



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Assembly

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

Tuesday, January 18, 2022

6:00 PM

Betty J. Glick Assembly Chambers

Zoom Meeting ID: 884 7373 9641 Passcode: 671108

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 will be offered by Iris Fontana.]

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:

KPB 3821 - January 4, 2022 Regular Meeting Minutes
Resolution 2022-006 – Capital Project Priorities
Resolution 2022-007 - ADEC Proposed changes to Oil Spill Prevention
Ordinance 2021-19-34 – \$86,408.54 Fisheries Business Tax Pass-through
Ordinance 2021-19-35 – CPGH Hot Lab Upgrade
KPB 3873 – Advisory Planning Commission Appointments

ACTION ITEMS ELIGIBLE TO BE ADDED TO THE CONSENT AGENDA:

Ordinance 2021-19-33 –Nikiski Senior Due Diligence Audit
Ordinance 2022-01 – Communication Tower Nikiski FS#1

APPROVAL OF MINUTES

- *1. [KPB-3872](#) January 4, 2022 Regular Assembly Meeting Minutes

Attachments: [January 4, 2022 Regular Assembly Meeting Minutes](#)

COMMENDING RESOLUTIONS AND PROCLAMATIONS**PRESENTATIONS WITH PRIOR NOTICE**

(20 minutes total)

1. [KPB-3874](#) Kenai Peninsula Borough School District Quarterly Report, Clayton Holland, Superintendent of Schools (10 Minutes)

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)

1. [2021-19-33](#) An Ordinance Appropriating Additional Funds to Support Results of the Nikiski Senior Service Area FY2020 and FY2021 Due Diligence Audit or Review Cost Proposal (Mayor)

Attachments: [Ordinance 2021-19-33](#)
[Memo](#)

2. [2022-01](#) An Ordinance Authorizing A Communication Tower Agreement with Vertical Bridge S3 Assets, LLC at Nikiski Fire Station 1 (Mayor)
- Attachments:* [Ordinance 2022-01](#)
[Memo](#)
[Tower Site Map & Drawings](#)
[Site Agreement](#)
[Reference Copy Ordinance 71-22](#)
3. [2021-41](#) An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor, Johnson)
- Attachments:* [Ordinance 2021-41](#)
[Memo](#)
[Material Site Work Group Timeline](#)
[Reference Copy Ordinance 2006-01 SUB](#)
[Reference Copy Resolution 2018-004 SUB](#)
[Reference Copy Resolution 2018-025](#)

UNFINISHED BUSINESS

1. [2022-004](#) A Resolution Supporting the Constitutional Right of Alaska Grand Juries to Investigate and Make Recommendations on Public Welfare and Safety Concerns (Bjorkman, Elam) (Hearing on 01/18/22)
- [Clerk's Note: The sponsors of Resolution 2022-004 requested introduction at the 01/04/22 meeting and public hearing at the 01/18/22 meeting.]
- Attachments:* [Resolution 2022-004](#)
[Memo](#)
[Public Comments](#)

NEW BUSINESS

1. Resolutions

Resolutions referred to Finance Committee

- *a. [2022-006](#) A Resolution Establishing Kenai Peninsula Borough 2021 State Capital Project Priorities for Public Safety (Mayor)

Attachments: [Resolution 2022-006](#)
[Memo](#)
[Infrastructure Project Requests](#)

Resolutions referred to Legislative Committee

- *b. [2022-007](#) A Resolution Providing Input to the Alaska Department of Environmental Conservation on Proposed Changes to Regulations on Oil Discharge Prevention and Contingency Plans (Johnson, Chesley)

Attachments: [Resolution 2022-007](#)
[Memo](#)
[Reference Copy Resolution 2020-015](#)

2. Ordinances for Introduction

Ordinances for Introduction and referred to Finance Committee

- *a. [2021-19-34](#) An Ordinance Accepting and Appropriating Fisheries Business Tax Funds Received from the State of Alaska under the Federal Pass-Through Program, American Rescue Plan Act of 2021 in the Amount of \$86,408.54 for the Purpose of Supplementing the Radio Consultant Project to Address Public Safety Communications (Mayor) (Hearing on 02/01/22)

Attachments: [Ordinance 2021-19-34](#)
[Memo](#)
[Email Award Notification](#)
[ARPA Copy of Radio Maint Allocation 010322](#)

- *b. [2021-19-35](#) An Ordinance Appropriating Funding from the Central Peninsula Hospital Plant Replacement and Expansion Fund for the Central Peninsula Hospital Hot Lab Upgrade to ISO Cleanroom Project (Mayor) (Hearing on 02/01/22)

Attachments: [Ordinance 2021-19-35](#)
[Memo](#)
[Reference Copy Ordinance 2021-19-04](#)

3. Other

- *a. [KPB-3873](#) Confirming Appointments to the Advisory Planning Commissions (Mayor)

Funny River Advisory Planning Commission
Jerry Herring, Seat C, Term Expires 09/30/24

Hope/Sunrise Advisory Planning Commission
Flip Foldager, Seat A, Term Expires 09/30/24
Richard "Levi" Hogan, Seat B, Term Expires 09/30/24

Attachments: [Appointments](#)

Other items referred to Lands Committee

MAYOR'S REPORT

[KPB-3867](#) Mayor's Report - Cover Memo

Attachments: [Cover Memo](#)

1. Assembly Requests/Responses

2. Agreements and Contracts

- a. [KPB-3868](#) Authorization to Award a Contract for ITB22-025 Central Peninsula Hospital Sterile Radio Pharmaceuticals Processing Room to Blazy Construction, Inc.

Attachments: [Authorization to Award ITB22-025](#)

- b. [KPB-3869](#) Authorization to Award a Contract for RFP22-010 Homer High School Roof Phase 2 Professional Design Services to K+A Designstudios, Kenai, AK.

Attachments: [Authorization to Award RFP22-010](#)

3. Other

- a. [KPB-3870](#) Tax Adjustment Request Approval

Attachments: [Tax Adjustment Request Approval](#)

- b. [KPB-3871](#) Litigation Status Report - Quarter Ending 12/31/21

Attachments: [Litigation Status Report - Quarter Ending 123121](#)

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

ASSEMBLY COMMENTS**PENDING LEGISLATION**

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

INFORMATIONAL MATERIALS AND REPORTS**ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS**

1. February 1, 2022 Regular Assembly Meeting
6:00 PM Betty J. Glick Assembly Chambers
Borough Administration Building Remote participation available through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108

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: 884 7373 9641 Passcode: 671108 and in-person from the Betty J. Glick Assembly Chambers, Borough Administration Building, Soldotna, Alaska. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-853-5247 and enter the Meeting ID: 884 7373 9641 Passcode: 671108. 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

Assembly

Brent Johnson, President

Brent Hibbert, Vice President

Jesse Bjorkman

Lane Chesley

Tyson Cox

Richard Derkevorkian

Cindy Ecklund

Bill Elam

Mike Tupper

Tuesday, January 4, 2022

6:00 PM

Betty J. Glick Assembly Chambers

Zoom Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

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

ROLL CALL

Present: 9 - Jesse Bjorkman, Tyson Cox, Brent Hibbert, Brent Johnson, Richard Derkevorkian, Bill Elam, Lane Chesley, Cindy Ecklund, and Mike Tupper

Also present were:

Aaron Rhoades, Chief of Staff

Brandi Harbaugh, Finance Director

Sean Kelley, Borough Attorney

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

COMMITTEE REPORTS

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

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

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

Assembly Member Ecklund stated the Legislative Committee met and discussed its agenda item.

APPROVAL OF AGENDA AND CONSENT AGENDA

- [KPB-3821](#) December 7, 2022 Regular Assembly Meeting Minutes
approved.
- [2021-19-30](#) An Ordinance Accepting and Appropriating the Remaining Balance of \$255,854.84 from the U.S. Department of Homeland Security's Staffing for Adequate Fire and Emergency Response Grant, and Appropriating \$5,117.10 for the Administrative Fee on Behalf of Western Emergency Service Area (Mayor)

[Clerk's Note: Section 4 was amended to read, "This ordinance shall become effective [IMMEDIATELY UPON ENACTMENT] retroactively on October 26, 2021."
This Budget Ordinance was enacted as amended.
- [2021-19-31](#) An Ordinance Appropriating \$770,164 to the South Bend Bluff Estates Road Improvement Special Assessment District (Mayor)
This Budget Ordinance was enacted.
- [2022-001](#) A Resolution To Form the South Bend Bluff Estates Road Improvement Assessment District and Proceed with the Improvement (Mayor)
This Resolution was adopted.
- [2022-002](#) A Resolution Adopting an Alternate Allocation Method for the FY22 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area (Mayor)
This Resolution was adopted.
- [2022-003](#) A Resolution Declaring the Borough Assembly and Board of Education to be Malapportioned and Authorizing the Assembly President to Appoint a Reapportionment Committee (Johnson)
This Resolution was adopted.
- [2021-19-33](#) An Ordinance Appropriating Additional Funds to Support Results of the Nikiski Senior Service Area FY2020 and FY2021 Due Diligence Audit

or Review Cost Proposal (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2022-01](#)

An Ordinance Authorizing A Communication Tower Agreement with Vertical Bridge S3 Assets, LLC at Nikiski Fire Station 1 (Mayor)

This Ordinance was introduced and set for public hearing.

[KPB-3820](#)

Authorizing the Borough Clerk to Forward a Notice of Withdrawal of Protest for Alaska Off Grid Cannabis Co. Standard Marijuana Cultivation Facility, New License No 27111 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 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)

approved.

[KPB-3806](#)

Petition to Vacate Fauerbach Court Right-of-way Vacation and Associated Utility Easements and Anchor Easement, Clam Gulch Heights Glendening 1979 Subdivision, KPB File 2021-150V (Mayor)

approved.

[KPB-3807](#)

Petition to Vacate Koto Court Right-of-way Vacation and Associated Utility Easements, Murray Subdivision Buck Addition, KPB File 2021-154V (Mayor)

approved.

[KPB-3808](#)

Confirming Appointments to the North Road Extension Advisory Task Force (Mayor)

Katelyn Sarvela, Seat D, Term Expires October 12, 2022

Jason Ross, Seat E, Term Expires October 12, 2022

Timothy O'Brien, Seat F, Term Expires October 12, 2022

approved.

[KPB-3809](#)

Confirming an Appointment to the South Kenai Peninsula Hospital Service Area Board (Mayor)

Timothy J. Whip, Seat F, Term Expires 10/2023

approved.

Approval of the Agenda and Consent Agenda as Amended

President Johnson called for public comment.

Dan Engstrom, Kenai spoke in support of Resolution 2022-001.

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

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

Yes: 9 - Bjorkman, Cox, Hibbert, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-3822](#) Kenai Peninsula Economic Development District Update, Tim Dillon, Executive Director (10 Minutes)

[Clerk's Note: Tim Dillon Executive Director gave a presentation to the assembly.]

2. [KPB-3823](#) Homer Harbor Expansion Update, Bryan Hawkins, Homer Harbor Master (10 Minutes)

[Clerk's Note: Bryan Hawkins, Homer Harbor Master gave a presentation to the assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment.

Jennifer Kindrid, Soldotna spoke in opposition to Central Peninsula Hospitals Quarterly Report from the December 7th, 2021 assembly meeting.

Jenn Miller, spoke in support of the Finance Committee tax incentive presentation.

Ann Gravier, Soldotna spoke in opposition to Ordinance 2021-40 and Planning Commission quorums.

Katherine Uie, Soldotna spoke in opposition to Central Peninsula Hospital's COVID-19 treatments.

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**

Ordinances referred to Finance Committee

[2021-19-32](#) An Ordinance Accepting and Appropriating Funding from the State of Alaska in the Amount of \$153,940.61 for the Healthy and Equitable Communities Program, a Federal Pass-Thru Award under the Centers for Disease Control and Prevention (Mayor)

Assembly Member Cox moved to enact Budget Ordinance 2021-19-32.

President Johnson called for public comment with none being offered.

Cox moved to amend Budget Ordinance 2021-19-32 as follows:

The fourth whereas clause to read, "it is in the best interests of the borough to accept the balance of the award in the amount \$167,897.40 and to subaward these funds to South Peninsula Hospital to help defray costs resulting from the impacts of the coronavirus pandemic; and"

Add a fifth whereas clause to read, "WHEREAS, the Kenai Peninsula Borough is not in a state of emergency and approval of the assembly is prudent for spending any federal grant or COVID-19 related funding;"

Add a new Section 3, as follows, "SECTION 3. That the mayor is authorized to distribute \$53,940.61 to the Kenai Peninsula Homeless Coalition to support homelessness facilities from the Healthy and Equitable Communities Program award from the State of Alaska."

Add a new Section 4 to read, "SECTION 4. That any use of the remaining \$100,000, which is the balance of the award from the State of Alaska under this program after \$53,940.61 is distributed to the Kenai Peninsula Homeless Coalition, shall be subject to assembly approval."

All remaining sections to be renumbered.

Assembly Memembers Derkevorkian and Hibbert spoke in opposition to the amendment.

The motion to amend Budget Ordinance 2021-19-32 carried by the following vote:

Yes: 5 - Cox, Johnson, Chesley, Ecklund, and Tupper

No: 4 - Bjorkman, Hibbert, Derkevorkian, and Elam

The motion to enact Budget Ordinance 2021-19-32 as amended carried by the following vote:

Yes: 9 - Bjorkman, Cox, Hibbert, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

UNFINISHED BUSINESS

NEW BUSINESS

1. Resolutions

[2022-004](#) A Resolution Supporting the Constitutional Right of Alaska Grand Juries to Investigate and Make Recommendations on Public Welfare and Safety Concerns (Bjorkman, Elam) (Hearing on 01/18/22)

[Clerk's Note: The sponsors of Resolution 2022-004 requested introduction at the 01/04/22 meeting and public hearing at the 01/18/22 meeting.]

President Johnson called for public comment.

The following people spoke in support of Resolution 2022-004:

Queen Parker, Sterling

David Haeg

Laurel Lee, Sterling

David Peck

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

Ecklund moved to introduce Resolution 2022-004 and set for public hearing.

The motion to introduce Resolution 2022-004 and set for public hearing carried by the following vote:

Yes: 8 - Bjorkman, Hibbert, Johnson, Derkevorkian, Elam, Chesley, Ecklund, and Tupper

No: 1 - Cox

MAYOR'S REPORT

[KPB-3810](#) Mayor's Report Cover Memo

1. Assembly Requests/Responses - None.

2. Agreements and Contracts

a. [KPB-3811](#) Sole Source Waiver – Analytix Technologies, LLC

b. [KPB-3812](#) Authorization to Award a Contract for RFP22-011 Central Peninsula

Landfill Leachate Infrastructure Improvement Design to Geosyntec Consultants, Anchorage, AK

- c. [KPB-3813](#) Authorization to Award a Contract for ITB22-023 Central Peninsula Landfill Brush Burning 2021 to Andrews and Sons LLC., Seward, AK
- d. [KPB-3814](#) Authorization to Award a Contract for RFP22-009 Kachemak Selo School Schematic Design to Architects Alaska Inc. Anchorage, AK
- e. [KPB-3815](#) Authorization to Award a Contract for RFP22-012 Custody and Safekeeping of Marketable Debt Securities to Wells Fargo Institutional Retirement and Trust, Anchorage, AK
- f. [KPB-3816](#) Sole Source Waiver – Wolverine Supply, Inc. Nanwalek Sewer Line Repairs

3. Other

- a. [KPB-3817](#) Investment Report Quarter Ended 09/30/21
- b. [KPB-3818](#) Revenue-Expenditure Report - November 2021
- c. [KPB-3819](#) Budget Revisions - November 2021

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Johnson called for public comment.

The following people spoke in opposition to patient care at Central Peninsula Hospital.

Jennifer Kindrid, Soldotna

Kathering Uie, Soldotna

Calbrine Fuller, Soldotna

David Haeg spoke in support of Resolution 2022-004.

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

ASSEMBLY COMMENTS

Assembly Member Elam thanked everyone for their participation throughout the evening. Thanked the Linemen and HEA employees for their hard work during the wind storms. He recommended property owners cut down spruce bark beetle trees to help minimize future power outages.

Assembly Member Cox encouraged everyone to be cautious with the rise of COVID-19 cases and students and teachers heading back to school. He advocated for testing for anyone who may have been exposed. He wished everyone a happy new year.

Assembly Member Tupper thanked the assembly for an efficient meeting and thanked the public for their participation.

Assembly Member Derkevorkian thanked the linemen for their hard work during the wind storms. He encouraged property owners to remove dead trees on their property.

Assembly Member Bjorkman thanked everyone for their participation throughout the evening. He welcomed students back from winter break. He thanked the Homer Electric Lineman who restored power to the peninsula after the wind storms. He thanked public information officers for their up-to-date and reliable information. He thanked neighbors for looking out for one another during hard times.

Assembly Member Chesley thanked the public for their testimony throughout the evening. He provided insight on the local hospital and encouraged the public to reach out to the hospital Inc. Boards to try and resolve hospital issues.

Assembly Member Ecklund stated how nice it was to be meeting face to face. She stated she met with borough staff earlier in the day. She stated her appreciation for the assembly and their knowledge on topics and the public for their participation.

Vice President Hibbert wished everyone a happy new year.

President Johnson encouraged assembly members to bring forward information they learn at other meetings throughout the year. He stated that one of the original borough assembly members, Mr. Collier was still alive and living in Seldovia. He wished everyone a happy new year.

PENDING LEGISLATION

1. [2021-41](#) An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor, Johnson)

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. January 18, 2022 Regular Assembly Meeting
6:00 PM Betty J. Glick Assembly Chambers Borough Administration Building

Remote participation available through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108

ADJOURNMENT

With no further business to come before the assembly, President Johnson adjourned the meeting at 8:44 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of January 4, 2022.

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____

Introduced by: Mayor
Date: 01/04/22
Hearing: 01/18/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-33**

**AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS TO SUPPORT RESULTS
OF THE NIKISKI SENIOR SERVICE AREA FY2020 AND FY2021 DUE DILIGENCE
AUDIT OR REVIEW COST PROPOSAL**

WHEREAS, during the FY2022 annual budgetary process, \$10,000 was appropriated from the Nikiski Senior Service Area Fund Balance to provide general due diligence in connection with the current Operating Agreement between Nikiski Senior Citizens, Inc. and the Kenai Peninsula Borough Nikiski Senior Service Area; and

WHEREAS, the proposals have been received and the successful bidder's cost is \$5,000 higher than the original appropriation of \$10,000; and

WHEREAS, this ordinance appropriates an additional \$5,000 from the Nikiski Senior Service Area Fund Balance to support the services; and

WHEREAS, on December 13, 2021, the Nikiski Senior Service Area Board was notified and provided the opportunity to comment on the outcome that bids came in higher than originally anticipated and that additional funds would need to be appropriated;

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

SECTION 1. That the amount of \$5,000 is appropriated from the Nikiski Senior Service Fund fund balance account number 280.27910 to account number 280.63190.43012 for operating agreement financial due diligence services.

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. This ordinance shall become effective immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF *, 2022.**

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Finance

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*

FROM: Brandi Harbaugh, Finance Director *BH*

DATE: December 22, 2021

SUBJECT: Ordinance 2021-19-33, Appropriating Additional Funds to Support Results of the Nikiski Senior Service Area FY2020 and FY2021 Due Diligence Audit or Review Cost Proposal (Mayor)

During the FY2022 annual budgetary process, \$10,000 was appropriated from the Nikiski Senior Service Area Fund Balance to provide for a standard due diligence independent audit of financial compliance with the Operating Agreement between Nikiski Senior Citizens, Inc. and the KPB Nikiski Senior Service Area, use of Service Area and KPB Senior Grant funds, as well as a written report and presentation to the KPB Assembly. The KPB is requesting this service to accomplish general due diligence in connection with the current Operating Agreement.

The proposals have been received and the successful bidder's cost is \$5,000 higher than the original appropriation of \$10,000. Therefore, in order to award the entire engagement, \$5,000 in additional funds is requested. This Ordinance appropriates an additional \$5,000 from the Nikiski Senior Service Area Fund Balance.

FINANCE DEPARTMENT ACCOUNT / FUNDS VERIFIED	
Acct. No.	<u>280.27910</u>
Amount:	<u>\$5,000.00</u>
By: <i>CP</i>	Date: <u>12/16/2021</u>

Introduced by: Mayor
Date: 01/04/22
Hearing: 01/18/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-01**

**AN ORDINANCE AUTHORIZING A COMMUNICATIONS SITE LEASE
AGREEMENT WITH VERTICAL BRIDGE S3 ASSETS, LLC AT NIKISKI FIRE
STATION 1**

WHEREAS, in 2000, permission was granted to Vertical Bridge S3 Assets, LLC’s predecessor to construct and maintain a 120’ self-supporting communications tower and a 10’ x 20’ support building at Nikiski Fire Station 1; and

WHEREAS, the tower site permit has been maintained in good standing and a long-term agreement is desired to continue operating this site and supporting communication needs in Nikiski; and

WHEREAS, a communication site lease agreement has been negotiated in standard form and in consideration of the interests of the Nikiski Fire Service Area; and

WHEREAS, the site was purchased with North Kenai Fire Service Area funds in 1971 in accordance with KPB Ordinance 71-22; and

WHEREAS, the Nikiski Fire Service Area Board at its regularly scheduled meeting of _____ recommended _____; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of January 10, 2022 recommended _____.

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

SECTION 1. That the assembly finds that entering into a Communications Site Lease Agreement with Vertical Bridge S3 Assets, LLC, pursuant to KPB 17.10.100(I), authorizing the negotiated lease of borough lands, is in the best interest of the borough at the following location:

Lot 2, Redoubt Highway Subdivision of Tract 2, according to Plat No. 1549, Kenai Recording District, Third Judicial District, State of Alaska (Parcel No. 017-260-50)

This finding is based on the following facts:

1. The borough will receive a fair market rent for the term of the lease.

2. That the communication improvements are compatible with the site.
3. That the borough reserves a benefit of tower space for emergency communication equipment in the lease.

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 communications site lease.

SECTION 3. Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) to negotiate and enter into a Communication Site Lease Agreement upon a portion of the property identified in Section 1. The authorization is for lease solely to Vertical Bridge S3 Assets, LLC, and it may not assign any rights to negotiate or enter into an agreement for lease to any other person or entity.

SECTION 4. The mayor is authorized to execute an agreement under terms and conditions similar to the Communications Site Lease Agreement provided to the assembly for reference and review.

SECTION 5. Vertical Bridge S3 Assets, LLC shall have 120 days from the date of enactment of this ordinance to execute the agreement.

SECTION 6. That rent revenue from the subject lease shall be submitted to the Borough Finance Department and deposited in the Nikiski Fire Service Area account 206.00000.00000.36316.

SECTION 7. That this ordinance is effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
Melanie Aeschliman, Planning Director *MA*
Marcus Mueller, Land Management Officer *MM*

FROM: Julie Denison, Land Management Technician *JD*

DATE: December 22, 2021

RE: Ordinance 2022-81, Authorizing A Communication Tower Agreement with Vertical Bridge S3 Assets, LLC at Nikiski Fire Station 1 (Mayor)

Vertical Bridge S3 Assets, LLC owns and operates a 120' wireless communications tower at Nikiski Fire Station 1. The tower was constructed in 2000 and authorized under a land use permit for the purpose of providing wireless communication services. The land use permit is in good standing and Vertical Bridge S3 Assets, LLC has requested to enter into a lease.

A Communications Site Lease Agreement has been negotiated using standard practices for the parcel acquired by the Nikiski Fire Service Area. The benefits of the lease would go to the service area. The service area board will provide its recommendations to the assembly prior to public hearing on this ordinance.

The planning commission will hold a public hearing on this item at its regularly scheduling meeting on January 10, 2022 and provide its recommendations prior to the January 18th assembly meeting.

Your consideration of this ordinance is appreciated.

