"). In the event that this Bond is no longer owned by the Bank, payment of principal of and interest on this Bond will be made by check or draft mailed by first class mail to the registered owner at the address appearing on the bond register of the Borough on or before the payment date, provided that the final installment of principal and interest on this Bond will be payable at the office of the Borough Finance Director (the "Registrar") upon surrender of this Bond. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. Both principal of and interest on this bond are payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts.

This Bond is one of the Bear Creek Fire Service Area General Obligation Bonds of like tenor and effect except as to interest rate, serial number, and maturity, aggregating $_____ in principal amount, and constituting bonds authorized for the purpose of paying the cost of the educational capital improvements in the Borough, and is issued under Resolution 2012-091 of the Borough entitled:

> A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE KENAI PENINSULA BOROUGH IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED ONE MILLION FOUR HUNDRED THOUSAND DOLLARS ($1,400,000) TO PAY THE COSTS OF CAPITAL IMPROVEMENTS IN THE BEAR CREEK FIRE SERVICE AREA, FIXING CERTAIN DETAIL OF SUCH BONDS, AND PLEDGING THE FULL FAITH AND CREDIT OF THE BEAR CREEK FIRE SERVICE AREA TO THE PAYMENT THEREOF

(herein called the "Resolution").

The Bonds will be subject to redemption at the option of the Borough as described in the Loan Agreement.

This Bond is transferable as provided in the Resolution, (i) only upon the bond register of the Borough, and (ii) upon surrender of this Bond together with a written instrument of transfer duly executed by the registered owner or the duly authorized attorney of the registered owner, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and

maturity shall be issued to the transferee in exchange therefor as provided in the Resolution and upon the payment of charges, if any, as therein prescribed. The Borough may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price, if any, hereof and interest due hereon and for all other purposes whatsoever.

The full faith and credit of the Bear Creek Fire Service Area are pledged for the payment of the principal of and interest on the Bond as the same shall become due.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, or things required by the constitution or statutes of the State of Alaska to exist, to have happened, or to have been performed precedent to or in the issuance of this Bond, exist, have happened, and have been performed, and that the series of Bonds of which this is one, together with all other indebtedness of the Borough, is within every debt and other limit prescribed by said constitution or statutes.

IN WITNESS WHEREOF, THE KENAI PENINSULA BOROUGH, ALASKA, has caused this Bond to be signed in its name and on its behalf by its Mayor and its corporate seal to be hereunto impressed or otherwise reproduced and attested by its Clerk, all as of the ____ day of _____, 2012.

_____
Mike Navarre, Mayor

ATTEST:

_____
Johni Blankenship, MMC, Borough Clerk

SECTION 8. Execution. The Bonds shall be executed in the name of the Borough by the Mayor, and its corporate seal shall be impressed or otherwise reproduced thereon and attested by the Borough Clerk. The execution of a Bond on behalf of the Borough by persons that at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the Bond or shall not have held office on the date of the Bond.

SECTION 9. Registration.

(a) The Bonds shall be issued only in registered form as to both principal and interest. The Borough designates the Borough Finance Director as Registrar for the Bonds. The Registrar shall keep, or cause to be kept, the Bond Register at the principal office of the Borough.

(b) The Borough, in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes, and neither the Borough nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 5, but

such registration may be transferred as herein provided. All such payments made as described in Section 5 shall be valid and shall satisfy and discharge the liability of the Borough upon such Bond to the extent of the amount or amounts so paid.

(c) Bonds shall be transferred only upon the Bond Register kept by the Registrar. Upon surrender for transfer or exchange of any Bond at the office of the Registrar, with a written instrument of transfer or authorization for exchange in form and with guaranty of signature satisfactory to the Registrar, duly executed by the registered owner of its duly authorized attorney, the Borough shall execute and the Registrar shall delivery an equal aggregate principal amount of Bonds of the same maturity of any authorized denominations, subject to such reasonable regulations as the Registrar may prescribe and upon payment sufficient to reimburse it for any tax, fee or other governmental charge required to be paid in connection with such transfer or exchange. All Bonds surrendered for transfer or exchange shall be canceled by the Registrar. The Registrar shall not be required to transfer or exchange any Bond after the Bond has been called for redemption.

(d) The Borough covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code.

SECTION 10. Mutilated, Destroyed, Stolen, or Lost Bonds. Upon surrender to the Registrar of Mutilated Bond, the Borough shall execute and deliver a new Bond of like maturity and principal amount. Upon filing with the Registrar of evidence satisfactory to the Borough that a Bond has been destroyed, stolen, or lost and of the ownership thereof, and upon furnishing the Borough with identification satisfactory to it, the Borough shall execute and deliver a new Bond of like maturity and principal amount. The person requesting the authentication and delivery of a new Bond pursuant to this section shall comply with such other reasonable regulations as the Borough may prescribe and pay such expenses as the Borough may incur in connection therewith. Any Bonds issued pursuant to this section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Borough, whether or not the Bonds alleged to be destroyed, stolen, or lost be at any time enforceable by anyone.

SECTION 11. Disposition of the Sale Proceeds of the Bonds. The sale proceeds of the Bonds representing accrued interest on the Bonds may be applied to pay a portion of the interest due on the Bonds on the first interest payment date. The remainder of the sale proceeds of the Bonds shall be applied to pay Costs. The sale proceeds of the Bonds shall be deposited in the appropriate funds or accounts of the Borough for such purposes.

SECTION 12. Tax Covenants. The Borough covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that

such compliance shall be necessary for the exclusion of the interest on the Bonds from gross income for federal income tax purposes. The Borough covenants that it will make no use of the proceeds of the Bonds which will cause the Bonds to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code. The Borough covenants that it will not take or permit any action that would cause the Bonds to be "private activity bonds" as defined in Section 141 of the Code.

SECTION 13. Sale of the Bonds; Loan Agreement. The sale of for not to exceed $1,400,000 aggregate principal amount of the Bonds, as provided in the Loan Agreement and this resolution, is hereby authorized and approved. The Mayor or Borough Finance Director is hereby authorized to execute and deliver the Loan Agreement, and a Continuing Disclosure Certificate and such other documents as may be necessary to effectuate issuances of the Bonds on behalf of the Borough.

SECTION 14. Authority of Officers. The Mayor, the Borough Finance Director, the Borough Clerk are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this resolution, or to be determined by a subsequent ordinance or resolution, to the end that the Borough may carry out its obligations under the Bonds and this resolution.

SECTION 15. Defeasance. In the event that money and/or non-callable Acquired Obligations maturing at such times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all of the Bonds in accordance with their terms are set aside in a special trust account to effect such redemption or retirement and such moneys and the principal of and interest on such Acquired Obligations are irrevocably set aside and pledged for such purpose, then no further payments need to be made to pay or secure the payment of the principal of and interest on such Bonds and such Bonds shall be deemed not to be outstanding.

SECTION 16. Amendatory and Supplemental Resolutions.

(a) The Assembly from time to time and at any time may adopt a resolution or resolutions supplemental hereof, which resolution or resolutions thereafter shall become a part of this resolution, for any one or more of the following purposes:

(i) To add to the covenants and agreements of the Borough in this resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Borough.

(ii) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this resolution or in regard to matters or questions arising

under this resolution as the Assembly may deem necessary or desirable and not inconsistent with this resolution and which shall not adversely affect the interest of the Registered Owner of the Bonds.

Any such supplemental resolution may be adopted without the consent of the Registered Owner of any of the Bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.

(b) With the consent of a bond insurer, if any, or the Registered Owners of not less than 60 percent in aggregate principal amount of the Bonds at the time outstanding, the Assembly may adopt a resolution or resolutions supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this resolution or of any supplemental resolution; provided, however that no such supplemental resolution shall:

(i) extend the fixed maturity of any of the Bonds, or reduce the rate of interest thereon, or reduce the amount or change the date of any sinking fund installment, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the owners of each Bond so affected; or

(ii) reduce the aforesaid percentage of owners of Bonds required to approve any such supplemental resolution without the consent of the owners of all the Bonds then outstanding.

It shall not be necessary for the consent of the Registered Owners of the Bonds under this subsection to approve the particular form of any proposed supplemental resolution, but it shall be sufficient if such consent approves the substance thereof.

(c) Upon the adoption of any supplemental resolution under this section, this resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this resolution of the Borough and all Registered Owners of outstanding Bonds shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of the supplemental resolution shall be deemed to be part of the terms and conditions of this resolution for any and all purposes.

(d) Bonds executed and delivered after the execution of any supplemental resolution adopted under this section may bear a notation as to any matter provided for in such supplemental resolution, and if such supplemental resolution shall so provide, new Bonds modified so as to conform, in the opinion of the Borough, to any modification of this resolution contained in any such supplemental resolution may be prepared by the Borough and delivered without cost to the Registered Owner of the Bonds then

outstanding, upon surrender for cancellation of such Bonds in equal aggregate principal amounts.

SECTION 17. Miscellaneous.

(a) All payments made by the Borough of, or on account of, the principal of or interest on the Bonds shall be made on the several Bonds ratably and in proportion to the amount due thereon, respectively, for principal or interest as the case may be.

(b) No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on this resolution against any member of the Assembly or officer of the Borough or any person executing the Bonds. The Bonds are a debt only of the Service Area and are not and shall not be in any way a debt or liability of the Borough, the State of Alaska or of any political subdivision thereof, and do not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of the Borough, the State or of any political subdivision thereof.

SECTION 18. Severability. If any one or more of the provisions of this resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Bonds.

SECTION 19. Effective date. This resolution shall take effect immediately.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 4TH DAY OF DECEMBER, 2012.

_____
Linda Murphy, Assembly President

ATTEST:

_____
Johni Blankenship, MMC, Borough Clerk

Yes:	Haggerty, Johnson, McClure, Pierce, Smalley, Smith, Tauriainen, Wolf, Murphy
No:	None
Absent:	None

Introduced by:	Mayor
Date:	09/15/20
Hearing:	10/13/20
Action:	Postponed as Amended to 12/01/20
Vote:	9 Yes, 0 No, 0 Absent
Date:	12/01/20
Action:	Tabled as Amended
Vote:	9 Yes, 0 No, 0 Absent
Date:	07/06/21
Action:	Removed from the Table and Enacted as Amended
Vote:	8 Yes, 0 No, 1 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-08

AN ORDINANCE APPROPRIATING REFINANCED 2013 SCHOOL GENERAL OBLIGATION BOND PROCEEDS FOR THE PURPOSE OF PAYING BOND REFINANCING ISSUANCE COSTS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain educational capital improvements, issued and sold its Education Capital Improvement General Obligation Bond, Series 2013, dated November 14, 2013, in the original principal amount of $20,860,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2013-071 of the Borough adopted on October 8, 2013 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of November 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation Bonds, 2013 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, through Resolution 2020-042, the assembly approved the Borough's participation in this refinancing and to authorize the mayor or his designee to accept a revised debt service schedule for the 2013 Bond if the Bond Bank successfully refinances the Bond Bank Bonds; and

WHEREAS, the Bond Bank anticipates a refinancing closing date following October 1, 2020;

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

SECTION 1. That 2013 refinanced school bond proceeds in the amount of up to $8,100 are appropriated to the School Bond Capital Project Fund, account number 401.78050.21BND.49999 to pay costs related to the issuance.

SECTION 2. That the appropriations made in this ordinance are of a project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 3. That eligible costs incurred prior to the appropriation date will be charged to the project.

SECTION 4. This ordinance is effective retroactively on June 30, 2021.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JULY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

10/13/20 Vote on motion to postpone as amended to 12/01/20:

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

12/01/20 Vote on motion to table as amended:

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

07/06/21 Vote on motion to remove from the table:

Yes:	Bjorkman, Carpenter, Chesley, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	Cox

07/06/21 Vote on motion to enact as amended:

Yes:	Bjorkman, Carpenter, Chesley, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	Cox

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor

FROM: Brandi Harbaugh, Finance Director
Colette Thompson, Borough Attorney

DATE: June 24, 2021

SUBJECT: Request that the Assembly Remove Ord. 2020-19-07, Ord. 2020-19-08, and Ord. 2020-19-09 from the table to be heard at their Regular Scheduled Meeting of July 6, 2021.

Due to the three refunding bond sales being completed on June 16, 2021, the administration requests that the appropriating ordinances be removed from the table to be heard at the Assembly's regularly scheduled meeting of July 6, 2021 so bond counsel can be paid for services rendered over the past year in a timely manner.

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor BH for CP

FROM: Brandi Harbaugh, Finance Director BH
Colette Thompson, Borough Attorney CT

DATE: June 24, 2021

SUBJECT: Amendment to Ordinance 2020-19-08, Appropriating Refinanced 2013 School General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

Due to delays, a change in the tax status of a bond transaction and preparation of superseding resolutions, the Borough has agreed to increase the original fee to bond counsel to $8,100 including estimated out of pocket costs.

(Please note the bold underlined language is new and the bracketed strikeout language is to be deleted.)

- Amend Section 1, as follows:

SECTION 1. That 2013 refinanced school bond proceeds in the amount of up to [~~$6,860.00~~] **$8,100** are appropriated to the School Bond Capital Project Fund, account number 401.78050.21BND.49999 to pay costs related to the issuance.

SECTION 4. [~~This ordinance takes effect immediately upon its enactment~~] **This ordinance is effective retroactively on June 30, 2021**.

FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED

Acct. No. 401.00000.21BND.39010

Amount: $8,100

By: PP Date: 6/24/2021

Your consideration is appreciated.

Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: September 3, 2020

SUBJECT: Ordinance 2020-19 08, Appropriating Refinanced 2013 School General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

In May 2020, the Kenai Peninsula Borough approved Resolution 2020-042, authorizing the Borough's participation in the refinancing of select series for the 2013 school general obligation bonds.

Due to reductions in long term interest rates, the Alaska Municipal Bond Bank has determined that a portion of the outstanding 2013 school bonds could be refinanced, with potential savings to borough residents of approximately $670,000 in interest over the remaining life of the debt. This ordinance appropriates refinanced bond proceeds for the purpose of paying costs related to the issuance of the bond refinancing.

Your consideration is appreciated.

FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED

Acct. No. 401.00000.21BND.39010

Amount: $6,860.00

By: PP Date: 9/2/2020

DocuSign Envelope ID: 9BA1DDE8-C917-4B76-B268-9E3F04C61F9D

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: November 19, 2020

SUBJECT: Request to Table Ordinance 2020-19-08, Appropriating Refinanced 2013 School General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

The Alaska Supreme Court's recent decision which invalidated a plan to sell bonds to pay oil tax credits has caused a certain amount of uncertainty in the Alaska bond market. The Alaska Department of Law has requested a rehearing to better define the scope of the ruling.

The Alaska Municipal Bond Bank has delayed its bond issue for a time uncertain as a result of the recent decision. Therefore, pending further analysis of the effect of the Supreme Court ruling we are looking to postpone the refinancing of the 2013 School General Obligation Bonds until calendar year 2021.

Therefore, we are requesting to table this ordinance until early 2021, providing more time for analysis and review of the market

Your consideration is appreciated.

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Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: October 1, 2020

SUBJECT: Amendment to Ordinance 2020-19-08, Appropriating Refinanced 2013 School General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs & Request to Postpone Hearing (Mayor)

The Alaska Supreme Court's recent decision which invalidated a plan to sell bonds to pay oil tax credits has caused a certain amount of uncertainty in the Alaska bond market. The Alaska Department of Law has requested a rehearing to better define the scope of the ruling. The Alaska Municipal Bond Bank has delayed its bond issue for a time uncertain as a result of the recent decision. Therefore, pending further analysis of the effect of the Supreme Court ruling we are seeking to postpone the refinancing of the 2013 School General Obligation Bonds until after October 2020.

Based on the above circumstances, postponement of the hearing on this ordinance to the November 10, 2020, meeting is requested as well as the following amendment:

(Please note the bold underlined language is new and the bracketed strikeout language is to be deleted.)

- Amend the last whereas clause, as follows:

WHEREAS, the Bond Bank anticipates a refinancing closing date **[~~of September 2020~~] <u>following October 1, 2020</u>**;

Your consideration is appreciated.

Introduced by:	Mayor
Date:	10/08/13
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2013-071

A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE KENAI PENINSULA BOROUGH IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $22,987,000 TO PAY THE COSTS OF EDUCATIONAL CAPITAL IMPROVEMENTS IN THE BOROUGH, FIXING CERTAIN DETAILS OF SUCH BONDS, AND PLEDGING THE FULL FAITH AND CREDIT OF THE BOROUGH TO THE PAYMENT THEREOF

WHEREAS, pursuant to Ordinance 2013-28 of the Kenai Peninsula Borough (the "Borough") enacted on August 6, 2013, the following question, referred to at the election held on October 1, 2013 as Proposition No. 2 ("Proposition 2"), was passed and approved:

PROPOSITION NO. 2

Shall the Kenai Peninsula Borough borrow up to $22,987,000 through the issuance of general obligation bonds?

The general obligation bond proceeds will be used to pay costs of planning, designing, site preparation, constructing, acquiring, renovating, installing and equipping educational capital improvement projects consisting of a new Homer High School field and roof replacements at Tustumena Elementary School, Skyview School, Soldotna Middle School, Homer Junior High School, Paul Banks School, Kenai Central High School, Soldotna High School, Kenai Middle School, Kenai Alternative School, and Ninilchik School, and similar education capital improvements in the Borough.

The debt will be paid from ad valorem taxes on all taxable property levied and collected areawide in the Borough. The Borough will also pledge its full faith and credit for payment of the debt. The approximate annual amount of taxes on $100,000 of assessed real or personal property value (based on the Borough's FY2014 taxable assessed valuation) to retire the debt is $6.77, assuming 70 percent debt service reimbursement from the State of Alaska.

No bonds will be issued, unless and until the project qualifies for at least 70 percent debt service reimbursement from the State of Alaska under existing or new legislation. Receipt of State reimbursement is subject to annual legislative appropriations.

FISCAL NOTE: it is estimated that the annual debt service for the school bonds would be approximately $1,574,500 of which $1,102,150 would be received from the State of Alaska under the 70% debt reimbursement program, resulting in a net cost to the Borough of $472,350; an amount equal to $6.77 per $100,000 of assessed real or personal property (based upon the Borough's FY2014 taxable assessed valuation).

Shall the Kenai Peninsula Borough borrow up to $22,987,000 through the issuance of general obligation bonds?

Yes [A "Yes" vote approves the sale of bonds only if, and to the extent that, such project qualifies for at least 70% debt reimbursement from the State of Alaska.]

No [A "No" vote opposes the sale of bonds.]

WHEREAS, Section 29.47.410 of the Alaska Statutes provides that the Assembly by ordinance or resolution may provide for the form and manner of sale of bonds and notes; and

WHEREAS, the Borough received formal notification from the Alaska Department of Education and Early Development ("DEED") that the Project herein is eligible for debt reimbursement at a rate of 70 percent; and

WHEREAS, it is necessary and in the best interest of the Borough and its residents that the Borough proceed to plan, design, do site preparation for, construct, acquire, renovate, install and equip the capital improvements within the Borough described in Proposition 2 (the "Project"), and issue the general obligation bonds referred to in Proposition 2 in the principal amount not to exceed $22,987,000, constituting all of the unsold general obligation bonds referred to therein, to pay costs of the Project; and

WHEREAS, it is in the best interest of the Borough to enter into a Loan Agreement between the Alaska Municipal Bond Bank and the Borough, which provides for the Alaska Municipal Bond Bank to purchase the Bonds on the terms and conditions set forth therein and in this resolution;

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

SECTION 1. Definitions. The following terms shall have the following meanings in this resolution:

(a) "Assembly" means the Assembly of the Borough, as the general legislative authority of the Borough, as the same shall be duly and regularly constituted from time to time.

(b) "Bond" or "Bonds" means any of the Bonds of the Borough, the issuance and sale of which are authorized herein as the evidence of the indebtedness referred to in Proposition 2.

(c) "Bond Bank" means the Alaska Municipal Bond Bank.

(d) "Bond Register" means the registration books maintained by the Registrar, which include the names and addresses of the owners or nominees of the Registered Owners of the Bonds.

(e) "Borough" means the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, organized as a second class borough under Title 29 of the Alaska Statutes.

(f) "Code" means the Internal Revenue Code of 1986, as amended from time to time, together with all regulations applicable thereto.

(g) "Continuing Disclosure Certificate" means the certificate dated as of the date of the Bonds, described in Section 18 of this resolution.

(h) "Cost" or "Costs" means the cost of planning, designing, acquiring property for, site preparation, constructing, acquiring, renovating, installing and equipping the Project, including interest on the Bonds during the period of planning, designing, acquiring property for, site preparation, constructing, acquiring, renovating, installing, and equipping the Project, the cost whether incurred by the Borough or by another of field surveys and advance planning undertaken in connection with the Project properly allocable to the Project, the cost of acquisition of any land or interest therein required as the site or sites of the Project or for use in connection therewith, the cost of any indemnity and surety bonds and premiums on insurance incurred in connection with the Project prior to or during construction thereof, all related direct administrative and inspection expenses whether incurred by the Borough or by another in connection with the Project prior to or during construction thereof and allocable portions of direct costs of the Borough, legal fees, costs of issuance of the Bonds by the Borough, including financing charges and fees and expenses of bond counsel, financial advisors and consultants in connection therewith, the cost of any bond insurance premium, the cost of audits, the cost of all machinery, apparatus and equipment, cost of engineering, architectural services, designs, plans, specifications and surveys, estimates of cost, the reimbursement of all moneys advanced from whatever source for the payment of any item or items of cost of the Project, and all other expenses necessary or incidental to

determining the feasibility or practicability of the Project, and such other expenses not specified herein as may be necessary or incident to the acquisition and development of the Project, the financing thereof and the putting of the same in use and operation.

(i) "Loan Agreement" means the Loan Agreement between the Borough and the Bond Bank.

(j) "Registered Owner" means the person named as the registered owner of a Bond in the Bond Register.

(k) "Registrar" means the Finance Director of the Borough, or any successor that the Borough may appoint through resolution.

SECTION 2. Authorization of Bonds and Purpose of Issuance. For the purpose of providing the funds required to pay the Costs of the Project, to provide for original issue discount or premium, if any, and to pay all costs incidental thereto and to the issuance of the Bonds, the Borough hereby authorizes and determines to issue and sell the Bonds in the aggregate principal amount of not to exceed $22,987,000. The Bonds shall be designated "Kenai Peninsula Borough, Alaska General Obligation School Bonds."

The Borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this resolution is necessary in order to carry out and effectuate the purpose of the Borough in accordance with the Constitution and the statutes of the State of Alaska and to incur the indebtedness and issue the Bonds as referred to in Proposition 2.

SECTION 3. Obligation of Bonds. The Bonds shall be direct and general obligations of the Borough, and the full faith and credit of the Borough are hereby pledged to the payment of the principal of and interest on the Bonds. The Borough hereby irrevocably pledges and covenants that it will levy and collect taxes upon all taxable property within the Borough without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bonds as the same become due and payable.

SECTION 4. Date, Maturities, Interest Rates, and Other Details of Bonds. The Bonds shall be dated as of the date of delivery, shall be in the denomination of $5,000 or any integral multiple thereof, or such other date and denominations as may be determined by the Mayor or Finance Director, and shall be numbered separately in such manner and with any additional designation as the Registrar deems necessary for purposes of identification.

The Bonds shall bear interest from the date thereof, payable on May 15, 2014, and semiannually thereafter on November 15 and May 15 of each year or such other dates as may be determined by the Mayor or Finance Director. Interest

shall be computed on the basis of a 360-day year composed of twelve 30-day months. The Mayor or Finance Director is authorized to fix and determine the maturity dates and the rate of interest on each principal installment of the Bonds, provided that (i) no rate of interest on a principal installment shall exceed the rate of interest on the corresponding maturity of the bonds of the Bond Bank issued to provide funds to purchase the Bonds; (ii) the true interest cost of the Bonds shall not exceed 6.0 percent unless approved by resolution of the Assembly; and (iii) all of the Bonds shall mature on or before November, 2034.

SECTION 5. Payment of Principal and Interest. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. For so long as all outstanding Bonds are registered in the name of the Alaska Municipal Bond Bank, payments of principal and interest thereon shall be made as provided in the Loan Agreement. In the event that the Bonds are no longer owned by the Bond Bank, payments of principal and interest on the Bonds will be made by check or draft mailed by first class mail to the Registered Owners of the Bonds at the addresses for such Registered Owners appearing on the Bond Register on the 15th day of the month preceding the payment date, provided that the final installment of principal and interest on the Bonds will be payable at the principal office of the Registrar upon surrender of the Bond.

SECTION 6. Defeasance. In the event money and/or non-callable direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America, maturing at such times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all of the Bonds in accordance with their terms are set aside in a special trust account to effect such redemption or retirement and such moneys and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made to pay or secure the payment of the principal of and interest on such Bonds and such Bonds shall be deemed not to be outstanding.

SECTION 7. Redemption. The Bonds, if any, subject to optional redemption by the Borough, the times when such Bonds are subject to optional redemption, the terms upon which such Bonds may be redeemed, and the redemption price or prices for such Bonds, shall be determined at the time of sale of the Bonds by the Mayor or Finance Director. For so long as the Bonds are held by the Bond Bank, redemption shall be in accordance with the provisions of the Loan Agreement.

