



## Meeting Agenda Planning Commission

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Monday, April 11, 2022

7:30 PM

Betty J. Glick Assembly Chambers

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**Zoom Meeting ID 907 714 2200 - ZOOM ONLY MEETING**

The hearing procedure for the Planning Commission public hearings are as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

### **A. CALL TO ORDER**

### **B. ROLL CALL**

**C. APPROVAL OF CONSENT AND REGULAR AGENDA**

*All items marked with an asterisk (\*) are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.*

*If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.*

1. Time Extension Request
2. Planning Commission Resolutions
3. Plats Granted Administrative Approval
  - a. [KPB-4068](#) Administrative Approvals  
Attachments: [C3. Admin Approvals Packet](#)
4. Plats Granted Final Approval (KPB 20.10.040)
5. Plat Amendment Request
6. Commissioner Excused Absences
7. Minutes
  - a. [KPB-4069](#) March 21, 2022 Planning Commission Meeting Minutes  
Attachments: [PC Minutes 032122 Draft](#)

**D. OLD BUSINESS**

- [KPB-4070](#) Beachcomber, LLC - Conditional Land Use Permit Application  
Attachments: [D1. PC RES 2022-17](#)

**E. NEW BUSINESS**

1. [KPB-4071](#) Right-of-Way Vacation  
Symphony Lane  
Attachments: [E1. ROWV Symphony Lane Packet](#)



2. [KPB-4072](#) Conditional Use Permit - Harvest Alaska, LLC  
PC Resolution 2022-14  
*Attachments:* [E2. CUP\\_Harvest AK\\_Packet](#)
3. [KPB-4073](#) Resolution 2022-XX: A resolution providing a 30-Day application period prior to inactivating the Kalifornsky Advisory Planning Commission  
*Attachments:* [E3. RES 2022-XX APC Inactivation Packet](#)
4. [KPB-4074](#) Ordinance 2022-06: An ordinance authorizing the negotiated sale of 183.234 acres in Cooper Landing as part of the Sterling Highway MP 45-60 Realignment Project to the State of Alaska Department of Transportation & Public Facilities for a negotiated amount over appraised value.  
*Attachments:* [E4. ORD 2022-06 DOT Sale\\_Packet](#)  
[D4. Amendment O2022-06 DOT](#)
5. [KPB-4075](#) Resolution 2022-XX: A resolution classifying certain parcels of borough owned land in the Diamond Ridge area.  
*Attachments:* [E5. RES 2022-XX\\_Land Class\\_Packet](#)
6. [KPB-4076](#) Ordinance 2022-09: Authorizing a negotiated lease at less than fair market value of certain real property containing 3.5 acres more or less to the Anchor Point Food Pantry for a food pantry and other community uses.  
*Attachments:* [E6. ORD 2022-09 AP Food Pantry\\_Packet.pdf\\_R2](#)  
[E6. AP\\_Support Docs\\_Desk](#)
7. [KPB-4077](#) Resolution 2022-020: A resolution approving a memoranda of understanding for sharing geographic data and imagery with the cities of the borough.  
*Attachments:* [E7. RES 2022-020\\_GIS Data\\_Packet](#)

## F. PLAT COMMITTEE REPORT

## G. OTHER

- [KPB-4100](#) Platting Memo: Certificate to Plat Requirements  
*Attachments:* [G2. Memo RE Certificate to Plats](#)

**H. PUBLIC COMMENT/PRESENTATION**

*(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)*

[KPB-4078](#) Ordinance 2022-XX: An ordinance authorizing emergency harvest of spruce bark beetle impacted forestlands and amending KPB 17.08.020(J) to remove limitation of harvestable timber.

Attachments: [H1. ORD 2022-XX Presentation Packet](#)

**I. DIRECTOR'S COMMENTS**

[KPB-4101](#) Director's Report for April 11, 2022

Attachments: [Director's Report 041122](#)

**J. COMMISSIONER COMMENTS****K. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS****NO ACTION REQUIRED**

[KPB-4102](#) APC Meeting Minutes

Attachments: [MISC 040622 CLAPC Minutes UNAPP](#)  
[MISC 040722 KACHEMAK BAY APC Minutes](#)  
[MISC AP APC Minutes 040722](#)

**NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING**

The next regularly scheduled Planning Commission meeting will be held Monday, April 25, 2022 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

**CONTACT INFORMATION****KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: [planning@kpb.us](mailto:planning@kpb.us)

website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

**C \*3**

## **ADMINISTRATIVE APPROVALS**



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Fourth of July Creek Subdivision Seward Marine Industrial Center Fire  
Department Replat  
KPB File 2021-080  
Seward Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on June 28, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, March 23, 2022.

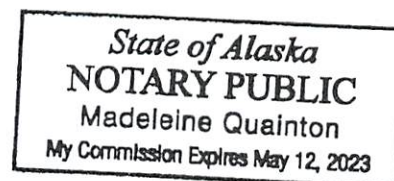
  
Julie Hindman  
Acting Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 23 day of March 2022 by Julie Hindman.

  
Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

# Kenai Peninsula Borough Planning Commission

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Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

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March 21, 2022  
7:30 P.M.  
**UNAPPROVED MINUTES**

Chair Martin requested that Vice Chair Ruffner chair the meeting. Chair Martin attended via Zoom and had connection concerns.

## **CALL TO ORDER**

Vice Chair Ruffner called the meeting to order at 7:30 p.m.

## **Oath of Office**

Ms. Shirnberg administered the oath of office to John Hooper, District 3 – Nikiski Planning Commission representative.

## **ROLL CALL**

### *Commissioners Present*

Jeremy Brantley, District 5 – Sterling/Funny River  
Diane Fikes, City of Kenai  
Pamela Gillham, District 1 – Kalifornsky  
John Hooper, District 3 - Nikiski  
Michael Horton, District 4 - Soldotna  
Virginia Morgan, District 6 – East Peninsula  
Blair Martin, District 2 – Kenai  
Robert Ruffner, District 7 – Central  
Franco Venuti, City of Homer

With 10 members of an 11-member seated commission in attendance, a quorum was present.

### *Staff Present*

Melanie Aeschliman, Planning Director  
Walker Steinhage, Deputy Borough Attorney  
Julie Hindman, Platting Specialist  
Samantha Lopez, KRC Manager  
Nancy Carver, Resource Planning  
Eric Ogren, Code Compliance  
Ann Shirnberg, Planning Administrative Assistant  
Avery Harrison, Land Management Administrative Assistant

## **AGENDA ITEM C. CONSENT & REGULAR AGENDAS**

### **\*3. Plats Granted Administrative Approval**

- a. Foothills Subdivision Sunset View Estates 2020 Addition Phase 1  
KPB File 2020-113R1

**\*5. Plat Amendment Request****ITEM C \*5 – PLAT AMENDMENT REQUEST  
a. BEAVER DAM ESTATES PART 7**

<b>KPB File No.</b>	2021-025R1A1
<b>Planning Commission Meeting:</b>	March 21, 2022
<b>Recording Number:</b>	KN 2021-45
<b>Surveyor:</b>	John Segesser / Segesser Surveys
<b>General Location:</b>	Eider Drive & Mallard Road, Kalifornsky Area

**\*6. Commissioner Excused Absences**

- a. David Stutzer, District 8 - Homer
- b. City of Soldotna, Vacant
- c. City of Seward, Vacant
- d. City of Seldovia, Vacant

**\*7. Minutes**

- a. February 28, 2022 Planning Commission meeting minutes

Vice Chair Ruffner asked if anyone wished to speak to any of the items on the consent agenda. Hearing no one wishing to comment he asked that Ms. Shirnberg read into the record the consent agenda items. Ms. Shirnberg read the items into the record. Vice Chair Ruffner then noted that staff had requested that the FEMA presentation be move up on the agenda to before Old Business.

**MOTION:** Commissioner Morgan moved, seconded by Commissioner Brantley to approve the consent agenda and the regular agenda as amended.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**AGENDA ITEM D. OLD BUSINESS****ITEM D1 – CONDITIONAL LAND USE PERMIT - REMAND HEARING**

<b>Applicant:</b>	Beachcomber, LLC
<b>Planning Commission Meeting:</b>	March 21, 2022
<b>Tax Parcel ID</b>	169-010-67
<b>Legal Description</b>	Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District, State of Alaska.
<b>General Location:</b>	Anchor Point Area

Vice Chair Ruffner noted that there were three preliminary matters to discuss.

Vice Chair Ruffner noted for the record that an objection from the appellants had been received questioning the commission's ability to go into adjudicative session for the purpose of reaching a decision in a quasi-judicial matter. He also noted that there was communication from the applicant stating they had no objection to the adjudicative session. He then noted the commission understands that they are in fact allowed to go into adjudicative session despite the objection.

Vice Chair Ruffner noted for the record that there was a request from the appellants for public comment to be reopen, he also noted that there was communication received from the applicant stating they did not want public comment reopened. Vice Chair Ruffner noted that the remand order did not require that public

comment be reopened.

Vice Chair Ruffner asked Commissioners Horton and Hooper if they had an opportunity to review the record in this matter and if after the review do, they feel confident they have sufficient understanding of the matter to participate in deliberations and to vote on the matter. Both replied that they did not believe that they have sufficient understanding to participate in the deliberations on this matter.

Vice Chair Ruffner noted that Commissioner Brantley had requested to be recused from this matter due to a potential conflict of interest. Vice Chair Ruffner excused Commissioner Brantley from this matter.

Hearing no other preliminary matters raised, Vice Chair Ruffner brought the matter back to the commission for a motion.

**MOTION:** Commissioner Fikes moved, seconded by Commissioner Morgan to go into adjudicative session at the close of the meeting and requested that Legal Counsel Siena Caruso Planning Administrative Assistant Ann Shirnberg join the commission for the session.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	Recused	1	Excused	2	Absent	1	Vacant	3
Yes	Bentz, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti								
Recused	Brantley								
Excused	Horton, Hooper								
Absent	Stutzer								

Vice Chair Ruffner informed those members of the public in attendance that the written decision in the form of a resolution will be subject to a public vote of the body at the planning commission's next regular meeting scheduled for April 11, 2022.

Vice Chair Ruffner asked Ms. Shirnberg to read the procedures for public testimony.

**AGENDA ITEM E. NEW BUSINESS**

**ITEM E1**

**PLANNING COMMISSION RESOLUTION 2022-13**

PC Resolution 2022-13: A Resolution recommending adoption of the updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan.

Staff report given by Brenda Ahlberg.

Vice Chair Ruffner opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Morgan moved, seconded by Commissioner Venuti to adopt PC Resolution 2022-13, a resolution recommending adoption of the updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				



## ITEM E2 ORDINANCE 2022-04

Ordinance 2022-04: An ordinance adoption the updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan.

Staff report given by Brenda Ahlberg.

Vice Chair Ruffner opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Morgan moved, seconded by Commissioner Venuti to forward to the Assembly a recommendation to adopt Ordinance 2022-04, an ordinance adoption the updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

## ITEM E3 - RIGHT OF WAY VACATION VACATE A PORTION OF PAPER BIRCH LANE AND ASSOCIATED UTILITY EASEMENTS

<b>KPB File No.</b>	2022-023V
<b>Planning Commission Meeting</b>	March 21, 2022
<b>Applicant / Owner</b>	Cody McLane, Gale Smith, Littleknife Inc., all of Soldotna, Alaska
<b>Surveyor</b>	James Hall / McLane Consulting Inc.
<b>General Location</b>	Sterling Area, Paper Birch Lane, Mountain Ash Street
<b>Legal Description</b>	Lot 1 Forest Hills Lookout Subdivision, Plat KN 86-204, and Lots 8, 9, and 15 of Tulchina Pointe Estates Phase 2, Plat KN 2009-48.

Staff report given by Julie Hindman.

Vice Chair Ruffner opened the meeting for public comment.

1. Steve Bowen, Builder; 36496 Haley's Way, Soldotna, AK 99669: Mr. Bowen was the builder who made the mistake and build the house in the right-of-way. He apologized for all this issues this mistake has created. He interpreted flagging on the lot and what he thought was the north property line was actually the north boundary of the right-of-way. He noted that he cannot close on the sale of the home until the right-of-way encroachment is resolved. He has hired McLane Consulting to do the survey work and replating of the lot which will hopefully resolve this issue.
2. James Hall, Surveyor; McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall is the surveyor working on this project. Mr. Hall noted that this area has been replatted over the years due to difficult terrain. The plat Mr. McLane is submitting for the subdivision of Lot 1 will provide access to Lot 2 and continue Authentic Road to Mountain Ash which will connect with Foster Avenue to the north. Tulchina Point Estates Phase 2 was approved by in 2006 and effects Lots 8, 9 & 15 and are also involved with this vacation request. The 2006 meeting minutes stated that the surveyor identified the difficult terrain of this area. The surveyor, Mr. Baker proposed an intersection layout for Mountain Ash and Walker Steet (later renamed to Paper Birch) which would provide dedicated access to the northwest. Walker would be vacated at the top of the knob and Authentic Road would connect to Foster Avenue. The reason given for this was they were trying to follow the terrain. He proposed vacating the portion of Walker between the intersection at the top of the knob and install a cul-de-sac because the road could not be built over that terrain. A lot of the area could not be built and they were trying to work with the terrain as much as possible.

3. Cody McLane, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. McLane is an engineer and is assisting Steve Bowen with this situation and he is also the owner of Lot 1 to the north of Paper Birch. He spoke to the buildability of Paper Birch Lane. He noted that KPB 14.060.100 which speak to road standards, state that from any intersection the vertical alignment must not exceed 4% within the first 100' and then cannot exceed 10% anywhere else. Where Paper Birch intersects Authentic Road, the elevation changes 70' over the first 200'. To build a road in that area to borough standards, the centerline cut 200' away from the intersection would be approximately 50' and the back slopes would catch about approximate 85' from both directions making the right-of-way of 170'. There is also the possibility of running into ground water issues.

Commissioner Morgan asked Mr. McLane if the rest of Paper Birch Road is built to borough standards. Mr. McLane replied that Paper Birch is not built but he believes there may be some trails in the right-of-way.

Commissioner Ruffner asked Mr. McLane if the concept with the preliminary plat for Lot 1 is to have a connection to Authentic Road as well as a new road that would continue to run north. Mr. McLane replied that he will have a spur that runs up and around the knob of Paper Birch about 200' to the north and will continue north and connect with Foster Road which is to the north of Lot. He noted that there would be a gap created that would be resolved if or when Lot 2 would be subdivided.

4. Gail Smith; 34701 Gloria Burns Circle, Soldotna, AK 99669: Ms. Smith spoke in support of the vacation. She is the owner of Lot 15. She noted the terrain where Paper Birch Lane intersects with Authentic Road is very steep. The image she would use to describe the area would be if you were standing at the bottom on Authentic Road and would go up the easement to connect with Paper Birch it would be like going up a tram at the Alyeska Ski area. The area is very steep and it would be difficult if not impossible to build the road. The area is much flatter and more open where the proposed new road will be. She believed that the new proposed road Mountain Ash will provide a safe access than Paper Birch. She also expressed numerous safety concerns related to the steepness of Paper Birch Lane.
5. Charles Johnson; P.O., Box 1608, Seward, AK 99664: Mr. Johnson is the owner of Lot 2 of Forest Hills Lookout Subdivision. He spoke in support of the vacation. He noted that the area of Paper Birch being vacated is very steep and would be very difficult to build a road to borough standards. He is happy to use the new road the Mr. McLane, is proposing with his proposed subdivision of Lot one. He also noted he is not planning on subdividing his property. He is planning to build a single home on his 15 acres of land. However, should he ever decide to subdivide he does not see a problem with dedicating a road along his property line that would connect with Paper Birch.

Commissioner Fikes asked if Mr. Johnson currently accesses his property from Paper Birch Lane. Mr. Johnson replied he accessed his property in the past by walking up a trail along Paper Birch Lane. Currently there is not developed road access to his property.

6. Mark Kemberling, 40790 Authentic Road, Soldotna, AK 99669: Mr. Kemberling spoke in opposition to this vacation. He noted that several of the affected property owners in the area were led to believe the Mr. Johnson was allowed access to his property through Cody McLane's property. He stated that he has not seen anything in writing confirming this. He also does not see anything in the record confirming the Mr. Johnson will provide access to Paper Birch from his property. He noted that the builder had made a big mistake building well over the property line into the right-of-way. He noted since his clients are gaining more land that they be required to take a sliver out of Lot 8 and connect that to Paper Birch. He noted that Developer Circle is already there and it is about 120' feet over flat land to connect to Paper Birch Lane. He feels that Developer Circle could to be easily connected to the existing Paper Birch Lane He noted that the area of Paper Birch that is being vacated is steep but that he and his wife have walked it with their dogs several times, it is a bit of a workout but is doable.
7. Heidi Morrison; 107 Sand Dollar Dr., Sitka AK: Ms. Morrison spoke in opposition to this vacation. She owns Lot 6 in the Forest Hills Lookout Subdivision, which runs along Paper Birch Road. When she purchased her property, the plat showed Paper Birch connecting to Authentic Road. She noted that since she has owned this property there have been numerous platting actions in the area, none of the platting actions ever noted that Paper Birch could not be built. She herself has ridden horses and driven snowmachines up Paper Birch and at no time has anyone ever indicated to her that Paper Birch could not be built. She has always assumed that she would have access there. She noted that the Borough must

have thought it was possible to build the road because they approved the dedication. She believed that during all the other platting actions this should have been brought up and addressed then but it was not. When she got her notice in the mail regarding this vacation she spoke with Mr. Bowen and presented an alternative of dedicating a section of road along Lots 8 & 9 and connect it to Developer Circle. This would solve the access issues and would allow the landowner who built his house in Paper Birch to resolve his encroachment issue using the land within his lots. She also noted that Mr. Johnson does not have plans to subdivide his property (Lot 2) and so there will not be any road dedications that could be used by any of the land owners along Paper Birch. She noted the KPB Roads Department initially was not supporting the vacation. Mr. McLane replied to the Roads Department concerns about access stating that he would supply access to Mr. Johnson's property (Lot 2), which caused the Roads Department to change their mind and support the vacation. She feels that this email communication was not clear enough to ensure that there will be guaranteed access. She would like the commission to send this vacation request back to the Roads Department for review to ensure that they understand what is being proposed by Mr. McLane. She does not feel that the residents along Paper Birch Lane are being guaranteed access. She believed that there is an opportunity here to discuss other options, but if this platting action is granted the opportunity would be lost. She would like to see Paper Birch Lane remain as it is it provides access and makes the neighborhood walkable.

Commissioner Brantley asked Ms. Morrison which lot she owned and how did she access the lot. She replied that her lot is the large lot that runs parallel along Paper Birch Lane and that she accesses her property via Moran Street which is off Paper Birch Lane. Commissioner Brantley noted that she also has access to her property via Quillback Drive. She replied that she has never accessed her property via Authentic Road and that she does not intend to develop Quillback Drive as an access. She noted that Quillback was dedicated after she purchased her land. Her plans are to be able to access her 15-acre property anywhere along Paper Back Lane. She noted that vacating Paper Birch would put pressure on her to give up some of her land to make Quillback a 60' right-of-way should she ever subdivide her property unless alternate access of secured. She believed her earlier recommendation would resolve this issue and that she would not be required to give up any of her land for a road dedication should she subdivide her property in the future.

Commissioner Ruffner noted that currently even if the vacation did not go through that Ms. Morrison would still be able to access her lot using Foster Ave. to Moran St. and along Paper Birch. He also noted that to the south she also had access to her property via Diamond Willow Lane which turns into Authentic Road which connects to Quillback Drive. She replied that is correct. She is concerned that being required to give the required match to Quillback Drive when she goes to subdivide her property will limit her options on how she could develop her property.

8. Jackie Kemberling; 40790 Authentic Road, Soldotna, AK 99669: She spoke in opposition to this vacation. She and her husband own Lot 4 in Tulchina Point Estates Phase 2. She wanted to let the commission know the Quillback Drive is not constructed. She stated that she did not want the other landowners in the area to be pressured into doing something they do not want to do with their properties because of the mistake of another landowner. She just wanted to make sure that everyone gets what they need without having to put pressure on others.
9. Russ Morrison; P.O. Box 4623, Soldotna, AK 99669: Mr. Morrison spoke in opposition to this vacation. He owns Lot 7B of Forest Hills Lookout and his property fronts Paper Birch Lane. He is in opposition to this vacation until another easement is finalized. He believes this vacation will limit his access and negatively affect the development of his land. His plan is to subdivide his land believes that vacating Paper Birch will cut access to high value land of Tulchina Estates. His property is directly behind some very expensive land and by Paper Birch Lane completes a loop which would dramatically increases the value of his property. He believes the vacation would decrease the value of his land

Commissioner Ruffner noted that Mr. Morrison still has dedicated access to his property via Paper Birch. Mr. Morrison stated that is correct, but he does not want to see the loop go away. He believes that losing the loop would negatively affect his land value.

10. James Hall, Surveyor; McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall noted that a goal of the borough is to improve access and that roads are dedicated can be improved and constructed. He noted that is what they are trying to do with developing this area. The section of Paper Birch being vacated is not constructable. He noted that KPB 20.30.030(A) requires the matching of road dedications.

Should Lot 2 ever subdivide he will have to match and continue the right-of-way the Mr. McLane is proposing to dedicate with his development of Lot 1. The same would be required of Quillback should the property owner of Lot 15 ever subdivide. This would provide good access for the area should these properties be developed.

Commissioner Morgan asked for clarification on the access that Mr. McLane is proposing for his development of Lot 1. Mr. Hall noted that the proposed dedication could be found on page E3-21 of the meeting packet. It shows the right-of-way dedication that will go to Lot 2. He then noted that per borough code should Lot 2 ever subdivide he would be required to continue that right-of-way and would connect it to Paper Birch.

Commissioner Horton ask a question regarding exceptions to road standards. Commissioner Ruffner replied if you want to build a road that will be accepted into the maintenance system you will need to meet the standards set out in code. The Road Service Board generally does not like to make exceptions to the standards. Commissioner Ruffner sits on the Road Service Board and noted there have been problems in the past when exceptions have been granted which resulted in roads being approved which were like goat trails. In his opinion the section of Paper Birch Lane being vacated, should it ever be developed, could not be built to the standard that it would be accepted into the road maintenance inventory.

Hearing no one else wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Brantley moved seconded by Commissioner Gillham to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance to borough code.

Commissioner Brantley stated that he would be supporting the vacation request. The section of road being vacated is not buildable. The only lot that would have an access issue is Lot 2 and the access issue will be resolved with Mr. McLane's replat of Lot 1. Mr. Johnson is going from the Paper Birch access point which is not constructable to one being dedicated by Mr. McLane's plat that is. Mr. Johnson's access to his property will be improved. Everyone else that has spoken tonight currently has developed access to their properties. They are not using the unconstructed portion of Paper Birch Lane being vacated to access their properties.

Commissioner Horton stated that he will be supporting this vacation request. He noted that he lives in this area and is familiar with the lots in question. He noted that there will still be access to Paper Birch Lane via Quillback in the future if needed. The vacation being requested is further back and will not affect access for the other property owners.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**ITEM E4 - UTILITY EASEMENT ALTERATION  
PIPER'S HAVEN UNIT 3 LOT 3 AND LOT 4**

<b>KPB File No.</b>	2021-115V
<b>Planning Commission Meeting</b>	March 21, 2022
<b>Applicant / Owner</b>	David & Jessica Talbot, Baxter Poe & Megan Tashash, all of Anchor Point, Alaska
<b>Surveyor</b>	Jason Schollenberg / Peninsula Surveying, LLC
<b>General Location</b>	Cloyd's Road, Happy Valley, Anchor Point APC

Staff report given by Julie Hindman.

Vice Chair Ruffner opened the meeting for public comment.

Hearing no one else wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Brantley moved seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance to borough code.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**ITEM E5 - UTILITY EASMENT ALTERATION**

**ARROWHEAD ESTATES MOORE REPLAT LOT 11A & ARROWHEAD ESTATES PHASE 1 LOT 10**

<b>KPB File No.</b>	2022-001V
<b>Planning Commission Meeting</b>	March 21, 2022
<b>Applicant / Owner</b>	Nathan and Julie Moore of Soldotna, Alaska
<b>Surveyor</b>	John Segesser / Segesser Surveys
<b>General Location</b>	Half Moon Avenue and Oliver Street, Sterling

Staff report given by Julie Hindman.

Vice Chair Ruffner opened the meeting for public comment.

Hearing no one else wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Gillham moved seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance to borough code.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**ITEM E6 – CONDITIONAL USE PERMIT**

<b>PC Resolution No.</b>	2022-11
<b>Planning Commission Meeting</b>	March 21, 2022
<b>Applicant / Owner</b>	Mark Arkens of Soldotna
<b>Tax Parcel ID No.</b>	066-250-23
<b>Physical Address</b>	36315 Mykiss Street
<b>General Location</b>	Funny River Area

Staff report given by Samantha Lopez.

Vice Chair Ruffner opened the meeting for public comment.

1. Mark Arkens, Petitioner; P.O. Box 2079, Soldotna, AK 99669: Mr. Arkens noted he has issues with people trespassing, walking along and destroying this section of the bank along his property. He wishes to restore and protect the bank that runs along his property. He wishes to install a chain link fence that runs along a portion of his eastern property line down to the river. The section line easement



running down to the river next to his property has a lot of activity. People access the river there, park their vehicles in the area, a lot of trash is dumped and they walk along and use the bank. The public will still have river access in this area via the section line easement however, the section line easement is not clearly marked in the area and so people often trespass on to his property. He has posted signs and they have been ignored. Putting up the fence will protect his bank and reduce the amount of trespass on his property. Fencing this area and doing the revetment will allow the bank the opportunity to heal itself.

Commissioner Fikes asked if this fencing will limit the ability for vehicles to access the area. Mr. Arkens replied that it would not, it would just keep people from trespassing on his property. Commissioner Fikes then asked if he had spoken to the land owner on the other side of the section line easement about his plans. Mr. Arkens replied that he had and while they do not experience the same issues with trespass, they support his project. The section line easement in the area is 100' and so there will still be room for the public to park their trailers & cars and access the river, the fence will just ensure that they do not trespass on to his property.

Director Aeschliman asked if he had a recent survey of his property. Mr. Arkens replied that he had and his property lines were marked.

Commissioner Morgan asked if he had considered that his fence might be vandalized. Mr. Arkens replied that he understands that possibility exists and if his fence is vandalized, he would just repair it.

Commissioner Venuti asked if Mr. Arkens had considered that his choice of using chain link for his fence might act like a net and catch debris from the river. Mr. Arkens stated that if there is river debris caught up in his fence, he will remove it and if needed repair the fence. He also noted that the end of the fence will be far enough way from the river that this should not be an issue

2. Hal Lapointe; 7130 Travis Circle, Anchorage, AK 99507: Mr. Lapointe asked if Mr. Arkens had an easement in that area. He noted the area where folks turn around at the end of the road is very narrow. He wondered if Mr. Arkens could revise his fence plans to ensure that folks could still have enough area down there to turn around. He noted that Mr. Arkens stated that he had spoken to others in the neighborhood regarding his plans but he had not contacted them. Commission Ruffner replied that there is a section line easement in that area and where Mr. Arkens is putting up his fence is not within the easement but on his property.
3. Stephanie LaPointe; 7130 Travis Circle, Anchorage, AK 99507: Ms. LaPointe noted that on the side of the road opposite Mr. Arkens property has a lot of erosion. She is concern if Mr. Arkens blocks some of the area down there that folk will be forced to use the area that is eroding and it will only make it worse and could affect how the river flows in the area.

Ms. Lopez noted that the use of chain link for the fencing is most preferred by floodplain standards. Initially Mr. Arkens proposed using solid cedar fencing which could cause backwatering issues. The uniqueness of the applicant's lot is that it lies behind an island. The area between the applicant's lot and the island is almost like an eddy. There is very little ice flow in the area between his lot and the island. She believed that even if the ice should break over the island and flow into this area the chain link fence would still be the best option as it would allow for water to move through it.

4. Mark Arkens, Petitioner; P.O. Box 2079, Soldotna, AK 99669: Mr. Arkens noted that he did reach out to his neighbors that live in the area year-round, but he did not reach out to the seasonal residents. The area where folks will be able to park will be smaller because they will not be able to park on his property like they have done in the past. He noted that whether or not a fence goes up he will not allow folks to continue to park on his property. He has no problems with folks accessing the river using the section line easement, he just does not want them trespass on his property.

Hearing no one else wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Fikes moved, seconded by Commissioner Brantley to adopt PC Resolution 2022-11, granting a conditional use permit for the construction of a fence within the 50-foot Habitat Protection District of the Kenai River.

Commissioner Ruffner expressed concerns about the fencing that runs perpendicular to the river inhibiting the seasonal movement of animals. He asked Mr. Arkens if he would be willing to have a gate that could be opened for the moose and other animals to use. Mr. Arkens replied that he would not be opposed but that he did not think it would be necessary. The water in the area is shallow and ices over allowing for easy passage across the area. He noted that he just recently witnessed a moose walk across the frozen area to get out to the island. If the commission feels that a gate is necessary, he would happily install one. Commissioner Ruffner noted that the water in that area is really shallow and he would like to see what other commissioners think on the issue.

Commissioner Gillham asked how long the fence was going to be. Ms. Lopez replied that the fence is approximately 140' and connects with a small wooded area on the property.

Commissioner Ruffner noted that he will be supporting this permit. He is very familiar with this area and the problems associated with it. He would not request the added condition of the installation of a gate but would ask Mr. Arkens to consider one.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY MAJORITY VOTE:**

Yes	9	No	1	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner						
No	Venuti						
Absent	Stutzer						

**ITEM E7 – MARIJUANA CULTIVATION FACILITY LICENSE**

<b>Applicant</b>	Redoubt Reefer
<b>Planning Commission Meeting</b>	March 21, 2022
<b>Land Owner</b>	Jason Rodean
<b>Tax Parcel ID No.</b>	133-350-16
<b>Physical Address</b>	27250 Vincent Street
<b>General Location</b>	Kasilof Area

Staff report given by Nancy Carver.

Vice Chair Ruffner opened the meeting for public comment.

1. Maureen Culbreth; PO. Box 1182, Kasilof, AK 99610: Maureen spoke in opposition of the application. She objects to facilities like this being allowed in residential areas. There are families that live in this area with children and she does not believe they should be exposed to this kind of facility. She expressed concerns with property devaluation, the potential of water table issues and an increase in criminal activity. She was also concerned that there would be retail sales from the facility.
2. Maureen Vincent; 2130 Innes Circle, Anchorage AK, 99515: Ms. Vincent spoke in opposition of the application. She opposes a facility like this in the middle of a residential area. She noted that her home is very close to this operation. She expressed concerns regarding the smells from the facility and the possible impact on her well. She noted that she was one of the developers for this subdivision and it was intended to be residential only. She believes that the covenants for the subdivision do not allow for this type of business.

Commissioner Venuti noted that Ms. Vincent stated that there are covenants for this subdivision. He informed Ms. Vincent that since covenants are private agreement the borough does not have the authority to enforce them. However, the neighborhood does have the right to come together and bring a civil action against this business.

3. Joe Gillman; P.O. Box 918, Kasilof AK, 99610: Mr. Gillman spoke in opposition of the application. He noted that he himself is a small business owner and that he does not have a problem with small business in the area. He also noted that he is not against the marijuana industry. What he is against is to have a cultivation facility in the middle of a residential area. This neighborhood has families with children and he does not believe they should be exposed to this kind of facility. He also wanted to

know if this facility would conduct extractions – if so, he had concerns regarding the danger related the extraction process. He also stated that she shares many of the same concerns express by the other testifiers. He also expressed concerns related to the saturation of the marijuana industry on the peninsula.

Hearing no one else wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Brantley moved, seconded by Commissioner Venuti to forward to the Assembly a recommendation to approve a marijuana cultivation facility license for Redoubt Reefer.

Vice Chair Ruffner asked staff to address some of the concerns expressed regarding the possibility of retail sales occurring the facility. Ms. Carver replied that this is a cultivation facility only. A separate license would be needed should they want to conduct retails sells.

Eric Ogren noted that the state of Alaska dictates the regulations related to orders. An odor filtration/exhaust system is state required. Odor complaints would be addressed by the State.

Commissioner Hooper asked staff if they are just growing or are they processing the product on site. Mr. Ogren replied that it is his understanding that the product will be grown and harvested on site but that any processing of the product happens at the retail sites.

Commissioner Horton asked if the commission could add additional conditions to the permit. He noted that he is familiar with this type of filtration/exhaust system. The filter can fail quickly when they become saturated by humidity. Could they require the special condition of requiring a dehumidifier in the facility? Mr. Ogren replied that it is permissible for the commission to recommend additional conditions, the commission would have to include findings of fact to support the recommendation. Mr. Walker concurred with Mr. Ogren.

Commissioner Fikes noted that concerns with odors are one of the most common concerns expressed. She is concerned with recommending additional conditions on this license when they have not required them on past licenses. She noted that this application meets all the state requirements and standards and she does not see how this facility is different from the others they have reviewed. She does not see any special circumstances related to this application that would warrant additional conditions.

Commissioner Gillham noted that this facility has three homes that are within the 300' radius. She wondered if this might be a situation that would warrant additional recommended conditions. She noted that this a developed residential area, and that it might not be the best location for this type of facility. This specific situation might support additional conditions. Vice Chair Ruffner stated the commission does have the ability to recommend additional conditions on the license, they would just have to develop findings that support the conditions.

Vice Chair Ruffner noted that the majority of the borough does not have zoning regulations to address these types of land use conflicts, this greatly limits what the commission can do in situations like this. The alcohol industry has limited entry regulations set by the State, which limits the number of businesses allowed in an area, the marijuana industry does not.

Commissioner Bentz spoke to the concerns expressed by the public regarding the size of the facility. She noted that the site plan in the application shows the licensed facility is an existing structure on the property and is about 1700-sq-ft which is about the size of a residential home.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				



**ITEM E8 – CONDITINAL LAND USE PERMIT**

<b>Applicant:</b>	Trimark Earth Reserve, LLC
<b>Planning Commission Meeting:</b>	March 21, 2022
<b>Tax Parcel ID</b>	055-072-76
<b>Legal Description</b>	T05N, R11W, SEC 25, S.M., Kalifornsky Center Subdivision Tract D
<b>General Location:</b>	Ravenwood Street & Bonita Avenue, Kalifornsky Beach Area

Staff report given by Ryan Raidmae.

Vice Chair Ruffner opened the meeting for public comment.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna, AK: McLane Consulting was hired by the applicant and was responsible for preparing the field survey, site plan and the application. Ms. DeBardelaben then gave a brief background history on the challenges related with permitting gravel pits and the background history on this particular piece of land and the other gravel pits in the immediate area. She noted that Trimark has done their due diligence by creating a site development plan that meets borough code prior to submitting their application. She then made herself available for any questions.

Commissioner Fikes asked Ms. DeBardelaben about the plans for ingress & egress for the pit. Ms. DeBardelaben replied that the primary access would be Ravenwood which is also the access used for their processing plant. Bonita would be a secondary route that could be used if necessary. She noted that there are several other material sites in the area that currently use these streets for access.

Hearing no one else wishing to comment, public comment was closed and discussion was open among the commission.

**MOTION:** Commissioner Gillham moved, seconded by Commissioner Brantley to adopt PC Resolution 2022-10 granting a conditional land use permit to Trimark Earth Reserve, LLC.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**AGENDA ITEM I. DIRECTOR'S COMMENTS** - None

**AGENDA ITEM J. COMMISSIONER COMMENTS** - None

**AGENDA ITEM M. ADJOURNMENT** – Commissioner Brantley moved to adjourn the meeting 10:25 p.m.

Ann E. Shirnberg  
Administrative Assistant

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2022-17  
HOMER RECORDING DISTRICT**

**A resolution denying a conditional land use permit to operate a sand, gravel, or material site for a parcel described as Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District, State of Alaska.**

**(DECISION ON REMAND)**

- WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and
- WHEREAS,** KPB 21.25.040 provides that a permit is required for a sand, gravel or material site; and
- WHEREAS,** KPB 21.29 provides that a conditional land use permit is required for material extraction which disturbs more than 2.5 cumulative acres; and
- WHEREAS,** on June 4, 2018, the applicant, Beachcomber LLC, submitted a conditional land use permit (CLUP) application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on June 22, 2018 to the 200 landowners or leaseholders of the parcels within one-half mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the July 5, 2018 & July 12, 2018 issues of the Homer News; and
- WHEREAS,** a public hearing of the Planning Commission was held on July 16, 2018 wherein the Planning Commission voted to deny the CLUP;
- WHEREAS,** following an administrative appeal to Hearing Officer Holly Wells in December 2018, the matter was remanded to the Planning Commission;
- WHEREAS,** on remand from the hearing officer, five additional public hearings were properly noticed and held on March 25, 2019, April 8, 2019, April 22, 2019, June 10, 2019, and July 24, 2019; and
- WHEREAS,** notice of the public hearings was mailed to 203 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their location. Public notice was published in the Homer News all as described in Resolution 2018-23 that was eventually voted on at the Planning Commissions June 24, 2019 meeting; and
- WHEREAS,** public comment was taken at all the public hearings but for the June 24, 2019 meeting where only the applicant was provided a final rebuttal opportunity after additional written were provided to the Planning Commission after close of the public hearing on June 10, 2019; and
- WHEREAS,** the Planning Commission voted to approve the CLUP at its June 24, 2019 meeting in Resolution 2018-23 attached as Exhibit A; and
- WHEREAS,** after the Planning Commission voted to approve Resolution 2018-23, the matter was appealed to a hearing officer and then to the Kenai Superior Court; and
- WHEREAS,** on September 2, 2021, Kenai Superior Court Judge Gist remanded the matter back to the Planning Commission; and
- WHEREAS,** the Kenai Superior Court's remand decision was subsequently appealed to the Superior Court which stayed any action before the Planning Commission on remand; and
- WHEREAS,** on December 29, 2021, the Alaska Supreme Court denied Beachcomber, LLC's Petition for Review; and
- WHEREAS,** at its regularly scheduled meeting on January 10, 2022, the Planning Commission unanimously voted to deliberate this matter on remand during a special meeting to hold an

adjudicative session scheduled for January 25, 2022 and, through staff, provided email notice to all parties to the appeal in this matter; and

**WHEREAS,** on January 25, 2022, at its adjudicative session, the Planning Commission deliberated this matter on remand; and

**WHEREAS,** at its next regularly scheduled meeting on February 14, 2022, the Planning Commission voted on Resolution 2022-07 to deny the CLUP; the vote failed; and

**WHEREAS,** at its next regularly scheduled meeting on March 21, 2022, the Planning Commission unanimously voted to further deliberate this matter on remand during an adjudicative session set for a later date following the meeting; and

**WHEREAS,** at its adjudicative session immediately following the regularly scheduled meeting on March 21, 2022, the Planning Commission deliberated this matter on remand; and

**WHEREAS,** the Planning Commission continued the March 21, 2022 adjudicative session to March 23, 2022, to continue deliberations; and

**WHEREAS,** during the adjudicative session, the Planning Commission reviewed the remand decision dated September 2, 2021, entered by Superior Court Judge Gist on appeal (Remand Decision) attached as Exhibit B;

**WHEREAS,** the Remand Decision held that “[n]othing in the Borough Code requires the Commission to approve a CLUP even where it finds that the conditions imposed cannot possibly minimize the visual and noise impacts to surrounding neighbors”; and

**WHEREAS,** contrary to the conclusion reached by Hearing Officer Wells, the Remand Decision further held that “the Commission does have the authority under KPB 21.25.050(B) to deny a CLUP if it finds that the standards set forth in KPB 21.29.040 cannot be sufficiently satisfied by conditions in KPB 21.29.050”; and

**WHEREAS,** the Remand Decision determined that “the findings in Section 17 [of Resolution 2018-23] do not detail whether the Commission found those conditions to in fact be *deemed appropriate* or sufficient to satisfy the standards set forth in KPB 21.29.040”; and

**WHEREAS,** the Remand Decision further held that “[i]f the Commission does in fact deem the conditions set forth in Resolution 2018-23 appropriate to satisfy the standards set forth in KPB 21.29.040, then it shall grant the CLUP. If, however, the Commission finds that no conditions in KPB 21.29.050 could adequately minimize visual and noise impacts to the standards set forth in KPB 21.29.040, then it may deny the CLUP”; and

**WHEREAS,** the Remand Decision did not instruct the Commission to allow the applicant or any other interested person to present additional evidence or testimony; and

**WHEREAS,** the Commission understands that the Remand Decision remanded the case back to the Commission “for further review and/or clarification” consistent with the Remand Decision and that the Commission has discretion to “approve, modify, or disapprove” a permit application pursuant to KPB 21.25.050 and pursuant to the standards specific to material sand, gravel or material sites under KPB 21.29.040; and

**WHEREAS,** this decision on remand rescinds, revokes and replaces Planning Commission Resolution 2018-23;

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

**SECTION 1.** That PC Resolution 2018-23 is hereby revoked and replaced by this resolution.

**SECTION 2.** That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

**Findings of Fact and Conclusions of Law**

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On June 4, 2018 the applicant, Beachcomber LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres.
5. The proposed disturbed area is approximately 27.7 acres.
6. The submitted application with its associated documents was reviewed by staff for compliance with the application requirements of KPB 21.29.030. Staff determined that the application was

- complete and scheduled the application for a public hearing.
7. A public hearing of the Planning Commission was first held on July 16, 2018 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
  8. Five additional public hearings were held on March 25, 2019, April 8, 2019, April 22, 2019, June 10, 2019, and June 24, 2019. Notice of the meetings was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
  9. This application has been heard twice on remand, once after a hearing officer remand and then again after a superior court remand.
  10. The site plan indicates that the processing area is 300 feet from the south and east property lines and is greater than 300 feet from the west property line. A waiver was requested from the north property line.
  11. The site plan shows the proposed processing area being 200 feet south of Parcel 169-022-08, which is undeveloped. Parcel 169-022-04 is developed and located within 300 feet of the proposed processing area; this parcel is owned by the applicant's relative.
  12. At the June 10, 2019 hearing, the applicant volunteered to utilize a moving, or rolling, berm rather than a stationary berm. The berms will be placed near the active excavation area to be moved as the extraction area and reclaimed areas expand.
  13. At the June 10, 2019 hearing, the applicant volunteered to operate his equipment onsite with multi-frequency (white noise) back-up alarms rather than traditional (beep beep) back-up alarms.
  14. If granted, the Planning Commission would have imposed every mandatory condition under code and pursuant to KPB 21.29.050. The applicant also offered two voluntary conditions related to rolling berms and white noise back-up alarms. Those conditions are set forth in the 22 Permit Conditions detailed in Resolution 2018-23.
  15. As outlined below the Planning Commission finds that even when all the Permit Conditions are imposed under KPB 21.29.050, the modification application does not meet the applicable standards under KPB 21.29.040.
  16. This modification does not meet material site standard 21.29.040(A4): "Minimizes noise disturbance to other properties" as evidenced by:
    - a. The Permit Conditions impose buffers around each side of the site.
    - b. The majority of the residential properties near and thus impacted by the noise of the material extraction operations are located on the southern and eastern borders of the site. The developed property on the northern boundary of the site located within 300 feet of the proposed processing area (Parcel 169-022-04) is owned by the applicant's relative.
    - c. Topographic maps in the record of the site and surrounding properties make evident the unique amphitheater-like natural topography of the area due to the elevated ground level of the properties located to the south and east of the site.
    - d. Given the unique amphitheater-like quality of the area, sound from the material extraction operations will carry to the properties to the south and east of the site.
    - e. There are Permit Conditions prohibiting material extraction operations from 10:00pm to 6:00am and on Memorial Day weekend, Labor Day weekend, and the July Fourth holiday. However, this is only a slight minimization of noise to surrounding properties considering operations will be permitted to take place from 6:00am to 10:00pm 358 days out of the year.
    - f. There is also a Permit Condition requiring the applicant to operate "his equipment onsite" with multi-frequency (white noise) back-up alarms rather than traditional (beep beep) back-up alarms. However, there was public testimony that while such a condition may minimize some noise from applicant's machinery, there was no assurance that equipment owned or leased by operators other than applicant performing material extraction on the site could or would adhere to the condition. As such, there may be little, if any, minimization of the noise disturbance to other properties by this Permit Condition.
    - g. Therefore, although the Permit Conditions impose every mandatory condition under KPB 21.29.050 and include additional voluntary conditions from the applicant, the Commission, in its discretion, finds that the conditions cannot adequately minimize the noise disturbance to other properties from the mineral extraction operations on the site.
  17. This modification does not meet material site standard 21.29.040(A5): "Minimizes visual impacts" as evidenced by:
    - a. The Permit Conditions impose buffers around each side of the site.
    - b. The majority of the developed properties near and thus visually impacted by the material extraction operations are located on the southern and eastern borders of the site. The developed property on the northern boundary of the site located within 300 feet of the proposed processing area (Parcel 169-022-04) is owned by the applicant's relative.
    - c. The Permit Condition buffers for the southern and eastern borders of the site are a 50-foot vegetated buffer and a 12-foot high berm (except along the northern 200 feet of the propose excavation on the eastern boundary).
    - d. Topographic maps in the record of the site and surrounding properties make evident the unique amphitheater-like natural topography of the area due to the elevated ground level of the properties located to the south and east of the site.
    - e. Photographs and GIS LIDAR profile mapping in the record provided by residents located on and near the eastern border of the site demonstrates that due to the higher elevation of the properties compared to the site, a 12-foot high berm set back 50-feet would provide very little, if any, minimization of the visual impact of the material extraction operation occurring at least 300 feet from the site boundary.
    - f. Similarly, photographs and GIS LIDAR profile mapping in the record provided by residents located on and near the southern border of the site demonstrates that due to

the higher elevation of the properties compared to the site, a 12-foot high berm set back 50-feet would provide very little, if any, minimization of the visual impact of the material extraction operation occurring at least 300 feet from the site boundary.