Nikiski Fire Station #1 W/ Communication Tower Site

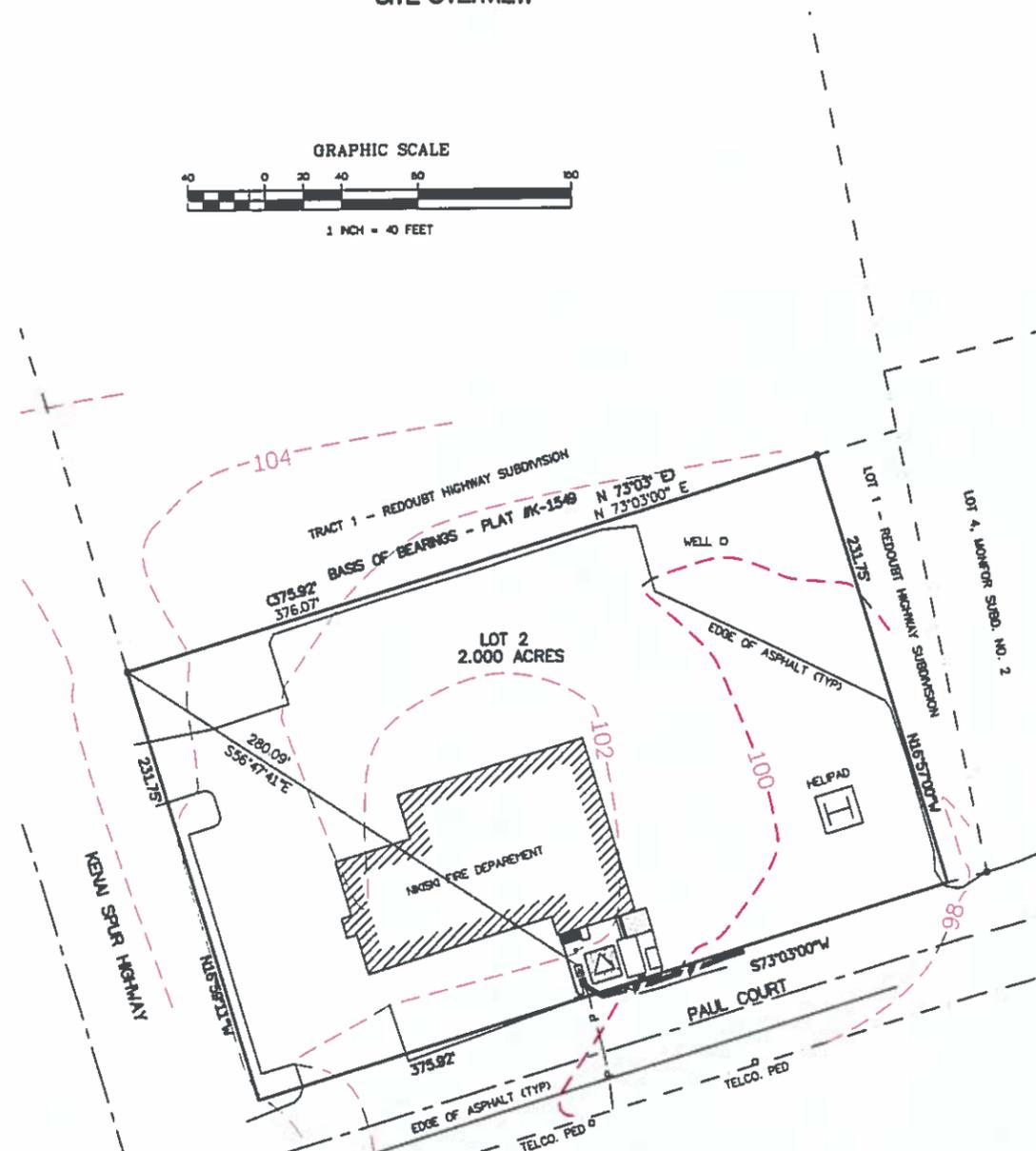
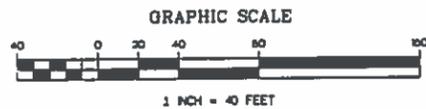


44800 KENAI SPUR HWY

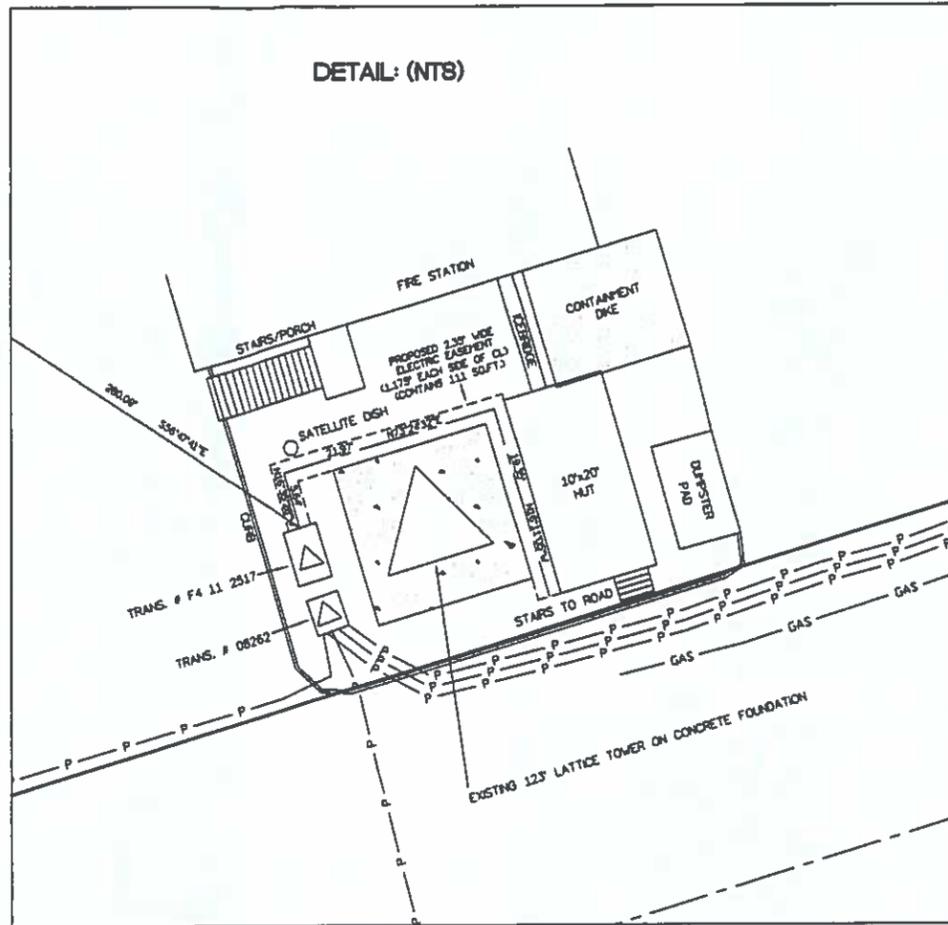
0 250 500 1,000 Feet



SITE OVERVIEW



DETAIL: (NTS)



LEGEND

- SUBJECT BOUNDARY LINE
- - - RIGHT-OF-WAY CENTERLINE
- - - ADJACENT BOUNDARY LINE
- P - P - BURED POWER LINE
- GAS - GAS - BURED GAS LINE
- - - EASEMENT LINES

- ⊠ TRANSFORMER
- ⊗ LIGHT STANDARD
- ⊞ POWER VAULT
- ⊞ UTILITY BOX
- ⊞ UTILITY POLE
- ⊞ POLE GUY WRE
- ⊞ GAS VALVE
- ⊞ GAS METER
- ⊞ TELEPHONE VAULT
- ⊞ TELEPHONE RISER
- ⊞ FIRE HYDRANT
- ⊞ GATE VALVE
- ⊞ WATER METER
- ⊞ FIRE STAND PIPE
- ⊞ CATCH BASIN, TYPE I
- ⊞ CATCH BASIN, TYPE II
- ⊞ SIGN
- ⊞ BOLLARD
- ⊞ MAIL BOX
- 231.21 SPOT ELEVATION

SITE INFORMATION

TAX LOT NUMBER 01726050
 SITE ADDRESS 53700 PALL COURT
 KENAI, ALASKA 99811
 SITE CONTACT RACHELLE ALGER- OO
 PHONE NUMBER 907-868-3771
 ZONING INDUSTRIAL
 TOTAL LOT AREA 57,120± S.F. (2.00 AC.)

LEGAL DESCRIPTION

LOT 2, SUBDIVISION OF TRACT 2 REDOUBT HIGHWAY SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT HEREOF, FILED UNDER PLAT NUMBER K-1549, RECORDS OF THE KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.

NOTES

- 1) FIELD WORK CONDUCTED IN LATE SUMMER, 2015.
- 2) BASIS OF BEARING: RECORD PLAT OF REDOUBT HIGHWAY SUBDIVISION, PLAT NO. K-1549, KR0.
- 3) UNDERGROUND UTILITIES SHOWN HEREON, IF ANY, WERE DELINEATED FROM SURFACE EVIDENCE AND/OR UTILITY COMPANY LOCATES PERFORMED, VIA THE ALASKA DIG LINE CRITICAL LOCATIONS SHOULD BE VERIFIED PRIOR TO DESIGN AND CONSTRUCTION.

SURVEY REFERENCE

PLAT OF REDOUBT HIGHWAY SUBDIVISION, PLAT NO K-1549, KENAI RECORDING DISTRICT.

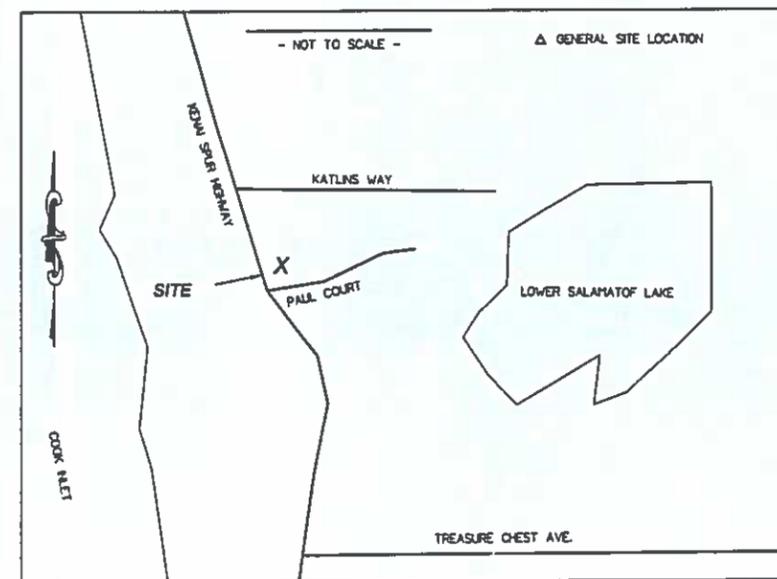
BOUNDARY DISCLAIMER

THIS PLAN DOES NOT REPRESENT A BOUNDARY SURVEY. SUBJECT AND ADJACENT PROPERTY LINES ARE DEPICTED USING FIELD-FOUND EVIDENCE AND RECORD INFORMATION.

CAUTION!

UNDERGROUND UTILITIES EXIST IN THE AREA AND UTILITY INFORMATION SHOWN MAY BE INCOMPLETE. STATE LAW REQUIRES THAT CONTRACTOR CONTACT THE ONE-CALL UTILITY LOCATE SERVICE AT LEAST 48 HOURS BEFORE STARTING ANY CONSTRUCTION.

811



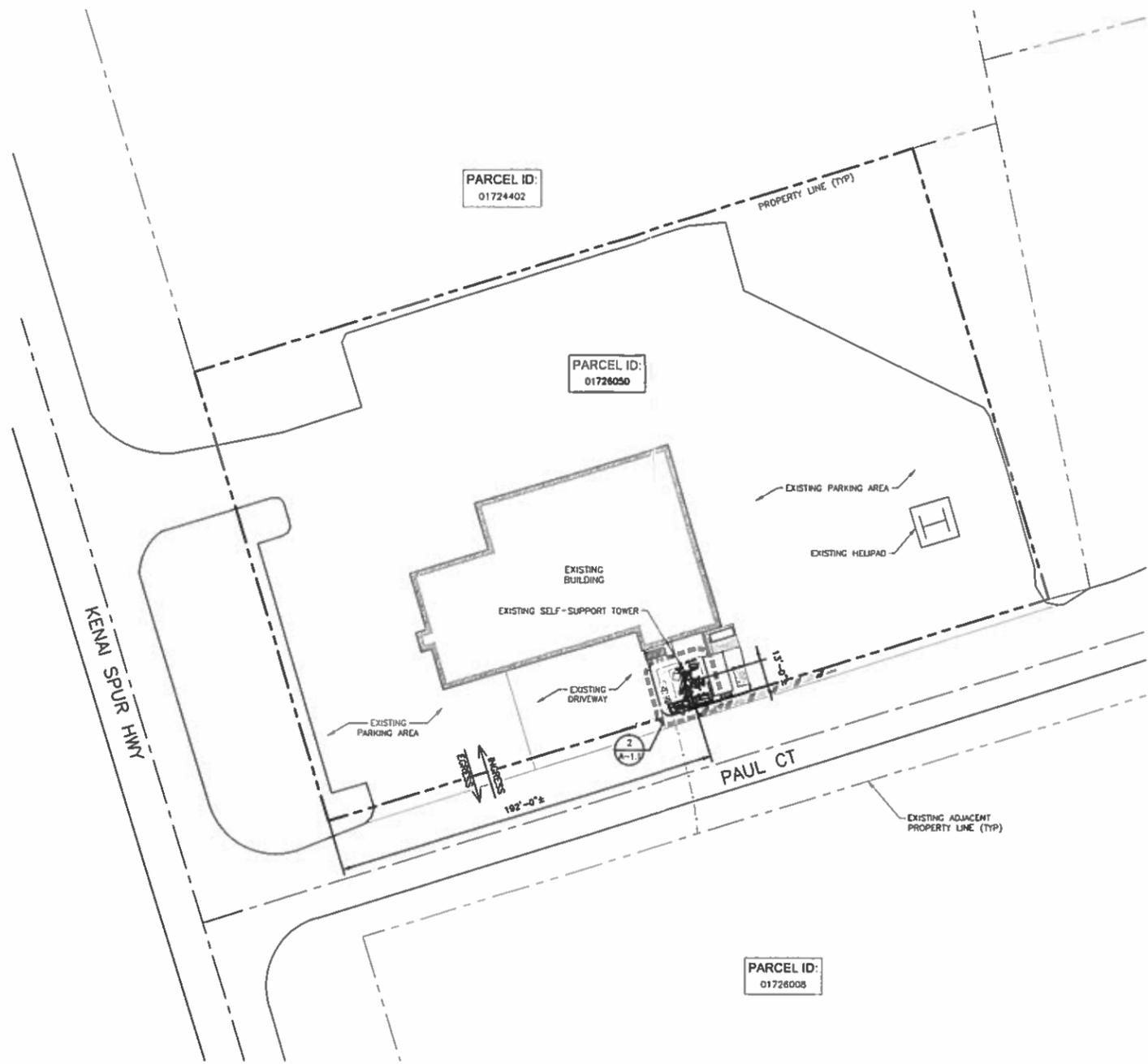
LAND SURVEYORS:
ADARK
 GEOMATICS LLC
 5099 E. BLUE LUPINE DR. STE. 104
 WASILLA, ALASKA 99654
 (907-376-8800) admin@adarksurvey.com

REVISIONS	
NO.	DATE

NIKISKI FIRE STATION
 LOT 2, REDOUBT HIGHWAY SUBD.
 PLAT K-1549
 SEC 11, TWP 6 N, RNG 12 W, SM

PREPARED FOR: **GCI**
 6831 ARCTIC BOULEVARD
 ANCHORAGE, ALASKA 99518
C1
 1 OF 1

NOTE:
THIS IS NOT A SURVEY. ALL INFORMATION AND TRUE NORTH
HAVE BEEN OBTAINED FROM EXISTING DRAWINGS AND
JURISDICTIONAL GIS INFORMATION AND ARE APPROXIMATE.



DO NOT SCALE DRAWINGS. CONTRACTOR MUST VERIFY ALL
DIMENSIONS AND ADVICE CONSULTANTS OF ANY DIMENSIONS OR
DIMENSIONS. NO VARIATIONS OR MODIFICATIONS TO WORK
SHOWN SHALL BE IMPLEMENTED WITHOUT PRIOR WRITTEN
APPROVAL. ALL PREVIOUS ISSUES OF THIS DRAWING ARE
SUPERSEDED BY THE LATEST REVISION. ALL DRAWINGS AND
SPECIFICATIONS REMAIN THE PROPERTY OF MORRISON
HERSHFIELD CORPORATION. NEITHER MORRISON HERSHFIELD
NOR THE ARCHITECT WILL BE PROVIDING CONSTRUCTION
REVIEW OF THIS PROJECT.

CONSTRUCTION		
No.	Date	Revision
0	10/01/20	CONSTRUCTION
A	09/11/20	ISSUED FOR REVIEW

Client:
verizon

Implementation Team:
Acom
CONSULTING

A/E Team:
MH
MORRISON HERSHFIELD
800 STEWART STREET, SUITE 200
SEATTLE, WA 98101
Tel: 208 268 7370
www.morrisonhershfield.com

Project Info:
FISHERMAN
53700 PAUL CT
KENAI, AK 99611

Drawing Title:
SITE PLAN

Project Number: 190400400	Start Date: 06/23/20
Drafter: LW	Designer: RB
Project Manager: RKL	Professional of Record: LC
Revision No: 0	Sheet No: A-1



24"x36" SCALE: 1" = 30'-0"
11"x17" SCALE: 1" = 60'-0"

SITE PLAN | 1

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**, an Alaska municipal corporation, whose mailing address is 144 North Binkley Street, Soldotna, Alaska 99669 (hereinafter the “KPB” or “Lessor”), and **Vertical Bridge S3 Assets, 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, and any reliance on a communication with a person other than listed below is at the party’s own risk.

KPB

Name: Kenai Peninsula Borough
Attn: Land Management Division
Re: Lease No.
Mailing Address: 144 N. Binkley St.
Soldotna, AK 99669

LESSEE

Name: Vertical Bridge S3 Assets, LLC
Attn: Asset Manager
Re: Cell Site #: USAK-5140
Fixed Asset #:
Mailing Address: 750 Park of Commerce Dr, Ste 200
Boca Raton, FL 33487

3. Contract Documents. As authorized by KPB Ordinance 2022-xx, 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 1,575 square feet (45' x 35') 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. 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 12. 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.

7. RENT. Beginning on the Effective Date, Lessee shall pay to KPB a monthly rent payment of One Thousand and No/100ths 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 Three percent (3%) over the prior year's Rent amount.

8. 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.

9. 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 tower, buildings, equipment, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary.

10. SECURITY.

(a) **Site Security.** Lessee may also elect, at its expense, to construct such other enclosures 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.

11. 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.

12. 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. At the conclusion of the lease and any renewals or extensions thereof, KPB shall have the option to retain the tower structure free of charge, as-is, where-is. Tower structure as used for the purpose of the option to retain means the tower frame, foundation, security fencing, utility lines, and other primary components essential to support KPB's communication equipment and any residual third party equipment intended by the parties at the time to remain in service. Unless otherwise agreed to in writing by the parties, or exercise of KPB's option to retain the tower structure, 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.

13. 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.

14. 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 sublessee's day-to-day operations or activities on the Leased Premises.

15. 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.

16. COVENANTS, WARRANTIES AND REPRESENTATIONS.

(a) KPB represents and warrants that KPB 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 KPB alone has full right to lease the Leased Premises for the Term.

(b) 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.

(c) 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.

(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 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.

17. 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.

18. 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/100ths 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 Two Million and No/100ths Dollars (\$2,000,000.00) 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/100ths Dollars (\$500,000.00) Each Accident, Five Hundred Thousand and No/100ths Dollars (\$500,000.00) Each Person and Five Hundred Thousand and No/100ths 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 No/100ths Dollars (\$1,000,000.00); Underinsured and Uninsured Motorists limit of not less than One Million and No/100ths 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.

(i) **Self-insurance.** Notwithstanding the foregoing, Lessee may self-insure any required coverage under the same terms as required by this Agreement.

19. 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.

20. 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.

21. 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.

22. 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 KPB as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of KPB, 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 the use and occupancy of the Leased Premises or the Property by the KPB. 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 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 indemnify 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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

LESSEE: Vertical Bridge S3 Assets, LLC.

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

Date: _____

Date: _____

ATTEST:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Johni Blankenship, Borough Clerk

A. Walker Steinhage, 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:
THIRD JUDICIAL DISTRICT)

On the ____ day of _____, 20____, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of Vertical Bridge S3 Assets, 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

Page 1 of 1

The Property is legally described as follows:

Lot 2, Redoubt Highway Subdivision of Tract 2, according to Plat No. 1549, on file in the Kenai Recording District, Third Judicial District, State of Alaska.

The Leased Premises are described as follows:

On the above described Property, a 45-foot by 35-foot area (1,575 square feet) area with direct access from Paul Court, as depicted on Exhibit 2.

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 St.
Soldotna, AK 99669

Grantor: Kenai Peninsula Borough
Grantee: Vertical Bridge S3 Assets, LLC
Legal Description: Attached as Exhibit 1
Tax Parcel ID #: 01726050
Site Name: USAK-5140
State: Alaska
Borough: Kenai Peninsula Borough
Recording District: Kenai, 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 (hereinafter called “**Lessor**”) and **Vertical Bridge S3 Assets, LLC**, a Delaware limited liability company, having a mailing address of 750 Park of Commerce Drive, Suite 200, 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

LESSEE: Vertical Bridge S3 Assets, LLC

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

Date: _____

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 ALASKA)
) 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 S3 Assets, 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

Page 1 of 1

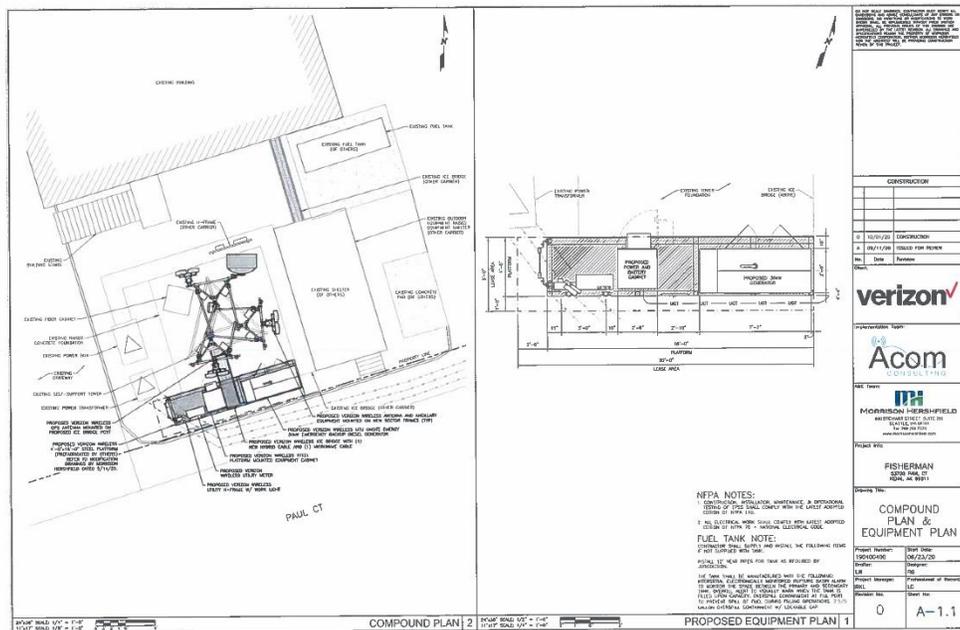
Pursuant to the Memorandum of Lease dated _____, 20____, by and between The Kenai Peninsula Borough, as Lessor, and Vertical Bridge S3 Assets, LLC, a Delaware limited liability company, as Lessee.

The Property is legally described as follows:

Lot 2, Redoubt Highway Subdivision of Tract 2, according to Plat No. 1549, on file in the Kenai Recording District, Third Judicial District, State of Alaska.

The Leased Premises are described as follows:

On the above described Property, a 45-foot by 35-foot area (828 square feet) area with direct access from Paul Court, as depicted below.



KENAI PENINSULA BOROUGH

ORDINANCE 71-22

AN ORDINANCE OF THE KENAI PENINSULA BOROUGH, CONFIRMING THE RESULTS OF THE SPECIAL ELECTION HELD THEREIN ON OCTOBER 6, 1970, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$150,000 OF GENERAL OBLIGATION BONDS OF THE BOROUGH TO BE USED FOR SITE ACQUISITION, PURCHASE, CONSTRUCTION, RECONSTRUCTION OF AND THE PURCHASE OF CAPITAL EQUIPMENT FOR A FIRE STATION OR FIRE STATIONS, PROVIDING FOR THE ISSUANCE AND SALE OF A \$65,000 BOND: FIXING THE DATE, FORM, TERM AND MATURITIES AND COVENANTS OF SUCH BOND: PLEDGING THE ANNUAL LEVY OF AD VALOREM TAXES WITHIN THE SERVICE AREA WITHOUT LIMITATION AND IN AMOUNTS SUFFICIENT WITH OTHER REVENUE OF THE BOROUGH AVAILABLE FOR SUCH PURPOSES, TO PAY THE PRINCIPAL THEREOF AND THE INTEREST THEREON: AND PLEDGING THE FULL FAITH AND CREDIT OF THE KENAI PENINSULA BOROUGH TO THE PAYMENT OF ANY INDEBTEDNESS SO INCURRED.

WHEREAS, at a special election held in the Kenai Peninsula Borough, Alaska (hereinafter designated "Borough") on the 6 day of October, 1970, pursuant to Resolution 70-21R of the Borough, adopted August 1, 1970, placing the proposition on the ballot, the qualified electors of the North Kenai Fire Service Area of the Borough authorized the issuance of general obligation bonds or other evidence of indebtedness in an amount not to exceed \$150,000 to be used for site acquisition, purchase, construction, reconstruction of and the purchase of capital equipment for a fire station or fire stations, as the assembly of the Borough from time to time may determine to be necessary; and

WHEREAS, the Borough has not heretofore issued or sold any of such bonds or other evidence of indebtedness; and

WHEREAS, it is deemed necessary and advisable that \$65,000 of such bonds so authorized be now issued and sold to Pade Company as partial payment for the purchase of a fire station.

BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. The result of the special borough election held October 6, 1970, pursuant to Resolution No. 70-21 R of the Borough, adopted August 1, 1970, and the Statutes of the State of Alaska and the Ordinances of the Borough, at which special election the qualified electors of the North Kenai Fire Service Area of the Borough authorized the issuance of general obligation bonds and other evidence of indebtedness in the principal sum of not to exceed \$150,000 to be used for site acquisition, purchase, construction, reconstruction of and the purchase of capital equipment for a fire station or fire stations, as the Assembly of the Borough from time to time may determine to be necessary, is hereby in all respects ratified and confirmed.

Section 2. For the purpose of completing the purchase of a fire station from Pade Company, the Borough shall issue and deliver to Pade Company its "General Obligation North Kenai Fire Service Area Bond, 1971", in the principal sum of \$65,000.

Section 3. The bond shall be dated September 1, 1971, shall be in the denomination of \$65,000 increments of principal and interest, shall be payable annually on the first day of September of each year from date of issue in accordance with the following schedule:

	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
1972-73	\$ 6,500	\$ 3,250	\$ 9,750
1973-74	6,500	2,925	9,425
1974-75	6,500	2,600	9,100
1975-76	6,500	2,275	8,775
1976-77	6,500	1,950	8,450
1977-78	6,500	1,625	8,125
1978-79	6,500	1,300	7,800
1979-80	6,500	975	7,475
1980-81	6,500	650	7,150
1981-82	6,500	325	6,825

Both principal of and interest on said bond shall be payable in lawful money of the United States of America to the Pade Company or order at Seattle, Washington, or elsewhere at the option of the bond holder.

Section 5. The bond shall be in substantially the following form:

\$65,000.00

UNITED STATES OF AMERICA

STATE OF ALASKA

KENAI PENINSULA BOROUGH
NORTH KENAI FIRE SERVICE AREA

GENERAL OBLIGATION BOND, 1971

5%

KNOW ALL MEN BY THESE PRESENTS: That the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, for value received, hereby promises to pay to the order of Pade Company, the principal sum of

SIXTY FIVE THOUSAND DOLLARS

together with interest thereon at the rate of 5% per annum payable annually on the first day of September of each year in accordance with the following schedule:

	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
1972-73	\$ 6,500	\$ 3,250	\$ 9,750
1973-74	6,500	2,925	9,425
1974-75	6,500	2,600	9,100
1975-76	6,500	2,275	8,775
1976-77	6,500	1,950	8,450
1977-78	6,500	1,625	8,125
1978-79	6,500	1,300	7,800
1979-80	6,500	975	7,475
1980-81	6,500	650	7,150
1981-82	6,500	325	6,825

Both principal and interest are payable in lawful money of the United States of America to Pade Company, or order at Seattle, Washington or elsewhere at the option of the holder hereof.

Kenai Peninsula Borough
Ordinance 71-22 Page 3.

The bond shall be subject to redemption by or on behalf of the Borough prior to maturity, in whole or in part, on any payment date at the principal amount, together with interest accrued thereon to the redemption date.

This bond is issued pursuant to a special election held on October 6, 1970, authorizing the same under and in accordance with the laws of the State of Alaska and duly adopted ordinances and resolutions of the Kenai Peninsula Borough Assembly, for the purpose of providing funds to be used for site acquisition, purchase, construction, reconstruction of and the purchase of capital equipment for a fire station or fire stations as the Assembly of the Borough from time to time may determine to be necessary.

The Borough has irrevocably covenanted that it will levy and collect taxes annually upon all the taxable property within the North Kenai Fire Service Area of the Borough without limitation as to rate or amount and in amounts, which with other moneys available therefor will be sufficient to pay the principal of and interest on the bond as the same shall become due. The Borough has irrevocably pledged to make prompt payment of such principal and interest from the proceeds of such property taxes or other available revenues.

It is hereby certified that all acts, conditions and things required by the Constitution and laws of the State of Alaska, and the ordinances and resolutions of the Borough have happened, been done and performed, and that the total indebtedness of the Borough, including this bond, does not exceed any debt limitation prescribed by such Constitution, laws, ordinances or resolutions.

IN WITNESS WHEREOF, the Kenai Peninsula Borough, Alaska, has caused this bond to be signed by the manual or facsimile signature of the borough chairman and attested by the manual or facsimile signature of its clerk and its official seal or a facsimile thereof to be impressed or otherwise reproduced hereon, this first day of September, 1971.

KENAI PENINSULA BOROUGH, ALASKA

By _____
Borough Chairman

Kenai Peninsula Borough
Ordinance 71-22 Page 4.

ATTEST:

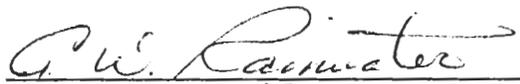
Borough Clerk

Section 6. The bond shall be signed by the manual or facsimile signature of the borough chairman, shall be attested by manual or facsimile signature of the borough clerk, and shall have the official seal or facsimile thereof of the Borough impressed thereon.

Section 7. The Borough hereby irrevocably covenants that it will levy and collect taxes annually upon all the taxable property within the North Kenai Fire Service Area of the Borough without limitation as to rate or amount and in amounts which with other moneys available therefor will be sufficient to pay such principal and interest as the same shall become due. The full faith, credit and resources of the Borough are hereby irrevocably pledged for the annual levy and collection of such taxes within the North Kenai Fire Service Area and for the prompt payment of such principal and interest.

