

**Master Land Lease Development Agreement**  
KPBL#

The Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (the "Borough" or "KPB"); and Traylor Bros., Inc., whose address is P.O. Box 910, Cooper Landing, AK 99572, ("Traylor") (together, the "Parties") enter into this Master Land Lease Development Agreement (the "Master Lease") and agree as follows:

**I. Background; Contract Documents; Authorized Contact; Definitions**

- 1. **Background.** The Borough owns or manages certain real property located in the Kenai Peninsula Borough, in the state of Alaska. The Property is more particularly described in Section 5 and depicted in Attachment 3. For good and valuable consideration, the Parties agree that the Borough will grant Traylor the right to use the Property for the purposes of temporary short-term craft worker housing in support of the State of Alaska MP 45-60 Project. Traylor agrees that it will conduct its use and operations according to the terms and conditions contained in this Agreement for purposes integral to the Sterling Highway MP45-60 Project near Cooper Landing, Alaska.
- 2. **Authorized Contact.** All communications about this Agreement will be directed as follows. Any reliance on a communication with a person or entity other than those listed below is at the Party's own risk. Borough staff do not have authority to bind the Borough. Any material amendments or changes to the Agreement must be approved in writing signed by the Borough Mayor and may be subject to appropriation and approval by the Borough Assembly.

**KPB**

**Traylor**

Name: KPB Land Management Division  
Attn: Land Management Officer  
Mailing Address: 144 N. Binkley St.  
Soldotna, AK 99669

Name: Traylor Bros., Inc.  
Attn: Alex Altman

\_\_\_\_\_  
\_\_\_\_\_

- 3. **Contract Documents.** As authorized by the Borough Assembly, this Master Lease and incorporated attachments 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 Agreement:

- i. Master Lease
- ii. Attachment 1: Lease Provisions Required by KPB 17.10
- iii. Attachment 2: Development Plan
- iv. Attachment 3: Site Survey Drawings

**4. Definitions.**

- 4.1. Agreement – As set forth in Section 3, above.
- 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); U.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 Title 46.
- 4.4. Environmental Liability Baseline - A description, accepted by the Borough 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 Traylor, nor assumed by Traylor by reason of assignment.
- 4.5. Project – State of Alaska Sterling Highway MP45-60 Project.
- 4.6. Property – KPB Land leased to Traylor more particularly described in Section 5 and shown on Attachment 3.
- 4.7. Site Development Materials - Materials used for site development, including geotextile, fill, gravel, paving, and pavement reinforcement materials.

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

5. **The Property.** The Borough agrees to lease to Traylor, and Traylor agrees to lease from the Borough, the Property in an “as-is” condition. The Borough makes no specific warranties, express or implied, concerning the title or condition 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. The Property is more particularly described as:

### Section 30, Township 5N, Range 3 West

A 5-acre area located in the N½ of Section 30, Seward Meridian, Alaska, lying West of Cecil Road (also referred to as the Pioneer Road), and South of that existing lease to the State of Alaska DOT&PF, as further depicted in attached Lease Site map.

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 will be interpreted to mean that the Borough and Traylor may agree to add additional lands owned or managed by the Borough to the Agreement and Traylor may agree to lease such additional lands under the same rental and fees basis, subject to the terms and conditions set forth in this Agreement and to Assembly approval.

**7. Term.**

- 7.1. Initial Term. The Initial Term of this Agreement will be for a period of five years commencing on \_\_\_\_\_ and terminating on \_\_\_\_\_.
- 7.2. Renewal Term(s). Unless notice of non-renewal is provided prior to expiration of the Initial Term or Traylor is otherwise in breach of the Agreement, the Agreement may be automatically renewed by Traylor 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 \$11,880.00 plus applicable sales taxes as may otherwise be required by law, for the first year of the Agreement, payable on the commencement date of the lease and each anniversary thereof. The Rent will increase annually at 3% per annum.
- 8.2. Material Extraction and Disposal. No material extraction and or disposal provisions are incorporated as a part of this Agreement.

**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, Traylor will have exclusive surface use and possession of the Property. The surface uses will be governed by this Master Lease. Surface uses include the staging of personnel and temporary worker housing, support facilities, and related uses as reasonably necessary.

**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 500 gallons or more fuel.
- 10.3. Storage or maintenance of heavy equipment or construction materials.
- 10.4. Material extraction or deposit not related to the project.
- 10.5. All other uses not specifically in support of the identified intended use.

**11. Rights Reserved by KPB.**

- 11.1 The Borough reserves and retains the right to grant additional easements for utility and public access purposes across the Property and nothing herein contained shall prevent the Borough from specifically reserving or granting such additional easements and rights-of-way across the Property as may be deemed reasonable and necessary.