- g. Therefore, although the Permit Conditions impose every mandatory condition under KPB 21.29.050 and include additional voluntary conditions from the applicant, the Commission, in its discretion, finds that the conditions cannot adequately minimize the visual impacts of the mineral extraction operations on the site.

**SECTION 3.** That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29; notwithstanding, even after imposition of the conditions under KPB 21.29.050, and in accordance with the above findings of fact, the Planning Commission concludes as a matter of law that the application does not meet at least one of the standards set forth in KPB 21.29.040.

**SECTION 4.** That the material site conditional land use application filed by Beachcomber, LLC is denied.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Blair J. Martin, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

PLEASE RETURN  
Kenai Peninsula Borough  
Planning Department  
144 North Binkley St.  
Soldotna, AK 99669

**EXHIBIT A**

**PLANNING COMMISSION RESOLUTION 2018-23**



**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2018-23  
HOMER RECORDING DISTRICT**

**A resolution granting a conditional land use permit to operate a sand, gravel, or material site for a parcel described as Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.**

- WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and
- WHEREAS,** KPB 21.25.040 provides that a permit is required for a sand, gravel or material site; and
- WHEREAS,** on June 4, 2018 the applicant, Beachcomber LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on June 22, 2018 to the 200 landowners or leaseholders of the parcels within one-half mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the July 5, 2018 & July 12, 2018 issues of the Homer News; and
- WHEREAS,** a public hearing of the Planning Commission was held on July 16, 2018 where public comment was taken and the Commission denied the approval of the conditional land use permit; and
- WHEREAS,** the denial was appealed, a subsequent appeal hearing was held, and the hearing officer remanded the application to the Planning Commission; and
- WHEREAS,** a public hearing of the Planning Commission was held on March 25, 2019. Public notice of the hearing was mailed on March 4, 2019 to the 203 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their location. Public notice of the hearing was published in the March 14, 2019 and March 21, 2019 issues of the Homer News; and
- WHEREAS,** at the March 25, 2019 meeting, the Planning Commission continued the hearing to May 28, 2019, which was later rescheduled for June 10, 2019. Public notice of the hearing was mailed on April 30, 2019 to the 203 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their location. Public notice of the hearing was published in the May 30, 2019 and June 6, 2019 issues of the Homer News; and
- WHEREAS,** a public hearing of the Planning Commission was held on Jun 10, 2019 where public comment was taken;

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

**SECTION 1.** That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

**Findings of Fact**

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On June 4, 2018, the applicant, Beachcomber LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district.
4. Land use in the rural district is unrestricted except as otherwise provided in KPB Title 21.
5. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres and provides regulations for material extraction.

6. The proposed disturbed area is approximately 27.7 acres.
7. Consistent with KPB 21.25.050(A) on June 21, 2018, the applicant submitted a revised site plan and application to the Planning Department that addressed issues raised by staff with the initial review of the application.
8. The submitted application with its associated documents was reviewed by staff for compliance with the application requirements of KPB 21.29.030. Staff determined that the application was complete and scheduled the application for a public hearing.
9. A public hearing of the Planning Commission was held on July 16, 2018. Public notice of the hearing was mailed on June 22, 2018 to the 200 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their location. Public notice of the hearing was published in the July 5, 2018 & July 12, 2018 issues of the Homer News. The notice requirements of KPB 21.25.060 for this meeting have been met.
10. Testimony was filed and heard regarding issues that are not addressed by the KPB 21.29.040 standards or 21.29.050 conditions. Staff and the Planning Commission in reviewing the application are not authorized by the code to consider those issues such as property values, water quality, wildlife preservation, a material site quota, and traffic safety.
11. A public hearing of the Planning Commission was held on March 25, 2019. Public notice of the hearing was mailed on March 4, 2019 to the 203 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their location. Public notice of the hearing was published in the March 14, 2019 and March 21, 2019 issues of the Homer News. The notice requirements of KPB 21.25.060 for this meeting have been met.
12. A public hearing of the Planning Commission was held on June 10, 2019. Public notice of the hearing was mailed on April 30, 2019 to the 203 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their location. Public notice of the hearing was published in the May 30, 2019 and June 6, 2019 issues of the Homer News. The notice requirements of KPB 21.25.060 for this meeting have been met.
13. At the June 10, 2019 hearing, the applicant volunteered to utilize a moving, or rolling, berm rather than a stationary berm. The berms will be placed near the active excavation area to be moved as the extraction area and reclaimed areas expand.
14. At the June 10, 2019 hearing, the applicant volunteered to operate his equipment onsite with multi-frequency (white noise) back-up alarms rather than traditional (beep beep) back-up alarms.
15. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
16. *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.
  - A. The submitted site plan indicates the location of each of the parcel boundary stakes.
  - B. Planning staff has visited the site several times and has observed that the boundary stakes are in place.
17. *Buffer zone.* A buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
  - A. The applicant has proposed to maintain a six-foot high berm along all excavation boundaries except the western most boundary and along the east 400 feet of the northern boundary, where a 50-foot vegetated buffer is proposed.
  - B. There are 16 parcels adjacent to the proposed material site (adjoining or separated only by a roadway).
  - C. Eight of the adjacent parcels are vacant; one of the vacant parcels is a Prior Existing Use material site. Six of the adjacent properties have a dwelling. One of the adjacent properties has a recreational vehicle that is used as a seasonal dwelling. One of the adjacent properties contains commercial recreational cabins.
  - D. The elevation of the commercial recreational cabins is at a lower elevation than the proposed excavation area. Three of the adjacent residences are at about the same elevation as the proposed excavation area. Four of the adjacent residences are at a higher elevation than the material site parcel.
  - E. Farther away, there are additional residences in the vicinity that are at higher elevations than the adjacent properties. These parcels are less impacted by the material site than the parcels adjacent to the material site as sound dissipates over distance.
  - F. Per the site plan there is a greater than 50-foot native vegetated buffer along the western most boundary of the material site.
  - G. Along the southern and eastern property boundaries, where the applicant has proposed a six-foot high berm, staff recommends a 50-foot vegetated buffer along the property boundary with a 12-foot high berm between the extraction area and the vegetated buffer.
  - H. Over 40 percent of the southern and eastern property boundaries, where the applicant has proposed a six-foot high berm as the buffer, contains vegetation that can provide visual and noise screening of the material site for some of the adjacent uses.
  - I. For the remaining southern and eastern property boundaries, where the vegetation was previously removed, a 50-foot buffer will reduce the sound level for the adjacent





- properties.
- J. A 12-foot high berm between the excavation perimeter and the vegetated buffer along the southern and eastern property boundaries will increase visual and noise screening of the proposed use beyond that of a six-foot berm along those boundaries.
  - K. The total buffer width, as recommended by staff, along the southern and eastern property boundaries is 98-feet.
  - L. As the excavation extends deeper, the visual and noise impacts will decrease because the height of the berm relative to the excavation will increase.
  - M. A six-foot high berm between the extraction area and the 100-foot setback from the riparian wetland and floodplain will provide additional visual and noise screening of the material site. The berm will also provide additional surface water protection.
  - N. A 12-foot high berm along the remaining northern property boundaries will increase visual and noise screening of the proposed use beyond that of a six-foot berm along those boundaries.
  - O. Borough staff will regularly monitor the material site to ensure that the required buffer will not cause surface water diversion that negatively affects adjacent properties or water bodies.
  - P. There has been testimony that the material site will mar the view of Mount Iliamna and Mount Redoubt. Condition 21.29.050(A)(2) is written to provide screening from the material site, not protect view sheds beyond the material site.
  - Q. Each piece of real estate is uniquely situated and a material site cannot be conditioned so that all adjacent parcels are equally screened by the buffers. The different elevations of the parcels, varying vegetation on the surrounding parcels and the proposed material site, and distance of the material site from the various surrounding parcels necessarily means the surrounding parcels will not be equally impacted nor can they be equally screened from the material site.
  - R. The applicant has volunteered a condition requiring the berm be placed near the active excavation area, dampening the noise and reducing the visual impacts at the source. The berm will be moved as excavation progresses.
18. *Processing.* Any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
- A. The site plan indicates that the proposed processing area is 300 feet from the south and east property lines, and greater than 300 feet from the west property line. A processing distance waiver is being requested from the north property line.
  - B. The applicant proposed the following justifications for waiving the processing setback: "Although it is a large parcel, the configuration has limited potential process area. The waiver is requested to the north as 169-022-04 is owned by the applicant's daughter & 169-022-08 is not developed."
  - C. The 300-foot processing distance from the property lines is a mandatory condition imposed to decrease the visual and noise impact to adjacent properties.
  - D. The portion of the proposed processing area greater than 300 feet from the property line is very small, ranging from just a few feet wide to about 30 feet wide at the eastern edge of the proposed location.
  - E. There is a larger area in proposed phase III of the project that meets the requirement for a 300-foot processing distance setback, as such, there is adequate room to accommodate processing on the parcel while complying with 300-foot processing setback.
19. *Water source separation.* All permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. All CLUPs shall be issued with a condition that requires that a two-foot vertical separation from the seasonal high water table be maintained. There shall be no dewatering by either pumping, ditching or some other form of draining.
- A. The submitted site plan and application indicates that there are not any wells within 100 feet of the proposed excavation. The 100-foot radius line on the site plan for the nearest well indicates that the proposed extraction is greater than 100 feet from this well.
  - B. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation requirement.
  - C. Borough staff will regularly monitor the material site to ensure that dewatering does not take place in the material site.
20. *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.
- A. This permit approval does not allow excavation in the water table.
21. *Waterbodies.* 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. 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.
- A. The Cook Inlet lies about 600 feet west of the proposed material extraction.
  - B. The Anchor River, which is an anadromous stream, is located about 1,000 feet north of the proposed material extraction.
  - C. The "Wetland Mapping and Classification of the Kenai Lowland, Alaska" maps, created by the Kenai Watershed Forum, show a riparian wetland in the northeast



- corner of the property.
- D. The FEMA maps adopted by KPB 21.06 indicates a mapped floodplain in the northeast corner of the property. This mapped floodplain approximately matches the mapped riparian wetland.
  - E. The site plan indicates that the proposed extraction is 104 feet from the mapped riparian wetland. There is approximately two feet difference between the mapped riparian wetland and the floodplain boundary. This places the proposed excavation at about 102 feet from the floodplain.
  - F. A portion of the required 100-foot buffer adjacent to the riparian wetlands and the floodplain is an existing stripped area.
  - G. Prior to permit issuance the applicant is required to restore the 100-foot buffer adjacent to the riparian wetlands and the floodplain to an undisturbed state.
  - H. As stated on the site plan the buffer will provide protection via phytoremediation of any site run-off prior to entering the surface water. The site plan also indicates that the Alaska DEC user's manual, "Best Management practices for Gravel/Rock Aggregate Extraction Projects, Protecting Surface Water and Groundwater Quality in Alaska" will be utilized as a guideline to reduce potential impacts to water quality.
  - I. Borough staff will work with the applicant and regularly monitor the material site to ensure that excavation does not take place within 100 feet of the mapped floodplain, riparian wetland, or other water body and that the restored buffer remains undisturbed.
22. *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.
    - A. Borough staff will regularly monitor the material site to ensure compliance with mandatory condition KPB 21.20.050(A)(7).
  23. *Roads.* Operations shall be conducted in a manner so as not to damage borough roads.
    - A. The submitted site plan indicates that the material site haul route will be Denver Road, which is maintained by the Borough, and then to Anchor River Road, which is maintained by the state.
    - B. There was a significant number of public comments concerning the condition of Anchor Point Road. Anchor Point Road is a paved State of Alaska maintained road for which this condition is not applicable.
    - C. If operations associated with the proposed material site damages borough roads, the remedies set forth in KPB 14.40 will be used to ensure compliance with this requirement imposing the condition that operations not damage borough roads.
  24. *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.
    - A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
  25. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
    - A. If Borough staff becomes aware of a violation of this requirement action will be taken to ensure compliance.
  26. *Hours of operation.* Rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
    - A. If Borough staff becomes aware of a violation of this requirement action will be taken to ensure compliance.
    - B. This condition reduces off-site noise impacts of the material site.
  27. *Reclamation.* Reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall 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.
    - A. The submitted application contains a reclamation plan as required by KPB 21.29.060.
    - B. The applicant has submitted a reclamation plan that omits KPB 21.29.060(C)(3), which requires the placement of a minimum of four inches of topsoil with a minimum organic content of 5% and precludes the use of sticks and branches over 3 inches in diameter from being used in the reclamation topsoil. These measures are generally applicable to this type of excavation project. The inclusion of the requirements contained in KPB 21.29.060(C)(3) is necessary to meet this material site condition.
    - C. Permit condition number 15 requires that the permittee reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C)(3) and as approved by the planning commission
    - D. The application states that less than 50,000 cubic yards will be mined annually therefore the material site qualifies for a small quantity exception from bonding.
  28. *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.
    - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
  29. *Voluntary permit conditions.* Conditions may be included in the permit upon agreement of the



permittee and approval of the planning commission.

- A. The applicant has volunteered to operate his equipment onsite with multi-frequency (white noise) back-up alarms rather than traditional (beep beep) back-up alarms.
  - B. The volunteered condition concerning back-up alarms is in the best interest of the Borough and the surrounding property owners because the multi-frequency alarms better minimizes the noise impacts of the material site.
  - C. The applicant has volunteered a condition requiring the berm be placed near the active excavation area, dampening the noise and reducing the visual impacts at the source. The berm will be moved as excavation progresses.
  - D. The volunteered condition to place the berm near the active excavation area is in the best interest of the Borough and the surrounding property owners because this placement of the berm will better minimize the visual impacts of the material site.
  - E. The applicant has volunteered a condition a condition that prohibits material site operations on holiday weekends during the summer months.
  - F. The volunteered condition, to not operate on holidays, is consistent with the standard to reduce noise disturbance to adjacent properties.
  - G. The volunteered condition, to not operate on holidays, is in the best interest of the Borough and the surrounding property owners because the Anchor River State Recreational Area has a significantly greater number of visitors on holidays and several of the neighbors and Alaska State Parks has expressed concern about the noise impacts to the recreational area.
30. *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.
- A. If Borough staff determines that operations have not commenced after one year, action will be taken to ensure compliance

#### PERMIT CONDITIONS


1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries:
  - A 50-foot vegetated buffer adjacent to the south boundary of Parcel 169-022-03 (Brantley) with a six-foot high berm placed near the active extraction area.
  - A six-foot high berm between the extraction area and the 100-foot setback from the riparian wetland and floodplain
  - A 12-foot high berm along the rest of the northern boundary.
  - A 50-foot vegetated buffer adjacent to the southern parcel boundaries with a 12-foot high berm placed near the active extraction area.
  - A 50-foot vegetated buffer adjacent to the eastern most parcel boundary; and a 12-foot high berm placed near the active extraction area except along the northern 200 feet of the proposed excavation.
  - A greater than 50-foot vegetated buffer along the western most parcel boundary.These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit 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.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the parcel boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall not dewater either by pumping, ditching or any other form of draining.
9. The permittee shall maintain an undisturbed buffer, 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.
10. The permittee shall ensure that fuel storage 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.
11. The permittee shall conduct operations 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.
12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall not operate rock crushing equipment between the hours of 10:00 p.m. and 6:00 a.m.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel with the




addition of the requirements contained in KPB 21.29.060(C)(3) and as approved by the planning commission.

16. The 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.
17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. 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.
18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
19. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
20. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.
21. The permittee shall operate his equipment onsite with multi-frequency (white noise) back-up alarms rather than traditional (beep beep) back-up alarms.
22. The permittee shall not operate the material site or haul material from the site on Memorial Day weekend (Saturday through Monday), Labor Day weekend (Saturday through Monday), and the 4th of July holiday to also include:
  - Saturday and Sunday if July 4th is on a Saturday, Sunday, Monday, or Friday
  - Saturday, Sunday, and Monday if July 4th is on a Tuesday
  - Saturday, Sunday, and Friday if July 4th is on a Thursday

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 24<sup>th</sup> DAY OF JUNE, 2019.

  
Blair J. Martin, Chairperson  
Planning Commission

ATTEST:

  
Julie Hindman  
Administrative Assistant

PLEASE RETURN  
Kenai Peninsula Borough  
Planning Department  
144 North Binkley St.  
Soldotna, AK 99669



**EXHIBIT B**

**JUDGE GIST'S REMAND DECISION**

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT KENAI

HANS BILBEN, et al., )  
 )  
Appellants, )  
 )  
v. )  
 )  
KENAI PENINSULA BOROUGH, )  
PLANNING COMMISSION, and )  
BEACHCOMBER LLC, et al. )  
 )  
Appellees. )

Appeal Case No. 3KN-20-00034CI

AGENCY CASE NO. 2019-01-PCA

**MEMORANDUM DECISION AND ORDER**

On January 10, 2020, Appellants, Hans Bilben et al.<sup>1</sup> (herein referred to solely as “Bilben”), filed a *Notice of Appeal* of a Hearing Officer Decision and Order in Kenai Peninsula Borough Planning Commission (“Commission”) Case 2019-01-PCA, which ultimately granted a conditional land use permit (“CLUP”) in favor of Beachcomber, LLC, for materials extraction on certain Beachcomber property.

**I. BACKGROUND**

On June 4, 2018, Beachcomber applied for a CLUP under Kenai Peninsula Borough Code (“KPB”) 21.29.30 to excavate and process materials on 27.7 acres of its 41.72-acre property in Anchor Point.<sup>2</sup> The proposed development would occur in phases over a 15-year period, two to five acres at a time. The proposed material site is surrounded by residential and recreational properties. The site is also topographically depressed, meaning that the surrounding properties look down over any activities occurring at the proposed gravel mine.

<sup>1</sup> The Appellants in this case consist of 29 owners of real properties that adjoin or surround the proposed 27.7-acre gravel pit situated in an area presently used for residential and recreational purposes.

<sup>2</sup> Excerpt of Record (“Exc.”), pp.1-21.

Beachcomber's CLUP application contained information required by the KPB Code, including a reclamation plan and proposed buffers to minimize impact on the surrounding community.<sup>3</sup>

Notice of the CLUP was posted and public comment was invited at a meeting set for July 16, 2018. Prior to the meeting, the Commission received nearly 200 documents for consideration. At the meeting, the Commission heard hours of public testimony from over 30 people affected by the CLUP. Due to the volume of testimony, the meeting continued beyond the Commission's ordinary adjournment time. Following the meeting, the Commission deliberated on the proposed gravel mine and voted to disapprove the application by a vote of 6-3.<sup>4</sup> The Commission identified two primary reasons under KPB Code 21.29.040 for disapproving the CLUP application: (1) the noise disturbance will not be sufficiently reduced with any buffer or berm that could be added, and (2) the visual impact to the neighboring properties will not be sufficiently reduced.<sup>5</sup>

On August 2, 2018, Beachcomber appealed the Commission's denial of the CLUP. In advance of the appeal proceeding, the Planning Director submitted a brief in which he described the Commission's decision to deny the CLUP as "hasty and reactionary [...] made to accommodate the fears and concerns of the crowd."<sup>6</sup> The Planning Director requested that the Hearing Officer either approve the CLUP or remand the decision back to the Commission for further analysis.<sup>7</sup>

On December 6, 2018, Hearing Officer Holly Wells was assigned to preside over the administrative appeal. In her decision, Officer Wells discussed KPB Code 21.29.050, and held that the Commission exceeded the scope of its authority in denying the CLUP application.<sup>8</sup>, Officer Wells found that:

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<sup>3</sup> Exc. 1-4.

<sup>4</sup> Exc. 36.

<sup>5</sup> Exc. 36.

<sup>6</sup> Exc. 227.

<sup>7</sup> The Planning Director stated that the Commission did not make sufficient findings to support its denial. Specifically, "[p]ursuant to KPB 21.29.050(A)(2) the planning commission determines the appropriate height and density of the buffers for a material site within the confines of the code section. However, no exploration or effort was made to determine whether the buffers proposed by staff, or different or additional buffers, could be fashioned to screen the material site. If the planning commission believed that buffers were not feasible it should have made findings to support that position and then waived the buffers under KPB 21.29.050(e). Further, the decision lacked any reference as to whether the other 14 conditions set forth in KPB 21.29.050 were also useless to afford any protection to the surrounding property owners." See Exc. 224.

<sup>8</sup> Exc. 60.

“the Code does not provide the Commission discretion to deny such a permit when the application has been properly submitted [...] The Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code [...] the [Kenai Peninsula Borough] Assembly, in adopting the Code, only granted the Commission authority to impose these conditions and ensure that any application complied with these application requirements [...] the Commission may only apply the conditions under KPB 21.29.050 when issuing a material site conditional use permit.”<sup>9</sup>

Officer Wells remanded the CLUP application back to the Commission for further findings. In ruling on a *Motion for Reconsideration* by Bilben, Hearing Officer Wells reiterated that “the Commission’s findings were not sufficient to determine whether the denial was properly within the Commission’s authority.”<sup>10</sup> Bilben did not appeal Officer Wells’ decision. On remand, the Planning Department issued a staff report and provided background information to the Commission with excerpts from the hearing with Officer Wells.<sup>11</sup>

Beginning in March, 2019, the Commission again considered Beachcomber’s CLUP application at a series of hearings and deliberations held over five days.<sup>12</sup> Commissioners expressed ongoing concerns about the CLUP application, including that Beachcomber’s proposed buffer would not adequately reduce the noise disturbance and visual impact on the surrounding properties.<sup>13</sup>

Beachcomber voluntarily added conditions to mitigate the visual and noise impacts, including (1) using roaming (rather than stationary) berms to be moved as the extraction area expanded, (2) operating onsite equipment with multi-frequency (white noise) back-up alarms instead of traditional (beep-beep) back-up alarms, and (3) restricting operating hours for rock crushing on holiday weekends during the summer.<sup>14</sup> Following deliberations, the Commission voted to approve the application by a vote of 8-2.<sup>15</sup> The Commission adopted Resolution 2018-23, which included 30 findings of fact and outlined 22 permit conditions.<sup>16</sup> The

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<sup>9</sup> *Id.*

<sup>10</sup> Exc. 56.

<sup>11</sup> *Id.*

<sup>12</sup> March 25, April 8, April 22, June 10, June 24, 2019, with public comments heard only on June 10, 2019.

<sup>13</sup> Exc. 94-96.

<sup>14</sup> Exc. 115, 117-119.

<sup>15</sup> Exc. 113.

<sup>16</sup> Exc. 114-119.



Resolution adhered to the instructions provided on remand that “[c]ompliance with the mandatory conditions in KPB [Code] 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.”<sup>17</sup>

Bilben appealed the Commission’s approval of the CLUP. On October 30, 2019, Hearing Officer Goldsmith presided over the appeal. Officer Goldsmith gave deference to the Commission’s interpretation of the Code, and found that the “Commission’s interpretation that these two provisions must be read together, and that compliance with KPB 21.29.050 necessarily means compliance with KPB 21.29.040, is reasonable.”<sup>18</sup> Hearing Officer Goldsmith upheld the Commission’s decision, finding that the “Commission acted within the scope of its authority in approving the Application, and finding that “the additional facts presented at the Commission’s 2019 public meetings on this Application provide the evidence to support the Commission’s findings of fact.”<sup>19</sup>

## II. PARTIES’ ARGUMENTS

### a. Standard of Review

The parties agree on which standards of review are appropriate for administrative decisions, but disagree as to which should be applied in this case. Bilben argues that the court should apply the independent judgment standard, arguing that deference to agency decisions are not warranted where the matter is one of purely statutory interpretation for which no agency expertise or questions of fundamental policy are involved.<sup>20</sup> Bilben argues that the question of whether the Commission has authority to disapprove a completed permit application is one of purely statutory interpretation. Bilben notes that courts have accorded deliberative weight to “what the agency has done, especially where the agency interpretation is longstanding.”<sup>21</sup> However, Bilben asserts that the Commission’s final interpretation of the Code in this case (that compliance with KPB Code 21.29.050 necessarily means compliance with KPB Code

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<sup>17</sup> Exc. 115.

<sup>18</sup> Exc. 182.

<sup>19</sup> Exc. 177.

<sup>20</sup> *Balough v. Fairbanks North Star Borough*, 995 P.2d 245 (Alaska 2000).

<sup>21</sup> *State, Dep’t of Health and Human Services, Div. of Public Assistance v. Gross*, 347 P.3d 116 (Alaska 2015).

21.29.040) is due little deference based on longevity because (1) the final interpretation of the Code did not originate from the agency, but rather from Hearing Officer Wells, and (2) the Commission has not previously been required to approve a CLUP application in a residential area with overlooking surrounding properties where the standards in KPB Code 21.29.040 could not feasibly be met.

Bilben argues that if the court applies deference to agency interpretation, it should defer to the Commission's 2018 interpretation rather than the 2019 interpretation. Bilben argues that when the Commission voted to disapprove the CLUP application in 2018, the majority of the Commission understood that the Commission was authorized to determine whether the standards in KPB Code 21.29.040 had been met prior to approving the permit.

Conversely, Appellees argue that the court should apply the reasonable basis standard of review because (1) the Commission has expertise in approving or denying CLUPs pursuant to the KPB Code and should be afforded deference; (2) one of the Commission's core statutory functions is to consider and approve properly-submitted CLUPs; (3) the Commission has maintained a longstanding and continuous policy of approving CLUPs that comply with KPB Code; and (4) the Alaska Supreme Court has specifically directed courts to be deferential when considering a zoning board's determination.<sup>22</sup>

#### **b. Discretion of the Planning Commission**

Bilben argues that the instruction provided to the Commission on remand – that it lacked the discretion to judge whether the CLUP application met the KPB Code 21.29.040 standards and that it lacked the authority to disapprove a completed permit application – was incorrect. Bilben argues that KPB Code 21.25.050(b) explicitly provides the Commission with discretion to “either approve, modify, or disapprove the permit application.”<sup>23</sup> Bilben asserts that the purpose of Chapter 21.25 is to “require advance notice, to provide an opportunity for public

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<sup>22</sup> *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 173 n.12 (“When a planning agency does, in fact, provide its interpretation of an ordinance within its area of expertise, we will give that interpretation considerable deference.”); See also, *Griswold v. Homer Advisory Planning Commission et al.*, No. S-17669, Op. No. 7515 (Alaska Apr. 9, 2021).

<sup>23</sup> KPB Code 21.25.050(b).

comment, and *impose minimum standards*” for certain land uses, including CLUPs.<sup>24</sup> Bilben further asserts that “before granting the permit, the Commission must find *at a minimum* that the proposed activity complies with the requirements” of Chapter 21.25.<sup>25</sup> Therefore, Bilben argues that the standards outlined in the Code represent the floor of the Commission’s discretionary authority, not the ceiling.

Bilben contends that statutory construction indicates that the Commission does indeed have authority to disapprove a CLUP application that does not meet the KPB 21.29.040 standards. Bilben asserts that if the Commission were prohibited from denying a completed application, various portions of the Code would be rendered obsolete, including (1) the responsibility of the Planning Director to assess the completeness of an application provided in KPB 21.25.050(A); (2) the Commission’s authority to “either approve, modify or disapprove the permit application” provided in KPB 21.25.050(B); and (3) the utility and meaning of the standards in KPB 21.25.050(B),<sup>26</sup> 21.25.020,<sup>27</sup> and 21.29.040.<sup>28</sup>

A more straightforward interpretation, Bilben argues, is that the Legislature imposed minimum standards that must be met prior to granting permission to engage in activities on a parcel of land. To that end, Bilben asserts that the Legislature divided responsibility between the Planning Director, who is responsible for assessing completeness of an application, and the Commission, which is responsible for assessing whether the standards have been met.

Moreover, Bilben asserts that the Code’s stated purpose is to “provide advance public notice, to provide an opportunity for public comment, and impose minimum standards for certain land uses which may be potentially damaging to the public health, safety and welfare, in a manner that recognizes private property rights.”<sup>29</sup> As such, Bilben argues that it would be unreasonable to adopt an interpretation of the Code that prohibits the Commission from

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<sup>24</sup> KPB Code 21.25.020 (emphasis added).

<sup>25</sup> KPB 21.25.050(B) (emphasis added).

<sup>26</sup> KPB Code 21.25.050(B) (“Before granting the permit, the commission must find at a minimum that the proposed activity complies with the requirements of this chapter.”).

<sup>27</sup> KPB Code 21.25.020 (“It is the purpose of this chapter... to impose minimum standards for certain land uses which may be potentially damaging to the public health, safety and welfare...”).

<sup>28</sup> Setting forth the list of six standards applicable to Material Site Permits.

<sup>29</sup> KPB 21.25.020.

disallowing a CLUP, regardless of the outcome of public comment, public health, safety and welfare, or whether or not the application satisfies standards imposed by KPB 21.29.040.

Bilben concedes that the Commission's authority to impose standards on material site permits is limited by KPB Code 21.29. Specifically, KPB Code 21.29.050 provides sixteen permit conditions which the Commission may impose to meet the six specific standards outlined in KPB 21.29.040. However, Bilben argues that while KPB Code 21.29.040 states that "[o]nly the conditions set forth in KPB 21.29.050 may be imposed to meet the standards," it does not otherwise restrict or define the Commission's authority to deny an application in the event that the standards are, nevertheless, not met by the applicant. Bilben argues that the word "only" in KPB Code 21.29.040 serves to limit the universe of allowable conditions that the Commission could impose on a gravel mine operator, not eviscerate the Commission's discretion to deny an application altogether.<sup>30</sup> Therefore, Bilben argues that the Commission was not in error when it disapproved the CLUP in 2018 for failure to sufficiently reduce noise or visual impacts.

In opposition, Appellees argue that the word "only" in KPB Code 21.29.040 limits the Commission's discretion to deny a completed CLUP application. Namely, that the Commission may *only* impose conditions listed in KPB Code 21.29.050 to meet the standards outlined in KPB Code 21.29.040. Appellees note that KPB Code 21.29.040 provides a list of six goals, including minimizing noise disturbances and visual impacts. However, Appellees argue that KPB Code 21.29.040 illustrates the Legislative Assembly's aspirational intent; it does not seek to eliminate *all* noise disturbances or visual impacts - instead it only aspires to *minimize* them. Appellees argue that KPB 21.29.050(A)(2)(e) explicitly gives the Commission the ability to "waive buffer requirements" entirely "where the topography of the property [...] makes screening not feasible or necessary." Appellees contend that the Commission must view a CLUP application through the lens of KPB 21.29.050 while keeping the six aspirational goals of KPB 21.29.040 in mind. Appellees argue that because the six standards of KPB 21.29.040 are aspirational, it would be improper for the Commission to deny a CLUP based only on those standards if the applicant otherwise meets the sixteen mandatory conditions outlined in KPB 21.29.050.

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<sup>30</sup> KPB 21.29.040 ("Only the conditions set forth in KPB 21.29.050 may be imposed to meet these [six] standards").

Appellees argue that the Assembly crafted legislation that favors minimal restrictions on landowners to use and control their land. In support, they assert that in 1999 the Assembly removed a Code provision that required the Commission to deny a permit application if it was either detrimental to the public welfare or injurious to other property in the area.<sup>31</sup> Instead, the Assembly adopted Code provisions that limit the Commission's discretion to deny a CLUP solely to situations in which the application fails to meet the mandatory conditions of KPB Code 21.29.050.

Both parties agree that when various Code chapters conflict, the more specific chapter controls. Appellees argue that KPB 21.29, which outlines mandatory permit conditions, is more specific than the provisions in KPB 21.25. Therefore, Appellees argue, the discretion afforded to the Commission in chapter 21.25 to "either approve, modify or disapprove" a permit application gives way to the limited discretion provided to the Commission in KPB 21.29 to deny a permit application if and only if it fails to meet the mandatory conditions of KPB 21.29.050. Appellees assert that the Commission does not have authority to impose additional conditions or requirements beyond those listed in KPB 21.29.050.<sup>32</sup> Appellees argue that in 2019, the Commission found that Beachcomber's application met all of the mandatory conditions and that approval of the CLUP was, therefore, proper.

In reply, Bilben asserts that he is not seeking to impose *additional* conditions to the CLUP, but rather only aim to apply the standards already listed in the Code.<sup>33</sup> Bilben asserts that mapped depictions of the proposed CLUP area that were created using the Borough's mapping technology demonstrates that the visual and noise impacts will not be minimized.<sup>34</sup> He further insists that conditions listed in the CLUP may be ineffective at minimizing the visual and aural impact. For example, he argues, a condition that requires a screen or buffer to be placed near the material excavation site would do nothing to minimize the impacts for the transportation routes or processing sites. For those reasons, he argues that the Commission had authority to deny the CLUP.

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<sup>31</sup> See former KPB Code 21.13.

<sup>32</sup> See Warrington, Memorandum Decision and Order, 3KN-05-00206CI, at 8.

<sup>33</sup> *Id.* Bilben argues that Warrington is distinguishable because in that case the agency found that the proposed gravel mining pit would not affect the neighboring water sources.

<sup>34</sup> Exc. 12-13.

### **c. Substantial Evidence**

Bilben argues that substantial evidence does not support the Commission's findings in Resolution 2018-23 and that Hearing Officer Goldsmith's decision upholding the Resolution must be reversed. Bilben asserts that Officer Goldsmith reasoned that substantial evidence existed for the Resolution approving the CLUP because "due consideration must be given to the Commission's interpretation of the Code."<sup>35</sup> However, Bilben asserts that it cannot be discerned whether the Commission determined that the standards had been met in 2019 because the only finding relating to standards states that the standards in KPB 21.29.040 are "necessarily met" when the mandatory conditions in KPB 21.29.050 are imposed.<sup>36</sup> Bilben contends that the evidence presented in 2019 was not sufficiently different from the evidence presented in 2018 when the Commission denied the CLUP due to visual and noise impacts.

In opposition, Appellees argue that the Commission made factual findings concerning the topography of the properties, as well as the ability of buffers to minimize noise and visual impacts. Specifically, the Commission discussed how Beachcomber's CLUP could "mar the view," and recognized that the "material site cannot be conditioned so that all adjacent parcels are equally screened by the buffers."<sup>37</sup> Appellees argue that after reviewing the evidence and detailing the findings, the Commission "deemed appropriate" the conditions imposed on Beachcomber's CLUP application.<sup>38</sup>

## **III. DISCUSSION**

### **A. Standard of Review**

When the superior court sits as a court of appeal from an administrative decision, there are four principle standards of review. The court applies the "substantial evidence test to

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<sup>35</sup> Appellant's Brief at p.35-36; Exc. 184-85.

<sup>36</sup> Exc. 115.

<sup>37</sup> Exc. 116.

<sup>38</sup> Appellee's Brief at p.24.

questions of fact,”<sup>39</sup> the “reasonable basis test to questions of law involving agency expertise,”<sup>40</sup> the “substitution of judgment test” for questions of law that do not involve agency expertise, and the “reasonable and not arbitrary standard applies to review of administrative regulations.”<sup>41</sup> The Alaska Supreme Court has recognized that planning commissions “receive deference equal to that accorded to an administrative agency,” and that “their interpretations of zoning ordinances should be given great weight and...accepted whenever there is a reasonable basis for the meaning given by the board.”<sup>42</sup>

## **B. Authority of the Planning Commission to Deny a CLUP**

A significant dispute between the parties concerns the scope of the Commission’s authority in reviewing a CLUP application. Appellants argue that the Commission initially interpreted the Borough Code to allow them to deny an application that did not sufficiently satisfy the requirements of KPB 21.29.040 even after imposing conditions contained in KPB 21.29.050. As such, Appellants urge this court to defer to the Commission’s interpretation of the Borough Code at that time. Appellee’s urge the court to adopt the Commission’s interpretation of the Borough Code as it was during the 2019 hearings. Appellant’s respond that the Commission did not interpret the Borough Code in 2019, but rather, adopted the required interpretation as ordered by Hearing Officer Wells.

At the July 16, 2018, hearing before the Commission, the commissioners discussed whether they had the authority to deny the CLUP. Commissioner Ecklund believed that the Commission had “sufficient findings to deny this permit based on...the borough code as it is written now.”<sup>43</sup> Commissioner Ruffner felt otherwise, stating that “as commissioners, our hands are tied.”<sup>44</sup> Commissioner Carluccio questioned whether the intent of the law was to

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<sup>39</sup> *Frank Griswold v. Homer Advisory Planning Comm’n, et.al.*, 484 P.3d 120, 127 (Alaska 2021) (internal citations and quotations omitted).

<sup>40</sup> *Id.*

<sup>41</sup> *State, Dep’t of Nat. Res. V. Alaska Crude Corp.*, 441 P.3d 3939, 398 (Alaska 2018).

<sup>42</sup> *Griswold*, 484 P.3d at 127 (citing *Griswold v. City of Homer*, 55 P.3d 64, 67-68 (Alaska 2002) (quoting *S. Anchorage Concerned Coal, Inc. v. Coffey*, 862 P.2d 168, 173 (Alaska 1993))).

<sup>43</sup> Exc. 34.

<sup>44</sup> *Id.* at 35.

protect surrounding landowners, giving the Commission authority to deny the CLUP.<sup>45</sup> As evidence by the vote of 6-3 to deny the CLUP, Other Commissioners also interpreted the Borough Code in such a way that gave the Commission the authority to deny the CLUP due to their findings that any conditions imposed would fail to sufficiently minimize noise or visual impacts.<sup>46</sup>

On appeal, Hearing Officer Wells found that the Commission exceeded the scope of its authority in denying the permit based upon its determination that the conditions would not afford adequate protection from noise and visual blight.”<sup>47</sup> She further held that “the Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code.”<sup>48</sup> On remand at the June 10, 2019, hearing, some commissioners continued to recognize that they did not believe the conditions in KPB 21.29.050 would sufficiently minimize the noise and visual impacts of the material site.<sup>49</sup> At the July 24, 2019, hearing, Commissioner Ruffner, however, expressed his long-held belief that “if a permit application comes in and it’s complete and it meets the conditions that have been set forth in 21.29, then those....if those conditions are met, then we don’t have the ability to deny the permit.”<sup>50</sup>

As noted above, this court is to apply its own independent judgment to questions of law that do not involve agency expertise, but is to give deference to planning commissions in interpreting their zoning ordinances involving agency expertise “whenever there is a reasonable basis for the meaning given by the board.”<sup>51</sup> Appellants argue that this court should apply its

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<sup>45</sup> *Id.* Commissioner Carluccio eventually voted to deny the CLUP. *Id.* at 36.

<sup>46</sup> *Id.* at 36 (Commissioner Bentz noting that “I don’t think these conditions will minimize noise disturbance...and the conditions won’t minimize visual impacts either; Commissioner Morgan stated that she did not “see how the 50-foot buffer or berms are going to minimize visual impact or sound impact because of the unique topography.”; Exc. 96 (Commissioner Whitney expressed concern that “I just don’t think the berms that proposed and anything that’s going on here is adequate to control the visual impact...”)).

<sup>47</sup> Exc. 46.

<sup>48</sup> Exc. 50.

<sup>49</sup> Exc. 90 (Commissioner Ernst expressed concern that “in this unique situation...[i]s there any possible buffer that could be reasonably used to protect the, you know, the noise levels and visual impact of this pit...?; Exc. 95, Commissioner Ecklund worried that while KPB 21.29.050(14) required consideration of the “best interest of the borough and the surrounding property owners,” the limit of the Commission’s authority gave them “no meat to help [surrounding property owners] in this ordinance.”)

<sup>50</sup> Exc. 103.

<sup>51</sup> *Griswold*, 484 P.3d at 127 (citing *Griswold v. City of Homer*, 55 P.3d 64, 67-68 (Alaska 2002) (quoting *S. Anchorage Concerned Coal, Inc. v. Coffey*, 862 P.2d 168, 173 (Alaska 1993))).



independent judgment in interpreting the Borough Code in this instance, as the scope of the Commission's authority does not involve agency expertise. Appellees argue that the Commission's interpretation of the Borough Code is entitled to deference, as it does in fact involve agency expertise.

While both arguments have merit, this court finds that under either standard of review, the Commission has authority to deny a CLUP if it determines that the requirements of KPB 21.29.040 cannot be met. It is clear that the Commission interpreted the Borough Code in 2018 in such a way that provided it with the authority to deny the CLUP, as it voted 6-3 to deny the CLUP. While the Commission voted 8-2 in favor of the CLUP in June 2019, the record is not entirely clear as to whether this decision hinged on the commissioners' belief that they were obliged to do so per Hearing Officer Wells' decision, or whether they actually found that the visual impacts and noise levels were sufficiently minimized. Thus, if this court were to apply a deferential standard of review, it would defer to the agency's interpretation as it was in June 2018.

Applying the independent judgment standard, the court finds that the Commission had the authority to deny the CLUP if the standards in KPB 21.29.040 cannot not be satisfied. KPB 21.25 details the procedure for obtaining a CLUP. KPB 21.25.040 requires a permit for "material site pursuant to KPB 21.29."<sup>52</sup> Under KPB 21.25.050, there must be a public hearing where those wishing to contest the permit can be heard. Following the hearing, the Commission "*shall either approve, modify, or disapprove the permit application.*"<sup>53</sup> KPB 21.25 contains general provisions, while KPB 21.29 are more specific provisions. While this court recognizes that "where the provisions of [KPB 21.25] and a CLUP chapter regulating a specific use conflict, the more specific chapter shall control,"<sup>54</sup> the court does not find a conflict between KPB 21.25.050's requirement that the Commission "approve, modify, or disapprove" and any provision in KPB 21.29. Simply put, there is no specific provision in KPB 21.29 that precludes

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<sup>52</sup> The parties agree that the proposed gravel pit in this case falls within the definition of a "material site," and that it is of sufficient magnitude to require a CLUP rather than a "Counter Permit" under 21.29.020.