Section 8. This ordinance shall become effective thirty days after enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS 12 DAY OF October, 1971.



Assembly President

ATTEST:



Borough Clerk



Introduced by: Mayor, Johnson
Date: 12/07/21
Hearing: 01/18/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-41**

**AN ORDINANCE AMENDING KPB 21.29, KPB 21.25, AND KPB 21.50.055
REGARDING MATERIAL SITE PERMITS, APPLICATIONS, CONDITIONS, AND
PROCEDURES**

- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A of the 2019 Kenai Peninsula Borough Comprehensive Plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 1 of the 2019 Comprehensive Plan is to adopt limited development standards for specific areas and uses to reduce potential off site impacts of development on adjoining uses and the natural environment; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2 of the 2019 Comprehensive Plan is to update the Borough’s existing conditional use regulations for gravel extraction and other uses to better address reoccurring land use conflicts; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2a of the 2019 Comprehensive Plan is to clarify the broad purpose of the conditional use process and clear parameters for allowable conditional uses that include reasonable, project-specific conditions that reduce impacts on surrounding uses, and if/when a conditional use permit can be denied and consider establishing conditions that require larger setbacks, safety and visual screening, control on access routes, control on hours of operation, and address environmental concerns; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2d of the 2019 Comprehensive Plan is to complete improvements to the rules guiding gravel extraction, with the goal of providing an appropriate balance between providing access to affordable materials for development and protecting quality of life for borough residents; and
- WHEREAS,** Goal 1 of the Mining and Minerals Processing section of the 1990 Kenai Peninsula Borough Coastal Management Program is to provide opportunities to explore, extract and process minerals, sand and gravel resources, while protecting environmental quality and other resource users; and

WHEREAS, an assembly subcommittee was formed in 2005 to review the material site code; and

WHEREAS, Ordinance 2006-01 (Substitute) codified as KPB 21.29 was adopted in 2006 after consideration of the subcommittee's report; and

WHEREAS, the planning department has been administering Ordinance 2006-01 (Substitute), codified as KPB 21.29 for 13 years; and

WHEREAS, KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and

WHEREAS, the planning department has recognized that certain provisions of the material site ordinance could be better clarified for the operators, public, and staff; and

WHEREAS, the planning commission and planning department received comments expressing concerns about dust, noise, safety, and aesthetics; and

WHEREAS, approximately 253 registered prior existing use material sites and approximately 99 conditional land use permits for material sites have been granted since 1996;

WHEREAS, the planning department receives numerous complaints regarding unreclaimed parcels registered as nonconforming prior existing material sites which have not been regulated by KPB; and

WHEREAS, the assembly established a material site work group by adoption of Resolution 2018-004 (Substitute) to engage in a collaborative discussion involving the public and industry to make recommendations regarding the material site code; and

WHEREAS, assembly Resolution 2018-025 extended the deadline for the final report to be submitted to the assembly, administration and planning commission to April 30, 2019; and

WHEREAS, certain additional conditions placed on material site permits would facilitate a reduction in the negative secondary impacts of material sites, e.g. dust, noise, safety, and unsightliness of material sites; and

WHEREAS, at its regularly scheduled meeting of November 12, 2019, the planning commission recommended approval by unanimous consent;

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

SECTION 1. That KPB 21.25.030 is hereby amended, as follows:

21.25.030. - Definitions.

Unless the context requires otherwise, the following definitions apply to CLUPs:

Abandon means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

- a. The same animals need not remain on the lot for 45 days or more; rather, some animals are fed or maintained on the lot 45 days out of any 12-month period, and
- b. Animals are "maintained" for purposes of this ordinance when they are confined in an area where waste is generated and/or concentrated or are watered, cleaned, groomed, or medicated in a confined area, even if the confinement is temporary.
- c. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other.
- d. Slaughterhouses are animal feeding operations.

Animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighting [weighing] over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Animal waste means animal excrement, animal carcasses, feed wasted, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

Animal waste management system means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste.

Aquifer means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.

Aquifer-confining layer means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.

Assisted living home means a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or federal payment for service of the number of adults served. The services and activities may include, but are not limited to, housing and food services to its residents, assistance with activities of daily living, and personal assistance, and that complies with Alaska Statutes 47.32.0101 – 47.60.900, as amended.

Child care facility means a place where child care is regularly provided for children under the age of 12 for periods of time that are less than 24 hours in duration and that is licensed pursuant to AS 47.35.005 et seq., excluding child care homes and child care group homes, as currently written or hereafter amended.

Commercial means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.

Concentrated animal feeding operation (CAFO) means an animal feeding operation confining at least: (1) 1,000 swine weighing at least approximately 55 pounds; (2) 1,000 slaughter and feeder cattle; (3) 700 mature dairy cattle; (4) 500 horses; (5) 10,000 sheep or lambs; (6) 55,000 turkeys; (7) 100,000 laying hens or broilers (if the facility has continuous overflow watering); (8) 30,000 laying hens or broilers (if the facility has a liquid manure system); (9) 5,000 ducks; (10) 1,000 animal units; or (11) a combination of the above resulting in at least 1,000 animal units. Each individual parcel upon which a CAFO is located is a separate CAFO unless they adjoin each other.

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Correctional community residential center (CCRC) means a community residential center, other than a correctional institution, for the short-term or temporary detention of prisoners in transition from a correctional institution, performing restitution, or undergoing rehabilitation or recovery from a legal

infirmity. CCRCs may not be used for detention of prisoners who pose a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision. The determination of whether a prisoner poses a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision shall be made by the commissioner of corrections for state prisoners and the United States Attorney General, or the U.S. Director of Bureau of Prisons for federal prisoners.

Correctional institution means a facility other than a correctional community residential center providing for the imprisonment or physical confinement or detention of prisoners under guard or twenty-four-hour physical supervision, such as prisons, prison farms, jails, reformatories, penitentiaries, houses of detention, detention centers, honor camps, and similar facilities.

Development plan means a plan created to describe a proposed development on a specific building site excluding material sites under KPB 21.29.020.

Disturbed includes active excavation and all areas necessary to use a parcel as a material site including but not limited to berms, stockpiles, and excavated areas excluding all areas reclaimed for alternate post mining land uses.

[EXHAUSTED MEANS THAT ALL MATERIAL OF A COMMERCIAL QUALITY IN A SAND, GRAVEL, OR MATERIAL SITE HAS BEEN REMOVED.]

Federal prisoners means offenders in the custody or control or under the care or supervision of the United States Attorney General or the Bureau of Prisons.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

Haul route includes the roads used to haul materials from the permit area to a roadway designated as collector, arterial or interstate by the Alaska Department of Transportation & Public Facilities.

Liquid manure or liquid animal waste system means any animal waste management system which uses water as the primary carrier of such waste into a primary retention structure.

Multi-purpose senior center is a facility where persons 60 years of age or older are provided with services and activities suited to their particular needs. The services and activities may include, but are not limited to, health examinations, legal assistance, recreation programs, general social activities, telephone reassurance programs, nutrition classes, meals at minimum cost, counseling, protective services, programs for shut-ins and education programs, and that

complies with Alaska Statutes 47.60.010—47.60.090, as currently written or hereafter amended.

Permit area includes all excavation, processing, buffer and haul route areas of a CLUP or counter permit.

Person shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.

Prisoner means:

- a. a person held under authority of state law in official detention as defined in AS 11.81.900;
- b. includes a juvenile committed to the custody of the Alaska Department of Corrections Commissioner when the juvenile has been charged, prosecuted, or convicted as an adult.

Private school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that does not receive direct state or federal funding and that complies with either Alaska Statute 14.45.030 or 14.45.100—14.45.130, as currently written or hereafter amended.

Public school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that is operated by the State of Alaska or any political subdivision of the state.

Sand, gravel or material site means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.

Seasonal high groundwater table means the highest level to which the groundwater rises on an annual basis.

Senior housing project means senior housing as defined for purposes of construction or operation in 15 Alaska Administrative Code 151.950(c), as currently written or hereafter amended.

Stable condition means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes.

Surface water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Vicinity means the same as the area of notification.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which storm water runoff is directed.

Water source means a well, spring or other similar source that provides water for human consumptive use.

SECTION 2. That KPB 21.29 is hereby amended, as follows:

CHAPTER 21.29. MATERIAL SITE PERMITS

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.
- D. Material extraction incidental to site development does not require a permit when an approved site development plan is on file with the planning department. Site development plans are approved by the planning director and are valid for one year. The site development plan may be renewed on an annual basis subject to the planning director's approval.

21.29.020. Material extraction and activities requiring a permit.

- A. *Counter permit.* A counter permit is required for material extraction which disturbs no more than 2.5 cumulative acres and does not enter the water table. Counter permits are approved by the planning director, and are not subject to the notice requirements or planning commission approval of KPB

21.25.060. A counter permit is valid for a period of 12 months, with a possible 12-month extension.

- B. *Conditional land use permit.* A conditional land use permit (CLUP) is required for material extraction which disturbs more than 2.5 cumulative acres, or material extraction of any size that enters the water table. A CLUP is required for materials processing. A CLUP is valid for a period of five years. The provisions of KPB Chapter 21.25 are applicable to material site CLUPS and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

- A. In order to obtain a counter permit or CLUP, an applicant shall first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application shall include the following items:
1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;
 2. Expected life span of the material site;
 3. A buffer plan consistent with KPB 21.29.050(A)(2);
 4. Reclamation plan consistent with KPB 21.29.060;
 5. The depth of excavation;
 6. Type of material to be extracted and type of equipment to be used;
 7. Any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time;
 8. Surface water protection measures, if any, for adjacent properties designed by a civil engineer, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;

9. A site plan and field verification prepared by a professional surveyor licensed and registered in the State of Alaska, including the following information:
 - a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
 - b. Proposed buffers consistent with KPB 21.29.050(A)(2), or alternate buffer plan;
 - c. Identification of all encumbrances, including, but not limited to easements;
 - d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit;
 - e. Anticipated haul routes;
 - f. Location and [DEPTH] elevation of test holes, and depth of groundwater, if encountered between May and December. At least one test hole per ten acres of excavated area is required to be dug. The test holes shall be at least four feet below the proposed depth of excavation;
 - g. Location of wells of adjacent property owners within 300 feet of the proposed parcel boundary;
 - h. Location of any water body on the parcel, including the location of any riparian wetland as determined by "Wetland Mapping and Classification of the Kenai Lowland, Alaska" maps created by the Kenai Watershed Forum;
 - [I. SURFACE WATER PROTECTION MEASURES FOR ADJACENT PROPERTIES, INCLUDING THE USE OF DIVERSION CHANNELS, INTERCEPTION DITCHES, ON-SITE COLLECTION DITCHES, SEDIMENT PONDS AND TRAPS, AND SILT FENCE; PROVIDE DESIGNS FOR SUBSTANTIAL STRUCTURES; INDICATE WHICH STRUCTURES WILL REMAIN AS PERMANENT FEATURES AT THE CONCLUSION OF OPERATIONS, IF ANY;]
 - [J]i. Location of any processing areas on parcel, if applicable;
 - [K]j. North arrow;

[L]k. The scale to which the site plan is drawn;

[M]l. Preparer's name, date and seal;

[N]m. Field verification shall include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

B. In order to aid the planning commission or planning director's decision-making process, the planning director shall provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:

1. Protects against the lowering of water sources serving other properties;
2. Protects against physical damage to [OTHER] adjacent properties;
3. [MINIMIZES] Protects against off-site movement of dust;
4. [MINIMIZES] Protects against noise disturbance to other properties;
5. [MINIMIZES] Protects against visual impacts of the material site; [AND]
6. Provides for alternate post-mining land uses[.];
7. Protects Receiving Waters against adverse effects to fish and wildlife habitat;
8. Protects against traffic impacts; and
9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.

21.29.050. Permit conditions.

A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel or material sites:

1. [PARCEL]Permit boundaries. [ALL BOUNDARIES OF THE SUBJECT PARCEL] The buffers and any easements or right-of-way abutting the proposed permit area shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. Stakes shall be in place [AT TIME OF APPLICATION] prior to issuance of the permit.

[2. *BUFFER ZONE.* A BUFFER ZONE SHALL BE MAINTAINED AROUND THE EXCAVATION PERIMETER OR PARCEL BOUNDARIES. WHERE AN EASEMENT EXISTS, A BUFFER SHALL NOT OVERLAP THE EASEMENT, UNLESS OTHERWISE CONDITIONED BY THE PLANNING DIRECTOR OR PLANNING COMMISSION.

A. THE BUFFER ZONE SHALL PROVIDE AND RETAIN A BASIC BUFFER OF:

I. 50 FEET OF UNDISTURBED NATURAL VEGETATION, OR

II. A MINIMUM SIX-FOOT EARTHEN BERM WITH AT LEAST A 2:1 SLOPE, OR

III. A MINIMUM SIX-FOOT FENCE.

B. A 2:1 SLOPE SHALL BE MAINTAINED BETWEEN THE BUFFER ZONE AND EXCAVATION FLOOR ON ALL INACTIVE SITE WALLS. MATERIAL FROM THE AREA DESIGNATED FOR THE 2:1 SLOPE MAY BE REMOVED IF SUITABLE, STABILIZING MATERIAL IS REPLACED WITHIN 30 DAYS FROM THE TIME OF REMOVAL.

C. THE PLANNING COMMISSION OR PLANNING DIRECTOR SHALL DESIGNATE ONE OR A COMBINATION OF THE ABOVE AS IT DEEMS APPROPRIATE. THE VEGETATION AND FENCE SHALL BE OF SUFFICIENT HEIGHT AND DENSITY TO PROVIDE VISUAL AND NOISE SCREENING OF THE PROPOSED USE AS DEEMED APPROPRIATE BY THE PLANNING COMMISSION OR PLANNING DIRECTOR.

D. BUFFERS SHALL NOT CAUSE SURFACE WATER DIVERSION WHICH NEGATIVELY IMPACTS ADJACENT PROPERTIES OR WATER BODIES. SPECIFIC FINDINGS ARE REQUIRED TO ALTER THE BUFFER REQUIREMENTS OF KPB 21.29.050(A)(2)(A) IN ORDER

TO MINIMIZE NEGATIVE IMPACTS FROM SURFACE WATER DIVERSION. FOR PURPOSES OF THIS SECTION, SURFACE WATER DIVERSION IS DEFINED AS EROSION, FLOODING, DEHYDRATION OR DRAINING, OR CHANNELING. NOT ALL SURFACE WATER DIVERSION RESULTS IN A NEGATIVE IMPACT.

- E. AT ITS DISCRETION, THE PLANNING COMMISSION MAY WAIVE BUFFER REQUIREMENTS WHERE THE TOPOGRAPHY OF THE PROPERTY OR THE PLACEMENT OF NATURAL BARRIERS MAKES SCREENING NOT FEASIBLE OR NOT NECESSARY. BUFFER REQUIREMENTS SHALL BE MADE IN CONSIDERATION OF AND IN ACCORDANCE WITH EXISTING USES OF ADJACENT PROPERTY AT THE TIME OF APPROVAL OF THE PERMIT. THERE IS NO REQUIREMENT TO BUFFER THE MATERIAL SITE FROM USES WHICH COMMENCE AFTER THE APPROVAL OF THE PERMIT.]

2. Buffer Area. Material sites shall maintain buffer areas in accord with this section.

- a. A buffer area of a maximum of 100 feet shall be established between the area of excavation and the parcel boundaries. The buffer area may include one or more of the following: undisturbed natural vegetation, a minimum six-foot fence, a minimum six-foot berm or a combination thereof.
- b. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- c. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable.
- d. The buffer area may be reduced where the planning commission or planning director, as applicable, has approved an alternate buffer plan. The alternate buffer plan must consist of natural undisturbed vegetation, a minimum six-foot berm, or a minimum six-foot fence or a combination thereof; unless the permittee proposes another solution approved by the planning commission or planning director, as applicable, to meet this condition.
- e. The buffer requirements may be waived by the planning commission or planning director, as applicable, where the

topography of the property or the placement of natural barriers makes screening not feasible or unnecessary.

- f. There is no requirement to buffer a material site from uses that commence after approval of the permit.
- g. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

3. *Processing.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of [OF ADJACENT PROPERTY AT THE TIME] the properties in the vicinity at the time of approval of the permit.

4. *Water source separation.*

- a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.
- b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.
- c. All CLUPS shall be issued with a condition which requires that a [TWO] four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.
- d. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.

5. *Excavation in the water table.* Excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:
 - a. Certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.
 - b. The installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.
 - c. Groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.
 - d. Operations shall not breach an aquifer-confining layer.
6. *Waterbodies.*
 - a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within [100] 200 linear feet from excavation limits and the ordinary high water level of surface water bodies such as a lake, river, stream, [OR OTHER WATER BODY, INCLUDING] riparian wetlands and mapped floodplains as defined in KPB 21.06. This regulation shall not apply to man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.
7. *Fuel storage.* Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for

uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

8. *Roads.* Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
9. *Subdivision.* Any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit. The planning director may issue a written exemption from the amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
10. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
11. *Hours of operation.* [ROCK CRUSHING EQUIPMENT SHALL NOT BE OPERATED BETWEEN 10:00 P.M. AND 6:00 A.M.]
 - a. Processing equipment shall not be operated between 7:00 p.m. and 6:00 a.m.
 - b. The planning commission may grant exceptions to increase the hours of operation and processing based on surrounding land uses, topography, screening the material site from properties in the vicinity and conditions placed on the permit by the planning commission to mitigate the noise, dust and visual impacts caused by the material site.
12. *Reclamation.*
 - a. Reclamation shall be consistent with the reclamation plan approved by the planning commission or planning director as appropriate in accord with KPB 21.29.060.
 - b. [AS A CONDITION OF ISSUING THE PERMIT, THE APPLICANT SHALL SUBMIT A RECLAMATION PLAN AND POST A BOND TO COVER THE ANTICIPATED RECLAMATION COSTS IN AN AMOUNT TO BE DETERMINED BY THE PLANNING DIRECTOR. THIS BONDING REQUIREMENT SHALL NOT APPLY TO SAND, GRAVEL OR MATERIAL SITES FOR WHICH AN EXEMPTION FROM STATE

BOND REQUIREMENTS FOR SMALL OPERATIONS IS APPLICABLE PURSUANT TO AS 27.19.050.] The applicant shall operate the material site consistent with the approved reclamation plan and provide bonding pursuant to 21.29.060(B). This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

13. *Other permits.* Permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC air and water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives. Any violation of these regulations or permits reported to or observed by borough personnel will be forwarded to the appropriate agency for enforcement.
14. [~~VOLUNTARY~~]Volunteered *permit conditions.* Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission for CLUPs or the planning director for counter permits. Such conditions must be consistent with the standards set forth in KPB 21.29.040(A). Planning commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. [~~VOLUNTARY~~] Volunteered permit conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in [~~VOLUNTARY~~] volunteered permit conditions may be proposed [AT] by permit [~~RENEWAL OR AMENDMENT~~] modification.
15. *Signage.* For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

16. Appeal. No clearing of vegetation shall occur within the 100-foot maximum buffer area from the permit boundary nor shall the permit be issued or operable until the deadline for the appeal, pursuant to KPB 21.20, has expired.

17. Sound level.

a. No sound resulting from the materials extraction activities shall create a sound level, when measured at or within the property boundary of the adjacent land, that exceeds 75 dB(A).

b. For any sound that is of short duration between the hours of 7 a.m. and 7 p.m. the levels may be increased by:

i. Five dB(A) for a total of 15 minutes in any one hour; or

ii. Ten dB(A) for a total of five minutes in any hour; or

iii. Fifteen db(A) for a total of one and one-half minutes in any one-hour period.

c. At its discretion, the planning commission or planning director, as applicable, may reduce or waive the sound level requirements on any or all property boundaries. Sound level requirements shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

d. Mandatory condition KPB 21.29.050(A)(17) shall expire 365 days from adoption of KPB 21.29.050(A)(17) unless extended or modified by the assembly.

18. Reverse signal alarms. Reverse signal alarms, used at the material site on loaders, excavators, and other earthmoving equipment shall be more technically advanced devices; such as, a multi-frequency “white noise” alarms rather than the common, single (high-pitch) tone alarms. At its discretion, the planning commission or planning director, as applicable, may waive this requirement or a portion of this requirement. The waiver of this requirement shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

19. Ingress and egress. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the

parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an “Approval to Construct” or a borough road service area as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

20. *Dust suppression.* Dust suppression shall be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on haul routes. Based on surrounding land uses the planning commission or planning director, as applicable, may waive or reduce the requirement for dust suppression on haul routes.
21. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8) must be approved by a licensed civil engineer.
22. *Groundwater elevation.* All material sites must maintain one monitoring tube per ten acres of excavated area four feet below the proposed excavation.
23. *Setback.* Material site excavation areas shall be 250-feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, child care facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation shall be included in the 250-foot setback.

21.29.055. Decision.

The planning commission or planning director, as applicable, shall approve permit applications meeting the mandatory conditions or shall disapprove permit applications that do not meet the mandatory conditions. The decision shall include written findings supporting the decision, and when applicable, there shall be written findings supporting any site-specific alterations to the mandatory condition as specifically allowed by KPB 21.29.050(A)(2)(a), (2)(c), (2)(d), (2)(e), (2)(g), (3), (4)(d), (5), (11)(b), (12), (14), (17)(c), (18), (19), and (20) and as allowed for the KPB 21.29.060 reclamation plan.

21.29.060. Reclamation plan.

- A. All material site permit applications require an overall reclamation plan along with a five-year reclamation plan. A site plan for reclamation shall be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit extension request.

- B. The applicant shall revegetate with a non-invasive plant species and reclaim all disturbed land [UPON EXHAUSTING THE MATERIAL ON-SITE, OR WITHIN A PRE-DETERMINED TIME PERIOD FOR LONG-TERM ACTIVITIES, SO AS TO LEAVE THE LAND IN A STABLE CONDITION. RECLAMATION MUST OCCUR FOR ALL EXHAUSTED AREAS OF THE SITE EXCEEDING FIVE ACRES BEFORE A FIVE-YEAR RENEWAL PERMIT IS ISSUED, UNLESS OTHERWISE REQUIRED BY THE PLANNING COMMISSION. IF THE MATERIAL SITE IS ONE ACRE OR LESS IN SIZE AND HAS BEEN GRANTED A CLUP DUE TO EXCAVATION IN THE WATER TABLE, RECLAMATION MUST BE PERFORMED AS SPECIFIED BY THE PLANNING COMMISSION OR PLANNING DIRECTOR IN THE CONDITIONAL USE OR COUNTER PERMIT] within the time period approved with the reclamation plan so as to leave the land in a stable condition. Bonding shall be required at \$2,000.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a civil engineer's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans shall be enforced under KPB 21.50.
- C. The following measures must be considered in the [PREPARING] preparation, approval and [IMPLEMENTING] implementation of the reclamation plan, although not all will be applicable to every reclamation plan.
1. Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. [THIS MATERIAL WILL BE PROTECTED FROM EROSION AND CONTAMINATION BY ACIDIC OR TOXIC MATERIALS AND PRESERVED IN A CONDITION SUITABLE FOR LATER USE.]
 2. The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil [TO A CONDITION THAT ALLOWS FOR THE REESTABLISHMENT OF RENEWABLE RESOURCES ON THE SITE WITHIN A REASONABLE PERIOD OF TIME. IT WILL BE STABILIZED TO A CONDITION THAT WILL ALLOW SUFFICIENT MOISTURE FOR REVEGETATION] so that it will be stabilized to a condition that will allow for the revegetation as required by KPB 21.29.060(B).
 3. [SUFFICIENT QUANTITIES OF STOCKPILED OR IMPORTED TOPSOIL WILL BE SPREAD OVER THE RECLAIMED AREA TO A DEPTH OF FOUR INCHES TO PROMOTE NATURAL PLANT GROWTH THAT CAN REASONABLY BE EXPECTED TO REVEGETATE THE AREA WITHIN FIVE YEARS. THE APPLICANT MAY USE THE EXISTING NATURAL ORGANIC BLANKET REPRESENTATIVE OF THE PROJECT AREA IF THE SOIL IS FOUND TO HAVE AN ORGANIC CONTENT OF 5% OR MORE AND MEETS THE SPECIFICATION OF CLASS B TOPSOIL REQUIREMENTS AS SET BY ALASKA TEST METHOD (ATM) T-6.] The [MATERIAL] topsoil used

for reclamation shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

4. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.
 5. [PEAT AND T]Topsoil mine operations shall ensure a minimum of [TWO] four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
 6. Ponding may be used as a reclamation method as approved by the planning commission.
- D. The five-year reclamation plan shall describe the total acreage to be reclaimed [EACH YEAR, A LIST OF EQUIPMENT (TYPE AND QUANTITY) TO BE USED IN RECLAMATION, AND A TIME SCHEDULE OF RECLAMATION MEASURES] relative to the total excavation plan.

21.29.070. Permit extension and revocation.

- A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.
- B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.
- C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.
- D. A modification application shall be processed pursuant to KP.B 21.29.030-050 with public notice given as provided by KP.B 21.25.060 when operators

request modification of their permit conditions based on changes in operations set forth in the modification application.

- E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KPB 21.29.070(D) will be the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.
- F. Failure to submit a request for extension will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.
- G. Permits may be revoked pursuant to KPB 21.50. 21.29.080. - Permit termination.

When a permit expires, is revoked, or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to termination. When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.090. Permit modifications.

If a permittee revises or intends to revise operations (at a time other than permit extension) so that they are no longer consistent with the original application, a permit modification is required. The planning director shall determine whether the revision to operations requires a modification. Permit modification shall be processed in the same manner as original permits.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents.

21.29.110. Violations.

- A. Violations of this chapter shall be governed by KPB 21.50.
- B. In addition to the remedies provided in KPB 21.50, the planning director may require bonding in a form and amount adequate to protect the borough's interests for an owner or operator who has been cited for three violations of

KPB 21.50, 21.25, and 21.29 within a three-year period. The violations need not be committed at the same material site. Failure to provide requested bonding may result in permit revocation proceedings.