SECTION 8. Form of Bond. Each Bond shall be in substantially the following form, subject to the provisions of the Loan Agreement:

UNITED STATES OF AMERICA
STATE OF ALASKA

KENAI PENINSULA BOROUGH
(A Municipal Corporation of the State of Alaska)

NO.____ $_____

GENERAL OBLIGATION SCHOOL BONDS 20___

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

The Kenai Peninsula Borough, Alaska (the "Borough"), a municipal corporation of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or its registered assigns, the Principal Amount indicated above in the following installments on _____ 1 of each of the following years, and to pay interest on such installments from the date hereof, payable on _____ 1, 2014 and semiannually thereafter on the first days of _____ and _____ of each year, at the rates per annum as follows:

Year	Principal Amount	Interest Rate

For so long as this Bond is owned by the Alaska Municipal Bond Bank (the "Bank"), payment of principal and interest shall be made as provided in the Loan Agreement between the Bank and the Borough (the "Loan Agreement"). In the event that this Bond is no longer owned by the Bank, payment of principal of and interest on this Bond will be made by check or draft mailed by first class mail to the registered owner at the address appearing on the bond register of the Borough on the 15th day of the month preceding the payment date, provided that the final installment of principal and interest on this Bond will be payable at the office of the Borough Finance Director (the "Registrar") upon surrender of this Bond. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. Both principal of and interest on this bond are payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts.

This Bond is one of the General Obligation School Bonds, 20___ of the Kenai Peninsula Borough, Alaska of like tenor and effect except as to interest rate, serial number and maturity, aggregating $_____ in principal amount, and constituting bonds authorized

for the purpose of paying the cost of the educational capital improvements in the Borough, and is issued under Resolution 2013-071 of the Borough entitled:

> A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE KENAI PENINSULA BOROUGH IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $22,987,000 TO PAY THE COSTS OF EDUCATIONAL CAPITAL IMPROVEMENTS IN THE BOROUGH, FIXING CERTAIN DETAILS OF SUCH BONDS, AND PLEDGING THE FULL FAITH AND CREDIT OF THE BOROUGH TO THE PAYMENT THEREOF
>
> (herein called the "Resolution").

The Bonds will be subject to redemption at the option of the Borough as described in the Loan Agreement.

This Bond is transferable as provided in the Resolution, (i) only upon the bond register of the Borough, and (ii) upon surrender of this Bond together with a written instrument of transfer duly executed by the registered owner or the duly authorized attorney of the registered owner, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and maturity shall be issued to the transferee in exchange therefor as provided in the Resolution and upon the payment of charges, if any, as therein prescribed. The Borough may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price, if any, hereof and interest due hereon and for all other purposes whatsoever.

This Bond is a general obligation of the Kenai Peninsula Borough, and the full faith and credit of the Borough is pledged for the payment of the principal of and interest on the Bond as the same shall become due.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts or things required by the constitution or statutes of the State of Alaska to exist, to have happened or to have been performed precedent to or in the issuance of this Bond, exist, have happened and have been performed, and that the series of Bonds of which this is one, together with all other indebtedness of the Borough, is within every debt and other limit prescribed by said constitution or statutes.

IN WITNESS WHEREOF, THE KENAI PENINSULA BOROUGH, ALASKA, has caused this Bond to be signed in its name and on its behalf by its Mayor and its corporate seal to be hereunto impressed or otherwise reproduced and attested by its Clerk, all as of the ____ day of _____, 20__.

_____
MIKE NAVARRE
Borough Mayor

ATTEST:

_____

JOHNI BLANKENSHIP, MMC, Borough Clerk

SECTION 9. Execution. The Bonds shall be executed in the name of the Borough by the Mayor, and its corporate seal shall be impressed or otherwise reproduced thereon and attested by the Borough Clerk. The execution of a Bond on behalf of the Borough by persons that at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the Bond or shall not have held office on the date of the Bond.

SECTION 10. Registration. (a) The Bonds shall be issued only in registered form as to both principal and interest. The Borough designates the Borough Finance Director as Registrar for the Bonds. The Registrar shall keep, or cause to be kept, the Bond Register at the principal office of the Borough.

(b) The Borough, in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes, and neither the Borough nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 5, but such registration may be transferred as herein provided. All such payments made as described in Section 5 shall be valid and shall satisfy and discharge the liability of the Borough upon such Bond to the extent of the amount or amounts so paid.

(c) Bonds shall be transferred only upon the Bond Register kept by the Registrar. Upon surrender for transfer or exchange of any Bond at the office of the Registrar, with a written instrument of transfer or authorization for exchange in form and with guaranty of signature satisfactory to the Registrar, duly executed by the registered owner of its duly authorized attorney, the Borough shall execute and the Registrar shall deliver an equal aggregate principal amount of Bonds of the same maturity of any authorized denominations, subject to such reasonable regulations as the Registrar may prescribe and upon payment sufficient to reimburse it for any tax, fee or other governmental charge required to be paid in connection with such transfer or exchange. All Bonds surrendered for transfer or exchange shall be canceled by the Registrar. The Registrar shall not be required to transfer or exchange any Bond after the Bond has been called for redemption.

(d) The Borough covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code.

SECTION 11. Mutilated, Destroyed, Stolen or Lost Bonds. Upon surrender to the Registrar of a mutilated Bond, the Borough shall execute and deliver a new Bond of like maturity and principal amount. Upon filing with the Registrar of evidence satisfactory to the Borough that a Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the Borough with identification satisfactory to it, the Borough shall execute and deliver a new Bond of like maturity and principal amount. The person requesting the authentication and delivery of a new Bond pursuant to this section shall comply with such other reasonable regulations as the Borough may prescribe and pay such expenses as the Borough may incur in connection therewith. Any Bonds issued pursuant to this section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Borough, whether or not the Bonds alleged to be destroyed, stolen or lost be at any time enforceable by anyone.

SECTION 12. Disposition of the Sale Proceeds of the Bonds. The sale proceeds of the Bonds representing accrued interest on the Bonds, if any, shall be applied to pay a portion of the interest due on the Bonds on the first interest payment date for the Bonds. The remainder of the sale proceeds of the Bonds shall be applied to pay Costs. The sale proceeds of the Bonds shall be deposited in the appropriate funds or accounts of the Borough for such purposes as may be determined by the Finance Director.

SECTION 13. Tax Covenants. The Borough covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on the Bonds from gross income for federal income tax purposes. The Borough covenants that it will make no use of the proceeds of the Bonds which will cause the Bonds to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code. The Borough covenants that it will not take or permit any action that would cause the Bonds to be "private activity bonds" as defined in Section 141 of the Code.

SECTION 14. Sale of the Bonds; Loan Agreement. The sale of not to exceed $22,987,000 aggregate principal amount of the Bonds, as provided in the Loan Agreement and this resolution, is hereby authorized and approved. The Mayor and the Finance Director are each hereby authorized to execute and deliver the Loan Agreement, a Continuing Disclosure Certificate and such other documents as may be necessary to effectuate issuance of the Bonds on behalf of the Borough.

SECTION 15. Authority of Officers. The Mayor, the Borough Finance Director, and the Borough Clerk are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this resolution, or to be determined by a subsequent ordinance or resolution, to the end that the Borough may carry out its obligations under the Bonds and this resolution.

SECTION 16. Amendatory and Supplemental Resolutions. (a) The Assembly from time to time and at any time may adopt a resolution or resolutions supplemental hereof, which resolution or resolutions thereafter shall become a part of this resolution, for any one or more of the following purposes:

(i) To add to the covenants and agreements of the Borough in this resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Borough.

(ii) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this resolution or in regard to matters or questions arising under this resolution as the Assembly may deem necessary or desirable and not inconsistent with this resolution and which shall not adversely affect the interest of the Registered Owner of the Bonds.

Any such supplemental resolution may be adopted without the consent of the Registered Owners of any of the Bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.

(b) With the consent of a bond insurer, if any, or the Registered Owners of not less than 60 percent in aggregate principal amount of the Bonds at the time outstanding, the Assembly may adopt a resolution or resolutions supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this resolution or of any supplemental resolution; provided, however that no such supplemental resolution shall:

(i) extend the fixed maturity of any of the Bonds, or reduce the rate of interest thereon, or reduce the amount or change the date of any sinking fund installment, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the owners of each Bond so affected; or

(ii) reduce the aforesaid percentage of owners of Bonds required to approve any such supplemental resolution without the consent of the owners of all the Bonds then outstanding.

It shall not be necessary for the consent of the Registered Owners of the Bonds under this subsection to approve the particulars of any proposed supplemental resolution, but it shall be sufficient if such consent approves the substance thereof.

(c) Upon the adoption of any supplemental resolution under this section, this resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this resolution of the Borough and all Registered Owners of outstanding Bonds shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of the supplemental resolution shall be deemed to be part of the terms and conditions of this resolution for any and all purposes.

(d) Bonds executed and delivered after the execution of any supplemental resolution adopted under this section may bear a notation as to any matter provided for in such supplemental resolution, and if such supplemental resolution shall so provide, new Bonds modified so as to conform, in the opinion of the Borough, to any modification of this resolution contained in any such supplemental resolution may be prepared by the Borough and delivered without cost to the Registered Owner of the Bonds then outstanding, upon surrender for cancellation of such Bonds in equal aggregate principal amounts.

SECTION 17. Miscellaneous. (a) All payments made by the Borough of, or on account of, the principal of or interest on the Bonds shall be made on the several Bonds ratably and in proportion to the amount due thereon, respectively, for principal or interest as the case may be.

(b) No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on this resolution against any member of the Assembly or officer of the Borough or any person executing the Bonds. The Bonds are not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof, except the Borough, and do not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of said State or of any political subdivision thereof, except the Borough.

SECTION 18. Continuing Disclosure. The Borough acknowledges that now or in the future the Borough may be an "obligated person" under Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). In accordance with the Rule, the Borough agrees to comply with and carry out continuing disclosure obligations required under Rule 15c2-12 and the Loan Agreement. Notwithstanding any other provision of this Resolution, failure of the Borough to comply with the Continuing Disclosure Certificate shall not be considered a default of the Borough's obligations under this Resolution, the Loan Agreement or the Bonds; however the beneficial owner of any Bond may bring an action for specific performance, to cause the Borough to comply with its continuing disclosure obligations.

SECTION 19. Severability. If any one or more of the provisions of this resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Bonds.

SECTION 20. Effective date. This resolution shall take effect immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 8TH DAY OF OCTOBER, 2013.

Linda Murphy, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:	Haggerty, Johnson, McClure, Pierce, Smalley, Smith, Tauriainen, Wolf, Murphy
No:	None
Absent:	None

Introduced by:	Mayor
Date:	06/16/20
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2020-042

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE EDUCATION CAPITAL IMPROVEMENT GENERAL OBLIGATION BOND, SERIES 2013 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2013 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), to finance certain educational capital improvements, issued and sold its Education Capital Improvement General Obligation Bond, Series 2013, dated November 14, 2013, in the original principal amount of $20,860,000 (the "2013 Bond") to the Alaska Municipal Bond Bank (the "Bond Bank"), as authorized by Resolution No. 2013-071 of the Borough adopted on October 8, 2013 (the "Bond Resolution"), based on terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of November 1, 2013 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation Bonds, 2013 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2013 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2013 Bond may be adjusted to reduce debt service on the 2013 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, the Assembly wishes to approve the Borough's participation in this refinancing and to authorize the Borough Mayor or his designee to accept a revised debt service schedule for the 2013 Bond if the Bond Bank successfully refinances the Bond Bank Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1. **Approval of Refinancing**. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2013 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2013 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2020 Refunding Bond") to be issued in exchange for the 2013 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2013 Bond is refinanced, the 2013 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2013 Bond (the "Exchanged 2013 Bond"). The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2020 Refunding Bond and Exchanged 2013 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2013 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2. **Tax Matters**. The 2013 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2020 Refunding Bond may be issued on a tax-exempt or taxable basis as determined by the Mayor or Finance Director. The Exchanged 2013 Bond shall retain its original tax treatment under the Code.

SECTION 3. **General Authorization**. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4. **Prior Acts**. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2013 Bond are hereby ratified and confirmed.

SECTION 5. Recitals. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 6. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

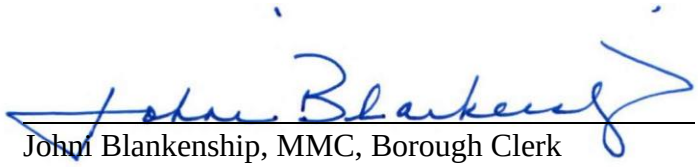
CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2020-042 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 16th day of June, 2020, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2020.



Johni Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Introduced by:	Mayor
Date:	09/15/20
Hearing:	10/13/20
Action:	Postponed as Amended to 12/01/20
Vote:	9 Yes, 0 No, 0 Absent
Date:	12/01/20
Action:	Tabled as Amended
Vote:	9 Yes, 0 No, 0 Absent
Date:	07/06/21
Action:	Removed from the Table and Enacted as Amended

KENAI PENINSULA BOROUGH
ORDINANCE 2020-19-09

AN ORDINANCE APPROPRIATING REFINANCED 2011 HOSPITAL GENERAL OBLIGATION BOND PROCEEDS FOR THE PURPOSE OF PAYING BOND REFINANCING ISSUANCE COSTS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), refunded its Central Kenai Peninsula Hospital Service Area General Obligation Bonds, Series 2003, dated December 18, 2003, with proceeds of its Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011, in the original principal amount of $27,905,000 (the "2011 Bond"); and

WHEREAS, the 2011 Bond was issued pursuant to Borough Resolution 2011-073, adopted by the Assembly on July 5, 2011 (the "Bond Resolution") and purchased by the Alaska Municipal Bond Bank (the "Bond Bank"), based on the terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of September 15, 2011 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2011 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2011 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2011 Bond may be adjusted to reduce debt service on the 2011 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, through Resolution 2020-043, the assembly approved the Borough's participation in this refinancing and to authorize the mayor or his designee to accept a revised debt service schedule for the 2011 Bond if the Bond Bank successfully refinances the Bond Bank Bonds; and

WHEREAS, the Bond Bank anticipates a refinancing closing date following October 1, 2020;

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

SECTION 1. That 2011 refinanced hospital bond proceeds in the amount of up to $12,300 are appropriated to the Central Peninsula Hospital Capital Project Fund, account number 490.81110.21BND.49999 to pay costs related to the issuance.

SECTION 2. That the appropriations made in this ordinance are of a project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 3. That eligible costs incurred prior to the appropriation date will be charged to the project.

SECTION 4. This ordinance is effective retroactively on June 30, 2021.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF JULY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

10/13/20 Vote on motion to postpone as amended to 12/01/20:

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

12/01/20 Vote on motion to table as amended:

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

07/06/21 Vote on motion to remove from the table:

Yes:	Bjorkman, Carpenter, Chesley, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	Cox

07/06/21 Vote on motion to enact as amended:

Yes:	Bjorkman, Carpenter, Chesley, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	Cox

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor

FROM: Brandi Harbaugh, Finance Director
Colette Thompson, Borough Attorney

DATE: June 24, 2021

SUBJECT: Request that the Assembly Remove Ord. 2020-19-07, Ord. 2020-19-08, and Ord. 2020-19-09 from the table to be heard at their Regular Scheduled Meeting of July 6, 2021.

Due to the three refunding bond sales being completed on June 16, 2021, the administration requests that the appropriating ordinances be removed from the table to be heard at the Assembly's regularly scheduled meeting of July 6, 2021 so bond counsel can be paid for services rendered over the past year in a timely manner.

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor BH for CP

FROM: Brandi Harbaugh, Finance Director BH
Colette Thompson, Borough Attorney CT

DATE: June 24, 2021

SUBJECT: Amendment to Ordinance 2020-19-09, Appropriating Refinanced 2011 Hospital General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

Due to delays, a change in the tax status of a bond transaction and preparation of superseding resolutions, the Borough has agreed to increase bond counsel's original fee to $12,300 including estimated out of pocket costs.

(Please note the bold underlined language is new and the bracketed strikeout language is to be deleted.)

- Amend Section 1, as follows:

SECTION 1. That 2011 refinanced hospital bond proceeds in the amount of up to [~~$6,860.00~~] **$12,300** are appropriated to the Central Peninsula Hospital Capital Project Fund, account number 490.81110.21BND.49999 to pay costs related to the issuance.

SECTION 4. [~~This ordinance takes effect immediately upon its enactment~~] **This ordinance is effective retroactively on June 30, 2021.**

Your consideration is appreciated.

FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED

Acct. No. 490.00000.21BND.39010

Amount: $12,300.00

By: PP Date: 6/24/2021

Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: September 3, 2020

SUBJECT: Ordinance 2020-19-09, Appropriating Refinanced 2011 Hospital General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

In May 2020, the Kenai Peninsula Borough Assembly approved Resolution 2020-043, authorizing the Borough's participation in the refinancing of select series for the 2011 hospital general obligation bonds.

Due to reductions in long term interest rates, the Alaska Municipal Bond Bank has determined that a portion of the outstanding 2011 hospital bonds could be refinanced, with potential savings to borough residents of approximately $200,000 in interest over the remaining life of the debt. This ordinance appropriates refinanced bond proceeds for the purpose of paying costs related to the issuance of the bond refinancing.

Your consideration is appreciated.

FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED

Acct. No. 490.00000.21BND.39010

Amount: $6,860.00

By: PP Date: 9/2/2020

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Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: November 19, 2020

SUBJECT: Request to Table Ordinance 2020-19-09, Appropriating Refinanced 2011 Hospital General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs (Mayor)

The Alaska Supreme Court's recent decision which invalidated a plan to sell bonds to pay oil tax credits has caused a certain amount of uncertainty in the Alaska bond market. The Alaska Department of Law has requested a rehearing to better define the scope of the ruling.

The Alaska Municipal Bond Bank has delayed its bond issue for a time uncertain as a result of the recent decision. Therefore, pending further analysis of the effect of the Supreme Court ruling we are looking to postpone the refinancing of the 2011 Central Peninsula Hospital General Obligation Bonds until calendar year 2021.

Therefore, we are requesting to table this ordinance until early 2021, providing more time for analysis and review of the market

Your consideration is appreciated.

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Kenai Peninsula Borough
Finance Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Brandi Harbaugh, Finance Director BH

DATE: October 1, 2020

SUBJECT: Amendment to Ordinance 2020-19-09, Appropriating Refinanced 2011 Hospital General Obligation Bond Proceeds for the Purpose of Paying Bond Refinancing Issuance Costs & Request to Postpone Hearing (Mayor)

The Alaska Supreme Court's recent decision which invalidated a plan to sell bonds to pay oil tax credits has caused a certain amount of uncertainty in the Alaska bond market. The Alaska Department of Law has requested a rehearing to better define the scope of the ruling. The Alaska Municipal Bond Bank has delayed its bond issue for a time uncertain as a result of the recent decision. Therefore, pending further analysis of the effect of the Supreme Court ruling we are seeking to postpone the refinancing of the 2011 CPGH Hospital General Obligation Bonds until after October 2020.

Based on the above circumstances, postponement of the hearing on this ordinance to the November 10, 2020, meeting is requested as well as the following amendment:

(Please note the bold underlined language is new and the bracketed strikeout language is to be deleted.)

- Amend the last whereas clause, as follows:

WHEREAS, the Bond Bank anticipates a refinancing closing date **[~~of September 2020~~] <u>following October 1, 2020</u>**;

Your consideration is appreciated.

Introduced by:	Mayor
Date:	07/05/11
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2011-073

A RESOLUTION AUTHORIZING THE ISSUE OF CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION REFUNDING BONDS, 2011 IN ONE OR MORE SERIES IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED $33,965,000 TO REFUND CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE SERVICE AREA, FIXING CERTAIN DETAILS OF SUCH BONDS AND AUTHORIZING THEIR SALE AND REPEALING RESOLUTION 2010-091

WHEREAS, there are now outstanding $35,990,000 of the Central Kenai Peninsula Hospital Service Area General Obligation Bonds, Series 2003 of the Borough maturing on or after February 1, 2012 issued under Resolution 2003-121 of the Borough (the "2003 Bonds"); and

WHEREAS, the Assembly finds that it is in the best interest of the Borough to provide for the refunding, including payment of principal of, premium, if any, and interest on, those maturities of the 2003 Bonds (the "Refunded Bonds") whose refunding the Borough Mayor or Borough Finance Director determines will produce the debt service savings described in this resolution, by the issuance of Service Area general obligation refunding bonds in the aggregate principal amount of not to exceed $33,965,000; and

WHEREAS, to effect such refunding in the most economical manner, part of the sale proceeds of the bonds authorized herein (the "Bonds") may be invested in obligations to be authorized and approved by the Borough Mayor or Borough Finance Director, maturing in such amounts and at such times as are required to pay interest on the Refunded Bonds prior to the date of their redemption and to redeem the Refunded Bonds on the earliest date on which the Refunded Bonds may be called for redemption; and

WHEREAS, Section 29.47.320 of the Alaska Statutes provides that general obligation refunding bonds may be issued without an election and that their issuance may be authorized by resolution, and Section 29.47.410 of the Alaska Statutes provides that the Assembly by resolution or resolution may provide for the form and manner of sale of bonds and notes; and

WHEREAS, the Assembly finds that it is necessary and appropriate to delegate to each of the Borough Mayor and Borough Finance Director authority to determine the maturity amounts, interest rates and other details of the Bonds, the amount of Bond proceeds and the obligations necessary to effect the refunding of the Refunded Bonds, and to determine other matters that are not provided for in this

resolution;

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

SECTION 1. Definitions. The following terms shall have the following meanings in this resolution:

(a) "Assembly" means the Assembly of the Kenai Peninsula Borough, as the general legislative authority of the Kenai Peninsula Borough, as the same shall be duly and regularly constituted from time to time.

(b) "Bond" or "Bonds" means any of the "Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011" of the Kenai Peninsula Borough, in one or more series, the issuance and sale of which are authorized herein.

(c) "Bond Bank" means the Alaska Municipal Bond Bank, a public corporation of the State of Alaska.

(d) "Bond Bank Bonds" means the General Obligation and Refunding Bonds, 2011 Series Three of the Bond Bank.

(e) "Bond Register" means the registration books maintained by the Paying Agent as Bond registrar, which include the names and addresses of the owners or nominee of the owners of the Bonds.

(f) "Borough" means the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, incorporated January 1, 1964 as a second class borough under the laws of the State of Alaska.

(g) "Code" means the Internal Revenue Code of 1986, as amended from time to time, together with all regulations applicable thereto.

(h) "Cost" or "Costs" means allocable portions of direct costs of the Borough, legal fees, fees and expenses of the Paying Agent, costs of issuance of the Bonds by the Borough, including financing charges and fees and expenses of bond counsel, financial advisors and consultants in connection therewith, and all other expenses necessary or incidental thereto.

(i) "Escrow Agent" means The Bank of New York Trust Company, N.A., and its successors.

(j) "Escrow Agreement" means the Escrow Agreement between the Escrow Agent and the Borough, under which the Escrow Obligations will be deposited, together with other moneys, if necessary, to pay the interest on and the redemption price of the Refunded Bonds.

(k) "Escrow Obligations" means. non-callable direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America or an agency or instrumentality of the United States of America.

(l) "Letter of Representations" means the blanket letter of representations from the Borough to DTC, dated as of October 23, 2003.

(m) "Loan Agreement" means the Loan Agreement between the Borough and the Bond Bank to be entered into in conjunction with issuing the Bonds.

(n) "2003 Bonds" means the $47,985,000 of Central Kenai Peninsula Hospital Service Area General Obligation Bonds, Series 2003 of the Borough.

(o) "Refunded Bonds" means the maturities and sinking fund installments of the 2003 Bonds whose refunding is approved by the Borough Mayor or Borough Finance Director under Section 13 hereof.

(p) "Refunding Account" means the special account established under Section 7(C) hereof and designated as the "Service Area General Obligation Bond Refunding Account," for the purpose of holding moneys, including Bond proceeds, to be used to pay the interest on and the redemption price of the Refunded Bonds.

(q) "Registered Owner" means the person named as the registered owner of a Bond in the Bond Register.

(r) "Registrar" means the Borough Finance Director.

(s) "Resolution" means this Resolution 2011-__ of the Borough.

(t) "Service Area" means the Central Kenai Peninsula Hospital Service Area.

SECTION 2. Authorization of Bonds and Purpose of Issuance. For the purpose of providing part of the funds required to pay the Costs, providing the funds required to purchase Escrow Obligations and to provide beginning cash to effect the refunding of the Refunded Bonds in the manner and at the times hereinafter set forth, to provide for original issue discount, if any, and to pay all costs incidental thereto and to the issuance of the Bonds, the Borough hereby authorizes and determines to issue and sell the Bonds in the aggregate principal amount of not to exceed $33,965,000.

SECTION 3. Obligation of Bonds. The Bonds shall be direct and general obligations of the Service Area and the full faith and credit of the Service Area are hereby pledged to the payment of the principal of and interest on the Bonds. The Borough hereby irrevocably pledges and covenants that it will levy and collect taxes upon all taxable property within the Service Area without limitation as to rate or amount,

in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bonds as the same become due and payable.

SECTION 4. Designation, Maturities, Interest Rates, and Other Details of Bonds. The Bonds shall be designated the "Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011." The Bonds shall be in the denomination of $5,000 or any integral multiple thereof, shall be numbered separately in the manner and with such additional designation as the Registrar deems necessary for purposes of identification, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to the rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

The dated date, the principal and interest payment dates, the aggregate principal amount, the principal amount of each maturity, and the interest rates on the Bonds shall be determined at the time of execution of the Loan Agreement under Section 13.