<sup>53</sup> KPB 21.25.050(B).

<sup>54</sup> KPB 21.25.010.

the Commission from denying a CLUP when it finds that the conditions in KPB 21.29.050 will not satisfy the standards in KPB 21.29.040.

KPB 21.29.040 states that the material site regulations are “intended to protect against...noise and visual impacts,” listing six standards that include “minimiz[ing] noise disturbances to other properties,” and “minimiz[ing] visual impacts.” That section also states that “*Only* the conditions set forth in KPB 21.29.050 may be imposed to meet these standards.”<sup>55</sup> Appellees assert that this language requires the Commission to grant a CLUP application so long as the conditions in KPB 21.29.050 are met. This argument is supported by Hearing Officer Wells’ finding that “the Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code.”<sup>56</sup>

The language in KPB 21.29.040(A) that “*Only* the conditions set forth in KPB 21.29.050 may be imposed to meet these standards” undoubtedly limits the Commission’s authority. If the Commission believes that certain steps must be taken to meet the standards set forth in KPB 21.29.040, the only tools at its disposal to meet such standards are those conditions listed in KPB 21.29.050. Planning authorities are “bound by the terms and standards of the applicable zoning ordinance, and are not at liberty to either grant or deny [permits] in derogation of legislative standards.”<sup>57</sup> CLUP applicants may voluntarily agree to additional types of conditions that are not contained in KPB 21.29.050, but the authority of the Commission to impose such conditions is legislatively restricted.<sup>58</sup> Indeed, Appellees agreed to a number of voluntary conditions in this case.<sup>59</sup>

While KPB 21.29.040 limits the types of conditions the Commission can impose, KPB 21.29.050 provides the Commission with some latitude as to those specific conditions. For example, material sites must maintain a “buffer zone” of at least “50 feet of undisturbed natural vegetation, *or* ... a minimum six-foot earthen berm, *or*... a minimum six-foot fence.”<sup>60</sup>

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<sup>55</sup> KPB 21.29.040(A) (emphasis added).

<sup>56</sup> Exc. 50.

<sup>57</sup> *So. Anch. Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 174-75 (Alaska 1993).

<sup>58</sup> KPB 21.29.050(A)(14).

<sup>59</sup> Exc. 117-18.

<sup>60</sup> KPB 21.29.050(A)(2)(i)-(iii) (emphasis added).

However, while only one type of these conditions is required, the Commission has the authority to designate “a combination of the above *as it deems appropriate*.”<sup>61</sup> While Hearing Officer Wells found that “the Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code,”<sup>62</sup> this finding appears to be in direct conflict with KPB 21.29.050’s requirement that “[t]he 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*.”<sup>63</sup> In other words, the Commission is specifically tasked with determining the effectiveness of the conditions that are to be imposed and whether they will meet the standards set forth in KPB 21.29.040. If after judging the effectiveness of the potential conditions in its toolbox under KPB 21.29.050(A)(2) the Commission finds that no combination of buffers could be “deem[ed] appropriate” to satisfy the standards set forth in KPB 21.29.040, the Commission is not required to approve the CLUP nonetheless. Nothing in KPB 21.29 suggests otherwise, nor do any of KPB 21.29’s provision conflict with KPB 21.25.050(B) grant of authority to “approve, modify, or deny” a CLUP.<sup>64</sup>

Appellees argue that the conclusion that the Commission is required to approve the CLUP is “consistent with the unzoned rural area at issue in this appeal, along with the general approval-oriented framework adopted by the Assembly.”<sup>65</sup> Appellees cite to *Warrington v. Kenai Peninsular Borough Board of Adjustments, Cecil Jones and In Jones*, where Judge Huguelet found that “[t]he Assembly has specifically adopted ordinances that are protective of material site operators,” and “could have chose a policy that favors residential property owners, but instead it chose to adopt a policy that favors material site operators.”<sup>66</sup>

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<sup>61</sup> KPB 21.29.050(A)(2)(c).

<sup>62</sup> Exc. 50.

<sup>63</sup> *Id.* (emphasis added).

<sup>64</sup> The court is not persuaded by Appellee’s argument that an “application cannot be denied based on inadequate buffers, when under KPB Code either enhancing the buffers or waiving the buffers are the authorized resolution to a situation where buffers are not feasible.” See Appellee Brief, p.10, n.18. KPB 21.29.050(e) states that “*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.” Waiving the buffer requirements are clearly within the discretion of the Commission. Moreover, it seems to this court that the Commission would be derelict in its duties to waive the requirements in this instance given that under that Code section, “[b]uffer requirements *shall* be made in consideration of and in accordance with existing uses of adjacent property at the time of the approval of the permit.”

<sup>65</sup> Appellee’s Brief, p.18.

<sup>66</sup> Memorandum Decision and Order, 3KN-05-00206C1, at 9-10 (May 31, 2006) (Appendix A to Appellee’s Brief).

Indeed, the Borough Code significantly favors material site operators. The Commission recognized as much in its June 10, 2019, hearing.<sup>67</sup> That favoritism is not unlimited, however. Nothing in the Borough Code requires the Commission to approve a CLUP even where it finds that the conditions imposed cannot possibly minimize the visual and noise impacts to surrounding neighbors. In fact, Judge Huguelet even recognized the interplay between KPB 21.25.050's grant of authority to "approve, modify, or disapprove" permit applications where certain conditions cannot be sufficiently satisfied.<sup>68</sup>

For these reasons, the court finds that the Commission does have the authority under KPB 21.25.050(B) to deny a CLUP if it finds that the standards set forth in KPB 21.29.040 cannot be sufficiently satisfied, even after implementing the tools at its disposal listed in KPB 21.29.050.

### **C. Why Remand to the Planning Commission is Necessary**

As noted above, this court finds that the Commission does have the authority under KPB 21.25.050(B) to deny a CLUP if it finds that the standards set forth in KPB 21.29.040 cannot be sufficiently satisfied by conditions in KPB 21.29.050. Under KPB 21.25.050(B)-(C), the Commission must detail their findings in writing by way of a resolution, which they did in this case in Resolution 2018-23. The court will uphold the Commission's factual findings if they are supported by substantial evidence.<sup>69</sup>

Having reviewed the record in this case, this court agrees that the findings of fact in Resolution 2018-23 are supported by substantial evidence. However, the court finds that the findings of fact related to the Buffer Zone in Section 17 of the Resolution are legally insufficient under KPB 21.29.050(A)(2). Under that Code section, "[t]he vegetation and fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as

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<sup>67</sup> Exc. 095 (Commissioner Ecklund noted that the Planning Commission had only denied two gravel pits in the ten years he had been on the commission, noting that both of those denials had been overturned).

<sup>68</sup> *Warrington* Memorandum Decision and Order, 3KN-05-00206C1, at 6, 8 (recognizing the authority of the Planning Commission to deny a permit under KPB 21.25.050, and recognizing the authority of the Planning Commission to "consider the evidence, as they did in the case at hand, to determine whether gravel mining will negatively impact the quality and quantity of water" in a nearby aquifer.).

<sup>69</sup> *State, Dep't of Nat. Res. V. Alaska Crude Corp.*, 441 P.3d at 398.

*deemed appropriate by the planning commission...*” The findings of fact in Section 17 of the Resolution detail what conditions are imposed on the CLUP, and those findings repeatedly indicate that some of the proposed conditions will “increase visual and noise screening.”<sup>70</sup>

However, the findings in Section 17 do not detail whether the Commission found those conditions to in fact be *deemed appropriate* or sufficient to satisfy the standards set forth in KPB 21.29.040. Rather, the Resolution concedes that “Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.”<sup>71</sup> This concession is well-founded only if the Commission did in fact deem the buffer zone appropriate and sufficient to satisfy the standards set forth in KPB 21.29.040.

Throughout the hearings in both 2018 and 2019, multiple commissioners questioned whether any buffers could adequately provide visual and noise screening of the material site. In 2018, a majority of the commissioners found that the neighboring properties could not be adequately screened, with similar conditions imposed. Commissioners Bentz, Morgan and Carluccio were adamant that they did not believe the buffer or berms would minimize the noise and sound impacts because of the “unique topography.”<sup>72</sup> As a result, the Commission denied the CLUP.

In 2019, commissioners again questioned whether buffers could adequately satisfy the noise and visual standards set forth in KPB 21.29.040. Commissioner Ecklund expressed great concern that the conditions imposed would not minimize the visual and noise impacts. While he recognized that the Commission would never ask an applicant “to put a 53 [foot] high earthen berm” into place (calling the proposal “ridiculous”), he also asked whether it was in their authority to do so if necessary, to which the Borough Planner replied “Yes, and staff did...propose a 12-foot berm in most locations.”<sup>73</sup> Despite these expressed concerns,

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<sup>70</sup> Resolution 2018-21, Sec 17, ¶¶H, I, J, M, N.

<sup>71</sup> *Id.*, ¶15.

<sup>72</sup> Exc. 35-36.

<sup>73</sup> Exc. 95.

Commissioner Ecklund voted to grant the CLUP. Commissioner Carluccio questioned “but is a 12-foot berm enough to minimize visual and noise impacts?”<sup>74</sup>

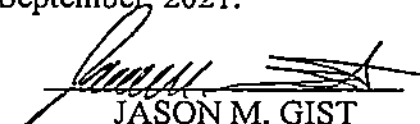
The Commission did not specifically find whether the conditions imposed on the CLUP were *deemed appropriate* to satisfy the standards set forth in KPB 21.29.040. By all accounts from the record, it appears that the Commission operated under the incorrect assumption that KPB 21.29.040 was “necessarily satisfied” so long as the CLUP contained conditions in KPB 21.29.050. It is unclear from the record whether the Commission deemed the conditions appropriate to satisfy those standards. For these reasons, the case is REMANDED back to the Commission for further review and/or clarification. If the Commission does in fact deem the conditions set forth in Resolution 2018-23 appropriate to satisfy the standards set forth in KPB 21.29.040, then it shall grant the CLUP. If, however, the Commission finds that no conditions in KPB 21.29.050 could adequately minimize visual and noise impacts to the standards set forth in KPB 21.29.040, then it may deny the CLUP.

#### IV. CONCLUSION

For the reasons stated herein, this case is REMANDED back to the Commission for further consideration consistent with this *Order*.

Dated at Kenai, Alaska, this 2nd day of September, 2021.

I certify that a copy of the foregoing was  
✓ mailed to KPB  
\_\_\_\_\_ place in court box to \_\_\_\_\_  
\_\_\_\_\_ faxed to \_\_\_\_\_  
✓ scanned to Elmer/Gottstein/Stone  
AK 9-3-21  
Clerk Date

  
JASON M. GIST  
SUPERIOR COURT JUDGE

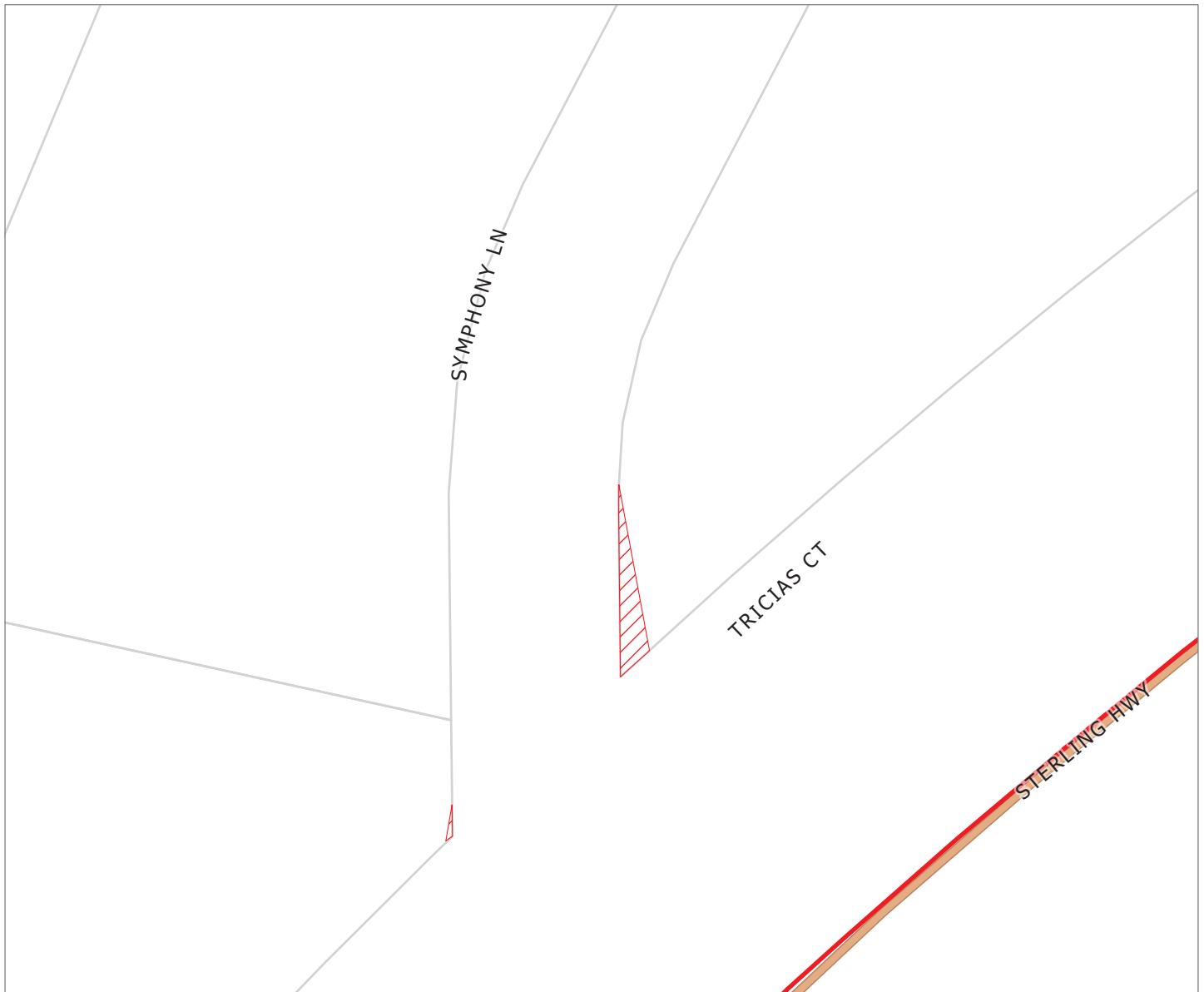
<sup>74</sup> *Id.*

## **E. NEW BUSINESS**

**ITEM E1 - RIGHT OF WAY VACATION  
VACATE A PORTION OF SYMPHONY LANE ASSOCIATED  
WITH C.L. HATTON SUBDIVISION EAGLE'S CREST ADDITION**



Vicinity Map



KPB File # 2022-027V

S23-T01S-R14W

Ninilchik

3/9/2022

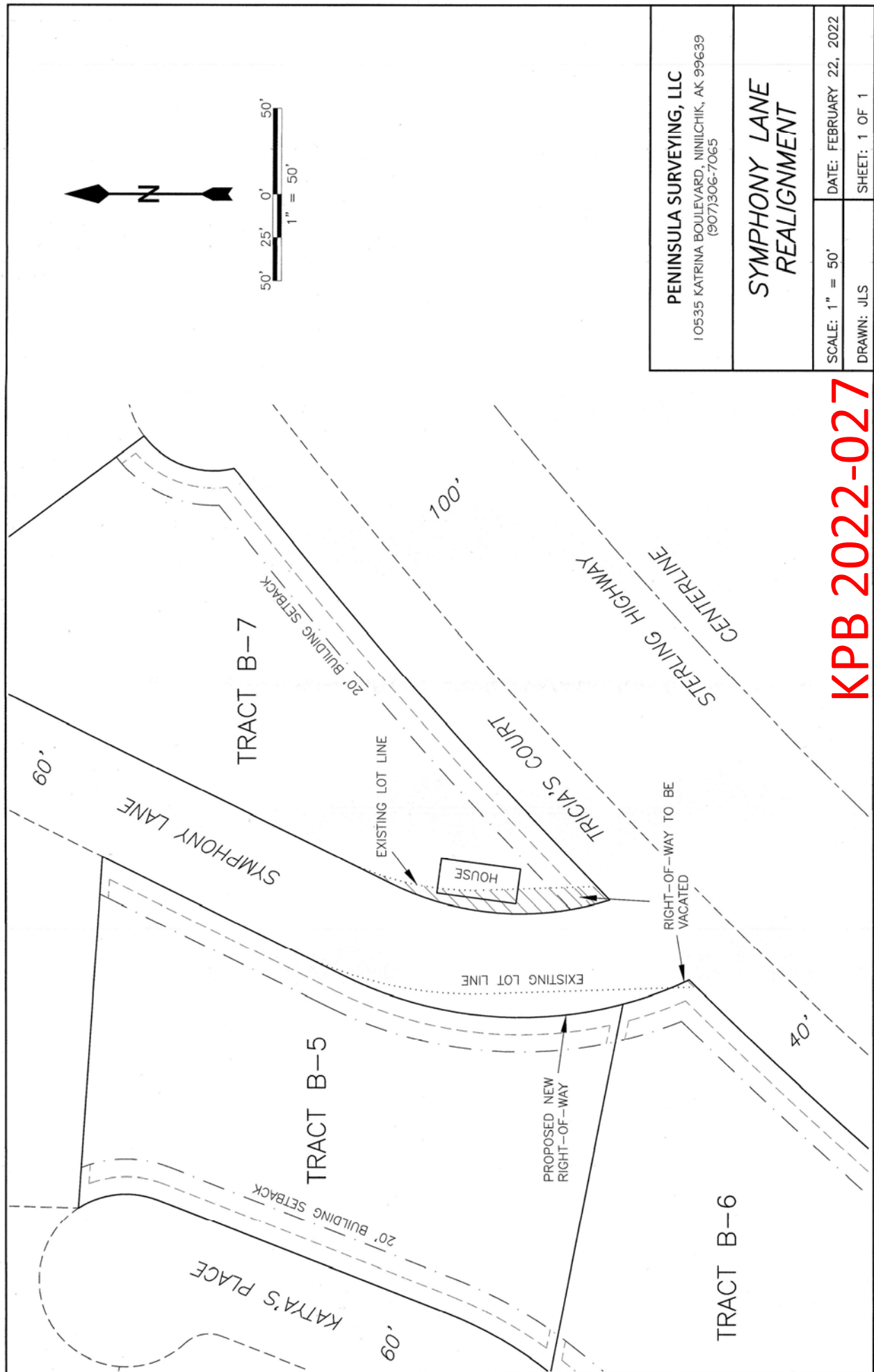






Aerial View





KPB 2022-027

AGENDA ITEM E. NEW BUSINESS

**ITEM 1 - RIGHT OF WAY VACATION  
VACATE A PORTION OF SYMPHONY LANE ASSOCIATED WITH C.L. HATTON SUBDIVISION EAGLE'S  
CREST ADDITION**

<b>KPB File No.</b>	2022-027V
<b>Planning Commission Meeting:</b>	April 11, 2022
<b>Applicant / Owner:</b>	Mathew Byler of Ninilchik, Alaska No More FYI LLC of Kenai, Alaska Kenneth Noonan of Willington, Connecticut
<b>Surveyor:</b>	Jason Schollenberg / Peninsula Surveying, Inc
<b>General Location:</b>	Symphony Lane near mile 132.5 of Sterling Highway, Ninilchik
<b>Legal Description:</b>	Tracts B-5, B-6, and B-7 of C.L Hatton Subdivision Eagle's Crest Addition, Section 23, Township 1 South, Range 14 West, Seward Meridian.

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** We would like to realign Symphony Lane where it meets Tricia's Court. The adjustment would add a curve to Symphony Lane, which moves the right-of-way to the west. The change to the right-of-way at the largest point will be 15 feet. We would also like to vacate the 10 foot utility easements along the section of Symphony Lane that is being realigned.

The main reason for this petition is to solve an encroachment issue. There is a single-family residence built in the right-of-way. The existing road is already built in the west side of the right-of-way, so this realignment will not affect access. The new alignment will also provide an intersection that is closer to a right angle in accordance with KPB 20.30.150.

**Notification:** Public notice appeared in the March 31, 2022 issue of the Homer Daily News as a separate ad. The public hearing notice was published in the April 7, 2022 issue of the Homer Daily News as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Ninilchik

Post Office of Ninilchik

Eight certified mailings were sent to owners of property within 300 feet of the proposed vacation. Zero receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to five owners within 600 feet of the proposed vacation.

Nineteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game  
State of Alaska DNR  
State of Alaska DOT  
State of Alaska DNR Forestry  
Emergency Services of Ninilchik

Ninilchik Traditional Council  
Alaska Communication Systems (ACS)  
ENSTAR Natural Gas  
General Communications Inc, (GCI)  
Homer Electric Association (HEA)

**Legal Access (existing and proposed):** Symphony Lane is a 60 foot wide dedicated right of way located near mile 132.5 of the Sterling Highway in the Ninilchik area. Tricias Court is a frontage road to provide a single point

access to the Sterling Highway from Symphony Lane and Katyas Place, a dedication located to the southwest of Symphony Lane. The roads all appear to be partially constructed or cleared but are not maintained.

The proposal is to vacate a portion of Symphony Lane to resolve an encroachment issue and provide a road realignment to accommodate the structure. The eastern portion to be vacated will be added to Tract B-7, which is the lot with the encroachment. A small portion of the vacation located along the western side of the right of way will be added to Tract B-6. The new road to be dedicated will have the area taken from Tract B-5 and Tract B-6.

The block is not compliant or closed. Due to the location along the Cook Inlet, Katyas Place is a cul-de-sac, and a 20 acre lot to the north, dedications have not occurred to provide a closed block or bring the block closer to length requirements. Staff would note that the realignment would not affect the block. It will neither improve nor worsen the existing block.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: RSA has no objection at this time
SOA DOT comments	No comment

**Site Investigation:** The area is between the Cook Inlet and the Sterling Highway. There do not appear to be any low wet areas within the existing right of way or the proposed dedication. The area proposed for vacation and dedication is relatively flat. Some steeper slopes appear present within the northeastern portion of the dedication.

A house was constructed within the right of way. The house was to be within the boundaries of Tract B-7. There are other structures located on the property that do not appear to cause any issues. Tract B-5 and Tract B-6, per KPB GIS Imagery and Assessing Data, are currently vacant.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments  B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments  C. State Parks Reviewer: Russell, Pam Comments: No Comments
State of Alaska Fish and Game	No objections

**Staff Analysis:** Symphony Lane was dedicated as a 60 foot wide right of way by C.L. Hatton Subdivision Eagle's Crest Addition, Plat HM 93-51. The plat also created a 20 foot building setback along the right of ways with the front 10 feet granted as utility easements.

The encroachment was brought to the attention of the KPB Roads Department and the KPB Code Compliance Officer. An as-built was performed that verified the structure was within the right of way. The KPB began working with the owners for a resolution. The right of way vacation and realignment will provide a resolution for the encroachment. Per the statement from the surveyor, the constructed portion of the right of way will still be within the dedicated area.

The right of way is partially constructed but is not maintained by the borough or state. The right of way provides access to the 20 acre parcel located to the north. The large acreage lot does have approximately 152 feet of Sterling



Highway frontage. In addition to some steeper terrain, there is a drainage way within the portion along the highway. Symphony Lane provides additional access and for portions of the lot the best access.

The vacation is including the 10 foot utility easements along the right of way. Utility easement will be granted along the new portion of the right of way. Staff is agreeable to the vacation of the utility easement and not granting along the new eastern boundary of the right of way if all utility providers agree.

Per the sketch provided it does not appear the structure will be clear of the 20 foot building setback. If the proposed design is approved and the building would in fact be within the setback, the plat will need to provide a plat note that explains the building is exempt of the setback but there will still be one in place on the lot.

Staff would like to note the GIS data is off from the imagery. While aerial maps are provided for reference, the as-built contains the actual encroachment depiction.

#### **20.65.050 – Action on vacation application**

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;  
**Staff comments:** The right of way is constructed but not maintained. Per the surveyor, the constructed portion will still be within the new dedication.
  2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The proposal is to provide new right of way to shift the dedication to the west.
  3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** There are no other improvements along Symphony Lane at this time. Comments from utility companies will be considered in the planning and granting of new utility easements.
  4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** The right of way does not provide access to an area with public interest.
  5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** The proposal will still provide for a 60 foot wide right of way to allow access to the lot to the north.
  6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:** limited due to encroachment.
  7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.  
**Staff comments:** Utility easements will be granted along the new right of way along the western boundary. The sketch and application do not specify the intention along the eastern boundary. The owner will be required to receive approval from all utility providers.

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

**Staff comments:** A single family home has been constructed within the right of way.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly or City Council if located within City boundaries. The KPB Assembly or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly will hear the vacation at their scheduled May 3, 2022 meeting.

If approved, a subdivision plat will be required to finalize the proposed right of way vacation and dedicate the new right of way. A preliminary plat application has not been received. Once a completed application in accordance with KPB Code 20.25 is received, the plat will be scheduled for a hearing with the Plat Committee.

**KPB department / agency review:**

Planner	Comments not received when staff report was prepared
Code Compliance	No comment
Addressing	<p>Reviewer: Haws, Derek</p> <p>Affected Addresses:</p> <p>13330 TRICIAS CT</p> <p>13378 TRICIAS CT</p> <p>13338 KATYAS PL</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:</p> <p>TRICIAS CT</p> <p>SYMPHONY LN</p> <p>KATYAS PL</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments:</p> <p>13330 TRICIAS CT will remain with Tract B-7</p> <p>13378 TRICIAS CT will remain with Tract B-7</p> <p>13338 KATYAS PL will remain with Tract B-5</p>
Assessing	<p>Reviewer: Wilcox, Adeena</p> <p>Comments: No Comment</p>

**Utility provider review:**

HEA	<p>Plat 93-51 HRD granted 10 foot utility easements adjoining the dedicated right of way.</p> <p>HEA approves the vacation of the 10 foot utility easement where adjoining the vacation of the portion of Symphony Lane. HEA approves that no utility easement be granted adjoining the new alignment of Symphony Lane where the house is located.</p> <p>Depict and label the area of the associated utility easement that will be vacated with the approval of the right of way vacation.</p> <p>Depict and label the remaining 10 foot utility easement within Tract B-7 that adjoins Symphony Lane.</p>
ENSTAR	No comment

ACS	No objection
GCI	Approved as shown

### **RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by the KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

#### **KPB 20.65.050 – Action on vacation application**

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.**
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.**
- J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

*Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.*

- *Focus Area: Energy and Utilities*
  - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
    - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
    - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*

Page 5 of 6

- *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
  - *Housing*
    - *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
      - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

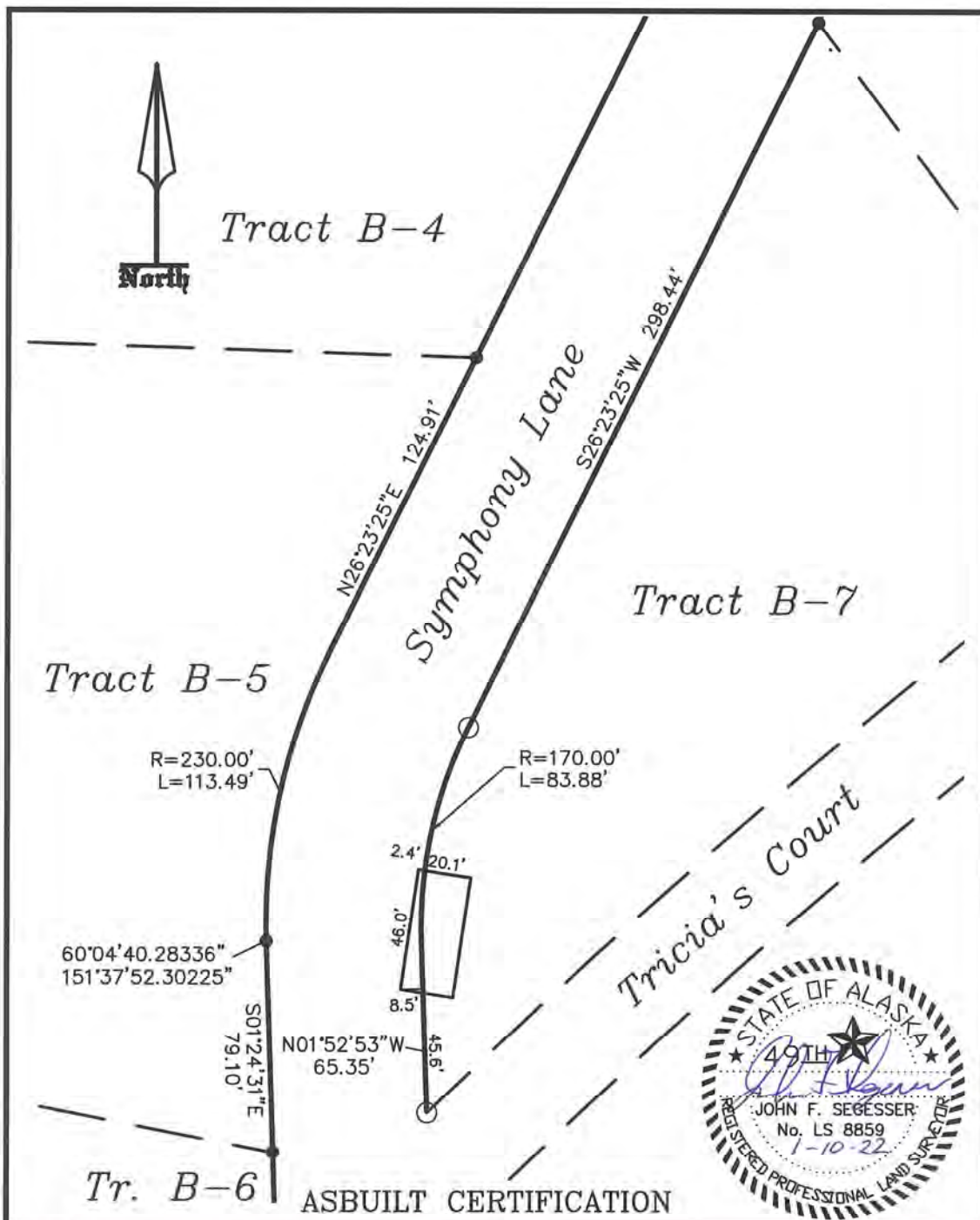
*Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough*

- *Focus Area: Transportation*
  - *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
    - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
    - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

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**END OF STAFF REPORT**





#### LEGEND

- Found Rebar
- Set Rebar

KENAI RECORDING DISTRICT		Plat: 93-51
Date: 1-2-22	Scale: 1"=50'	Drawn: JFS
Job: 21363	Book: 21-6	

**SEGESSER SURVEYS**  
 30485 ROSLAND ST.  
 SOLDOTNA, AK 99669  
 (907) 262-3909

I hereby certify that I have surveyed the following described property:

Symphony Lane Right-of-Way

and that no encroachments exist except as indicated.

#### Exclusion Note:

It is the responsibility of the Owner to determine the existence of any easements, covenants, or restrictions which do not appear on the recorded subdivision plat. Under no circumstances should any data hereon be used for construction or for establishing boundary or fence lines.

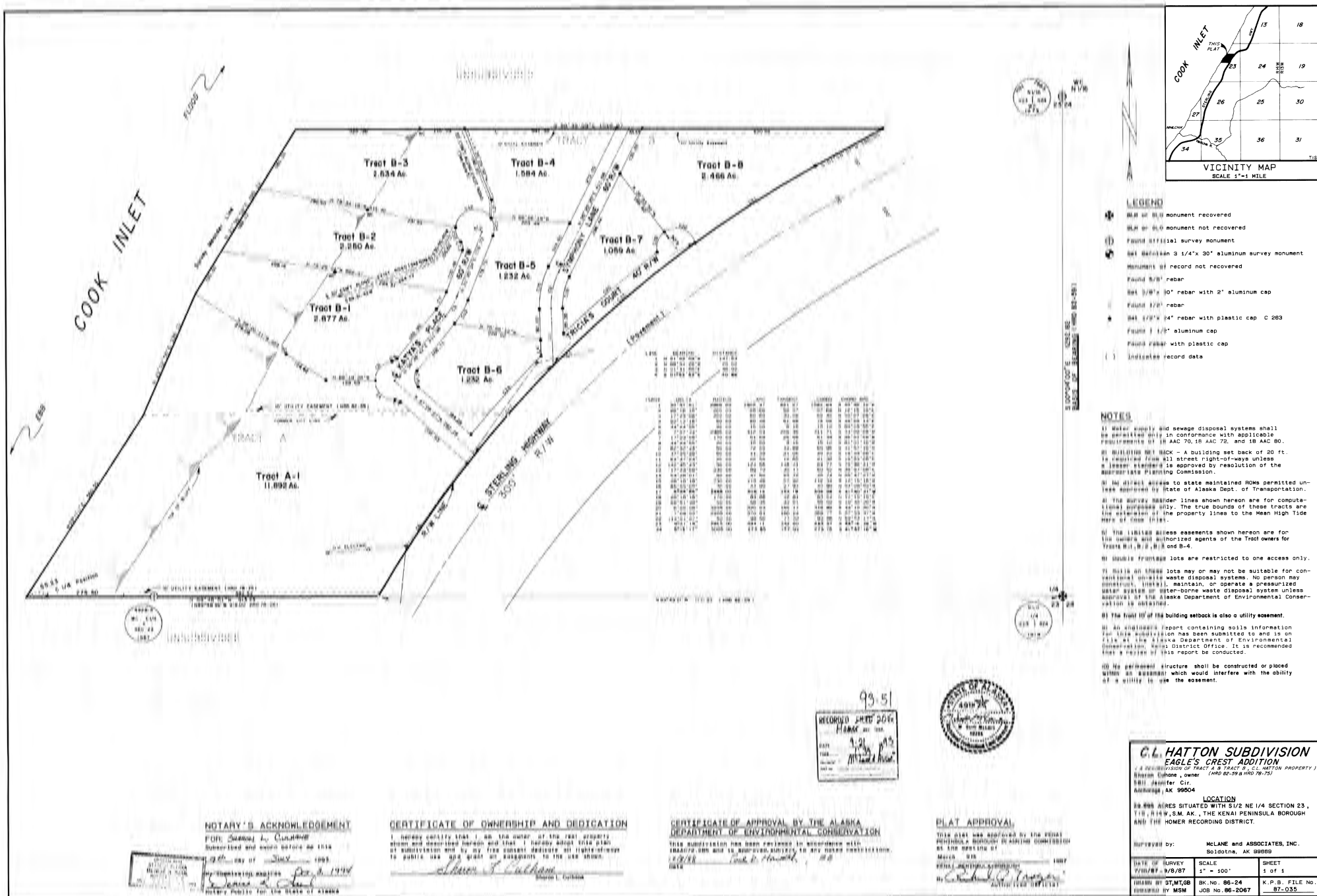


## SYMPHONY LANE

### JUSTIFICATION FOR VACATING RIGHT-OF-WAY

We would like to realign Symphony Lane where it meets Tricia's Court. The adjustment would add a curve to Symphony Lane, which moves the right-of-way to the west. The change to the right-of-way at the largest point will be 15 feet. We would also like to vacate the 10 foot utility easements along the section of Symphony Lane that is being realigned.

The main reason for this petition is to solve an encroachment issue. There is a single-family residence built in the right-of-way. The existing road is already built in the west side of the right-of-way, so this realignment will not affect access. The new alignment will also provide an intersection that is closer to a right angle in accordance with KPB 20.30.150.







UNSUBD REMAINDER 98 AC.

TRACT A  
10.001 AC.

## CURVE DATA

 $\Delta = 11^{\circ}18'20''$   
 $R = 2965.00$   
 $L = 585.07$   
 $T = 293.49$   
 $Ch = 584.12$ 

## LEGEND AND NOTES

- ⊕ Found USGLO B.C. monument
- ⊙ Found official survey B.C.
- Set 1/2" x 24" steel rebar at all prop. corners
- × Found P.K. nail in center line of pavement

All bearings refer to the North line of Section 24 as being S 89° 51' 00" W.

This tract is subject to a 20' bldg setback from the Sterling Hwy R/W.

All wastewater disposal systems shall comply with existing law at time of construction.

The meander line as shown is for survey computation only the property line follows the M.H.T.M. of Cook Inlet.

## CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of said property and request the approval of this plat showing such easements for public utilities, roadways, and or streets dedicated by us for public use.

Clara Louise Hatten  
 Clara Louise Hatten, c/o B.R. Edwards 310 K. St., Anch. AK owner

## NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn before me this  
19th day of June, 1978  
 My commission expires 10/29/79.

David O'Hall  
 notary public for Colorado

Thomas R. Culhane Sharon L. Culhane  
 Thomas R. Culhane and Sharon L. Culhane owners  
 3609 Boniface Pkwy. Anch. AK.

## NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn before me this  
23 day of June, 1978

My commission expires 10/14/80

Mr. D. Blum  
 notary public for Alaska

## PLAT APPROVAL

This plat having been approved by the Kenai Peninsula Borough Planning Commission as recorded in the official minutes of the meeting of July 11, 1978, is hereby acknowledged and accepted as the official plat, subject to any and all conditions and requirements of ordinances and law appertaining thereto.

KENAI PENINSULA BOROUGH  
 By: Phyllis Waring

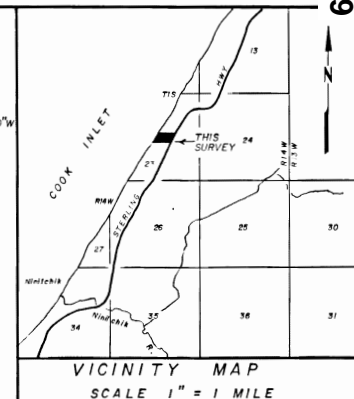
TRACT A C.L. HATTON  
PROPERTY

Thomas Culhane—owner  
 3609 Boniface Pkwy., Anchorage, Ak.

DESCRIPTION  
 10.001 ACRES SITUATED IN GOV'T LOT 2  
 SEC. 23, T1S, R14W S.M. AK. AND THE KENAI  
 PENINSULA BOROUGH.

Surveyed by: McLane & Associates  
Soldotna, Alaska

Date of survey	Scale	Bk. No.
5/12/77	1" = 100'	76-17



## **E. NEW BUSINESS**

**ITEM E2 – CONDITIONAL USE PERMIT  
PC RESOLUTION 2022-14  
APPLICANT: HARVEST ALASKA, LLC**

**Conditional Use Permit  
Anadromous Waters Habitat Protection District  
Staff Report**

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<b>KPB File No.</b>	<b>2022-14</b>
<b>Planning Commission Meeting:</b>	<b>April 11, 2022</b>
<b>Applicant</b>	<b>Harvest Alaska LLC</b>
<b>Mailing Address</b>	<b>3800 Centerpoint Dr Suite 1400 Anchorage, AK 99503</b>
<b>Legal Description</b>	<b>T 12N R 11W SEC 25 SEWARD MERIDIAN AN 0001865 US SURVEY 1865 THAT PORTION OF SEC 25 LYING WITHIN USS 1865 MOQUAWKIE INDIAN RESERVATION T 12N R 11W SEC 25 SEWARD MERIDIAN AN 0001865 US SURVEY 1865 THAT PORTION OF SEC 25 LYING WITHIN USS 1865 MOQUAWKIE INDIAN RESERVATION</b>
<b>Physical Address</b>	<b>None</b>
<b>KPB Parcel Number</b>	<b>211-070-02</b>

**Project Description**

Pursuant to KPB 21.18, a Conditional Use Permit is sought for the construction of a 250-300 foot root wad diversion structure within the 50-foot Habitat Protection District of the Chuitna River, as established in KPB 21.18.040.

**Background Information**

The applicant operates the Beluga Pipeline (BPL), a 16-inch gas pipeline located on the West Side Cook Inlet. During a routine fly-over in late summer 2020, the applicant discovered a 150-ft section of exposed pipe at the Chuitna River crossing. The previously buried pipe has washed out over time as the flow path of the Chuitna River has shifted. This appears to be the result of a large log jam blocking the original flow path, creating an oxbow over the pipeline.

To correct the current exposure and prevent future issues, the applicant proposes removing the log jam and reactivating the original channel, constructing a diversion structure to divert any remaining flow from the oxbow back to the main channel, armoring the pipeline and restoring depth of cover. The diversion structure would be composed of root wads, logs collected adjacent to the oxbow and from other sources, sand/gravel, and salvaged native vegetation (willow and alder). The root wad structure would be constructed to mimic natural conditions to entrap sediment and provide enhanced fish habitat. Following this effort, the applicant proposes monitoring the project area to evaluate its stability over time and identify any additional interventions that may prevent future pipeline exposures.

**Project Details within the 50-foot Habitat Protection District**

1. Approximately 2,425 cubic yards of sediment will be excavated from the historic channel to redirect the flow of water away from the exposed pipeline.

2. A temporary diversion structure will also be installed to direct any remaining flows away from the pipeline and toward the newly excavated channel. This temporary structure will be removed once the project is complete.
3. After de-watering, the pipeline will be armored with approximately 400 biodegradable bags of Seacrete, and then backfilled with the sediment excavated from the historic channel.
4. Root wads will be sourced from existing log jams and used to construct an approximately 250-300 foot-long root wad revetment that will be backfilled with on-site sand and gravel.
5. The surface of the revetment structure will be covered with vegetative mat and replanted with willow and alders harvested from nearby gravel bars.

#### **Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit**

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), construction of transportation and utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. The installation of the root wad diversion will prevent future exposure of the pipeline.
7. Vegetative mat will be placed on top of the root wad diversion and staked with live alder and willow plantings.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:  
*"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."*
10. While utility services are not a water-dependent use as described in Resolution 2015-35, they are listed as a permissible Conditional Use under KPB 21.18.081(B)(5).
11. The River Center found the application complete and scheduled a public hearing for April 11, 2022.
12. Agency review was distributed on March 28, 2022. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on March 28, 2022. A total of 2 mailings were sent. Comments not received.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on March 31, 2022 and April 7, 2022.
15. The applicant is currently in compliance with Borough permits and ordinances.

#### **Permit Conditions**

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Chuitna River.