21.29.120. Prior existing uses.

- A. Material sites are not held to the standards and conditions of a CLUP if a prior existing use (PEU) determination was granted for the parcel in accordance with KPB 21.29.120(B). To qualify as a PEU, a parcel's use as a material site must have commenced or have been operated after May 21, 1986, and prior to May 21, 1996, provided that the subject use continues in the same location. In no event shall a prior existing use be expanded beyond the smaller of the lot, block, or tract lines as they existed on May 21, 1996. If a parcel is further subdivided after May 21, 1996, the pre-existing use may not be expanded to any lot, tract, or parcel where extraction had not occurred before or on February 16, 1999. If a parcel is subdivided where extraction has already occurred, the prior existing use is considered abandoned, and a CLUP must be obtained for each parcel intended for further material site operations. The parcel owner may overcome this presumption of abandonment by showing that the subdivision is not inconsistent with material site operation. If a parcel subject to a prior existing use is conveyed, the prior existing use survives the conveyance.
- B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.
- C. [ANY PRIOR EXISTING USE THAT HAS NOT OPERATED AS A MATERIAL SITE BETWEEN MAY 21, 1996, AND MAY 21, 2011, IS CONSIDERED ABANDONED AND MUST THEREAFTER COMPLY WITH THE PERMIT REQUIREMENTS OF THIS CHAPTER. THE PLANNING DIRECTOR SHALL DETERMINE WHETHER A PRIOR EXISTING USE HAS BEEN ABANDONED. AFTER GIVING NOTICE TO THE PARCEL OWNER THAT A PEU IS CONSIDERED ABANDONED, A PARCEL OWNER MAY PROTEST THE TERMINATION OF THE PEU BY FILING WRITTEN NOTICE WITH THE PLANNING DIRECTOR ON A FORM PROVIDED BY THE PLANNING DEPARTMENT. WHEN A PROTEST BY A PARCEL OWNER IS FILED, NOTICE AND AN OPPORTUNITY TO MAKE WRITTEN COMMENTS REGARDING PRIOR EXISTING USE STATUS SHALL BE ISSUED TO OWNERS OF PROPERTY WITHIN A ONE-HALF MILE RADIUS OF THE PARCEL BOUNDARIES OF THE SITE. THE OWNER OF THE PARCEL SUBJECT TO THE PRIOR EXISTING USE MAY SUBMIT WRITTEN INFORMATION, AND THE PLANNING DIRECTOR MAY GATHER AND CONSIDER ANY INFORMATION RELEVANT TO WHETHER A MATERIAL SITE HAS OPERATED. THE PLANNING DIRECTOR MAY CONDUCT A HEARING IF HE OR SHE BELIEVES IT WOULD ASSIST THE DECISION-MAKING PROCESS. THE PLANNING DIRECTOR SHALL ISSUE A WRITTEN DETERMINATION WHICH SHALL BE DISTRIBUTED TO ALL PERSONS MAKING WRITTEN COMMENTS. THE PLANNING DIRECTOR'S

DECISION REGARDING TERMINATION OF THE PRIOR EXISTING USE STATUS MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN 15 DAYS OF THE DATE OF THE NOTICE OF DECISION.]

The owner of a material site that has been granted a PEU determination shall provide proof of compliance with AS 27.19.030 – 050 concerning reclamation to the planning department no later than July 1, 2022. The proof shall consist of an Alaska Department of Natural Resources (DNR) approved reclamation plan and receipt for bonding or a letter of intent filed with DNR.

1. The planning department may request proof of continued compliance with AS 27.19.030 – 050 on an annual basis.
2. Pursuant to KPB 21.29.110 the enforcement process and remedies set forth in KPB 21.50 shall govern if the proof that the statutory requirements contained in AS 27.19.030-050 is not provided to the planning department.

SECTION 3. That KPB 21.50.055 is hereby amended, as follows:

21.50.055. Fines.

- A. Following are the fines for violations of this title. Each day a violation occurs is a separate violation. Violations begin to accrue the date the enforcement notice is issued and continue to the date the enforcement is initially set for hearing. The fine for a violation may not be reduced by the hearing officer to less than the equivalent of one day's fine for each type of violation.

Code Chapter & Section	Violation Description	Daily Fine
KPB 20.10.030(A)	Offering land for sale without final plat approval	\$300.00
KPB 20.10.030(B)	Filing/recording unapproved subdivision/plat	\$300.00
KPB 20.10.030(C)	Violation of subdivision code or condition	\$300.00
KPB 21.05.040(C)	Violation of variance conditions	\$300.00
KPB 21.06.030(D)	Structure or activity prohibited by KPB 21.06	\$300.00
KPB 21.06.040	Failure to obtain a Development Permit/Floodplain Management	\$300.00

KPB 21.06.045	Failure to obtain a SMFDA Development Permit/Violation of SMFDA permit conditions/Floodplain Management	\$300.00
KPB 21.06.050	Violation of permit conditions/Floodplain Management	\$300.00
KPB 21.18.071	Failure to obtain staff permit/Violation of staff permit/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.072	Failure to obtain limited commercial activity permit/Violation of permit conditions/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.075	Prohibited use or structure/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.081	Failure to obtain Conditional Use Permit/Violation of Conditional Use Permit Condition/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.090	Failure to obtain prior existing use/structure permit/Violation of permit conditions/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.135(C)	Violation of emergency permit conditions/anadromous stream habitat protection	\$300.00
KPB 21.25.040	Failure to Obtain a Permit/Material Site/Correctional community residential center/Concentrated Animal Feeding Operation	\$300.00
KPB 21.28.030	Violation of permit conditions/Concentrated Animal Feeding Operations	\$300.00
KPB 21.29.020	Failure to Obtain a counter permit/Material Site Permits	\$300.00
KPB 21.29.050	Violation of Conditional Land Use Permit Conditions/Material Site Permits Also applies to KPB 21.26 material site permits	\$300.00
KPB 21.29.060	Violation of Reclamation Plan/Material Site Permits Also applies to KPB 21.26 material site permits	\$300.00
<u>KPB 21.29.120</u>	<u>Failure to Provide Reclamation Plan and Proof of Bonding or Letter of Intent</u>	<u>\$300.00</u>

KPB 21.44.100	Violation of Pre-existing structures/Local Option Zoning	\$300.00
KPB 21.44.110(D)	Prohibited expansion of nonconforming use/Local Option Zoning	\$300.00
KPB 21.44.110(E)	Prohibited Change in Use/Local Option Zoning	\$300.00
KPB 21.44.110(G)	Violation of Conditions on Nonconforming Use/Local Option Zoning	\$300.00
KPB 21.44.130(C)(D)	Violation of Home Occupation Standards and Conditions/Local Option Zoning	\$300.00
KPB 21.44.130(F)	Disallowed Home Occupation/Local Option Zoning	\$300.00
KPB 21.44.135	Failure to file development notice	\$300.00
KPB 21.44.160(A)(B)	Prohibited use	\$300.00
KPB 21.44.160(C)	Violation of Development Standards/Single Family Zoning/Local Option Zoning	\$300.00
KPB 21.44.165(A)(B)	Prohibited use	\$300.00
KPB 21.44.165(C)	Violation of Development Standards/Small Lot Residential Zoning/Local Option Zoning	\$300.00
KPB 21.44.170(A)(B)	Prohibited use	\$300.00
KPB 21.44.170(C)	Violation of Development Standards/Rural Residential District/Local Option Zoning	\$300.00
KPB 21.44.175(B)(C)	Prohibited Use	\$300.00
KPB 21.44.175(D)	Violation of Development Standards/Residential Waterfront	\$300.00
KPB 21.44.180(A)(B)	Prohibited Use	\$300.00
KPB 21.44.180(C)	Violation of Development Standards/Multi-Family Residential District/Local Option Zoning	\$300.00

KPB 21.44.190(A)(B)	Prohibited Use	\$300.00
KPB 21.44.190(C)	Violation of Development Standards/Industrial District/Local Option Zoning	\$300.00
KPB 21.46.030(b)	Failure to maintain bear-resistant garbage cans/Local option zone/Birch and Grove Ridge subdivisions Rural Residential District	\$300.00
KPB 21.50.100(F)	Removal of posted enforcement notice	\$300.00
KPB 21.50.100(G)	Violation of enforcement notice	\$1,000.00
KPB 21.50.130(I)	Violation of an enforcement order	\$1,000.00

SECTION 4. That this ordinance shall become effective upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough
Planning Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Melanie Aeschliman, Planning Director MA

DATE: November 23, 2021

SUBJECT: Ordinance 2021-41 Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor)

On December 13, 2019, the assembly failed to enact Ordinance 2019-30(SUB). As requested, this proposed ordinance reintroduces, word for word, O2019-30(SUB). Any amendments to this proposed ordinance will be proposed as separate amendment memorandums.

A timeline regarding the material site work group recommendations, planning commission recommendations, and the history of O2019-30(SUB) is attached.

Your consideration of these amendments is appreciated.

MEMORANDUM

TO: Blair Martin, Planning Commission Chair
Members, Kenai Peninsula Borough Planning Commission

THRU: Melanie Aeschliman, Planning Director *MA*
Samantha Lopez, River Center Manager *SL*

FROM: Bryan Taylor, Planner *BT*

DATE: November 17, 2021

RE: Reintroduction of Ordinance 2019-30 SUB; An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures

The mayor would like to reintroduce the above ordinance at the December 7, 2021, Assembly meeting. The Planning Commission reviewed the original ordinance at its regularly scheduled November 12, 2019 meeting. Prior to that, the Planning Commission reviewed an ordinance proposed by the Material Site Work Group and recommended amendments. Ordinance 2019-30 Substitute incorporates all changes recommended by the Planning Commission. Below is a timeline of the ordinance’s development and legislative history.

- **January 16, 2018:** KPB Assembly established a Material Site Work Group (MSWG) through Resolution 2018-004 Substitute.
- **January 31, 2018 through April 30, 2019:** The MSWG held work session meetings and took public comment. (Meetings were not held between May 23 and October 10, 2018, to avoid overlapping with the construction season when operators would not be available to participate.) At its second meeting on February 14, 2018, the MSWG adopted the following mission statement: *“To evaluate our existing KPB codes with respect to material sites (gravel extraction) to ensure that we collectively believe the appropriate balance exists to meet the need for affordable development while also protecting quality of life for our residents.”*
- **May 15, 2018:** Through Resolution 2018-25, the Assembly extended the deadline for the MSWG to produce a report until April 30, 2019.
- **April 30, 2019:** At its final meeting, the MSWG forwarded a proposed ordinance to the Planning Commission for review.
- **May 13, 2019:** The Planning Commission held a regular meeting and the MSWG’s proposed ordinance was placed on the Planning Commission’s agenda under “Pending Items for Future Action”. There was some commission discussion of the item. The minutes noted that the commission would consider it at its June 24, 2019, meeting when

Page -2-

Date: November 17, 2021

To: Blair Martin, Planning Commission Chair
Members, Kenai Peninsula Borough Planning Commission

RE: Reintroduction of Ordinance 2019-30 SUB; An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures

key staff and commissioners could be present.

- **June 18, 2019:** The chair of the MSWG, Robert Ruffner, gave a presentation to the Assembly during its regularly scheduled meeting.
- **June 24, 2019:** The Planning Commission held a public hearing on the unnumbered ordinance proposed by the MSWG entitled “An Ordinance Amending KPB Chapter 21.25, Conditional Land Use Permits and Amending KPB Chapter 21.29, Material Site Permits”.
- **July 15, 2019:** The Planning Commission held a work session on the ordinance proposed by the MSWG.
- **August 26, 2019:** The Planning Commission held a public hearing on the ordinance proposed by the MSWG. The commission voted to postpone further consideration until its September 9, 2019, regular meeting.
- **September 9, 2019:** The Planning Commission continued deliberation on the ordinance proposed by the MSWG. After voting on a number of proposed amendments to the ordinance, the commission requested staff arrange a work session with the Assembly and postponed further deliberation.
- **October 24, 2019:** A memo providing a sectional analysis of proposed amendments was sent from Sean Kelly, Deputy Borough Attorney, and Max Best, Planning Director, to KPB Assembly. The memo outlined amendments to the MSWG ordinance proposed by the Planning Commission. All amendments outlined within the memo were later included within Ordinance 2019-30 Substitute.
- **November 5, 2019:** A joint work session between the Assembly and the Planning Commission was held regarding Ordinance 2019-30. At its regularly scheduled meeting, Ordinance 2019-30 was introduced and the Assembly set a public hearing for December 3, 2019.
- **November 12, 2019:** At its regular meeting, the Planning Commission recommended approval of Ordinance 2019-30 and several amendments.
- **November 20, 2019:** In a memo to the KPB Assembly, Max Best, Planning Director, notified the Assembly of the Planning Commission’s recommendation of approval and outlined recommended amendments proposed by the Planning Commission at its November 12, 2019, meeting. All amendments outlined within the memo were included within Ordinance 2019-30 Substitute.
- **December 3, 2019:** The Assembly held a public hearing on Ordinance 2019-30. A motion to amend by substitute was carried but the motion to enact the substitute ordinance failed. Assembly member Bjorkman gave notice of reconsideration of Ordinance 2019-30 Substitute.
- **January 7, 2020:** At the Assembly’s regularly scheduled meeting, a motion to reconsider Ordinance 2019-30 Substitute failed.

Introduced by:	Martin
Substitute Introduced:	03/14/06
O2006-01 (Long, Martin, Superman)	See Original Ord for Prior History
Hearing:	03/14/06
Action:	Substitute Introduced and Set for Public Hearings on 04/04/06 and 04/18/06
Action:	Additional Hearing on 05/16/06
Action:	Postponed until 04/18/06
Action:	Time did not Allow for Action
Date:	05/02/06
Action:	Postponed until 05/16/06
Action:	Additional Hearing on 08/01/06
Date:	05/16/06
Action:	Postponed until 08/01/06
Action:	Enacted as Amended
Vote:	8 Yes, 0 No, 0 Absent, 1 Abstention

**KENAI PENINSULA BOROUGH
ORDINANCE 2006-01 (MARTIN) SUBSTITUTE**

**AN ORDINANCE REPEALING KPB CHAPTER 21.26 AND ENACTING KPB
CHAPTER 21.29, MATERIAL SITE PERMITS**

WHEREAS, Goal 6.5, Objective 1 of the 2005 Kenai Peninsula Borough Comprehensive Plan is to ensure that land use regulations adopted by the borough are necessary to control uses that affect public health and safety and address adverse impacts on the rights of adjacent property owners; and

WHEREAS, Goal 6.5, Objective 1, Implementation Action A, is to continue to periodically review and update existing regulations to reflect changing conditions and policies in the borough; and

WHEREAS, Goal 6.6 of the 2005 comprehensive plan is to reduce land use conflicts outside of the cities; and

WHEREAS, Goal 6.6, Objective 1, Implementation Action D, is to improve the land use regulations currently in existence including those related to material sites to minimize the impacts of erosion and flooding of neighboring properties and to minimize conflicts with surrounding land uses; and

WHEREAS, Goal 7.1, Objectives 1 and 2, of the 2005 comprehensive plan are to work with other agencies to protect public health and environment, to avoid duplications of other agencies' regulations, and to provide input to federal and state agencies on local conditions and opinions; and

WHEREAS, Goal 1 of the Mining and Minerals Processing section of the 1990 Kenai Peninsula Borough Coastal Management Program is to provide opportunities to explore, extract and process minerals, sand and gravel resources, while protecting environmental quality and other resource users; and

WHEREAS, a review of the material site ordinance was undertaken in 1998 after a citizen task force comprised of citizens and industry made recommendations; and

WHEREAS, the mayor sponsored Ordinance 98-33 after considering the task force recommendations and supplementing the same; and

WHEREAS, assembly members sponsored a substitute Ordinance 98-33 which was ultimately adopted in 1999; and

WHEREAS, the planning department has been administering Ordinance 98-33, codified as KPB 21.26 as amended, for six years; and

WHEREAS, KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and

WHEREAS, the planning department has recognized that certain provisions of the material site ordinance could be better clarified for the operators, public, and staff; and

WHEREAS, the planning department receives comments expressing concerns about dust, noise, and aesthetics which are minimally addressed by the current code; and

WHEREAS, there are parcels registered as nonconforming prior existing uses which have not been operated as material sites for a number of years; and

WHEREAS, certain additional conditions placed on material site permits would facilitate a reduction in the negative secondary impacts of material sites, e.g. dust, noise, and unsightliness; and

WHEREAS, an assembly subcommittee was formed in 2005 to review the material site code; and

WHEREAS, at its regularly scheduled meeting of July 17, 2006, the Planning Commission recommended enactment of the amended ordinance by unanimous consent.

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

SECTION 1. KPB 21.26 Material Site Permits is hereby repealed and KPB 21.29, Material Site Permits, is adopted as follows:

CHAPTER 21.29. MATERIAL SITE PERMITS

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 10 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 permit.

21.29.020. Material extraction and activities requiring a permit.

- A. Counter permit. A counter permit is required for material extraction which disturbs no more than 2.5 cumulative acres and does not enter the water table. Counter permits are approved by the planning director, and are not subject to the notice requirements or planning commission approval of KPB 21.25.060. A counter permit is valid for a period of 12 months, with a possible 12-month extension.
- B. Conditional land use permit. A conditional land use permit (CLUP) is required for material extraction which disturbs more than 2.5 cumulative acres, or material extraction of any size that enters the water table. A CLUP is required for materials processing. A CLUP is valid for a period of five years. The provisions of KPB Chapter 21.25 are applicable to material site CLUPS and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

- A. In order to obtain a counter permit or CLUP, an applicant shall first complete and submit to the borough planning department a permit application, along with the appropriate fee as established by resolution of the planning commission and approved by the borough assembly. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application shall include the following items:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;
2. Expected life span of the material site;
3. A buffer plan consistent with KPB 21.29.050(A)(2);
4. Reclamation plan consistent with KPB 21.29.060;
5. The depth of excavation;
6. Type of material to be extracted and type of equipment to be used;
7. Any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time;
8. A site plan and field verification prepared by a professional surveyor licensed and registered in the State of Alaska, including the following information:
 - a. location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
 - b. proposed buffers consistent with KPB 21.29.050(A)(2), or alternate buffer plan;
 - c. identification of all encumbrances, including, but not limited to easements;
 - d. points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit.
 - e. anticipated haul routes;
 - f. location and depth of test holes, and depth of groundwater, if encountered;
 - g. location of wells of adjacent property owners within 300 feet of the proposed parcel boundary;

- h. location of any water body on the parcel, including the location of any riparian wetland as determined by “Wetland Mapping and Classification of the Kenai Lowland, Alaska” maps created by the Kenai Watershed Forum;
 - i. surface water protection measures for adjacent properties, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence; provide designs for substantial structures; indicate which structures will remain as permanent features at the conclusion of operations, if any;
 - j. location of any processing areas on parcel, if applicable;
 - k. north arrow;
 - l. the scale to which the site plan is drawn;
 - m. preparer's name, date and seal;
 - n. field verification shall include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious.
- B. In order to aid the planning commission or planning director’s decision-making process, the planning director shall provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

- A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:
- 1. protects against the lowering of water sources serving other properties;
 - 2. protects against physical damage to other properties;
 - 3. minimizes off-site movement of dust;
 - 4. minimizes noise disturbance to other properties;

5. minimizes visual impacts; and
6. provides for alternate post-mining land uses.

21.29.050. Permit conditions.

- A. The following mandatory conditions apply to counter permits and CLUPs issued for sand, gravel or material sites:
1. **Parcel Boundaries.** All boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. Stakes shall be in place at time of application.
 2. **Buffer Zone.** A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning director or planning commission.
 - a. The buffer zone shall provide and retain a basic buffer of:
 - i. 50 feet of undisturbed natural vegetation, or
 - ii. A minimum six-foot earthen berm with at least a 2:1 slope, or
 - iii. A minimum six-foot fence.
 - b. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
 - c. The planning commission or planning director shall designate one or a combination of the above as it deems appropriate. The vegetation and fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission or planning director.
 - d. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or water bodies. Specific findings are required to alter the buffer requirements of KPB 21.29.050(A)(2)(a) in order to minimize negative impacts from surface water diversion. For purposes of this section, surface

water diversion is defined as erosion, flooding, dehydration or draining, or channeling. Not all surface water diversion results in a negative impact.

- e. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.
3. Processing. In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent property at the time.
 4. Water Source Separation.
 - a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.
 - b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation from the seasonal high water table be maintained.
 - c. All CLUPS shall be issued with a condition which requires that a two-foot vertical separation from the seasonal high water table be maintained.
 - d. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.

5. Excavation in the Water Table. Excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:
 - a. certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.
 - b. the installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.
 - c. groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.
 - d. operations shall not breach an aquifer-confining layer.
6. Waterbodies.
 - a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains as defined in KPB 21.06. This regulation shall not apply to man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.
7. Fuel Storage. Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

water diversion is defined as erosion, flooding, dehydration or draining, or channeling. Not all surface water diversion results in a negative impact.

- e. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.
3. Processing. In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent property at the time.
 4. Water Source Separation.
 - a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.
 - b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation from the seasonal high water table be maintained.
 - c. All CLUPS shall be issued with a condition which requires that a two-foot vertical separation from the seasonal high water table be maintained.
 - d. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.

5. Excavation in the Water Table. Excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:
 - a. certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.
 - b. the installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.
 - c. groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.
 - d. operations shall not breach an aquifer-confining layer.
6. Waterbodies.
 - a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains as defined in KPB 21.06. This regulation shall not apply to man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.
7. Fuel Storage. Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

8. Roads. Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
9. Subdivision. Any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit. The planning director may issue a written exemption from the amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
10. Dust control. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
11. Hours of Operation. Rock crushing equipment shall not be operated between 10 p.m. and 6 a.m.
12. Reclamation.
 - a. Reclamation shall be consistent with the reclamation plan approved by the planning commission or planning director as appropriate in accord with KPB 21.29.060.
 - b. As a condition of issuing the permit, the applicant shall submit a reclamation plan and post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
13. Other permits. Permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives. Any violation of these regulations or permits

reported to or observed by borough personnel will be forwarded to the appropriate agency for enforcement.

14. Voluntary permit conditions. Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission for CLUPs or the planning director for counter permits. Such conditions must be consistent with the standards set forth in KPB 21.29.040(A). Planning commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. Voluntary permit conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in voluntary permit conditions may be proposed at permit renewal or amendment.
15. Signage. For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

21.29.060. Reclamation plan.

- A. All material site permit applications require a reclamation plan.
- B. The applicant shall revegetate with a non-invasive plant species and reclaim all disturbed land upon exhausting the material on-site, or within a pre-determined time period for long-term activities, so as to leave the land in a stable condition. Reclamation must occur for all exhausted areas of the site exceeding five acres before a five-year renewal permit is issued, unless otherwise required by the planning commission. If the material site is one acre or less in size and has been granted a CLUP due to excavation in the water table, reclamation must be performed as specified by the planning commission or planning director in the conditional use or counter permit.
- C. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every reclamation plan.
 1. Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

2. The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.
 3. Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.
 4. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.
 5. Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
 6. Ponding may be used as a reclamation method as approved by the planning commission.
- D. The plan shall describe the total acreage to be reclaimed each year, a list of equipment (type and quantity) to be used in reclamation, and a time schedule of reclamation measures.

21.29.070. Permit extension and revocation.

- A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.
- B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.

- C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.
- D. A modification application shall be processed pursuant to KPB 21.29.030-050 with public notice given as provided by KPB 21.25.060 when operators request modification of their permit conditions based on changes in operations set forth in the modification application.
- E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KPB 21.29.070(D) will be the same as an original permit application.
- F. Failure to submit a request for extension will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.
- G. Permits may be revoked pursuant to KPB 21.25.080.

21.29.080. Permit termination.

When a permit expires, is revoked, or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to termination. When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.090. Permit modifications.

If a permittee revises or intends to revise operations (at a time other than permit extension) so that they are no longer consistent with the original application, a permit modification is required. The planning director shall determine whether the revision to operations requires a modification. Permit modification shall be processed in the same manner as original permits.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents.

21.29.110. Violations.

- A. Violations of this chapter shall be governed by KPB 21.24.
- B. In addition to the remedies provided in KPB 21.24, the planning director may require bonding in a form and amount adequate to protect the borough's interests for an owner or operator who has been cited for three violations of KPB 21.24, 21.25, and 21.29 within a three-year period. The violations need not be committed at the same material site. Failure to provide requested bonding may result in permit revocation proceedings.

21.29.120. Prior existing uses.

- A. Material sites are not held to the standards and conditions of a CLUP if a prior existing use (PEU) determination was granted for the parcel in accordance with KPB 21.29.120(B). To qualify as a PEU, a parcel's use as a material site must have commenced or have been operated after May 21, 1986, and prior to May 21, 1996, provided that the subject use continues in the same location. In no event shall a prior existing use be expanded beyond the smaller of the lot, block, or tract lines as they existed on May 21, 1996. If a parcel is further subdivided after May 21, 1996, the pre-existing use may not be expanded to any lot, tract, or parcel where extraction had not occurred before or on February 16, 1999. If a parcel is subdivided where extraction has already occurred, the prior existing use is considered abandoned, and a CLUP must be obtained for each parcel intended for further material site operations. The parcel owner may overcome this presumption of abandonment by showing that the subdivision is not inconsistent with material site operation. If a parcel subject to a prior existing use is conveyed, the prior existing use survives the conveyance.
- B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.
- C. Any prior existing use that has not operated as a material site between May 21, 1996, and May 21, 2011, is considered abandoned and must thereafter comply with the permit requirements of this chapter. The planning director shall determine whether a prior existing use has been abandoned. After giving notice to the parcel owner that a PEU is considered abandoned, a parcel owner may protest the termination of the PEU by filing written notice with the planning director on a form provided by the planning department. When a protest by a parcel owner is filed, notice and an opportunity to make written comments regarding prior existing use status shall be issued to owners of property within a one-half mile radius of the parcel boundaries of the site. The owner of the parcel subject to the prior existing use may submit written information, and the planning director may gather and consider any information relevant to whether a material site has operated. The planning director may conduct a hearing if he or she

believes it would assist the decision-making process. The planning director shall issue a written determination which shall be distributed to all persons making written comments. The planning director's decision regarding termination of the prior existing use status may be appealed to the planning commission within 15 days of the date of the notice of decision.

SECTION 2. That KPB 21.24.030(C) is hereby amended as follows:

- C. Fine Schedule. The following fines are the scheduled fines for violations. The scheduled fine for an offense may not be judicially reduced.

<i>Code Chapter Section Citation</i>	<i>Chapter / Section Title</i>	<i>Scheduled Fine</i>
KPB 21.06.040	Failure to obtain a development permit	\$75.00
KPB 21.09.060	Violation of nonconforming use/structure provisions	\$50.00
KPB 21.09.070	Prohibited use	\$100.00
KPB 21.09.080	Violation of development standards	\$50.00
KPB 21.09.090(A)	Violation of home occupation standards	\$100.00
KPB 21.09.090(B)	Sign size violation	\$50.00
KPB 21.09.090(C)	Prohibited home occupations	\$100.00
KPB 21.14.030	Failure to obtain a mobile home park permit	\$75.00
KPB 21.18.050(A)	Failure to obtain fuel storage/logging permit	\$75.00
KPB 21.18.060	Prohibited activity in habitat protection area	\$100.00
KPB 21.18.072	Failure to obtain commercial activity permit	\$75.00
KPB 21.18.080	Failure to obtain a conditional use permit	\$75.00
KPB 21.18.090(D)	Failure to obtain expansion/enlargement conditional use permit	\$100.00
KPB 21.24.050	Violation of or removal of an enforcement order	\$100.00
KPB 21.25.040	Failure to obtain land use permit	[\$75.00] \$300.00
<u>KPB 21.29.050</u>	<u>Violation of conditions</u>	<u>\$300.00</u>
KPB 21.42.060	Violation of nonconforming use/structure provisions	[\$75.00] \$300.00
KPB 21.42.090	Prohibited use	\$100.00
KPB 21.42.100	Violation of development standards	\$50.00
KPB 21.42.110(D)	Failure to obtain a home occupation permit	\$75.00
KPB 21.44.110	Violation of nonconforming use standards	\$75.00
KPB 21.44.130	Failure to obtain a home occupation permit	\$75.00
KPB 21.44.160(A)(B)	Prohibited use	\$100.00
KPB 21.44.160(C)	Violation of development standards	\$50.00
KPB 21.44.170(A)(B)	Prohibited use	\$100.00
KPB 21.44.170(C)	Violation of development standards	\$50.00
KPB 21.44.180(A)(B)	Prohibited use	\$100.00
KPB 21.44.180(C)	Violation of development standards	\$50.00
KPB 21.44.190(A)(B)	Prohibited use	\$100.00
KPB 21.44.190(C)	Violation of development standards	\$50.00

KPB 21.44.200(A)	Prohibited use	\$100.00
KPB 21.44.200(B)	Violation of development standards	\$50.00
KPB 21.44.210(B)(C)	Prohibited use	\$100.00
KPB 21.44.210(D)	Violation of development standards	\$50.00

SECTION 3. That KPB 21.24.070 is hereby amended as follows:

21.24.070. Civil fine.

The Borough code compliance officer may assess a [~~\$100.00~~] \$300.00 civil fine for each violation of this chapter. Notice of a fine shall be served personally or by certified mail on the property owner, lessee, operator, or occupant of the parcel upon which the violation occurs. The fine may be appealed to the Planning Commission pursuant to the terms of KPB 21.20. Each day a violation occurs is a separate violation. Citations for fines may be included in an enforcement order. Appeals from the planning commission's determination shall not be taken to the board of adjustment, but shall proceed to the superior court pursuant to the Alaska Rules of Appellate Procedure, Part 6.