As the Parties agree that this is a reserved right which is reflected in the annual lease rental, in the event that the Borough grants future additional easements or rights-of-way across the Property, it is agreed and understood that Traylor will receive no damages for such grant.

- 11.2 The Borough 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 Borough's best efforts, except in the case of an emergency, to coordinate its inspection with Traylor to minimize interference with Traylor's operations and activities on the Property.

#### **IV. Cancellation, Expiration or Other Termination**

##### **12. Traylor Default.**

- 12.1. If Traylor violates a term of the Agreement and the Borough 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 Borough will mail or deliver to Traylor a written notice of the violation. The notice must allow Traylor 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 Traylor does not correct the violation by the time set forth in the notice, the Borough will:
  - a. Grant an extension of time to correct the violation if Traylor shows good cause;
  - b. Take enforcement action as provided under this Agreement or as available by law; or
  - c. Cancel this Master Lease.
- 12.3. If the Borough determines that a violation creates an imminent threat to public health or safety, the KPB will:
  - a. Direct Traylor to stop the activity immediately;
  - b. Provide Traylor less time than otherwise specified in the Agreement to correct the violation; or
  - c. Correct the violation at Traylor's expense.
- 12.4. Without limitation, the following will be deemed either violations of material obligations of this Agreement or material deviations from the requirements of the Agreement:
  - a. Traylor 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. Traylor blocks or restricts the Borough or its Contractors access to the Property in violation of Section 11 above; or
  - c. Traylor is otherwise found to be in violation of local, state or federal law.

##### **13. Waiver.**

- 13.1. A waiver by the Borough of any default by Traylor of any provision of this Agreement will not operate as a waiver of any subsequent default. If the Borough waives a default, the Borough is not required to provide notice to Traylor to restore or revive any provision under this Agreement. The waiver by the Borough of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed by the Borough.
- 13.2. The Borough's failure to insist upon the strict performance by Traylor 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 Traylor must be removed by Traylor, 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 Traylor completes or places on the Property become part of the Borough-owned or managed realty and property of the Borough upon completion or placement. Traylor may not remove the Site Development Materials unless the Borough approves in writing.

**16. 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 Master Lease is impossible, this Master Lease may be terminated. If Traylor elects to continue to operate, the Borough 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; tsunamis; 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. Upon expiration, cancellation, or other termination of this Lease, Traylor must peaceably and quietly vacate the Property and return possession to the Borough.

18.2. Traylor's obligations under the following provisions of this Master Lease will survive and remain binding on Traylor after the expiration, cancellation, or other termination of the Agreement:

- a. Section 8 – Rent; Notwithstanding this provision, rent will not apply if expiration is at the end of the term of this Master Lease or if the Master Lease is terminated for reasons set forth in sections 16 or 17 hereof.
- b. Section 14 – Disposition of Improvements and Personal Property; and
- c. Sections 19 through 24 of Chapter V, Environmental Issues.

**V. ENVIRONMENTAL ISSUES**

**19. Environmental Liability Baseline.**

19.1. Responsibility for Ascertaining Environmental Condition of Property. Traylor 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, Traylor 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. Traylor assumes financial responsibility to the Borough 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 Traylor's right to seek contribution or indemnity from either prior lessees of the

Property, or other potentially responsible parties except for the Borough.

19.3. Establishing an Environmental Liability Baseline

- a. If Traylor wants to establish an Environmental Liability Baseline for any or all portions of the Property, Traylor must provide the Borough with an Environmental Assessment for that portion of the Property prior to its use.
- b. If Traylor 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, Traylor must demonstrate by reasonable evidence to the satisfaction of the Borough that the contamination proposed for inclusion was not caused or materially contributed to by Traylor or Traylor's operations or activities nor assumed by Traylor. Contamination caused or materially contributed to by activities of Traylor's sublessees, contractors, and guests on the Property are deemed to have been materially contributed to by Traylor.
- c. Only that portion of contamination not caused or materially contributed to by Traylor or Traylor's operations or activities must 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, Traylor discovers contamination in, on, or under the surface of that portion of the Property having an Environmental Liability Baseline, which contamination Traylor or Traylor's operations or activities did not cause, or to which Traylor or Traylor's operations did not materially contribute, and which Traylor did not assume by reason of assignment, Traylor may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Borough for the Borough's consideration to add to the Environmental Liability Baseline. Traylor's additional Environmental Assessment must demonstrate by reasonable evidence to the satisfaction of the Borough which portion of the additional contamination on the Property was not caused by Traylor or Traylor's activities, or to which Traylor or Traylor's activities did not materially contribute.
- b. Only that portion of contamination not caused by Traylor or Traylor's operations, or to which Traylor or Traylor's operations did not materially contribute, may be added to the existing Environmental Liability Baseline.