2. The root wad revetment must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

### **General Standards**

**Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-4 and Findings 6-7 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1-7, 9-14 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 8 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 9-10 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 15 appears to support this standard.**

### **Attachments**

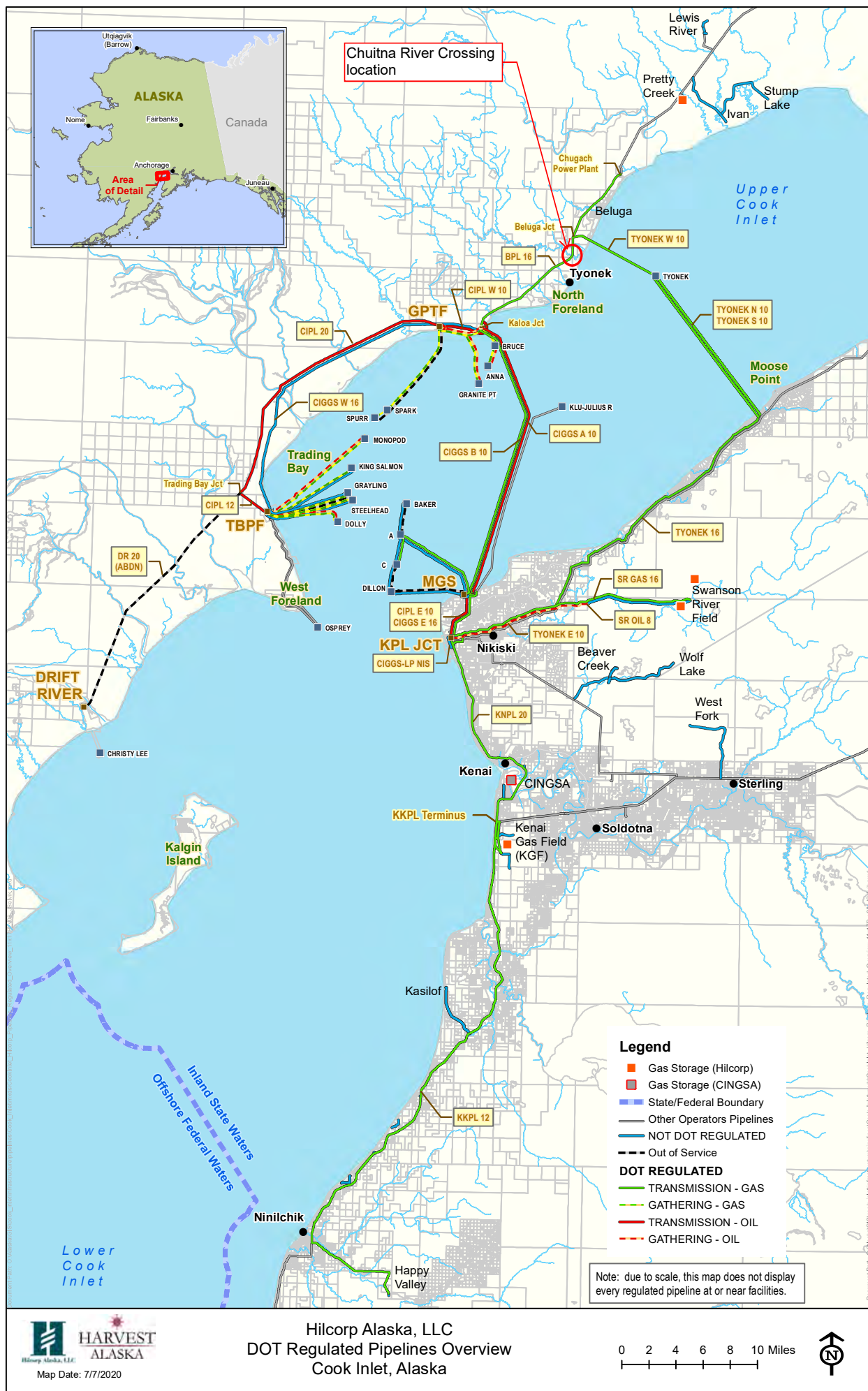
Vicinity Maps  
Multi-Agency Application  
ADFG Permit 20-V-0205AIII  
Draft Resolution 2022-14

### **Recommendation**

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081 and recommends that the Planning Commission grant a Conditional Use Permit for the proposed project details subject to conditions set forth in 2022-14.

**Note:** An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

**END OF STAFF REPORT**

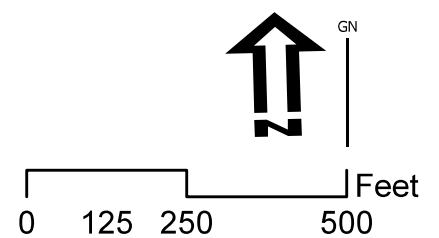




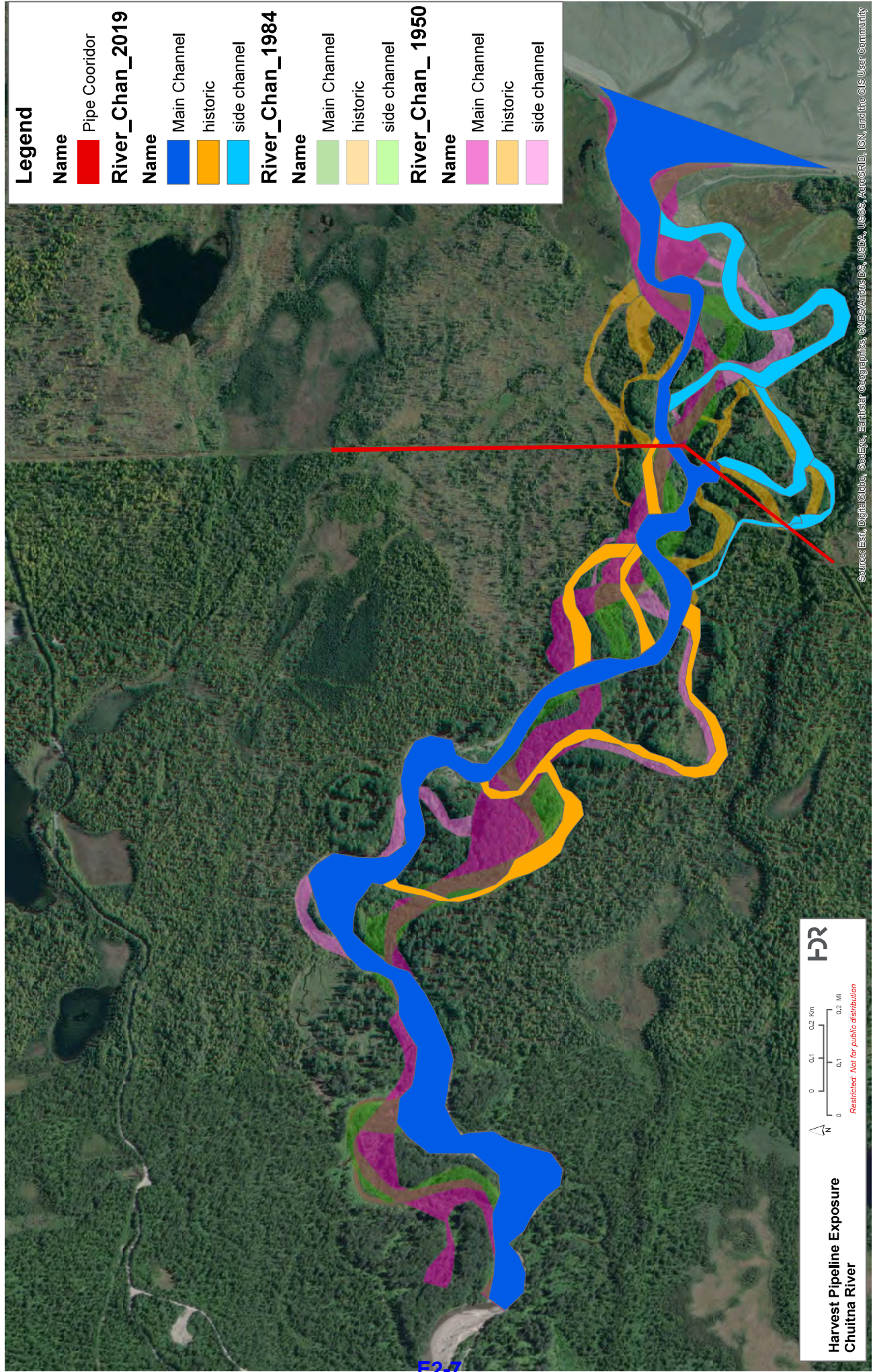


— HPC PODS CENTERLINE: BELUGA 16" PIPELINE CENTERLINE

BPL 16" Chuitna River Crossing  
Drone Imagery with 2012 QSI Imagery Background



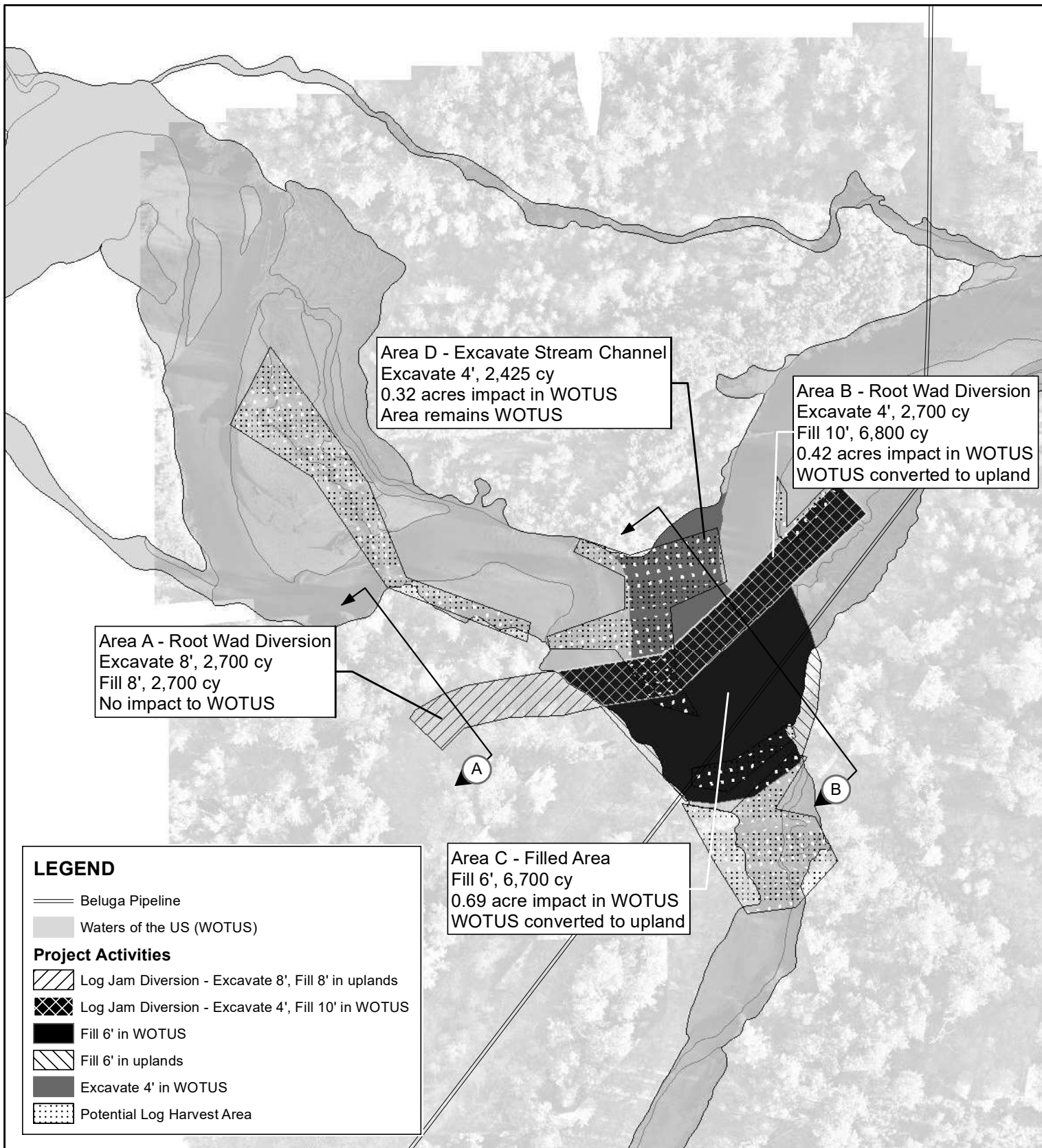






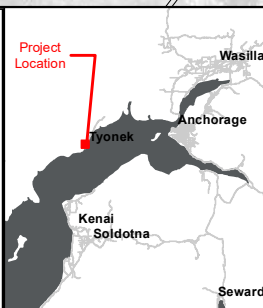




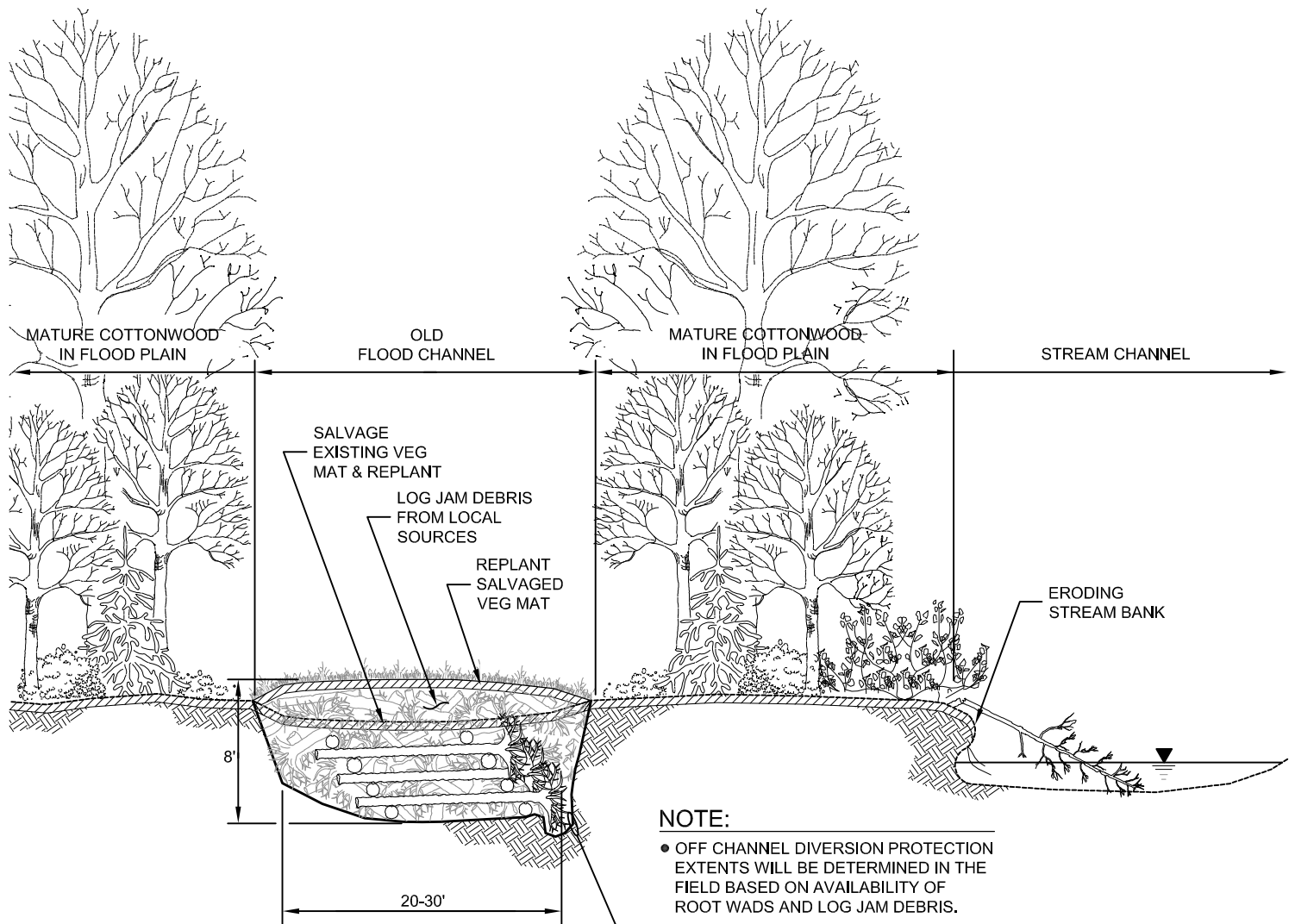


## PROJECT DETAILS

Beluga Pipeline Log Jam  
Removal and Pipeline  
Maintenance Project



APPLICANT: Harvest Alaska, LLC  
FILE NO: POA-1989-00589  
WATERWAY: Chuitna River  
LOCATION: Tyonek, Alaska  
Section 25, T. 12 North, R. 11 West, Seward  
Meridian  
LATITUDE: 61.0953° North LONGITUDE:  
151.1355° West  
SHEET 1



- REMOVE EXISTING VEG MAT
- EXCAVATE TRENCH
- CONSTRUCT ROOT WAD REVETMENT LATTICE
- BACKFILL WITH EXISTING LOG JAM DEBRIS
- BACKFILL WITH FLOOD PLAIN SAND & GRAVELS
- REPLACE VEG MAT
- ROOT WAD REVETMENT STRUCTURE PLACED AT RIGHT ANGLES TO EXISTING STREAM BANK. BACK FILL WITH TANGLED LOG JAM DEBRIS AND BACK FILL WITH EXCAVATED MATERIAL.
- CONSTRUCT ROOT WAD REVETMENT STRUCTURE AS DESCRIBED IN THE ADF&G STREAM BANK REVEGETATION PROTECTION GUIDE FOR ALASKA 2005

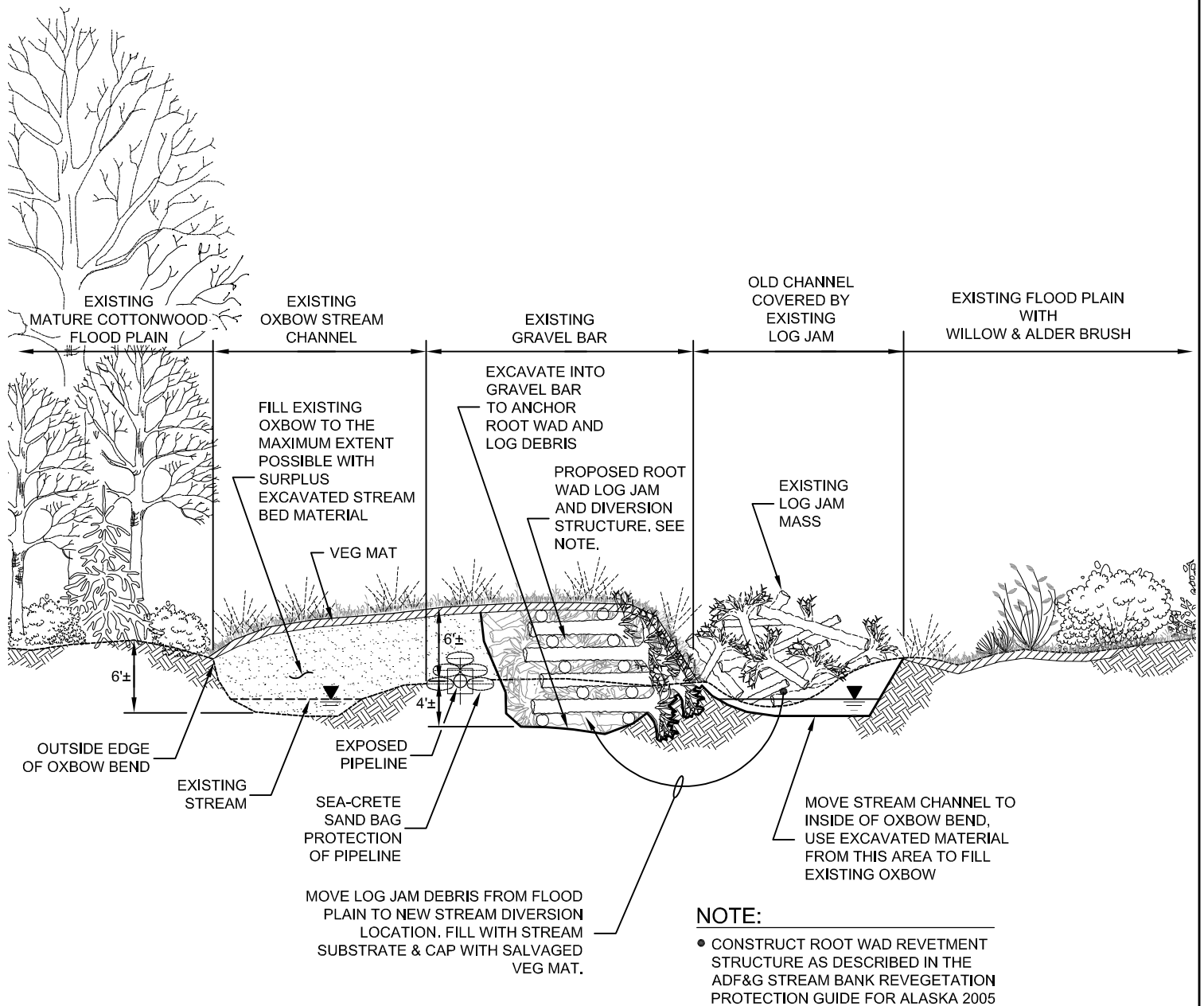
VIEWED LOOKING UPSTREAM  
NOT TO SCALE

## SECTION A

Beluga Pipeline Log Jam  
Removal and Pipeline  
Maintenance Project

APPLICANT: Harvest Alaska, LLC  
FILE NO: POA-1989-00589  
WATERWAY: Chuitna River  
LOCATION: Tyonek, Alaska  
Section 25, T. 12 North, R. 11 West, Seward  
Meridian  
LATITUDE: 61.0953° North LONGITUDE:  
151.1355° West  
SHEET 2





VIEWED LOOKING UPSTREAM  
NOT TO SCALE

## SECTION B

Beluga Pipeline Log Jam  
Removal and Pipeline  
Maintenance Project

APPLICANT: Harvest Alaska, LLC  
FILE NO: POA-1989-00589  
WATERWAY: Chuitna River  
LOCATION: Tyonek, Alaska  
Section 25, T. 12 North, R. 11 West, Seward  
Meridian  
LATITUDE: 61.0953° North LONGITUDE:  
151.1355° West  
SHEET 3



# **Beluga Pipeline Chuitna River Log Jam Removal and Pipeline Maintenance Project Description**

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February 2022 – Revision 4

Harvest Alaska, LLC  
3800 Centerpoint Dr. Suite 1400  
Anchorage, Alaska 99503

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## ACRONYMS AND ABBREVIATIONS

ADF&G	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
AHRS	Alaska Heritage Resources Survey
BIA	Bureau of Indian Affairs
BPL	Beluga Pipeline
CIRI	Cook Inlet Region, Inc.
DMLW	Division of Mining, Land and Water
Harvest	Harvest Alaska, LLC
KPB	Kenai Peninsula Borough
KRC	Kenai River Center
NWP	Nationwide Permit
ROW	right-of-way
SHPO	State Historic Preservation Office
TNC	Tyonek Native Corporation
TWUA	temporary water use authorization
USACE	United States Army Corps of Engineers

## 1.0 Introduction

Harvest Alaska, LLC (Harvest) operates the Beluga Pipeline (BPL), a 16-inch gas pipeline located on the West Side Cook Inlet, between Kaloa Junction and Beluga Junction (Figure 1). During a routine fly-over in late summer 2020, Harvest discovered a 150-ft section of exposed pipe at the Chuitna River crossing (Figure 2). The previously buried pipe has washed out over time as the flow path of the Chuitna River has shifted. This appears to be the result of a large log jam blocking the original flow path, creating an oxbow over the pipeline (Photo 1). The exposed pipe is located within Section 25, Township 12N, Range 11W, Seward Meridian.



*Photo 1. Exposed Beluga Pipeline in Chuitna River; photo taken facing east on July 17, 2020. Blue arrow depicts the original river channel.*

The Chuitna River flows within a broad, flat floodplain and has shifted numerous times due to flooding, sediment deposition, and log jams. Figure 3 depicts historic channels the Chuitna River has taken over the past 70 years based on aerial imagery. At the time of installation, the pipeline was buried 10 feet below ground surface at the main stream crossing and had less depth of coverage moving to the south where the current channel runs and the exposure is located.

To correct the current exposure and prevent future issues, Harvest proposes removing the log jam and reactivating the original channel, constructing a diversion structure to divert any remaining flow from the oxbow back to the main channel, armoring the pipeline and restoring depth of cover. The diversion structure



would be composed of root wads, logs collected adjacent to the oxbow and from other sources, sand/gravel, and salvaged native vegetation (willow and alder). The root wad structure would be constructed to mimic natural conditions to entrap sediment and provide enhanced fish habitat. Harvest would inspect then armor the exposed segment of pipeline during project implementation. This effort is described in more detail in Section 2.0.

Following this effort, Harvest proposes monitoring the project area to evaluate its stability over time and identify any additional interventions that may prevent future pipeline exposures.

## **2.0 Description of Project Activities**

Harvest submitted initial permit applications for this project in December 2020 and, since that time, has submitted several updates of proposed activities to the stakeholders. Some of the permitted activities have already been conducted, as described in Section 2.1, and the remaining proposed activities and schedule have been modified/updated to account for challenges in project execution.

### **2.1 Completed Project Activities**

- Initial Log Jam Removal – Starting on August 30, 2021, Harvest performed an initial log jam removal to begin reactivation of the original river channel. This work was successfully conducted without the use of heavy equipment, mainly utilizing chainsaws and winches.
- In River Work Attempt – Due to an unusually long and heavy rainy season, Harvest was not able to attempt the main in river work until early winter once river flows had stabilized. On November 29, 2021, Harvest unsuccessfully made a first attempt to execute the project. The winter conditions at that time proved to be significantly more challenging than anticipated.

### **2.2 Schedule**

Harvest proposes completing the remaining work during the 2022 “Fish Window” of May 15<sup>th</sup> – July 15<sup>th</sup>, if possible, depending on flow conditions (low flow conditions are preferred). If project timing is delayed into winter season and conditions allow, Harvest may need to conduct winter construction. Monitoring will be performed annually thereafter to evaluate the continued effectiveness of the diversion structure and identify conditions that may lead to future line exposures.

### **2.3 Site Access**

There are several options for access to the exposed pipe location. Harvest may use the existing pipeline right-of-way (ROW) from Beluga Junction (travel south from Beluga Junction to the exposed pipe location, refer to Figure 1). Outreach with Tyonek Native Corporation has indicated that there are existing access roads from the north end of the Tyonek runway to the river. This would serve as an alternative access route.

### **2.4 Log Jam Removal, Channel Reactivation, and Temporary Diversion**

Figure 4, Area D shows the main location identified for log jam removal, the majority of which was completed late summer 2021. Once the log jam is removed, this channel will be excavated to reactivate the original flow path of the river. This work will be conducted using excavators, winches, and chainsaws and will be performed to prevent any fish entrapments and to promote fish habitat and passage.

If necessary, a temporary diversion structure will be deployed to redirect any remaining flow from the oxbow to the newly reactivated river channel. Any substantial water remaining in the oxbow will be transferred back into the main river system. Please see Section 4.0 Dewatering for details. Before any dewatering event, a survey will be conducted, and all identified fish will be manually transferred to the main river system. Fish screens will be used on all intake hoses.

Once the permanent diversion structure is complete all temporary structures will be removed.

## **2.5 Pipeline Inspection, Repair, and Armoring**

Harvest will conduct an inspection of the exposed section of pipeline and make any repairs as required. Once pipeline integrity has been confirmed, sandbags will be positioned to serve as armoring for the pipeline as shown in Attachment 1 Sheet 2. Harvest estimates the use of approximately 22 cubic yards of sand in 50-pound sandbags (an estimated 400 sandbags). The approximate footprint will be 2 feet wide by 150 feet long. Dewatering may be required to provide access to the pipeline to perform this work.

## **2.6 Log Harvesting & Diversion Structure Construction**

Figure 4 shows the proposed activities associated with log removal and construction of a diversion structure. The following notes are associated with the numbers shown on the figure. Attachment 1 Sheets 1-3 show the design details and cross sections for the proposed diversion structure.

1. The bend in the pipeline just northeast of the exposure site is the approximate location where the pipeline burial depth changes from 10 feet deep (for the stream crossing) to shallower depth. The shallower burial has resulted in the pipeline exposure as the river erodes into the floodplain gravels to the south.
2. The exposure site cuts across a tight bend that is in the process of eroding south.
3. There is a side channel south of the exposure site that is already receiving significant flows. Any log jam located at the beginning of this channel should not be disturbed to avoid increasing flow over the pipeline farther to the south.
4. Harvest would collect logs from as many log jams as possible along the river near the project area, excluding from the Native Allotment Parcel north of the project area and as shown conceptually on Figure 4, for use as erosion protection. Additional logs and vegetative material may be sourced from other nearby upland sites, if needed.
5. Harvest would dig a trench back from the bluff on the south side of the bend immediately upstream, construct a root wad revetment lattice, fill with log jam debris, backfill with excavated sand and gravel, and replace the vegetative mat (Attachment 1 Sheet 2). This would allow the stream to continue to erode the outside of this bend until it gets to this off channel protection. Allowing the river to erode and increase the radius of this bend would help dissipate the stream's power and further protect the diversion structure downstream. This option constructs this trench in a recently abandoned channel, thereby avoiding cutting trees that are already providing erosion protection.
6. Harvest would excavate to re-establish the partially blocked channel on the inside of the oxbow immediately north of the exposure site.
7. Harvest would construct a root wad log jam and diversion structure to cut off the exposure site oxbow (Attachment 1 Sheet 3). The root wad revetment structure would allow capture of additional floating debris and sediment to create additional protection and provide enhanced fish habitat along the streambank. Harvest would fill the structure with log jam debris, backfill with excavated sand and gravel, and top the structure with vegetative mat and replanted willow and alder harvested from the gravel bars. As proposed, the portion of the diversion structure located within the river channel



would cover an area of approximately 0.42 acres and would require an estimated 6,800 cubic yards of material placement.

The logs would be moved using an excavator, winches, and chainsaws. Logs would be temporarily placed outside of the riverbed after they were removed from the stream. Harvest proposes using two excavators to minimize the amount of in-water work and stream crossings that would be needed to construct the diversion structure by keeping the excavators on the riverbank and gravel bars as much as practicable. Once the stream diversion is complete, Harvest would use material from the excavated stream channel and adjacent gravel bar to cover the exposed pipeline.

### 3.0 Fuel Storage

Fuel will be required for this project. Approximately 300 gallons of diesel fuel will be stored in a tracked fuel tank or on a spill guard for heavy equipment refueling. In addition, 55 gallons of gasoline will be supplied in the field to fuel gas-powered tools.

All fuel and hazardous liquids will be stored in secondary containment capable of capturing the full liquid volume, plus 10 percent, and will be positioned more than 100 feet from any water body. All containers will be clearly marked with manufacturer's labels or in permanent ink with its contents. At least one spill kit capable of cleaning up a 5-gallon fuel spill will be maintained at the work site throughout the project and on each piece of heavy equipment. Secondary containment (e.g., duck ponds, drip pans) will be placed under vehicles and heavy equipment when topping off fluids and when left parked. All fluid transfers will be monitored for the duration of the transfer, and no liquid transfers or fueling will be conducted within 500 feet of streams. Garbage, trash, and other wastes will be stored in covered containers and disposed of at an approved site in accordance with local, state, and federal regulations.

### 4.0 Dewatering

Depending on river levels at the time of execution and the efficacy of channel reactivation, the use of a temporary diversion structure and dewatering may be necessary to remove water from the oxbow and allow access to the pipeline for inspection and armoring. Dewatering will be performed in accordance with the Alaska Pollutant Discharge Elimination System (APDES) Statewide Oil and Gas Pipelines General Permit and comply with the APDES Permit requirements and the *Harvest Pipeline System Cook Inlet Area Best Management Practice Plan for Discharges and Disposals under Alaska Department of Environmental Conservation General Permit for Statewide Oil and Gas Pipelines* (BMP Plan). Dewatering will also be conducted in accordance with the Temporary Water Use Authorization (TWUA) obtained from the Alaska Department of Natural Resources (ADNR).

A 4-inch pump, 6-inch pump, or a combination of the two, will be used to dewater and maintain access to the pipeline. Dewatering efforts are expected to last up to 240 hours. Maximum pump rates are 1,500 gal per minute (gpm) for the 6-inch pump and 580 gpm for the 4-inch pump. Assuming both pumps run at maximum rate for 24 hours per day, a maximum daily withdrawal amount of 2,995,200 gallons (gal) is proposed. An estimated project maximum of 29,952,000 gal is proposed, based on maximum pump rates for ten 24-hour days. Dewatering discharge will occur within or adjacent to the ROW.

There are no ADEC-identified contaminated sites or contaminated groundwater plumes within 1,500 ft. of the proposed location.

## 4.1 Location of Discharge

Depending on the location, dewatering discharge will be routed back into the main river system or to freshwater forested/shrub wetlands adjacent to the oxbow which will eventually drain back into the main river system.

## 4.2 Discharge Flow Rates

Maximum anticipated discharge flow rate: 2,995,200 gallons per day

Average anticipated discharge flow rate: 500-50,000 gallons per day (based on actual typical project discharge volumes)

Total anticipated discharge: 29,952,000 gallons (maximum total estimated discharge based on two pumps running at maximum capacity for 24 hours a day for 10 days)

Discharge velocity at end of pipe: Maximum 17 feet per second

## 4.3 Dewatering Monitoring

Excavation dewatering discharges will be monitored and sampled in accordance with requirements outlined in Table 6 of the APDES Permit, Effluent Limits and Monitoring Requirements for Excavation Dewatering (Discharge 004):

Table 6: Effluent Limits and Monitoring Requirements for Excavation Dewatering (Discharge 004)				
Parameter (Units)	Effluent Limits	Monitoring Requirements		
		Frequency	Location	Sample Type
Flow Volume <sup>1</sup> (gpd)	Report	Daily	Effluent	Estimate or Measured
pH <sup>2</sup> (S.U.)	6.5 - 8.5	Weekly	Effluent	Grab
SS <sup>3</sup> (mL/L)	0.2	Weekly	Effluent	Grab
Turbidity (NTU)	Report	Weekly	Upgradient <sup>4</sup>	Grab
Turbidity (NTU) No Mixing Zone	5 NTU above ambient <sup>5</sup>	Weekly	Effluent	Grab
Turbidity (NTU) Mixing Zone	5 NTU above ambient <sup>6</sup>	Weekly	Downgradient	Grab
Oil and Grease Visual <sup>7</sup>	No Discharge	Daily	Effluent	Visual
TAH <sup>8</sup> (µg/L)	Report	Once per event	Effluent	Grab
TAQH <sup>8</sup> (µg/L)	Report	Once per event	Effluent	Grab
Notes:				
<ol style="list-style-type: none"> <li>Record daily flow measurements, or estimates, in daily log. Report daily maximum for the month on the DMR and total monthly volumes in the comments section.</li> <li>The effluent limit for pH shall be between 6.5 and 8.5. Report maximum and minimum for each month.</li> <li>As measured using Imhoff Cone.</li> <li>If measurement of upgradient and downgradient receiving water turbidity is not possible, then turbidity limits are not applicable. Report "Not Applicable" (N/A) for all turbidity measurements and provide comment as to why receiving water turbidity measurement is not possible.</li> <li>If a mixing zone is not authorized, effluent turbidity may not exceed 5 NTU above ambient conditions when the ambient turbidity is 50 NTU or less. When the ambient condition is greater than 50 NTU, effluent shall not to exceed more than a 10 % increase up to a maximum increase of 15 NTU. For lake waters, turbidity may not exceed 5 NTUs above ambient turbidity. Report downgradient turbidity on DMR for information only.</li> <li>If mixing zone is authorized, turbidity may not exceed 5 NTU above ambient conditions 500 feet downstream of the discharge when the ambient turbidity is 50 NTU or less. When the ambient condition is greater than 50 NTU, effluent shall not to exceed more than a 10 % increase up to a maximum increase of 15 NTU. For lake waters, turbidity may not exceed 5 NTUs above ambient turbidity. Report effluent turbidity on DMR for information only.</li> <li>Observed daily while discharging. Maintain daily log and provide to DEC upon request.</li> <li>An observation of a sheen triggers monitoring for TAH and TAQH. Permittee must collect one sample per event when an observation of a sheen has occurred.</li> </ol>				

The Pipeline General Permit – Monthly Tracking Log Excavation Dewatering included in Appendix A will be completed to document the monitoring requirements listed in the table above. The completed, signed forms will be retained in accordance with APDES Permit requirements (3 years).

## 4.4 Best Management Practices

Harvest will employ the following Best Management Practices (BMPs) from the Harvest Pipeline System Cook Inlet Area BMP Plan as needed to monitor for contaminants, dissipate flow velocity, and prevent erosion and sedimentation:

- **BMP 2 – Inlet Screening/Filtering** – Harvest may use inlet suction screening/filtration to reduce the potential for debris and sediment in the pump and effluent. The pump intake will be kept off the bottom of the feature being pumped. A shallow sump may be excavated to serve as the pump intake location.
- **BMP 3 – Visual Inspection** – Harvest will inspect and monitor discharges/disposals for visual signs of potential contamination (e.g., sheen or product) prior to discharge/disposal. If sheen is observed, trained personnel will evaluate it to determine if it is biogenic or petroleum based using ADEC’s *Visible Oil Sheen SOP* (Attachment 5), included as Appendix A in *Listing Methodology for Determining Water Quality Impairments from Petroleum Hydrocarbons, Oils and Grease*.  
<https://dec.alaska.gov/water/wqsar/waterbody/docs/PetroHydroListingmethology.pdf>  
If the sheen is determined to be petroleum-based, Harvest will initiate the internal spill notification process and applicable external notifications as soon as practicable upon the observation of any oil sheen or product in the groundwater to be discharged/disposed. Work will also cease until the sheen or product can be removed and additional treatment measures can be evaluated.
- **BMP 4 – Energy Dissipaters/Diverters** – Harvest will place energy dissipaters and/or diverters under the hose at the discharge location to dissipate the flow velocity and prevent erosion at the discharge point.
- **BMP 5 – Snow Berm** – If there is adequate snow, a snow berm in the shape of a horseshoe or “V” may be constructed to accommodate infiltration and to slow return flow.
- **BMP 6 – Sediment Filter Bag** – Water may be discharged through a hose with a sediment filter bag attached to the end to prevent sediments from being introduced into the environment. Harvest will maintain function of the sediment bag by regularly visually inspecting the bag for collected sediments. Sediments collected in the bag will be placed on the excavated soil pile to be replaced in the excavations after pipeline work has been completed.
- **BMP 7 – Wattles/Straw Bales** – Reusable interlocking wattles (e.g., Dura Wattles) or straw bales may be placed on the ground surface around the perimeter of the discharge/disposal point(s) to serve as a sediment barrier and reduce surface flow velocities. The wattles, if used, will be placed at locations to intercept potential surface flow (e.g., swales and other drainage pathways). The discharge area will be inspected for evidence of erosion or sediment transport and additional wattles will be placed or their locations adjusted as needed. Discharge points may also be relocated to minimize the potential for erosion based on site observations during the discharge.
- **BMP 8 – Sorbent Pads/Boom** – If sheen or product is identified within the effluent to be discharged/disposed (see BMP 3) it will be contained or removed with the use of sorbent pads or boom prior to being discharged/disposed. Sorbent boom may also be placed around the pump intake area.

- **BMP 9 – Oil Water Separator/Settling Tank** – Water to be discharged/disposed may be pumped into a portable holding tank (e.g., Fol-Da Tank), prior to discharge. If used, the pump head emptying the tank will be located below the water surface and above the bottom of the tank. The tank will serve as an oil-water separator (if necessary) and/or settling tank to reduce the amount of suspended solids prior to discharge. Any visible product or sheen in the tank will be removed with sorbent pads, boom, and/or skimming.
- **BMP 12 – Regulate Effluent Release** – The rate of effluent discharge/disposal will be regulated and reduced, if needed, to prevent sediment, erosion, and thermokarst issues.

Any indication of contamination in the water (i.e., sheen, odor, foam) will require either (1) that water is containerized and transported for disposal (i.e., no discharge will occur) OR (2) water will be treated through a granular activated carbon (GAC) canister, captured in a temporary tank, and sampled for total aromatic hydrocarbons (TAH) and total aqueous hydrocarbons (TAqH). If TAH and TAqH results indicate the water is clean, it may then be discharged to the ground. The following BMPs will be employed to treat water that has hydrocarbon sheen:

- **BMP 10 – Portable Temporary Storage Bladders, Drums, Tanks, or Containers** – Water to be discharged/disposed may be pumped into a portable bladder, drum, tank, or container prior to discharge. If used, the pump head will be located below the water surface and above the bottom of the bladder, tank or container. The container will serve as an oil water separator (if necessary) and settling tank to reduce the amount of suspended solids prior to discharge. Any visible product or sheen will be removed with sorbent pads and boom. These devices may also be used to capture fluids and/or chemicals that require appropriate disposal offsite.
- **BMP 18 – Granulated Activated Carbon Canister** – Water that is observed to contain a petroleum-based sheen may be run through a GAC canister, which absorbs and removes petroleum hydrocarbons. The GAC unit will consist of a canister (e.g., 5-gallon bucket or 55 gallon drum) containing GAC. Water will be treated by running it through the GAC canister. Treated water will be visually inspected and tested for compliance with water quality standards for TAH and TAqH prior to discharge/disposal. Flow rates and amount of water to be treated will be dependent upon the total volume of water to be treated, the canister size, and hydrocarbon concentration in water to be treated.

## 5.0 Contaminated Sites

There are no known contaminated sites near the Chuitna River crossing. The nearest known contaminated site is at the Kodiak Lumber Mill in Tyonek, approximately 3.75 miles from the project location. If contamination is identified during excavation activities, it will be treated as a new discovery and will be reported in accordance with Harvest's spill reporting procedures.

## 6.0 Impacts to Wetlands

The Chuitna River flows within a broad, flat floodplain and has shifted along numerous channels over time due to flooding, sediment deposition, and large log jams. Harvest proposes to reactivate an old channel, which has been partially blocked by a large log jam and sediment deposition, in order to bypass the oxbow that has developed over the existing gas pipeline. Table 1 provides a summary of project impacts.

**Table 1. Summary of Project Impacts**

Area <sup>1</sup>	Description	Fill Type	Impact to Waters of the U.S. (acres)	Estimated Fill Quantity (cy)	Details
A	Off-channel log protection berm	Logs, sand and gravel	---	2,700	Excavate 8 feet / fill 8 feet; no impact to wetlands
B	On-channel log protection berm	Logs, sand and gravel	0.42 (converted to upland)	6,800	Excavate 4 feet (2,700 cy), fill 10 feet (6,800 cy); 0.42 acres stream/wetlands convert to uplands
C	Fill active oxbow (to the extent local material is available)	Sand and gravel, seacrete sandbags directly adjacent to pipeline	0.69 (converted to upland)	6,700	Fill 6 feet (6,700 cy); 0.69 acres stream/wetlands convert to upland
D	Excavate stream channel	NA	0.32 (restore stream flow in this location)	NA	Excavate 4 feet (2,425 cy); 0.32 acres would be returned to an active stream channel

<sup>1</sup> Areas are identified on Sheet 1 in Attachment 1.

### ***Avoidance and Minimization***

The proposed project avoids and minimizes impacts to wetlands to the extent practicable, while allowing implementation of protective measures for the existing gas pipeline:

- The diversion structure will be sized as small as possible to effectively bypass the oxbow in which the exposed pipe is located.
- Constructing the diversion structure with natural, locally sourced material will allow for pipeline protection while providing enhanced fish habitat along the streambank.
- The Chuitna River meanders throughout the broad floodplain; the project area is underlain by gravels and sand causing abandoned channels to transition to uplands once flow is diverted under natural processes.
- Harvest will coordinate with ADF&G to select construction timing that minimizes impact to fish and fish habitat during construction while allowing for implementation during low flows to the extent practicable.
- Harvest will monitor the area annually, and in particular after high flow events, to evaluate the effectiveness of the log diversion structure at protecting the pipeline and perform maintenance as needed.

### ***Mitigation***

Upon completion of the project, the area would have a natural appearance with minimal long-term evidence of disturbance from the project. The project does not occur in rare or difficult to replace wetlands or within designated critical habitat under the Endangered Species Act, and no long-term individual or cumulative adverse impacts are anticipated. Waters of the U.S. will not be converted to impervious or unnatural appearing developed areas, and only 0.02 acre of special aquatic site would be converted to natural appearing upland (remaining 1.09 acres would be waterbody converted to upland). Because the project has been designed to mimic natural conditions and involves converting waters of the U.S. into natural appearing uplands in a dynamic environment, no compensatory mitigation is proposed.