SECTION 5. Redemption. The bonds are subject to redemption as provided in the Loan Agreement.

SECTION 6. Form of Bond. Each Bond shall be in substantially the following form, with such variations, omissions and insertions as may be required or permitted by this Resolution:

UNITED STATES OF AMERICA
STATE OF ALASKA

KENAI PENINSULA BOROUGH
(A Municipal Corporation of the State of Alaska)

NO.____ $_____

CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA
GENERAL OBLIGATION REFUNDING BONDS, 2011

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The Kenai Peninsula Borough, Alaska (the "Borough"), a municipal corporation of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or its registered assigns, the Principal Amount indicated above in the following installments on **[_____ 1]** of each of the following years, and to pay interest on such installments from the date hereof, payable on **[_____ 1, 20__]** and semiannually thereafter on the first days of _____ and _____ of each year, at the rates per annum as follows:

Year	Principal Amount	Interest Rate

For so long as this Bond is owned by the Alaska Municipal Bond Bank (the "Bank"), payment of principal and interest shall be made as provided in the Loan Agreement between the Bank and the Borough dated as of _____, 2011 (the "Loan Agreement"). In the event that this Bond is no longer owned by the Bank, installments of principal of and interest on this Bond shall be made by check or draft mailed by first class mail to the registered owner as of the close of business on the fifteenth day of the month preceding each installment payment date; provided that the final installment of principal and interest on this Bond will be payable upon presentation and surrender of this Bond by the Registered Owner at the office of the Registrar. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. Both principal of and interest on this bond are payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts.

This Bond is one of the Central Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011 of the Kenai Peninsula Borough, Alaska of like tenor and effect except as to interest rate, serial number and maturity, aggregating $_____ in principal amount, and constituting bonds authorized for the purpose of refunding certain general obligation bonds issued by the Borough, and is issued under Resolution 2011-__ of the Borough entitled:

> A RESOLUTION AUTHORIZING THE ISSUE OF CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION REFUNDING BONDS, 2011 IN ONE OR MORE SERIES IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED $_____ TO REFUND CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE SERVICE AREA, FIXING CERTAIN DETAILS OF SUCH BONDS AND AUTHORIZING THEIR SALE AND REPEALING RESOLUTION 2010-091.

(herein called the "Resolution").

The Bond is subject to redemption prior to maturity as described in the Loan Agreement.

This Bond is transferable as provided in the Resolution, (i) only upon the bond register of the Borough, and (ii) upon surrender of this Bond together with a written instrument of transfer duly executed by the registered owner or the duly authorized attorney of the registered owner, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and maturity shall be issued to the transferee in exchange therefor as provided in the Resolution and

upon the payment of charges, if any, as therein prescribed. The Borough may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price, if any, hereof and interest due hereon and for all other purposes whatsoever.

This Bond is a general obligation of the Central Peninsula Hospital Service Area, and the full faith and credit of the Service Area are pledged for the payment of the principal of and interest on the Bond as the same shall become due.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts or things required by the constitution or statutes of the State of Alaska and the ordinances of the Borough to exist, to have happened or to have been performed precedent to or in the issuance of this Bond, exist, have happened and have been performed, and that the series of Bonds of which this is one, together with all other indebtedness of the Borough, is within every debt and other limit prescribed by said constitution, statutes, or ordinances.

IN WITNESS WHEREOF, THE KENAI PENINSULA BOROUGH, ALASKA, has caused this Bond to be signed in its name and on its behalf by its Mayor and its corporate seal to be hereunto impressed or otherwise reproduced and attested by its Clerk, all as of the ____ day of _____, 2011.

_____
David R. Carey, Mayor

ATTEST:

_____
Johni Blankenship, MMC, Borough Clerk

SECTION 7. Disposition of the Sale Proceeds of the Bonds.

(A) The sale proceeds of the Bonds representing accrued interest on the Bonds, if any, shall be applied to pay a portion of the interest due on the Bonds on the first interest payment date for the Bonds.

(B) Sale proceeds of a principal amount of Bonds to be determined by the Borough Mayor or the Borough Finance Director shall be applied to pay Costs allocated to such Bonds, and shall be deposited in the appropriate funds or accounts of the Borough for such purposes.

(C) Sale proceeds of a principal amount of Bonds to be determined by the Borough Mayor or the Borough Finance Director shall be deposited in the "Service Area General Obligation Bond Refunding Account" (the "Refunding Account") which is hereby created, and used, together with such other moneys as may be transferred to said account, to deposit cash and to purchase Escrow

Obligations maturing as to principal and interest in such amounts and at such times as necessary to provide for the payment of the interest on and the redemption price of the Refunded Bonds. Such money and escrow obligations shall be deposited in trust with the Escrow Agent pursuant to the Escrow Agreement, the terms of which shall be subject to approval by the Borough Finance Director. Such money and obligations are hereby pledged to be held and applied solely for the purpose set forth herein. When all of the Refunded Bonds shall have been redeemed and retired, the Borough may cause to be transferred to the Borough from the Refunding Account free of trust all moneys remaining therein.

SECTION 8. Designation of Refunded Bonds. The Borough Mayor and the Borough Finance Director each is authorized to designate which, if any, maturities of the 2003 Bonds, authorized to be refunded in this Resolution shall be refunded, provided that the refunding of the bonds so designated shall realize a debt service savings, net of all issuance costs and underwriting discount.

SECTION 9. Call of Refunded Bonds for Redemption. The Borough hereby elects to redeem the Refunded Bonds on August 1, 2013.

Notice of redemption of the Refunded Bonds shall be given in the manner set forth in Resolution 2003-121 authorizing the Refunded Bonds. The election to make such call for redemption shall be subject to the delivery of the Bonds to the initial purchasers thereof and shall become irrevocable upon such delivery.

SECTION 10. Tax Covenants. The Borough covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on the Bonds from gross income for federal income tax purposes. The Borough covenants that it will make no use of the proceeds of the Bonds which will cause the Bonds to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code. The Borough covenants that it will not take or permit any action that would cause the Bonds to be "private activity bonds" as defined in Section 141 of the Code.

SECTION 11. Amendatory and Supplemental Resolutions.

(A) The Assembly from time to time and at any time may adopt a resolution supplemental hereto, which thereafter shall become a part of this Resolution, for any one or more of the following purposes:

(1) To add to the covenants and agreements of the Borough in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Borough.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this Resolution or in regard to matters or questions arising under this Resolution as the Assembly may deem necessary or desirable and not inconsistent with this Resolution and which shall not adversely affect the interests of the Registered Owners of the Bonds.

Any such supplemental resolution may be adopted without the consent of the Registered Owner of any of the Bonds at any time outstanding, notwithstanding any of the provisions of subsection (B) of this section.

(B) With the consent of the Registered Owners of not less than 60 percent in aggregate principal amount of the Bonds at the time outstanding, the Assembly may adopt a resolution supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Resolution or of any supplemental resolution; provided, however, that no such supplemental resolution shall:

(1) extend the fixed maturity of any of the Bonds, or reduce the rate of interest thereon, or reduce the amount or change the date of any sinking fund installment, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Registered Owners of each Bond so affected; or

(2) reduce the aforesaid percentage of Registered Owners of Bonds required to approve any such supplemental resolution without the consent of the Registered Owners of all of the Bonds then outstanding.

It shall not be necessary for the consent of the Registered Owners of the Bonds under this subsection to approve the particular form of any proposed supplemental resolution, but it shall be sufficient if such consent approves the substance thereof.

(C) Upon the adoption of any supplemental resolution under this section, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the Borough and all Registered Owners of outstanding Bonds shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of the supplemental resolution shall be deemed to be part of the terms and conditions of this Resolution for any and all purposes.

(D) Bonds executed and delivered after the execution of any supplemental resolution adopted under this section may bear a notation as to any matter provided for in such supplemental resolution, and if such supplemental

resolution shall so provide, new Bonds modified so as to conform, in the opinion of the Borough, to any modification of this Resolution contained in any such supplemental resolution may be prepared by the Borough and delivered without cost to the Registered Owners of the Bonds then outstanding, upon surrender for cancellation of such Bonds in equal aggregate principal amounts.

SECTION 12. Defeasance. In the event money and/or non-callable direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America, maturing at such times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all of the Bonds in accordance with their terms are set aside in a special trust account to effect such redemption or retirement and such moneys and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made to pay or secure the payment of the principal of and interest on such Bonds and such Bonds shall be deemed not to be outstanding.

SECTION 13. Sale of Bonds. The sale of not to exceed $33,965,000 aggregate principal amount of the Bonds to the Bond Bank, as provided in the Loan Agreement is hereby authorized and approved. The Borough has been advised by the Bond Bank that bond market conditions are fluctuating and that the most favorable market conditions for the sale of the Bond Bank Bonds may not occur on the date of a regular Assembly meeting. The Assembly has determined that it would be inconvenient to hold a special meeting on short notice to approve the terms of the Bonds. Therefore, the Assembly hereby determines that it is in the best interest of the Borough to delegate the authority to approve the terms of the Bonds as provided herein. Each of the Mayor and the Borough Finance Director is hereby authorized to determine the aggregate principal amount, maturity amounts, interest rates, yields, dated date, principal and interest payment dates, and redemption terms, if any, for the Bonds, so that such terms of the Bonds conform to the terms of the corresponding Bond Bank Bonds; provided that (I) the principal amount of each maturity of the Bonds shall not exceed the principal amount of the portion of the corresponding maturity of the Bond Bank Bonds that is allocated to the making of a loan to the Borough; and (ii) the interest rate on each maturity of the Bonds shall not exceed the interest rate on the corresponding maturity of the Bond Bank Bonds. Based upon the foregoing determinations, the Mayor and the Borough Finance Director each is authorized to negotiate and execute a Loan Agreement. The authority granted to the Mayor and Borough Finance Director by this section shall expire 180 days after the effective date of this Resolution. If the Mayor or Borough Finance Director has not executed a Loan Agreement within 180 days from the effective date of this Resolution, the Loan Agreement may not be executed on behalf of the Borough without further authorization from the Assembly.

SECTION 14. Official Statement. The Borough Mayor and Borough Finance Director each is hereby authorized to approve and deem a preliminary Official Statement final

for purposes of Securities and Exchange Commission Rule 15c2-12(b)(1), and to approve and execute a final Official Statement for the Bonds.

SECTION 15. Authority of Officers. The Mayor, the Borough Finance Director, and the Borough Clerk, are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this Resolution, to the end that the Borough may carry out its obligations under the Bonds and this Resolution.

SECTION 16. Prohibited Sale of Bonds. No person, firm or corporation, or any agent or employee thereof, acting as financial consultant to the Borough under an agreement for payment in connection with the sale of the Bonds is eligible to purchase the Bonds as a member of the original underwriting syndicate either at public or private sale.

SECTION 17. Miscellaneous.

(A) All payments made by the Borough of, or on account of, the principal of or interest on the Bonds shall be made on the several Bonds ratably and in proportion to the amount due thereon, respectively, for principal or interest as the case may be.

(B) No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on this Resolution against any member of the Assembly or officer of the Borough or any person executing the Bonds. The Bonds are not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof, except the Borough, and do not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of said state or of any political subdivision thereof, except the Service Area.

SECTION 18. Continuing Disclosure. The Borough hereby covenants and agrees that it will comply with and carry out all of the provisions of a Continuing Disclosure Agreement, to be entered into upon issuance of the Bonds in accordance with Securities and Exchange Commission Rule 15c2-12. Notwithstanding any other provision of this Resolution, failure of the Borough to comply with the Continuing Disclosure Agreement shall not be considered a default of the Borough's obligations under this Resolution or the Bonds.

SECTION 19. Repeal. Resolution 2010-091 is repealed.

SECTION 20. Severability. If any one or more of the provisions of this Resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this Resolution and shall in no way affect the validity of the other provisions of this Resolution or of the Bonds.

SECTION 21. Effective date. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 5TH DAY OF JULY, 2011.

_____
Gary Knopp, Assembly President

ATTEST:

_____
Johni Blankenship, Borough Clerk

Yes:	Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No:	None
Absent:	None

Introduced by:	Mayor
Date:	06/16/20
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2020-043

A RESOLUTION APPROVING THE KENAI PENINSULA BOROUGH'S PARTICIPATION IN A PROPOSED REFINANCING BY THE ALASKA MUNICIPAL BOND BANK OF ITS GENERAL OBLIGATION BONDS THAT PROVIDED FUNDS TO PURCHASE THE CENTRAL KENAI PENINSULA HOSPITAL SERVICE AREA GENERAL OBLIGATION REFUNDING BONDS, 2011 OF THE KENAI PENINSULA BOROUGH, UNDER A LOAN AGREEMENT BETWEEN THE KENAI PENINSULA BOROUGH AND THE ALASKA MUNICIPAL BOND BANK; AND AUTHORIZING THE KENAI PENINSULA BOROUGH MAYOR OR DESIGNEE TO APPROVE A REVISED SCHEDULE OF PRINCIPAL AND INTEREST PAYMENTS ON THE KENAI PENINSULA BOROUGH'S 2011 BOND, IN ACCORDANCE WITH THE LOAN AGREEMENT, IF THE ALASKA MUNICIPAL BOND BANK SUCCESSFULLY REFINANCES ITS BONDS

WHEREAS, the Kenai Peninsula Borough, Alaska (the "Borough"), refunded its Central Kenai Peninsula Hospital Service Area General Obligation Bonds, Series 2003, dated December 18, 2003, with proceeds of its Central Kenai Peninsula Hospital Service Area General Obligation Refunding Bonds, 2011, in the original principal amount of $27,905,000 (the "2011 Bond"); and

WHEREAS, the 2011 Bond was issued pursuant to Borough Resolution 2011-73, adopted by the Assembly on July 5, 2011 (the "Bond Resolution") and purchased by the Alaska Municipal Bond Bank (the "Bond Bank"), based on the terms and conditions set forth in the Bond Resolution and a loan agreement between the Borough and the Bond Bank dated as of September 15, 2011 (the "Loan Agreement"); and

WHEREAS, the Bond Bank issued and sold its General Obligation and Refunding Bonds, 2011 Series Three (the "Bond Bank Bonds"), to, among other things, provide funds to purchase the 2011 Bond, as provided in the Loan Agreement; and

WHEREAS, Section 6 of the Loan Agreement provides that payments of principal of and interest on the 2011 Bond may be adjusted to reduce debt service on the 2011 Bond if the Bond Bank is able to achieve debt service savings by refunding the Bond Bank Bonds; and

WHEREAS, the Bond Bank now intends to issue a series of its general obligation refunding bonds (the "Bond Bank Refunding Bonds") for the purpose, among others, of refunding all, or a portion, of the outstanding Bond Bank Bonds and achieving debt service savings; and

WHEREAS, the Assembly wishes to approve the Borough's participation in this refinancing and to authorize the Borough Mayor or his designee to accept a revised debt service schedule for the 2011 Bond if the Bond Bank successfully refinances the Bond Bank Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH, ALASKA:

SECTION 1. **Approval of Refinancing**. The Assembly hereby approves the Borough's participation in the Bond Bank's refinancing of the Bond Bank Bonds and authorizes the Borough Mayor or his designee to approve a revised schedule of principal payment amounts and interest rates for the 2011 Bond, in accordance with Section 6 of the Loan Agreement, so long as the revised debt service schedule is financially advantageous to the Borough. The revised schedule of debt service on the 2011 Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement (the "Amendatory Loan Agreement") and a refunding bond (the "2020 Refunding Bond") to be issued in exchange for the 2011 Bond. Notwithstanding, if only a portion of the outstanding principal amount of the 2011 Bond is refinanced, the 2011 Bond shall be exchanged for a bond reflecting the unrefunded portion of the 2011 Bond (the "Exchanged 2011 Bond"). The Borough Mayor or Finance Director is hereby authorized to execute and deliver the Amendatory Loan Agreement on behalf of the Borough and to deliver the 2020 Refunding Bond and Exchanged 2011 Bond, as the case may be, executed in accordance with the provisions of the Bond Resolution and this resolution, to the Bond Bank in exchange for the 2011 Bond. The Borough Mayor, Finance Director and other appropriate officers and employees of Borough are also hereby authorized to provide financial information about the Borough that the Bond Bank may require for the official statement for the Bond Bank Refunding Bonds.

SECTION 2. **Tax Matters**. The 2011 Bond was issued as a tax-exempt obligation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Subject to applicable law, the 2020 Refunding Bond may be issued on a tax-exempt or taxable basis, as determined by the Mayor or Finance Director. The Exchanged 2011 Bond shall retain its original tax treatment under the Code.**SECTION 3**. **General Authorization**. The Mayor, Finance Director, Borough Clerk, Borough Attorney, and any other appropriate officers, agents, attorneys and employees of the Borough are each hereby authorized and directed to cooperate with the Bond Bank and to take such steps, do such other acts and things, and execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this Resolution.

SECTION 4. **Prior Acts**. Any and all acts heretofore taken by officers, agents, attorneys and employees of the Borough in connection with refinancing the 2011 Bond are hereby ratified and confirmed.

SECTION 5. Recitals. The recitals to this resolution are hereby incorporated into this resolution as if fully set forth herein.

SECTION 6. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

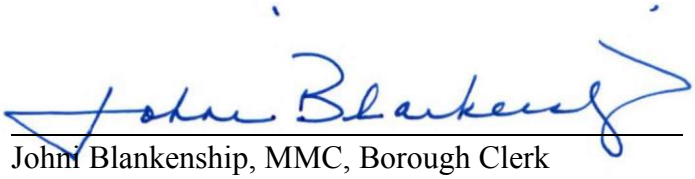
CERTIFICATE

I, the undersigned, Clerk of the Kenai Peninsula Borough, Alaska (the "Borough"), Do HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2020-043 (the "Resolution") of the Borough as approved at a regular meeting of the Assembly of the Kenai Peninsula Borough, Alaska (the "Assembly") held on the 16th day of June, 2020, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such regular meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the approval of the Resolution; that all other requirements and proceedings incident to the proper approval of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2020.



John Blankenship, MMC, Borough Clerk
Kenai Peninsula Borough

Introduced by:	Hibbert, Mayor
Date:	04/06/21
Hearing:	05/04/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-12

AN ORDINANCE AMENDING KPB CHAPTER 5.19, UNIFORM REMOTE SELLER SALES TAX CODE, IN ACCORDANCE WITH UPDATES AND CHANGES ADOPTED BY THE ALASKA REMOTE SELLER SALES TAX COMMISSION

WHEREAS, following the U.S. Supreme Court decision in *South Dakota v. Wayfair*, the borough joined with other Alaska municipalities to form an intergovernmental commission and enter into an intergovernmental agreement ("Agreement") to combat the inability to effectively collect sales tax on online retail sales that would otherwise be subject to borough and city sales tax; and

WHEREAS, in enacting Ordinance 2020-03, the assembly determined that the inability to effectively collect sales tax on sales of personal property, products or services transferred or delivered into Alaska by sellers who do not have a physical presence in the borough ("remote seller") was eroding the sales tax base of Alaska communities and resulting in revenue losses that are causing imminent harm to residents through the loss of critical funding for local education; and

WHEREAS, after a recent omnibus review of the Uniform Remote Seller Sales Tax Code, at its meeting on February 24, 2021, the Alaska Remote Sellers Sales Tax Commission ("Commission") unanimously approved updates to the code aimed to improve code inconsistencies and administrative processes; and

WHEREAS, per the governing intergovernmental agreement, to retain full membership status the borough must enact the code amendments within 120 days of the date the Commission adopted the changes; and

WHEREAS, all the incorporated cities within the borough are also members of the Commission and signatories to the Agreement; and

WHEREAS, the incorporated cities have opted to adopt the Chapter 5.19 of the borough's code by reference; and

WHEREAS, failure to enact the Commission's code amendments may impact the ability of the borough and the cities to remain full members of the Commission;

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

SECTION 1. That KPB Chapter 5.19 is amended as follows:

KPB 5.19. Uniform Remote Seller Sales Tax Code

5.19.010. Interpretation.

A. In order to prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person or entity engaging in business are subject to the sales tax.

B. The application of the tax [LEVIED]to be collected under this Code shall be broadly construed and shall favor inclusion rather than exclusion.

C. Exemptions from the tax [LEVIED]to be collected under this Code [OR FROM THE TAXING JURISDICTION] shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in [THIS CODE OR] the [TAXING]member jurisdiction's Code.

D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services into Member municipalities adopting this Code, within the state of Alaska.

5.19.020. Title to Collected Sales Tax.

Upon collection by the remote seller or marketplace facilitator, title to collected sales tax vests in the Commission for remittance to the [TAXING] member jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the [TAXING] member jurisdiction, from whom that power is delegated, in trust for the [TAXING] member jurisdiction and is accountable to the Commission and [TAXING] member jurisdiction.

5.19.030. [IMPOSITION]Collection – Rate.

A. To the fullest extent permitted by law, [A]the sales tax [IS]levied and assessed by the member jurisdiction shall be collected on all remote sales where delivery is made within [THE LOCAL TAXING JURISDICTION(S) THAT IS A] member jurisdiction, within the state of Alaska.

B. The applicable tax shall be added to the sales price as provided in the member jurisdiction's sales tax code, based on Point of Delivery.

C. The tax rate added to the sale price shall be the tax rate for the [TAXING] member jurisdiction(s) where the property or product is sold, or service that was rendered is received, and based on the date the property or product was sold or the date the service rendered was received.

D. An Address and Tax Rate Database will be made available to remote sellers and marketplace facilitators, indicating the appropriate tax rate to be applied.

E. The tax assessed shall be consistent with relevant jurisdictional tax caps, single unit sales, and exemptions.

F. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered, based on the [LOCAL] member jurisdictions' Code(s).

G. When a sales transaction involves placement of a single order with multiple deliveries made at different points in time that are separately invoiced, the applicable sales tax shall be collected on each separately invoiced delivery, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered.

5.19.040. Obligation to Collect Tax - Threshold Criteria.

A. Any remote seller or marketplace facilitator must collect and remit sales tax in compliance with all applicable procedures and requirements of law, provided the remote seller or marketplace facilitator has met one of the following Threshold Criteria ("Threshold Criteria") in the current or previous calendar year:

1. The remote seller's statewide gross sales, including the seller's marketplace facilitator's statewide gross sales, from the sale(s) of property, products or services delivered in[TO] the state meets or exceeds one hundred thousand dollars ($100,000); or

2. The remote seller, including the seller's marketplace facilitator, sold property, products, or services delivered in[TO] the state in two hundred (200) or more separate transactions.

B. For purposes of determining whether the Threshold Criteria are met, remote sellers or marketplace facilitators shall include all gross sales, from all sales of goods, property, products, or services rendered within the state of Alaska.

5.19.050. Reporting and remittance requirements for local and remote sales.

A. Sellers with a physical presence in a member jurisdiction conducting only local sales shall report and remit to, and comply with standards of, including audit authority, the member jurisdiction.

B. Sellers with a physical presence in a member jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Member Jurisdiction shall (i) report and remit the remote or internet sales to the Commission; and ii) report and remit the local sales to the Member Jurisdiction.

C. Sellers with a physical presence in a Member Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Member Jurisdiction shall report and remit those remote sales to the Member Jurisdiction.

D. Sellers and marketplace facilitators that do not have a physical presence in a Member Jurisdiction must report and remit to the Commission all remote sales where the Point of Delivery is in a Member Jurisdiction.

A marketplace facilitator is considered the remote seller for each sale facilitated through its marketplace and shall collect, report, and remit sales tax to the Commission. A marketplace facilitator is not considered to be the remote seller for each sale or rental of lodging facilitated through its marketplace, wherein the seller is considered to have a physical presence in the member jurisdiction.

5.19.0[5]60. No Retroactive Application.

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the member jurisdiction's ordinance adopting the Alaska Remote Seller Sales Tax Code.

5.19.0[6]70. Payment and Collection.

Pursuant to this Code, taxes imposed shall be due and paid by the buyer to the remote seller or marketplace facilitator at the time of the sale of property or product or date service is rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of each remote seller or marketplace facilitator to collect the taxes from the buyer and to hold those taxes in trust for the taxing authority of the [TAXING] member jurisdiction. Failure by the remote seller or marketplace facilitator to collect the tax shall not affect the remote seller's, or marketplace facilitator's, responsibility for payment to the Commission.

5.19.0[7]80. Remote Seller and Marketplace Facilitator Registration Requirement.

A. If a remote seller's gross statewide sales [WITHIN THE LAST CALENDAR YEAR]meets or exceeds the Threshold Criteria under KPB 5.19.040, the remote seller shall register with the Commission. [IF A MARKETPLACE FACILITATOR'S GROSS STATEWIDE SALES WITHIN THE LAST CALENDAR YEAR MEETS OR EXCEEDS THE THRESHOLD CRITERIA, THE MARKETPLACE FACILITATOR SHALL REGISTER WITH THE COMMISSION.] If the remote seller is a marketplace seller and only makes sales in Alaska through a marketplace, the marketplace seller is not required to register with the Commission. The marketplace seller must submit an affidavit attesting to these facts on a form provided by the Commission.

B. If a marketplace facilitator's gross statewide sales meets or exceeds the Threshold Criteria under KPB 5.19.040, the marketplace facilitator shall register with the Commission.