SECTION 4. KPB 21.25.030, Definitions, is amended to add the following definitions in alphabetical order:

Abandon means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

Commercial means any [USE] provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services[, AND INCLUDING ALL ACTIVITIES DIRECTLY SUBSIDIARY].

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

[ON-SITE USE MEANS MATERIAL USED ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL IT WAS EXTRACTED FROM, OR WHEN

DEVELOPMENT OF THE PARCEL REQUIRES DISPOSAL OF THE MATERIAL OFF-SITE THROUGH BARTERING.]

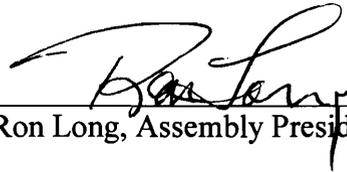
Surface Water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which stormwater runoff is directed.

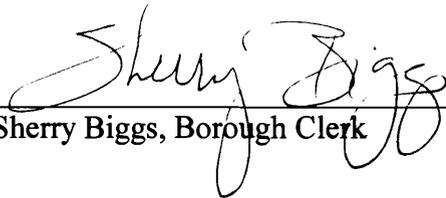
SECTION 5. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF AUGUST, 2006.

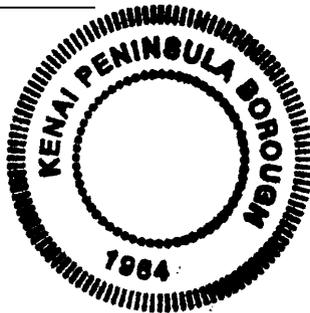


Ron Long, Assembly President

ATTEST:



Sherry Biggs, Borough Clerk



- Yes: Chay, Fischer, Germano, Gilman, Martin, Sprague, Superman, Long
- No: None
- Absent: None
- Abstained: Merkes

Introduced by: Mayor
Substitute Introduced: 01/16/18
Resolution 2018-004 See Original for Prior History
(Mayor)
Action: Adopted
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2018-004
(MAYOR) SUBSTITUTE**

A RESOLUTION ESTABLISHING A MATERIAL SITE WORK GROUP

WHEREAS, KPB 21.25.040(A)(2) requires a permit for the commencement of commercial sand, gravel or material sites within the rural district of the Kenai Peninsula Borough; and

WHEREAS, KPB 21.29 provides for a permit process to extract material from the ground; and

WHEREAS, with the exception of one minor change relating to floodplain permits, the material site code was last updated in 2006; and

WHEREAS, the assembly, administration, planning department and the planning commission have recognized that certain provisions of the material site ordinance can be clarified for the operators, public, and staff; and;

WHEREAS, the public has expressed many concerns about dust, noise, water, and negative secondary impacts of material sites; and

WHEREAS, it is the intent of the assembly and administration to involve the public and industry in a collaborative discussion designed to incorporate possible changes to the material site code;

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

SECTION 1. That a work group is established for the purpose of examining the current material site permit process and potentially recommending amendments to the material site code provisions.

SECTION 2. That the work group shall consist of at least two assembly members; two planning commissioners; two members of the public; and, two material site industry members. The group shall elect from among its members a chair and a vice-chair who may serve in the absence of the chair. The two members of the assembly shall be appointed by the assembly. The remaining members shall be appointed by the mayor.

SECTION 3. That each meeting time and place shall be advertised, open to the public and subject to the Open Meetings Act.

SECTION 4. The material site 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 5. The work group shall provide a final report to the planning commission, administration and assembly by June 5, 2018, and then discontinue unless extended by the assembly.

SECTION 6. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JANUARY, 2018.

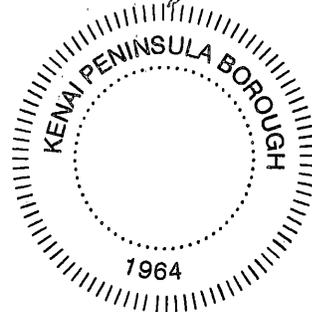


Wayne H. Ogle, Assembly President

ATTEST:



John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Dunne, Fischer, Hibbert, Smalley, Ogle
No: None
Absent: Cooper

Introduced by: Ogle
Date: 05/15/18
Action: Adopted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2018-025**

**A RESOLUTION EXTENDING THE DEADLINE FOR SUBMISSION OF THE
MATERIAL SITE WORKING GROUP'S FINAL REPORT**

WHEREAS, a material site working group ("MSWG") was formed by Resolution 2018-004 on January 16, 2018; and

WHEREAS, a final report is due to the administration, planning commission and assembly by June 5, 2018; and

WHEREAS, the MSWG needs additional time to consider proposed revisions to the material site code, explore additional revisions, and hear and consider public testimony regarding the same; and

WHEREAS, the summer months are the most active for material site operators who may not have time to be involved in the public process during that time frame; and

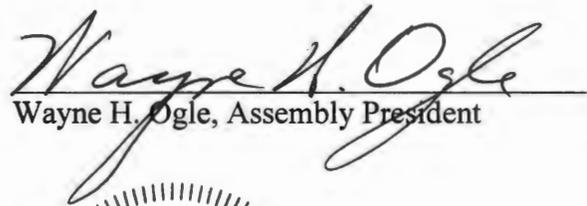
WHEREAS, the planning commission considered this resolution at its May 14, 2018 meeting and recommended approval by majority consent;

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

SECTION 1. The deadline for the final report of the MSWG is extended to April 30, 2019. Meetings of the MSWG are suspended from June 1, 2018 through September 30, 2018.

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

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
15TH DAY OF MAY, 2018.**


Wayne H. Ogle, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle
No: None
Absent: None

Introduced by: Bjorkman, Elam
Date: 01/04/22
Hearing: 01/18/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2022-004**

**A RESOLUTION SUPPORTING THE CONSTITUTIONAL RIGHT OF ALASKA
GRAND JURIES TO INVESTIGATE AND MAKE RECOMMENDATIONS ON PUBLIC
WELFARE AND SAFETY CONCERNS**

WHEREAS, Article 1, Section 8 of the Constitution of the State of Alaska states, “The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended”; and

WHEREAS, public welfare and safety is protected by the rule of law and equal protection under the law. These tenets are keystones in self-governing societies and essential to public accountability, transparency and trust in our system of justice; and

WHEREAS, Alaska Statute 12.40.030 – section titled “Duty of inquiry into crimes and general powers” – provides, “The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety”; and

WHEREAS, Alaska Statute 12.40.040 – section titled “Juror to disclose knowledge of crime” – provides, “If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it”; and

WHEREAS, the Alaska Grand Jury Handbook, page 26, states that grand jury investigations can be initiated “by members of the grand jury” and that we believe public requests for a grand jury investigation should be given to the grand jury; and

WHEREAS, constituents allege that grand juries in Kenai and Anchorage have been denied their constitutional right and duty to investigate and recommend on public welfare and safety concerns; and

WHEREAS, over 500 signatures on a public petition, asking for a grand jury investigation into serious public welfare and safety concerns, has not been given to the grand jury; and

WHEREAS, the oath of office that all elected members of this assembly take, require that we protect and defend the Constitution of the State of Alaska; and

WHEREAS, the alleged denial of constitutional rights guaranteed by the Constitution of the State of Alaska is of great concern to this elected body of Alaskan citizens;

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

SECTION 1. That the assembly supports the need for a mechanism for grand juries to investigate and make recommendations concerning the public welfare or safety pursuant to Article 1, Section 8 of the Constitution of the State of Alaska. The assembly requests the legislature enact SB 15 of the 31st Legislature, introduced by Senator Micciche March 2019, or enact different legislation that provides an adequate mechanism under state law for the public to trigger grand jury investigations.

SECTION 2. That the assembly upholds the federal and state constitutional principles of the rule of law and equal protection under the law. These principles are the bedrocks of self-governing societies and they are essential to building and maintaining accountability, transparency, and trust in our system of justice.

SECTION 3. That a copy of this resolution shall be provided to the Governor of the State of Alaska, the Alaska Legislature, the Alaska Attorney General, the Kenai and Anchorage District Attorneys, the presiding judges in both Kenai and Anchorage, and to the Alaska Supreme Court.

SECTION 4. That this resolution is effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF JANUARY, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Jess Bjorkman, Assembly Member 
Bill Elam, Assembly Member *BE*

DATE: December 21, 2021

RE: Resolution 2022-004, Supporting the Constitutional Right of Alaska Grand Juries to Investigate and Make Recommendations on Public Welfare and Safety Concerns (Bjorkman, Elam)

Whether accused or complainant, when Alaskans appear in our courtrooms around the state they deserve fair and impartial justice. In recent years concerns have been brought forward by Kenai Peninsula Borough residents about our court system. We believe that this resolution provides a path to improve the accountability and transparency of the judicial system and its officers.

Without judgment as to the merits of these complaints, we believe the remedy to situations like these is a constitutional one. As stated in Article 1 Sec 8 of the Alaska Constitution: "The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended". In the extraordinary instance in which there are meritorious claims made against officers of the court, we believe grand juries must be allowed to impartially look at the evidence and make a recommendation as to next steps.

This resolution encourages the State of Alaska to implement a constitutionally compliant system of accountability, transparency, and trust in our judicial system. This system places accountability in the hands of the law and not one person at one moment in time.

Thank you for your consideration.

From: Robert Nicholai <agyeakn@gmail.com>
Sent: Sunday, January 2, 2022 11:24 PM
To: G_Notify_AssemblyClerk; Alapak Moore
Subject: <EXTERNAL-SENDER>Fwd: Meant to be Federally Recognized Tribes
Attachments: 20211226_122454.jpg

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska,. Agiyak aka Robert Nicholson Jr from Ingritsauk aka Twin Hills Alaska

----- Forwarded message -----

From: Robert Nicholai <agyeakn@gmail.com>
Date: Sun, Jan 2, 2022, 12:02 PM
Subject: Meant to be Federally Recognized Tribes
To: Alapak Moore <alapak@hotmail.com>

THIS IS HOW FEDERALLY RECOGNIZE TRIBES MEANT TO BE "BETRAY ELDERS SIGNATURES"

Some Indigenous Yup'ik Peoples and others who do not really know, understand, care, are misinformed and misguided about the fundamental, inalienable Indigenous Human Rights and the Allodial Titles to lands, Waters and Resources are speaking out on these topics and are encouraging other Yup'iks not to get involved, support or embrace the work of the KCE Members Yup'ik Peoples. These individuals, whether they are doing it knowingly or purposely have become federal and state agents who are maintaining and furthering the violations of the fundamental, inalienable Indigenous Yup'ik Human Rights which began with the 1867 Treaty of Cessions Fraud and Lies. They are working to prevent and stop the Indigenous Yup'ik Peoples from exercising their Inherent Yup'ik Rights to examine, review and decide, officially and legally whether to consent to or reject the actions and decisions of the federal and state governments. They are using their misguided beliefs and fears to implant and impose the same realities to other Indigenous Yup'ik Peoples. They are using local and statewide Native organizations and federal sub-governments and funds to inform and organize their fights to stop the Indigenous Yup'ik Peoples and the Traditional Yupiaq Governments from taking back the control of their Rights, Villages, Lands, Waters and Resources.

The Traditional Yupiaq Governments and the Indigenous Yup'ik Peoples can not have anyone else speak, represent and make decisions for them on the fundamental, inalienable Inherent Yup'ik Human Rights, the Traditional Yupiaq Governments and our Allodial Titles to our Lands, Waters and Resources. Because this is the most important work that the Indigenous Yup'ik Peoples and their Villages have ever worked on since the foreigners from Russia and European came the Traditional Yupiaq Governments and the Indigenous Yup'ik Peoples must work together in a way that our Ancestors successfully did by using the Kasgit Form of Governance. Using any other way or forms would instantly compromise and diminish our Inherent Sovereign Rights and Powers without even giving our Indigenous Yup'ik Peoples the opportunity to decide, officially and legally, whether to utilize, what was passed on to them by our ancestors.

From: Walter Kuku <walterkuku1957@gmail.com>
Sent: Sunday, January 2, 2022 10:40 PM
To: G_Notify_AssemblyClerk
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.

I support the January 4 2022 Resolution for a grand jury to investigate government corruption in Alaska

Tsagak walter kuku
Ingritsuak ala Twin Hills

From: Robert Nicholai <agyeakn@gmail.com>
Sent: Sunday, January 2, 2022 10:16 PM
To: Alapak Moore; G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Re: Meant to be Federally Recognized Tribes

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska

On Sun, Jan 2, 2022, 4:22 PM Alapak Moore <alapak@hotmail.com> wrote:

Can you pls email Rose
Grassroots local AK effort. Please help TODAY by
copy & paste and email to:

assemblyclerk@kpb.us

"I support the January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Name
Where from

Tell tssgak n others
Sent from my Galaxy

----- Original message -----

From: Robert Nicholai <agyeakn@gmail.com>
Date: 1/2/22 11:56 AM (GMT-09:00)
To: Alapak Moore <alapak@hotmail.com>
Subject: Meant to be Federally Recognized Tribes

From: colleen.bagot <colleen.bagot@yahoo.com>
Sent: Sunday, January 2, 2022 10:03 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Notice

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 Yahoo Mail for iPhone](#)

On Sunday, January 2, 2022, 3:09 PM, MAILER-DAEMON@yahoo.com wrote:

Sorry, we were unable to deliver your message to the following address.

<assemblyclerk@kps.us>:

Unable to deliver message after multiple retries, giving up.

----- Forwarded message -----

I support the 1-4-22 Resolution to have a grand jury investigate the corruption of State of Alaska governments

Colleen Ferris-Bagot
Palmer, Alaska

[Sent from Yahoo Mail for iPhone](#)

From: Patti Moss <pattimoss13@gmail.com>
Sent: Sunday, January 2, 2022 9:46 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Re: Government corruption

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska.

Patti Pyles
Fairbanks, Alaska

From: Rachel Pugh <shebirth@gmail.com>
Sent: Sunday, January 2, 2022 5:36 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Support the resolution to investigate government corruption in Alaska

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Rachel Pugh, Eagle River, AK
(907) 691-5991

From: Alapak Moore <alapak@hotmail.com>
Sent: Sunday, January 2, 2022 4:21 PM
To: G_Notify_AssemblyClerk
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.

"I support the January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Eleanor R moore
Manokotak. Ak

Sent from my Galaxy

From: Donald Thompson <dc.thom@hotmail.com>
Sent: Sunday, January 2, 2022 3:36 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Corruption

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Donald Thompson
Fairbanks AK 99712

Get [Outlook for Android](#)

From: Ginger McKenzie <ginstock@yahoo.com>
Sent: Sunday, January 2, 2022 3:35 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Govt corruption investigation

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 absolutely support the January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska.

Ginger McKenzie
Fairbanks

Sent from my iPhone

From: Rachael Stark <r.stark@cmiak.com>
Sent: Sunday, January 2, 2022 3:14 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER> Investigate government corruption in Alaska

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska.

Rachael Stark
Fairbanks Alaska

Sent from my iPhone

The content of this email is confidential and intended for the recipient specified in message. Please do not share this message without the consent of the sender.

From: leifeilie <leifeilie@gmail.com>
Sent: Sunday, January 2, 2022 2:49 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Local AK Effort

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Jamie Bassett
1217 Wild Rose Ave
Fairbanks, Alaska 99701

Sent via the Samsung Galaxy S21 Ultra 5G, an AT&T 5G smartphone

From: Tiffany Damota <t.damotasupplee@gmail.com>
Sent: Sunday, January 2, 2022 2:35 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>I support The resolution!

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 want an investigation NOW.

"I support the January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Tiffany Supplee
From Fairbanks

Sent from my iPhone

From: Roxanne Lester <drlester5@hotmail.com>
Sent: Sunday, January 2, 2022 2:21 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Grand Jury Investigation

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska.

Roxanne Lester
Fairbanks, Alaska

Sent from my Verizon, Samsung Galaxy smartphone

From: Kim Elgee <kimelgee9@gmail.com>
Sent: Sunday, January 2, 2022 1:57 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Grand jury investigation

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Name. Kim Elgee

Where from. Wasilla Alaska
P.O. Box 872242 Wasilla Alaska 99687
907-521-0229

From: eli Jackson <elijackson44@yahoo.com>
Sent: Sunday, January 2, 2022 1:27 PM
To: G_Notify_AssemblyClerk
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.

Henryl support the January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Ben and Daisy Henry, Kiana, Alaska

From: bruce walden <brucewalden1962@yahoo.com>
Sent: Friday, December 31, 2021 12:37 PM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Alaskan Governmental Corruption Investigation

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 Members,

It is time to expose the corruption in Alaskan politics. It has affected us all and has ruined/altered the lives of many. I wholeheartedly support the January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska. The time is now, not later.

Sincerest Regards,

Bruce Walden

Palmer, Alaska

Blankenship, Johni

From: Tammy Fairbanks <fairbanks.t86@gmail.com>
Sent: Monday, January 3, 2022 9:41 PM
To: G_Notify_AssemblyClerk
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.

"I support the January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska." Tammy Fairbanks Anchorage Alaska

Blankenship, Johni

From: Holly Sheldon Lee <hollysheldonlee5g@gmail.com>
Sent: Monday, January 3, 2022 11:38 PM
To: G_Notify_AssemblyClerk
Cc: info@sheldonairservice.com
Subject: <EXTERNAL-SENDER>Support for Resolution Jan 4, 2022

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 the undersigned support the January 4, 2022 Kenai Peninsula Borough Assembly Resolution for a Grand Jury to investigate government corruption in Alaska. This is a Statewide issue and we appreciate your local effort.

Jesse P Szmyd, Fairbanks • Alaska

Tammy Tebbits, Noorvik • Alaska

Holly Sheldon Lee, Talkeetna • Alaska

Blankenship, Johni

From: Aileen Cotter <acotter1954@yahoo.com>
Sent: Tuesday, January 4, 2022 8:34 AM
To: G_Notify_AssemblyClerk
Subject: <EXTERNAL-SENDER>Investigation

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 January 4, 2022 Resolution for a Grand Jury to investigate government corruption in Alaska."

Ella Cotter
North Pole, Alaska

Sent from my iPhone

Introduced by: Mayor
Date: 01/18/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2022-006**

**A RESOLUTION ESTABLISHING KENAI PENINSULA BOROUGH 2021 STATE
CAPITAL PROJECT PRIORITIES FOR PUBLIC SAFETY**

WHEREAS, the 32nd Legislature, Second Regular Session, will consider adoption of the State’s operating and capital budget during the session convening January 18, 2022; and

WHEREAS, the State of Alaska will receive significant federal funding through the Infrastructure Investment and Jobs Act; and

WHEREAS, in response to inquiries regarding the Kenai Peninsula Borough’s capital infrastructure needs, the Borough Administration has identified projects that align Borough, State and Federal objectives under the Infrastructure Investment and Jobs Act; and

WHEREAS, the Assembly finds it is in the best interests of the Borough to approve the infrastructure capital projects for submission to the State for funding for a total request amount of \$40,450,000;

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

SECTION 1. That the capital projects in the Kenai Peninsula Borough, as shown in the documents titled “Kenai Peninsula Borough Infrastructure Project Request,” on file in the Clerk’s Office, are hereby adopted.

SECTION 2. This resolution shall become effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 18TH DAY OF JANUARY, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Community & Fiscal Projects

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*

FROM: Rachel Chaffee, Community & Fiscal Projects Manager *RC*
John Hedges, Purchasing and Contracting Director *JH*
Ben Hanson, IT Director *BH*

DATE: January 6, 2022

RE: Resolution 2022-006. Establishing Kenai Peninsula Borough 2021 State Capital Project Priorities for Public Safety (Mayor)

The State of Alaska is receiving funding through the Infrastructure, Investment and Jobs Act of 2021. In 2021, the Kenai Peninsula Borough identified key infrastructure projects that fall in line with this funding. In response to inquiries regarding the Kenai Peninsula Borough's capital infrastructure needs, the Borough Administration has identified a number of projects which align Borough, State and Federal objectives. The following infrastructure projects, if funded, over the next five years, will help to ensure the safety and prosperity of the citizens of the Kenai Peninsula Borough:

Bridges and Roads

Total Replacement Bridges

Running Water Ave, Chakok Rd, Henry Creek,
Dorothy Dr., Bruno Rd, Grouse Creek, Lost Creek,
Forest Dr, Spruce Creek, Nautical Rd, Old Exit Glacier #2, Tinker Ln.

Total Estimated Cost: \$9,750,000.00

Existing Paved Roads

FY25, FY26 Capital Improvement Projects

Tier 1 Definition: Unfunded, impassable at times and/or in extreme disrepair.

Tier 2 Definition: Unfunded, Excessive Maintenance required in order to maintain use. Does not meet Road Service Area

Page -2-
January 6, 2022
Re: R2022- 006

standards.
Tier 3 Definition: Unfunded and reaching end of estimated useful life of pavement or surfacing within the next 5 years.

Priority 1: 13,650 linear feet of Category 4 paved Road, Tier 1 classified.
Priority 2: 40,000 linear feet of Category 4 paved roads, Tier 2 classified.

Total Estimated Cost \$2,200,000.00

Priority 3: 65,165 linear feet of Category 4 paved roads, Tier 3 classified.

Total Estimated Cost \$8,000,000.00

Cost of 5 year Capital outlook other than listed above, Service Area funded.

Borough Wide FY23 Capital Improvement project priorities (included other pavement projects).

Total Estimated Cost \$ 2.0 million

Borough Wide FY24 Capital Improvement project priorities (included other pavement projects).

Total Estimated Cost \$ 2.0 million

Borough Wide FY25 Capital Improvement project priorities (included other pavement projects).

Total Estimated Cost \$ 2.0 million

Borough Wide FY26 Capital Improvement project priorities (included other pavement projects).

Total Estimated Cost \$ 2.0 million

Total \$8,000,000

Total fund needs for Roads and Bridges: \$27,950,000.00

Page -3-
January 6, 2022
Re: R2022- 006

Broadband Infrastructure

Communications Needs Study-KPB Area Specific

Facilitate a communications study which would establish a long term roadmap for broadband development within the Kenai Peninsula Borough and help guide placement of broadband expansion projects.

Total Estimated Cost \$ 500 Thousand

Broadband Expansion

Communications infrastructure construction of up to 20 locations throughout the Borough expanding connectivity throughout the borough. This project would take into account any changes to locations recommended in the needs study above, but would start as funding is available in areas already known.

Total Estimated Cost \$ 12.0 million

Total fund needs for Broadband Infrastructure: \$12,500,000.00

Total fund needs for Infrastructure : \$40,450,000.000



Kenai Peninsula Borough

Infrastructure Projects Request

CAPITAL PROJECT: Broadband Expansion

Funding Recipient:	Kenai Peninsula Borough		
Project Name:	Road Service Area – Bridges and “Fish Pass” culverts	Tier:	

Detailed Project Description and Justification:

The Kenai Peninsula Borough is seeking \$9,750,000 to facilitate the replacement of up to twelve Road Service Area Bridges.

Background

The Kenai Peninsula Borough Road Service Area provides for year-round maintenance of over 650 miles of Roads in the Kenai Peninsula Borough. Included in this road infrastructure are 16 stream and river crossings. Most crossings are supported by aged bridge and culvert conditions that were adopted by the Borough when the service area was formed in 1982 and later consolidated in 1992.

Justification

The stream and river crossings listed below area supported by ether aged and/or inadequate bridges that provide access to federal, state, municipal, and private lands that support, among other uses, residential housing, businesses, resource access, and recreational activities. These lands are populated by numerous communities and rural housing properties owned by the taxpayers of the Kenai Peninsula Borough. Safe and dependable access across these waterways is critical in maintaining the current quality of life standards and economic prosperity of the Kenai Peninsula Borough.

In addition to Road Service Area needs, all of the listed bridges cross anadromous streams and rivers that support all five species of pacific salmon, among other anadromous species of fish. Improvements too many of these water crossings will provide improvements to and/or protection of fish passage, that is critical to the health of these fisheries.

Road Service Area Priority Bridges of concern;

Running Water Ave, Chakok Rd, Henry Creek, Dorothy Dr., Bruno Rd, Grouse Creek, Lost Creek, Forest Dr, Spruce Creek, Nautical Rd, Old Exit Glacier #2, Tinker Ln

Methodology

Contingent on the amount of funding received the Kenai Peninsula Borough Road Service Area will immediately initiation action to replace up to the twelve bridges listed. Engineering solutions such as fish pass culverts or Beam type bridges will be installed in place of the existing and dilapidated infrastructure. The size and type of the infrastructure to be installed will be based on the site conditions and the size of the waterway. Consideration to area growth and the longevity of the infrastructure will also be weighed in the decision. As part of the project scope river and stream bank stabilization/rehabilitation, best management practices, will be applied within and adjacent to the project foot print to protect the asset and to limit impacts to the waterway associated with the crossing.

Funding Requested:	\$	9,750,000.00	Election District:	Senate:	
Total Project Cost:	\$	9,750,000.00		House:	
Local Match (if any):	\$				

CONTACT INFORMATION

Name, Title:	John Hedges-Purchasing and Contracting Director	Phone:	907-714-2260
Address:	144 North Binkley Street	Fax:	907-714-2037
City, State Zip:	Soldotna, Alaska 99669	E-mail:	

Funding Plan:

Total Project Cost:	\$ 9,750,000	This should be the most accurate estimate of how much this project will cost.
Funding Secured:	\$ 0	How much of the project costs are in hand, secured, guaranteed, appropriated, etc. You may include in-kind contributions and volunteer labor. Do not include hypothetical funds.
Funding Requested:	\$ 9,750,000	How much is being requested from this year's capital budget.
Pending Requests	\$ 0	Amount requested from other sources not yet received.
Project Deficit:	\$ 0	Additional funding needed to complete the project.

Please list Secured Funding Sources and Amounts:

0.00

If this project is funded this year, will you be requesting state funding again? Yes: No:

Please describe the project time-line and when the expenditures will occur:

The project can commence once funding is secured and is projected to extend over the next five fiscal years.

Has this project gone through a public review process at the local level? Yes: No:
 Is it a community or service area priority demonstrated by resolution or other official action? Yes: No:

If a community or service area meeting was conducted, how was it advertised? When and where was it held? Who attended?

Who will own the project or facility? Kenai Peninsula Borough

Entity responsible for providing ongoing operation and maintenance of this project? Kenai Peninsula Borough

How will operations and maintenance be funded after the project is complete?

The Kenai Peninsula Borough has a mill levy of 1.40 mills set which is collected for borough wide area maintenance for the roads and bridges in its service areas.

Please select a project type (chosed only one):

- Planning and Research
- Maintenance and Repairs
- Remodel, Reconstruction and Upgrades
- New Construction and Land Acquisition
- Equipment and Materials
- Information System and Technology
- Other:

Recipients Federal Tax ID:



Kenai Peninsula Borough

Infrastructure Projects Request

CAPITAL PROJECT: Broadband Expansion

Funding Recipient:	Kenai Peninsula Borough		
Project Name:	Road Service Area – Existing Paved Roads	Tier:	

Detailed Project Description and Justification:

The Kenai Peninsula Borough is seeking \$10,200,000 to rehabilitate the Tier 1, Tier 2 and Tier 3 paved roads in The Road Service Area

Background

The Kenai Peninsula Borough Road Service Area provides for year-round maintenance of over 650 miles of Roads in the Kenai Peninsula Borough. Roughly, 2% of the roads in the system are paved surfaces. The majority of the roads in the system were adopted by the Kenai Peninsula Borough from the State of Alaska. The remaining roads were either paved by the property owners through a special tax assessment district or were paved by developers prior to adoption into the service area.

