

# **KENAI PENINSULA BOROUGH**

## **Legal Department**

144 North Binkley Street • Soldotna, Alaska 99669-7520

Toll-free within the Borough: 1-800-478-4441, Ext. 2120

**PHONE:** (907) 714-2120 • **FAX:** (907) 714-2379

[www.kpb.us](http://www.kpb.us)

**MIKE NAVARRE  
BOROUGH MAYOR**

## **MEMORANDUM**

**TO:** Mike Navarre, Borough Mayor

**FROM:** Colette Thompson, Borough Attorney *CT*

**DATE:** April 22, 2016

**SUBJECT:** Authorization to enter contract for law office software

Attached please find a Service Order Form agreement for the renewal of the legal department's AbacusLaw software and an authorization by the acting purchasing and contracting director to renew this as a sole source procurement. This agreement provides for continuation of the software, support and annual upgrade releases for the next three years at a cost of \$3,696 per year. AbacusLaw is designed to track cases and projects that come in to legal and our time.

The last page of the agreement requests a signature acknowledging and consenting on behalf of the borough to the scope of agreement. If you find this acceptable, please either sign the attached agreement or authorize me to do so. Thank you.

\_\_\_\_\_ Colette Thompson authorized to sign

*CT* Mayor will sign

4/22/16  
Date

*Paul Osteb*  
for Mike Navarre, Mayor

## Abacus Service Order Form

ORDER DATE: 4/21/2016	ORDER TYPE: Existing	TERM: 36 MO
CLIENT TYPE: Existing	FIRM NAME: Kenai Peninsula Borough	
SOLUTION: VIP	MIGRATING: Current VIP	PPOC: Cheryl Smith
REPRESENTATIVE: Jeff Newman	START DATE: 5/29/2016	EMAIL: csmith@borough.kenai.ak.us

APC Virtual Environment*	# Virtual Servers	# Users	Basic Virtual Server Configuration						
N/A			Bandwidth	Memory			Processor	Hard Drive Space	
			N/A	VS	User	Total	N/A	OS Partition	Data Partition
	\$ -	\$ -		N/A	N/A	N/A		N/A	N/A
Dedicated File Server*									
N/A	\$ -								

APPLICATIONS & OTHER: \* Not Eligible for Discount

Item	QTY	MRC Allocation	
		Per Unit	Subtotal
Abacus Users	5	\$ 77.00	\$ 385.00
Forms		\$ -	\$ -
Fed Rules		\$ -	\$ -
State Rules		\$ -	\$ -
PALs		\$ -	\$ -
Abacus Mobile		\$ -	\$ -
On-Site Training		\$ -	\$ -
ProServ VIP		\$ -	\$ -
ProServ APC		\$ -	\$ -
LawPay Payment Processing		\$ -	\$ -
Balance Services		\$ -	\$ -
Billing Services		\$ -	\$ -
MS365*		\$ -	\$ -
MS365*		\$ -	\$ -
Email Encryption (Cypher)		\$ -	\$ -
Two Factor Authentication*		\$ -	\$ -
+1GB Memory		\$ -	\$ -
+10GB OS Hard Drive Space		\$ -	\$ -
+10GB Data Hard Drive Space		\$ -	\$ -
Sophos Endpoint Antivirus & Malware Protection (5 pack)		\$ -	\$ -
VPN		\$ -	\$ -
VPN		\$ -	\$ -
Sys Admin 3rd Party Apps		\$ -	\$ -
MS SQL Standard (2 Core License)*		\$ -	\$ -
MSSQL Server*		\$ -	\$ -
TS Scan*		\$ -	\$ -
TS Print*		\$ -	\$ -
Skykick Email Migration		\$ -	\$ -

### COST ANALYSIS

Fully Integrated Solution	MRC
APC Virtual Environment	\$ -
APC Added Value (MRC)	\$ -
APC Added Value (MRC)	\$ -
AbacusLaw Licenses	\$ 385.00
Accounting Services	\$ -
LawPay Payment Processing	\$ -
Professional Services	\$ -
Subtotal MRC	\$ 385.00
Non-Discountable MRC	\$ -
Subtotal MRC	\$ -
Promotion Code	\$ -
Discount 20.00%	\$ 77.00
Total Contracted MRC	\$ 308.00
Total Contracted MRC	\$ -
One Time Activation Fee	\$ -
Total First Payment	\$ 308.00

### NOTES:

Kenai Peninsula Borough ("Client")

By executing this Service Order Form, Client hereby understands that it is entering into a binding contract with Abacus Data Systems, Inc. ("Abacus"). This Service Order Form supersedes all prior agreements between Client and Abacus related to any of the products purchased herein (if any).

With the exception of Professional Services Hours, Balance and Billing (which are not part of Client's VIP Subscription and are more specifically addressed below if purchased), all items purchased in the Service Order Form set forth above make up Client's VIP Subscription.

Client's VIP Subscription shall be governed by the Abacus End User License Agreement ("EULA") set forth at [www.abacuslaw.com/EULA](http://www.abacuslaw.com/EULA), which is herein incorporated by reference.

With respect to this Service Order Form, the EULA shall be modified as set forth in Attachment A (which is incorporated by reference). This Service Order Form may be executed with written or electronic signature or other written form of approval (including but not limited to approving in an e-mail), and delivered by facsimile or as a pdf or e-mail. Client further agrees that such approval shall constitute Client's signature. If so executed and delivered, the document shall be treated as an original and binding copy of this agreement.

This proposal expires 30 days as of the date issued.

The item(s) selected above are in addition to or modify those item(s) or service(s) previously purchased by Client.