## 7.0 Cultural Resources

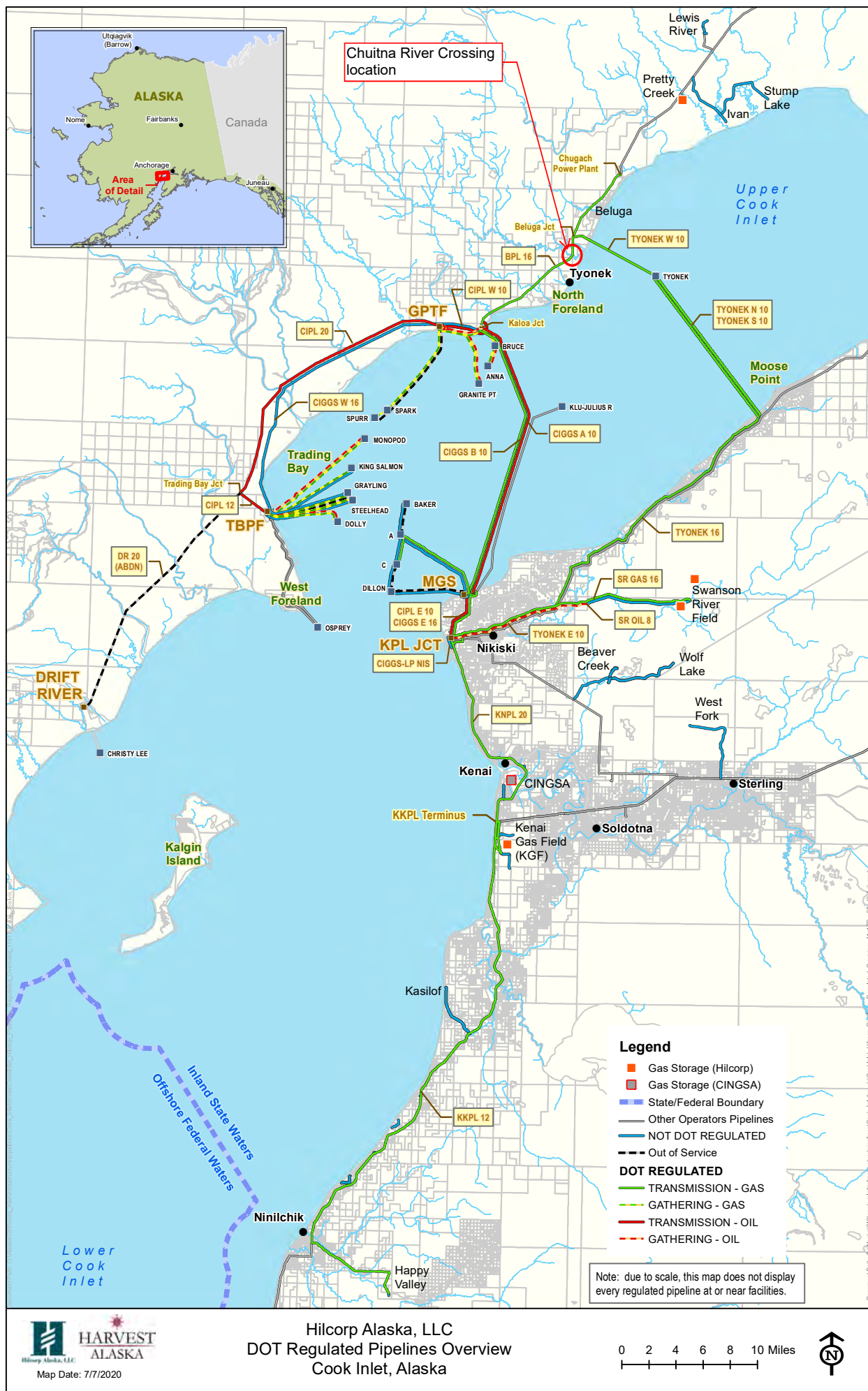
Harvest contracted Charles M. Mobley & Associates to perform a records review in January 2021 of known cultural resources in the project vicinity. The nearest identified cultural feature in the Alaska Heritage Resources Survey (AHRs) system is over 1,000 feet away. The boundary of the Chuitna Archaeological District (TYO-132) is located approximately 400 feet northeast of the project area, although the nearest recorded archaeological feature within the district is over 1,000 feet distant. There is low probability of occurrence of cultural resources within the active Chuitna River floodplain, where most of the proposed work will be conducted. The U.S. Army Corps of Engineers (USACE) permit application process included consultation with the State Historic Preservation Office (SHPO) and local/tribal governments; no cultural resource issues were identified during USACE consultation.

## 8.0 Permits and Authorizations

Harvest will obtain all required local, state, and federal authorizations before beginning the project. Table<sup>o</sup>1 presents required project permits and authorizations.

**Table 1. List of Permits and Authorizations for Proposed Activities**

Agency	Permit/Authorization	Notes
U.S. Army Corps of Engineers (USACE)	Section 404 Permit	Authorization for pipeline maintenance and diversion structure construction in waters of the U.S.
Alaska Department of Natural Resources (ADNR), Division of Mining, Land, and Water (DMLW) – Land	Pipeline Right-of-Way (ROW) ADL 225133	Authorizes pipeline maintenance inside 50-foot right-of-way (pipeline within Section 30, T12N, R10W)
ADNR DMLW	Temporary Water Use Authorization (TWUA)	Authorizes in-stream use of water <a href="#">and dewatering</a> during project activities
Cook Inlet Region, Inc. (CIRI)	Subsurface Easement Agreement	Authorizes pipeline maintenance inside 50-foot right-of-way (pipeline within Section 25, T12N, R10W)
Tyonek Native Corporation (TNC)	Gas Pipeline Right-of-Way and Easement Agreement dated August 8, 2018	Authorizes pipeline maintenance inside 50-foot right-of-way (pipeline within Section 25, T12N, R10W)
TNC	Coordination for land access	Some activities require access on land outside of the pipeline right of way
Alaska Department of Fish and Game (ADF&G) Division of Habitat	Fish Habitat Permit (Permit #20-V-0205)	For debris removal, <a href="#">dewatering</a> , and diversion structure construction within the Chuitna River, anadromous stream #247-20-10010
Kenai River Center (KRC)	Multi-agency Permit for Habitat Protection District (within 50 feet of Chuitna River ordinary high water) (Permit #12710)	For activities (tree clearing, log collection, <a href="#">dewatering</a> , diversion construction) within 50 feet of the Chuitna River

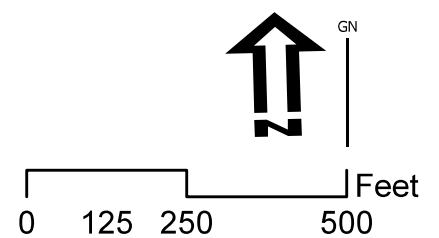




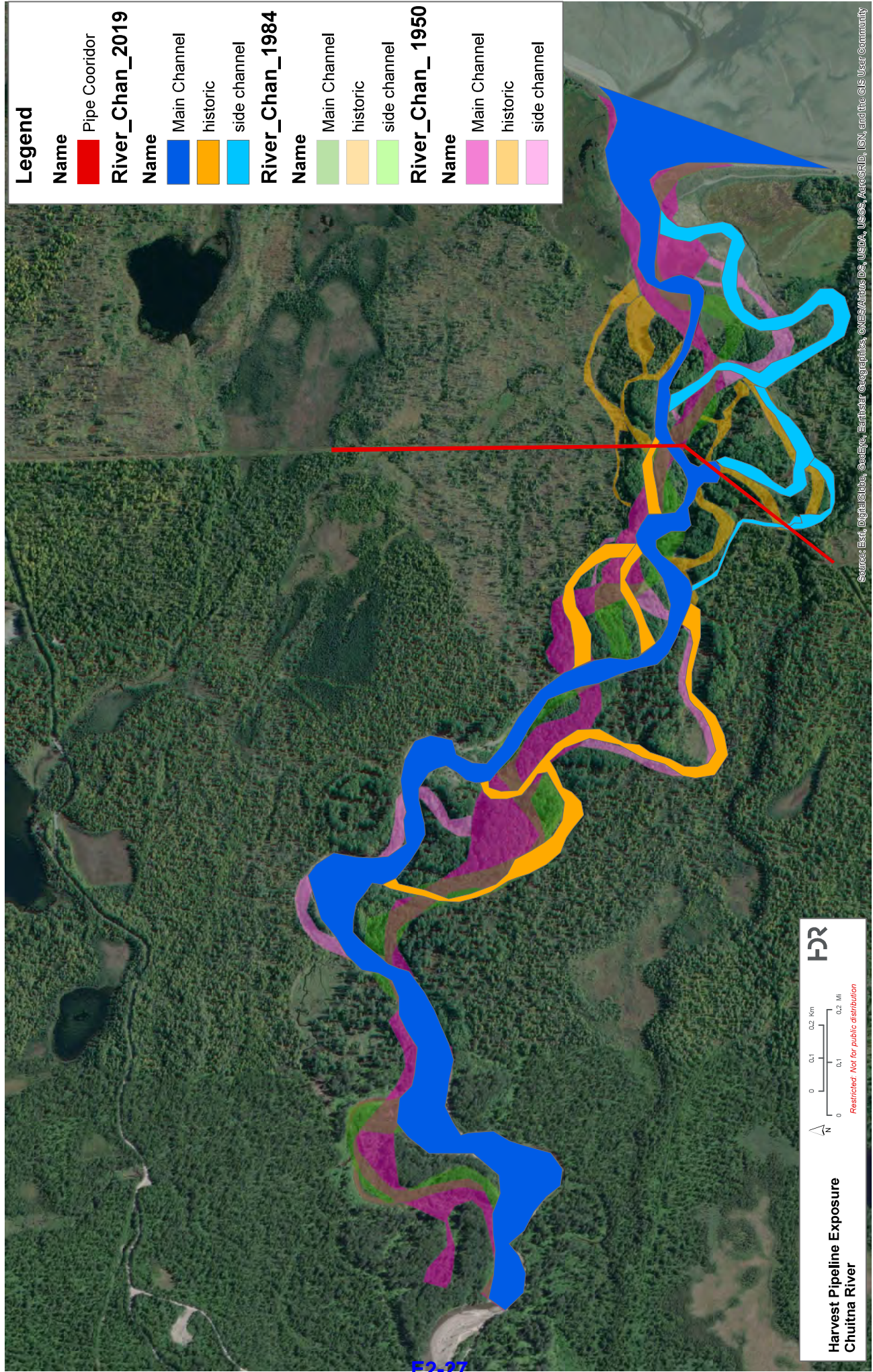


— HPC PODS CENTERLINE: BELUGA 16" PIPELINE CENTERLINE

BPL 16" Chuitna River Crossing  
Drone Imagery with 2012 QSI Imagery Background





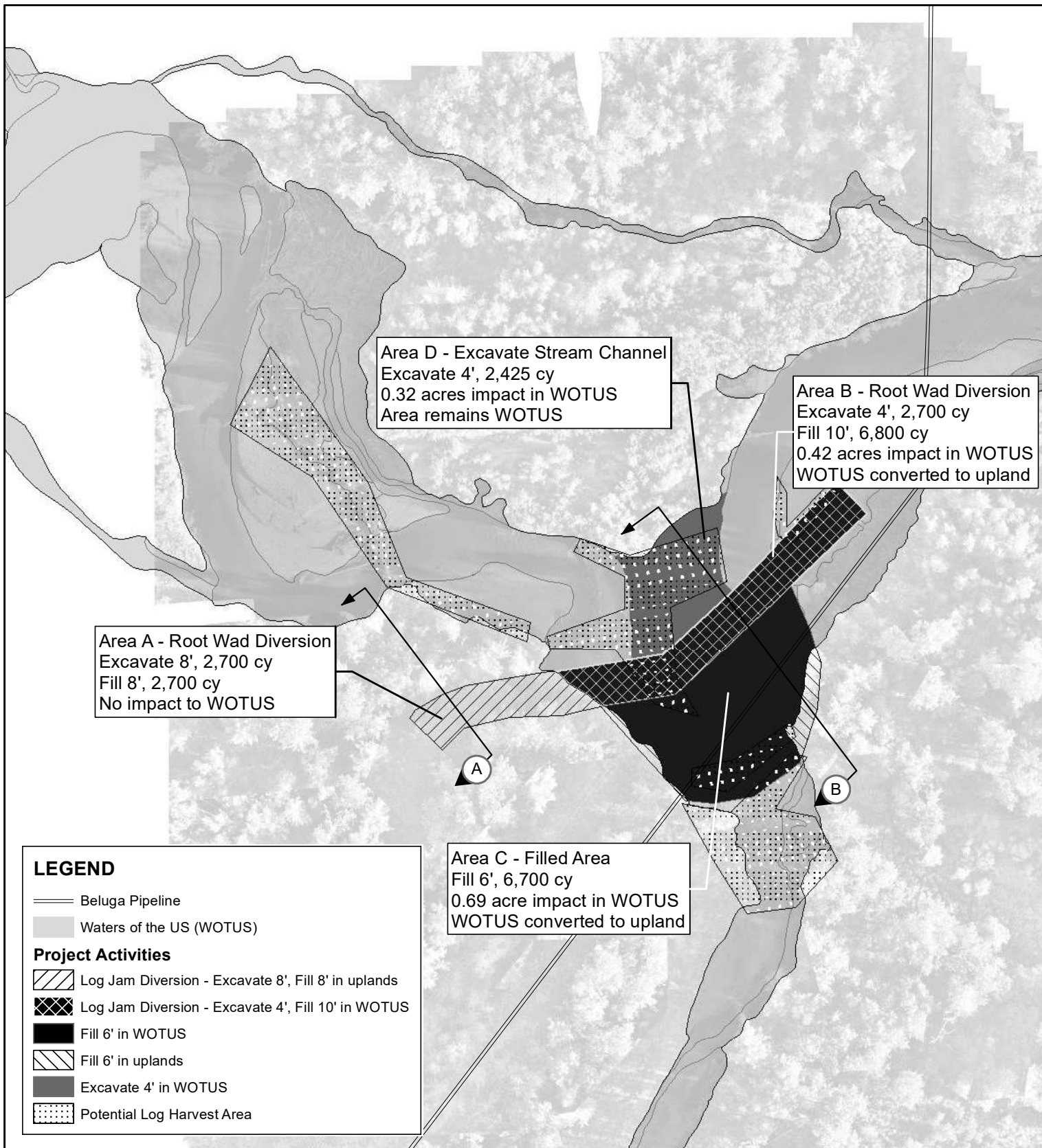






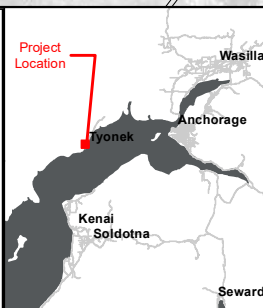


**Attachment 1**  
**Beluga Pipeline Log Jam Removal and Pipeline Maintenance Project Sheets 1-3**



## PROJECT DETAILS

Beluga Pipeline Log Jam  
Removal and Pipeline  
Maintenance Project



APPLICANT: Harvest Alaska, LLC

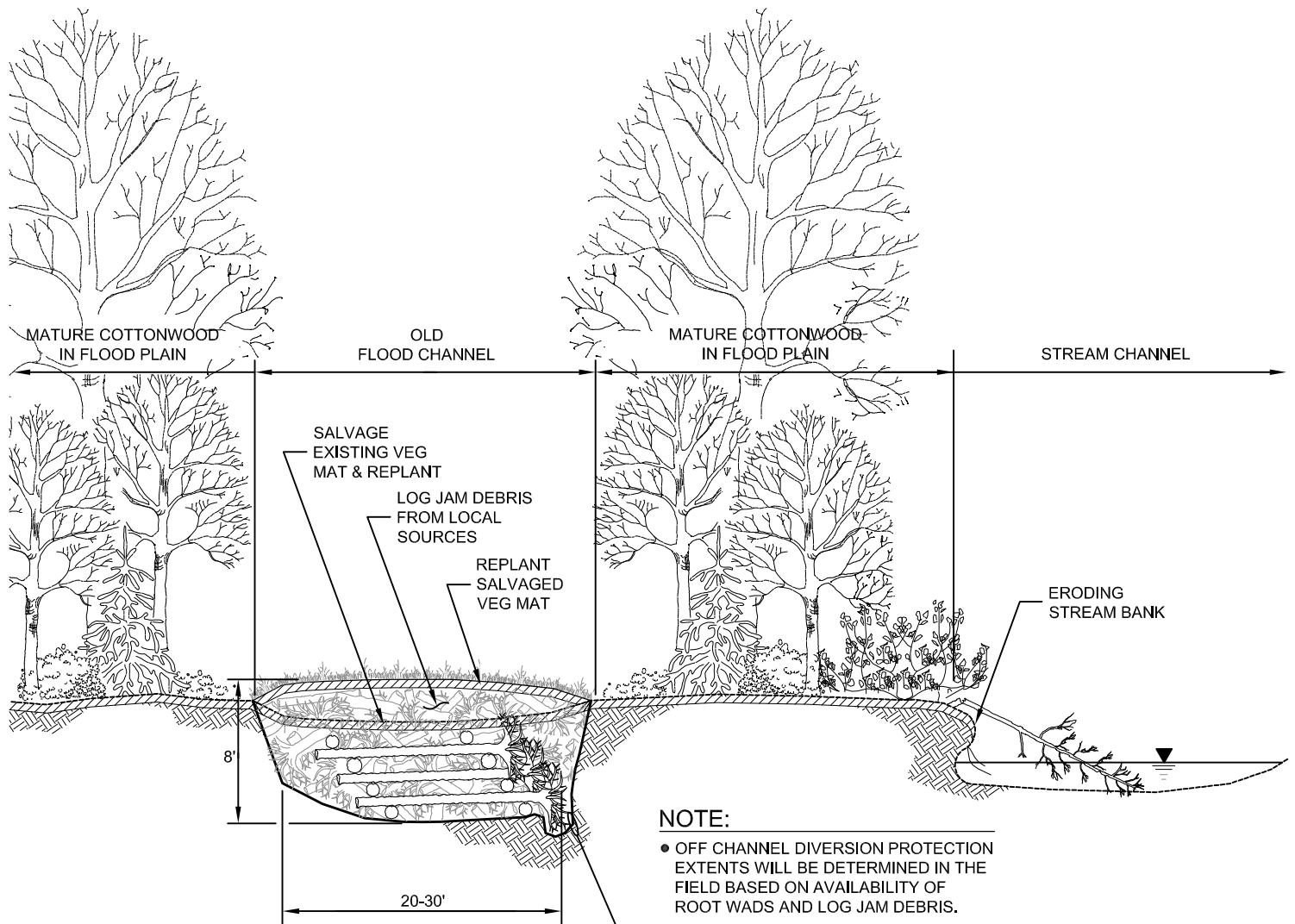
FILE NO: POA-1989-00589

WATERWAY: Chuitna River

LOCATION: Tyonek, Alaska  
Section 25, T. 12 North, R. 11 West, Seward  
Meridian

LATITUDE: 61.0953° North LONGITUDE:  
151.1355° West

SHEET 1



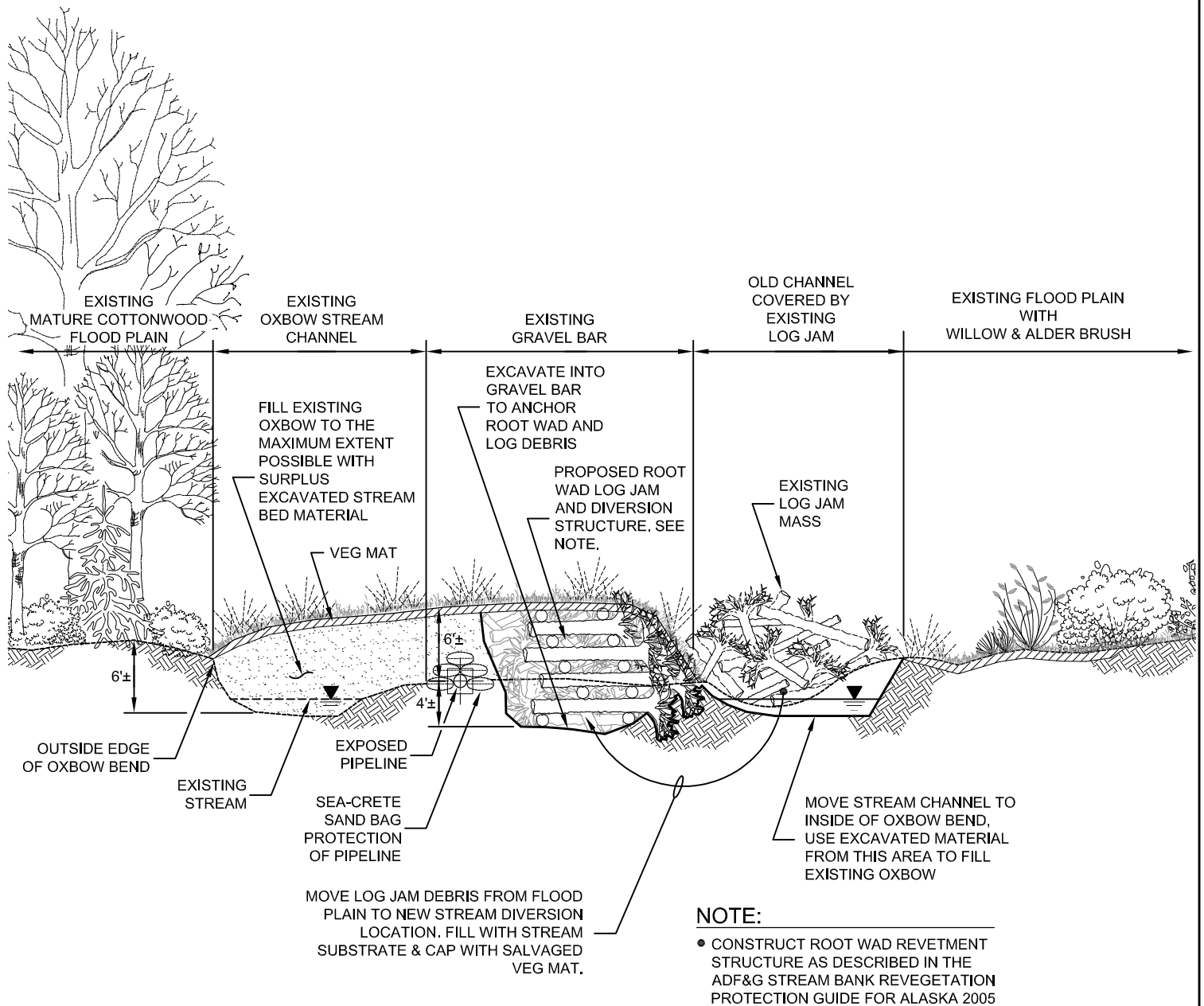
- REMOVE EXISTING VEG MAT
- EXCAVATE TRENCH
- CONSTRUCT ROOT WAD REVETMENT LATTICE
- BACKFILL WITH EXISTING LOG JAM DEBRIS
- BACKFILL WITH FLOOD PLAIN SAND & GRAVELS
- REPLACE VEG MAT
- ROOT WAD REVETMENT STRUCTURE PLACED AT RIGHT ANGLES TO EXISTING STREAM BANK. BACK FILL WITH TANGLED LOG JAM DEBRIS AND BACK FILL WITH EXCAVATED MATERIAL.
- CONSTRUCT ROOT WAD REVETMENT STRUCTURE AS DESCRIBED IN THE ADF&G STREAM BANK REVEGETATION PROTECTION GUIDE FOR ALASKA 2005

VIEWED LOOKING UPSTREAM  
NOT TO SCALE

## SECTION A

Beluga Pipeline Log Jam  
Removal and Pipeline  
Maintenance Project

APPLICANT: Harvest Alaska, LLC  
FILE NO: POA-1989-00589  
WATERWAY: Chuitna River  
LOCATION: Tyonek, Alaska  
Section 25, T. 12 North, R. 11 West, Seward  
Meridian  
LATITUDE: 61.0953° North LONGITUDE:  
151.1355° West  
SHEET 2



VIEWED LOOKING UPSTREAM  
NOT TO SCALE

## SECTION B

Beluga Pipeline Log Jam  
Removal and Pipeline  
Maintenance Project

APPLICANT: Harvest Alaska, LLC  
FILE NO: POA-1989-00589  
WATERWAY: Chuitna River  
LOCATION: Tyonek, Alaska  
Section 25, T. 12 North, R. 11 West, Seward  
Meridian  
LATITUDE: 61.0953° North LONGITUDE:  
151.1355° West  
SHEET 3





**FISH HABITAT PERMIT FH20-V-0205**  
**Amendment III**

**ISSUED:** March 10, 2022  
**EXPIRES:** Lifetime of Project

Harvest Alaska, LLC  
Tara Vicente  
3800 Centerpoint Dr., Suite 1400  
Anchorage, Alaska 99503

**RE: Stream Diversion & Pipeline Protection**  
Chuitna River – Stream No. 247-20-10010  
Section 25, T 12N, R 11W, S.M.  
Location: 61.0957° N, 151.1360° W  
River Center Tracking No. 12710

Dear Ms. Vicente:

Pursuant to the anadromous fish act at AS 16.05.871(b), the Alaska Department of Fish and Game (ADF&G), Habitat Section, has reviewed your request to change the scope of work under Fish Habitat Permit FH20-V-0205-All to protect an exposed pipeline on an eroding river bend of the Chuitna River. Fish Habitat Permit FH20-V-0205-All is amended, authorizing a change in the scope of work for the Beluga Pipeline Chuitna River Log Jam Removal and Pipeline Maintenance Project.

**Project Description**

The formerly active channel adjacent to the pipeline will be dredged to direct the flow of the Chuitna River away from the current exposed pipeline location. This work will be conducted using excavators and will be performed to minimize any fish entrapments.



Approximately 2,425 cubic yards of sediment will be excavated from the formerly active channel. A temporary cofferdam structure will be used to direct any remaining flow away from the exposed pipeline and toward the newly excavated channel. Stranded fish will likely need to be transported and an Aquatic Resource Permit from ADF&G, Sportfish Division (907-267-2331) may need to be obtained prior to de-watering. The temporary diversion structure will be removed from the site once project activities are complete.

Once isolated, the water in the oxbow will be withdrawn using a 1,500 gallon per minute (GPM) pump with a 6-inch intake hose and a 580 GPM pump with a 4-inch intake hose. No water withdrawal shall occur outside of the isolated diversion adjacent to the exposed pipeline. The exposed pipeline will be examined for integrity and any necessary repairs will be made. An estimated 150-feet of exposed pipeline will be armored using approximately 400 bags of Seacrete. The bags containing the Seacrete will be biodegradable.

An approximate 250-300-foot long root wad revetment will be constructed using log jam materials onsite to armor the buried pipeline and protect the bank from continued erosion. Using salvaged material from the site, a root wad revetment lattice will be installed, filled with log jam debris and then backfilled with on-site excavated sand and gravel. The top of the structure will be covered with vegetative mat and replanted willow and alder harvested from nearby gravel bars.

The supplemental information and design drawings, titled Beluga Pipeline Chuitna River Log Jam Removal and Pipeline Maintenance Project Description, submitted on February 23, 2022, as part of a River Center Multi-Agency Application, are hereby incorporated by reference into this project description.

### **Anadromous Fish Act**

The Chuitna River has been specified as being important for the migration, spawning and rearing of anadromous fish pursuant to AS 16.05.871(a). The Chuitna River provides spawning and migration habitat for Chinook, coho, sockeye, chum and pink salmon, Dolly Varden, and other species of resident fish.

In accordance with AS 16.05.871(d), project approval is hereby given subject to the project description, the following stipulations, and the permit terms:



1. The water intake must be enclosed and centered within a screened structure to avoid entrainment, impingement, or injury to fish while pumping water. The screen mesh size shall not exceed 1/8-inch and water velocity shall not exceed .5 feet per second at the screen surface.
2. Intake screens shall be inspected for damage (torn screen, crushed screen, screen separated from intake ends, etc.) before and after each use. Any damage observed must be repaired prior to use of the structure. The structure must always conform to the original design specifications while in use.
3. All construction activities shall be conducted so as to minimize disturbance to the riverbed and prevent the introduction of sediment, pollutants, and other material into the Chuitna River.

### **Permit Terms**

This letter constitutes a permit amendment issued under the authority of AS 16.05.871 and must be retained on site during project activities. Please be advised that this determination applies only to Habitat Section regulated activities; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve you of your responsibility to secure other state, federal, or local permits. You are still required to comply with all other applicable laws.

You are responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project. For any activity that significantly deviates from the approved plan, you shall notify the Habitat Section and obtain written approval in the form of a permit amendment before beginning the activity. Any action that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is a Habitat Section responsibility. Therefore, it is recommended you consult the Habitat Section immediately when a deviation from the approved plan is being considered.

For the purpose of inspecting or monitoring compliance with any condition of this permit amendment, you shall give an authorized representative of the state free and unobstructed access, at safe and reasonable times, to the project site. You shall furnish whatever assistance and information as the authorized representative reasonably requires for monitoring and inspection purposes.



In addition to the penalties provided by law, this permit amendment may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. You shall mitigate any adverse effect upon fish or wildlife, their habitats, or any restriction or interference with public use that the commissioner determines was a direct result of your failure to comply with this permit amendment or any applicable law.

You shall indemnify, save harmless, and defend the department, its agents, and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or your performance under this permit amendment. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

You may appeal this permit decision relating to AS 16.05.871 in accordance with the provisions of AS 44.62.330-630.

Please direct questions about this permit to Habitat Biologist Kaitlynn Cafferty at (907) 714-2481 or e-mail at [kaitlynn.cafferty@alaska.gov](mailto:kaitlynn.cafferty@alaska.gov).

Sincerely,

Doug Vincent-Lang,  
Commissioner

*Tony Munter*

By: Tony Munter  
Kenai Peninsula Area Manager  
Habitat Section

cc: KRC File

By email only:

ADF&G Soldotna  
AWT Soldotna  
AI Ott, ADF&G Fairbanks

DNR-DMLW



# Donald E. Gilman River Center

514 Funny River Road, Soldotna, Alaska 99669 • (907) 714-2460 • (907) 260-5992 Fax

*A Division of the Planning Department*

Charlie Pierce  
Borough Mayor

## KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application for a Conditional Use Permit has been received to install a root wad diversion structure on a parcel within the 50-foot Habitat Protection District of the Chuitna River near Beluga, Alaska. ***You have been sent this notice because you are a property owner within 300 feet of the described property.***

Pursuant to KPB 21.18.081 (B)(5) Transportation and utility infrastructure and KPB 21.18.091 Mitigation measures, projects within the 50-foot Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located at T 12N R 11W SEC 25 SEWARD MERIDIAN AN 0001865 US SURVEY 1865 THAT PORTION OF SEC 25 LYING WITHIN USS 1865 MOQUAWKIE INDIAN RESERVATION, Beluga, Alaska.

**Petitioner:** HARVEST ALASKA LLC  
3800 CENTERPOINT DR SUITE 1400  
ANCHORAGE, AK 99503

**Public Hearing:** The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on April 11, 2022 commencing at 7:30 p.m., or as soon thereafter as business permits. The public may attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <https://us06web.zoom.us/j/9077142200>. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-853-5247. When calling in you will need the Meeting ID 907 714 2200.

**Public Comment:** Anyone wishing to testify may attend the above meeting to give testimony, or may submit written comment via the methods below. **Written comments must be submitted by 1:00 pm Friday, April 8, 2022.**

**Mail comments to:**

Donald E. Gilman River Center  
514 Funny River Road  
Soldotna, Alaska 99669

**Fax comments to:**

(907) 260-5992

**Email comments to:**

[planning@kpb.us](mailto:planning@kpb.us)  
[KenaiRivCenter@kpb.us](mailto:KenaiRivCenter@kpb.us)

For additional information, contact Samantha Lopez, [slopez@kpb.us](mailto:slopez@kpb.us), Donald E. Gilman River Center, (907) 714-2468

**KENAI PENINSULA BOROUGH PLANNING COMMISSION**

**RESOLUTION 2022-14**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE  
CONSTRUCTION OF A ROOT WAD DIVERSION STRUCTURE WITHIN THE 50-FOOT HABITAT  
PROTECTION DISTRICT OF THE CHUITNA RIVER**

- WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and
- WHEREAS,** KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and
- WHEREAS,** KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and
- WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and
- WHEREAS,** public notice was published in the Peninsula Clarion on March 31, 2022 and April 7, 2022 as provided in Section 21.11.020; and
- WHEREAS,** public testimony was received at the April 11, 2022 meeting of the Kenai Peninsula Borough Planning Commission;

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

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

**Section 1. Project Details Within the 50-foot Habitat Protection District**

1. Approximately 2,425 cubic yards of sediment will be excavated from the historic channel to redirect the flow of water away from the exposed pipeline.
2. A temporary diversion structure will also be installed to direct any remaining flows away from the pipeline and toward the newly excavated channel. This temporary structure will be removed once the project is complete.
3. After de-watering, the pipeline will be armored with approximately 400 biodegradable bags of Seacrete, and then backfilled with the sediment excavated from the historic channel.
4. Root wads will be sourced from existing log jams and used to construct an approximately 250-300 foot-long root wad revetment that will be backfilled with on-site sand and gravel.
5. The surface of the revetment structure will be covered with vegetative mat and replanted with willow and alders harvested from nearby gravel bars.

## **Section 2. Findings of fact pursuant to KPB 21.18.081**

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), construction of transportation and utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. The installation of the root wad diversion will prevent future exposure of the pipeline.
7. Vegetative mat will be placed on top of the root wad diversion and staked with live alder and willow plantings.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:  
*"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."*
10. While utility services are not a water-dependent use as described in Resolution 2015-35, they are listed as a permissible Conditional Use under KPB 21.18.081(B)(5).
11. The River Center found the application complete and scheduled a public hearing for April 11, 2022.
12. Agency review was distributed on March 28, 2022. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on March 28, 2022. A total of 2 mailings were sent. Comments not received.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on March 31, 2022 and April 7, 2022.
15. The applicant is currently in compliance with Borough permits and ordinances.

## **Section 3. Permit Conditions**

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Chuitna River.
2. The root wad revetment must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.

6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

**Section 4. Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-4 and Findings 6-7 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1-7, 9-14 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 8 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 9-10 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 15 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Blair Martin, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

**Note: An appeal of a decision of the Planning Commission may be filed to the hearing officer, in accordance with the requirements of the KPB Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**

## **E. NEW BUSINESS**

**ITEM E3 – RESOLUTION 2022-\_\_  
A RESOLUTION PROVIDING A 30-DAY APPLICATION PERIOD  
PRIOR TO INACTIVATING THE KALIFORNSKY ADVISORY  
PLANNING COMMISSION**



# Kenai Peninsula Borough

## Planning Department

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### MEMORANDUM

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

**THRU:** Charlie Pierce, Mayor  
Melanie Aeschliman, Planning Director

**FROM:** Samantha Lopez, Senior Manager

**DATE:** April 7, 2022

**RE:** Resolution 2022-\_\_\_\_, Providing a 30-Day Application Period Prior to Inactivating the Kalifornsky Advisory Planning Commission (Mayor)

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The Kenai Peninsula Borough has established Advisory Planning Commissions (APCs) in several communities throughout the borough, one being the Kalifornsky APC. The Kalifornsky APC was established by Ordinance 2019-21 and held its first meeting on November 18, 2019. APCs may seat up to seven members, and at least four members are required to make a quorum.

There are two declared vacancies on the Kalifornsky APC (Seats D and E) as the terms for both seats expired on September 30, 2021. No applications have been received to date to fill Seats D or E. In addition, as of January 2022, four of the five-seated Kalifornsky APC members have submitted resignations and/or cannot be reached (Seats B, C, F, and G). This APC now only has one seated member and therefore the APC is not able to declare vacancies for the other seats per KPB 21.02.100. Code does not address how or when APCs should be inactivated when a quorum cannot be formed.

Through this resolution, Kalifornsky APC seats B, C, F, and G shall be declared vacant and advertised for 30 days. If, during the application period, the borough receives applicants for the APC but there is still not a sufficient number of qualified applicants to secure a quorum on the APC, then the APC will be listed as inactive.

Your consideration of this resolution is appreciated.

Introduced by: Mayor  
Date: 04/19/22  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2022-**

**A RESOLUTION PROVIDING A 30-DAY APPLICATION PERIOD PRIOR TO  
INACTIVATING THE KALIFORNSKY ADVISORY PLANNING COMMISSION**

**WHEREAS,** the Kenai Peninsula Borough (“Borough”) has established Advisory Planning Commissions (“APCs”) in several communities throughout the Borough, including the Kalifornsky APC; and

**WHEREAS,** the Kalifornsky APC was established by Ordinance 2019-21 and held its first meeting on November 18, 2019; and

**WHEREAS,** APCs may seat up to seven members, and at least four members are required to constitute a quorum; and

**WHEREAS,** currently there are two declared vacancies on this APC, Seat D and Seat E, due to the fact that the terms for both seats expired on September 30, 2021

**WHEREAS,** no applications have been received to date to fill Seat D and Seat E on this APC; and

**WHEREAS,** as of January 2022, four of the five seated Kalifornsky APC members have submitted resignations and/or cannot be reached, those seats being Seats B, C, F, and G; and

**WHEREAS,** there is only one remaining seated member on the Kalifornsky APC and therefore the APC is unable to hold a meeting to declare vacancies on the APC as required by KPB 21.02.100; and

**WHEREAS,** Borough code does not address how or when APCs should be inactivated when a quorum cannot be constituted; and

**WHEREAS,** at its meeting held on April 11, 2022, the Borough Planning Commission recommended \_\_\_\_\_;

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

**SECTION 1.** That the Assembly declares Kalifornsky APC Seats B, C, F, and G are vacant and the Borough shall, for a period of thirty days, advertise for applicants to fill those vacancies.

**SECTION 2.** That if, during the 30-day application period, the Borough receives applicants for the Kalifornsky APC but there remains an insufficient number of qualified applicants to constitute a quorum, the Borough will then list the Kalifornsky APC as inactive.

**SECTION 3.** This resolution is effective immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2022.**

\_\_\_\_\_  
Brent Johnson, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk

## **E. NEW BUSINESS**

### **ITEM E4 – ORDINANCE 2022-06**

**An ordinance authorizing the negotiated sale of 183.234 acres in Cooper Landing as part of the Sterling Highway MP 45-60 Realignment Project to the State of Alaska Department of Transportation and Public Facilities for a negotiated amount over appraised value.**

# Kenai Peninsula Borough

## Planning Department – Land Management Division

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### MEMORANDUM

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

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

FROM: Aaron Hughes, Land Management Agent *AH*

DATE: March 23, 2022

RE: Ordinance 2022-\_\_\_\_, Authorizing the Negotiated Sale of 183.234 Acres in Cooper Landing as Part of the Sterling Highway Mile Post 45-60 Realignment Project to the State of Alaska Department of Transportation and Public Facilities for a Negotiated Amount Over Appraised Value (Mayor)

---

The State of Alaska Department of Transportation and Public Facilities (DOT&PF) has requested the negotiated sale of 183.234 acres of KPB owned lands located in Cooper Landing as right-of-way for the proposed Sterling Highway Mile Post 45-60 Realignment. The proposed right-of-way acquired lands are described as 22 Project Parcels as referenced on the attached maps.

The attached Ordinance would authorize the Mayor to execute all necessary documentation required to convey the above referenced project parcels to DOT&PF in consideration of the negotiated sale price of \$2,122,900.

The proposed sale price is the result of negotiations between KPB and DOT&PF after detailed review of DOT&PF contracted independent third-party appraisal on all project parcels. The appraisal valuations for all project parcels totaled \$1,722,200 and the negotiated sale price includes an additional \$400,000 in consideration.

The sale of the Project Parcels to DOT&PF authorized under this ordinance will benefit borough residents and visitors by providing necessary upgrades to the Sterling Highway and is consistent with the 1996 Cooper Landing Land Use Plan.

Your consideration of the attached Ordinance is appreciated.



Introduced by: Mayor  
Date: 04/05/22  
Hearing: 04/19/22  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-XX**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED SALE OF 183.234 ACRES IN  
COOPER LANDING AS PART OF THE STERLING HIGHWAY MILE POST 45-60  
REALIGNMENT PROJECT TO THE STATE OF ALASKA DEPARTMENT OF  
TRANSPORTATION AND PUBLIC FACILITIES FOR A NEGOTIATED AMOUNT  
OVER APPRAISED VALUE**

- WHEREAS,** the State of Alaska Department of Transportation and Public Facilities (DOT&PF) has a planned project for the realignment of that portion of the Sterling Highway located between Mileposts 45-60 and as a result has initiated right-of-way acquisition negotiations with property owners located within the proposed right-of-way realignment; and
- WHEREAS,** the Kenai Peninsula Borough (KPB) is the fee simple owner of those lands comprising Project Parcels 1, 2, 3, 16, 11, 13, 17, 18, 19A, 19B, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and retains Municipal Entitlement Management Authority over Project Parcel 32 as further described in Section 1 of this Ordinance; and
- WHEREAS,** DOT&PF has contracted with Black-Smith, Bethard & Carlson, LLC (Anchorage) for independent third-party appraisals of the identified 183.234 acres of KPB land (Project Parcels) proposed as right-of-way under this project; and
- WHEREAS,** DOT&PF has presented to KPB a formal offer to purchase said right-of-way parcels for a negotiated amount of \$2,122,900.00, contingent upon assembly approval and a borough signed agreement by April 27, 2022; and
- WHEREAS,** entering into a negotiated sale with DOT&PF for the referenced right-of-way parcels aids in the mitigation of traffic safety concerns for the community of Cooper Landing, in addition to providing necessary efficiency and safety upgrades and utility to the Sterling Highway, benefitting borough residents and visitors; and
- WHEREAS,** the Cooper Landing Advisory Planning Commission, at its regular meeting of April 6, 2022, recommended \_\_\_\_\_.

**WHEREAS,** the Kenai Peninsula Borough Planning Commission, at its regular meeting of April 11, 2022, recommended \_\_\_\_\_.

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

**SECTION 1.** That the real property described below is owned by or under Management Authority of KPB and is identified by DOT&PF as necessary right-of-way acquisitions for completion of the Sterling Highway MP45-60 project.

<b>Project Parcel</b>	<b>KPB Parent Parcel ID</b>	<b>Classification</b>	<b>Appraisal Effective Date</b>	<b>Right of Way Acreage</b>	<b>Appraised Value</b>
1, 2, 3, 16	11912509 11912614 11912612 11912610	Preservation	2/01/2022	12.626	\$44,200.00
11	11915007	Unclassified	10/25/2021	.28	\$13,700.00
13, 17	11912704	Preservation	2/01/2022	74.167	\$736,400.00
18	11907126	Preservation	12/03/2021	9.177	\$113,300.00
19A, 19B, 20	11907128 11907101	Recreational Preservation	2/01/2022	51.363	\$359,900.00
22	11907133	Recreational	12/03/2021	1.378	\$12,100.00
23	11907136	Residential	12/03/2021	.525	\$9,000.00
24	11907137	Residential	12/03/2021	1.103	\$32,100.00
25	11907138	Residential	12/03/2021	1.631	\$63,900.00
26	11907139	Residential	12/03/2021	1.667	\$55,700.00
27	11907140	Residential	12/03/2021	2.259	\$58,500.00
28	11907141	Residential	12/03/2021	2.325	\$54,900.00
29	11907142	Residential	12/03/2021	.406	\$26,100.00
30, 31	11907144 11907143	Recreational Preservation	12/03/2021	16.457	\$127,400.00
32	11907501(MA)	Recreational Preservation	2/01/2022	4.264	\$15,000.00
			<b>Total:</b>	<b>183.234</b>	<b>\$1,722,200.00</b>

(MA = Municipal Entitlement Management Authority)

**SECTION 2.** That the assembly finds that conveying the right-of-way areas defined as the project parcels in Section 1, according to the terms in Section 4, is in the best interest of the borough based on the following:

- a. The KPB Assembly adopted Resolution 2016-049 supporting the subject Juneau Creek Alternative for the Sterling Highway Milepost 45-60 Realignment Project.
- b. KPB will receive adequate and just compensation for the conveyance of the right-of-way parcels and associated impacts.
- c. Disposal of subject project parcels to DOT&PF is consistent with the 1996 Cooper Landing Land Use Plan.
- d. The proposed sale would result in necessary efficiency and safety upgrades to the Sterling Highway benefitting residents and visitors of the borough.