The Kenai Peninsula Road Service area prioritizes its capital improvement projects through the use of a Tier list that is generated by the department through their operational assessment. The list is then evaluated by the Road Service Area Board and then a recommendation for yearly priority projects is made. A 5-year capital plan is maintained through this process. This list is then sent to the Borough Administration and the Assembly for inclusion in the annual budget.

Justification

The Kenai Peninsula Borough Road Service Area is committed to capital improvement of its road system and appropriates approximately \$2,300,000.00 in RSA funds each fiscal year to address road deficiencies. Approximately 10 miles of Tier 1 one Tier 2 priority projects are paved roads in need of immediate rehabilitation. The total estimated cost to grind and replace the pavement surfaces on these roadways in estimated at \$2,200,000.00.

In addition to the highest priority paved roads listed above there is a remaining, 13 miles of paved roadway that has or is close to reaching the end of its predictable useful life. Maintenance on these surfaces has and will steadily increase over the next 5 years and will most likely lead to poor and unsafe travel conditions. The total estimated cost of rehabilitation to these roads is estimated at \$8,000,000.00

Methodology

Should funding be made available the Kenai Peninsula Borough would immediately launch a pavement rehabilitation project, using a grind and pave methodology, applied to the top priority roads as identified in the tier list. The project will progress as funding is available to all other aging paved surfaces, based on priority, until the approximately 23 miles of paved road on the peninsula are resurfaced with a paved surface that would have an estimated 25-year useful life.

Funding Requested:	\$	10,200,000.00	Election District:	Senate:	
Total Project Cost:	\$	10,200,000.00		House:	
Local Match (if any):	\$				

CONTACT INFORMATION

Name, Title:	John Hedges-Purchasing and Contracting Director	Phone:	907-714-2260
Address:	144 North Binkley Street	Fax:	907-714-2037
City, State Zip:	Soldotna, Alaska 99669	E-mail:	

Funding Plan:

Total Project Cost:	\$ 10,200,000	This should be the most accurate estimate of how much this project will cost.
Funding Secured:	\$ 0	How much of the project costs are in hand, secured, guaranteed, appropriated, etc. You may include in-kind contributions and volunteer labor. Do not include hypothetical funds.
Funding Requested:	\$ 10,200,000	How much is being requested from this year's capital budget.
Pending Requests	\$ 0	Amount requested from other sources not yet received.
Project Deficit:	\$ 0	Additional funding needed to complete the project.

Please list Secured Funding Sources and Amounts:

0.00

If this project is funded this year, will you be requesting state funding again? Yes: No:

Please describe the project time-line and when the expenditures will occur:

The project can commence once funding is secured and is projected to extend over the next five fiscal years.

Has this project gone through a public review process at the local level? Yes: No:
 Is it a community or service area priority demonstrated by resolution or other official action? Yes: No:

If a community or service area meeting was conducted, how was it advertised? When and where was it held? Who attended?

Who will own the project or facility? Kenai Peninsula Borough

Entity responsible for providing ongoing operation and maintenance of this project? Kenai Peninsula Borough

How will operations and maintenance be funded after the project is complete?

The Kenai Peninsula Borough has a mill levy of 1.40 mills set which is collected for borough wide area maintenance for the roads and bridges in its service areas.

Please select a project type (chosed only one):

- Planning and Research
- Maintenance and Repairs
- Remodel, Reconstruction and Upgrades
- New Construction and Land Acquisition
- Equipment and Materials
- Information System and Technology
- Other:

Recipients Federal Tax ID:



Kenai Peninsula Borough

Infrastructure Projects Request

CAPITAL PROJECT: Broadband Expansion

Funding Recipient: Kenai Peninsula Borough

Project Name: Road Service Area – Gravel Roads Capital Improvements Tier:

Detailed Project Description and Justification:

The Kenai Peninsula Borough is seeking \$8,000,000.00 in supplemental funding to advance its Capital Improvement project initiative for its Road Service Area.

Background

The Kenai Peninsula Borough Road Service Area provides for year-round maintenance of over 625 miles of rural Gravel roads. On an annual basis, the Road Service Area applies approximately \$2,300,000.00 to address capital improvements that will improve safety, quality of use, and lower maintenance cost to the taxpayers of the service area.

The Kenai Peninsula Road Service area prioritizes its capital improvement projects through the use of a Tier list that is generated by the department through their operational assessment. The list is then evaluated by the Road Service Area Board and a recommendation for yearly priority projects, extending out to 5 years is sent to the Borough administration inclusion in the annual budget at the wishes of the assembly.

Justification

The Kenai Peninsula Borough Road Service Area is committed to capital improvement of its road system and appropriates approximately \$2,300,000.00 in RSA funds each fiscal year to address road deficiencies. Increases in the advancement of the Capital projects would lead to immediate safety improvements, maintenance cost reductions an overall quality of use.

Methodology

Should the requested funding be made available the Kenai Peninsula Borough would immediately double its efforts to reduce the gravel road issues on the Tier list in the order of priority established by the Roads department and Service area. This effort would provide a significant impact to many long outstanding issues that exist in our roads network and work toward the goal of bringing all existing Roads Service Area roads up to standard and subsequently reducing maintenance costs.

Funding Requested:	\$	8,000,000.00	OElection District:	Senate:	<input type="text"/>
Total Project Cost:	\$	8,000,000.00		House:	<input type="text"/>
Local Match (if any):	\$	<input type="text"/>			

CONTACT INFORMATION

Name, Title:	John Hedges-Purchasing and Contracting Director	Phone:	907-714-2260
Address:	144 North Binkley Street	Fax:	907-714-2037
City, State Zip:	Soldotna, Alaska 99669	E-mail:	<input type="text"/>

Funding Plan:

Total Project Cost:	\$ 8,000,000	This should be the most accurate estimate of how much this project will cost.
Funding Secured:	\$ 0	How much of the project costs are in hand, secured, guaranteed, appropriated, etc. You may include in-kind contributions and volunteer labor. Do not include hypothetical funds.
Funding Requested:	\$ 8,000,000	How much is being requested from this year's capital budget.
Pending Requests	\$ 0	Amount requested from other sources not yet received.
Project Deficit:	\$ 0	Additional funding needed to complete the project.

Please list Secured Funding Sources and Amounts:

0.00

If this project is funded this year, will you be requesting state funding again? Yes: No:

Please describe the project time-line and when the expenditures will occur:

The project can commence once funding is secured and is projected to extend over the next five fiscal years.

Has this project gone through a public review process at the local level? Yes: No:
 Is it a community or service area priority demonstrated by resolution or other official action? Yes: No:

If a community or service area meeting was conducted, how was it advertised? When and where was it held? Who attended?

Who will own the project or facility? Kenai Peninsula Borough

Entity responsible for providing ongoing operation and maintenance of this project? Kenai Peninsula Borough

How will operations and maintenance be funded after the project is complete?

The Kenai Peninsula Borough has a mill levy of 1.40 mills set which is collected for borough wide area maintenance for the roads and bridges in its service areas.

Please select a project type (chosed only one):

- Planning and Research
- Maintenance and Repairs
- Remodel, Reconstruction and Upgrades
- New Construction and Land Acquisition
- Equipment and Materials
- Information System and Technology
- Other:

Recipients Federal Tax ID:



Kenai Peninsula Borough

Infrastructure Projects Request

CAPITAL PROJECT: Broadband Expansion

Funding Recipient: Kenai Peninsula Borough

Project Name: Rural Community Broadband Development Project Tier:

Detailed Project Description and Justification:

The Kenai Peninsula Borough is seeking \$12,000,000 to facilitate construction of communications infrastructure at up to 20 locations throughout the Borough, and \$500,000 to facilitate a communications study which would establish a long-term roadmap for broadband development within the Kenai Peninsula Borough.

Background

The Kenai Peninsula is home to 27 unincorporated communities that represent unserved or underserved rural Alaskan communities located within the Kenai Peninsula Borough who do not have equitable access to Broadband services. The Kenai Peninsula Borough has many communities and residents that continue to struggle with a lack of available broadband service. The intersection of geographic complexities and multiple ILECs (Incumbent Local Exchange Carrier, AKA phone companies) operating within the Kenai Peninsula Borough presents a challenge when considering Borough-Wide broadband improvements. The fundamental issues underpinning broadband challenges in the Kenai Peninsula Borough fall into two technical categories: Last Mile connectivity to residents and Core Network Infrastructure between communities. Historically, the core infrastructure that connects communities together is the domain of the ILECs, while the Last Mile connectivity is a more competitive market.

Justification

During the Pandemic, the Kenai Peninsula Borough was able to facilitate construction of multiple communication towers throughout the Kenai Peninsula Borough to enable some of the rural communities to have better access to Broadband communications. One of those locations was designed to support both residential broadband and commercial cellular service. As a result, the Kenai Peninsula Borough was able to foster both an immediate improvement in residential broadband service, and we anticipate that a cell carrier will establish service at this location resolving a long-standing deficiency in cellular coverage. The Borough noted that there was an improvement for some of the rural areas, and that there was a significant need for additional services throughout the Kenai Peninsula Borough.

Methodology

We have an existing model that we used previously to begin tower construction immediately to support last mile fixed wireless service, while posturing for a cellular carrier tenant. We feel confident this will prove effective throughout the Kenai Peninsula Borough. We will utilize these previous projects as a sample to construct towers at 20 locations throughout the Kenai Peninsula Borough. These location selections would be developed in concert with local service providers, as well as the communications study, and would seek to capitalize on existing Borough infrastructure while also considering the geography impacting fixed wireless deployments.

The Borough seeks to provide unincorporated communities, rural communities, underserved, and unserved communities the opportunity to receive access to broadband as we are able to provide it through this funding opportunity. We will utilize the funds, and the communications study to aid our development and placement of communications towers to provide benefit to the community as a whole.

The Kenai Peninsula Borough may seek to contract a portion of this project.

Funding Requested:	\$ 12,500,000	Election District:	Senate:
Total Project Cost:	\$ 12,500,000		House:
Local Match (if any):	\$		

CONTACT INFORMATION

Name, Title:	Ben Hanson- Information Technology Director	Phone:	907-714-2100
Address:	144 North Binkley Street	Fax:	907-714-2377
City, State Zip:	Soldotna, Alaska 99669	E-mail:	

Funding Plan:

Total Project Cost:	\$ 12,500,000	This should be the most accurate estimate of how much this project will cost.
Funding Secured:	\$ 0	How much of the project costs are in hand, secured, guaranteed, appropriated, etc. You may include in-kind contributions and volunteer labor. Do not include hypothetical funds.
Funding Requested:	\$ 12,500,000	How much is being requested from this year's capital budget.
Pending Requests	\$ 0	Amount requested from other sources not yet received.
Project Deficit:	\$ 0	Additional funding needed to complete the project.

Please list Secured Funding Sources and Amounts:

0.00

If this project is funded this year, will you be requesting state funding again? Yes: No:

Please describe the project time-line and when the expenditures will occur:

The project can commence once funding is secured and is projected to extend over the next five fiscal years.

Has this project gone through a public review process at the local level? Yes: No:
 Is it a community or service area priority demonstrated by resolution or other official action? Yes: No:

If a community or service area meeting was conducted, how was it advertised? When and where was it held? Who attended?

Who will own the project or facility? Kenai Peninsula Borough

Entity responsible for providing ongoing operation and maintenance of this project? Kenai Peninsula Borough

How will operations and maintenance be funded after the project is complete?

- Please select a project type** (chosed only one):
- Planning and Research
 - Maintenance and Repairs
 - Remodel, Reconstruction and Upgrades
 - New Construction and Land Acquisition
 - Equipment and Materials
 - Information System and Technology
 - Other:

Recipients Federal Tax ID:

Introduced by: Johnson, Chesley
Date: 01/18/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2022-007**

**A RESOLUTION PROVIDING INPUT TO THE ALASKA DEPARTMENT OF
ENVIRONMENTAL CONSERVATION ON PROPOSED CHANGES TO
REGULATIONS ON OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS**

WHEREAS, as a result of post-Exxon Valdez oil spill laws and regulations, Alaska has world-class oil spill prevention and response requirements to protect its people and its environment, as well as commercial and sport fishing, aquaculture, recreation, tourism, subsistence, and cultural interests; and

WHEREAS, the Kenia Peninsula Borough submitted Resolution 2020-015, in response to the Alaska Department of Environmental Conservation’s (“ADEC”) public scoping seeking input on existing regulations and statutes, stating that the Kenai Peninsula Borough Assembly believes that Alaska’s laws and regulations regarding oil spill prevention and response warrant the state’s continued, unqualified support and enactment; and

WHEREAS, ADEC has posted proposed regulatory changes to oil pollution prevention regulations under Article 4 of 18 AAC 75, resulting from that public scoping process; and

WHEREAS, the regional citizens advisory councils (“RCACs”) for Cook Inlet and Prince William Sound have voiced appreciation for a number of positive changes proposed including increased clarity within regulations, combination of redundant sections, and use of technology in the interest of modernizing workflow; and

WHEREAS, the RCACs also have concerns that must be addressed before public comment closes on January 31, 2022;

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

SECTION 1. That the Kenai Peninsula Borough Assembly hereby recommends that Alaska regulations specify (1) the minimum number of exercises required for crude oil plans be set at one significant Incident Management Team and two field deployment exercises each year, as well as other unannounced exercises as ADEC deems necessary; and (2) that the commitment requiring additional exercises or other appropriate action if a plan holder fails to demonstrate the ability to implement their plan be retained.

- SECTION 2.** That the Kenai Peninsula Borough Assembly recommends that the Best Available Technology (“BAT”) continues to be a standard for new technologies and procedures, including retaining the requirement that a BAT conference be held every five years or otherwise stating how they will examine new technologies to meet the mandates of AS 46.04.030(e).
- SECTION 3.** That the RCACs for Cook Inlet and Prince William Sound continue to be named in regulations as recipients required to be notified of plan reviews, updates, and amendments, electronically or otherwise.
- SECTION 4.** That the Prince William Sound tow package should remain an option within regulations, updated to reflect that this equipment be required and enhanced; and that the regulations for this system at 18 AAC 75.990(96) should be revised to meet the breaking strength requirements set by the International Maritime Organization standard and be able to be deployed in 15 minutes from the bow.
- SECTION 5.** That the Kenai Peninsula Borough Assembly recommends that a change in plan holder ownership be treated as a major amendment to the Oil Discharge Prevention and Contingency Plan, affording the opportunity for public review prior to approval.
- SECTION 6.** That the Kenai Peninsula Borough Assembly recommends that Article 4 of 18 AAC 75 incorporate language requiring Oil Spill Prevention and Contingency Plan holders to comply with all applicable State and Federal Regulations concerning human and environmental safety.
- SECTION 7.** That the Kenai Peninsula Borough Assembly recommends that any new language or repealed language within Article 4 of 18 AAC 75 that has the potential to diminish prevention or response capabilities be revised or reinstated to ensure previous levels of human and environmental safety are met.
- SECTION 8.** Copies of this resolution shall be sent to the Kenai Peninsula Borough state legislative delegation, ADEC Commissioner Brune, Governor Dunleavy, Director of the Prince William Sound Regional Citizens’ Advisor Council and Director of the Cook Inlet Regional Citizens’ Advisory Council.
- SECTION 9.** That a copy of this resolution shall be provided as public comment to the ADEC, through its online comment portal found at:
<https://spar.alaskadec.commentinput.com/?id=uh7DP>
- SECTION 10.** That this resolution is effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 18TH DAY OF JANUARY, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly President BJ
Lane Chesley, Assembly Member LC

DATE: January 6, 2022

RE: Resolution 2022-007 Providing Input to the Alaska Department of Environmental Conservation on Proposed Changes to Regulations on Oil Discharge Prevention and Contingency Plans (Johnson, Chesley)

Former KPB Assemblyman Mako Haggerty represents the borough on the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). On November 29, 2021, Mako sent a letter from PWSRCAC entitled "Concerns with ADEC Proposed Changes to Oil Spill Prevention and Response Regulations." The letter gave praise for some changes the Alaska Department of Environmental Conservation (ADEC) is proposing, while raising concerns about other proposals. The letter asked the Borough Assembly to submit public comments and noted that the period for accepting those comments ends January 31, 2022.

Since then, we have been in contact with Mako and with Brooke Taylor of PWSRCAC. We have also been in contact with Vinnie Catalano of Cook Inlet Regional Citizens' Advisory Council (CIRCAC) (former assembly member Grace Merkes is their current president), as well as with Shaylon Cochran, Director of Public Outreach for CIRCAC. This resolution is the combined effort of these two Regional Citizens' Advisory Councils.

Your consideration is appreciated.

Introduced by: Dunne, Cooper
Date: 02/25/20
Action: Adopted
Vote: 8 Yes, 1 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2020-015**

**A RESOLUTION SUPPORTING THE CURRENT LAWS AND REGULATIONS
OF THE STATE OF ALASKA REGARDING OIL SPILL
PREVENTION AND RESPONSE**

WHEREAS, the 1989 Exxon Valdez oil spill devastated Alaska’s coastal communities, economies, wildlife, cultural and natural resources, and caused damage that reverberates to this day; and

WHEREAS, after the Exxon Valdez oil spill, Alaska citizens and the Alaska Legislature worked together to enact the strongest oil spill protection laws in the nation to keep our waters, beaches, fish and wildlife oil free which have proven successful for more than 30 years; and

WHEREAS, the regulations have been revised on nine occasions for clarification and streamlining, to make contingency planning and review less onerous, as well as more predictable and expeditious; and

WHEREAS, industry has complied with these laws and regulations successfully for 30 profitable years; and

WHEREAS, as a result of post-Exxon Valdez oil spill laws and regulations, Alaska has world-class oil spill prevention and response requirements to protect its people and its environment, as well as commercial and sport fishing, aquaculture, recreation, tourism, subsistence, and cultural interests; and

WHEREAS, after the 1989 Exxon Valdez oil spill, the U.S. Congress cited complacency on the part of industry and regulators as a key contributing factor to the spill; and

WHEREAS, one way to combat this complacency and rebuild trust is to involve the public, those with the most to lose in the event of a large spill, in decisions that affect the safe transportation of oil; and

WHEREAS, oil spill contingency plans required by current laws and regulations are the industry’s commitment to Alaskans that they are prepared to effectively respond in the event of a significant future catastrophic spill or situation; and

WHEREAS, oil spill contingency plans are a critical component of ensuring the safe transportation, production and exploration of oil and represent rigorous but achievable standards; and

WHEREAS, on October 15, 2019, Jason Brune, Commissioner of the Alaska Department of Environmental Conservation (“ADEC”) issued a public scoping notice seeking input on existing regulations and statutes (laws) and that his department has identified regulations that can be eliminated or significantly reformed; and

WHEREAS, rolling back or eliminating proven oil spill prevention and response requirements to reduce a perceived burden to industry transfers the risk and burden of another oil spill onto the backs of our communities, citizens, and environment; and

WHEREAS, ADEC Commissioner Brune committed to the Prince William Sound and Cook Inlet Regional Citizens Advisory Councils’ Board of Directors a fully transparent public review and consultation process; and

WHEREAS, Commissioner Brune further informed the board that ADEC has no desire to roll back the environmental protections in place, and that preparedness and protection are vital;

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

SECTION 1 That the Kenai Peninsula Borough Assembly firmly supports Alaska’s existing Oil Spill Response Planning Standards and rigorous regulatory oversight.

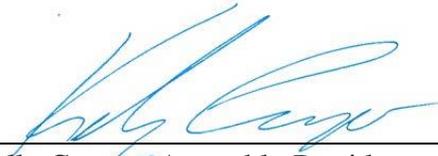
SECTION 2. That the Kenai Peninsula Borough Assembly believes that Alaska’s laws and regulations regarding oil spill prevention and response warrant the state’s continued, unqualified support and enactment.

SECTION 3. That Kenai Peninsula Borough Assembly strongly recommends that Alaskans interested in maintaining safety standards designed to protect the state’s environment, people, and economy from catastrophic oil spills contact the ADEC to urge continued support of Alaska’s current laws and regulations regarding oil spill prevention and response.

SECTION 4. Copies of this resolution shall be sent to the Kenai Peninsula Borough state legislative delegation, ADEC Commissioner Brune, Governor Dunleavy, Director of the Prince William Sound Regional Citizens’ Advisory Council, and Director of the Cook Inlet Regional Citizens Advisory Council.

SECTION 5. That this resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 25TH DAY OF FEBRUARY, 2020.

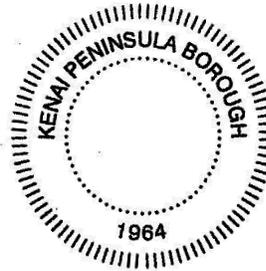


Kelly Cooper, Assembly President

ATTEST:



Johni Blankenship, MMC, Borough Clerk



Yes: Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No: Bjorkman
Absent: None

Introduced by: Mayor
Date: 01/18/22
Hearing: 02/01/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-34**

AN ORDINANCE ACCEPTING AND APPROPRIATING FISHERIES BUSINESS TAX FUNDS RECEIVED FROM THE STATE OF ALASKA UNDER THE FEDERAL PASS-THROUGH PROGRAM, AMERICAN RESCUE PLAN ACT OF 2021, IN THE AMOUNT OF \$86,408.54 FOR THE PURPOSE OF SUPPLEMENTING THE RADIO CONSULTANT PROJECT TO ADDRESS PUBLIC SAFETY COMMUNICATIONS

WHEREAS, House Bill 69, which appropriated funding to the Business Fisheries Tax program, was passed by the State Legislature and signed by the Governor, with line item vetoes, on June 30, 2021; and;

WHEREAS, House Bill 69 appropriated funds from the American Rescue Plan Act of 2021, Coronavirus State and Local Fiscal Recovery Program (“Recovery Program”) to refund local governments and other entities their share of the fisheries business tax collected in the fiscal year ending June 30, 2019; and

WHEREAS, the borough fire and emergency services service areas and the office of emergency management (hereinafter referred to as “departments” or a “department”) intend to hire a radio consultant to address maintenance or installation of radios, tower repeaters, and borough communications plans to ensure interoperability and functionality (Project); and

WHEREAS, the Recovery Program funds will be appropriated by percentage to each department’s account to address areawide interoperability among borough entities, municipalities or federal agencies, is an integral function of public safety, and addresses the eligible use of these funds by way of the Recovery Plan federal guidance; and

WHEREAS, the Project cost difference will be met through already budgeted operating funds in each respective department as listed in Section 3; and

WHEREAS, at its regularly scheduled meeting held _____, the Central Emergency Services Board recommended _____ of the grant acceptance and cost share; and

WHEREAS, at its regularly scheduled meeting held _____, the Nikiski Fire Service Area Board recommended _____ of the grant acceptance and cost share; and

WHEREAS, at its regularly scheduled meeting held _____, the Kachemak Emergency Service Area Board recommended _____ of the grant acceptance and cost share; and

WHEREAS, at its regularly scheduled meeting held _____, the Bear Creek Fire Service Area Board recommended _____ of the grant acceptance and cost share; and

WHEREAS, at its regularly scheduled meeting held _____, the Western Emergency Service Area Board recommended _____ of the grant acceptance and cost share; and

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

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

SECTION 1. That the mayor is authorized to execute grant agreements and any other documents deemed necessary to expend the funds and to fulfill the intents and purposes of this ordinance.

SECTION 2. That \$86,408.54 received from the State of Alaska under the federal pass-through program, American Rescue Plan Act of 2021 to refund fiscal year 2019 Fisheries Business Tax funds be appropriated to 100.00000.21FSH.33115 and transferred to department accounts as follows:

Department	%	Amount	Account
Central Emergency Services	30	\$25,940.64	211.51610.22FSH.43011
Nikiski Fire	22	\$19,525.11	206.51110. 22FSH.43011
Kachemak Emergency Services	15	\$13,196.28	212.51810. 22FSH.43011
Bear Creek Fire	8	\$6,778.91	207.51210. 22FSH.43011
Western Emergency Services	19	\$16,540.55	209.51410. 22FSH.43011
Office of Emergency Management	5	\$4,700.05	100.11250. 22FSH.43011

SECTION 3. That the project difference will be met by use of FY2022 appropriated operating funds from each department as follows:

Department	%	Amount	Account
Central Emergency Services	30	\$16,359	211.51610.00000.43011
Nikiski Fire	22	\$12,141	206.51110. 00000.43011
Kachemak Emergency Services	15	\$8,322	212.51810. 00000.43011
Bear Creek Fire	8	\$4,275	207.51210. 00000.43011
Western Emergency Services	19	\$10,431	209.51410. 00000.43011

Office of Emergency Management	5	\$2,964	100.11250. 00000.43011
--------------------------------	---	---------	------------------------

SECTION 4. That \$86,408.54 received from the State of Alaska under the federal pass-through program, American Rescue Plan Act of 2021 do not lapse at the end of the fiscal year.

SECTION 5. This ordinance shall become effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Fire Service Areas & Office of Emergency Management

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
Brandi Harbaugh, Finance Director *BH*

FROM: Roy Browning, Chief – Central Emergency Services *RB*
Richard Brackin, Chief - Bear Creek Fire Service Area *RB*
Bob Ciccarella, Chief - Kachemak Emergency Service Area *RWC*
Trent Burnett, Chief - Nikiski Fire Service Area *TB*
Jon Marsh, Chief - Western Emergency Service Area *JM*
Brenda Ahlberg, Emergency Manager *BA*

DATE: January 6, 2022

RE: Ordinance 2021-19-34, Accepting and Appropriating Fisheries Business Tax Funds Received from the State of Alaska under the Federal Pass-Through Program, American Rescue Plan Act of 2021 in the Amount of \$86,408.54 for the Purpose of Supplementing the Radio Consultant Project to Address Public Safety Communications (Mayor)

The Fisheries Business Tax Program (Program) was created in 1990 to help municipalities impacted by the effects of the rapidly expanding offshore fish processing industry. A previously existing fish tax sharing program, commonly referred to as the Raw Fish Tax Program, administered by the Department of Revenue, shares back to municipalities half of the state fisheries business tax collected from fish processors operating inside municipal boundaries. The Department's program extends tax sharing to include a sharing of fish taxes collected outside of municipal boundaries, primarily from floating processors.

This year, the State of Alaska fiscal year 2022 operating budget funded the Program using the American Rescue Plan Act (ARPA) of 2021; the borough's allocation for fiscal year 2019 is \$86,408.54. The U.S. Treasury Interim Guidance restricts the use of these funds for eligible public safety projects under the revenue replacement category.

The borough administration recommends that the Program funds be used to supplement the cost to hire a consultant that will address the radio

Page -2-
 January 6, 2022
 RE: O2021-19- 34

communications, maintenance and repair needs among all of the fire and emergency service areas and the office of emergency management (hereinafter "department" or "departments"). The contract cost is projected at \$140,900 for one year (additional contract details should be available by the 02/15/22 Mayor's Report).

Upon approval of this ordinance, each department will transfer operating funds to meet the cost difference, which is based upon department equipment and estimated contractual obligations (see schedule for the percentage of revenues by department).

The service area board recommendations will be provided for public hearing scheduled February 15, 2022. Brenda Ahlberg, Emergency Manager will be the project manager for the Fisheries Business Tax grant.

Your consideration of this ordinance is appreciated.