Client Signature in Acceptance & Authorization to Charge Credit Card on File

*Paul Ostro* / Chief / 4/22/16  
Name, Title, Date

**ABACUS DATA SYSTEMS**

[www.abacuslaw.com](http://www.abacuslaw.com) | 1-800-726-3339 | [info@abacuslaw.com](mailto:info@abacuslaw.com)

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## ATTACHMENT A

With respect to the Service Order to which Attachment A is incorporated by reference, the EULA set forth at [www.abacuslaw.com/EULA](http://www.abacuslaw.com/EULA) shall be modified as follows:

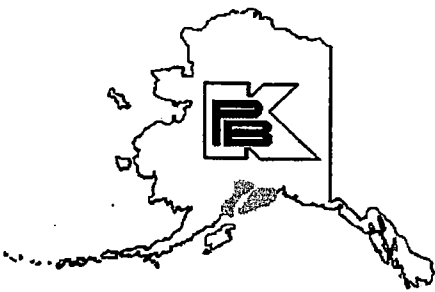
Paragraph 2 shall be replaced with the following language:

**2. FEES AND INVOICING** - Client agrees to pay Abacus the Total Contractual Value (upfront) or the Monthly Recurring Charges ("MRC") or annual payments (prior to the 1st, 13<sup>th</sup>, and 25<sup>th</sup> month of the Term) upfront and equal to 12 MRC, along with the fees as set forth in the applicable Service Order Form together with any taxes payable by Client that are required to be collected by Abacus pursuant to any applicable law. All payments made by Client to Abacus are non-refundable. As it relates to payments made by Client, Client will be charged a fee of \$35 for any returned payment, including but not limited to any check or Automated Clearing House transaction that is deemed invalid due to insufficient funds.

Paragraph 12 shall be replaced with the following language:

**12. TERMINATION** - Either party may terminate the Service or any distinct part thereof at any time without cause by providing 30 days written notice to the other party. In the event of termination of the Service in its entirety by the Client without cause, Client shall pay Abacus the Early Termination Fee, which shall be equal to Client's MRC times the remaining months left under the agreement, due and payable as of the date of early termination. In the event of termination of a part or parts of the Service (including the cancellation of a user) without cause, Client shall pay Abacus the Early Termination Fee, which shall be equal to Client's MRC times the remaining months left under the agreement for the canceled part or parts of the Service, however so long as Client always maintains at least five (5) users during the Term of Client's VIP Subscription, Client shall not be obligated to pay an Early Termination Fee for the cancellation of a particular user or users. The only time Client can terminate the agreement for cause is if Abacus is unable to correct any System Related Error after 30 days of Client after providing Abacus written notice of the issues (in the manner set forth in Paragraph 17 below). In such an instance, Client would not be obligated to pay the Early Termination Fee. If after giving the requisite notice of an alleged material breach, Client refuses to allow Abacus to access Client's computer system or data to evaluate the nature of the alleged breach or otherwise fails to cooperate with Abacus' efforts to cure the alleged breach, Abacus shall be relieved of any obligation to cure the alleged breach, and will eliminate Client's ability to terminate the Service for cause (with respect to the alleged breach). Abacus may terminate the Service for cause if Client fails to make its account current and pay the Re-Activation Fee within 30 days of the Services being suspended. Upon termination of the Service (for any reason), Client must destroy all copies of the Service within 5 days of the effective termination date.

Notwithstanding the above, if Client fails to receive sufficient appropriation of funds or authorization for the expenditure of sufficient funds to provide for the continuation of Client's VIP Subscription, or if a lawful order issued in or for any fiscal year during the Minimum Term of Client's VIP Subscription reduces the funds appropriated or authorized in such amounts as to preclude making the payments set out herein, Client's VIP Subscription shall terminate on the date said funds are no longer available without any termination charges or other liability incurring to Client. Client shall certify and warrant in writing that sufficient funds have not been appropriated or authorized to continue Client's VIP Subscription, and provide Abacus notice not less than fifteen (15) days prior to the date of cancellation.



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MIKE NAVARRE  
BOROUGH MAYOR

## MEMORANDUM

**TO:** Valentina Sustaita, Acting Purchasing and Contracting Director *[Signature]*  
**FROM:** Colette Thompson, Borough Attorney *[Signature]*  
**DATE:** April 21, 2016  
**SUBJECT:** Request for authorization to enter sole source contract for law office software

Since 2007 the legal department has used software provided by AbacusLaw to track staff time and matters handled. License subscriptions are currently offered for three year periods. The most recent annual subscription rate was \$1,497.67 which expires May 24, 2016. Their annual rate for the next three years has increased to \$3,696.00<sup>1</sup> for a total contract price of \$11,088. Cheryl researched alternatives on the internet and was unable to find another provider with comparable options.

One important feature of this software is that it links our emails to matters and clients, which enables us to quickly research past activities by matters and clients. If we change vendors we would lose access to all of that data. We would also lose all other data showing time spent and tasks performed by each employee on all matters recorded. To maintain compatibility with existing requirements and avoid losing existing data we would like to continue with this vendor.

Please sign below if you approve this request.

04/22/16  
Date

*[Signature]*  
Valentina Sustaita  
Acting Purchasing and Contracting Director

FINANCE DEPARTMENT	
FUNDS VERIFIED	
\$ 3696.00	
ACT #	100.11310.00000.43019
BY: <i>PP</i>	DATE: 4/21/16

<sup>1</sup> The borough was on a VIP program for contracts in 2007, 2010 and 2013. That program has been discontinued and standard pricing now applies less a 20 percent discount. In 2013 Abacus switched from offering the latest software program plus two years of support to a subscription based purchase which included all version upgrades and support for the term of the agreement. According to Abacus the cost of its subscription services has consistently increased each year for the past three years to make it comparable with the market for similar software and the borough was offered a special deal in 2013 because of our past VIP customer status. *[Signature]*