19.5. The Borough's Acceptance or Rejection of Traylor's Environmental Assessment.

When the Borough receives Traylor's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Borough, in its sole discretion, may do one of the following:

- a. Perform additional environmental testing at Traylor's expense to verify the environmental condition of that portion of the Property being assessed. If the results of the Borough's tests conflict with Traylor's Environmental Assessment, the Borough and Traylor 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; or
- b. Accept the findings of Traylor'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; or

- c. Reject the findings of Traylor's Environmental Assessment for that portion of the Property being assessed and offer Traylor the opportunity to perform additional environmental testing if the Borough 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 Borough's written rejection of the Traylor's Environmental Assessment will be based on failure of Traylor'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 by Traylor or Traylor's operations, or to which Traylor or Traylor's operations did not materially contribute.

19.6. Amending the Environmental Liability Baseline to Delete Contamination Caused or Assumed by Traylor, or to which Traylor Materially Contributed.

- 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 assumed by Traylor or Traylor's operations, or to which Traylor or Traylor's operations materially contributed, the Environmental Liability Baseline may be amended to delete that portion of the Contamination that was caused by Traylor or Traylor's operations, or to which Traylor or Traylor's operations materially contributed.
- b. The Borough will have the burden of proof to establish that Traylor or Traylor's operations or activities caused or materially contributed to the contamination.
- c. If it is discovered that contamination identified in the Environmental Liability Baseline was caused by Traylor or that Traylor or Traylor's operations materially contributed to the contamination, the Parties will agree upon an amendment to the Environmental Liability Baseline within a reasonable time.

**20. Release of Lessee.** The Borough releases Traylor from liability to the Borough for contamination identified by the Environmental Liability Baseline that was not caused by Traylor or Traylor's operations, or to which Traylor or Traylor's operations did not materially contribute.

**21. Required Remediation.** The Borough is under no obligation to remediate contamination identified in an Environmental Assessment, except the Borough must remediate, or have responsible parties remediate, the contamination identified in the Environmental Liability Baseline if an agency with such authority requires the Borough to remediate. In the event of such required remediation, the Borough will make a reasonable effort to coordinate the remediation with Traylor to minimize disruption of Traylor's operations or activities and damage to Traylor's improvements and property. Traylor releases and holds the Borough harmless for all costs associated with any damage to, and relocation, removal, and repair of Traylor's improvements and property resulting from remediation performed in compliance with this Section with respect to contamination that existed before construction of affected

improvements.

- 22. Action Against Potentially Responsible Parties.** This Section restricts neither the Borough nor Traylor 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.** Traylor agrees to defend, indemnify, and hold harmless the Borough, its employees, public officials, and volunteers, with respect to any action, claim or lawsuit to the extent cause by (1) a breach of this Agreement or (2) the use and occupancy of the Property by Traylor. 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. Traylor's obligations arise immediately upon notice to the Borough of any action, claim, or lawsuit. The Borough will notify Traylor in a timely manner of the need for indemnification but such notice is not a condition precedent to Traylor's obligation and may be waived where Traylor 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 the Borough to the extent caused by Traylor's use and occupancy of the Property. Notwithstanding the foregoing, Traylor's duty to indemnify, defend, and hold harmless the Borough as set forth above will not apply to the extent a claim arises from the negligence or willful misconduct of the Borough, its employees, public officials, and volunteers.
- 24. Insurance.** Insurance coverage required under this Agreement must be primary and exclusive of any other insurance carried by the Borough. Minimum levels of insurance coverage required under this Agreement must remain in effect for the life of this Agreement and must be a part of the contract price. If Traylor's policies contain higher limits, the KPB will be entitled to coverage to the extent of such higher limits. There will 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 must be provided upon insurance coverage renewal, where applicable.

- 24.1. Commercial General Liability Insurance (CGL). All Contractors and subcontractors of any tier must provide and maintain Commercial General Liability Insurance (CGL). The CGL Policy must 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 must be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and must cover liability arising from the 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 must name the Borough as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation will be waived.