Attachments: State of Alaska notification; Schedule of revenue sources by department

FINANCE DEPARTMENT: FUNDS/ACCOUNT VERIFIED

Department	%	Operating	Account
Central Emergency Services	30%	\$16,359.00	211.51610.00000.43011
Nikiski Fire	22%	\$12,141.00	206.51110.00000.43011
Kachemak Emergency	15%	\$8,322.00	212.51810.00000.43011
Bear Creek Fire	8%	\$4,275.00	207.51210.00000.43011
Western Emergency	19%	\$10,431.00	209.51410.00000.43011
Emergency Management	5%	\$2,964.00	100.11250.00000.43011
	100%	\$54,492.00	
Verified By: 			Date: 1/6/2022

From: Bowman, Karmen M (DOR) <karmen.bowman@alaska.gov>
Sent: Wednesday, November 10, 2021 10:06 AM
To: Harbaugh, Brandi <BHarbaugh@kpb.us>
Cc: Glover, Colleen M (DOR) <colleen.glover@alaska.gov>; Headings, Mary Anne S (DOR) <maryanne.headings@alaska.gov>
Subject: <EXTERNAL-SENDER>Additional Fish Business Share per HB69
Attachments: CSLFRF Fisheries Business Tax Relief Expenditure Report Template and Instructions
Radio Maint Allocation 010322

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!

With the passage of the FY2022 Operating Budget (HB69), there were supplemental funds appropriated to communities negatively impacted by the Coronavirus and had a reduction in lost revenue for FY2021 Fisheries Business Tax (FBT) sharing. As stated in the bill, tax collections in FY2021 are compared to tax collections from FY2019 with the reduction in collections to be appropriated using federal funds per the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF), American Rescue Plan Act (ARPA) of 2021.

Disbursements processed last night and should present to your account in a couple of days.

The amount for the Kenai Peninsula Borough is \$86,408.54

Attached are two documents pertaining to the funds you received for additional FBT Share from the CSLFRF appropriation and related reporting requirements. These reports are due to the Office of Management and Budget (OMB) Quarterly by the dates spelled out in the instruction document. These reports should be sent to OMB and not the Tax Division.

Please direct all questions about these documents to Paloma Harbor (OMB) @ (907) 465-4690 or paloma.harbour@alaska.gov

Thank you,

Karmen M Bowman
Accounting Manager
Alaska Department of Revenue, Tax Division
907-465-3776 (Office)
907-500-2191 (Cell)
karmen.bowman@alaska.gov

Assigned Value	Radios/Mobile Units	Towers	Repeater
CES - 141 Portable/Mobile Units and 1 Repeater Tower	141	1	0
NFD - 99 Portable/Mobile Units and 3 Repeater Towers	99	3	0
KESA - 68 Portable/Mobile Units, 1 Repeater Tower and 1 Short-haul booster repeater	68	1	1
BCFSA - 35 Portable/Mobile Units, 1 Repeater Tower and 1 Repeater Tower	35	1	0
WESA - 89 Portable/Mobile Units and 1 Repeater Tower	89	1	0
OEM - 26 Portable/Mobile Units	26	0	0
	458	7	1

Sample allocation	Operating	Grant	Operating	Total
Assigned Value	\$ 114	\$ 285	\$ 285	\$ 285
CES	16,074	285	16,359	42,289.64
NFD	11,286	855	12,141	31,899.11
KESA	7,752	285	8,037	21,518.28
BCFSA	3,990	285	4,275	11,053.91
WESA	10,146	285	10,431	26,971.55
OEM	2,964	-	2,964	7,664.05
	\$ 52,212	\$ 1,995	\$ 54,492	\$ 140,900.54

	86,408.54			
	30%	25,940.64	16,359.00	42,289.64
	22%	19,252.11	12,141.00	31,393.11
	15%	13,196.28	8,322.00	21,518.28
	8%	6,778.91	4,275.00	11,053.91
	19%	16,540.55	10,431.00	26,971.55
	5%	4,700.05	2,964.00	7,664.05
	100%	86,408.54	54,492.00	140,900.54
			\$ 140,900	
			FALSE	
			\$ 86,408	

Introduced by: Mayor
Date: 01/18/22
Hearing: 02/01/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-35**

AN ORDINANCE APPROPRIATING FUNDING FROM THE CENTRAL PENINSULA HOSPITAL PLANT REPLACEMENT AND EXPANSION FUND FOR THE CENTRAL PENINSULA HOSPITAL HOT LAB UPGRADE TO AN ISO CLEANROOM PROJECT

- WHEREAS,** the Kenai Peninsula Borough (“KPB”) has entered into an Operating Agreement with Central Peninsula General Hospital, Inc. (“CPGH, Inc.”) for the operation of Central Peninsula Hospital (“CPH”) and other medical facilities, and to provide other healthcare programs and services, on a nonprofit basis, in order to ensure the continued availability to the service area residents; and
- WHEREAS,** CPH provides a nuclear medicine service that utilizes small amounts of radioactive material or tracer (radiopharmaceuticals), a special gamma camera and a computer to form images; and
- WHEREAS,** the small amount of radioactive material or tracer is generated in a hot lab found within the CPH Imaging Department next to the nuclear medicine gamma camera; and
- WHEREAS,** radiopharmaceuticals fall under the control of the US Nuclear Regulatory Commission, which has updated *US Pharmacopeia (USP) 825 Radiopharmaceuticals – Preparation, Compounding, Dispensing, and Repackaging*, following ISO guidelines; and
- WHEREAS,** USP 825 regulations require increased environmental controls as they relate to radiopharmaceuticals, resulting in the need for CPH to provide for an updated hot lab; and
- WHEREAS,** CPH administration has engaged PDC Engineering to perform a gap analysis and concept scope to bring CPH into compliance with enforceable ISO guidelines; and
- WHEREAS,** CPH administration has developed a project cost estimate of \$568,194 to provide for the scope of the project, which includes: design and construction administration, construction (with contingency), a dose calibrator, a compounding isolator and KPB administrative/project management fees; and

WHEREAS, KPB Purchasing and Contracting released the construction project for bidding and two responsive and responsible bids were received that were significantly higher than original professional cost estimate; and

WHEREAS, actual total costs for the Hot Lab Upgrade Project are expected to be \$869,778, which is \$301,584 over the amount approved in Ordinance 2021-19-04; and

WHEREAS, there are sufficient funds available in the Central Peninsula Hospital Plant Replacement and Expansion Fund (PREF) to fund the additional \$301,584 cost of the Hot Lab Upgrade Project and CPH would like to utilize PREF funds for the additional cost of the 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 CPGH, Inc. Board and its recommendations forwarded to the assembly; and

WHEREAS, at its meeting held on January 27, 2022, the CPH, Inc. Board recommended _____ of the transfer of funds from the PREF in the amount of \$301,584 for the project;

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

SECTION 1. Funds in the amount of \$301,584 are appropriated from the Central Peninsula Hospital Plant Replacement and Expansion Fund account number 490.20602 to account number 490.81110.22LAB for the purpose of completing the Hot Lab Upgrade to an ISO Cleanroom 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 * DAY OF *, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Purchasing & Contracting Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
Brandi Harbaugh, Finance Director *BH*

FROM: John Hedges, Purchasing & Contracting Director *JH*

DATE: January 6, 2022

RE: Ordinance 2021-19-35, Appropriating Funding from the Central Peninsula Hospital Plant Replacement and Expansion Fund for the Central Peninsula Hospital Hot Lab Upgrade to ISO Cleanroom Project (Mayor)

Central Peninsula Hospital currently provides nuclear medicine as a service. This service requires a small amount of radioactive material or tracer, which is a radiopharmaceutical, to be produced. Radiopharmaceuticals fall under the control of the US Nuclear Regulatory Commission, which publishes regulations and guidance for compliance. These regulations can be found in *US Pharmacopeia (USP) 825 Radiopharmaceuticals – Preparation, Compounding, Dispensing, and Repackaging* and follow ISO guidelines.

Central Peninsula Hospital is looking to upgrade the Nuclear Medicine Hot Lab to comply with new regulations, creating a safer environment. In order to comply with the new regulations, CPH administration has identified the scope of the project, provided for a gap analysis, and project cost estimate to include remodeling of space, a compounding isolator and dose calibrator.

The original budget appropriated for the project was \$568,194. After design and purchase of the compounding isolator were completed, the project was released for bidding. Two responsive and responsible bids were received, with the low bidder being \$483,939. Reviewing the total budget of the project with the construction cost identified, an additional \$301,584 is needed to complete the project. KPB and CPH will work with the contractor after they are under contract to identify possible cost savings.

Assembly approval of the additional appropriation to complete this project using the Central Peninsula Hospital Plant Replacement and Expansion Fund is requested.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Account:	490.20602 _____
Amount:	\$301,584 _____
By: <i>CPJ</i>	Date: 1/6/2022 _____

Introduced by: Mayor
Date: 07/06/21
Hearing: 08/03/21
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-04**

AN ORDINANCE APPROPRIATING FUNDING FROM THE CENTRAL PENINSULA HOSPITAL PLANT REPLACEMENT AND EXPANSION FUND FOR THE CENTRAL PENINSULA HOSPITAL HOT LAB UPGRADE TO AN ISO CLEANROOM PROJECT

- WHEREAS,** the Kenai Peninsula 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 the continued availability to the Service Area residents; and
- WHEREAS,** Central Peninsula Hospital provides a Nuclear Medicine service that utilizes small amounts of radioactive material or tracer (radiopharmaceuticals), a special gamma camera and a computer to form images; and
- WHEREAS,** the small amount of radioactive material or tracer is generated in a Hot Lab found within the Imaging Department next to the Nuclear Medicine gamma camera; and
- WHEREAS,** Radiopharmaceuticals fall under the control of the US Nuclear Regulatory Commission, which has updated *US Pharmacopeia (USP) 825 Radiopharmaceuticals – Preparation, Compounding, Dispensing, and Repackaging*, following ISO guidelines; and
- WHEREAS,** USP 825 regulations require increased environmental controls as they relate to radiopharmaceuticals, resulting in the need for CPH to provide for an updated Hot Lab; and
- WHEREAS,** CPH Administration has engaged PDC Engineering to perform a Gap Analysis and Concept Scope to bring CPH into compliance with enforceable ISO guidelines; and
- WHEREAS,** CPH Administration has developed a Project Cost Estimate of \$568,194 to provide for the scope of the project, which includes: Design and Construction Administration, Construction (with contingency), a dose calibrator, a compounding isolator and Borough Admin/PM fees; and

WHEREAS, the estimated amount also includes design development costs incurred to date for which CPGH, Inc. will be reimbursed; and

WHEREAS, CPH Administration has determined that there are sufficient funds available in the Central Peninsula Hospital Plant Replacement and Expansion Fund (PREF) to fund the project and would like to utilize PREF funds for 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, at its meeting of June 24, 2021, the CPGH, Inc. Board of Directors voted to approve the transfer of funds from the Plant Replacement and Expansion Fund in the amount of \$568,194 for the purpose of completing the Hot Lab Upgrade to an ISO Cleanroom Project;

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

SECTION 1. Funds in the amount of \$568,194 are appropriated from the Central Peninsula Hospital Plant Replacement and Expansion Fund account number 490.20602 to account number 490.81110.22LAB.49999 for the purpose of completing the Hot Lab Upgrade to an ISO Cleanroom 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.

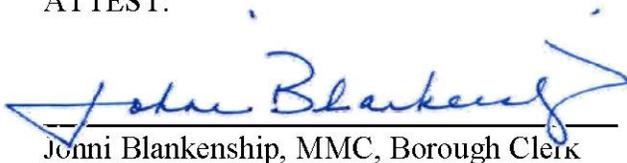
SECTION 3. This ordinance takes effect retroactively on June 23, 2021.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF AUGUST, 2021.



Brent Hibbert, Assembly President

ATTEST:



Jonni Blankenship, MMC, Borough Clerk



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

MEMORANDUM

TO: Assembly President
Members, of the Kenai Peninsula Borough Assembly

FROM: Charlie Pierce, Kenai Peninsula Borough Mayor *CP*

DATE: November 9, 2021

RE: Appointment to the KPB Advisory Planning Commission

In accordance with KPB 21.02, appointments to Kenai Peninsula Borough Advisory Planning Commissions are recommended by the Borough Mayor, subject to confirmation by the Borough Assembly. The applicants are registered voters and reside within the ar to be represented. I hereby submit to the Assembly my recommendation for confirmation of the following appointments to the KPB Advisory Planning Commission:

<u>Funny River APC</u>	<u>Seat</u>	<u>Expires</u>
Jerry Herring	C	September 30, 2024
<u>Hope/Sunrise APC</u>		
Flip Foldager	A	September 30, 2024
Richard "Levi" Hogan	B	September 30, 2024

Cc: Melanie Aeschliman, Planning Director
Samantha Lopez, River Center Manager
Clerks Office

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Charlie Pierce, Borough Mayor *dp*
THRU: Johni Blankenship, Borough Clerk *(JB)*
FROM: Michele Turner, Deputy Borough Clerk *(MT)*
DATE: January 7, 2022
RE: Advisory Planning Commission Applications for Appointment

The following Advisory Planning Commission seat vacancies were noticed timely and have remained open until filled.

In accordance with KPB 21.02.050(B), the applicants listed below have been verified as a resident within the APC boundaries and are qualified voters of the borough. The applications are submitted herewith for your consideration.

Funny River Advisory Planning Commission

Jerry Herring (Seat C)

Hope/Sunrise Advisory Planning Commission

Flip Foldager (Seat A)
Richard "Levi" Hogan (Seat B)

cc: River Center

Kenai Peninsula Borough Planning Department

Advisory Planning Commission Application Submitted 2021-12-27 15:08:43

APC/Seat: Funny River – Seat D (Term Expires 09/30/2024)

Name Jerry Herring	Mobile Phone
Home Phone 9072605311	Work Phone 9072605311
Email JERRYH.CAEC@GMAIL.COM	Date of Birth ██████████
SSN 	Voter #
Residence Address ,	Mailing Address 32215 Lakefront Drive Soldotna, Alaska 99669
How long have you lived in the area served by this Advisory Planning Commission? 26 years	What knowledge, experience, or expertise will you bring to this board? I am a professional mechanical engineer registered in the state of Alaska.



JERRY P. HERRING, PRINCIPAL MECHANICAL ENGINEER

Photos: Forever Dance Studio Pad Mounted RTU, ACC Academic Success Center, CAEC office and renewable energy projects

LICENSE	Alaska Professional Engineering License ME8287, 1991
CERTIFICATION	AEE, Certified Energy Auditor #69655, 2010 AHFC Energy Rater #990075, 1998 BEES Compliance Certificate #75, 1998 ICC Combination Inspector #1097420-R5, 1998
RESIDENCY	Soldotna, Alaska
EDUCATION	University of Alaska, Fairbanks - B.S. Mech. Engineering, 1983

QUALIFICATIONS

Jerry is the principal mechanical engineer at Central Alaska Engineering Company, LLC. After graduating from UAF, Jerry worked in the petroleum industry on the North Slope for ARCO Alaska in various field engineering capacities until establishing CAEC in 1991. The business was relocated to the Kenai Peninsula in 1996.

CAEC provides mechanical engineering design services including heating, air-conditioning, ventilation, commercial kitchens, piping and plumbing, renewable energy projects, waste-heat recovery, energy auditing and BEES certification. CAEC specializes in efficient, sustainable, and integrated mechanical systems and designs. Mechanical engineering projects have been completed for over 25 years across the Kenai Peninsula and in many communities around the state of Alaska.

Jerry is a professional member of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), the Association of Energy Engineers (AEE), the International Code Council (ICC), and currently serves on the Board of Directors for the Soldotna Chamber of Commerce.

Jerry is passionate about energy management and the environment. With solar PV and wind turbine systems operational at the office for the past 9 years, renewable energy is not just a concept but a reality.

REFERENCES

Carmen Vick, Kenai Peninsula Borough
(907) 252-2346

Rick Vann, Sundance Construction
(907) 252-2905

Kenai Peninsula Borough Planning Department

Advisory Planning Commission Application Submitted 2022-01-07 11:18:11

APC/Seat: Hope/Sunrise – Seat B (Term Expires 09/30/2024)

Name Levi Hogan	Mobile Phone
Home Phone	Work Phone 907-715-9365
Email info@turnagainkayak.com	Date of Birth [REDACTED]
SSN	Voter #
Residence Address ,	Mailing Address po box 153 Hope, Alaska 99605
How long have you lived in the area served by this Advisory Planning Commission? 7 years	What knowledge, experience, or expertise will you bring to this board? Past APC seat

Kenai Peninsula Borough Planning Department

Advisory Planning Commission Application Submitted 2021-12-30 09:34:45

APC/Seat: Hope/Sunrise – Seat A (Term Expires 09/30/2024)

Name Flip Foldager	Mobile Phone 9074910302
Home Phone 9074911450	Work Phone 9074911450
Email sewardrunningalaska@gmail.com	Date of Birth [REDACTED]
SSN	Voter #
Residence Address 64850 5th Street Hope, Alaska 99605	Mailing Address PO Box 10 Hope, AK 99605
How long have you lived in the area served by this Advisory Planning Commission? three years	What knowledge, experience, or expertise will you bring to this board? Member of the Seward Mount Marathon Race Committee, Board Member for Lost Lake Cystic Fibrous, previous Hope/Sunrise Advisory Planning Commission Seat A

MAYOR'S REPORT TO THE ASSEMBLY

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Charlie Pierce, Kenai Peninsula Borough Mayor *add for CP*

DATE: January 18, 2022

Assembly Request / Response

None

Agreements and Contracts

- a. Authorization to Award a Contract for ITB22-025 Central Peninsula Hospital Sterile Radio Pharmaceuticals Processing Room to Blazy Construction, Inc., Soldotna AK.
- b. Authorization to Award a Contract RFP22-010 Homer High School Roof Phase 2 Professional Design Services to K+A designstudios, Kenai, AK.

Other

- Tax Adjustment Request Approval
- Litigation Status Report – Quarter Ending 12/31/21

Kenai Peninsula Borough

Purchasing and Contracting Department

MEMORANDUM

TO: Charlie Pierce, Mayor

THRU: John Hedges, Purchasing & Contracting Director *LF for JH*

FROM: Lee Frey, Project Manager *LF*

DATE: December 22, 2021

RE: Authorization to Award a Contract for ITB22-025
Central Peninsula Hospital Sterile Radio Pharmaceuticals
Processing Room

The Purchasing and Contracting Office formally solicited and received bids for ITB22-025 Central Peninsula Hospital Sterile Radio Pharmaceuticals Processing Room. Bid packets were released on November 23, 2021 and the Invitation to Bid was advertised in the Peninsula Clarion and the Anchorage Daily News on November 23, 2021.

The project consists of the following: Renovation of interior space at Central Peninsula Hospital to construct new sterile radio pharmaceuticals processing room. Work includes architectural, mechanical and electrical modifications.

On the due date of December 14, 2021 two (2) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of \$483,939.00 was submitted by Blazy Construction, Inc., Soldotna, Alaska 99669.

Your approval for this bid award is hereby requested. Funding for this project is in account number 490.81110.22LAB.49101.

Charlie Pierce

Charlie Pierce, Mayor

12/22/2021

Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No. <u>490.81110.22LAB.49101</u>	
Amount <u>\$483,939.00</u>	
By: <i>CJ</i> BH	Date: <u>12/22/2021</u>

NA

KENAI PENINSULA BOROUGH PURCHASING & CONTRACTING

BID TAB FOR: ITB22-025 Sterile Radio Pharmaceuticals Processing Room

CONTRACTOR	LOCATION	BASE BID
Blazy Construction, Inc.	Soldotna, Alaska	\$483,939.00
Polar North Construction, LLC	Soldotna, Alaska	\$529,500.00

DUE DATE: December 14, 2021

KPB OFFICIAL:



John Hedges, Purchasing & Contracting Director

Kenai Peninsula Borough Purchasing and Contracting Department

MEMORANDUM

TO: Charlie Pierce, Mayor

THRU: John Hedges, Purchasing & Contracting Director *LF for JH*

FROM: Carmen Vick, Project Manager *CV*

DATE: December 27, 2021

RE: Authorization to Award a Contract for RFP22-010
Homer High School Roof Phase 2 Professional Design Services

The Purchasing and Contracting Office formally solicited and received proposals for RFP22-010 Homer High School Roof Phase 2 Professional Design Services. Proposal packets were released and the Request for Proposal was advertised in the Peninsula Clarion and the Anchorage Daily News on November 16, 2021 and the Homer News on November 18, 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 December 9, 2021 three (3) proposals were received and ranked by a review committee as follows:

<u>FIRM</u>	<u>LOCATION</u>	<u>TOTAL SCORE</u>
K+A designstudios	Kenai, Alaska	244
BDS Architects	Anchorage, Alaska	222
Architects Alaska	Anchorage, Alaska	214

The highest ranking proposal, which includes a cost factor, was submitted by K+A designstudios with a lump sum cost proposal of \$197,961.00. The proposal review committee recommends award of a contract to K+A designstudios, Kenai, Alaska. Your approval for this award is hereby requested.

Funding for this project is in account number 401.72010.22SCH.49311.

Charlie Pierce

Charlie Pierce, Mayor

12/27/2021

Date

NA

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	401.72010.22SCH.49311
Amount	\$197,961.00
By:	<i>CV SD for Btt</i>
Date:	12/27/2021

Kenai Peninsula Borough
Assessing Department

MEMORANDUM

TO: Charlie Pierce, Borough Mayor
FROM: Adeena Wilcox, Director of Assessing *AW*
DATE: December 10, 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: December 10, 2021

Adeena Wilcox
Director of Assessing

APPROVED



Charlie Pierce
Borough Mayor

DECEMBER TARS

	2021	2020	2019	2018	2017
TAG 10 (assessed)					
(taxable)					
TAG 11 (assessed)					
(taxable)					
TAG 20 (assessed)					
(taxable)					
TAG 21 (assessed)					
(taxable)					
TAG 30 (assessed)					
(taxable)					
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)	\$52,936	\$54,848	\$45,058		
(taxable)	\$52,936	\$54,848	\$45,058		
TAG 61 (assessed)					
(taxable)					
TAG 63 (assessed)					
(taxable)					
TAG 64 (assessed)					
(taxable)					
TAG 65 (assessed)					
(taxable)					
TAG 67 (assessed)					
(taxable)					
TAG 68 (assessed)	\$0				
(taxable)	(\$136,200)				
TAG 70 (assessed)	\$0				
(taxable)	(\$50,000)				
TAG 80 (assessed)		\$3,170			
(taxable)		\$3,170			
TAG 81 (assessed)	\$384,910	\$134,215	\$47,237		
(taxable)	\$384,910	\$150,815	\$47,237		
TOTAL ASSESSED	\$437,846	\$192,233	\$92,295	\$0	\$0
TOTAL TAXABLE	\$251,646	\$208,833	\$92,295	\$0	\$0
KPB FLAT TAX					

DECEMBER TARS CITY VALUES

	2021	2020	2019	2018	2017
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 2021 TAR NUMBER 81-21-009
 PARCEL ID 68839
 PRIMARY OWNER EAST ROAD SERVICES

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>81</u>	<u>81</u>
BOAT CLASS/COUNT	<u>BC-3</u>	<u>BC-3</u>
PLANE CLASS/COUNT	<u></u>	<u></u>
KPB ASSESSED (VT 1001)	<u>\$1,506,798</u>	<u>\$1,891,708</u>
KPB TAXABLE (VT 1003)	<u>\$1,406,798</u>	<u>\$1,791,708</u>
CITY ASSESSED (VT 1011)	<u></u>	<u></u>
CITY TAXABLE (V 1013)	<u></u>	<u></u>

EXPLANATION MAIN ROLL FILER 2021. AUDIT PERFORMED 2019-2021. UNREPORTED ASSETS FOUND, INCR IN AV 2019-2021.

CHANGE SUMMARY

DATE	<u>12/01/21</u>	KPB ASSESSED	<u>\$384,910</u>
SUBMITTED BY	<u>M PAYFER</u>	KPB TAXABLE	<u>\$384,910</u>
VERIFIED BY	<u>C. FINLEY</u>	CITY ASSESSED	<u>\$0</u>
		CITY TAXABLE	<u>\$0</u>
		KPB FLAT TAX	<u></u>
		CITY FLAT TAX	<u>\$0</u>

Cadastre Values

Date

Default: Default Value Group

Class

Value Type

Attribute

Secondary attribute

Previous Amount

Expand to Filter Values

Amount

Class	Value Type	Attribute	Secondary attribute	Previous Amount	Amount
	Boat Class 3 Count			1.00	1.00
Appraised	Improvement Market Value			\$1,512,398.00	\$1,897,308.00
	TAG			81.00	81.00
	TAG.Id			81.00	81.00
Assessed	Boat Assessed Value			\$5,600.00	\$5,600.00
	boat Class 3			\$5,600.00	\$5,600.00
	Furniture, Fixtures & Equipment			\$1,506,748.00	\$1,891,658.00
	Personal Property Assessed Value			\$1,506,798.00	\$1,891,708.00
	Supplies			\$50.00	\$50.00
	Total Assessed Value - City			0	0
	Total Borough Optional Exempt Value			\$100,000.00	\$100,000.00
	Total City Optional Exempt Value			0	0
	Total Assessed Value - Borough			\$1,506,798.00	\$1,891,708.00
Taxable	City Taxable Value	81 - KACHEMAK EMERGENCY SERVICES		0	0
	Taxable Value - Borough			\$1,406,798.00	\$1,791,708.00
Exemption	Exemption Value City	81 - KACHEMAK EMERGENCY SERVICES		0	0
	OP PP Bor \$100K Exe Value			\$100,000.00	\$100,000.00
	OP PPV 100K Exemption			\$100,000.00	\$100,000.00
	OP PPV Borough \$100K Exemption			\$100,000.00	\$100,000.00
	OP PPV City \$100K exemption	81 - KACHEMAK EMERGENCY SERVICES		\$100,000.00	\$100,000.00
	Exemption value Borough			\$100,000.00	\$100,000.00
Date	Year of Cadastre			2021.0000000000	2021.0000000000
	Effective date of value change			20210101.0000000000	20210101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2020 TAR NUMBER 81-20-021
 PARCEL ID 68839
 PRIMARY OWNER EAST ROAD SERVICES

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>81</u>	<u>81</u>
BOAT CLASS/COUNT	<u>BC-3</u>	<u>BC-3</u>
PLANE CLASS/COUNT	<u></u>	<u></u>
KPB ASSESSED (VT 1001)	<u>\$1,466,020</u>	<u>\$1,583,635</u>
KPB TAXABLE (VT 1003)	<u>\$1,366,020</u>	<u>\$1,483,635</u>
CITY ASSESSED (VT 1011)	<u></u>	<u></u>
CITY TAXABLE (V 1013)	<u></u>	<u></u>

EXPLANATION MAIN ROLL FILER 2020. AUDIT PERFORMED 2019-2021. UNREPORTED ASSETS
FOUND, INCR IN AV 2019-2021.