[B]C. A remote seller or marketplace facilitator meeting the Threshold Criteria shall apply for a certificate of sales tax registration within thirty (30) calendar days of the effective date of this Code or within thirty (30) calendar days of meeting the Threshold Criteria whichever occurs second. Registration shall be to the Commission on forms prescribed by the Commission.

[C]D. An extension may be applied for and granted based on criteria established by the Commission, based on evidence produced to describe time necessary to update software or other technical needs, not to exceed ninety (90) days.

[D]E. Upon receipt of a properly executed application, the Commission shall confirm registration, stating the legal name of the remote seller or marketplace facilitator, the primary address, and the primary sales tax contact name and corresponding title. The failure of the Commission to confirm registration does not relieve the remote seller or marketplace facilitator of its duty to collect and remit sales tax.

[E]F. Each business entity shall have a sales tax registration under the advertised name.

G. The sales tax certificate is non-assignable and non-transferable.

H. The sales tax certificate satisfies a member jurisdiction's requirement to obtain a municipal business license, provided the remote seller does not have a physical presence in that member jurisdiction.

5.19.0[8]9<u>0</u>. Tax Filing Schedule.

A. All remote sellers or marketplace facilitators subject to this Code shall file a return on a form or in a format prescribed by the Commission and shall pay the tax due.

B. Filing of sales tax returns are due monthly; quarterly <u>or less frequent</u> filing is optional upon application and approval by the Commission, consistent with the code of the [LOCAL]<u>member</u> jurisdiction.

C. A remote seller or marketplace facilitator who has filed a sales tax return will be presumed to be making sales in successive periods unless the remote seller or marketplace facilitator files a return showing a termination or sale of the business in accordance with this Code.

D. The completed and executed return, together with the remittance in full for

E. the tax due, shall be transmitted to and must be received by the Commission on or before midnight Alaska Standard Time on the due date. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:

Quarter 1 (January – March)	April 30
Quarter 2 (April – June)	July 31
Quarter 3 (July – September)	October 31
Quarter 4 (October – December)	January 31

F. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday or Alaska state holiday, the due date will be extended until the next business day immediately following.

G. Any remote seller or marketplace facilitator holding a remote seller registration shall file a sales tax return even though no tax may be due. This return shall show why no tax is due. If the remote seller or marketplace facilitator intends to continue doing business a return shall be filed reflecting no sales and a confirmation of the intent to continue doing business and shall continue to do so each filing period until the entity ceases doing business or sells the business. If the remote seller or marketplace facilitator intends to cease doing business, a final return shall be filed along with a statement of business closure.

H. The remote seller or marketplace facilitator shall prepare the return and remit sales tax to the Commission on the same basis, cash or accrual, which the remote seller or marketplace facilitator uses in preparing its federal income tax return. The remote seller or marketplace facilitator shall sign

the return, and transmit the return, with the amount of sales tax and any applicable penalty, interest or fees that it shows to be due, to the Commission.

I. Remote sellers and marketplace facilitators failing to comply with the provisions of this Code shall, if required by the Commission and if quarterly filing has been chosen, file and transmit collected sales taxes more frequently until such time as they have demonstrated to the Commission that they are or will be able to comply with the provisions of this Code. Six (6) consecutive on-time sales tax filings, with full remittance of the sales taxes collected, shall establish the presumption of compliance and return to quarterly filing.

J. The preparer of the sales tax return shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases. Documentation for exempted sales should include the number of the exemption authorization card presented by the buyer at the time of the purchase; the date of the purchase; the name of the person making the purchase; the organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the Commission upon request. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided.

5.19.[09]<u>10</u>0. Estimated Tax

A. In the event the Commission is unable to ascertain the tax due from a remote seller or marketplace facilitator by reason of the failure of the remote seller or marketplace facilitator to keep accurate books, allow inspection, or file a return, or by reason of the remote seller or marketplace facilitator filing a false or inaccurate return, the Commission may make an estimate of the tax due based on any evidence in their possession.

B. Sales taxes may also be estimated, based on any information available, whenever the Commission has reasonable cause to believe that any information on a sales tax return is not accurate.

C. A remote seller's or marketplace facilitator's tax liability under this Code may be determined and assessed for a period of [SIX (6)] <u>three (3)</u> years after the date the return was filed or due to be filed with the Commission. No civil action for the collection of such tax may be commenced after the expiration of the [SIX (6)] <u>three (3)</u> year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the [SIX (6)] <u>three (3)</u> year period, unless the remote seller or marketplace facilitator waives the protection of this section.

D. The Commission shall notify the remote seller or marketplace facilitator, in writing, that the Commission has estimated the amount of sales tax that is due from the remote seller or marketplace facilitator. The Commission shall serve the notice on the remote seller or marketplace facilitator by delivering the notice to the remote seller's or marketplace facilitator's place of business, or by mailing the notice by certified mail, return receipt requested, to the remote seller's or marketplace facilitator's last known mailing address. A remote seller or marketplace facilitator who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

E. The Commission's estimate of the amount of sales tax that is due from a remote seller or marketplace facilitator shall become a final determination of the amount that is due unless the remote seller or marketplace facilitator, within thirty (30) calendar days after service of notice of the estimated tax:

1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs and other charges due; or

2. Files a written notice with the Commission appealing the estimated tax amount in accordance with the appeal procedures, under the provisions of KPB 5.19.160.

3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:

   a. The identity of the remote seller or marketplace facilitator is in error;

   b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or

   c. The remote seller or marketplace facilitator disputes the denial of exemption(s) for certain sales.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars ($50) for each calendar month or partial month for which the amount of sales tax that is due has been determined.

5.19.1[0]10. Returns – Filing Contents.

A. Every remote seller or marketplace facilitator required by this chapter to collect sales tax shall file with the Commission upon forms furnished by the Commission a return setting forth the following information [WITH TOTALS ROUNDED TO THE NEAREST DOLLAR]:

1. Gross sales rounded to the nearest dollar;

2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption, rounded to the nearest dollar;

3. Computation of taxes to be remitted;

4. Calculated discount (if applicable) based on [TAXING] member jurisdiction's code; and

5. Such other information as may be required by the Commission.

B. Each tax return remitted by a remote seller or marketplace facilitator shall be signed (digital or otherwise) by a responsible individual who shall attest to the completeness and accuracy of the information on the tax return.

C. The Commission reserves the right to reject a filed return for failure to comply with the requirements of this Code for up to three (3) months from the date of filing. The Commission shall give written notice to a remote seller or marketplace facilitator that a return has been rejected, including the reason for the rejection.

5.19.1[1]20. Refunds.

A. Upon request from a buyer or remote seller or marketplace facilitator the Commission shall provide a determination of correct tax rate and amount applicable to the transaction. In the case of an overpayment of taxes, the remote seller or marketplace facilitator shall process the refund and amend any returns accordingly.

B. If the claimant is a remote seller or marketplace facilitator, and the tax refund is owed to any buyer, the remote seller or marketplace facilitator submits, and the Commission approves, a refund plan to all affected buyers.

C. Interest will not be paid on tax refund requests filed with the Commission.

[C]D. The [TAXING] Member Jurisdictions may allow a buyer to request a refund directly from the [TAXING] Member Jurisdiction.

5.19.1[2]30. Amended Returns.

A. A remote seller or marketplace facilitator may file an amended sales tax return, with supporting documentation, and the Commission may accept the amended return, but only in the following circumstances:

i. The amended return is filed within one (1) year of the original due date for the return; and

ii. The remote seller or marketplace facilitator provides a written justification for requesting approval of the amended return; and

iii. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission.

B. The Commission shall notify the remote seller or marketplace facilitator in writing (by email or otherwise) whether the Commission accepts or rejects an amended return, including the reasons for any rejection.

C. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation, the Commission determines the figure included in the original returns are incorrect; and the Commission adjusts the return within [TWO (2)] three (3) years of the original due date for the return.

D. A remote seller or marketplace facilitator may file a supplemental sales tax return, with supporting documentation, and the Commission may accept the supplemental return, but only in the following circumstances:

i. The remote seller or marketplace facilitator provides a written justification for requesting approval of the supplemental return; and

ii. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission.

5.19.1[3]40. Extension of Time to File Tax Return.

Upon written application of a remote seller or marketplace facilitator, stating the reasons therefor, the Commission may extend the time to file a sales tax return but only if the Commission finds each of the following:

1. For reasons beyond the remote seller's or marketplace facilitator's control, the remote seller or marketplace facilitator has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the remote seller or marketplace facilitator;

3. The remote seller or marketplace facilitator has a plan to cure the problem that caused the remote seller or marketplace facilitator to apply for an extension and the remote seller or marketplace facilitator agrees to proceed with diligence to cure the problem;

4. At the time of the application, the remote seller or marketplace facilitator is not delinquent in filing any other sales tax return, in remitting sales tax to the Commission or otherwise in violation of this chapter;

5. No such extension shall be made retroactively to cover existing delinquencies.

5.19.1[4]<u>5</u>0. Audits.

A. Any remote seller or marketplace facilitator who has registered with the Commission, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the remote seller or marketplace facilitator in order to determine whether appropriate amounts of sales tax revenue have been collected by the remote seller or marketplace facilitator and remitted to the Commission.

B. The Commission is not bound to accept a sales tax return as correct. The Commission may make an independent investigation of all retail sales or transactions conducted within the State or [TAXING]<u>member</u> jurisdiction.

C. The records that a remote seller or marketplace facilitator is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the Commission for the purpose of auditing any return filed under this chapter, or to determine the remote seller's or marketplace facilitator's liability for sales tax where no return has been filed.

D. In addition to the information required on returns, the Commission may request, and the remote seller or marketplace facilitator must furnish, any reasonable information deemed necessary for a correct computation of the tax.

E. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation or audit, the Commission determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the Commission adjusts the return within [TWO (2)] three (3) years of the original due date for the return.

F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Commission may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any remote seller or marketplace facilitator at any reasonable hour on the premises of the remote seller or marketplace facilitator and may require the attendance of any officer or employee of the remote seller or marketplace facilitator. Upon written demand by the Commission, the remote seller or marketplace facilitator shall present for examination, in the office of the Commission, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the Commission and the person upon whom the demand is made agree to presentation of such materials at a different place.

G. The Commission may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any remote seller or marketplace facilitator refuses to obey any such subpoena, the Commissioner may refer the matter to the Commission's attorney for an application to the superior court for an order requiring the remote seller or marketplace facilitator to comply therewith.

H. Any remote seller, marketplace facilitator, or person engaged in business who is unable or unwilling to submit their records to the Commission shall be required to pay the Commission for all necessary expenses incurred for the examination and inspection of their records maintained outside the Commission.

I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.

J. In the event the Commission, upon completion of an audit, discovers more than five hundred dollars ($500) in additional sales tax due from a remote seller or marketplace facilitator resulting from a remote seller's or marketplace facilitator's failure to accurately report sales and taxes due thereupon, the remote seller or marketplace facilitator shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the Commission at the time of the conclusion of the audit.

5.19.1[5]60. Audit or Estimated Tax protest.

A. If the remote seller or marketplace facilitator wishes to dispute the amount of the estimate, or the results of an examination or audit, the remote seller or marketplace facilitator must file a written protest with the Commission, within thirty (30) calendar days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:

1. The remote seller's or marketplace facilitator's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated; or

2. The remote seller's or marketplace facilitator's reasons for challenging the examination or audit results.

B. In processing the protest, the Commission may hold an informal meeting or hearing with the remote seller or marketplace facilitator, either on its own or upon request of the remote seller or marketplace facilitator, and may also require that the remote seller or marketplace facilitator submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.

C. The Commission shall make a final written determination on the remote seller's or marketplace facilitator's protest and mail a copy of the determination to the remote seller or marketplace facilitator.

D. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination result shall be final, due and payable to the Commission.

5.19.1[6]70. Penalties and Interest for Late Filing.

A. A late filing fee of twenty-five dollars ($25) per month [(OR QUARTER) SHALL BE ADDED TO ALL LATE-FILED SALES TAX REPORTS IN ADDITION TO INTEREST AND PENALTIES], or fraction thereof, shall be added to all late-filed sales tax reports, until a total of one-hundred dollars ($100) has been reached. An incomplete return shall be treated as the filling of no return.

B. Delinquent sales tax bear interest at the rate of fifteen percent (15%) per annum until paid.

C. In addition, delinquent sales tax shall be subject to an additional penalty of 5% per month, or fraction thereof, until a total of 20% of delinquent tax has been reached. The penalty does not bear interest.

D. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to penalties and interest, second to past due sales tax.

E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing of no return.

F. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the Commission, upon written application of the remote seller or marketplace facilitator accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the remote seller or marketplace facilitator, within forty-five (45) calendar days after the date of delinquency. A remote seller or marketplace facilitator may not be granted more than one (1) waiver of penalty under this subjection in any one calendar year, in accordance with the Commission's penalty waiver policy. The Commission shall report such waivers of penalty to the [TAXING] member jurisdiction, in writing.

5.19.180. Remote Reseller Certificate of Exemption

A. A remote seller with no physical presence in a member jurisdiction purchasing goods or services for the express purpose of resale to buyer(s) located in that member jurisdiction shall apply for a resale certificate through the Commission.

B. The Remote Reseller Certificate of Exemption will expire at the end of the calendar year it is issued.

5.19.1[7]90. Repayment Plans.

A. The Commission may agree to enter into a repayment plan with a delinquent remote seller or marketplace facilitator. No repayment plan shall be valid unless agreed to by both parties in writing.

B. A remote seller or marketplace facilitator shall not be eligible to enter into a repayment plan with the Commission if the remote seller or marketplace facilitator has defaulted on a repayment plan in the previous two (2) calendar years.

C. The repayment plan shall include a secured promissory note that substantially complies with the following terms:

i. The remote seller or marketplace facilitator agrees to pay a minimum of ten percent (10%) down payment on the tax, interest and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.

ii. The remote seller or marketplace facilitator agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.

iii. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.

iv. If the remote seller or marketplace facilitator is a corporation or a limited liability entity, the remote seller or marketplace facilitator agrees to provide a personal guarantee of the obligations under the repayment plan.

v. The remote seller or marketplace facilitator agrees to pay all future tax bills in accordance with the provisions of this chapter.

vi. The remote seller or marketplace facilitator agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the Commission at the time the repayment plan is signed. The remote seller or marketplace facilitator shall be responsible for the cost of recording the tax lien.

D. If a remote seller or marketplace facilitator fails to pay two (2) or more payments [AS REQUIRED BY] in accordance with the terms of the repayment plan agreement, the remote seller or marketplace facilitator shall be in default and the entire amount owed at the time of default shall become immediately due. The Commission will send the remote seller or marketplace facilitator a notice of default. The Commission may immediately foreclose on the sales tax lien or take any other remedy available under the law.

5.19.[18]200. Remote Seller or Marketplace Facilitator Record Retention.

Remote sellers or marketplace facilitators shall keep and preserve suitable records of all sales made and such other books or accounts as may be necessary to determine the amount of tax which the remote seller or marketplace facilitator is obliged to collect. Remote sellers or marketplace facilitators shall preserve suitable records of sales for a period of [SIX (6)] three (3) years from the date of the return reporting

such sales, and shall preserve for a period of [SIX (6)] three (3) years all [INVOICES] documentation supporting exempted sales of goods [AND MERCHANDISE PURCHASED FOR RESALE] or services, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the remote seller or marketplace facilitator was obliged to collect under this chapter.

5.19.[19]210. Cessation or Transfer of Business.

A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, assigns, gifts or otherwise, transfers [OR ASSIGNS](collectively, a "transfer") the majority of their business interest, including to a creditor or secured party, shall make a final sales tax return within thirty (30) days after the date of such conveyance.

B. At least ten (10) business days before any such [SALE] transfer is completed, the remote seller or marketplace facilitator shall send to the Commission, by approved communication (email confirmation, certified first-class mail, postage prepaid) a notice that the remote seller's or marketplace facilitator's interest is to be conveyed and shall include the name, address and telephone number of the person or entity to whom the interest is to be conveyed.

C. Upon notice of [SALE] transfer and disclosure of buyer, the Commission shall be authorized to disclose the status of the remote seller's or marketplace facilitator's sales tax account to the named buyer or assignee.

D. Upon receipt of notice of a [SALE OR] transfer, the Commission shall send the transferee a copy of this Code with this section highlighted.

E. Neither the Commission's failure to give the notice nor the transferee's failure to receive the notice shall relieve the transferee of any obligations under this section.

F. Following receipt of the notice, the Commission shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the remote seller [OF THE BUSINESS] or marketplace facilitator. If the notice is not mailed at least ten (10) business days before the [SALE] transfer is completed, the Commission shall have twelve (12) months from the date of the completion of the [SALE] transfer or the Commission's knowledge of the completion of the [SALE] transfer within which to begin a final sales tax audit and assess sales tax liability against the remote seller [OF THE BUSINESS] or marketplace facilitator. The Commission may also initiate an estimated assessment if the requirements for such an assessment exist.

G. A person acquiring any interest of a remote seller or marketplace facilitator in a business required to collect the tax under this chapter assumes the liability of the remote seller or marketplace facilitator for all taxes due the Commission, whether current or delinquent, whether known to the Commission or discovered later, and for all interest, penalties, costs and charges on such taxes.

H. Before the effective date of the transfer, the transferee of a business shall obtain from the Commission an estimate of the delinquent sales tax, penalty and interest, if any, owed by the remote seller or marketplace facilitator as of the date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the remote seller or marketplace facilitator has produced a receipt from the Commission showing that all tax obligations imposed by this chapter have been paid. A transferee that fails to withhold the amount required under this subsection shall be liable to the Commission and [TAXING] member jurisdiction for the lesser of the amount of delinquent sales tax, penalty and interest due from the remote seller or marketplace facilitator as of the date of transfer, and the amount that the transferee was required to withhold.

I. In this section, the term "transfer" includes the following:

1. A change in voting control, or in more than fifty percent (50%) of the ownership interest in a remote seller or marketplace facilitator that is a corporation, limited liability company or partnership; or

2. A sale of all or substantially all the assets used in the business of the remote seller or marketplace facilitator; or

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the remote seller's or marketplace facilitator's gross receipts from sales, rentals or services.

J. Subsection H of this section shall not apply to any person who acquires their ownership interest in the ongoing business as a result of the foreclosure of a lien that has priority over the Commission's sales tax lien.

K. Upon termination, dissolution or abandonment of a [CORPORATE] business entity, any officer having control or supervision of sales tax funds collected, or who is charged with responsibility for the filing of returns or the payment of sales tax funds collected, shall be personally liable for any unpaid taxes, interest, administrative costs and penalties on those taxes if such [OFFICER] person willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director, member, or general partner of the [CORPORATION] entity shall

be jointly and severally liable for unpaid amounts. The [OFFICER] person shall be liable only for taxes collected which became due during the period he or she had the control, supervision, responsibility or duty to act for the corporation. This section does not relieve the [CORPORATION] entity of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

L. A remote seller or marketplace facilitator who terminates the business without the benefit of a purchaser, successor or assign shall make a final tax return and settlement of tax obligations within thirty (30) days after such termination. If a final return and settlement are not received within thirty (30) days of the termination, the remote seller or marketplace facilitator shall pay a penalty of one hundred dollars ($100), plus an additional penalty of twenty-five dollars ($25) for each additional thirty- (30-) day period, or part of such a period, during which the final return and settlement have not been made, for a maximum of six (6) additional periods.

5.19.2[0]20. Use of Information on Tax Returns.

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the Commission under this Code, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the Commission and [TAXING] member jurisdiction whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The Commission will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of sellers and marketplace facilitators;

2. Whether a business is registered to collect taxes under this chapter;

3. The name and address of businesses that are sixty (60) days or more delinquent in filing returns or in remitting sales tax, or both filing returns and remitting sales tax; and, if so delinquent, the amount of estimated sales tax due, and the number of returns not filed.

D. The Commission may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular remote seller or marketplace facilitator is disclosed.

E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or their duly authorized representative, of a copy of any return or report filed by them, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers, remote sellers, or marketplace facilitators, nor to prohibit the furnishing of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws.

F. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any remote seller or marketplace facilitator or agent of any remote seller or marketplace facilitator required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within thirty (30) days after the required date for that business. Entry into any agreement whether pursuant to the provisions of this chapter or otherwise shall not act as any prohibition to disclosure of the records of that remote seller or marketplace facilitator as otherwise provided in this chapter.

G. A prospective lessee or purchaser of any business or business interest may inquire as to the obligation or tax status of any business upon presenting to the Commission a release of tax information request signed by the authorized agent of the business.

H. Except as otherwise provided herein, [A]all returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

5.19.2[1]30. Violations.

A. A remote seller or marketplace facilitator that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this Code, shall pay to the Commission all costs incurred by the Commission to determine the amount of the remote seller's or marketplace facilitator's liability or to collect the sales tax, including, without

limitation, reviewing and auditing the remote seller's or marketplace facilitator's business records, collection agency fees, and actual reasonable attorney's fees.

B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the Commission as required by this Code shall be liable to the Commission for the amount that should have been collected or remitted, plus any applicable interest and penalty.

C. Notwithstanding any other provision of law, and whether or not the Commission initiates an audit or other tax collection procedure, the Commission may bring a declaratory judgment action against a remote seller or marketplace facilitator believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state and federal law. The action shall be brought in the judicial district of the [TAXING] member jurisdiction.

D. The Commission may cause a sales tax lien to be filed and recorded against all real and personal property of a remote seller or marketplace facilitator where the remote seller or marketplace facilitator has:

1. Failed to file sales tax returns for two (2) consecutive filing periods as required by the Code; or

2. Failed within sixty (60) days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement as provided in this Code.

3. Prior to filing a sales tax lien, the Commission shall cause a written notice of intent to file to be mailed to the last known address of the delinquent remote seller or marketplace facilitator.

E. In addition to other remedies discussed in this Code, the Commission may bring a civil action to:

1. Enjoin a violation of this Code. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.

2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.

3. Foreclose a recorded sales tax lien as provided by law.

F. All remedies hereunder are cumulative and are in addition to those existing at law or equity.

5.19.2[2]40. Penalties for Violations.

A. In the event that a penalty provided below is different from the same penalty in a member jurisdiction's sales tax code, the penalty prescribed in the member jurisdiction's sales tax code will apply.

[A]B. A buyer, remote seller, or marketplace facilitator who knowingly or negligently submits false information in a document filed with the Commission pursuant to this Code is subject to a penalty of five hundred dollars ($500).

[B]C. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or [TAXING] member jurisdiction is subject to a penalty of five hundred dollars ($500).

[C]D. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a penalty of five hundred dollars ($500).

[D. ANY REMOTE SELLER OR MARKETPLACE FACILITATOR WHO FAILS TO FILE A RETURN REQUIRED UNDER THIS CHAPTER BY THE DUE DATE, REGARDLESS OF WHETHER ANY TAXES WERE DUE FOR THE REPORTING PERIOD FOR WHICH THE RETURN WAS REQUIRED, SHALL BE SUBJECT TO A PENALTY OF TWENTY-FIVE DOLLARS ($25) FOR THE FIRST SALES TAX RETURN NOT TIMELY FILED. THE FILING OF AN INCOMPLETE RETURN SHALL BE TREATED AS THE FILING OF NO RETURN.]

E. A remote seller or marketplace facilitator who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the Commission a penalty equal to three (3) times any deficiency found or estimated by the Commission with a minimum penalty of five hundred dollars ($500).

F. A remote seller or marketplace facilitator who falsifies or misrepresents any record filed with the Commission is guilty of an infraction and subject to a penalty of five hundred dollars ($500) per record.

G. Misuse of an exemption card is a violation and subject to a penalty of fifty dollars ($50) per incident of misuse;

H. Nothing in this chapter shall be construed as preventing the Commission from filing and maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a remote seller or marketplace facilitator. The Commission may also recover attorney's fees in any action against a delinquent remote seller or marketplace facilitator.

[5.19.230. -REMOTE SELLERS WITH A PHYSICAL PRESENCE IN THE TAXING JURISDICTION.

A. SELLERS WITH A PHYSICAL PRESENCE IN A TAXING JURISDICTION AND NO REMOTE OR INTERNET-BASED SALES SHALL REPORT, REMIT, AND COMPLY WITH STANDARDS, INCLUDING AUDIT AUTHORITY, OF THE TAXING JURISDICTION.

B. SELLERS WITH A PHYSICAL PRESENCE IN A TAXING JURISDICTION THAT ALSO HAVE REMOTE OR INTERNET-BASED SALES WHERE THE POINT OF DELIVERY IS IN A DIFFERENT TAXING JURISDICTIONS SHALL (I) REPORT AND REMIT THE REMOTE OR INTERNET SALES TO THE COMMISSION; AND (II) REPORT AND REMIT THE IN-STORE SALES TO THE TAXING JURISDICTION.

C. SELLERS WITH A PHYSICAL PRESENCE IN A TAXING JURISDICTION THAT ALSO HAVE REMOTE OR INTERNET-BASED SALES WHERE THE POINT OF DELIVERY IS IN THE SAME TAXING JURISDICTIONS SHALL REPORT AND REMIT THOSE REMOTE SALES TO THE TAXING JURISDICTION.

D. REMOTE SELLERS AND MARKETPLACE FACILITATORS THAT DO NOT HAVE A PHYSICAL PRESENCE IN A TAXING JURISDICTION MUST REPORT AND REMIT ALL REMOTE SALES TO THE COMMISSION.