**SECTION 3.** That the assembly makes an exception to KPB 17.10.110 (notice of disposition). This exception is based on the following findings of fact pursuant to KPB 17.10.230:

- 1. “Special circumstances or conditions exist”.
  - a. The purpose of KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land. Advertising this negotiated sale to DOT&PF will not serve a useful purpose, as DOT&PF is a state governmental agency and the only entity able to accomplish the safety upgrades to the Sterling Highway. Compliance with the advertising requirement would cause delays that negatively impact the project and may impose unnecessary expense on KPB.
- 2. “That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter”.
  - a. For this negotiated sale to DOT&PF, a state governmental agency, an exception to the notice requirement is necessary to keep the Sterling Highway Milepost 45-60 Realignment Project on track without unnecessary delay. As such, it furthers the preservation and enjoyment of KPB’s property right and governmental interest to ensure the efficiency and safety of the Sterling Highway which will benefit KPB’s residents and visitors.
- 3. “That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area”.
  - a. The proposed disposition is advertised by publication of the ordinance in newspapers of general circulation and on the borough’s web page. Notice of the proposed disposition is also published by the Planning Commission agenda in newspapers of general circulation, and a public hearing is held at the Planning Commission level. Additional notice is not necessary to comply with the intent of KPB 17.10 or to protect the public welfare. An exception to the notice requirement will support the welfare of the general public by

reducing the delay of the overall Sterling Highway Milepost 45-60 Realignment Project which, in turn, will support the welfare of the general public through necessary safety and efficiency upgrades to the Sterling Highway.

**SECTION 4.** That based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100(I) to sell and convey, through quitclaim deed, the land described in Section 1 above to the State of Alaska Department of Transportation and Public Facilities for the negotiated sales price of \$2,122,900.00. DOT&PF shall be responsible for any and all related closing costs and recording fees. All other applicable terms and conditions of KPB 17.10 shall apply to this sale unless inconsistent with this ordinance.

**SECTION 5.** That all sale proceeds shall be deposited into the Land Trust Investment Fund.

**SECTION 6.** That the mayor is authorized to sign any document necessary to effectuate this ordinance.

**SECTION 7.** This ordinance shall become effective immediately upon its enactment.

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

---

Brent Johnson, Assembly President

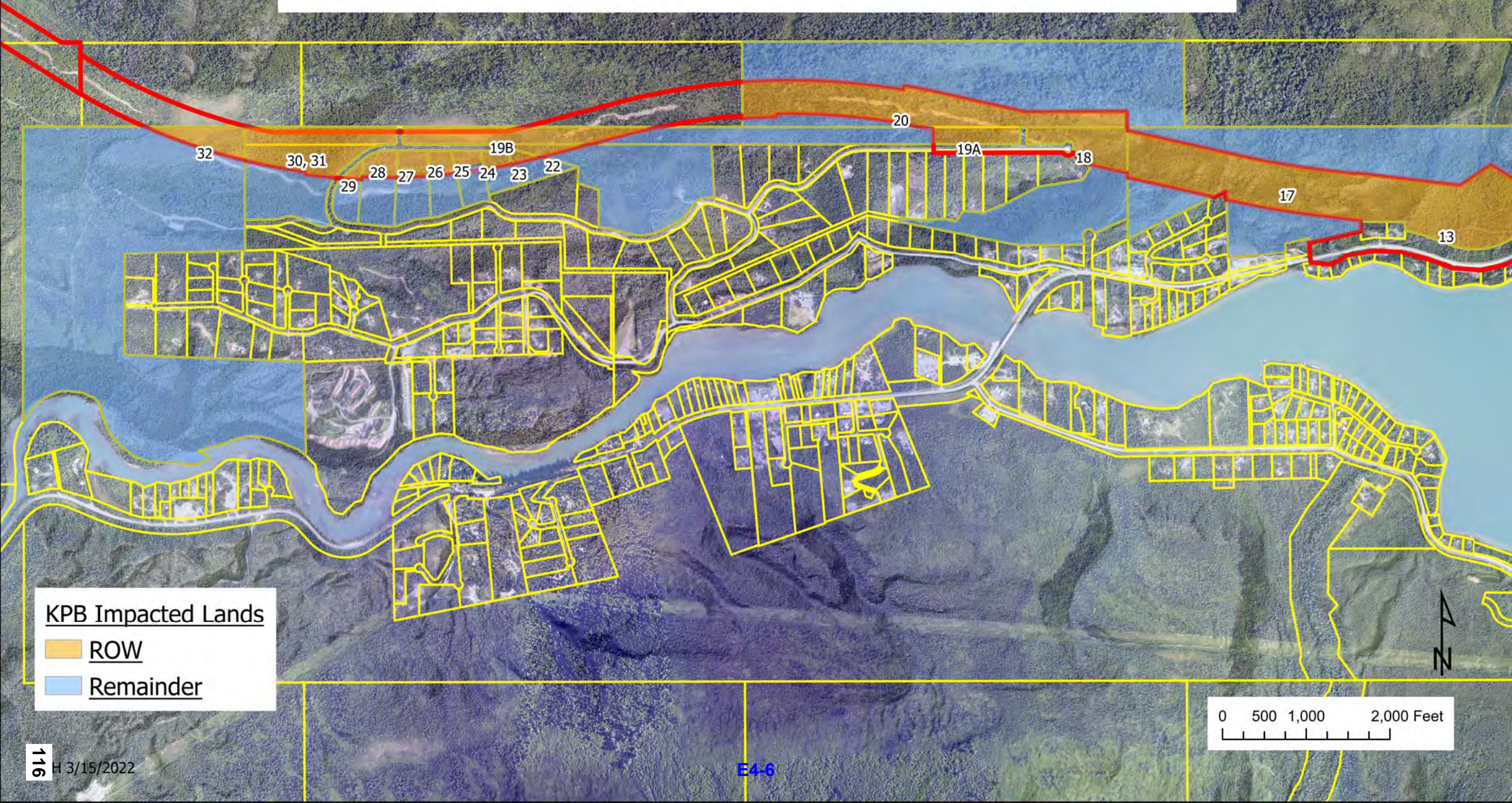
ATTEST:

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Johni Blankenship, MMC, Borough Clerk



# KPB Sterling Highway MP 45-60 (West)



KPB Impacted Lands

ROW

Remainder




# KPB Sterling Highway MP 45-60 (East)



## KPB Impacted Lands

 ROW

 Remainder





THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Transportation and Public Facilities

DESIGN & ENGINEERING SERVICES  
CENTRAL REGION RIGHT OF WAY

PO Box 196900  
Anchorage, Alaska 99519-6900  
Phone: 907.269.0700  
Toll Free: 800.770.5263  
TDD: 907.269.0473  
TTY: 800.770.8973  
Fax: 907.269.0828

March 23, 2022

ATTN: Aaron Hughes and/or Marcus Mueller  
Land Management Division  
Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, Alaska 99669

RE: Sterling Highway MP 45-60 Reconstruction ("Cooper Landing Bypass")  
Project No. CFHWY00694, Parcels # 1-3, 11, 13, 16 (6 total) (Stage 1b)  
Project No. Z530140000, Parcels # 17-18, 19A & B, 20, 22-32 (15 total) (Stages 2-6)

Dear Mr. Hughes and Mr. Mueller,

As you know, the State of Alaska, Department of Transportation and Public Facilities (DOT&PF) plans to reconstruct a portion of the Sterling Highway around the community of Cooper Landing. This is a federally funded project that will construct a new highway alignment between Milepost 44.5 and 58. Additional information can be found on DOT&PF's project website at <http://sterlinghighway.net>.

DOT&PF needs to purchase multiple portions of borough-owned parcels within the project area in order to construct this project; specifically DOT&PF parcels # 1-3, 11, 13, 16-18, 19A & B, 20 and 22-32. Fair market value for all 21 parcels for has been determined by independent appraisal to be \$1,722,900.00 (appraisals forwarded electronically). DOT&PF also offers \$400,000.00 in additional compensation, for a total offer of **\$2,122,900.00**. Please consider this letter to be an offer to purchase this borough-owned property.

### **Offer:**

As a State agency, DOT&PF is subject to specific laws and regulations. As a result, the way in which DOT&PF acquires property differs in several important respects from ordinary real estate transactions. I'd like to highlight the most important of these differences in order to assist KPB in consideration of DOT&PF's offer. DOT&PF is required by Federal law to offer no less than appraised fair market value for property and any improvements located thereon. The policy is intended to protect and provide fairness to owners who may not voluntarily be in the market as sellers. The enclosed brochure, "Acquiring Real Property for Federal-Aid Programs and Projects" provides additional information about right of way acquisition procedures. The nature of the type of sale makes the process somewhat different than ordinary

private transactions. Voluntary sellers in the private market often ask for a price that is more than what they expect to receive, and buyers routinely offer less than they are eventually willing to pay. While bargaining in this fashion is common in most real estate sales, DOT&PF makes a full, fair price offer rather than a low offer with the expectation that a counteroffer will then be made by the seller.

Additionally, please note that AS 29.65.070(b) provides that *“after approval of a selection by the [DMLW] director, but before patent to a municipality, the municipality may execute conditional leases and make conditional sales only with the consent of the [DMLW] director.”* Parcel 32 is located within lands that have been approved for conveyance to KPB by DMLW but that lack patent. DOT&PF therefore requests that KPB initiate a request for DMLW concurrence to sale of Parcel 32 if the borough agrees to the broader sale proposed herein.

All documents necessary to complete the purchase of the property described herein are enclosed and include:

Memorandum of Agreement (2x). The Memorandum of Agreement expresses the terms of this offer in writing. Please sign and date the document where indicated.

Purchase Voucher (2x). The Purchase Voucher is needed to order payment. Please sign and date the document where indicated.

Quitclaim Deed (2x). The Deed is the written document that will convey the parcels described herein to DOT&PF. Please have an appropriate KPB representative sign the document in the presence of a Notary Public. Please also provide evidence of signature authority.

IRS Form W-9 & Sub W-9 Form. The Internal Revenue Service requires that we report sale proceeds. To help us with that obligation, please include KPB's Tax Identification Number on the forms and sign and date where indicated. A check cannot be issued without a Tax Identification Number.

All liens, mortgages and encumbrances on the property must be released before we can complete the transaction, i.e. title must be cleared. Once an agreement is reached for the purchase, KPB can expect to close the transaction and receive payment in 45 to 60 days. However, if title clearing is complicated, closing may take longer. Owners whose properties are free and clear of encumbrances can expect to close the transaction and receive payment sooner.

If KPB wishes to accept this offer and prefers to complete the process without an in-person meeting, please sign the documents described above and return in the enclosed self-addressed, postage paid, return envelope.

I am available to meet and discuss any questions and concerns you may have. I can be reached via phone at 907-269-0647 or by email at [james.sowerwine@alaska.gov](mailto:james.sowerwine@alaska.gov).

Sincerely,



James Sowerwine  
Right of Way Agent DOT&PF

Enclosures:

- Memorandum of Agreement (2x)
- Quitclaim Deed (2x)
- Purchase Voucher (2x)
- IRS W-9 form
- State of Alaska – Substitute W-9 form
- Appraisals (15x)
- ROW Acquisition Brochure

Cc: Sean Baski, P.E. (Project Manager)  
Jonathan Tymick, P.E. (Project Manager)





STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES

**MEMORANDUM OF AGREEMENT**

PROJECT NAME: **STERLING HWY MP 45-60  
SUNRISE TO SKILAK ROAD RECONSTRUCTION**

STATE PROJECT #: **CFHWY00694**

FEDERAL-AID PROJECT #: **0A33029**

PARCEL #: **1-3, 11, 13, 16**

AGREEMENT has been reached this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, between the owner(s) of the above designated parcel(s) and the STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (DOT&PF), for the purchase of said parcel(s). The amount to be paid, and other considerations to be given in full satisfaction of this Agreement, are as follows:

Right-of-Way Acquisition: \$ 297,100.00  
Retention Value \$ 0

Total Compensation \$297,100.00

Fixtures and improvements purchased: None

Land purchased: 41.061 acres under CFHWY00694 (184.246 acres total)

Damages are a considerations: ☒ yes ☐ no Amount of Damages included in total compensation: \$94,408.00

1. Taxes and Special Assessments, if any, delinquent from former years, and Taxes and Special Assessments for the current year, if due and/or payable, shall be paid by the owner(s).
2. This Memorandum embodies the whole Agreement between the parties hereto as it pertains to the real estate, and there are no promises, terms, conditions or obligations referring to the subject matter hereof, other than as contained herein.
3. The owner(s) hereby agree that the compensation herein provided to be paid includes full compensation for their interest and the interests of their life tenants, remaindermen, reversioners, liens and lessees, and any and all other legal and equitable interest that are or may be outstanding and said owner(s) agree to discharge the same.
4. THIS AGREEMENT shall be deemed a CONTRACT, extending to and binding upon the parties hereto and upon the respective heirs, devisees, executors, administrators, legal representative, successors and assigns of the parties, only when the same shall have been approved by the Regional Chief Right-of-Way Agent on behalf of the DOT&PF.

Other Conditions: None

Of the total amount of compensation hereinabove agreed upon, the sum of \$297,100.00 shall be paid upon execution and delivery of a good and sufficient: ☐ Warranty Deed ☐ Easement or ☒ Other: Quitclaim deed, and the balance of the compensation, amounting to \$ \_\_\_\_\_ shall be paid upon compliance by the owner(s) with the terms hereof.

Disbursement of funds will be made in the following manner:

Payee	Amount of Payment
Kenai Peninsula Borough	\$297,100.00

The Owner(s) certify that there are no known hazardous materials on the property.

The terms of this Agreement are understood and assented to by us and payment is to be made in accordance with the above.

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION  
& PUBLIC FACILITIES**


**KENAI PENINSULA BOROUGH:**

REGIONAL PRE-CONSTRUCTION ENGINEER \_\_\_\_\_ Date \_\_\_\_\_  
Note: Regional Pre-Construction Engineer or Designee must sign when construction consideration is involved

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

BY: \_\_\_\_\_  
RIGHT-OF-WAY AGENT \_\_\_\_\_ Date \_\_\_\_\_

REGIONAL CHIEF RIGHT-OF-WAY AGENT \_\_\_\_\_ Date \_\_\_\_\_  
Region: Central

	<b>STATE OF ALASKA</b> <b>DEPARTMENT OF TRANSPORTATION</b> <b>AND PUBLIC FACILITIES</b> P.O. BOX 1467 - JUNEAU, ALASKA 99802	DOCUMENT NO. _____ WARRANT NO. _____ DATE PAID _____
	<b>PURCHASE VOUCHER</b>	PAYEE MUST SIGN THE CERTIFICATION BELOW AND RETURN THIS VOUCHER TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES BEFORE PAYMENT CAN BE MADE.

**NAME OF PAYEE: KENAI PENINSULA BOROUGH**

**ADDRESS OF PAYEE: c/o DOT&PF RIGHT OF WAY**

P.O. Box 196900  
Anchorage, AK 99519-6900

Date of Agreement	Project Number CFHWY00694	Parcel Number 1-3, 11, 13, 16 (6 total)	Type of Document QCD	Amount
	<b>Sterling Highway: MP 45-60 (“Cooper Landing Bypass”) (Phase 1B)</b>  For the benefit of Kenai Peninsula Borough Payment for right of way acquisition as shown on the Memorandum of Agreement and Approved Review Appraisers Determination of Just Compensation.  <b>RETURN WARRANT REQUESTED</b>			\$297,100.00
<b>GRAND TOTAL (LESS DEDUCTIONS)</b>				<b>\$297,100.00</b>

**PAYEE'S CERTIFICATION:** I certify that the above bill is correct and just and that payment therefor has not been received:

**KENAI PENINSULA BOROUGH:**

**By:** \_\_\_\_\_

**Its:**

**APPROVED BY:** \_\_\_\_\_  
RIGHT-OF-WAY (NEGOTIATOR)

#### ACCOUNTS TO BE CHARGED

ACCOUNT CODE	DEBIT	CREDIT	AMOUNT
	\$297,100.00		\$297,100.00
I certify that the above services were performed or expenses incurred as stated; that they were necessary and proper; that the amounts claimed are just and reasonable; that no part thereof has been paid.	GRAND TOTAL (NET)		<b>\$297,100.00</b>
	PREPARED BY: JES	APPROVED FOR PAYMENT	
	CHECKED BY:	REGIONALCHIEF RIGHT-OF-WAY AGENT	

 <p style="text-align: center;">STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</p> <p style="text-align: center;"><b>MEMORANDUM OF AGREEMENT</b></p>	<b>PROJECT NAME: <u>STERLING HWY MP 45-60</u></b> <b><u>SUNRISE TO SKILAK ROAD RECONSTRUCTION</u></b>
	<b>STATE PROJECT #: <u>Z530140000</u></b>
	<b>FEDERAL-AID PROJECT #: <u>0212015</u></b>
	<b>PARCEL #: <u>17-18, 19A &amp; B, 20, 22-32 (15 total)</u></b>

AGREEMENT has been reached this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, between the owner(s) of the above designated parcel(s) and the STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (DOT&PF), for the purchase of said parcel(s). The amount to be paid, and other considerations to be given in full satisfaction of this Agreement, are as follows:

Right-of-Way Acquisition:	\$ 1,425,800.00	
Administrative Settlement	\$ 400,000.00	
Retention Value	\$ 0	
		Total Compensation \$1,825,800.00

Fixtures and improvements purchased: None  
Land purchased: 143.185 acres under Z530140000 (184.246 acres total).

Damages are a considerations: ☒ yes ☐ no Amount of Damages included in total compensation: \$402,692.00 (Included in ROW Acquisition total of \$1,425,800.00 indicated above and below.)

1. Taxes and Special Assessments, if any, delinquent from former years, and Taxes and Special Assessments for the current year, if due and/or payable, shall be paid by the owner(s).
2. This Memorandum embodies the whole Agreement between the parties hereto as it pertains to the real estate, and there are no promises, terms, conditions or obligations referring to the subject matter hereof, other than as contained herein.
3. The owner(s) hereby agree that the compensation herein provided to be paid includes full compensation for their interest and the interests of their life tenants, remaindermen, reversioners, liens and lessees, and any and all other legal and equitable interest that are or may be outstanding and said owner(s) agree to discharge the same.
4. THIS AGREEMENT shall be deemed a CONTRACT, extending to and binding upon the parties hereto and upon the respective heirs, devisees, executors, administrators, legal representative, successors and assigns of the parties, only when the same shall have been approved by the Regional Chief Right-of-Way Agent on behalf of the DOT&PF.

Other Conditions: ROW to be controlled access without frontage road.  
KPB Assembly to approve sale by April 27<sup>th</sup>, 2022.

Of the total amount of compensation hereinabove agreed upon, the sum of \$\_\_\_\_\_ shall be paid upon execution and delivery of a good and sufficient: ☐ Warranty Deed ☐ Easement or ☒ Other: Quitclaim deed, and the balance of the compensation, amounting to \$\_\_\_\_\_ shall be paid upon compliance by the owner(s) with the terms hereof.

Disbursement of funds will be made in the following manner:

Payee	Amount of Payment
Kenai Peninsula Borough	\$1,825,800.00

The Owner(s) certify that there are no known hazardous materials on the property.

The terms of this Agreement are understood and assented to by us and payment is to be made in accordance with the above.

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION  
& PUBLIC FACILITIES**


**KENAI PENINSULA BOROUGH:**

\_\_\_\_\_  
REGIONAL PRE-CONSTRUCTION ENGINEER Date  
Note: Regional Pre-Construction Engineer or Designee must sign when construction consideration is involves

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

BY: \_\_\_\_\_  
RIGHT-OF-WAY AGENT Date

\_\_\_\_\_  
REGIONAL CHIEF RIGHT-OF-WAY AGENT Date  
Region: Central

	<b>STATE OF ALASKA</b> <b>DEPARTMENT OF TRANSPORTATION</b> <b>AND PUBLIC FACILITIES</b> P.O. BOX 1467 - JUNEAU, ALASKA 99802	DOCUMENT NO. _____ WARRANT NO. _____ DATE PAID _____
	<b>PURCHASE VOUCHER</b>	PAYEE MUST SIGN THE CERTIFICATION BELOW AND RETURN THIS VOUCHER TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES BEFORE PAYMENT CAN BE MADE.

**NAME OF PAYEE: KENAI PENINSULA BOROUGH**

**ADDRESS OF PAYEE: c/o DOT&PF RIGHT OF WAY**

P.O. Box 196900  
 Anchorage, AK 99519-6900

Date of Agreement	Project Number Z530140000	Parcel Number 17-18, 19A & B, 20, 22-32 (15 total)	Type of Document QCD	Amount
	<b>Sterling Highway: MP 45-60 (“Cooper Landing Bypass”) (Phases 2-6)</b>  For the benefit of Kenai Peninsula Borough Payment for right of way acquisition as shown on the Memorandum of Agreement and Approved Review Appraisers Determination of Just Compensation.  <b>RETURN WARRANT REQUESTED</b>			\$1,825,800.00
<b>GRAND TOTAL (LESS DEDUCTIONS)</b>				<b>\$1,825,800.00</b>

**PAYEE'S CERTIFICATION:** I certify that the above bill is correct and just and that payment therefor has not been received:

**KENAI PENINSULA BOROUGH:**


**By:** \_\_\_\_\_  
**Its:** \_\_\_\_\_

**APPROVED BY:** \_\_\_\_\_  
 RIGHT-OF-WAY (NEGOTIATOR)

**ACCOUNTS TO BE CHARGED**

ACCOUNT CODE	DEBIT	CREDIT	AMOUNT
	\$1,825,800.00		\$1,825,800.00
I certify that the above services were performed or expenses incurred as stated; that they were necessary and proper; that the amounts claimed are just and reasonable; that no part thereof has been paid.	<b>GRAND TOTAL (NET)</b>		<b>\$1,825,800.00</b>
	<b>PREPARED BY:</b> JES	<b>APPROVED FOR PAYMENT</b>	
	<b>CHECKED BY:</b>	<b>REGIONALCHIEF RIGHT-OF-WAY AGENT</b>	



 <p style="text-align: center;">STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</p> <p style="text-align: center;"><b>QUITCLAIM DEED</b> (Corporate/Partial Property)</p>	<p>PROJECT NAME: <u><b>STERLING HWY MP 45-60 SUNRISE TO SKILAK ROAD RECONSTRUCTION</b></u></p> <p>STATE PROJECT #: <b>CFHWY00694</b></p> <p>FEDERAL-AID PROJECT #: <b>0A33029</b></p> <p>PARCEL #: <b>1-3, 11, 13, 16 (6 total)</b></p>
---	---

The GRANTOR, **KENAI PENINSULA BOROUGH**, whose mailing address is 144 North Binkley Street, Soldotna, Alaska 99669, for and in consideration of ten dollars, and other valuable consideration, in hand paid, conveys and quitclaims to the GRANTEE, **STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**, whose mailing address is P.O. Box 196900, Anchorage, Alaska 99519, all rights, title, and interest, if any, which it has or may hereinafter acquire in the following-described real estate located in the State of Alaska, all that part of the following-described land:

Parcel 1: A portion of :

Tract "H", Alaska State Land Survey 2003-2, according to the official plat thereof, filed under Plat Number 2005-10, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 13.711 acres, more or less.

Parcel 2: A portion of :

Tract "F", Alaska State Land Survey 2003-2, according to the official plat thereof, filed under Plat Number 2005-10, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 0.749 acres, more or less.

Parcel 3: A portion of :

Tract "E", Alaska State Land Survey 2003-2, according to the official plat thereof, filed under Plat Number 2005-10, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 1.617 acres, more or less.

Parcel 11: A portion of :

Lot 15 of US Survey No. 2688, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 0.395 acres, more or less.

Parcel 13: A portion of :

Tract "A", Alaska State Land Survey 2003-2, according to the official plat thereof, filed under Plat Number 2005-10, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 24.037 acres, more or less.

Parcel 16: A portion of :

Tract "B", Alaska State Land Survey 2003-2, according to the official plat thereof, filed under Plat Number 2005-10, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 0.552 acres, more or less.

which lies within the right-of-way lines of Alaska Project No. CFHWY00694 delineated as to said tracts of land on the plats attached hereto and made a part hereof of this instrument and designated as Parcels 1-3, 11, 13 and 16. Said parcels, containing 41.061 acres, more or less, in addition to existing right-of-way, is hereby conveyed to the State Of Alaska, Department Of Transportation And Public Facilities.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

ATTEST:

Kenai Peninsula Borough:

By: \_\_\_\_\_

\_\_\_\_\_

Filed for Record at the Request of  
and Return to:  
DOT&PF ROW Engineering  
P.O. Box 196900  
Anchorage, AK 99519-6900

State Business-No Charge

## CORPORATE ACKNOWLEDGMENT

STATE OF ALASKA )  
 : ss  
3<sup>RD</sup> JUDICIAL DISTRICT )

On this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared \_\_\_\_\_ for the Kenai Peninsula Borough, known to me to be the identical individual who executed the foregoing instrument, and who acknowledged to me that they executed the same freely and voluntarily, with full authority to do so and with full knowledge of its contents, for the uses and purposes therein mentioned.

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

Notary Public in and for the State of Alaska  
My Commission Expires:

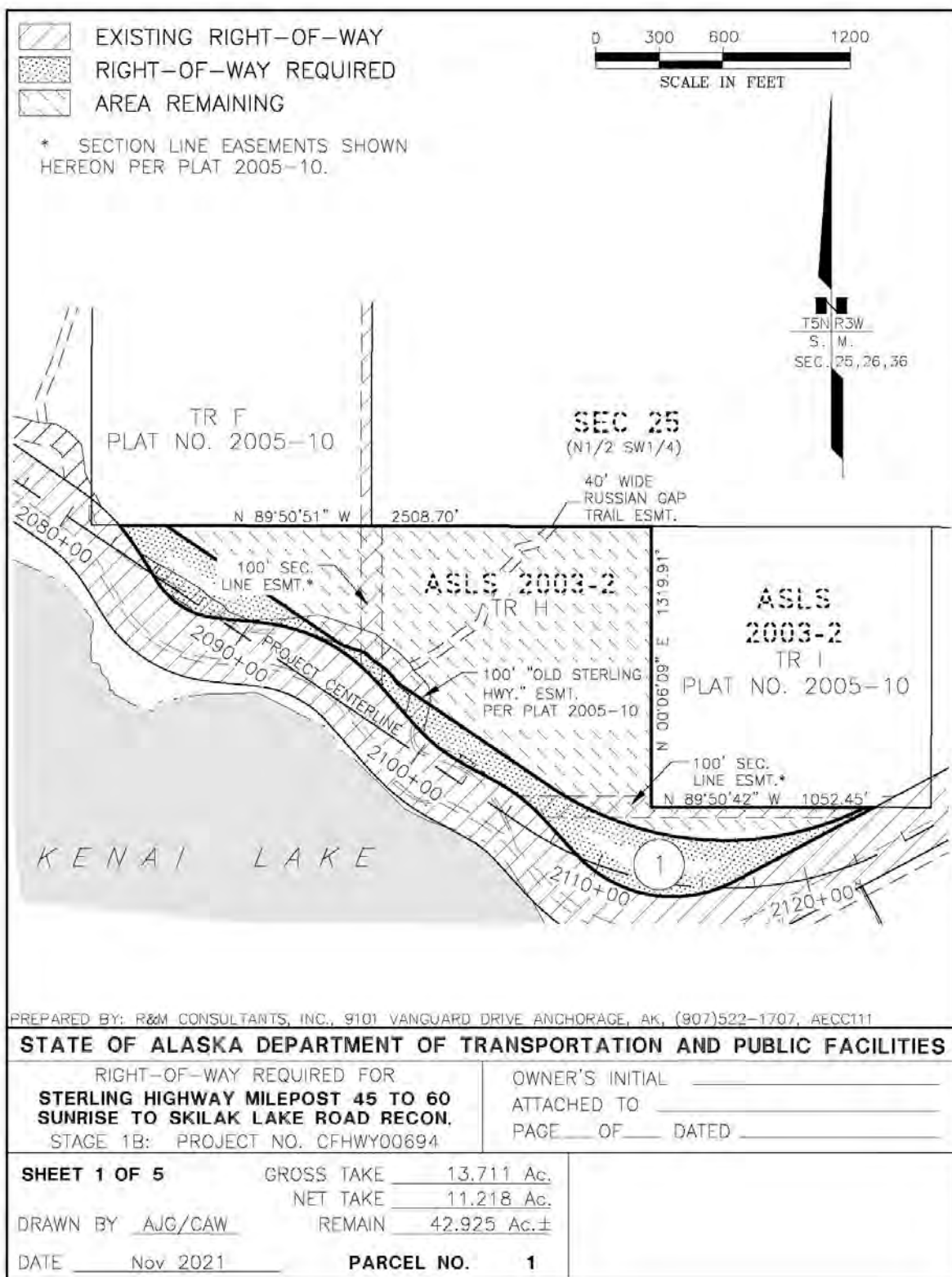
## CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, Grantee herein, acting by and through its Commissioner, hereby accepts for public purposes the real property, or interest therein, described in this instrument and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_,

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

By: \_\_\_\_\_  
For the Commissioner





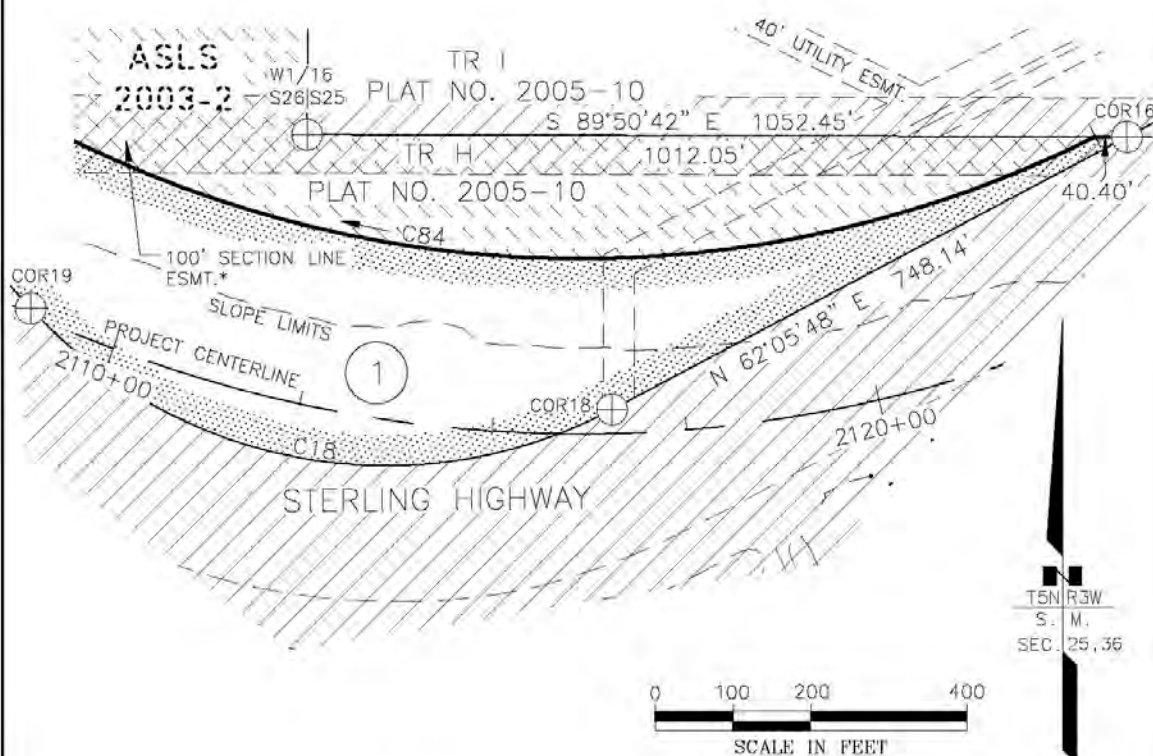
**LEGEND:**

- ⊕ PRIMARY PROPERTY MONUMENT  
 \* SECTION LINE EASEMENTS SHOWN  
 HEREON PER PLAT 2005-10.

- EXISTING RIGHT-OF-WAY  
 RIGHT-OF-WAY REQUIRED  
 AREA REMAINING

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C18	815.31'	618.28'	075°33'16"	757.51'	S 80°08'27" E	479.19'
C84	1565.75'	1475.00'	060°49'16"	1493.27'	S 86°13'33" E	865.74'



PREPARED BY: R&M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECC111

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGE 1B: PROJECT NO. CFHWY00694

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 5**

GROSS TAKE \_\_\_\_\_ 13.711 Ac.  
 NET TAKE \_\_\_\_\_ 11.218 Ac.  
 REMAIN \_\_\_\_\_ 42.925 Ac.±




DRAWN BY AJC/CAW

DATE Nov 2021

**PARCEL NO. 1**

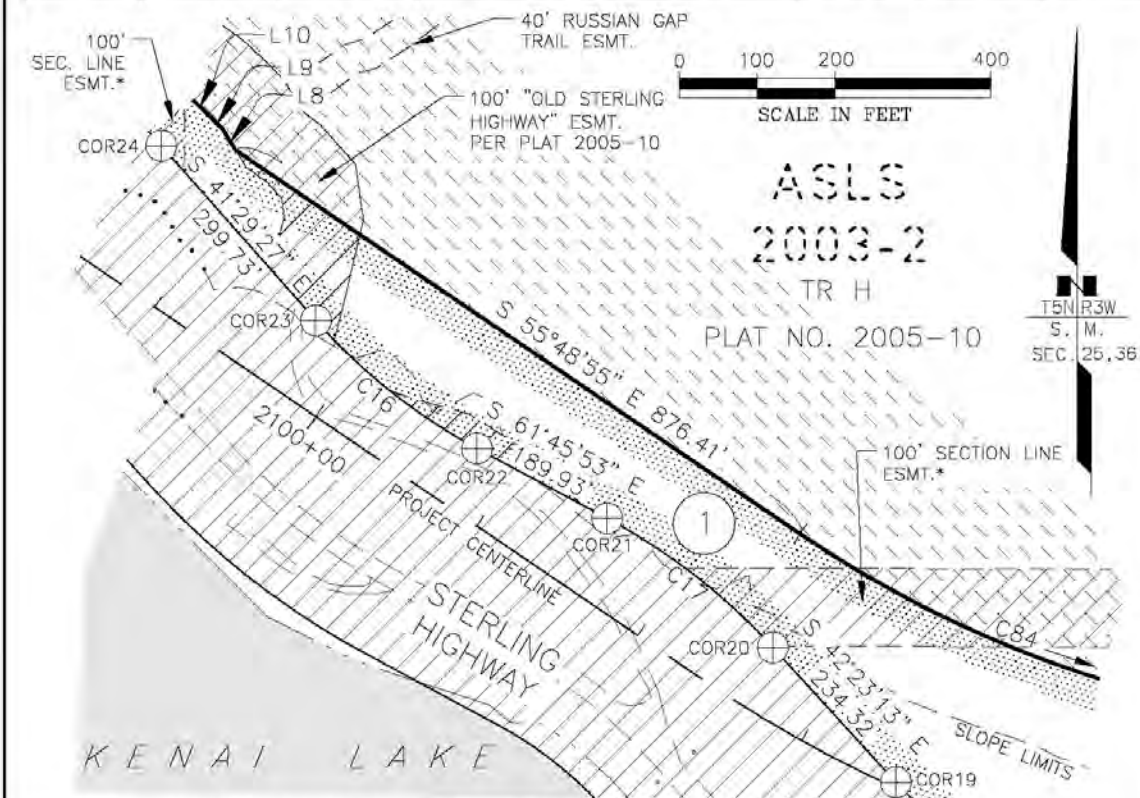
**LEGEND:**

- ⊕ PRIMARY PROPERTY MONUMENT  
 \* SECTION LINE EASEMENTS SHOWN  
 HEREON PER PLAT 2005-10.

-  EXISTING RIGHT-OF-WAY  
 RIGHT-OF-WAY REQUIRED  
 AREA REMAINING

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C16	265.35'	750.07'	020°16'09"	263.97'	S 51°34'36" E	134.08'
C17	270.77'	800.07'	019°23'28"	269.48'	N 52°05'28" W	136.69'
C84	1565.75'	1475.00'	060°49'16"	1493.27'	S 86°13'33" E	865.74'



PREPARED BY: R&amp;M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECC111

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGE 1B: PROJECT NO. CFHWY00694

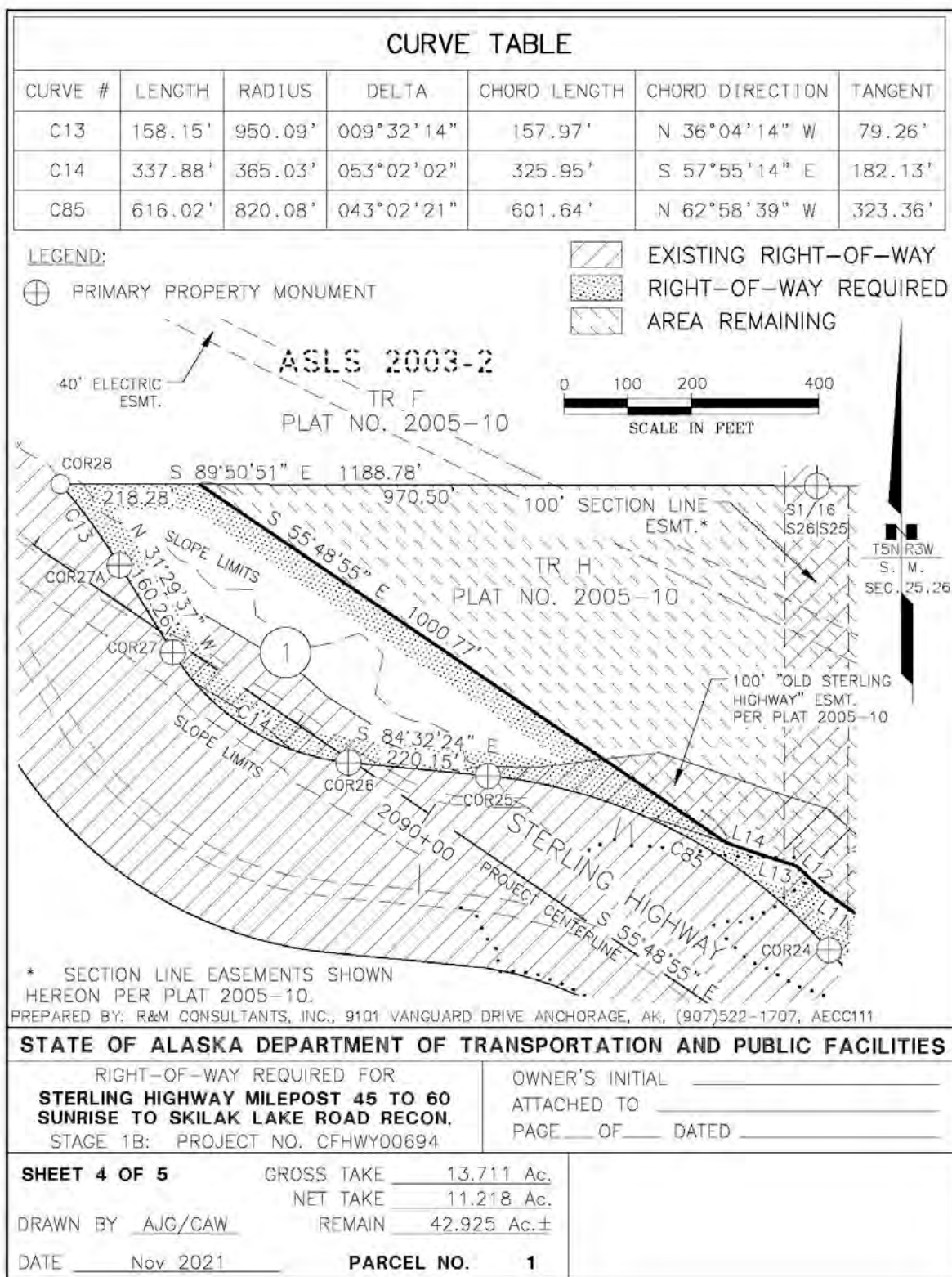
OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 3 OF 5**

GROSS TAKE \_\_\_\_\_ 13.711 Ac.  
 NET TAKE \_\_\_\_\_ 11.218 Ac.  
 REMAIN \_\_\_\_\_ 42.925 Ac.±

DRAWN BY AJC/CAWDATE Nov 2021PARCEL NO. **1**





LINE TABLE		
LINE #	LENGTH	DIRECTION
L8	32.58'	S 31°52'22" E
L9	27.00'	S 44°40'52" E
L10	25.66'	S 46°58'17" E
L11	61.92'	S 54°41'11" E
L12	56.81'	S 47°34'23" E
L13	55.48'	S 72°48'15" E
L14	60.15'	S 70°46'44" E

## GENERAL NOTES

1. THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.



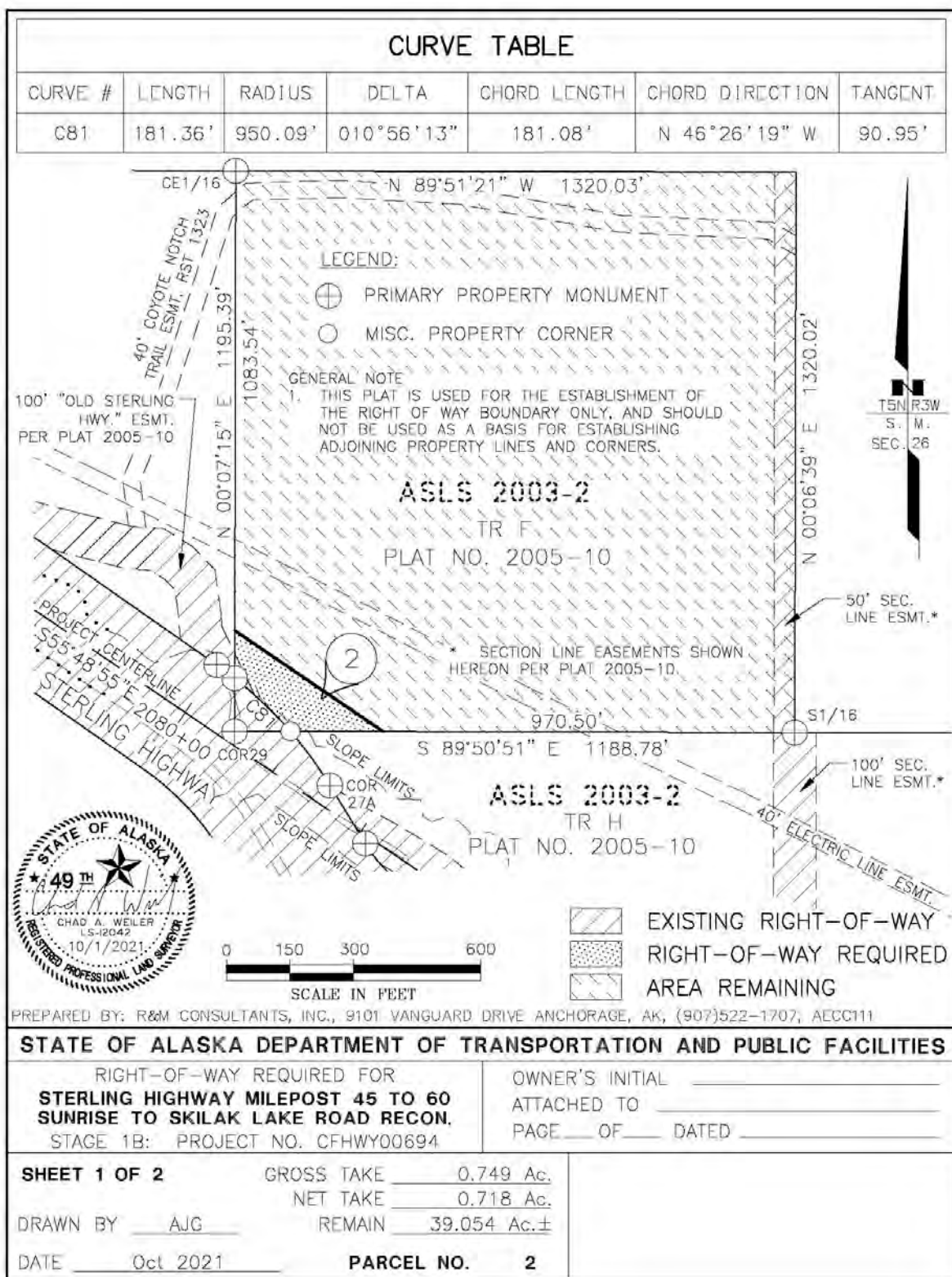
THIS SEAL IS FOR ALL WORK  
CONTAINED ON SHEETS 1-5 OF 5.