- 24.2. Auto Liability. Traylor, its contractor(s) and subcontractor(s) of any tier must provide and maintain Auto Liability Insurance (ALI). The Auto Liability Policy must include a Combined Single Limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Coverage must include Non-Owned and Hired Care coverage. This policy must name the Borough as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation will be waived.
- 24.3. Worker's Compensation, Employer's Liability Insurance. Traylor, its contractor(s) and subcontractor(s) of any tier must 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. Traylor will be responsible to ensure any contractor(s) or subcontractor(s) who directly or indirectly provide services under this Agreement provide and maintain such insurance for all of their employees engaged in work 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.
- 24.4. Proof of Coverage. The Borough may request copies of required policies and endorsements. Such copies must be provided within (10) TEN CALENDAR DAYS of the Borough's request. All insurance required hereunder must be maintained in full force and effect. All policies required must be written as primary policies and not contributing to nor in excess of any coverage the Borough may choose to maintain. Upon renewal of insurance coverage during the license, certificates of insurance must be delivered to the Borough. Traylor, on behalf of its contractor(s) and subcontractor(s) must deliver, within thirty (30) days, complete insurance coverage policy documents to the Borough upon request.
- 25. Subleasing.** Traylor may not sublease the Property or any part thereof without written permission of the Borough Mayor when applicable. A sublease must be in writing and subject to the terms and conditions of this Agreement.
- 26. Waste.** Traylor must not commit waste upon or injury to the Property.
- 27. Fire Protection.** Traylor must 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.
- 28. Safety.** Traylor will 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 Traylor's use of the Property. Traylor is responsible for the safety of all persons conducting activities on the Property under the Agreement.

- 29. Sanitation.** Traylor must comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property must be kept in a clean and sanitary condition and every effort must be made to prevent pollution of the waters and lands. Sanitary facilities must be in accordance with the State of Alaska, Department of Environmental Conservation regulations.
- 30. Compliance with Laws.** Traylor must abide by all applicable federal, state, city, and Borough statutes, ordinances, rules, and regulations. Traylor is responsible for obtaining all federal, state, and local permits applicable to Traylor's activities and must keep such permits in good standing.
- 31. Responsibility of Location.** It will be Traylor's responsibility to properly locate itself and its improvements on the Property.
- 32. Liens and Mortgages.** Traylor will 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, Traylor will immediately cause the lien to be released.
- 33. No Warranty, Express or Implied.** Traylor accepts the Property AS-IS, WHERE-IS. The Agreement will 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 Traylor's responsibility to satisfy itself prior to executing the Master Lease as to the type, condition, and quality of the Property.
- 34. Jurisdiction.** Any lawsuits filed in connection with the terms and conditions of the Agreement, and of the rights and duties of the parties must be filed and prosecuted at Kenai, Alaska and will be governed by Alaska law, without regard to conflict of law principles.
- 35. Savings Clause.** Should any provision of the Agreement fail or be declared null or void in any respect, or otherwise unenforceable, it will not affect the validity of any other provision of the Agreement nor constitute any cause of action in favor of either Party as against the other.
- 36. Binding Effect.** It is agreed that all covenants, terms, and conditions of the Agreement will be binding upon the successors, heirs and assigns of the Parties hereto.
- 37. 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.
- 38. Warranty of Authority.** Traylor warrants that the person executing the Agreement is authorized to do so on Traylor's behalf.
- 39. Counterparts.** The Agreement may be executed in counterpart, each of which when so executed and delivered will be considered an original and all of which when taken together will constitute one and the same instrument.
- 40. Quiet Enjoyment.** During the term of the Agreement, Traylor will have quiet enjoyment of

the Property subject to the terms and conditions stated in the Agreement.

**41. Anadromous Waters.** During the term of the Agreement, Traylor shall be required to comply with the Kenai Peninsula Borough development setback requirements from designated anadromous waters (KPB 21.18.040). An additional 50 foot shall be incorporated into this lease, resulting in a total setback of 100 feet from the mean high-water mark of Bean Creek. Any work that may be required within the additional 50' buffer will require prior consent of the Kenai Peninsula Borough Land Management.

**42. Sqilantnu Archaeological District.** The subject leased property lies within the identified boundaries of the Sqilantnu Archaeological District. As a condition of this lease, Traylor must not disturb historic or prehistoric resources. Should previously undiscovered artifacts or areas of historic, prehistoric or archaeological importance be discovered, the site must be protected from further disturbance and Traylor must immediately cease activities in the particular area of discovery and report such discovery to the Borough and the State Historic Preservation Office.

**43. 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**

**LESSEE: Traylor Bros., Inc.**

\_\_\_\_\_  
By: Peter A. Micciche  
Its: Mayor  
Date: \_\_\_\_\_

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

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Michele Turner, CMC  
Borough Clerk

\_\_\_\_\_  
A. Walker Steinhage  
Deputy Borough Attorney

**KPB NOTARY ACKNOWLEDGMENT**

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Peter A. Micciche, 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: \_\_\_\_\_

**NOTARY ACKNOWLEDGMENT**

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, 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 \_\_\_\_\_, of Traylor Bros., Inc

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year written above.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires:  
\_\_\_\_\_