E. FOR ALL PURCHASES THE TAX RATE ADDED TO THE SALE PRICE SHALL BE AS PROVIDED IN THE TAXING JURISDICTION'S SALES TAX CODE, BASED ON POINT OF DELIVERY.

F. A MARKETPLACE FACILITATOR IS CONSIDERED THE REMOTE SELLER FOR EACH SALE FACILITATED THROUGH ITS MARKETPLACE AND SHALL COLLECT, REPORT, AND REMIT SALES TAX TO THE COMMISSION. A MARKETPLACE FACILITATOR IS NOT CONSIDERED TO BE THE REMOTE SELLER FOR EACH SALE OR RENTAL OF LODGING

FACILITATED THROUGH ITS MARKETPLACE, WHEREIN THE SELLER IS CONSIDERED TO HAVE A PHYSICAL PRESENCE IN THE TAXING JURISDICTION.]

5.19.2[4]50. Remittance of Tax; Remote Seller Held Harmless.

A. Any remote seller or marketplace facilitator that collects and remits sales tax to the Commission as provided by law may use an electronic database of state addresses that is certified by the Commission pursuant to subsection (C) of this section to determine the member jurisdictions to which tax is owed.

B. Any remote seller or marketplace facilitator that uses the data contained in an electronic database certified by the Commission pursuant to subsection (C) of this section to determine the jurisdictions to which tax is owed shall be held harmless for any tax, charge, or fee liability to any [TAXING] member jurisdiction that otherwise would be due solely as a result of an error or omission in the database.

C. Any electronic database provider may apply to the Commission to be certified for use by remote sellers or marketplace facilitators pursuant to this section. Such certification shall be valid for three years. In order to be certified, an electronic database provider shall have a database that satisfies the following criteria:

1. The database shall designate each address in the state, including, to the extent practicable, any multiple postal address applicable to one location and the taxing jurisdictions that have the authority to impose a tax on purchases made by purchasers at each address in the state.

2. The information contained in the electronic database shall be updated as necessary and maintained in an accurate condition. In order to keep the database accurate, the database provider shall provide a convenient method for [TAXING] member jurisdictions that may be affected by the use of the database to inform the provider of apparent errors in the database. The provider shall have a process in place to promptly correct any errors brought to the provider's attention.

5.19.260. Savings Clause.

If any provision of Chapter 5.19, the Uniform Remote Seller Sales Tax Code, and Chapter 5.18, Sales Tax Code, is determined by the Commission or an adjudicatory body of competent jurisdiction to discriminate against a remote seller in favor of a local seller with a physical presence in the taxing jurisdiction, the discriminatory

provision shall continue in effect only to the extent such provision does not discriminate against a remote seller, and the comparable code provision applicable to a local seller will apply to a remote seller, and the remainder of Chapter 5.19 and Chapter 5,18 shall continue in full force and effect.

5.19.2[5]7[0]0. Definitions.

For purposes of this chapter, the following definitions shall apply:

"Buyer" or "purchaser" means a person to whom a sale of property or product is made or to whom a service is furnished.

"Commission" means the Alaska [INTERGOVERNMENTAL] Remote Seller Sales Tax Commission established by Agreement between local government taxing jurisdictions within Alaska, and delegated tax collection authority.

"Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

"Delivery Charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing.

"Entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

"Goods for resale" means:

A. The sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.

B. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

"Lease" or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

"Local Sale" means a sale by a seller with a physical presence in a taxing jurisdiction, where the point of delivery is a location within the same taxing jurisdiction.

"Marketplace" means a physical or electronic place, platform or forum, including a store, booth, internet website, catalog or dedicated sales software application, where products or services are offered for sale.

"Marketplace facilitator" means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller's property, product, or services through a physical or electronic marketplace operated by the person, and engages:

A. Directly or indirectly, through one or more affiliated persons in any of the following:

(i) Transmitting or otherwise communicating the offer or acceptance between the buyer and remote seller;

(ii) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;

(iii) Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or

(iv) Software development or research and development activities related to any of the activities described in (b) of this subsection [(3)], if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

B. In any of the following activities with respect to the seller's products:

(i) Payment processing services;

(ii) Fulfillment or storage services;

(iii) Listing products for sale;

(iv) Setting prices;

(v) Branding sales as those of the marketplace facilitator;

(vi) Order taking;

(vii) Advertising or promotion; or

(viii) Providing customer service or accepting or assisting with returns or exchanges.

"Marketplace seller" means a person that makes retail sales through any physical or electronic marketplace that is operated by a marketplace facilitator.

"Member Jurisdiction" means a taxing jurisdiction that is a signatory of the Alaska Remote Seller Sales Tax [INTERGOVERNMENTAL]Agreement, thereby members of the Commission, and who have adopted the Alaska Uniform Remote Seller Sales Tax Code.

"Monthly" means occurring once per calendar month.

"Nonprofit organization" means a business that has been granted tax-exempt status by the Internal Revenue Service [(IRS); MEANS AN ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION WHERE NO PART OF THE NET EARNINGS OF THE ORGANIZATION INURES TO THE BENEFIT OF ANY MEMBER, SHAREHOLDER, OR OTHER INDIVIDUAL, AS CERTIFIED BY REGISTRATION WITH THE IRS].

"Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

"Physical presence" for the purposes of KPB 5.19.050 means a seller who establishes any one or more of the following within a [LOCAL TAXING] member jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the [LOCAL TAXING] member jurisdiction;

2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the [LOCAL TAXING] member jurisdiction [OR ENGAGES IN ACTIVITIES IN THIS STATE THAT ARE SIGNIFICANTLY ASSOCIATED WITH THE SELLER'S ABILITY TO ESTABLISH OR MAINTAIN A MARKET FOR ITS PRODUCTS IN THIS STATE];

3. Provides services or holds inventory within the boundaries of the [LOCAL TAXING] member jurisdiction;

4. Rents or Leases property located within the boundaries of the [LOCAL TAXING] member jurisdiction.

A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the [LOCAL TAXING] member jurisdiction for the following calendar year.

"Point of delivery" means the location at which property or a product is delivered or service is rendered.

A. When the product is not received or paid for by the purchaser at a business location of a remote seller in a [TAXING]Member Jurisdiction, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller.

B. When the product is received or paid for by a purchaser who is physically present at a business location of a Remote Seller in a [TAXING] Member Jurisdiction the sale is considered to have been made in the [TAXING] Member Jurisdiction where the purchaser is present even if delivery of the product takes place in another [TAXING]Member Jurisdiction. Such sales are reported and tax remitted directly to the [TAXING] Member Jurisdiction not to the Commission.

[B]C. When the service is not received by the purchaser at a business location of a remote seller, the service is considered delivered to the location where the purchaser receives the service.

[C]D. For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.

"Product-based exemptions" means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations that require a professional license under Alaska Statute

"Property" and "product" and "good" means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in

nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).

"Quarter" means trimonthly periods of a calendar year; January-March, April-June, July-September, and October-December.

"Receive" or "receipt" for purposes of section .030 and the definition of "Point of Delivery" means

A. Taking possession of property or product;

B. Making first use of services; or

C. Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include temporary possession by a shipping company on behalf of the purchaser.

"Remote sales" means sales of goods or services by a remote seller or marketplace facilitator.

"Remote seller" means a seller or marketplace facilitator making sales of goods or services [DELIVERED] for delivery within the State of Alaska, without having a physical presence in [A TAXING] the member jurisdiction in which deliver is made[, OR CONDUCTING BUSINESS BETWEEN TAXING JURISDICTIONS, WHEN SALES ARE MADE BY INTERNET, MAIL ORDER, PHONE OR OTHER REMOTE MEANS. A MARKETPLACE FACILITATOR SHALL BE CONSIDERED THE REMOTE SELLER FOR EACH SALE FACILITATED THROUGH ITS MARKETPLACE].

"Resale of services" means sales of intermediate services to a business where the charge for which will be passed directly by that business to a specific buyer.

"Sale" or "retail sale" means any transfer of property or product or any provision of service(s) for consideration for any purpose other than for resale.

"Sales price or purchase price" means the total amount of consideration, including cash, credit, property, products, and services, for which property, products, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

A. The seller's cost of the property or product sold;

B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other

expense of the seller;

C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

D. Delivery charges;

E. Installation charges; and

F. Credit for any trade-in, as determined by state law.

"Seller" means a person making sales of property, products, or services, or a marketplace facilitator facilitating sales on behalf of a seller.

"Services" means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise [OUTSIDE THE TAXING] into a member jurisdiction [(BUT EXCLUDING ANY THAT ARE RENDERED PHYSICALLY WITHIN THE TAXING JURISDICTION,] including but not limited to:

A. Professional services;

B. Services in which a sale of property or product may be involved, including property or products made to order;

C. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;

D. The sale of transportation services;

E. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;

F. Advertising, maintenance, recreation, amusement, and craftsman services.

"Tax cap" means a maximum taxable transaction.

"Taxing jurisdiction" means a local government in Alaska that has a sales tax [AND IS A MEMBER OF THE ALASKA REMOTE SELLERS SALES TAX COMMISSION].

"Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

5.19.2[6]8<u>0</u>. Supplemental Definitions.

<u>For purposes of this Chapter,</u> [T]<u>t</u>he Commission [SHALL] <u>may</u> promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code<u>, provided they are not in conflict with or contrary to definitions set forth in the general sales tax ordinance of the member jurisdiction</u>. Supplemental Definitions are available at **www.arsstc.org.** Provisions of the Supplemental Definitions that are amended, deleted, or added prior to or after the effective date of the latest amendment to this chapter shall be applicable for purposes of this chapter on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 2. This ordinance is effective immediately upon enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF MAY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

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Kenai Peninsula Borough
Legal Department

MEMORANDUM

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

THRU: Brent Hibbert, Assembly President BH
Charlie Pierce, Mayor CP

FROM: Sean Kelley, Deputy Borough Attorney CT
Brandi Harbaugh, Finance Director BH

DATE: March 25, 2021

RE: Ordinance 2021-12, Amending KPB Chapter 5.19, Uniform Remote Seller Sales Tax Code, in Accordance with Updates and Changes Adopted by the Alaska Remote Seller Sales Tax Commission (Hibbert, Mayor)

Following the U.S. Supreme Court decision in *South Dakota v. Wayfair*, the borough joined with other Alaska municipalities to form an intergovernmental commission and enter into an intergovernmental agreement ("Agreement") to combat the inability to effectively collect sales tax on online retail sales that would otherwise be subject to borough and city sales tax.

After a recent omnibus review of the Uniform Remote Seller Sales Tax Code, at its meeting on February 24, 2021, the Alaska Remote Sellers Sales Tax Commission ("Commission") unanimously approved updates to the code aimed to improve code inconsistencies and administrative processes.

A review by the borough's finance and legal departments revealed that the changes will not substantively or negatively impact remote sellers or residents in the borough who purchase products, goods, or services online.

The borough is a signatory to the Agreement and per the Agreement, in order to retain full membership status, the borough must enact the code amendments within 120 days of the date the Commission adopted the changes. All the incorporated cities within the borough are also members of the Commission and signatories to the Agreement. Therefore, failure to enact the Commission's amendments to Chapter 5.19 may impact the ability of the borough and the cities to remain full members of the Commission.

Your consideration of this ordinance is appreciated.

Introduced by:	Cooper, Smalley
Date:	01/21/20
Hearing:	02/25/20
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2020-03

AN ORDINANCE AMENDING KPB 5.18 SALES TAX CODE AND ENACTING KPB 5.19 UNIFORM REMOTE SELLER SALES TAX CODE

WHEREAS, the inability to effectively collect sales tax on sales of personal property, products or services transferred or delivered into Alaska by sellers who do not have a physical presence in the borough ("remote seller") is eroding the sales tax base of Alaska communities and resulting in revenue losses that are causing imminent harm to residents through the loss of critical funding for local education; and

WHEREAS, the harm from the loss of revenue is especially problematic in Alaska because the state has no broad-based sales tax, and sales tax revenues are essential in funding the provision of services by local governments; and

WHEREAS, the failure to collect tax on remote sales creates artificial market distortions and competitive advantages for remote sellers by perpetuating tax shelters for businesses that limit their physical presence in the state or its municipalities but still sell goods and services to local consumers without collecting sales tax, something that becomes easier and more prevalent as technology continues to advance; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, combined with the general growth of online retail sales, means that the erosion of the sales tax base is a growing problem that will only worsen in the near future if the borough is not able to legally collect remote seller sales tax within the framework of current United States Supreme Court case law; and

WHEREAS, the failure to effectively collect sales tax on remote or internet-based sales results in the creation of incentives for businesses to avoid a physical presence in the borough, resulting in less jobs and increasing the share of taxes paid by those consumers who buy from competitors with a physical presence in the borough; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy generally, as well as local infrastructure; and

WHEREAS, the recent decision by the United States Supreme Court in *South Dakota v. Wayfair* ("*Wayfair*") allows for the amendment of the sales tax code to account for remote sellers who do not have a physical presence in the borough, but do have a taxable connection with the borough; and

WHEREAS, the *Wayfair* decision provides guidance that includes the defensibility of a single-level statewide administration of remote sales tax collection and remittance so long as the law is not retroactive in its application and provides a safe harbor to sellers who have limited sales or transactions in Alaska; and

WHEREAS, in order to implement a single-level statewide sales tax administration, numerous local taxing jurisdictions within Alaska worked together to establish an intergovernmental entity known as the Alaska Remote Seller Sales Tax Commission (the "Commission"); and

WHEREAS, currently 23 municipalities in Alaska are members of the Commission; and

WHEREAS, the function and powers of the Commission are set forth in the Alaska Intergovernmental Remote Seller Sales Tax Agreement (the "Agreement"), a cooperative agreement between Commission members; and

WHEREAS, as part of the process to implement a remote seller sales tax code and pursuant to Resolution 2019-056, the borough signed the Agreement and is currently a full member of the Commission; and

WHEREAS, five of the incorporated cities within the borough are members of the Commission; and

WHEREAS, representatives from the borough, the City of Soldotna, and the City of Kenai also currently hold three of the seven Board of Director seats on the Commission; and

WHEREAS, under the terms of the Agreement, in order to maintain membership in the Commission, local governments must enact the Uniform Remote Seller Sales Tax Code ("Uniform Code") as adopted by the Commission's Board of Directors;

WHEREAS, the Board of Directors adopted the Uniform Code at its meeting on January 6, 2020; and

WHEREAS, the Uniform Code will govern the collection and remittance of municipal sales tax applicable to remote or internet-based sales; and

WHEREAS, the purpose of the Uniform Code is to comply with guidance in *Wayfair* by providing statewide threshold criteria, streamlined single-level tax administration for remote sellers, and no retroactive application; and

WHEREAS, the Uniform Code will provide for streamlined remote sales tax collection and remittance process which is necessary to avoid claims that local municipal tax unduly burdens interstate sellers; and

WHEREAS, this ordinance will adopt the Uniform Code, amend current borough sales tax code for consistency, and authorize the Commission to administer the remote sales tax collection and remittance for the borough; and

WHEREAS, this is the culmination of a process that began in June of 2019 and is the last step before municipal tax collected by remote sellers can be remitted to the borough through the Commission; and

WHEREAS, in light of the *Wayfair* decision, failure to adopt a uniform, streamlined, remote seller sales tax code will jeopardize the ability of the borough and its cities to collect tax on remote sales;

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

SECTION 1. That KPB 5.18.450(A) is hereby amended as follows:

5.18.450. Tax jurisdiction Point of Taxation.

A. The rate of tax to be added to the sale price is based on the place of sale. The place of sale of goods, services, and merchandise is the location of the seller's [RETAIL OUTLET] physical presence at which or from which delivery was made, including installation charges and in-store pickups. If a seller has a physical presence in the borough, any remote sales delivered within the borough shall be taxed at the rate of the point of delivery. [THIS PROVISION APPLIES TO GOODS DELIVERED TO BUYERS WITHIN THE BOROUGH AND TO GOODS DELIVERED TO BUYERS OUTSIDE THE BOROUGH BUT WITHIN THE STATE OF ALASKA. IF THE INVOICE INCLUDES A CHARGE FOR INSTALLATION, THEN THE PLACE OF THE SALE FOR THE GOODS AND SERVICE IS THE RETAIL OUTLET AT WHICH OR FROM WHICH DELIVERY WAS MADE. WHEN GOODS ARE DELIVERED INTO THE BOROUGH FROM A POINT OUTSIDE OF THE BOROUGH AND THE SELLER MAINTAINS AN ONGOING PHYSICAL PRESENCE IN THE BOROUGH, THEN THE LOCATION OF THE SELLER'S IN-BOROUGH PRESENCE WILL DETERMINE THE PLACE OF SALE. IF A SELLER HAS NO ONGOING PHYSICAL PRESENCE IN THE BOROUGH BUT HAS ESTABLISHED NEXUS WITH THE BOROUGH, THE POINT OF DELIVERY WILL DETERMINE THE PLACE OF SALE. IF THE SELLER HAS NO ONGOING PHYSICAL PRESENCE IN, OR NEXUS WITH, THE BOROUGH THE SALE IS NOT SUBJECT TO THE BOROUGH SALES TAX. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS ARE DEFINED AS SHOWN BELOW:

1. "NEXUS" MEANS THE SELLER HAS ESTABLISHED A TAXABLE CONNECTION WITHIN THE BOROUGH BY USE OF MARKETING TECHNIQUES, SUCH AS DIRECTED ADVERTISING IN THE BOROUGH VIA TELEPHONE OR INTERNET, OR DOOR-TO-DOOR SALES WITHIN THE BOROUGH, OR BY USE OF CONTRACT WORKERS OR CONTRACT OR COMMISSION AGENTS OR BUSINESSES, WHICH ARE ASSOCIATED WITH THE SELLER'S EFFORTS TO ESTABLISH OR MAINTAIN A MARKET FOR ITS GOODS OR SERVICES, DELIVER THOSE GOODS OR SERVICES, OR PROVIDE WARRANTY OR OTHER REPAIR OR RETURN SERVICES IN THE BOROUGH.

2. THE "POINT OF DELIVERY" WHERE THERE IS NO ONGOING PHYSICAL PRESENCE IN THE BOROUGH IS THE PLACE WHERE PHYSICAL POSSESSION OF THE GOODS IS TRANSFERRED TO THE CUSTOMER.]

…

SECTION 2. That KPB 5.18.680 is hereby enacted as follows:

5.18.680 Uniform Remote Seller Sales Tax Code

Sellers with no physical presence in the borough that have remote or internet-based sales in the borough are subject to KPB 5.19 instead of KPB 5.18.

Sellers with a physical presence in the borough that have remote or internet-based sales delivered to a taxing jurisdictions in Alaska outside the borough boundaries are subject to KPB 5.18 and KPB 5.19.

Sellers with a physical presence in the borough that have remote or internet-based sales delivered within the borough boundaries are subject to KPB 5.18.450.

SECTION 3. That KPB 5.18.900 is hereby amended to include a definition of "Physical presence" as follows:

…

"**Physical presence**" means a seller who establishes any one or more of the following within the borough:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the borough or engages in activities in the borough that are significantly associated with the seller's ability to establish or maintain a market for its products in the borough;
3. Provides services or holds inventory within the borough;
4. Rents or Leases property located within the boundaries of the borough.

A seller that establishes a physical presence within the borough in any calendar year will be deemed to have a physical presence within the borough for the following calendar year.

…

SECTION 4. That KPB 5.19 is enacted as follows:

KPB 5.19. Uniform Remote Seller Sales Tax Code
5.19.010. Interpretation.

A. In order to prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person or entity engaging in business are subject to the sales

tax.

B. The application of the tax levied under this Code shall be broadly construed and shall favor inclusion rather than exclusion.

C. Exemptions from the tax levied under this Code or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Code or the taxing jurisdiction's Code.

D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services to Member municipalities adopting this Code, within the state of Alaska.

5.19.020. Title to Collected Sales Tax.

Upon collection by the remote seller or marketplace facilitator, title to collected sales tax vests in the Commission for remittance to the taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction.

5.19.030. Imposition – Rate.

A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a Member, within the state of Alaska.

B. The applicable tax shall be added to the sales price.

C. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction(s) where the property or product is sold, or service that was rendered is received, and based on the date the property or product was sold or the date the service rendered was received.

D. An Address and Tax Rate Database will be made available to remote sellers and marketplace facilitators, indicating the appropriate tax rate to be applied.

E. The tax assessed shall be consistent with relevant jurisdictional tax caps, single unit sales, and exemptions.

F. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered, based on the local jurisdictions' Code(s).

G. When a sales transaction involves placement of a single order with multiple deliveries made at different points in time that are separately invoiced, the applicable sales tax shall be collected on each separately invoiced delivery, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered.

5.19.040. Obligation to Collect Tax - Threshold Criteria.

A. Any remote seller or marketplace facilitator must collect and remit sales tax in compliance with all applicable procedures and requirements of law, provided the remote seller or marketplace facilitator has met one of the following Threshold Criteria ("Threshold Criteria") in the previous calendar year:

1. The remote seller's statewide gross sales, including the seller's marketplace facilitator's statewide gross sales, from the sale(s) of property, products or services delivered into the state meets or exceeds one hundred thousand dollars ($100,000); or

2. The remote seller, including the seller's marketplace facilitator, sold property, products, or services delivered into the state in two hundred (200) or more separate transactions.

B. For purposes of determining whether the Threshold Criteria are met, remote sellers or marketplace facilitators shall include all gross sales, from all sales of goods, property, products, or services rendered within the state of Alaska.

5.19.050. No Retroactive Application.

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code.

5.19.060. Payment and Collection.

Pursuant to this Code, taxes imposed shall be due and paid by the buyer to the remote seller or marketplace facilitator at the time of the sale of property or product or date service is rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of each remote seller or marketplace facilitator to collect the taxes from the buyer and to hold those taxes in trust for the taxing authority of the taxing jurisdiction. Failure by the remote seller or marketplace facilitator to collect the tax shall not affect the remote seller's, or marketplace facilitator's, responsibility for payment to the Commission.

5.19.070. Remote Seller and Marketplace Facilitator Registration Requirement.

A. If a remote seller's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the remote seller shall register with the Commission. If a marketplace facilitator's gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the marketplace facilitator shall register with the Commission.

B. A remote seller or marketplace facilitator meeting the Threshold Criteria shall apply for a certificate of sales tax registration within thirty (30) calendar days of the effective date of this Code or within thirty (30) calendar days of meeting the Threshold Criteria whichever occurs second. Registration shall be to the Commission on forms prescribed by the Commission.

C. An extension may be applied for and granted based on criteria established by the Commission, based on evidence produced to describe time necessary to update software or other technical needs, not to exceed ninety (90) days.

D. Upon receipt of a properly executed application, the Commission shall confirm registration, stating the legal name of the remote seller or marketplace facilitator, the primary address, and the primary sales tax contact name and corresponding title. The failure of the Commission to confirm registration does not relieve the remote seller or marketplace facilitator of its duty to collect and remit sales tax.

E. Each business entity shall have a sales tax registration under the advertised name.

F. The sales tax certificate is non-assignable and non-transferable.

5.19.080. Tax Filing Schedule.

A. All remote sellers or marketplace facilitators subject to this Code shall file a return on a form or in a format prescribed by the Commission and shall pay the tax due.

B. Filing of sales tax returns are due monthly; quarterly filing is optional upon application and approval by the Commission, consistent with the code of the local jurisdiction.

C. A remote seller or marketplace facilitator who has filed a sales tax return will be presumed to be making sales in successive periods unless the remote seller or marketplace facilitator files a return showing a termination or sale of the business in accordance with this Code.

D. The completed and executed return, together with the remittance in full for the tax due, shall be transmitted to and must be received by the Commission on or before midnight Alaska Standard Time on the due date. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:

Quarter 1 (January – March)	April 30
Quarter 2 (April – June)	July 31
Quarter 3 (July – September)	October 31
Quarter 4 (October – December)	January 31

E. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday or Alaska state holiday, the due date will be extended until the next business day immediately following.

F. Any remote seller or marketplace facilitator holding a remote seller registration shall file a sales tax return even though no tax may be due. This return shall show why no tax is due. If the remote seller or marketplace facilitator intends to continue doing business a return shall be filed reflecting no sales and a confirmation of the intent to continue doing business and shall continue to do so each filing period until the entity ceases doing

business or sells the business. If the remote seller or marketplace facilitator intends to cease doing business, a final return shall be filed along with a statement of business closure.

G. The remote seller or marketplace facilitator shall prepare the return and remit sales tax to the Commission on the same basis, cash or accrual, which the remote seller or marketplace facilitator uses in preparing its federal income tax return. The remote seller or marketplace facilitator shall sign the return, and transmit the return, with the amount of sales tax and any applicable penalty, interest or fees that it shows to be due, to the Commission.

H. Remote sellers and marketplace facilitators failing to comply with the provisions of this Code shall, if required by the Commission and if quarterly filing has been chosen, file and transmit collected sales taxes more frequently until such time as they have demonstrated to the Commission that they are or will be able to comply with the provisions of this Code. Six (6) consecutive on-time sales tax filings, with full remittance of the sales taxes collected, shall establish the presumption of compliance and return to quarterly filing.

I. The preparer of the sales tax return shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases. Documentation for exempted sales should include the number of the exemption authorization card presented by the buyer at the time of the purchase; the date of the purchase; the name of the person making the purchase; the organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the Commission upon request. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided.