CHANGE SUMMARY

		KPB ASSESSED <u>\$117,615</u>
DATE <u>12/01/21</u>		KPB TAXABLE <u>\$117,615</u>
SUBMITTED BY <u>M PAYFER</u>		CITY ASSESSED <u>\$0</u>
VERIFIED BY <u>C. FINLEY</u>		CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX <u></u>
		CITY FLAT TAX <u>\$0</u>

Cadastre values				Expand to Filter Values		
DLT:	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default	Default Value Group	Boat Class 3 Count			1.00	1.00
	Appraised	Improvement Market Value			\$1,472,020.00	\$1,589,635.00
		TAG			81.00	81.00
		TAG Id			81.00	81.00
	Assessed	Boat Assessed Value			\$6,000.00	\$6,000.00
		Boat Class 3			\$6,000.00	\$6,000.00
		Furniture, Fixtures & Equipment			\$1,465,970.00	\$1,583,505.00
		Personal Property Assessed Value			\$1,466,020.00	\$1,583,635.00
		Supplies			\$50.00	\$50.00
		Total Assessed Value - City			0	0
		Total Borough Optional Exempt Value			\$100,000.00	\$100,000.00
		Total City Optional Exempt Value			0	0
		Total Assessed Value - Borough			\$1,466,020.00	\$1,583,635.00
	Taxable	City Taxable Value	81 - KACHEMAK EMERGENCY SERVICES		0	0
		Taxable Value - Borough			\$1,366,020.00	\$1,483,635.00
	Exemption	Exemption Value City	81 - KACHEMAK EMERGENCY SERVICES		0	0
		OP PP Bur \$100K Exe Value			\$100,000.00	\$100,000.00
		OP PPV 100K Exemption			\$100,000.00	\$100,000.00
		OP PPV Borough \$100K Exemption			\$100,000.00	\$100,000.00
		OP PPV City \$100K Exemption	81 - KACHEMAK EMERGENCY SERVICES		\$100,000.00	\$100,000.00
		Exemption Value Borough			\$100,000.00	\$100,000.00
	Date	Year of Cadastre			2020.0000000000	2020.0000000000
		Effective date of value change			20200101.0000000000	20200101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2019 TAR NUMBER 81-19-013
PARCEL ID 68839
PRIMARY OWNER EAST ROAD SERVICES

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>81</u>	<u>81</u>
BOAT CLASS/COUNT	<u></u>	<u></u>
PLANE CLASS/COUNT	<u></u>	<u></u>
KPB ASSESSED (VT 1001)	<u>\$1,726,574</u>	<u>\$1,773,811</u>
KPB TAXABLE (VT 1003)	<u>\$1,626,574</u>	<u>\$1,673,811</u>
CITY ASSESSED (VT 1011)	<u></u>	<u></u>
CITY TAXABLE (V 1013)	<u></u>	<u></u>

EXPLANATION MAIN ROLL FILER 2019. AUDIT PERFORMED 2019-2021. UNREPORTED ASSETS
FOUND, INCR IN AV 2019-2021.

CHANGE SUMMARY

DATE	<u>12/01/21</u>	KPB ASSESSED	<u>\$47,237</u>
SUBMITTED BY	<u>M PAYFER</u>	KPB TAXABLE	<u>\$47,237</u>
VERIFIED BY	<u>C. FINLEY</u>	CITY ASSESSED	<u>\$0</u>
		CITY TAXABLE	<u>\$0</u>
		KPB FLAT TAX	<u></u>
		CITY FLAT TAX	<u>\$0</u>

Cadastre values

Site

Default - Default Value Group

Value Type

Appraised

Value Type

Improvement Market value

TAG

TAG.Id

Assessed

Furniture, Fixtures & Equipment

Personal Property Assessed Value

Supplies

Total Assessed Value - City

Total Borough Optional Exempt Value

Total City Optional Exempt Value

Total Assessed Value - Borough

Taxable

City Taxable Value

Taxable Value - Borough

Exemption

Exemption Value City

OP PP Bor \$100K Exe Value

OP PP 100K Exemption

OP PPV Borough \$100K Exemption

OP PPV City \$100K Exemption

Exemption Value Borough

Date

Year of Cadastre

Effective date of value change

Attribute

Secondary Attribute

Previous Amount

\$1,726,574.00

81.00

\$1,726,524.00

\$1,726,574.00

\$50.00

0

\$100,000.00

0

\$1,726,574.00

0

\$1,626,574.00

0

\$100,000.00

\$100,000.00

\$100,000.00

\$100,000.00

\$100,000.00

2019.0000000000

20190101.0000000000

Expand to Filter Values

Amount

\$1,773,811.00

81.00

\$1,773,761.00

\$1,773,811.00

\$50.00

0

\$100,000.00

0

\$1,773,811.00

0

\$1,673,811.00

0

\$100,000.00

\$100,000.00

\$100,000.00

\$100,000.00

\$100,000.00

2019.0000000000

20190101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2020 TAR NUMBER 81-20-022
 PARCEL ID 91524
 PRIMARY OWNER SUBURBAN PROPANE

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>81</u>	<u>81</u>
BOAT CLASS/COUNT	<u></u>	<u></u>
PLANE CLASS/COUNT	<u></u>	<u></u>
KPB ASSESSED (VT 1001)	<u>\$182,071</u>	<u>\$198,671</u>
KPB TAXABLE (VT 1003)	<u>\$105,209</u>	<u>\$121,809</u>
CITY ASSESSED (VT 1011)	<u></u>	<u></u>
CITY TAXABLE (V 1013)	<u></u>	<u></u>

EXPLANATION MAIN ROLL FILER 2020. PER AUDIT REVIEW ON TAX YEARS 2019-2021, ON PINS
72303 (40), 72304 (30), 91524 (81), 97684 (80). NEW ACCT TAG 58 FOR 2019-2021. NO \$100K CONTIG ADJ.
FOR PIN 91524, UNREPORTED ASSETS FOUND TO ADD FOR TAX YEAR 2020.

		CHANGE SUMMARY
		KPB ASSESSED <u>\$16,600</u>
DATE	<u>11/01/21</u>	KPB TAXABLE <u>\$16,600</u>
SUBMITTED BY	<u>M PAYFER</u>	CITY ASSESSED <u>\$0</u>
VERIFIED BY	<u>C. FINLEY</u>	CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX <u></u>
		CITY FLAT TAX <u>\$0</u>

Cadastre values

Date

Default - Default Value Group

Class

Value Type

Attribute

Secondary Attribute

Previous Amount

Expand to Filter Values

Amount

Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Appraised	Improvement Market value			\$198,671.00	\$198,671.00
	TAG			81.00	81.00
	TAG.Id			81.00	81.00
Assessed	Furniture, Fixtures & Equipment			\$198,671.00	\$198,671.00
	Personal Property Assessed Value			\$198,671.00	\$198,671.00
	Total Assessed Value - City			0	0
	Total Borough Optional Exempt Value				\$76,862.00
	Total City Optional Exempt Value			0	0
	Total Assessed Value - Borough			\$198,671.00	\$198,671.00
Taxable	City Taxable Value	01 - KACHEMAK EMERGENCY SERVICES		0	0
	Taxable Value - Borough			\$198,671.00	\$121,809.00
Exemption	Exemption Value City	01 - KACHEMAK EMERGENCY SERVICES		0	0
	OP PP Bor \$100K Exe Value				\$76,862.00 *
	PP Bor Centig Hag			1.00	1.00
	Exemption Value Borough			0	\$76,862.00
Date	Year of Cadastre			2020.0000000000	2020.0000000000
	Effective date of value change			20200101.0000000000	20200101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2020 TAR NUMBER 80-20-004
 PARCEL ID 97684
 PRIMARY OWNER SUBURBAN PROPANE

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>80</u>	<u>80</u>
BOAT CLASS/COUNT	<u> </u>	<u> </u>
PLANE CLASS/COUNT	<u> </u>	<u> </u>
KPB ASSESSED (VT 1001)	<u>\$25,407</u>	<u>\$28,577</u>
KPB TAXABLE (VT 1003)	<u>\$14,681</u>	<u>\$17,851</u>
CITY ASSESSED (VT 1011)	<u> </u>	<u> </u>
CITY TAXABLE (V 1013)	<u> </u>	<u> </u>

EXPLANATION MAIN ROLL FILER 2020. PER AUDIT REVIEW ON TAX YEARS 2019-2021, ON PINS
72303 (40), 72304 (30), 91524 (81), 97684 (80). NEW ACCT TAG 58 FOR 2019-2021. NO \$100K CONTIG ADJ.
FOR PIN 97684, UNREPORTED ASSETS FOUND TO ADD FOR TAX YEAR 2020.

		CHANGE SUMMARY
		KPB ASSESSED <u>\$3,170</u>
DATE	<u>11/01/21</u>	KPB TAXABLE <u>\$3,170</u>
SUBMITTED BY	<u>M PAYFER</u>	CITY ASSESSED <u>\$0</u>
VERIFIED BY	<u>C. FINLEY</u>	CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX <u> </u>
		CITY FLAT TAX <u>\$0</u>

Cadastre values

Site

Default Default Value Group

Class

Appraised

Value Type

Improvement Market value

TAG

TAG.Ld

Assessed

Furniture, Fixtures & Equipment

Personal Property Assessed Value

Supplie

Total Assessed Value - City

Total Borough Optional Exempt Value

Total City Optional Exempt Value

Total Assessed Value - Borough

Taxable

City Taxable Value

Taxable Value - Borough

Exemption

Exemption Value City

OP PP Bor \$100K Exe Value

OP PPV 100K Borough Contig Exemption

OP PPV Borough \$100K Exemption

PP Boro Contig Flag

PP Contiguous Boro Parcel Group

PP Contiguous Boro Parcel Sequence in Group

Exemption Value Borough

Date

Year of Cadastre

Effective date of value change

Attribute

Secondary Attribute

Previous Amount

\$25,407.00

80.00

80.00

\$25,217.00

\$25,407.00

\$190.00

0

\$10,726.00

0

\$25,407.00

80 - KACHENAK

0

\$14,081.00

80 - KACHENAK

0

\$10,726.00

\$10,726.00

\$10,726.00

1.00

2000638.00

2.00

\$10,726.00

2020.0000000000

20200101.0000000000

Expend to Filter Values

Amount

\$20,577.00

80.00

80.00

\$28,387.00

\$28,577.00

\$190.00

0

\$10,726.00

0

\$28,577.00

0

\$17,051.00

0

\$10,726.00 *

\$10,726.00

\$10,726.00

1.00

\$10,726.00

\$10,726.00

2023.0000000000

20200101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2021 TAR NUMBER 58-21-028
 PARCEL ID 101370
 PRIMARY OWNER SUBURBAN PROPANE

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>58</u>	<u>58</u>
BOAT CLASS/COUNT	<u> </u>	<u> </u>
PLANE CLASS/COUNT	<u> </u>	<u> </u>
KPB ASSESSED (VT 1001)	<u>\$0</u>	<u>\$52,936</u>
KPB TAXABLE (VT 1003)	<u>\$0</u>	<u>\$52,936</u>
CITY ASSESSED (VT 1011)	<u> </u>	<u> </u>
CITY TAXABLE (V 1013)	<u> </u>	<u> </u>

EXPLANATION MAIN ROLL FILER 2020. PER AUDIT REVIEW ON TAX YEARS 2019-2021, ON PINS:
72303 (40), 72304 (30), 91524 (81), 97684 (80). NEW ACCT TAG 58 FOR 2019-2021. NO \$100K CONTIG ADJ.
FOR NEW PIN _____, UNREPORTED ASSETS FOUND TO ADD FOR TAX YEARS 2019- 2020.

CHANGE SUMMARY

		KPB ASSESSED <u>\$52,936</u>
DATE <u>11/01/21</u>		KPB TAXABLE <u>\$52,936</u>
SUBMITTED BY <u>M PAYFER</u>		CITY ASSESSED <u>\$0</u>
VERIFIED BY <u>C. FINLEY</u>		CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX <u> </u>
		CITY FLAT TAX <u>\$0</u>

Cadastre Values

Site

Default - Default Value Group

Class

Appraised

Assessed

Taxable

Exemption

Date

Value Type

Improvement Market Value

TAG

TAG Id

Furniture, Fixtures & Equipment

Personal Property Assessed Value

Total Assessed Value - City

Total City Optional Exempt Value

Total Assessed Value - Borough

City Taxable Value

Taxable Value - Borough

Exemption Value City

Exemption Value Borough

Year of Cadastre

Effective date of value change

Attribute

58 - CENTRAL EMERGENCY SERVICES

58 - CENTRAL EMERGENCY SERVICES

Secondary Attribute

Previous Amount

Expand to Filter Values

Amount

\$52,936.00

58.00

58.00

\$52,936.00

\$52,936.00

0

0

\$52,936.00

0

\$52,936.00

0

0

2021.0000000000

20210101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2020 TAR NUMBER 58-20-051
 PARCEL ID NEW
 PRIMARY OWNER SUBURBAN PROPANE

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>58</u>	<u>58</u>
BOAT CLASS/COUNT	<u> </u>	<u> </u>
PLANE CLASS/COUNT	<u> </u>	<u> </u>
KPB ASSESSED (VT 1001)	<u>\$0</u>	<u>\$54,848</u>
KPB TAXABLE (VT 1003)	<u>\$0</u>	<u>\$54,848</u>
CITY ASSESSED (VT 1011)	<u> </u>	<u> </u>
CITY TAXABLE (V 1013)	<u> </u>	<u> </u>

EXPLANATION MAIN ROLL FILER 2020. PER AUDIT REVIEW ON TAX YEARS 2019-2021, ON PINS:
72303 (40), 72304 (30), 91524 (81), 97684 (80). NEW ACCT TAG 58 FOR 2019-2021. NO \$100K CONTIG ADJ.
FOR NEW PIN _____, UNREPORTED ASSETS FOUND TO ADD FOR TAX YEARS 2019- 2020.

CHANGE SUMMARY

		KPB ASSESSED <u>\$54,848</u>
DATE <u>11/01/21</u>		KPB TAXABLE <u>\$54,848</u>
SUBMITTED BY <u>M PAYFER</u>		CITY ASSESSED <u>\$0</u>
VERIFIED BY <u>C. FINLEY</u>		CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX <u> </u>
		CITY FLAT TAX <u>\$0</u>

Cadastre Value	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Expand to Filter Values Amount
Site						
Default - Default Value Group	Appraised	Improvement Market value				\$54,848.00
		TAG				58.00
		TAG.Ld				58.00
	Assessed	Furniture, Fixtures & Equipment				\$54,848.00
		Personal Property Assessed Value				\$54,848.00
		Total Assessed Value - City				0
		Total City Optional Exempt Value				0
		Total Assessed Value - Borough				\$54,848.00
	Taxable	City Taxable Value	06 - CENTRAL EMERGENCY SERVICES			0
		Taxable Value - Borough				\$54,848.00
	exemption	Exemption Value City	08 - CENTRAL EMERGENCY SERVICES			0
		Exemption Value Borough				0
	Date	Year of Cadastre				2020.0000000000
		Effective date of value change				20200101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2019 TAR NUMBER 58-19-040
 PARCEL ID 101370
 PRIMARY OWNER SUBURBAN PROPANE

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>58</u>	<u>58</u>
BOAT CLASS/COUNT	<u> </u>	<u> </u>
PLANE CLASS/COUNT	<u> </u>	<u> </u>
KPB ASSESSED (VT 1001)	<u>\$0</u>	<u>\$45,058</u>
KPB TAXABLE (VT 1003)	<u>\$0</u>	<u>\$45,058</u>
CITY ASSESSED (VT 1011)	<u> </u>	<u> </u>
CITY TAXABLE (V 1013)	<u> </u>	<u> </u>

EXPLANATION MAIN ROLL FILER 2020. PER AUDIT REVIEW ON TAX YEARS 2019-2021, ON PINS:
72303 (40), 72304 (30), 91524 (81), 97684 (80). NEW ACCT TAG 58 FOR 2019-2021. NO \$100K CONTIG ADJ.
FOR NEW PIN _____, UNREPORTED ASSETS FOUND TO ADD FOR TAX YEARS 2019- 2020.

CHANGE SUMMARY

		KPB ASSESSED <u>\$45,058</u>
DATE <u>11/01/21</u>		KPB TAXABLE <u>\$45,058</u>
SUBMITTED BY <u>M PAYFER</u>		CITY ASSESSED <u>\$0</u>
VERIFIED BY <u>C. FINLEY</u>		CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX <u> </u>
		CITY FLAT TAX <u>\$0</u>

Cadastre Values

Site

Default Default Value Group

Class

Appraised

Assessed

Taxable

Exemption

Date

Value Type

Improvement Market value

TAG

TAG.Id

Furniture, Fixtures & Equipment

Personal Property Assessed Value

Total Assessed Value - City

Total City Optional exempt Value

Total Assessed Value - Borough

City Taxable Value

Taxable Value Borough

Exemption Value City

Exemption Value Borough

Year of Cadastre

Effective date of value change

Attribute

50 - CENTRAL EMERGENCY SERVICES

50 - CENTRAL EMERGENCY SERVICES

Secondary Attribute

Previous Amount

Expand to Filter Values

Amount

\$45,058.00

58.00

58.00

\$45,058.00

\$45,058.00

0

0

\$45,058.00

0

\$45,058.00

0

0

2019.0000030000

20190101.0000030000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2021 TAR NUMBER 70-21-003
 PARCEL ID 060-324-04
 PRIMARY OWNER LEHR SUSAN

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>70</u>	<u>70</u>
CLASS CODE	<u>110</u>	<u>110</u>
LAND ASSESSED (VT4)	<u>15,000</u>	<u>15,000</u>
IMPROVEMENT ASSESSED (VT5)	<u>86,700</u>	<u>86,700</u>
KPB ASSESSED (VT 1001)	<u>101,700</u>	<u>101,700</u>
KPB TAXABLE (VT 1003)	<u>101,700</u>	<u>51,700</u>
CITY ASSESSED (VT 1011)	<u>101,700</u>	<u>101,700</u>
CITY TAXABLE (VT 1013)	<u>101,700</u>	<u>101,700</u>

EXPLANATION LATE FILE 50K APPROVED BY MAYOR

CHANGE SUMMARY

		KPB ASSESSED <u>\$0</u>
DATE <u>12/07/21</u>		KPB TAXABLE <u>(\$50,000)</u>
SUBMITTED BY <u>SGUZMAN</u>		CITY ASSESSED <u>\$0</u>
VERIFIED BY <u>C. FINLEY</u>		CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX <u></u>
		CITY FLAT TAX <u></u>

Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Site	Legal Acres			.46 Acres	.46 Acres
Default - Default Value Group					
Appraised	Improvement Market value			\$86,700.00	\$86,700.00
	Land Market value			\$15,000.00	\$15,000.00
	TAG			70.00	70.00
	TAG.Id			70.00	70.00
Assessed	Improvements			\$43,400.00	\$43,400.00
	Land			\$7,500.00	\$7,500.00
	Parcel Assessed Value			\$101,700.00	\$101,700.00
	Personal Property Assessed Value			0	0
	Qualified for Exemption			\$50,900.00	\$50,900.00
	Total Assessed Value - City			\$101,700.00	\$101,700.00
	Total Borough Optional Exempt Value				\$50,000.00
	Total City Optional Exempt Value			0	0
	Unqualified Improvements			\$43,300.00	\$43,300.00
	Unqualified Land			\$7,500.00	\$7,500.00
	Land Assessed Value			\$15,000.00	\$15,000.00
	Improvement Assessed value			\$86,700.00	\$86,700.00
	Total Assessed Value - Borough			\$101,700.00	\$101,700.00
Taxable	City Taxable Value	73 - SOLDOTNA CITY		\$101,700.00	\$101,700.00
	Taxable Value - Borough			\$101,700.00	\$51,700.00
Exemption	Exemption Value City	73 - SOLDOTNA CITY		0	0
	OP Residential Boro Exemption				\$50,000.00
	Residential Exemption				\$50,000.00
	Working Improvement Assessed Value			\$86,700.00	\$86,700.00
	Exemption Value Borough			0	\$50,000.00
Date	Year of Cadastre			2021.0000000000	2021.0000000000
	Effective date of value change			20210101.0000000000	20210101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2021 TAR NUMBER 68-21-017
 PARCEL ID 159-290-27
 PRIMARY OWNER KIRCHNER, HAROLD

	CURRENT VALUE	CORRECTED VALUE
TAG	<u>68</u>	<u>68</u>
CLASS CODE	<u>110</u>	<u>110</u>
LAND ASSESSED (VT4)	<u>27,700</u>	<u>27,700</u>
IMPROVEMENT ASSESSED (VT5)	<u>114,500</u>	<u>114,500</u>
KPB ASSESSED (VT 1001)	<u>136,200</u>	<u>136,200</u>
KPB TAXABLE (VT 1003)	<u>136,200</u>	<u>0</u>
CITY ASSESSED (VT 1011)	<u>0</u>	<u>0</u>
CITY TAXABLE (VT 1013)	<u>0</u>	<u>0</u>

EXPLANATION SENIOR CITIZEN EXEMPTION APPROVED LATE, AFTER CONFIRMING PFD
ELIGIBILITY FOR 2021.

CHANGE SUMMARY

		KPB ASSESSED <u>\$0</u>
DATE	<u>12/09/21</u>	KPB TAXABLE <u>(\$136,200)</u>
SUBMITTED BY	<u>SGUZMAN</u>	CITY ASSESSED <u>\$0</u>
VERIFIED BY	<u>C. FINLEY</u>	CITY TAXABLE <u>\$0</u>
		KPB FLAT TAX _____
		CITY FLAT TAX _____

Cadastral Values						Previous Amount	Expand to Filter Values
Site	Class	Value Type	Attribute	Secondary Attribute		Amount	Amount
Default - Default Value Group		Legal Acres				9.63 Acres	9.63 Acres
	Appraised	Improvement Market value				\$114,500.00	\$114,500.00
		Land Market value				\$21,700.00	\$21,700.00
		TAG				68.00	68.00
		TAG.Id				68.00	68.00
	Assessed	Improvements				\$114,500.00	\$114,500.00
		Land				\$21,700.00	\$21,700.00
		Parcel Assessed Value				\$136,200.00	\$136,200.00
		Personal Property Assessed Value				0	0
		Qualified for Exemption				\$136,200.00	\$136,200.00
		Total Assessed Value - City				0	0
		Total City Optional Exempt Value				0	0
		Total Mandatory Exempt Value					\$136,200.00
		Land Assessed Value				\$21,700.00	\$21,700.00
		Improvement Assessed Value				\$114,500.00	\$114,500.00
		Total Assessed Value - Borough				\$136,200.00	\$136,200.00
	Taxable	City Taxable Value	68 - WESTERN EMERGENCY SVS			0	0
		Taxable Value - Borough				\$136,200.00	0
	Exemption	BOROUGH SENIOR Exempt Value					\$136,200.00
		Cap for Senior Exemption					\$150,000.00
		Exemption Value City	68 - WESTERN EMERGENCY SVS			0	0
		Residential Exemption					\$50,000.00
		Senior Citizen Exemption					\$136,200.00
		Senior Mandatory Exempt Value					\$136,200.00
		Senior MandatoryImp					\$114,500.00
		Senior MandatoryLand					\$21,700.00
		Working Improvement Assessed Value				\$114,500.00	\$114,500.00
		Exemption Value Borough				0	\$136,200.00
	Date	Year of Cadastre				2021.0000000000	2021.0000000000
		Effective date of value change				20210101.0000000000	20210101.0000000000



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 Johnson, Assembly President
Zen Kelly, President, Board of Education
Members, Kenai Peninsula Borough Assembly
Members, Kenai Peninsula Borough School District

THRU: Charlie Pierce, Mayor *AK for CP*

FROM: Sean Kelley, Borough Attorney *SK SK*

DATE: January 6, 2022

RE: Litigation Status Report – Quarter Ending 12/31/21

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. The 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. *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 court granted the parties' joint motion to continue the October 18, 2021 trial date. Trial is now scheduled for the week of October 17, 2022. Discovery is ongoing.
2. *Kenai Peninsula Borough School District v. Fischer*, Case No. 3KN-19-00185CI. This case was filed against a school district employee to recover substantial health care costs paid by the health care plan ("Plan"). The Plan requires that employees reimburse the Plan for Plan-paid medical costs incurred for

Page -2-

January 6, 2022

Re: Litigation Status Report

treatment of injuries caused by a third-party when the employee receives reimbursement from the at-fault party. Defendant failed to pay the amount when he was reimbursed by the third-party's insurer. Plaintiff filed a motion for an evidentiary hearing on the issue of whether this suit was filed after the expiration of the statute of limitations. The evidentiary hearing was held on October 21, 2021 and taken under advisement. Trial was rescheduled to the week of September 5, 2022.

3. Fischer v. KPBSD, Case No. 3KN-20-00495CI. This case was filed 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. An offer of judgment was extended to the plaintiff. The plaintiff did not accept the offer. Trial scheduled for the week of February 14, 2022 was continued to the week of May 2, 2022. Trial expert discovery is ongoing.
 4. Bilben, et al. v. KPBC, Beachcomber LLC, et al., Case No. 3KN-20-00034CI. This case involved an appeal to the Superior Court of a planning commission conditional land use permit (CLUP) approval. The borough did not participate in this appeal because only private interests were at stake. The superior court recently issued its decision remanding the matter back to the planning commission for additional findings. Subsequently, Beachcomber, LLC filed an appeal to the Alaska Supreme Court. The Supreme Court recently denied the petition for review and therefore the matter will go before the planning commission on remand. A scheduling discussion is set for the planning commission's January 10, 2022, meeting.
 5. Furie Operating Alaska, LLC. v. State of Alaska, Department of Revenue, and State Assessment Review Board, Case No. 3AN-21-06462CI. The owner of oil and gas production property appealed the State Assessment Review Board's decision upholding the tax assessment of the property performed by the State of Alaska, Department of Revenue pursuant to AS 43.56. The borough entered an appearance in this matter and has engaged Jessica Dillon a partner at the firm Dillon & Findley in Anchorage to act as lead counsel in this matter. The borough served its initial mandatory disclosure documents and information on the parties to this case. Discovery is on ongoing. There are no pending motions or upcoming hearings at this time. A non-jury trial is currently scheduled in this matter for the week of October 10, 2022.
- B. The following is a summary of open or recently resolved administrative appeals from Planning Commission decisions:

Page -3-
January 6, 2022
Re: Litigation Status Report

1. Case No. 2020-01 PCA, Beachcomber. Neighboring property owners appealed a planning commission's decision approving a modification of a conditional use material site permit. The borough filed a notice of non-participation in the matter and is not a party to the appeal. This case is stayed currently but it is anticipated that it will be reopened soon.
2. Case No. 2021-01 PCA, River Resources, LLC. The owner/operator of a material site permit appealed the planning commission's decision denying the request to modify a conditional land use permit to allow excavation below groundwater as well as denying the Applicant's request for a localized dewatering exception. The hearing officer issued orders remanding this case to the planning commission for more adequate findings. A remand hearing was held in this matter on December 13, 2021 wherein the planning commission granted the CLUP and entered additional findings of fact and conclusions of law. The planning commission's decision was subsequently appealed (see *McBride v. River Resources, LLC* below).
3. Case No. 2021-02 PCA, TRL Adventures. The owner of a bed and breakfast located in a local option zoning district (LOZD) appealed the planning commission's decision reversing and modifying the planning director's reconsideration decision on the owner/applicant's nonconforming use application. The borough's planning department has entered an appearance in this matter. The hearing officer has entered a decision in this case upholding the planning commission's decision. Subsequently, the hearing officer has denied TLR's request for reconsideration. The hearing officer's decision may be appealed to the superior court within 30 days of the December 13, 2021 Decision and Order issued in this case.
4. Case No. 2021-03 PCA, Rosenberg v CIRI. Neighboring property owners appealed the planning commission's decision approving a modification of a conditional land use permit. The borough filed a limited entry of appearance notifying the parties of its intent not to participate in the matter but only to monitor what is happening in the proceedings. The case has subsequently been remanded to the planning commission to augment their findings consistent with the superior court's decisions in *Bilben v. Beachcomber*, Case No. 3KN-20-00034CI.
5. Case No. 2022-01 PCA, McBride v. River Resources, LLC. This appeal was filed on December 20, 2021, following the planning commission's decision on remand of the River Resources appeal described in paragraph 2,

Page -4-
January 6, 2022
Re: Litigation Status Report

above. Certification of the record is due on approximately February 18, 2022, with a briefing schedule to follow.