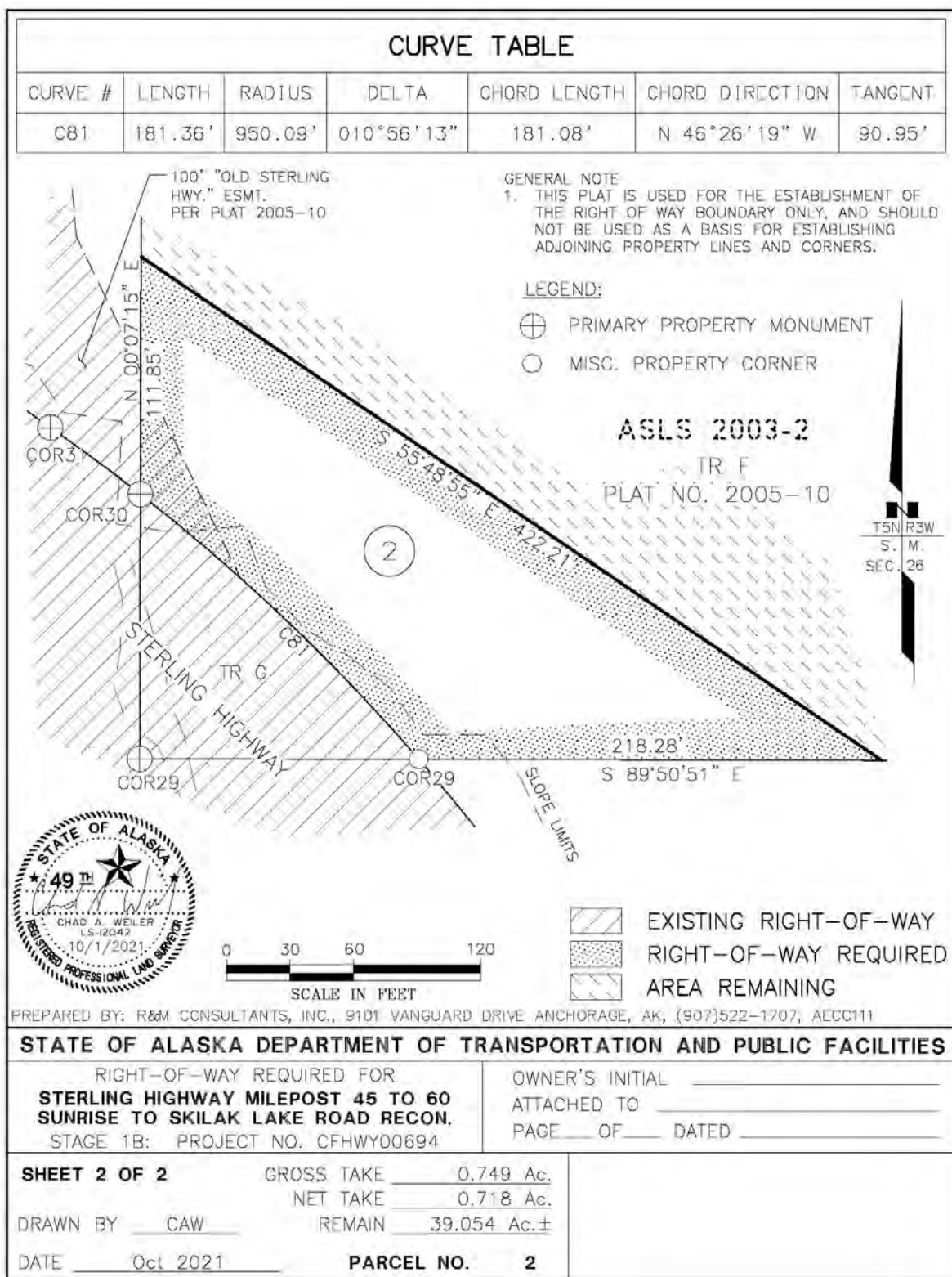
PREPARED BY: R&M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707; AECC111

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

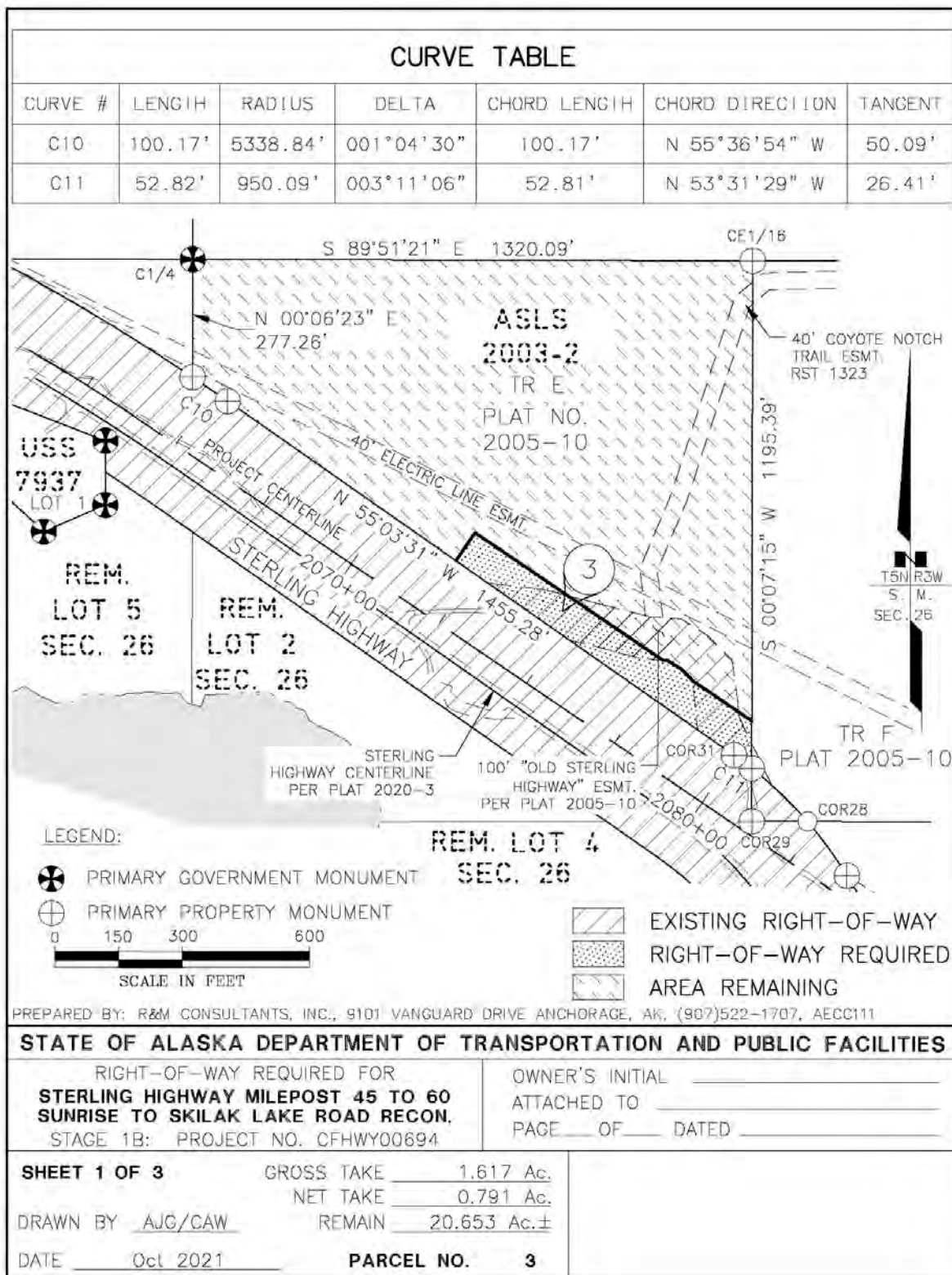
RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60</b> <b>SUNRISE TO SKILAK LAKE ROAD RECON.</b> STAGE 1B: PROJECT NO. CFHWY00694		OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 5 OF 5</b> DRAWN BY <u>CAW</u> DATE <u>Nov 2021</u>	GROSS TAKE <u>13.711</u> Ac. NET TAKE <u>11.218</u> Ac. REMAIN <u>42.925</u> Ac.±	<b>PARCEL NO. 1</b>

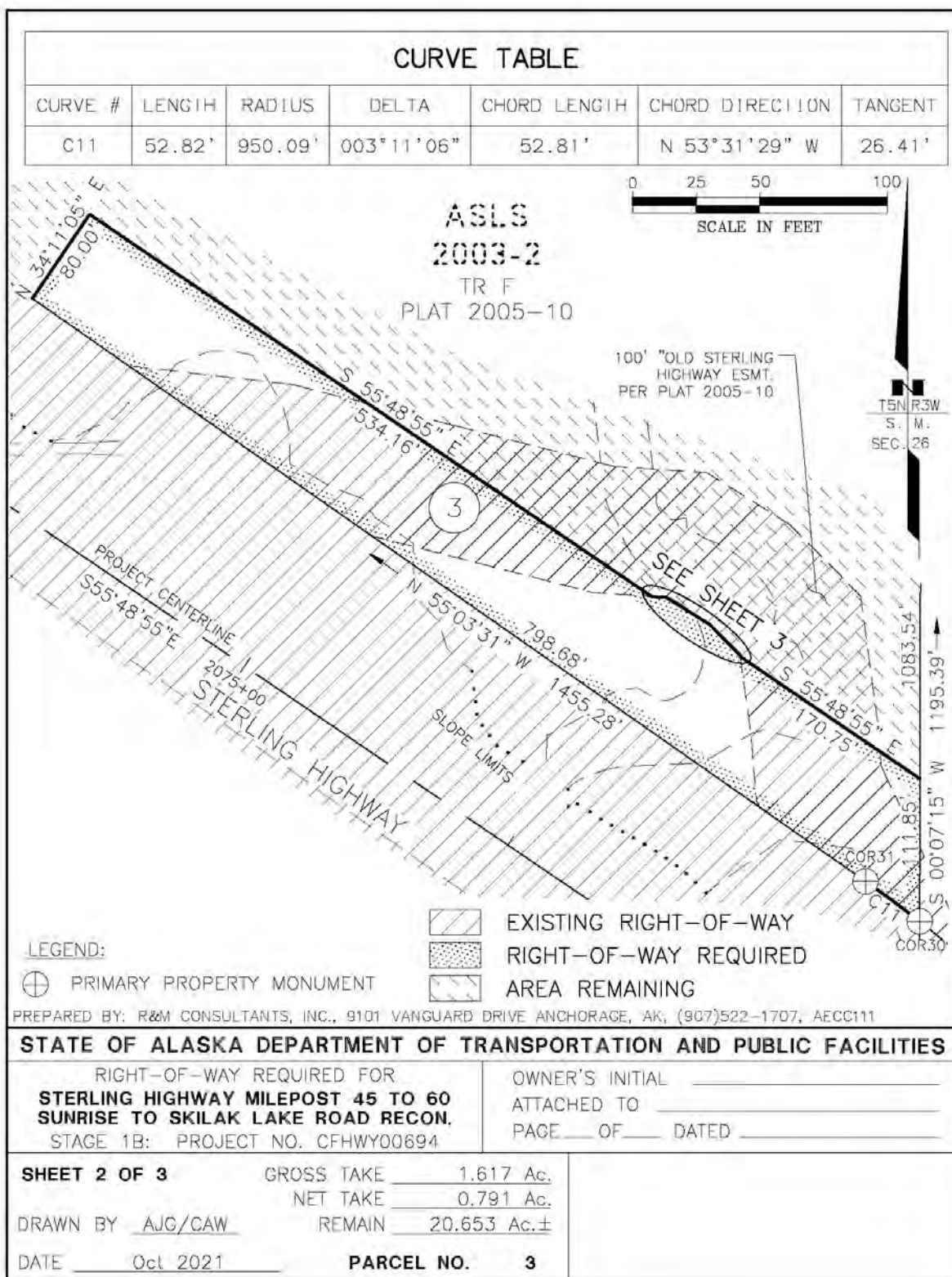




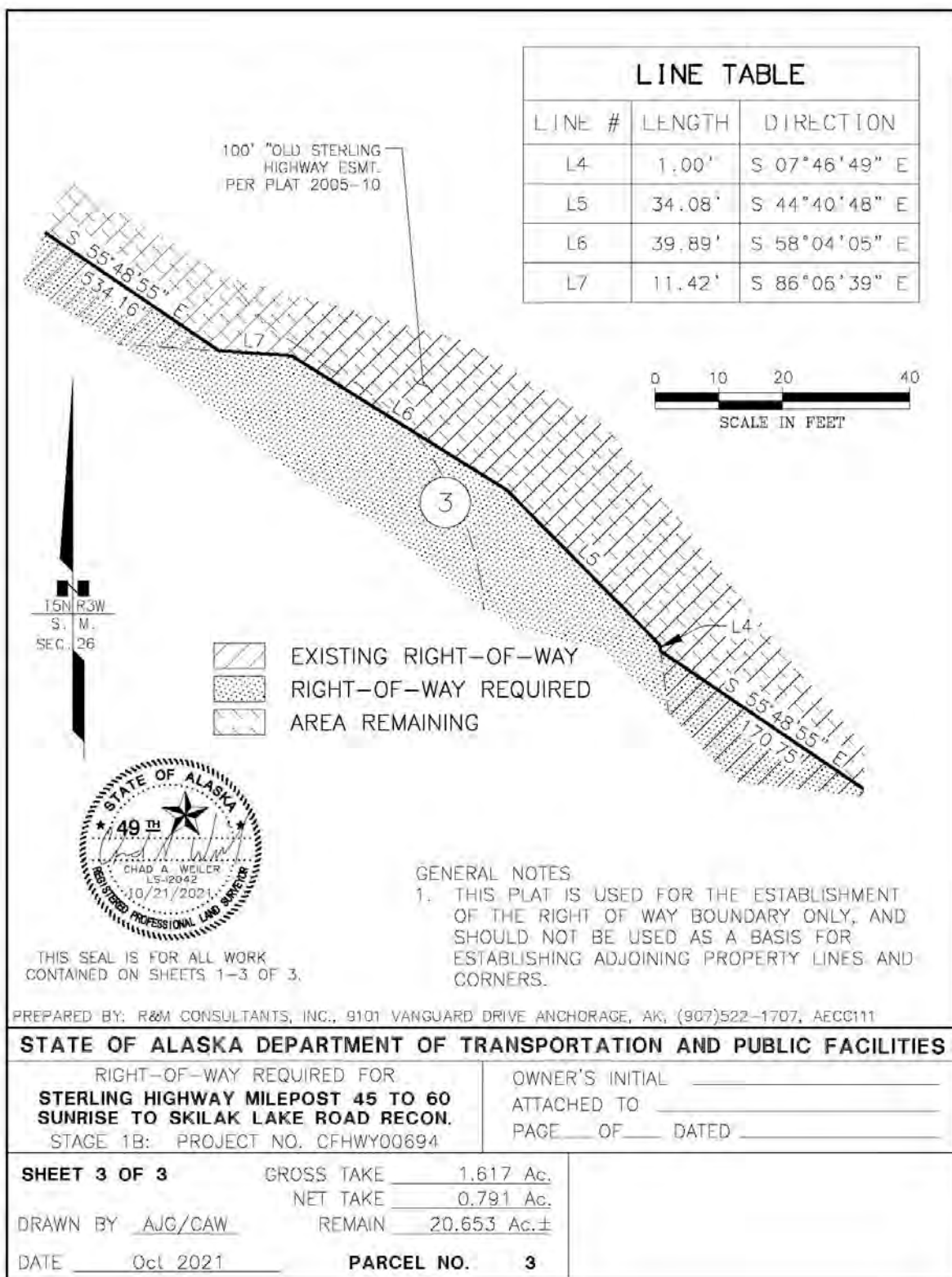


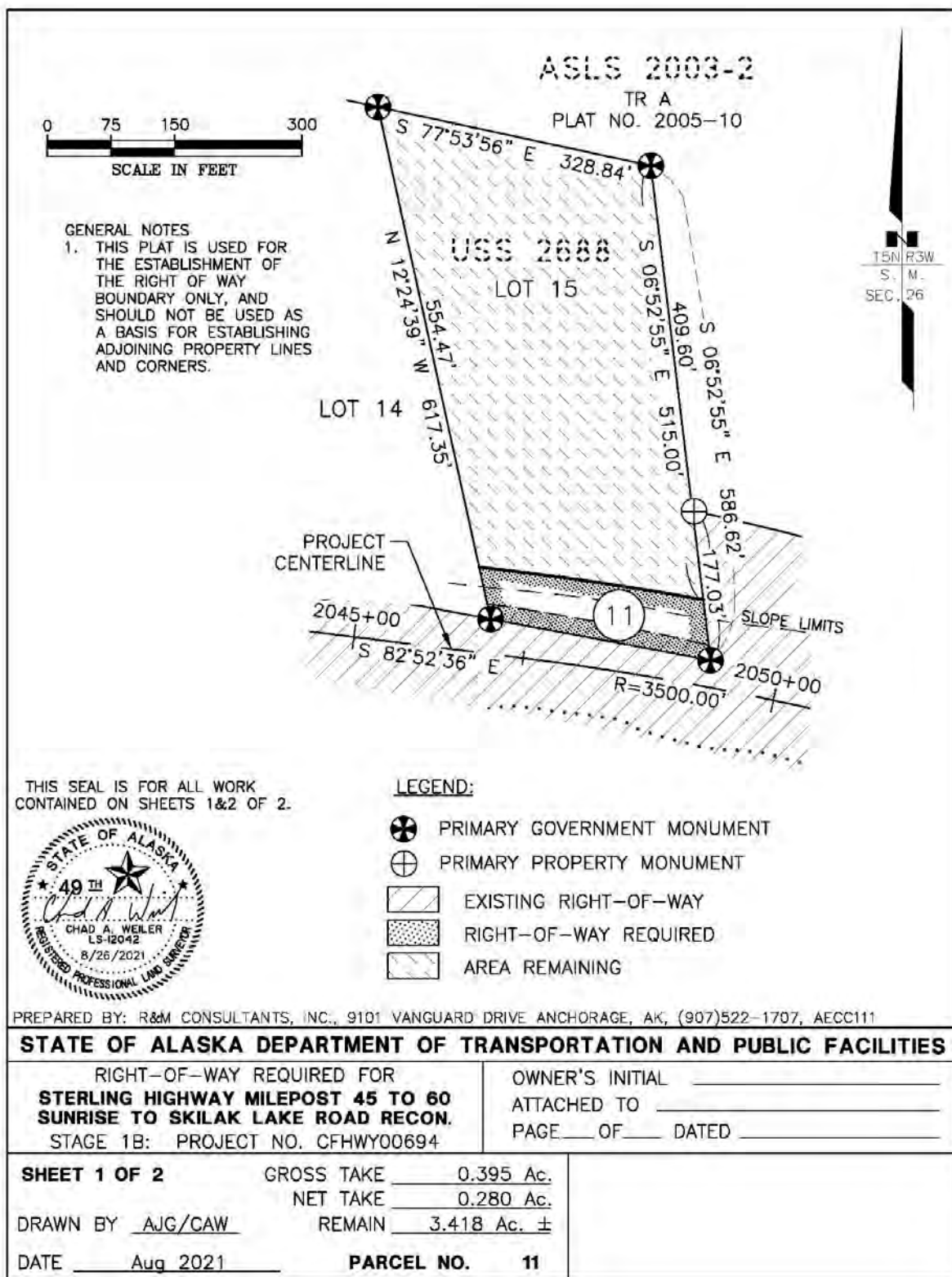












CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C90	202.13'	3600.00'	003°13'01"	202.10'	S 81°16'06" E	101.09'
C91	265.52'	3100.29'	004°54'25"	265.44'	N 79°27'12" W	132.84'

SCALE IN FEET

**GENERAL NOTES**

1. THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

**LEGEND:**

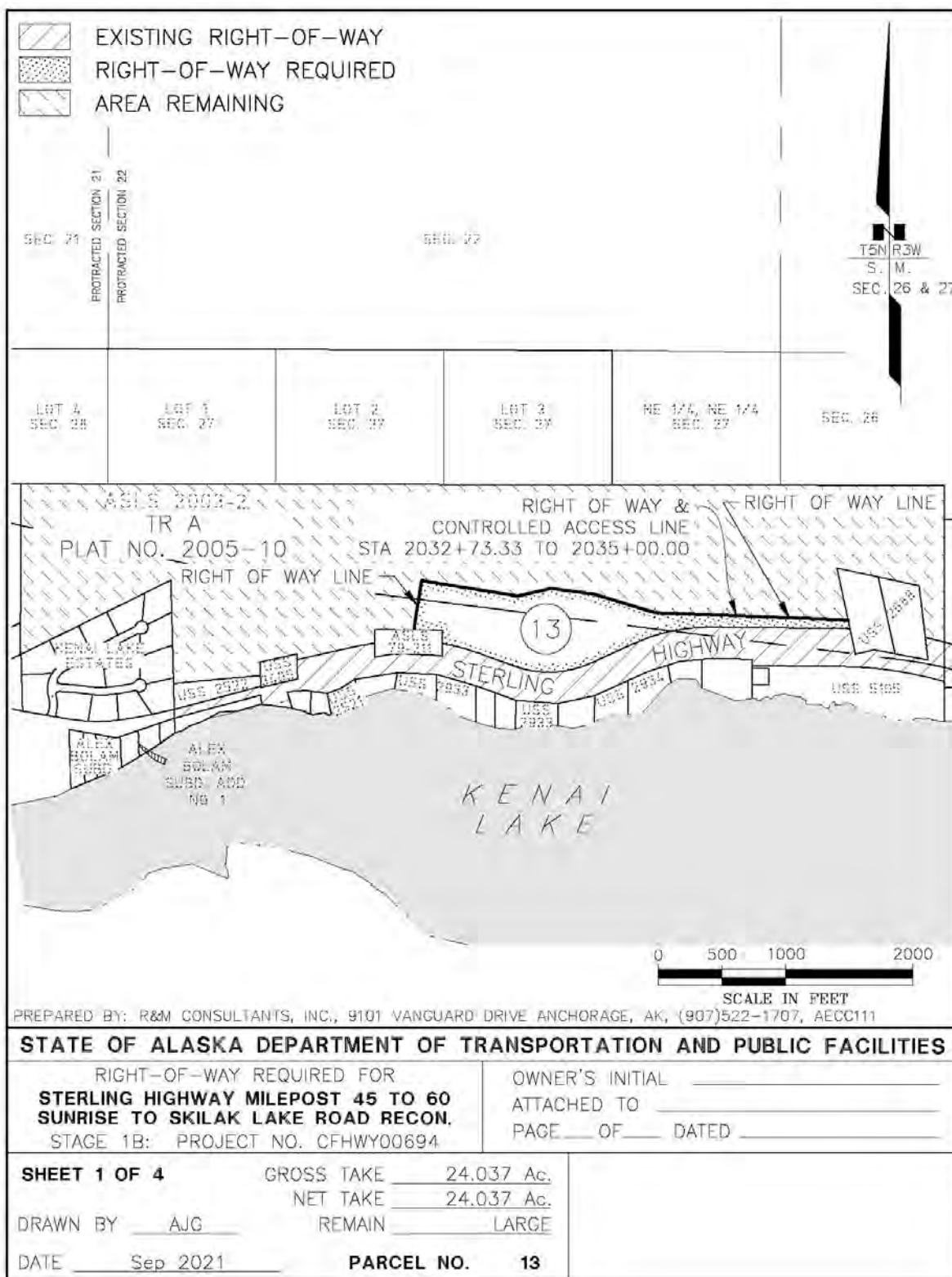
- PRIMARY GOVERNMENT MONUMENT
- PRIMARY PROPERTY MONUMENT
- EXISTING RIGHT-OF-WAY
- RIGHT-OF-WAY REQUIRED
- AREA REMAINING

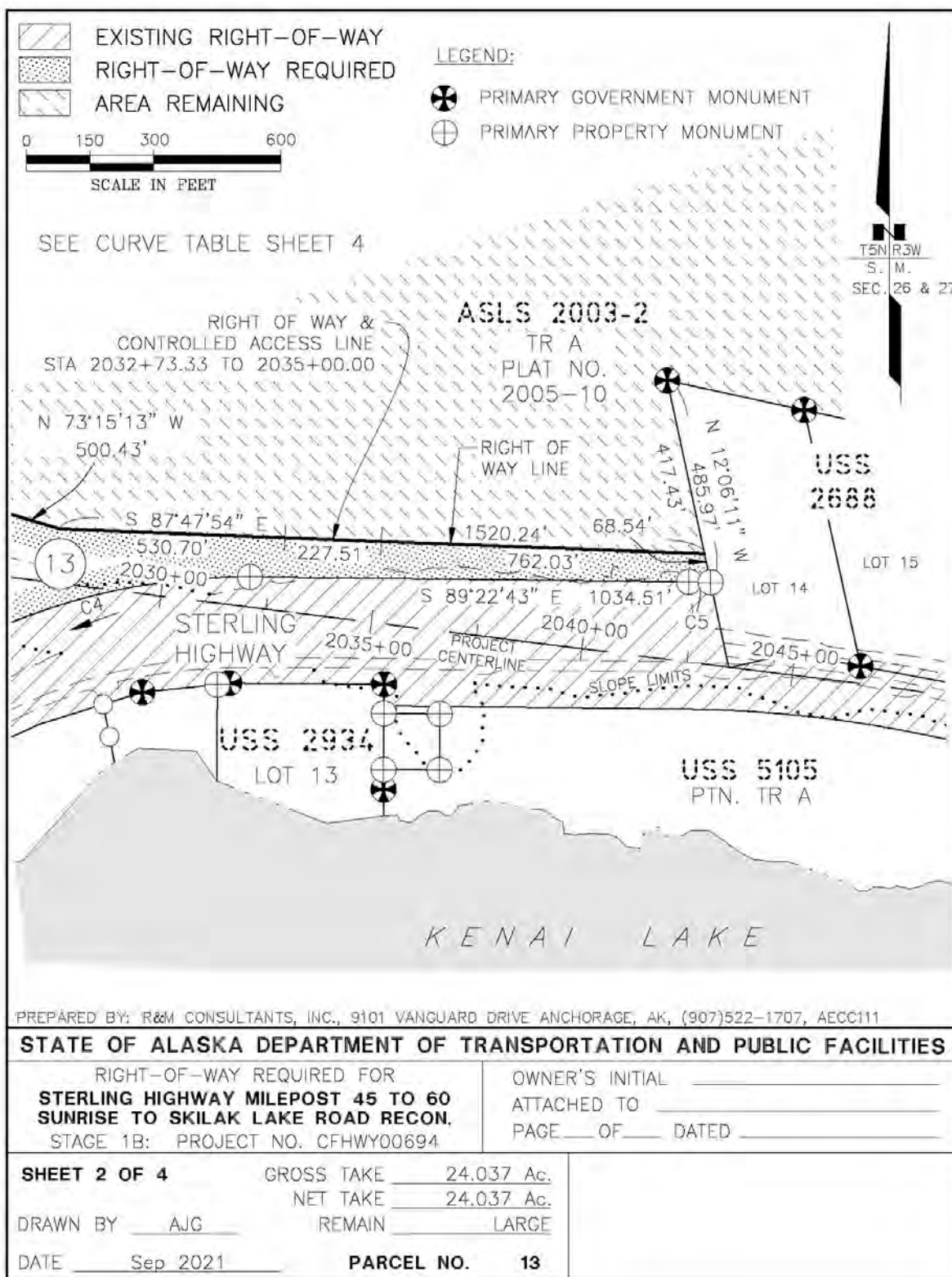
PREPARED BY: R&M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECC111

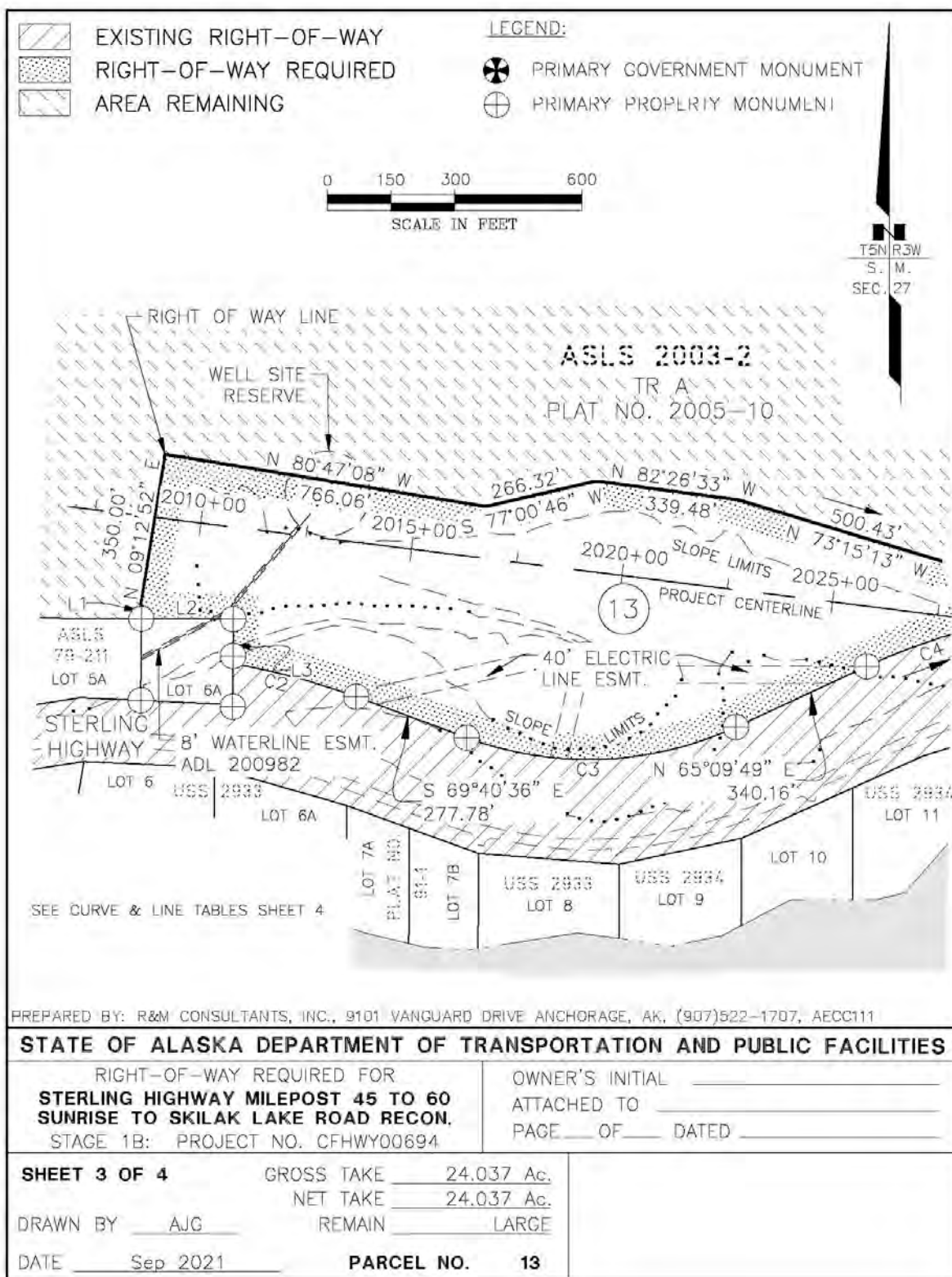
STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES	
RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60</b> <b>SUNRISE TO SKILAK LAKE ROAD RECON.</b> STAGE 1B: PROJECT NO. CFHWY00694	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 2 OF 2</b> DRAWN BY <u>AJG/CAW</u> DATE <u>Aug 2021</u>	GROSS TAKE <u>0.395</u> Ac. NET TAKE <u>0.280</u> Ac. REMAIN <u>3.418</u> Ac. ± <b>PARCEL NO. 11</b>











### LINE TABLE

LINE #	LENGTH	DIRECTION
L1	41.31'	S 00°15'01" W
L2	216.96'	S 89°46'26" E
L3	105.25'	N 00°14'04" E

### CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C2	301.09'	1632.37'	010°34'05"	300.66'	N 74°57'39" W	150.97'
C3	651.00'	825.08'	045°12'26"	634.25'	N 87°42'36" E	343.51'
C4	645.62'	1450.14'	026°30'32"	640.30'	S 77°52'41" W	328.25'
C5	50.84'	3250.30'	000°53'46"	50.84'	N 88°42'45" W	25.42'

#### GENERAL NOTES

1. THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.



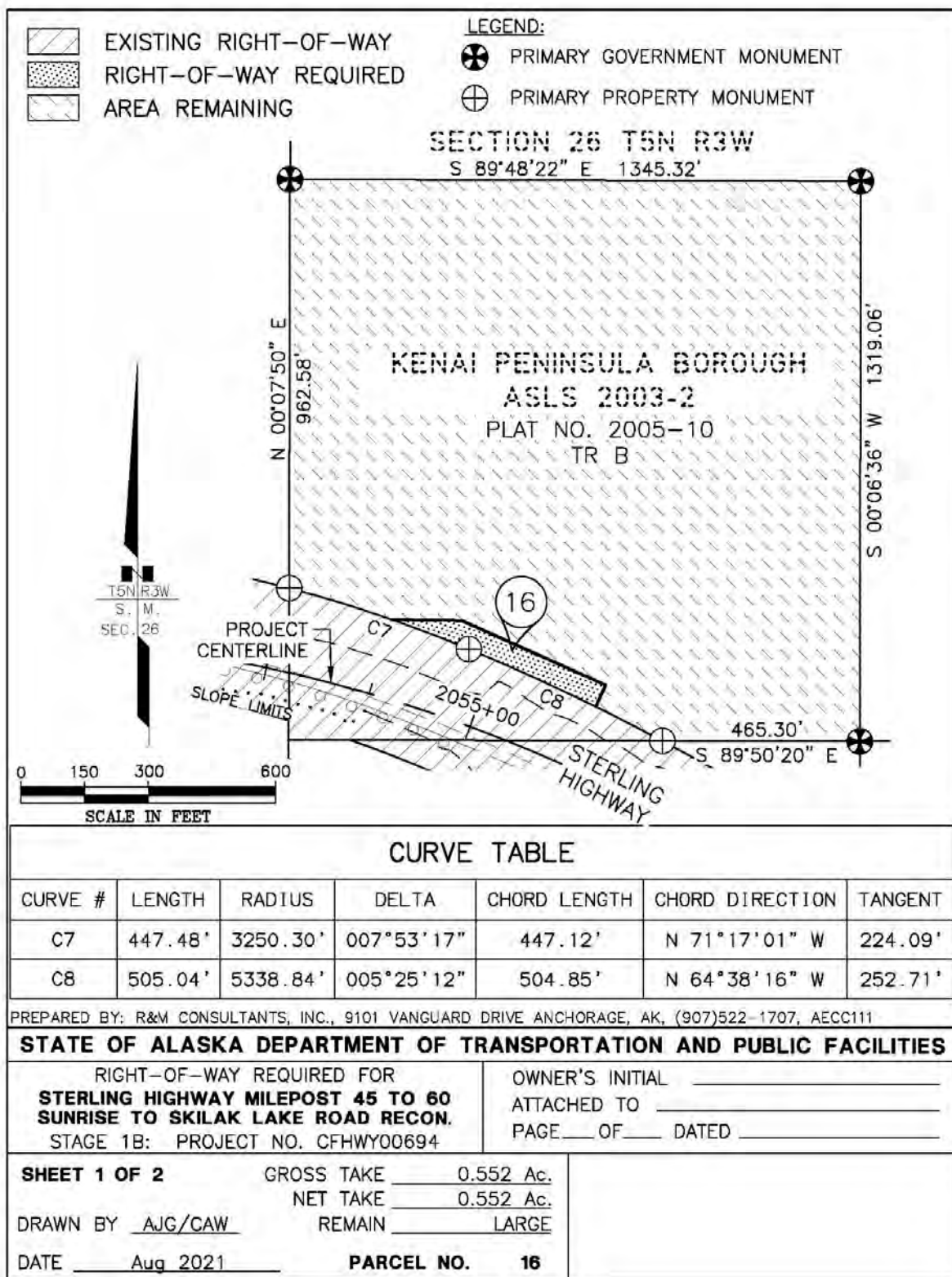
THIS SEAL IS FOR ALL WORK  
CONTAINED ON SHEETS 1-4 OF 4.

PREPARED BY: R&M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECC111

### STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60</b> <b>SUNRISE TO SKILAK LAKE ROAD RECON.</b> STAGE 1B: PROJECT NO. CFHWY00694	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 4 OF 4</b> GROSS TAKE _____ 24.037 Ac. NET TAKE _____ 24.037 Ac. DRAWN BY _____ AJG      REMAIN _____ LARGE DATE _____ Sep 2021 <b>PARCEL NO. 13</b>	







K.P.B.  
ASLS 2003-2  
PLAT NO. 2005-10  
TR B

PROJECT CENTERLINE  
2050+00  
SLOPE LIMITS  
2055+00  
STERLING HIGHWAY

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C7	447.48'	3250.30'	007°53'17"	447.12'	N 71°17'01" W	224.09'
C8	505.04'	5338.84'	005°25'12"	504.85'	N 64°38'16" W	252.71'

**LEGEND:**

EXISTING RIGHT-OF-WAY

RIGHT-OF-WAY REQUIRED

AREA REMAINING

PRIMARY PROPERTY MONUMENT

**GENERAL NOTES**

1. THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.


THIS SEAL IS FOR ALL WORK CONTAINED ON SHEETS 1-2 OF 2.

0 100 200 400

SCALE IN FEET

PREPARED BY: R&M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECC111

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES	
RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60</b> <b>SUNRISE TO SKILAK LAKE ROAD RECON.</b> STAGE 1B: PROJECT NO. CFHWY00694	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 2 OF 2</b> DRAWN BY <u>AJG/CAW</u> DATE <u>Aug 2021</u>	GROSS TAKE <u>0.552</u> Ac. NET TAKE <u>0.552</u> Ac. REMAIN <u>LARGE</u> <b>PARCEL NO. 16</b>

 <p style="text-align: center;">STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</p> <p style="text-align: center;"><b>QUITCLAIM DEED</b> (Corporate/Partial Property / Controlled Access Without Frontage Road)</p>	<p>PROJECT NAME: <b><u>STERLING HWY MP 45-60</u></b> <b><u>SUNRISE TO SKILAK ROAD RECONSTRUCTION</u></b></p> <p>STATE PROJECT #: <b>Z530140000</b></p> <p>FEDERAL-AID PROJECT #: <b>0212015</b></p> <p>PARCEL #: <b>17-18, 19A &amp; B, 20, 22-32 (15 total)</b></p>
---	--

The GRANTOR, **KENAI PENINSULA BOROUGH**, whose mailing address is 144 North Binkley Street, Soldotna, Alaska 99669, for and in consideration of ten dollars, and other valuable consideration, in hand paid, conveys and quitclaims to the GRANTEE, **STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**, whose mailing address is P.O. Box 196900, Anchorage, Alaska 99519, all rights, title, and interest, if any, which it has or may hereinafter acquire in the following-described real estate located in the State of Alaska, all that part of the following-described land:

Parcel 17: A portion of :

Tract "A", Alaska State Land Survey 2003-2, according to the official plat thereof, filed under Plat Number 2005-10, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 50.130 acres, more or less.

Parcel 18: A portion of :

Tract "A", Alaska State Land Survey 2002-5, according to the official plat thereof, filed under Plat Number 2003-3, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 9.177 acres, more or less.

Parcel 19A&B: A portion of :

Tract "J", Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 15.714 acres, more or less.

Parcel 20: A portion of :

Government Lots 1,2,3 & 4, Section 28, Township 5 North, Range 3 West, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 36.149 acres, more or less.

Parcel 22: A portion of :

Tract "F", Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 1.378 acres, more or less.

Parcel 23: A portion of :

Lot 8, Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 0.525 acres, more or less.

Parcel 24: A portion of :

Lot 7, Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 1.103 acres, more or less.

Parcel 25: A portion of :

Lot 6, Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 1.631 acres, more or less.

Parcel 26: A portion of :

Lot 5, Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 1.667 acres, more or less.

Parcel 27: A portion of :

Lot 4, Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 2.259 acres, more or less.

Parcel 28: A portion of :

Lot 3, Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 2.325 acres, more or less.

Parcel 29: A portion of :

Lot 2, Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 0.406 acres, more or less.

Parcel 30: A portion of :

Tract "B", Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 8.192 acres, more or less.

Parcel 31: A portion of :

Tract "A", Birch and Grouse Ridge Subdivision, according to the official plat thereof, filed under Plat Number 2004-14, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 8.265 acres, more or less.

Parcel 32: A portion of :

Tract "A" of US Survey No. 5105, records of the Seward Recording District, Third Judicial District, State of Alaska. Containing 4.264 acres, more or less.

which lies within the right-of-way lines of Alaska Project No. Z530140000 delineated as to said tracts of land on the plats attached hereto and made a part hereof of this instrument and designated as Parcels 17-18, 19A & B, 20 and 22-32. Said parcels, containing 143.185 acres, more or less, in addition to existing right-of-way, is hereby conveyed to the State Of Alaska, Department Of Transportation And Public Facilities.

This property is acquired to enable the State of Alaska to construct and maintain a public highway for the Alaska Project identified above, commonly referred to as the Cooper Landing Bypass, as a controlled access facility in accordance with AS 19.20.020 – AS 19.20.070. Included in the acquisition of the above-described property is a fee simple interest together with all easements or any rights of ingress or egress to, from, or across the controlled access facility, to or from the remaining property of which the above-described property was a part.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

ATTEST:

Kenai Peninsula Borough:

By: \_\_\_\_\_

\_\_\_\_\_

<p>Filed for Record at the Request of and Return to: DOT&amp;PF ROW Engineering P.O. Box 196900 Anchorage, AK 99519-6900  State Business-No Charge</p>
--



**CORPORATE ACKNOWLEDGMENT**

STATE OF ALASKA                    )  
   : ss  
 3<sup>RD</sup> JUDICIAL DISTRICT        )

On this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared \_\_\_\_\_ for the Kenai Peninsula Borough, known to me to be the identical individual who executed the foregoing instrument, and who acknowledged to me that they executed the same freely and voluntarily, with full authority to do so and with full knowledge of its contents, for the uses and purposes therein mentioned.