5.19.090 Estimated Tax

A. In the event the Commission is unable to ascertain the tax due from a remote seller or marketplace facilitator by reason of the failure of the remote seller or marketplace facilitator to keep accurate books, allow inspection, or file a return, or by reason of the remote seller or marketplace facilitator filing a false or inaccurate return, the Commission may make an estimate of the tax due based on any evidence in their possession.

B. Sales taxes may also be estimated, based on any information available, whenever the Commission has reasonable cause to believe that any information on a sales tax return is not accurate.

C. A remote seller's or marketplace facilitator's tax liability under this Code may be determined and assessed for a period of six (6) years after the date the return was filed or due to be filed with the Commission. No civil action for the collection of such tax may be commenced after the expiration of the six (6) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the six (6) year period, unless the remote seller or marketplace facilitator waives the protection of this section.

D. The Commission shall notify the remote seller or marketplace facilitator, in writing, that the Commission has estimated the amount of sales tax that is due from the remote seller or marketplace facilitator. The Commission shall serve the notice on the remote seller or marketplace facilitator by delivering the notice to the remote seller's or marketplace facilitator's place of business, or by mailing the notice by certified mail, return receipt requested, to the remote seller's or marketplace facilitator's last known mailing address. A remote seller or marketplace facilitator who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

E. The Commission's estimate of the amount of sales tax that is due from a remote seller or marketplace facilitator shall become a final determination of the amount that is due unless the remote seller or marketplace facilitator, within thirty (30) calendar days after service of notice of the estimated tax:

1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs and other charges due; or

2. Files a written notice with the Commission appealing the estimated tax amount in accordance with the appeal procedures.

3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:

a. The identity of the remote seller or marketplace facilitator is in error;

b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or

c. The remote seller or marketplace facilitator disputes the denial of exemption(s) for certain sales.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars ($50) for each calendar month or partial month for which the amount of sales tax that is due has been determined.

5.19.100. Returns – Filing Contents.

A. Every remote seller or marketplace facilitator required by this chapter to collect sales tax shall file with the Commission upon forms furnished by the Commission a return setting forth the following information with totals rounded to the nearest dollar:

1. Gross sales;

2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;

3. Computation of taxes to be remitted;

4. Calculated discount (if applicable) based on taxing jurisdiction's code; and

5. Such other information as may be required by the Commission.

B. Each tax return remitted by a remote seller or marketplace facilitator shall be signed (digital or otherwise) by a responsible individual who shall attest to the completeness and accuracy of the information on the tax return.

C. The Commission reserves the right to reject a filed return for failure to comply with the requirements of this Code for up to three (3) months from the date of filing. The Commission shall give written notice to a remote seller or marketplace facilitator that a return has been rejected, including the reason for the rejection.

5.19.110. Refunds.

A. Upon request from a buyer or remote seller or marketplace facilitator the Commission shall provide a determination of correct tax rate and amount applicable to the transaction. In the case of an overpayment of taxes, the remote seller or marketplace facilitator shall process the refund and amend any returns accordingly.

B. If the claimant is a remote seller or marketplace facilitator, and the tax refund is owed to any buyer, the remote seller or marketplace facilitator submits, and the Commission approves, a refund plan to all affected buyers.

C. The Taxing Jurisdictions may allow a buyer to request a refund directly from the Taxing Jurisdiction.

5.19.120. Amended Returns.

A. A remote seller or marketplace facilitator may file an amended sales tax return, with supporting documentation, and the Commission may accept the amended return, but only in the following circumstances:

i. The amended return is filed within one (1) year of the original due date for the return; and

ii. The remote seller or marketplace facilitator provides a written justification for requesting approval of the amended return; and

iii. The remote seller or marketplace facilitator agrees to submit to an audit upon request

of the Commission.

B. The Commission shall notify the remote seller or marketplace facilitator in writing (by email or otherwise) whether the Commission accepts or rejects an amended return, including the reasons for any rejection.

C. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation, the Commission determines the figure included in the original returns are incorrect; and the Commission adjusts the return within two (2) years of the original due date for the return.

D. A remote seller or marketplace facilitator may file a supplemental sales tax return, with supporting documentation, and the Commission may accept the supplemental return, but only in the following circumstances:

i. The remote seller or marketplace facilitator provides a written justification for requesting approval of the supplemental return; and

ii. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission.

5.19.130. Extension of Time to File Tax Return.

Upon written application of a remote seller or marketplace facilitator, stating the reasons therefor, the Commission may extend the time to file a sales tax return but only if the Commission finds each of the following:

1. For reasons beyond the remote seller's or marketplace facilitator's control, the remote seller or marketplace facilitator has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the remote seller or marketplace facilitator;

3. The remote seller or marketplace facilitator has a plan to cure the problem that caused the remote seller or marketplace facilitator to apply for an extension and the remote seller or marketplace facilitator agrees to proceed with diligence to cure the problem;

4. At the time of the application, the remote seller or marketplace facilitator is not delinquent in filing any other sales tax return, in remitting sales tax to the Commission or otherwise in violation of this chapter;

5. No such extension shall be made retroactively to cover existing delinquencies.

5.19.140. Audits.

A. Any remote seller or marketplace facilitator who has registered with the Commission, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the remote seller or marketplace facilitator in order to determine whether appropriate amounts of sales tax revenue have been collected by the remote seller or marketplace facilitator and remitted to the Commission.

B. The Commission is not bound to accept a sales tax return as correct. The Commission may make an independent investigation of all retail sales or transactions conducted within the State or taxing jurisdiction.

C. The records that a remote seller or marketplace facilitator is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the Commission for the purpose of auditing any return filed under this chapter, or to determine the remote seller's or marketplace facilitator's liability for sales tax where no return has been filed.

D. In addition to the information required on returns, the Commission may request, and the remote seller or marketplace facilitator must furnish, any reasonable information deemed necessary for a correct computation of the tax.

E. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation or audit, the Commission determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the Commission adjusts the return within two (2) years of the original due date for the return.

F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Commission may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any remote seller or marketplace facilitator at any reasonable hour on the premises of the remote seller or marketplace facilitator and may require the attendance of any officer or employee of the remote seller or marketplace facilitator. Upon written demand by the Commission, the remote seller or marketplace facilitator shall present for examination, in the office of the Commission, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the Commission and the person upon whom the demand is made agree to presentation of such materials at a different place.

G. The Commission may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any remote seller or marketplace facilitator refuses to obey any such subpoena, the Commissioner may refer the matter to the Commission's attorney for an application to the superior court for an order requiring the remote seller or marketplace facilitator to comply therewith.

H. Any remote seller, marketplace facilitator, or person engaged in business who is unable or unwilling to submit their records to the Commission shall be required to pay the Commission for all necessary expenses incurred for the examination and inspection of their records maintained outside the Commission.

I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.

J. In the event the Commission, upon completion of an audit, discovers more than five hundred dollars ($500) in additional sales tax due from a remote seller or marketplace facilitator resulting from a remote seller's or marketplace facilitator's failure to accurately report sales and taxes due thereupon, the remote seller or marketplace facilitator shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the Commission at the time of the conclusion of the audit.

5.19.150. Audit protest.

A. If the remote seller or marketplace facilitator wishes to dispute the amount of the estimate, or the results of an examination or audit, the remote seller or marketplace facilitator must file a written protest with the Commission, within thirty (30) calendar days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:

1. The remote seller's or marketplace facilitator's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated; or

2. The remote seller's or marketplace facilitator's reasons for challenging the examination or audit results.

B. In processing the protest, the Commission may hold an informal meeting or hearing with the remote seller or marketplace facilitator, either on its own or upon request of the remote seller or marketplace facilitator, and may also require that the remote seller or marketplace facilitator submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.

C. The Commission shall make a final written determination on the remote seller's or marketplace facilitator's protest and mail a copy of the determination to the remote seller or marketplace facilitator.

D. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination result shall be final, due and payable to the Commission.

5.19.160. Penalties and Interest for Late Filing.

A. A late filing fee of twenty-five dollars ($25) per month (or quarter) shall be added to all late-filed sales tax reports in addition to interest and penalties.

B. Delinquent sales tax bear interest at the rate of fifteen percent (15%) per annum until paid.

C. In addition, delinquent sales tax shall be subject to an additional penalty of 5% per month, or fraction thereof, until a total of 20% of delinquent tax has been reached. The penalty does not bear interest.

D. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to penalties and interest, second to past due sales tax.

E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing of no return.

F. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the Commission, upon written application of the remote seller or marketplace facilitator accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the remote seller or marketplace facilitator, within forty-five (45) calendar days after the date of delinquency. A remote seller or marketplace facilitator may not be granted more than one (1) waiver of penalty under this subsection in any one calendar year. The Commission shall report such waivers of penalty to the taxing jurisdiction, in writing.

5.19.170. Repayment Plans.

A. The Commission may agree to enter into a repayment plan with a delinquent remote seller or marketplace facilitator. No repayment plan shall be valid unless agreed to by both parties in writing.

B. A remote seller or marketplace facilitator shall not be eligible to enter into a repayment plan with the Commission if the remote seller or marketplace facilitator has defaulted on a repayment plan in the previous two (2) calendar years.

C. The repayment plan shall include a secured promissory note that substantially complies with the following terms:

    i. The remote seller or marketplace facilitator agrees to pay a minimum of ten percent (10%) down payment on the tax, interest and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.

ii. The remote seller or marketplace facilitator agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.

iii. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.

iv. If the remote seller or marketplace facilitator is a corporation or a limited liability entity the remote seller or marketplace facilitator agrees to provide a personal guarantee of the obligations under the repayment plan.

v. The remote seller or marketplace facilitator agrees to pay all future tax bills in accordance with the provisions of this chapter.

vi. The remote seller or marketplace facilitator agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the Commission at the time the repayment plan is signed. The remote seller or marketplace facilitator shall be responsible for the cost of recording the tax lien.

D. If a remote seller or marketplace facilitator fails to pay two (2) or more payments as required by the repayment plan agreement, the remote seller or marketplace facilitator shall be in default and the entire amount owed at the time of default shall become immediately due. The Commission will send the remote seller or marketplace facilitator a notice of default. The Commission may immediately foreclose on the sales tax lien or take any other remedy available under the law.

5.19.180. Remote Seller or Marketplace Facilitator Record Retention.

Remote sellers or marketplace facilitators shall keep and preserve suitable records of all sales made and such other books or accounts as may be necessary to determine the amount of tax which the remote seller or marketplace facilitator is obliged to collect. Remote sellers or marketplace facilitators shall preserve suitable records of sales for a period of six (6) years from the date of the return reporting such sales, and shall preserve for a period of six (6) years all invoices of goods and merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the remote seller or marketplace facilitator was obliged to collect under this chapter.

5.19.190. Cessation or Transfer of Business.

A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including a creditor or secured party, shall make a final sales tax return within thirty (30) days after the date of such conveyance.

B. At least ten (10) business days before any such sale is completed, the remote seller or marketplace facilitator shall send to the Commission, by approved communication (email confirmation, certified first-class mail, postage prepaid) a notice that the remote seller's or marketplace facilitator's interest is to be conveyed and shall include the name, address and telephone number of the person or entity to whom the interest is to be conveyed.

C. Upon notice of sale and disclosure of buyer, the Commission shall be authorized to disclose the status of the remote seller's or marketplace facilitator's sales tax account to the named buyer or assignee.

D. Upon receipt of notice of a sale or transfer, the Commission shall send the transferee a copy of this Code with this section highlighted.

E. Neither the Commission's failure to give the notice nor the transferee's failure to receive the notice shall relieve the transferee of any obligations under this section.

F. Following receipt of the notice, the Commission shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the Commission shall have twelve (12) months from the date of the completion of the sale or the Commission's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. The Commission may also initiate an estimated assessment if the requirements for such an assessment exist.

G. A person acquiring any interest of a remote seller or marketplace facilitator in a business required to collect the tax under this chapter assumes the liability of the remote seller or marketplace facilitator for all taxes due the Commission, whether current or delinquent, whether known to the Commission or discovered later, and for all interest, penalties, costs and charges on such taxes.

H. Before the effective date of the transfer, the transferee of a business shall obtain from the Commission an estimate of the delinquent sales tax, penalty and interest, if any, owed by the remote seller or marketplace facilitator as of the date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the remote seller or marketplace facilitator has produced a receipt from the Commission showing that all tax obligations imposed by this chapter have been paid. A transferee that fails to withhold the amount required under this subsection shall be liable to the Commission and taxing jurisdiction for the lesser of the amount of delinquent sales tax, penalty and interest due from the remote seller or marketplace facilitator as of the date of transfer, and the amount that the transferee was required to withhold.

I. In this section, the term "transfer" includes the following:

1. A change in voting control, or in more than fifty percent (50%) of the ownership interest in a remote seller or marketplace facilitator that is a corporation, limited

liability company or partnership; or

2. A sale of all or substantially all the assets used in the business of the remote seller or marketplace facilitator; or

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the remote seller's or marketplace facilitator's gross receipts from sales, rentals or services.

J. Subsection H of this section shall not apply to any person who acquires their ownership interest in the ongoing business as a result of the foreclosure of a lien that has priority over the Commission's sales tax lien.

K. Upon termination, dissolution or abandonment of a corporate business, any officer having control or supervision of sales tax funds collected, or who is charged with responsibility for the filing of returns or the payment of sales tax funds collected, shall be personally liable for any unpaid taxes, interest, administrative costs and penalties on those taxes if such officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for unpaid amounts. The officer shall be liable only for taxes collected which became due during the period he or she had the control, supervision, responsibility or duty to act for the corporation. This section does not relieve the corporation of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

L. A remote seller or marketplace facilitator who terminates the business without the benefit of a purchaser, successor or assign shall make a final tax return and settlement of tax obligations within thirty (30) days after such termination. If a final return and settlement are not received within thirty (30) days of the termination, the remote seller or marketplace facilitator shall pay a penalty of one hundred dollars ($100), plus an additional penalty of twenty-five dollars ($25) for each additional thirty- (30-) day period, or part of such a period, during which the final return and settlement have not been made, for a maximum of six (6) additional periods.

5.19.200. Use of Information on Tax Returns.

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the Commission under this Code, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the Commission and taxing jurisdiction whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and

information.

B. The Commission will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of sellers;

2. Whether a business is registered to collect taxes under this chapter;

3. The name and address of businesses that are sixty (60) days or more delinquent in filing returns or in remitting sales tax, or both filing returns and remitting sales tax; and, if so delinquent, the amount of estimated sales tax due, and the number of returns not filed.

D. The Commission may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular remote seller or marketplace facilitator is disclosed.

E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or their duly authorized representative, of a copy of any return or report filed by them, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers, remote sellers, or marketplace facilitators, nor to prohibit the furnishing of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws.

F. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any remote seller or marketplace facilitator or agent of any remote seller or marketplace facilitator required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within thirty (30) days after the required date for that business. Entry into any agreement whether pursuant to the provisions of this chapter or otherwise shall not act as any prohibition to disclosure of the records of that remote seller or marketplace facilitator as otherwise provided in this chapter.

G. A prospective lessee or purchaser of any business or business interest may inquire as to the obligation or tax status of any business upon presenting to the Commission a release of tax information request signed by the authorized agent of the business.

H. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

5.19.210. Violations.

A. A remote seller or marketplace facilitator that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this Code, shall pay to the Commission all costs incurred by the Commission to determine the amount of the remote seller's or marketplace facilitator's liability or to collect the sales tax, including, without limitation, reviewing and auditing the remote seller's or marketplace facilitator's business records, collection agency fees, and actual reasonable attorney's fees.

B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the Commission as required by this Code shall be liable to the Commission for the amount that should have been collected or remitted, plus any applicable interest and penalty.

C. Notwithstanding any other provision of law, and whether or not the Commission initiates an audit or other tax collection procedure, the Commission may bring a declaratory judgment action against a remote seller or marketplace facilitator believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state and federal law. The action shall be brought in the judicial district of the taxing jurisdiction.

D. The Commission may cause a sales tax lien to be filed and recorded against all real and personal property of a remote seller or marketplace facilitator where the remote seller or marketplace facilitator has:

1. Failed to file sales tax returns for two (2) consecutive filing periods as required by the Code; or

2. Failed within sixty (60) days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement as provided in this Code.

3. Prior to filing a sales tax lien, the Commission shall cause a written notice of intent to file to be mailed to the last known address of the delinquent remote seller or marketplace facilitator.

E. In addition to other remedies discussed in this Code, the Commission may bring a civil action to:

1. Enjoin a violation of this Code. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.

2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.

3. Foreclose a recorded sales tax lien as provided by law.

F. All remedies hereunder are cumulative and are in addition to those existing at law or equity.

5.19.220. Penalties for Violations.

A. A buyer, remote seller, or marketplace facilitator who knowingly or negligently submits false information in a document filed with the Commission pursuant to this Code is subject to a penalty of five hundred dollars ($500).

B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or taxing jurisdiction is subject to a penalty of five hundred dollars ($500).

C. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a penalty of five hundred dollars ($500).

D. Any remote seller or marketplace facilitator who fails to file a return required under this chapter by the due date, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars ($25) for the first sales tax return not timely filed. The filing of an incomplete return shall be treated as the filing of no return.

E. A remote seller or marketplace facilitator who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the Commission a penalty equal to three (3) times any deficiency found or estimated by the Commission with a minimum penalty of five hundred dollars ($500).

F. A remote seller or marketplace facilitator who falsifies or misrepresents any record filed with the Commission is guilty of an infraction and subject to a penalty of five hundred dollars ($500) per record.

G. Misuse of an exemption card is a violation and subject to a penalty of fifty dollars ($50) per incident of misuse;

H. Nothing in this chapter shall be construed as preventing the Commission from filing and maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a remote seller or marketplace facilitator. The Commission may also recover attorney's fees in any action against a delinquent remote seller or marketplace facilitator.

5.19.230. Remote Sellers with a physical presence in the taxing jurisdiction.

A. Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the

Taxing Jurisdiction.

B. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Taxing Jurisdictions shall (i) report and remit the remote or internet sales to the Commission; and (ii) report and remit the in-store sales to the Taxing Jurisdiction.

C. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Taxing Jurisdictions shall report and remit those remote sales to the Taxing Jurisdiction.

D. Remote Sellers and marketplace facilitators that do not have a physical presence in a Taxing Jurisdiction must report and remit all remote sales to the Commission.

E. For all purchases the tax rate added to the sale price shall be as provided in the Taxing Jurisdiction's sales tax code, based on point of delivery.

F. A marketplace facilitator is considered the remote seller for each sale facilitated through its marketplace and shall collect, report, and remit sales tax to the Commission. A marketplace facilitator is not considered to be the remote seller for each sale or rental of lodging facilitated through its marketplace, wherein the seller is considered to have a physical presence in the Taxing Jurisdiction.

5.19.240. Remittance of Tax; Remote Seller Held Harmless.

A. Any remote seller or marketplace facilitator that collects and remits sales tax to the Commission as provided by law may use an electronic database of state addresses that is certified by the Commission pursuant to subsection (C) of this section to determine the jurisdictions to which tax is owed.

B. Any remote seller or marketplace facilitator that uses the data contained in an electronic database certified by the Commission pursuant to subsection (C) of this section to determine the jurisdictions to which tax is owed shall be held harmless for any tax, charge, or fee liability to any taxing jurisdiction that otherwise would be due solely as a result of an error or omission in the database.

C. Any electronic database provider may apply to the Commission to be certified for use by remote sellers or marketplace facilitators pursuant to this section. Such certification shall be valid for three years. In order to be certified, an electronic database provider shall have a database that satisfies the following criteria:

1. The database shall designate each address in the state, including, to the extent practicable, any multiple postal address applicable to one location and the taxing jurisdictions that have the authority to impose a tax on purchases made by purchasers at each address in the state.

2. The information contained in the electronic database shall be updated as necessary and maintained in an accurate condition. In order to keep the database accurate, the database provider shall provide a convenient method for taxing jurisdictions that may be affected by the use of the database to inform the provider of apparent errors in the database. The provider shall have a process in place to promptly correct any errors brought to the provider's attention.

5.19.250. Definitions.

For purposes of this chapter, the following definitions shall apply:

"Buyer or purchaser" means a person to whom a sale of property or product is made or to whom a service is furnished.

"Commission" means the Alaska Intergovernmental Remote Sales Tax Commission established by Agreement between local government taxing jurisdictions within Alaska, and delegated tax collection authority.

"**Delivered electronically**" means delivered to the purchaser by means other than tangible storage media.

"Entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

"**Goods for resale**" means:

A. the sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.

B. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

"Marketplace facilitator" means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller's property or services through a physical or electronic marketplace operated by the person, and engages:

A. Directly or indirectly, through one or more affiliated persons in any of the following:

(i) Transmitting or otherwise communicating the offer or acceptance between the buyer and remote seller;

(ii) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;

(iii) Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or

(iv) Software development or research and development activities related to any of the activities described in (b) of this subsection (3), if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

B. In any of the following activities with respect to the seller's products:

(i) Payment processing services;

(ii) Fulfillment or storage services;

(iii) Listing products for sale;

(iv) Setting prices;

(v) Branding sales as those of the marketplace facilitator;

(vi) Order taking;

(vii) Advertising or promotion; or

(viii) Providing customer service or accepting or assisting with returns or exchanges.

"**Member**" means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax Intergovernmental Agreement, thereby members of the Commission, and who have adopted the Remote Seller Sales Tax Code.

"**Monthly**" means occurring once per calendar month.

"**Nonprofit organization"** means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

"**Person**" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

"**Physical presence**" means a seller who establishes any one or more of the following within a local taxing jurisdiction:

5. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;

6. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state;

7. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;

8. Rents or Leases property located within the boundaries of the local taxing jurisdiction.

A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

"Point of delivery" means the location at which property or a product is delivered or service rendered.

A. When the product is not received or paid for by the purchaser at a business location of a remote seller in a Taxing Jurisdiction, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller.

B. When the product is received or paid for by a purchaser who is physically present at a business location of a Remote Seller in a Taxing Jurisdiction the sale is considered to have been made in the Taxing Jurisdiction where the purchaser is present even if delivery of the product takes place in another Taxing Jurisdiction. Such sales are reported and tax remitted directly to the Taxing Jurisdiction not to the Commission.

C. For products transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery the sale to the billing address of the buyer.

"**Product-based exemptions"** means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

"**Property**" and **"product"** means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).

"Quarter" means trimonthly periods of a calendar year; January-March, April-June, July-September, and October-December.

"Receive or receipt" means

A. Taking possession of property;

B. Making first use of services; or

C. Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include temporary possession by a shipping company on behalf of the purchaser.

"**Remote sales**" means sales of goods or services by a remote seller or marketplace facilitator.

"Remote seller" means a seller or marketplace facilitator making sales of goods or services delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

"**Resale of services"** means sales of intermediate services to a business the charge for which will be passed directly by that business to a specific buyer.

"Sale" or "retail sale" means any transfer of property for consideration for any purpose other than for resale.

"Sales or purchase price" means the total amount of consideration, including cash, credit, property, products, and services, for which property, products, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

A. The seller's cost of the property or product sold;

B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

D. Delivery charges;

E. Installation charges; and

F. Credit for any trade-in, as determined by state law.

"**Seller**" means a person making sales of property, products, or services, or a marketplace facilitator facilitating sales on behalf of a seller.

"**Services**" means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing jurisdiction, including but not limited to:

A. Professional services;

B. Services in which a sale of property or product may be involved, including property or products made to order;

C. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;

D. The sale of transportation services;

E. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;

F. Advertising, maintenance, recreation, amusement, and craftsman services.

"Tax cap" means a maximum taxable transaction.

"Taxing jurisdiction" means a local government in Alaska that has a sales tax and is a member of the Alaska Remote Sellers Sales Tax Commission.

"**Transferred electronically**" means obtained by the purchaser by means other than tangible storage media.

5.19.260 Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at www.arsstc.org. Provisions of the Supplemental Definitions that are amended, deleted, or added prior to or after the effective date of the latest amendment to this chapter shall be applicable for purposes of this chapter on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 5. That the Alaska Intergovernmental Remote Sales Tax Commission is hereby authorized to implement, administer, and enforce the provisions of KPB 5.19 Uniform Remote Seller Sales Tax Code. This authority remains in full force and effect until the assembly revokes this authorization or otherwise withdraws from the Alaska Remote Seller Sales Tax Commission.

SECTION 6. This ordinance is effective March 1, 2020.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 25TH DAY OF FEBRUARY, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No:	None
Absent:	None

Introduced by:	Johnson
Date:	04/06/21
Hearing:	05/04/21
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-15

AN ORDINANCE AMENDING KPB 21.18, ANADROMOUS WATERS HABITAT PROTECTION, IN ACCORDANCE WITH RECOMMENDATIONS CONTAINED IN THE FINAL REPORT OF THE WORK GROUP FORMED TO PROVIDE A REVIEW OF CHAPTER 21.18

WHEREAS, Resolution 2019-058, as amended by Resolution 2020-09, established the Anadromous Waters Habitat Protection Work Group (work group), for the purpose of examining the current anadromous waters habitat protection permit process and potentially recommending amendments to KPB 21.18; and

WHEREAS, the first work group meeting occurred on March 12, 2020;

WHEREAS, in total the work group held eight meetings which were all noticed and open to the public in accordance with Alaska's Open Meetings Act; and

WHEREAS, at its final meeting on January 28, 2021, the work group approved its final report; and

WHEREAS, the only work group recommendation not incorporated into this ordinance is recommendation #10, Education Recommendation, because it relates to budgetary matters and did not recommend a change to borough code; and

WHEREAS, the work group's final report is available on the borough's website and accompanies this ordinance; and

WHEREAS, the Kenai Peninsula Borough Planning Commission, at its regular meeting of March 15, 2021, recommended approval by unanimous consent;

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

SECTION 1. That KPB 21.18.010(G) is hereby amended as follows:

KPB 21.18.010. Findings.

…

G. The assembly finds that it is in the public interest to further public knowledge of, and the maintenance of safe and healthful conditions; prevent and control water pollution; protect anadromous fish spawning grounds, rearing waters, and migration corridors and aquatic life; control building sites, placement of structures, and land uses; and to preserve [NATIVE SHORE COVER] the riparian habitat and natural beauty. These responsibilities are hereby recognized by the Kenai Peninsula Borough.

SECTION 2. That KPB 21.18.020(A)(2) is hereby amended as follows:

KPB 21.18.020. Purpose.

A. Protect and preserve the stability of anadromous fish through:

1. Controlling shoreline alterations and disturbances;

2. Preserving nearshore habitat and restricting the removal of [NATURAL RIPARIAN] native vegetation;

3. Controlling pollution sources; and

4. Prohibiting certain uses and structures detrimental to anadromous waters and habitat.

5. Decreasing significant erosion, sedimentation, damage to the habitat protection district, ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems.

…

SECTION 3. That KPB 21.18.025(B) is hereby amended as follows:

KPB 21.18.025. Application.

…

B. The reach of streams subject to this Chapter shall be defined by the beginning points and end points of the anadromous waters as identified in the Catalog at the time they are approved by the assembly and as indicated by published borough GIS data, unless otherwise specified in KPB 21.18. To the extent the borough's mapping of the location of waters subject to this Chapter conflict with the location identified in the Catalog, the borough's published mapping data controls.

…

SECTION 4. That KPB 21.18.065 is hereby amended as follows:

21.18.065. Activities not requiring a permit.

[A. THE PERMIT REQUIRED BY THIS CHAPTER IS NOT REQUIRED FOR NONCOMMERCIAL RECREATIONAL AND OTHER NON-INTRUSIVE ACTIVITIES WHICH DO NOT INVOLVE CONSTRUCTION, EXCAVATION, OR FILL OF LAND AND DO NOT RESULT IN SIGNIFICANT EROSION, SEDIMENTATION, DAMAGE TO THE HABITAT PROTECTION DISTRICT, AN INCREASE IN GROUND OR SURFACE WATER POLLUTION, AND DAMAGE TO THE RIPARIAN WETLANDS AND RIPARIAN ECOSYSTEMS.]

A permit required under this chapter is not required for:

A. Listed vegetation removal activities. Natural vegetation on land abutting lakes and streams protects scenic beauty, controls erosion, provides fish and wildlife habitat, moderates temperature, stabilizes the banks, and reduces the flow of effluents and nutrients from the shoreland into the water. Vegetation removal and land disturbing activities within the habitat protection district are prohibited, with the following exceptions [WHICH DO NOT REQUIRE A PERMIT]:

1. Routine maintenance of existing legally established landscaping and landscape features developed prior to regulation by KPB 21.18, in the habitat protection district, may be continued without a permit. To be considered routine maintenance, activities must have been consistently carried out so that lawns or ornamental plants predominate over native or invasive species. Maintenance is performed with hand tools or light equipment only. Tree removal is not included. "Routine maintenance" activities include mowing; pruning; weeding; planting annuals, perennials, fruits and vegetables; and other activities associated with an ornamental landscape.

2. Pruning of trees and woody shrubs for the health and/or renewal of vegetation shall not result in removal of more than 25% of the living crown of a tree, nor jeopardize the health and natural shape of a tree or shrub.

3. The removal of trees downed by force of nature.

4. The planting of native vegetation does not require a permit provided runoff and erosion are controlled and do not enter the water body.

B. A single flagpole with a surface area footprint not to exceed 4 square feet and above ground height not to exceed 30 feet.

…

SECTION 5. That KPB 21.18.071(A) and (A)(1) are hereby amended as follows:

21.18.071. Staff permits.

A. An application for a permit shall be made and a permit issued before commencement of certain activities, uses, and structures set forth in this section if they do not result in significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface water pollution, and damage to the riparian wetlands and riparian ecosystems. Property owners are encouraged to contact the Kenai River Center staff to determine if these impacts are likely to occur before starting the project. An application for a permit shall be made to the Kenai Peninsula Borough planning department central office or at the river center. Upon determination that the submitted information of record supporting the permit application meets the requirements of this section, staff shall issue a permit for the following activities, uses, and structures in the habitat protection district:

1. Tree and Shrub Management

a. A tree or shrub, or portion thereof, may be removed for one or more of the following reasons:

(i) The tree or shrub, or portion thereof, is dead[.];

(ii) The tree or shrub is a safety hazard to persons or property[.]; or

(iii) The tree or shrub removal is for the purpose of preventing the spread of disease to other trees.

Whenever a tree is removed, it shall be replaced with two seedlings less than 5.5 feet tall of a species native to the region.

…

SECTION 6. That KPB 21.18.072 is hereby repealed and replaced as follows:

21.18.072. Limited commercial activity within habitat protection district.

Within the habitat protection district and subject to the requirements of this chapter, the planning commission may issue a permit for commercial activities to be

conducted within a line parallel to and 900 feet west of the section line common to Section 4 and Section 5 of Township 5N, Range 11 W, Seward Meridian (approximately near river mile 1) to the north 1/16th aliquot division line of Section 17, T5N, R11W, Seward Meridian (approximately near river mile 3.5). Commercial activities are operations, uses, structures or other activities implemented for a private business purpose. Public parks, docks, and other public infrastructure are not considered commercial activities for purposes of this section.

A. Activities not requiring permit. Commercial activities of the same nature as those allowed under KPB 21.18.065 do not require a permit under this section.

B. Allowed Activities. The following commercial activities, uses or structures may be permitted under this section:

1. Dock and boat launch.

2. Stairs and pedestrian use boardwalks.

3. Gas, electric, water or other utility connections, lines, or poles.

4. Other activities, uses, or structures that either do not expand the applicant's surface area footprint within the habitat protection district or are necessary to the operation of the applicant's business and cannot be located outside of the habitat protection district due to conditions specific to the property. The burden is on the applicant, through a registered professional engineer, to show that conditions specific to the property exist.

C. General standards. The following standards apply to permits issued under this section:

1. The use or structure will not damage the riparian ecosystem or riparian wetlands. If substantial evidence supports a finding that the use or structure will damage the riparian ecosystem or riparian wetlands, then mitigation shall be required.

2. Granting of the permit shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough code, and other applicable planning documents adopted by the borough;

3. The development of the use or structure shall not physically damage the adjoining property;

4. The proposed use or structure is water-dependent or does not expand the surface area footprint of the structure or use in the habitat protection district.

5. Applicant or owner's compliance with other borough permits and ordinance requirements.

6. If the use or structure expands the applicant's surface area footprint within the habitat protection district, then appropriate mitigation shall be required in order to offset impacts to the habitat protection district.

D. General Conditions. The planning commission may impose permit conditions that it finds are necessary to meet the standards under this section and establish such conditions on the commercial activity, use or structure, for which the permit is granted as it determines necessary to prevent erosion, sedimentation, ground or surface water pollution, or damage to the habitat protection district, riparian wetlands, or riparian ecosystems. The planning commission may require the performance of appropriate mitigation to offset impacts that the planning commission finds may occur as a result of the proposed project or activity.

E. Prohibited activity. A commercial activity, use or structure, that is not allowed under this section and does not qualify for prior existing status under KPB 21.18.090 is prohibited.

F. Application procedure. A person seeking a permit under this section must complete the application and pay any applicable filing fee(s) to the river center on a form provided by the river center and receive planning commission approval prior to commencement of the project. An applicant's failure to abide by the terms and conditions of the planning commission's resolution approving the permit is grounds for revocation of the permit and removal of all non-compliant uses or structures.

SECTION 7. That KPB 21.18.075 is hereby amended as follows:

21.18.075. Prohibited uses and structures.

Any use or structure within the habitat protection district that is not permitted [IN] or allowed under KPB 21.18.065, KPB 21.18.071, KPB 21.18.072, or KPB 21.18.081 is prohibited.

SECTION 8. That KPB 21.18.100(B) is hereby amended as follows:

21.18.100. Administration by cities – Delegation – Legal proceedings.

A. The administration and enforcement of this ordinance may be undertaken by a city.

B. A city may adopt the standards established in this chapter or prescribe standards more stringent than those established in this chapter for the areas of the city within the habitat protection [AREA] district or other areas regulated by this chapter. A conditional use permit issued by a city planning commission may serve to satisfy the requirements of 21.18.072 and 21.18.080.

…

SECTION 9. That KPB 21.18.140 is hereby amended as follows:

21.18.140. Definitions.

As used in this chapter:

"100-year floodplain" means the land area susceptible to being inundated by water from any source during a 100-year flood, which is a flood event that has a 1 percent change of being equaled or exceed in any year.

…

"Conditional use" shall mean a use that would not be appropriate without restrictions throughout the habitat protection district[AREA] but which, if controlled as to number, area, location, relation to the habitat or method of operation, would not cause or lead to significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface pollution and damage to riparian wetlands and riparian ecosystems.

…

"Elevated light penetrating structures" mean structures, including walkways, that are off the ground, allow for sunlight ingress, and constructed in such a manner that allow vegetation to grow up to prevent vegetation trampling and increased sedimentation caused by recreational use activities within the habitat protection district.

…

"Ground or water pollution" shall mean the discharge, application, spread or release of chemicals, toxic materials, fuels, pesticides, petroleum based fuels on or into the soil and waters within the habitat protection [AREA] district.

"Habitat protection district" shall mean the anadromous waters habitat protection district land area as established in KPB 21.18.040.

...

"Impervious Material" means material that impedes or prevents natural infiltration of water into soil.

...

"Mitigation" means the reduction of adverse effects of a proposed project by considering:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and

5. Compensating for the impact by replacing or providing a comparable substitute.

"Native vegetation" means [NATIVE PLANT COMMUNITIES THAT ARE UNDISTURBED OR MIMICKED] the indigenous flora, to include all plant life, which naturally and historically occur in the Kenai Peninsula Borough region. A species shall be considered non-native if it is tracked and listed on the Alaska Center for Conservation Science's Non-Native Plant Species List.
"Riparian" means land abutting anadromous waters subject to this chapter.

…

"Shrub" means a woody perennial plant differing from a tree by its low stature and by generally producing several basal stems instead of a single bole and from a perennial herb by its persistent and woody stems.

...

"Wetlands" [SHALL HAVE THE MEANING GIVEN IN 16 USC § 1302 AS APPLIED TO LAND WITHIN THE HABITAT PROTECTION AREA] means land areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

SECTION 10. That this ordinance shall become effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF MAY, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

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Kenai Peninsula Borough
Legal Department

MEMORANDUM

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

THRU: Brent Johnson, Assembly Vice-President BJ
Melanie Aeschliman, Planning Director MA

FROM: Sean Kelley, Deputy Borough Attorney SK
Samantha Lopez, Acting River Center Manager SL

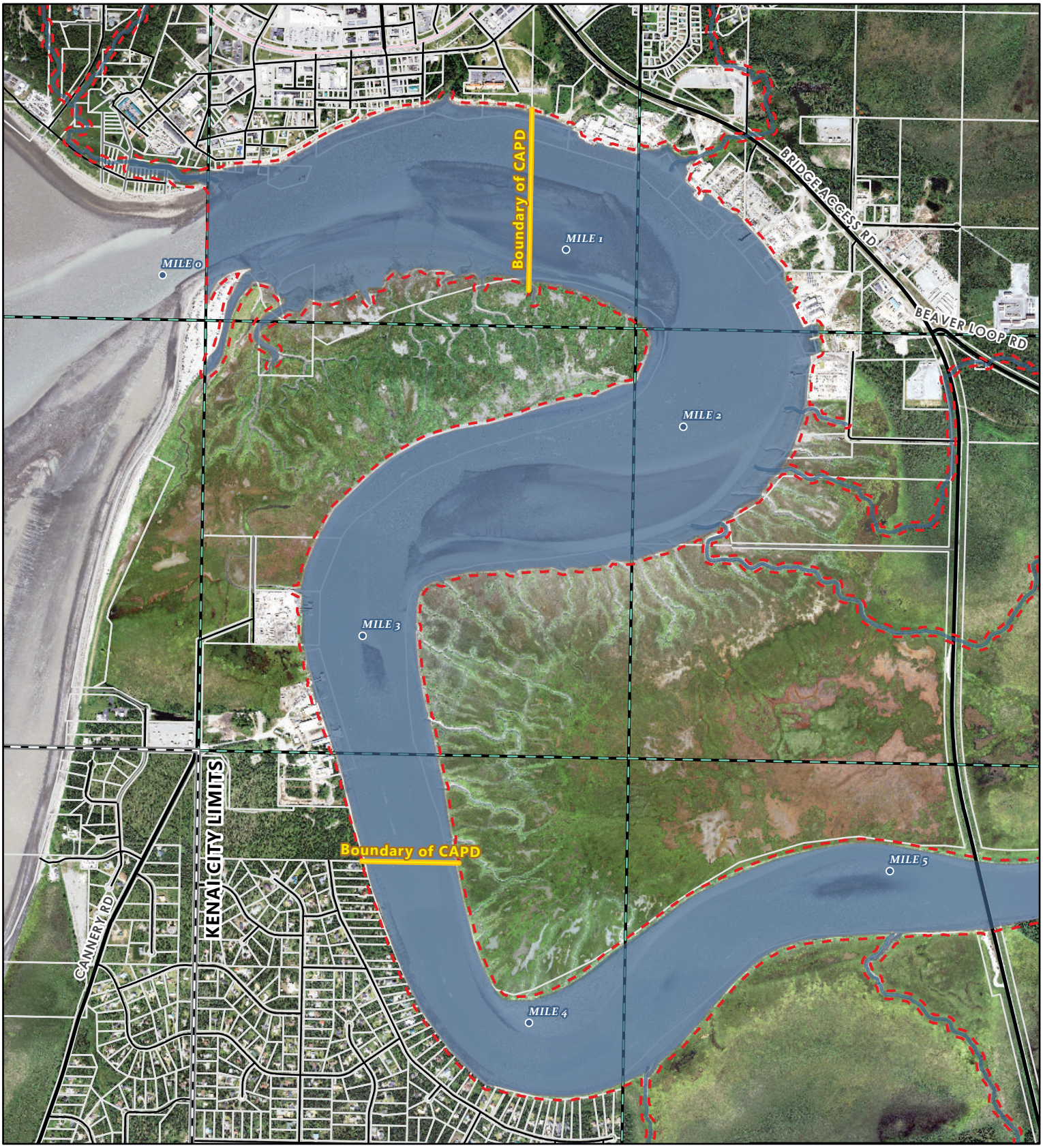
DATE: March 25, 2021

RE: Ordinance 2021-15, Amending KPB 21.18, Anadromous Waters Habitat Protection, in Accordance with Recommendations Contained in the Final Report of the Work Group Formed to Provide a Review of Chapter 21.18 (Johnson)

The assembly formed the Anadromous Waters Habitat Protection Work Group (work group) via Resolution 2019-058, as amended by Resolution 2020-09, for the purpose of examining the current anadromous waters habitat protection permit process and potentially recommending amendments to KPB 21.18.

The final report, approved by the work group January 28, 2021, provides discussion and justification for the recommendations. The recommendations range from a flagpole exemption to "housekeeping" items that are aimed to clean up and clarify code to repeal and replace KPB 21.18.072 concerning limited commercial activity within the habitat protection district. A map provided by GIS that depicts the recommended commercial activity permit area and the final report accompanies this ordinance.

Your consideration of this ordinance is appreciated.



Commercial Activity Permit District (CAPD)

- Boundary Of CAPD
- Approximate River Mile
- 21.18 Anadromous Streams
- Approximate Boundary of 21.18 Habitat Protection District
- City Limits
- Section Lines
- Tax Parcels

N
W E
S

0 0.5 Miles

Kenai Peninsula Borough
Anadromous Waters Habitat Protection Work Group
Final Report and Recommendations

(Approved January 28, 2021)

Committee Members: Robert Ruffner (Chair), Branden Bornemann (Vice Chair), Brent Johnson, Ed Oberts, Wayne Ogle, Kaitlin Vadla, Bob White, Dawson Slaughter

Staff Support: Melanie Aeschliman (Planning Director), Morgan Aldridge (River Center), Johni Blankenship (Borough Clerk), Randi Broyles (Clerk's Office), Nancy Carver (River Center), Charles Combs (River Center), Sean Kelley (Legal Department), Bobbi Lay (GIS), Samantha Lopez (River Center).

Kenai Peninsula Borough
Anadromous Waters Habitat Protection Work Group
Final Report and Recommendations

(Approved January 28, 2021)

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PURPOSE

The Anadromous Waters Habitat Protection Work Group was established to examine the current anadromous waters habitat protection permit process and potentially recommend amendments to KPB 21.18.

The establishing resolution provides that the work group shall provide a final report to the planning commission.

Resolution 2019-058, and as amended by Resolution 2020-009, established the Anadromous Waters Habitat Protection Work Group (hereinafter "work group"), "for the purpose of examining the current anadromous [waters] habitat protection permit process and potentially recommending amendments to KPB 21.18." Per the establishing resolution, the work group "shall provide a final report" to the planning commission which may include recommendations for ordinance amendments.

KPB 21.18.010 through KPB 21.18.145 are the code sections within the borough's Anadromous Waters Habitat Protection Chapter. The habitat protection district was established to: (A) Protect and preserve the stability of anadromous fish; (B) Provide a guide for growth and development along anadromous waters in accordance with the Kenai Peninsula Borough Comprehensive Plan; (C) Achieve the goals and implement the policies of the Kenai Peninsula Borough Comprehensive Plan; (D) Protect and enhance real property values; and (E) Continuing to enjoy the prosperity and abundance provided by anadromous fish to the citizens of the Kenai Peninsula Borough.[1]

The work group was comprised of one assembly member (Johnson), one planning commission member (Ruffner), and six other members of the public appointed by the mayor and confirmed by the assembly – though one member (Slaughter) was unable to attend the meetings due to the timing of the meetings and therefore did not participate in any of the work group meetings. The group was staffed by the Borough Clerk's Office, the Legal Department, the River Center, and GIS.

The first work group meeting was held on March 13, 2020. Due to the COVID-19 pandemic, the work group was on hiatus for approximately 7 months, reconvening on December 3, 2020. Subsequent meetings were held weekly, but for a change of schedule and two week break of the Christmas/New Years

[1] See KPB 21.18.020. – Purpose.

holiday. The meetings were noticed in accordance with the Open Meetings Act and the public was encouraged to attend; however due to the ongoing COVID-19, public health emergency all meetings were via tele/video-conference held over Zoom.

Upon reconvening the work group met via Zoom on the following dates: December 3, 2020, December 10, 2020, December 17, 2020, January 7, 2021, January 14, 2021, January 21, 2021, and January 28, 2021.

RECOMMENDATIONS

Recommendation #1 – Amendment to KPB 21.18.025(B) (GIS DATA)

Recommendation #1 carried by unanimous consent recommending an amendment to KPB 21.18.025(B) to clarify that the borough's published GIS data controls as to the location and application of waters that are subject to KPB 21.18.

Code Change: KPB 21.18.025. –Application.

…

B. The reach of streams subject to this Chapter shall be defined by the beginning points and end points of the anadromous waters as identified in the Catalog **at the time they are approved by assembly and as indicated by published borough GIS data**, unless otherwise specified in KPB 21.18. **To the extent the borough's mapping of the location of waters subject to this Chapter conflict with the location identified in the Catalog, the borough's published mapping data controls**.

Justification and Discussion: This amendment clarifies that the borough's published GIS maps control as to the location and jurisdiction of waters subject to KPB 21.18. Currently, KPB 21.18.025 does not say anything about borough published mapping data and instead indicates that the "Atlas and Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish" (Catalog) published by the Alaska Department of Fish and Game (ADF&G) controls regarding the location and description of the waters subject to KPB 21.18. Unfortunately, the Catalog does not contain accurate descriptions or clearly identified mapping of streams subject to KPB 21.18. The borough's GIS division does provide updated and clearly identified mapping of the waters subject to KPB 21.18. Input was provided by River Center staff, and Bobbi Lay, GIS Specialist,

highlighting the need for the proposed amendment to align with current best practice. The group discussed if this would change practices on the ground. River center staff assured the group that on-the-ground measurements and real-time identification of locations of streams and rivers would always be most accurate to determine KPB 21.18 jurisdiction boundaries.

Recommendation #2 – Amendment to KPB 21.18.071(A) (Encouraging pre-project consultation with River Center staff).

Recommendation #2 carried by unanimous consent recommending an amendment to KPB 21.18.071(A) encouraging property owners to consult with River Center staff prior to starting a project under KPB 21.18.071(A) and/or going through the permitting process.

Code Change: 21.18.071. - Staff permits.

A. An application for a permit shall be made and a permit issued before commencement of certain activities, uses, and structures set forth in this section if they do not result in significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface water pollution, and damage to the riparian wetlands and riparian ecosystems. **Property owners are encouraged to contact the Kenai River Center staff to determine if these impacts are likely to occur before starting the project.** An application for a permit shall be made to the Kenai Peninsula Borough planning department central office or at the river center. Upon determination that the submitted information of record supporting the permit application meets the requirements of this section, staff shall issue a permit for the following activities, uses, and structures in the habitat protection district:

…

Justification and Discussion: This amendment was brought forward by River Center staff. The purpose of the change is to reduce "after the fact" permitting needs because land owners didn't think they needed a permit after performing their own assessment. River Center staff stated that they commonly receive permit requests after the fact where the property owners contact the river center after they find out their projects required permit, either due to complaints or a misreading of ordinances. River Center staff stated its belief that this amendment to KPB 21.18.071(A) would result in increased voluntary compliance and positive partnering with borough property owners.

Recommendation #3 – Amendment to KPB 21.18.065 - (Flagpole exemption amendment, Repeal of Subsection A)

Recommendation #3 was handled as two separate amendments, each of which carried by unanimous consent, recommending amendments to KPB 21.18.065 to repeal subsection "A", to improve the formatting of this section of code, and to provide a new item – known as the flagpole exception - to allow a single flagpole within the Habitat Protection District as an activity not requiring a permit under KPB 21.18.

Code Change: 21.18.065. - Activities not requiring a permit.

[A.] [THE]**A** permit required **under**[by] this chapter is not required for:

[A. NONCOMMERCIAL RECREATIONAL AND OTHER NON-INTRUSIVE ACTIVITIES WHICH DO NOT INVOLVE CONSTRUCTION, EXCAVATION, OR FILL OF LAND AND DO NOT RESULT IN SIGNIFICANT EROSION, SEDIMENTATION, DAMAGE TO THE HABITAT PROTECTION DISTRICT, AN INCREASE IN GROUND OR SURFACE WATER POLLUTION, AND DAMAGE TO THE RIPARIAN WETLANDS AND RIPARIAN ECOSYSTEMS.]

A. **Listed vegetation removal activities.** Natural vegetation on land abutting lakes and streams protects scenic beauty, controls erosion, provides fish and wildlife habitat, moderates temperature, stabilizes the banks, and reduces the flow of effluents and nutrients from the shoreland into the water. Vegetation removal and land disturbing activities within the habitat protection district are prohibited, with the following exceptions**:** [WHICH DO NOT REQUIRE A PERMIT:]

1. Routine maintenance of existing legally established landscaping and landscape features developed prior to regulation by KPB 21.18, in the habitat protection district, may be continued without a permit. To be considered routine maintenance, activities must have been consistently carried out so that lawns or ornamental plants predominate over native or invasive species. Maintenance is performed with hand tools or light equipment only. Tree removal is not included. "Routine maintenance" activities include mowing; pruning; weeding; planting annuals, perennials, fruits and vegetables; and other activities associated with an ornamental landscape.
2. Pruning of trees and woody shrubs for the health and/or renewal of vegetation shall not result in removal of more than

25% of the living crown of a tree, nor jeopardize the health and natural shape of a tree or shrub.

3. The removal of trees downed by force of nature.

4. The planting of native vegetation does not require a permit provided runoff and erosion are controlled and do not enter the water body.

B. A single flagpole with a surface area footprint not to exceed 4 square feet and above ground height not to exceed 30 feet.

Justification and Discussion: The proposed amendment repealing KPB 21.18.065(A) will eliminate language related to non-intrusive activities and undefined terms therein, such as "significant erosion," "damage to the habitat," "increase in ground or surface water pollution," "damage to the riparian wetlands," and "damage to riparian ecosystems". In the past 5 years, the river center is not aware of any activities that landowners performed under this "non-intrusive activities" paragraph. The group therefore determined that repealing this paragraph of KPB 21.18.065 would not appear to impact landowners, aligns with the intent of KPB 21.18, and would improve the overall readability of this chapter. The recommendation is to repeal subsection A as a measure of code clean-up, to make the entire chapter easier to read and understand. Additionally, an objective stated by a few group members during this KPB 21.18 review process was to provide a streamlined process for landowners desiring to install a single flagpole within the habitat protection district on their property. The flagpole amendment provides lists a single flagpole, that meets the not to exceed language provided, as an activity that does not require a permit under KPB 21.18.

Recommendation #4 – Amendment to KPB 21.18.010(G) ("Housekeeping Amendment #1")

Recommendation #4 carried by unanimous consent recommending an amendment to KPB 21.18.010(G) to delete the term "native shore cover" and replace it with "the riparian habitat)

Code Change: KPB 21.18.010. – Findings.

G. The assembly finds that it is in the public interest to further public knowledge of, and the maintenance of safe and healthful conditions; prevent and control water pollution; protect anadromous

fish spawning grounds, rearing waters, and migration corridors and aquatic life; control building sites, placement of structures, and land uses; and to preserve **the riparian habitat** [NATIVE SHORE COVER] and natural beauty. These responsibilities are hereby recognized by the Kenai Peninsula Borough.

Justification and Discussion: The term "native shore cover" is not used elsewhere in KPB 21.18 and is not defined. Using riparian habitat instead appears to fit better within the overall purpose and intent of KPB 21.18. This amendment was introduced at the work group's meeting on January 7, 2021 and voted on at the work group's meeting on January 14, 2021.

Recommendation #5 – Amendment to KPB 21.18.020 ("Housekeeping Amendment #2")

Recommendation #5 carried by unanimous consent recommending an amendment to KPB 21.18.020 deleting the word "natural" and replacing it with the word "native" (vegetation) to align better with other references in code to native vegetation.

Code Change:

KPB 21.18.020. – Purpose.

A. Protect and preserve the stability of anadromous fish through:

1. Controlling shoreline alterations and disturbances;

2. Preserving nearshore habitat and restricting the removal of [NATURAL] **native** [RIPARIAN] vegetation;

Justification and Discussion: The term "natural riparian vegetation" is not defined in code and is not used anywhere else in the chapter. The term native vegetation is defined in KPB 21.18.140. This amendment was introduced at the work group's meeting on January 7, 2021 and voted on at the work group's meeting on January 14, 2021.

Recommendation #6 – Amendment to KPB 21.18.071(A) (add the term "shrub")

Recommendation #6 carried by unanimous consent recommending an amendment to KPB 21.18.071(A) to add the term "shrub".

Code Change: KPB 21.18.071. – Staff permits.

A. An application for a permit shall be made and a permit issued before commencement of certain activities, uses, and structures set forth in this section if they do not result in significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface water pollution, and damage to the riparian wetlands and riparian ecosystems. An application for a permit shall be made to the Kenai Peninsula Borough planning department central office or at the river center. Upon determination that the submitted information of record supporting the permit application meets the requirements of this section, staff shall issue a permit for the following activities, uses, and structures in the habitat protection district:

1. Tree **and Shrub** Management

a. A tree **or shrub**, or portion thereof, may be removed for one or more of the following reasons:

(i) The tree **or shrub**, or portion thereof, is dead[.]**;**

(ii) The tree **or shrub** is a safety hazard to persons or property[.]**; or**

(iii) The tree **or shrub** removal is for the purpose of preventing the spread of disease to other trees.

Whenever a tree is removed, it shall be replaced with two seedlings less than 5.5 feet tall of a species native to the region.

Justification and Discussion: This amendment addresses public comments that raised confusion about whether shrubs can also be removed when they are dead or pose a safety hazard.

Recommendation #7 – Amendment to KPB 21.18 throughout to replace the term "habitat protection area" with term "habitat protection district" (7 total changes in code)

Recommendation #7 carried by unanimous consent recommending replacing the term "habitat protection area" with "habitat protection district"

Code Change: There are seven instances in KPB 21.18 where this amendment would change "habitat protection area" to habitat protection district. The Impacted code sections are KPB 21.18.072 (limited commercial activity) (3 reference changes), KPB 21.18.100 (administration by cities) (1 reference change), KPB 21.18.140 (definitions) (3 reference changes).

Justification and Discussion: In KPB 21.18, "habitat protection area" is used 7 times. It is apparent that the use of "habitat protection area" was intended to have the same meaning as "habitat protection district". This change would delete the word AREA and replace it with the word DISTRICT in all 7 places that is used as "habitat protection area"

Recommendation #8 – Amend KPB 21.18.075 (Clarify prohibited uses and structures section)

Recommendation #8 carried by unanimous consent recommending amendment to KPB 21.18.075 adding clarifying language regarding the prohibition of uses and structures under KPB 21.18 and to add a section of code to the list in this section.

Code Change: 21.18.075. - Prohibited uses and structures.

Any use or structure **within the habitat protection district** that is not permitted **or allowed under[**IN] KPB 21.18.065, KPB 21.18.071, **KPB 21.18.072**, or **KPB** 21.18.081 is prohibited.

Justification and Discussion: Current code omits KPB 21.18.072 from the list in this section. The additions aim to clarify that any use or structure within the HPD that is not allowed under code is prohibited. The phrase "not permitted in" may have been a source of confusion so that language is adjusted with this change. The group considered trying to develop a non-exhaustive list of prohibited uses or structures but determined such a list may only increase confusion.

Recommendation #9 – Amendment to KPB 21.18.140 (adds 7 definitions for unique terms used within KPB 21.18 but not defined in code)

Recommendation #9 carried by unanimous consent recommending 9 definition changes to KPB 21.18.140.

Code Change: 21.18.140. - Definitions.

9 definition additions or adjustments to code:

- **"100-year floodplain" means the land area susceptible to being inundated by water from any source during a 100-year flood, which is a flood event that has a 1 percent change of being equaled or exceed in any year**.
- **"Habitat protection district" shall mean the anadromous waters habitat protection district land area as established in KPB 21.18.040.**
- **"Elevated light penetrating structures" mean structures, including walkways, that are off the ground, allow for sunlight ingress, and constructed in such a manner that allow vegetation to grow up to prevent vegetation trampling and increased sedimentation caused by recreational use activities within the habitat protection district**
- **"Impervious Material" means material that impedes or prevents natural infiltration of water into soil.**
- **"Mitigation" means the reduction of adverse effects of a proposed project by considering:**
    1. **Avoiding the impact altogether by not taking a certain action or parts of an action;**
    2. **Minimizing impacts by limiting the degree or magnitude of the action and its implementation;**
    3. **Rectifying the impact by repairing, rehabilitating or restoring the affected environment;**
    4. **Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and**
    5. **Compensating for the impact by replacing or providing a comparable substitute.**

- "Native vegetation" means **the indigenous flora, to include all plant life, which naturally and historically occur in the Kenai Peninsula Borough region. A species shall be considered non-native if it is tracked and listed on the Alaska Center for Conservation Science's**

Non-Native Plant Species List. [NATIVE PLANT COMMUNITIES THAT ARE UNDISTURBED OR MIMICKED.]

- "**Riparian" means land abutting anadromous waters subject to this chapter.**
- **"Shrub" means a woody perennial plant differing from a tree by its low stature and by generally producing several basal stems instead of a single bole and from a perennial herb by its persistent and woody stems.**
- "Wetlands" **means land areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.** [SHALL HAVE THE MEANING GIVEN IN 16 USC § 1302 AS APPLIED TO LAND WITHIN THE HABITAT PROTECTION AREA.]

Justification and Discussion: The above terms are either undefined in code or could benefit from some fine-tuning. Sources: Chester L. Arnold, Jr. & C. James Gibbons, Impervious Surface Coverage: The Emergence of a Key Environmental Indicator, 62 J. Am. Plan. Ass'n 244 (1996)(impervious surfaces/material); Alaska Department of Natural Resources, Division of Agriculture, Strategic Plan (invasive species, non-native vegetation) Alaska Center for Conservation Science (native vegetation); United Stated Department of Agriculture, The Alaska Vegetation Classification, Viereck et al (Shrub); U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) (Wetlands); Oregon City, Oregon (Mitigation).

Recommendation #10 – Education Recommendation

Recommendation #10 carried by majority vote recommending that the KPB River Center Staff prioritize education opportunities and partner with local non-profits and other organizations or agencies to accomplish education outreach goals. The recommendation adopted by the work group is as follows:

> "*Recommendation for consideration regarding education at the Kenai River Center*
>
> *The working group recognizes the value in providing education on riparian habitat and the 21.18 habitat ordinance, including direct landowner outreach. Further we perceive a gap in services that would provide meaningful public engagement and help defray costs incurred*

by existing River Center staff. At the same time the working group does not wish to recommend to the Assembly that the Kenai Peninsula Borough create a new position due to the current fiscal climate. To accomplish this we recommend seeking partnership through local and willing non-profit organizations.

To enhance education and outreach to landowners the working group provides the following recommendation:

- *Establish a mechanism to provide for a dedicated education/ outreach position in the Kenai River Center, in conjunction with a non-profit as the employer*
- *Work with a local non-profit to develop an education/ outreach work plan and budget, with regular reporting back to the Assembly*
- *Include funding in the KPB budget to support education/ outreach to be used only if outside matching funds can be secured and only as a portion of the total budget for services provided. We suggest 25% of 1 full-time employee (FTE), approximately $25,000.*
- *(Vadla Amendment, passed by majority vote) Historically the river center has operated with 5 FTE and in last two years has gone from 5 to 3 FTE. Recommendation is full staff of 5 FTE as normal operating capacity for river center. However, recognizing current budget issues 4 FTE is reasonable in short-term to achieve education outreach goals.*

Seek outside funding in collaboration with non-profit to fund the remaining 75% of the budget."

Code Change: No code change required.

Justification and Discussion: The group's objective was to highlight the importance of education and outreach to borough residents, and specifically property owners who own property abutting waters that are subject to KPB 21.18.

Recommendation #11– Re-Write of KPB 21.18.072 (Limited Commercial Activities)

Recommendation #11 carried by unanimous consent recommending a re-write (repeal and replace) of KPB 21.18.072 to provide for certain industrial activities from approximately near river mile 3.5 (West of Ames Bridge) to approximately near river mile 1 on the Kenai River.

Code Change: **21.18.072. - Limited commercial activity within habitat protection district [AREA].**

Within the habitat protection district and subject to the requirements of this chapter, the planning commission may issue a permit for commercial activities to be conducted within a line parallel to and 900 feet west of the section line common to Section 4 and Section 5 of Township 5N, Range 11 W, Seward Meridian (approximately near river mile 1) to the north 1/16th aliquot division line of Section 17, T5N, R11W, Seward Meridian (approximately near river mile 3.5). Commercial activities are operations, uses, structures or other activities implemented for a private business purpose. Public parks, docks, and other public infrastructure are not considered commercial activities for purposes of this section.

A. Activities not requiring permit. Commercial activities of the same nature as those allowed under KPB 21.18.065 do not require a permit under this section.

B. Allowed Activities. The following commercial activities, uses or structures may be permitted under this section:

1. Dock and boat launch.

2. Stairs and pedestrian use boardwalks.

3. Gas, electric, water or other utility connections, lines, or poles.

4. Other activities, uses, or structures that either do not expand the applicant's surface area footprint within the habitat protection district or are necessary to the operation of the applicant's business and cannot be located outside of the habitat protection district due to conditions specific to the property. The burden is on the applicant, through a registered professional engineer, to show that conditions specific to the property exist.

C. General standards. The following standards apply to permits issued under this section:

1. The use or structure will not damage the riparian ecosystem or riparian wetlands. If substantial evidence supports a finding that

the use or structure will damage the riparian ecosystem or riparian wetlands, then mitigation shall be required.

2. **Granting of the permit shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough code, and other applicable planning documents adopted by the borough;**

3. **The development of the use or structure shall not physically damage the adjoining property;**

4. **The proposed use or structure is water-dependent or does not expand the surface area footprint of the structure or use in the habitat protection district.**

5. **Applicant or owner's compliance with other borough permits and ordinance requirements.**

6. **If the use or structure expands the applicant's surface area footprint within the habitat protection district, then appropriate mitigation shall be required in order to offset impacts to the habitat protection district.**

D. General Conditions. The planning commission may impose permit conditions that it finds are necessary to meet the standards under this section and establish such conditions on the commercial activity, use or structure, for which the permit is granted as it determines necessary to prevent erosion, sedimentation, ground or surface water pollution, or damage to the habitat protection district, riparian wetlands, or riparian ecosystems. The planning commission may require the performance of appropriate mitigation to offset impacts that the planning commission finds may occur as a result of the proposed project or activity.

E. Prohibited activity. A commercial activity, use or structure, that is not allowed under this section and does not qualify for prior existing status under KPB 21.18.090 is prohibited.

F. Application procedure. A person seeking a permit under this section must complete the application and pay any applicable filing fee(s) to the river center on a form provided by the river center and receive planning commission approval prior to commencement of the project. An applicant's failure to abide by the terms and conditions of the planning commission's resolution approving the permit is grounds for revocation of the permit and removal of all non-compliant uses or structures.

[THE PLANNING COMMISSION MAY ISSUE A PERMIT FOR ACTIVITIES TO BE CONDUCTED WITHIN OR USING THE HABITAT PROTECTION AREA AS PROVIDED IN THIS SECTION. PERMITS ARE REQUIRED FOR COMMERCIAL ACTIVITIES OF THE SAME NATURE AS THOSE ALLOWED UNDER KPB 21.18.065 FOR PRIVATE NON-COMMERCIAL USE UPON CONDITIONS THAT THE ACTIVITY IS LIMITED TO PEDESTRIAN USE OVER BOARDWALKS, STAIR AND DOCKS NECESSARY TO ALLEVIATE THE INCREASED LEVELS OF ACTIVITY ATTENDANT TO THE COMMERCIAL ACTIVITY. A PERMIT MAY NOT BE ISSUED UNLESS THE PLANNING COMMISSION DETERMINES THE ACTIVITY WILL BE CONDUCTED IN A MANNER THAT DOES NOT RESULT IN SIGNIFICANT EROSION, SEDIMENTATION, DAMAGE TO THE HABITAT PROTECTION DISTRICT, AN INCREASE IN GROUND OR SURFACE WATER POLLUTION, AND DAMAGE TO RIPARIAN WETLANDS AND RIPARIAN ECOSYSTEMS. IN GRANTING A PERMIT, THE PLANNING COMMISSION MAY ESTABLISH SUCH CONDITIONS ON THE DEVELOPMENT, USE OR OPERATION OF THE ACTIVITY OR FACILITY FOR WHICH THE CONDITIONAL USE PERMIT IS GRANTED AS IT DETERMINES NECESSARY TO PREVENT SIGNIFICANT EROSION, SEDIMENTATION, DAMAGE TO THE HABITAT PROTECTION DISTRICT, AN INCREASE IN GROUND OR SURFACE WATER POLLUTION, AND DAMAGE TO RIPARIAN WETLANDS AND RIPARIAN ECOSYSTEMS. THE ACTIVITY MUST BE CONDUCTED ON A PORTION OF PROPERTY ADJACENT TO THE PROPERTY WITHIN THE HABITAT PROTECTION AREA FOR WHICH THE PERMIT IS SOUGHT.]

Justification and Discussion: KPB 21.18.072 (Limited commercial activity within the habitat protection area) is the only section of code within KPB 21.18 specific to commercial or business activities, uses or structures with the HPD. The current wording of this section is difficult to interpret, often open to debate, and has proven to have little useful, practical application. For example, in the past 5 years, it appears that no permits have been issued under this section of code.

The proposed amendment repeals current KPB 21.18.072 and replaces it with a standard-driven permitting process specific to commercial activities. The opening paragraph establishes a permit process for commercial activities within the area described. Subsection A provides for activities that do not require a permit pursuant to KPB 21.18.065. Subsection B provides 4 categories of allowed commercial activities with the HPD. Subsection C provides the general standards applicable to a permit application under this section. Subsection D sets out the general conditions. Subsection E provides that commercial activities not permitted under this section are prohibited, unless the use or structure otherwise qualifies for prior existing status under KPB 21.18.090.

This proposed amendment provides the planning commission authority to impose permit conditions necessary to meet the general standards. The proposed amendments will require mitigation when the proposed activity seeks to expand the applicant's surface footprint within the HPD.

This amendment was requested by and worked on in collaboration with the City of Kenai Administration to allow for commercial activities permitting within the industrialized area of the Kenai River within the City of Kenai. For all intents and purposes, this would create a permitting process similar to the conditional use permit process except that it is specific to commercial activities. There was discussion about extending the permit area west to the near the mouth of the Kenai River, but that amendment did not receive a second. There was also discussion about putting this under KPB 21.18.081 as a conditional use permit but no amendment was put on the floor and the group ultimately unanimously voted to recommend this re-write of KPB 21.18.072 to provide for a clearer permitting process for commercial activities within the area described.

Code Amendments Considered by Work Group but Not Passed

1. Flagpole amendment "option 2".
   Proposed code amendment language considered by the group:
   21.18.065. - Activities not requiring a permit.

   C. A single flagpole with a surface area footprint not to exceed 8 square feet and above ground height not to exceed 30 feet, installed per manufacture instructions. The flagpole may be lighted by solar or 12-gauge direct burial cable from the existing residence. The cable shall be buried in a trench not to exceed 6 inches in depth or 4 inches in width using hand tools only.

   Action: No action taken. A motion was not put on the floor. The work group unanimously passed the flagpole amendment language reflected in Recommendation #3 above.

2. Staff proposed amendment to KPB 21.18.071 (A) adding new number 6
   Proposed code amendment language considered by the group:
   21.18.071. - Staff permits.

   Adding a new (A)(6):

   6. **Projects disturbing no more than 1 cubic yard of material that will not have significant negative impacts within the HPD as 21.18.020 provides protection against may be permitted if staff deems appropriate based on project design and/or mitigating native vegetation restoration**

Action: Motion to recommend failed by unanimous consent. The expressed concern was providing too much discretion to permitting decisions at the staff level.

3. Housekeeping amendment #3 to KPB 21.18.071 (A)
   Proposed code amendment language considered by the group:
   21.18.065. - Activities not requiring a permit.

   A. [n]Noncommercial recreational and other non-intrusive activities which do not involve construction, excavation, or fill of land and do not result in significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface water pollution, and damage to the riparian wetlands and riparian ecosystems. **Whether or not a proposed noncommercial recreational activity or other non-intrusive activity may proceed without a permit under this subsection shall be determined by river center staff after consultation with the applicant and appropriate local, state or federal regulatory authorities.**

   Action: Motion to recommend failed by unanimous consent. The group discussing adding a new (A)(6) to this section, the expressed concern was providing too much discretion to permitting decisions at the staff level. Alternatively, the group instead voted to repeal KPB 21.18.065(A) to address potential issues with open-to-interpretation terms that are used in this subsection of code.

4. KPB 21.18.075 (Specific reference to Private Boat Launches)
   Proposed code amendment language considered by the group:
   21.18.075. - Prohibited uses and structures.

   Any use or structure within the habitat protection district that is not permitted or allowed under[IN] KPB 21.18.065, KPB 21.18.071, KPB 21.18.072, or **KPB** 21.18.081 is prohibited. **A developed private boat launch that does not meet the criteria for a conditional use permit under KPB 21.18.081 or under KPB 21.18.072 is prohibited.**

   Action: Motion to recommend failed by unanimous consent. The group expressed concern that the public might see this as a major change and was concerned with singling out boat launches specifically, especially because as far as the group was concerned there does not appear to be an ongoing proliferation of prohibited boat launches and because state parks already regulates boat launches in the water.

5. Amending KPB 21.18.090 (Specific reference to Prior Existing Status for Private Boat Launches)

   Code change: **21.18.090. – Prior Existing uses and structures.**

   E. Impervious materials placed in the habitat protection district which are not structures are not allowed as either prior existing uses or prior existing structures. The planning department may require removal of these materials. **For the purposes of this subsection, the term "impervious materials" does not include a private boat launch established prior to July 2, 2013, that otherwise meets the criteria for prior existing uses under KPB 21.18.090(D).**

   Action: No action taken. A motion was not put on the floor.

6. Repealing lakes from KPB 21.18 jurisdiction
   Proposed code amendment language considered by the group: The action would amend KPB 21.18.025 and the appendix to remove all lakes from KPB 21.18 jurisdiction.

   Action: Motion to recommend failed. The expressed concern was that the science and majority of public comments did not support repealing lakes.

Final Report and Completion of Purpose

This report was first provided as a draft in the work group's January 21, 2021, meeting packet. The draft report was published online in advance of the meeting as part of the work group's packet. The work group held a final meeting on January 28, 2021 for the sole purpose of discussing and approving this final report. On January 28, 2021, the work group unanimously approved the final report reflecting the recommendations passed or considered by the work group. Upon approval of the final report, the Anadromous Waters Habitat Protection Work Group completed its purpose as set out in the assembly's establishing legislation and then discontinued its work pursuant to Resolution 2019-058.

Introduced by:	Mayor
Date:	11/05/19
Action:	Adopted as Amended
Vote:	7 Yes, 2 No, 0 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2019-058

A RESOLUTION ESTABLISHING AN ANADROMOUS STREAMS HABITAT PROTECTION WORK GROUP

WHEREAS, in 1996 the Kenai Peninsula Borough Assembly enacted KPB Chapter 21.18 which established areas for regulation of activities for habitat protection within the Kenai River watershed; and

WHEREAS, through Ordinance 2000-08 the assembly expanded the scope of KPB 21.18 to apply to ten tributaries of the Kenai River and 14 additional streams within the east side of Cook Inlet; and

WHEREAS, through Ordinance 2011-12 the assembly expanded the protection area to anadromous waterbodies as listed in the "Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish"; and

WHEREAS, through Ordinance 2013-18 the assembly identified regulated waterbodies as those in the "Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish" and in the KPB 21.18 Appendix; and

WHEREAS, on April 6, 2010, May 4, 2010, June 8, 2010, June 21, 2012, May 15, 2102, and April 7, 2013 the assembly enacted amendments to KPB 21.18; and

WHEREAS, KPB 21.18.030 requires a staff review of KPB 21.18 to be presented to the planning commission and assembly every five years beginning in 2015; and

WHEREAS, this work group would establish a public process to fully review this chapter; and

WHEREAS, the review shall recommend whether it is advisable to amend the regulations to make them consistent with the purpose and findings of KPB 21.18 and the comprehensive plan, to take advantage of new information and techniques, to correct deficiencies or difficulties which may have developed in administration, or for other reasons as staff may determine;

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

SECTION 1. That the work group is established for the purpose of examining the current anadromous stream habitat protection permit process and potentially recommending amendments to KPB 21.18.

SECTION 2. Staff support for the work group shall include a representative from the Kenai Peninsula Borough clerk's office, legal department, and the planning department.

SECTION 3. That the work group shall consist of at least one assembly member; one planning commissioner; and, five members of the public. The group shall elect from among its members a chair and vice-chair who may serve in the absence of the chair. The meetings will be conducted under Roberts Rules of Order. The assembly member shall be appointed by the assembly. The mayor will provide a list of 5 members of the public to be approved by the assembly with representation from the north, south, central, east and west regions of the borough.

SECTION 4. That each meeting time and place shall be advertised, open to the public and subject to the Open Meetings Act.

SECTION 5. The anadromous streams work group shall have no authority to act on behalf of the assembly or the administration or communicate on the borough's behalf other than to make recommendations to the planning commission, administration and assembly.

SECTION 6. The work group shall provide a final report to the planning commission, which may include recommendations for ordinance amendments, by March 23, 2020 and then discontinue unless extended by the assembly.

SECTION 7. That this resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF NOVEMBER, 2019.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Hibbert, Johnson, Smalley
No:	Cooper, Dunne
Absent:	None

Introduced by:	Carpenter, Mayor
Date:	01/21/20
Action:	Adopted
Vote:	8 Yes, 0 No, 1 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2020-009

A RESOLUTION AMENDING RESOLUTION 2019-058 TO INCLUDE AN AT-LARGE SEAT ON THE ANADROMOUS WATERS HABITAT PROTECTION WORK GROUP

WHEREAS, the assembly adopted Resolution 2019-058 establishing an Anadromous Streams Habitat Protection Work Group to examine the current anadromous stream habitat protection permit process and potentially recommend amendments to KPB 21.18; and

WHEREAS, in discussions of potential members during the December 3, 2019 meeting the assembly considered adding an at-large member of the public to the work group; and

WHEREAS, this resolution amends Resolution 2019-058 to change the word "streams" to "waters" in the title and to increase the number of public members from five to six, with the sixth member representing the borough at-large;

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

SECTION 1. That the title of Resolution 2019-058 is hereby amended as follows:

A RESOLUTION AMENDING RESOLUTION 2019-058 TO INCLUDE AN AT-LARGE SEAT ON THE ANADROMOUS [STREAMS] WATERS HABITAT PROTECTION WORK GROUP

SECTION 2. That Section 3 of Resolution 2019-058 is hereby amended as follows:

SECTION 3. That the work group shall consist of at least one assembly member; one planning commissioner; and, [FIVE]six members of the public. The group shall elect from among its members a chair and vice-chair who may serve in the absence of the chair. The meetings will be conducted under Roberts Rules of Order. The assembly member shall be appointed by the assembly. The mayor will appoint a member of the planning commission and provide a list of [5] six members of the public to be approved by the assembly with representation from one at-large member and one each from the north, south, central, east and west regions of the borough.

SECTION 3. That this resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF JANUARY, 2020.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Cooper
No:	None
Absent:	Smalley