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

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

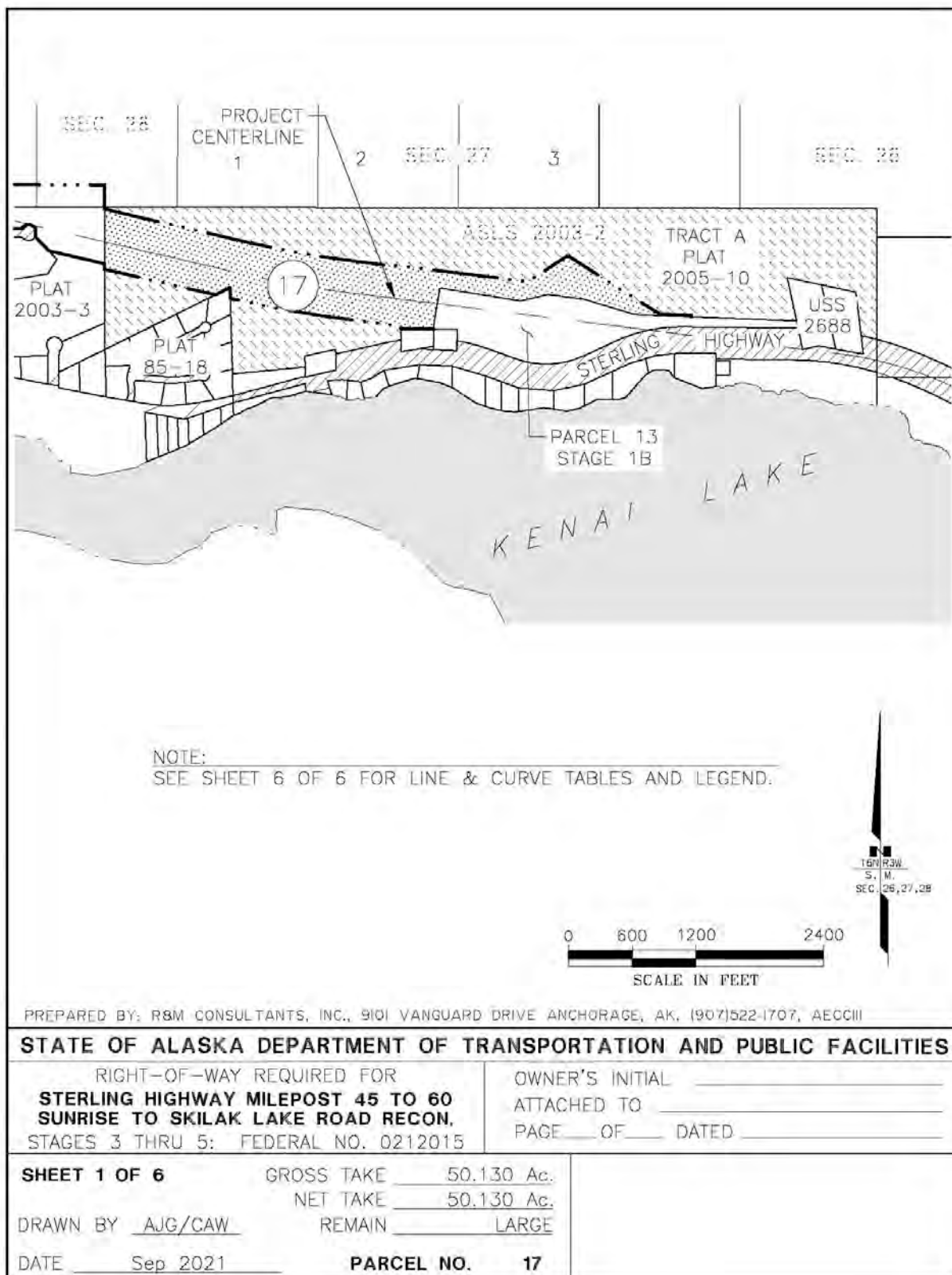
**CERTIFICATE OF ACCEPTANCE**

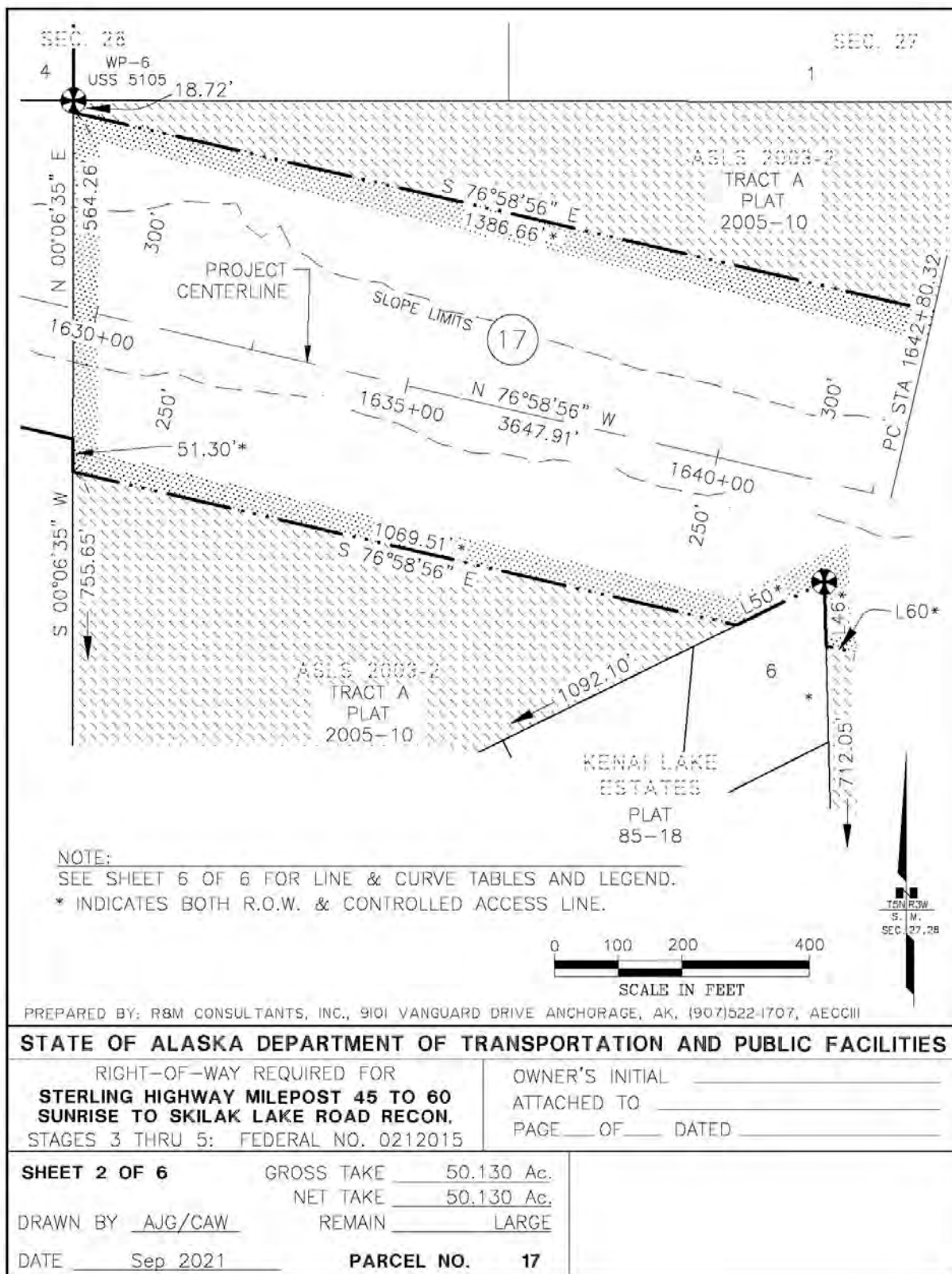
THIS IS TO CERTIFY that the STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, Grantee herein, acting by and through its Commissioner, hereby accepts for public purposes the real property, or interest therein, described in this instrument and consents to the recordation thereof.

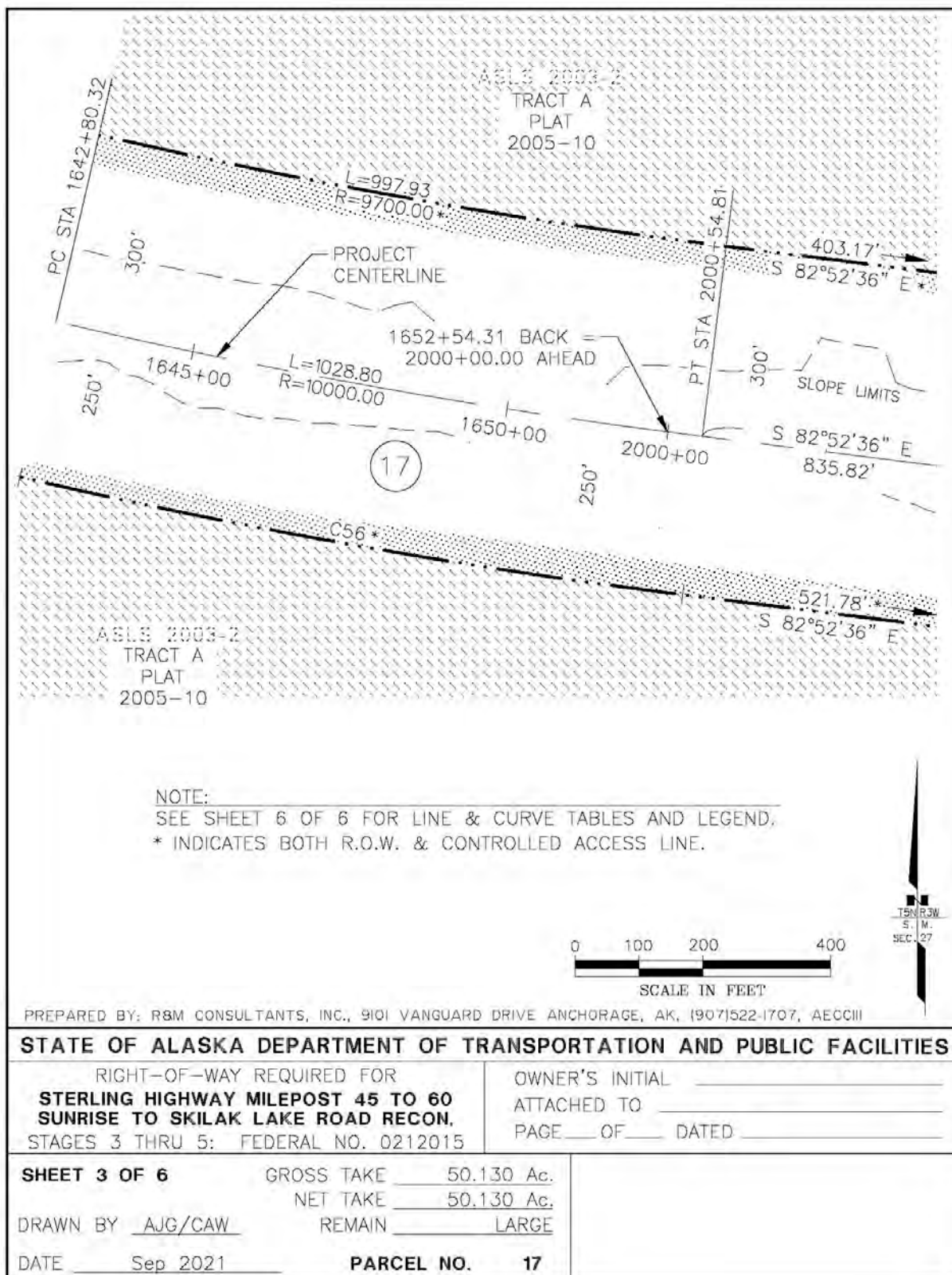
IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

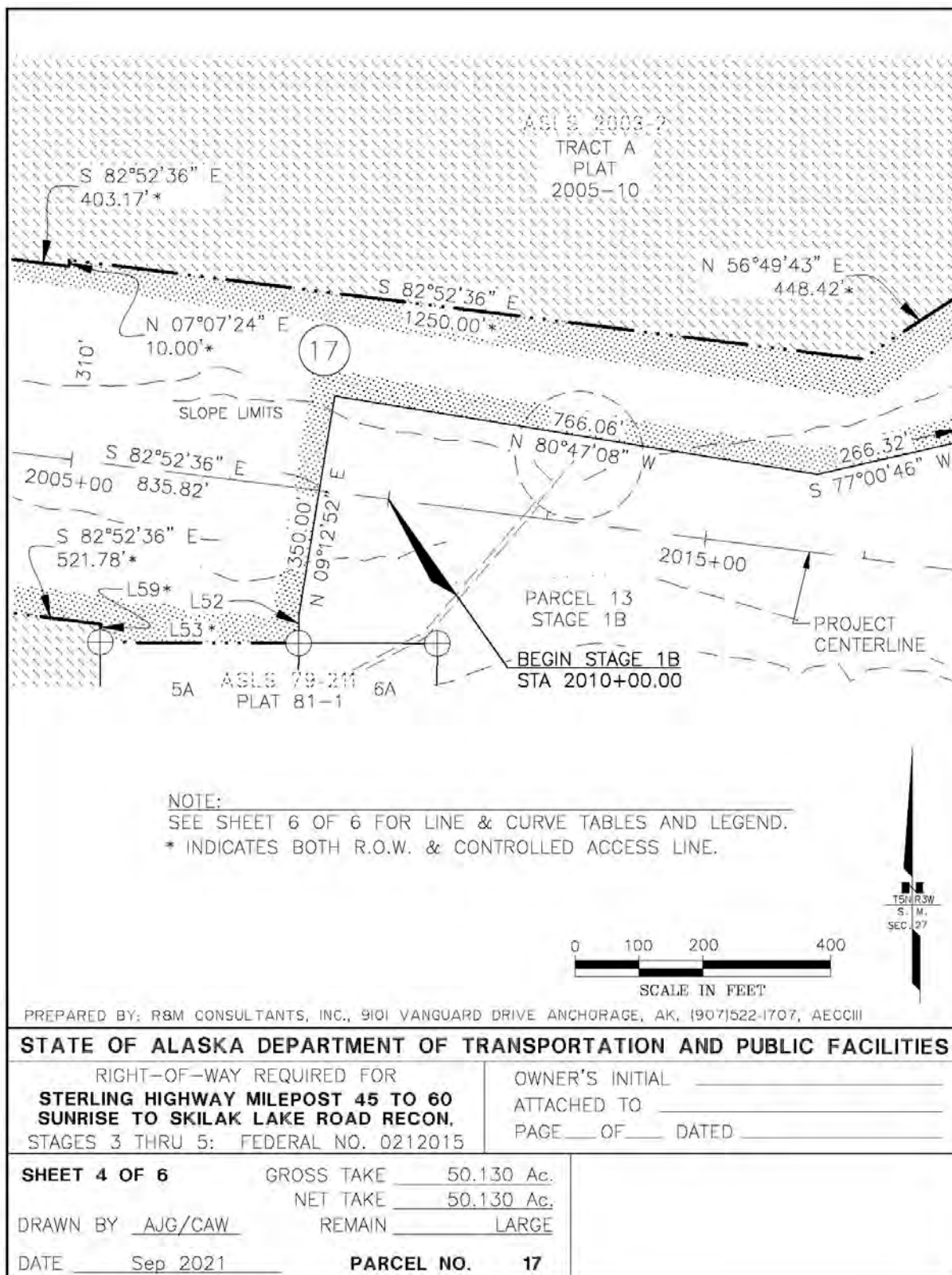
By: \_\_\_\_\_  
 For the Commissioner

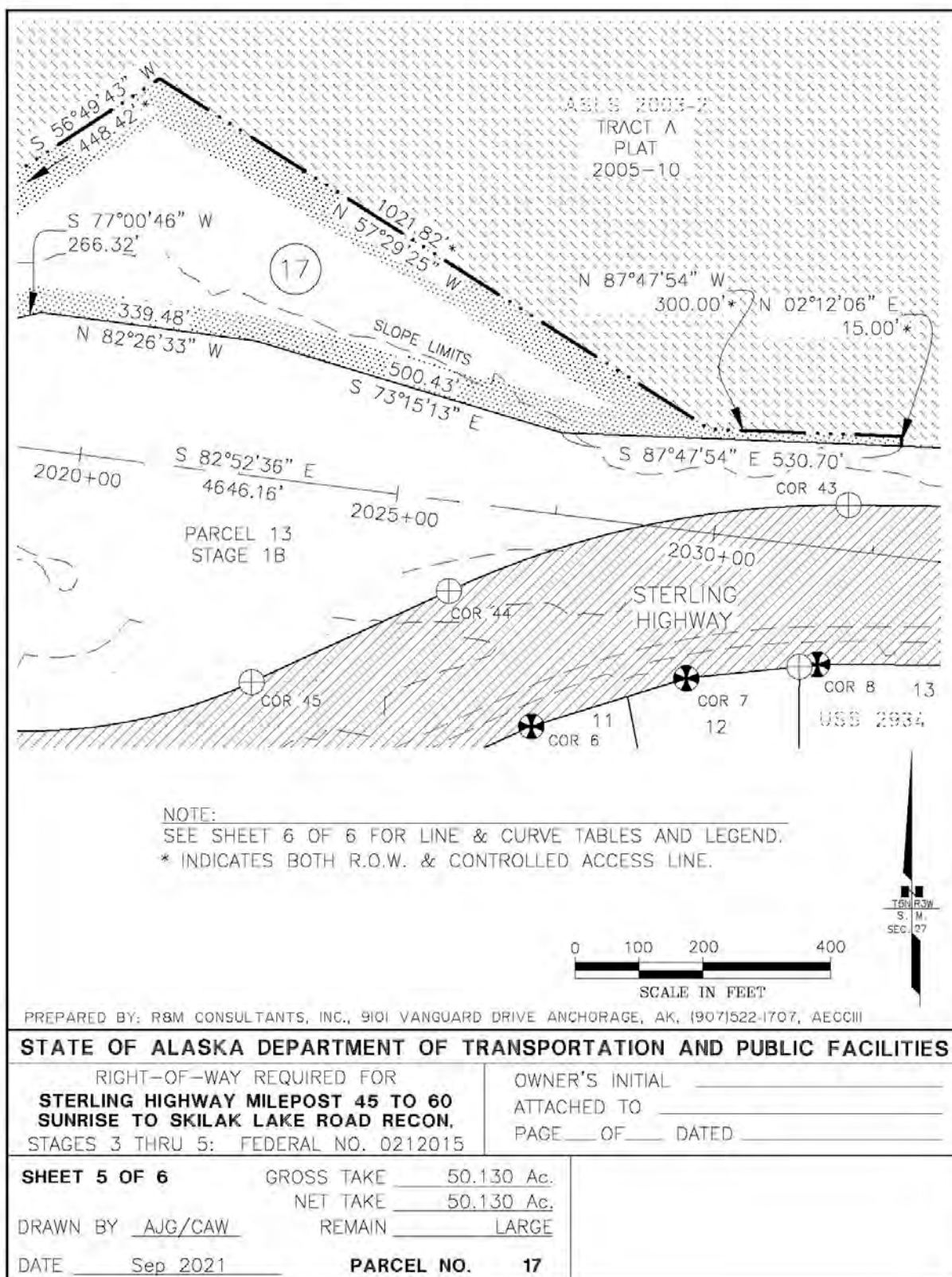












**LINE TABLE**

LINE #	LENGTH	DIRECTION
L46	100.50'	S 01°29'10" E
L50	153.71'	N 63°44'45" E
L52	41.31'	S 00°15'01" W
L53	310.50'	S 89°45'24" E
L59	28.38'	N 00°13'39" E
L60	46.94'	S 76°58'56" E

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C56	1054.52'	10250.00'	005°53'40"	1054.05'	S 79°55'46" E	527.72'

GENERAL NOTE:

THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

LEGEND:

PRIMARY GOVERNMENT MONUMENT



PRIMARY PROPERTY MONUMENT



CONTROLLED ACCESS &amp; RIGHT OF WAY LINE



RIGHT OF WAY LINE



EXISTING RIGHT-OF-WAY



RIGHT-OF-WAY REQUIRED



AREA REMAINING



THIS SEAL IS FOR ALL WORK  
CONTAINED ON SHEETS 1-6 OF 6.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
ATTACHED TO \_\_\_\_\_  
PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 6 OF 6** GROSS TAKE \_\_\_\_\_ 50.130 Ac.  
NET TAKE \_\_\_\_\_ 50.130 Ac.  
DRAWN BY AJG/CAW REMAIN \_\_\_\_\_ LARGE  
DATE Sep 2021 **PARCEL NO. 17**



PROJECT CENTERLINE

SEC. 28

CONTROLLED ACCESS LINE  
SEE SHEET 3

LANGILLE ROAD

10' UTILITY EASEMENT

20' ELECTRIC EASEMENT

2005-001330-0 S.R.D.

ASLS 2002-5

UNSUB. REMAINDER TR. A  
PLAT NO. 2003-3

PLAT 2004-14

USS 3306

PLAT 2005-10

PLAT 85-18

NOTE:  
SEE SHEET 3 OF 3 FOR LINE & CURVE TABLES AND  
CONTROLLED ACCESS LINE DETAIL.

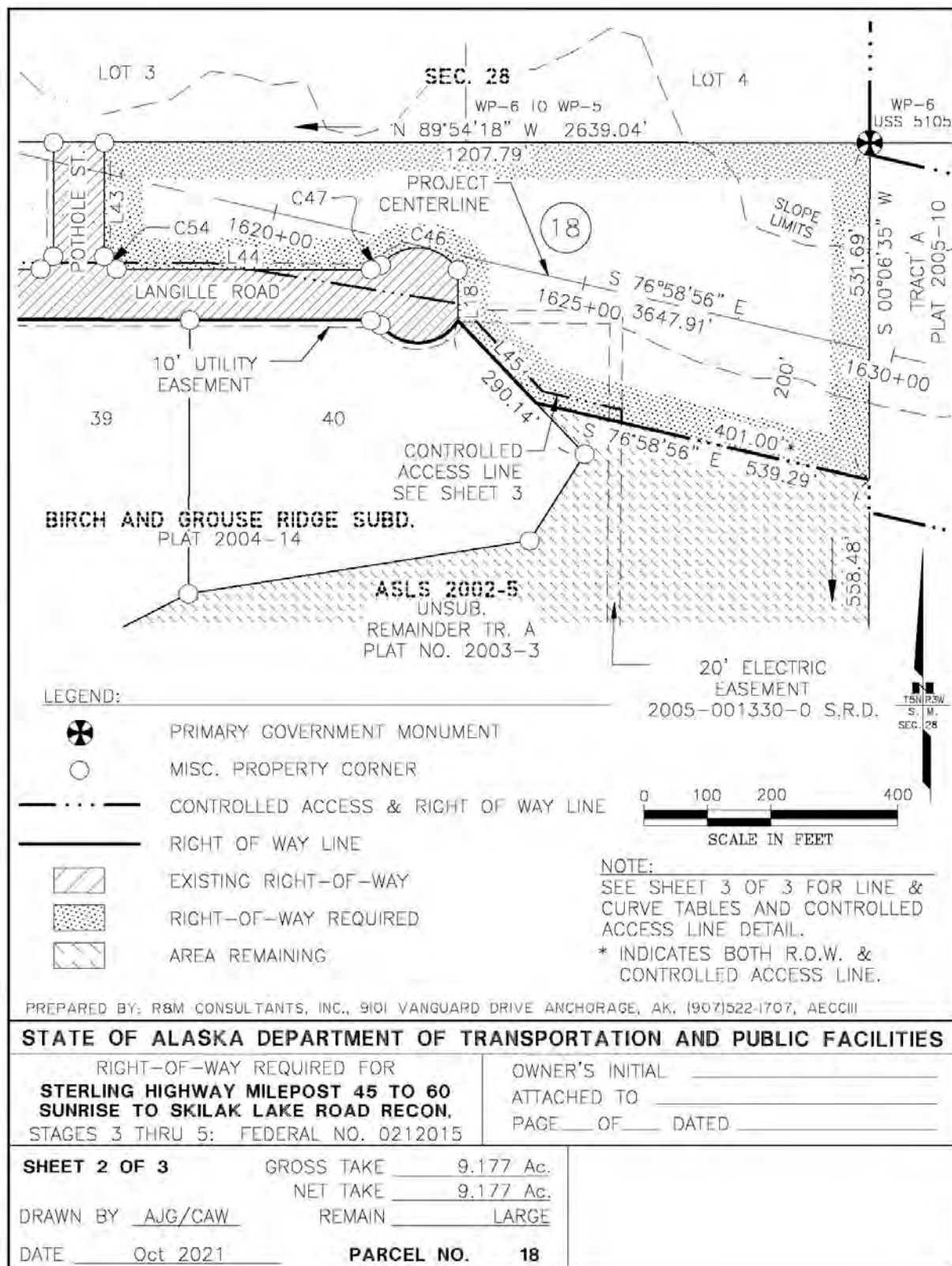
GENERAL NOTE:  
THIS PLAT IS USED FOR THE ESTABLISHMENT OF  
THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD  
NOT BE USED AS A BASIS FOR ESTABLISHING  
ADJOINING PROPERTY LINES AND CORNERS.

0 300 600 1200  
SCALE IN FEET

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES	
RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60 SUNRISE TO SKILAK LAKE ROAD RECON.</b> STAGES 3 THRU 5: FEDERAL NO. 0212015	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 1 OF 3</b>	GROSS TAKE _____ 9.177 Ac. NET TAKE _____ 9.177 Ac. REMAIN _____ LARGE
DRAWN BY <u>AJG/CAW</u>	DATE <u>Oct 2021</u>
PARCEL NO. <b>18</b>	





**CURVE TABLE**

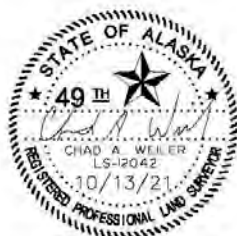
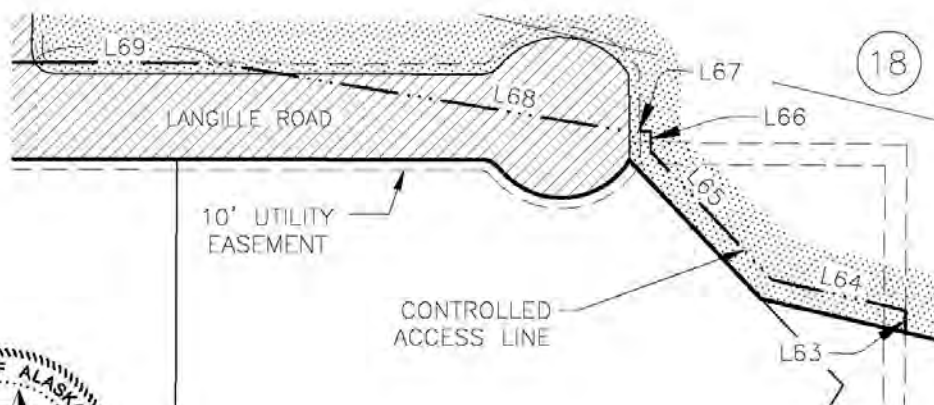
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C46	142.02'	75.00'	108°29'40"	121.73'	S 86°24'19" E	104.17'
C47	17.85'	20.00'	051°07'47"	17.26'	N 64°55'13" E	9.57'
C54	31.29'	20.00'	089°39'06"	28.20'	S 44°36'40" E	19.88'

**LINE TABLE**

LINE #	LENGTH	DIRECTION
L18	80.07'	S 00°19'56" E
L43	181.04'	S 00°05'13" W
L44	401.15'	S 89°51'36" E
L45	178.83'	S 43°29'24" E
L63	20.49'	N 00°29'39" E
L64	127.83'	N 76°58'56" W

**LINE TABLE**

LINE #	LENGTH	DIRECTION
L65	164.90'	N 43°29'24" W
L66	19.14'	N 00°19'56" W
L67	20.00'	S 89°40'04" W
L68	392.83'	N 80°37'52" W
L69	168.15'	N 89°51'36" W



THIS SEAL IS FOR ALL WORK  
CONTAINED ON SHEETS 1-3 OF 3.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
ATTACHED TO \_\_\_\_\_  
PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 3 OF 3**

GROSS TAKE \_\_\_\_\_ 9.177 Ac.

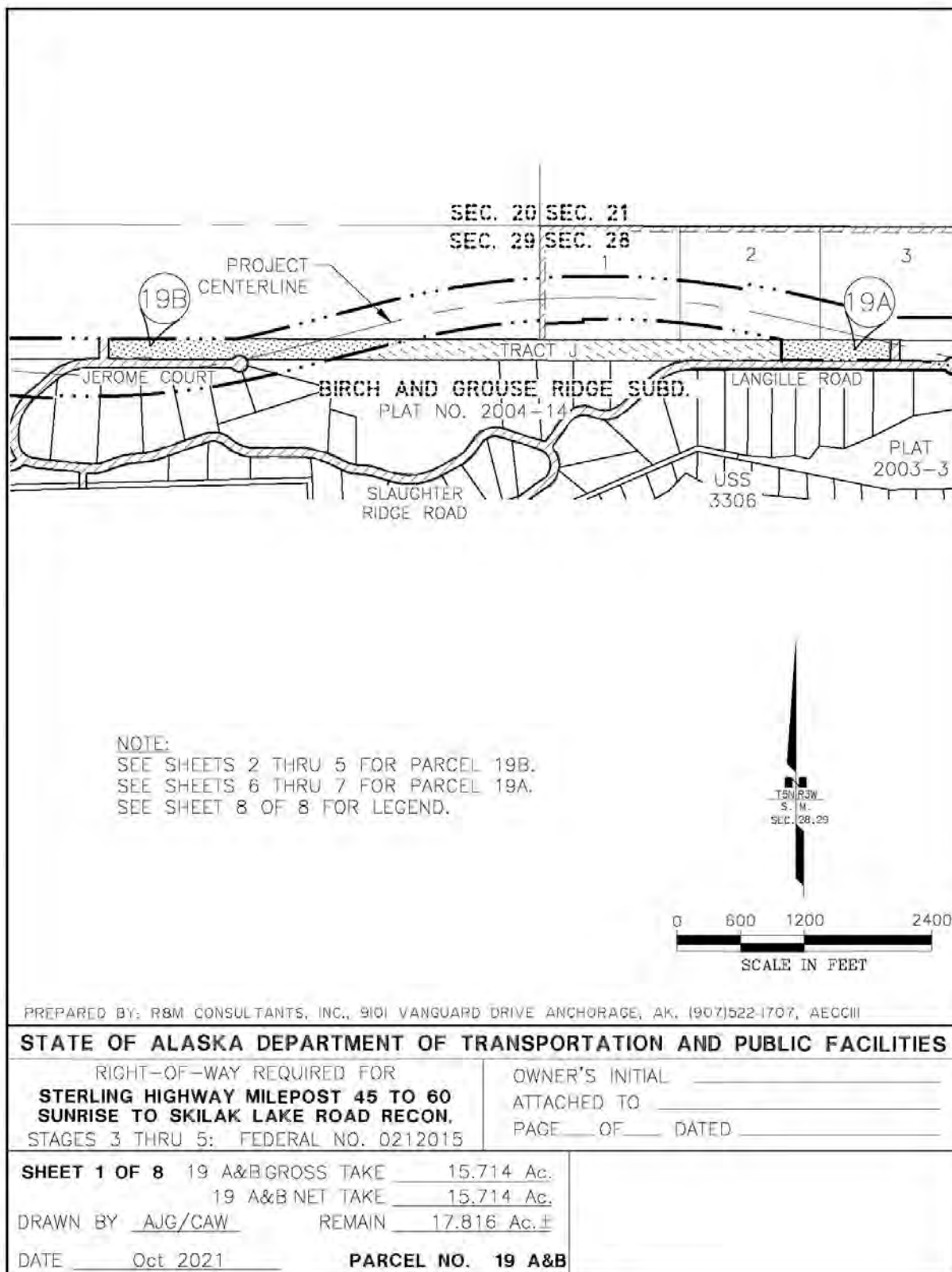
NET TAKE \_\_\_\_\_ 9.177 Ac.

DRAWN BY AJG/CAW

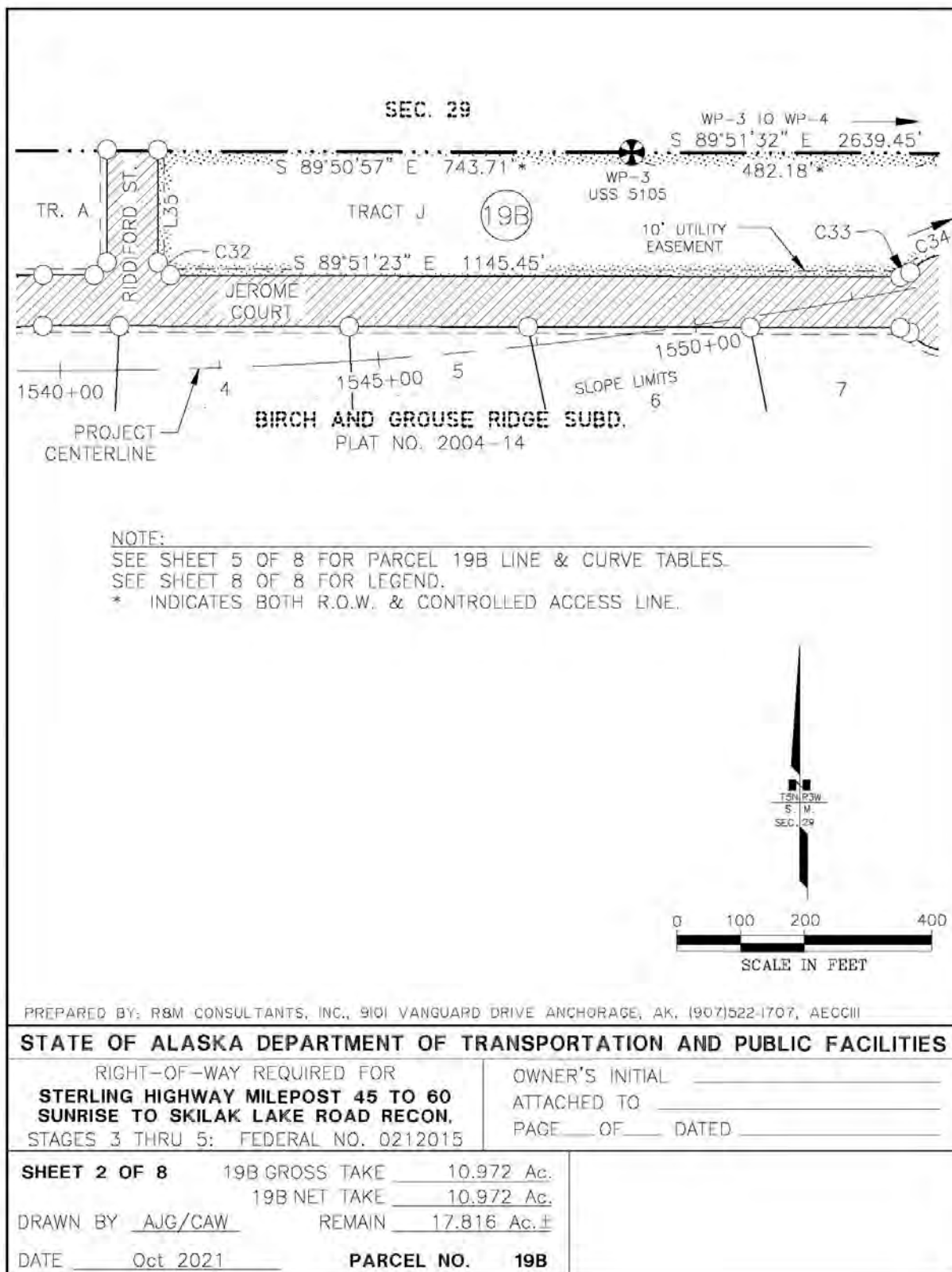
REMAIN \_\_\_\_\_ LARGE

DATE Oct 2021

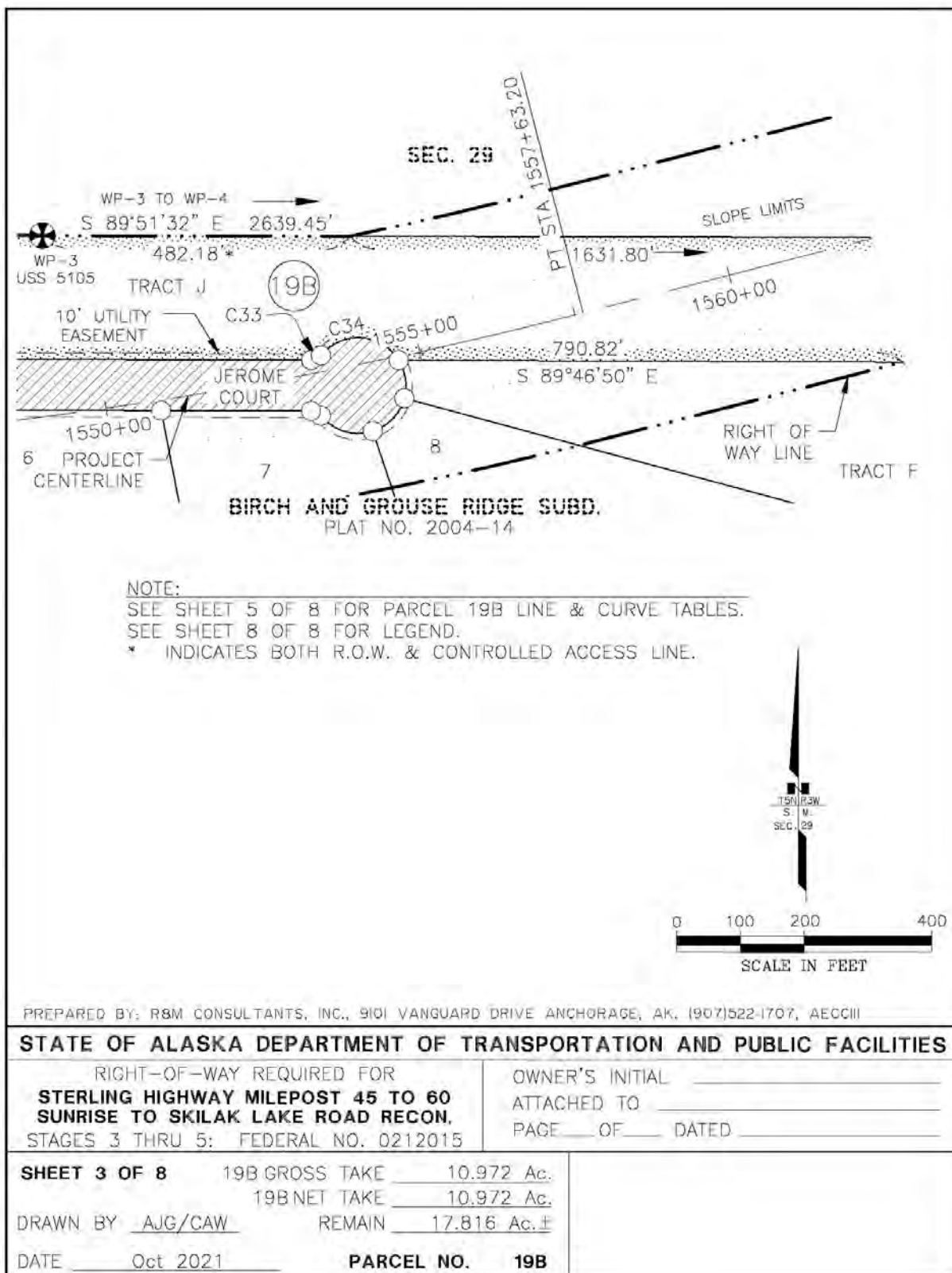
**PARCEL NO. 18**

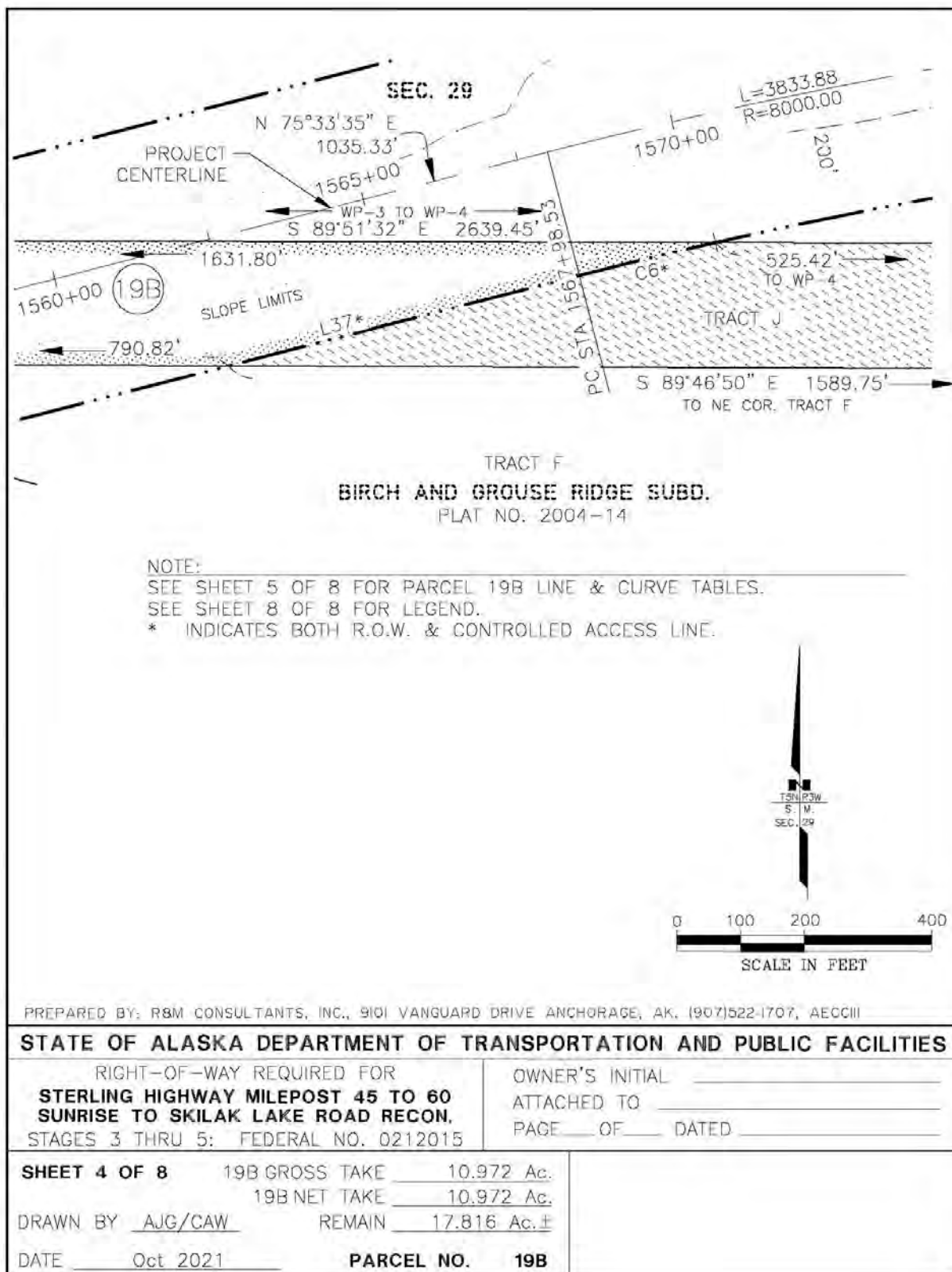












LINE & CURVE TABLES  
PARCEL 19B

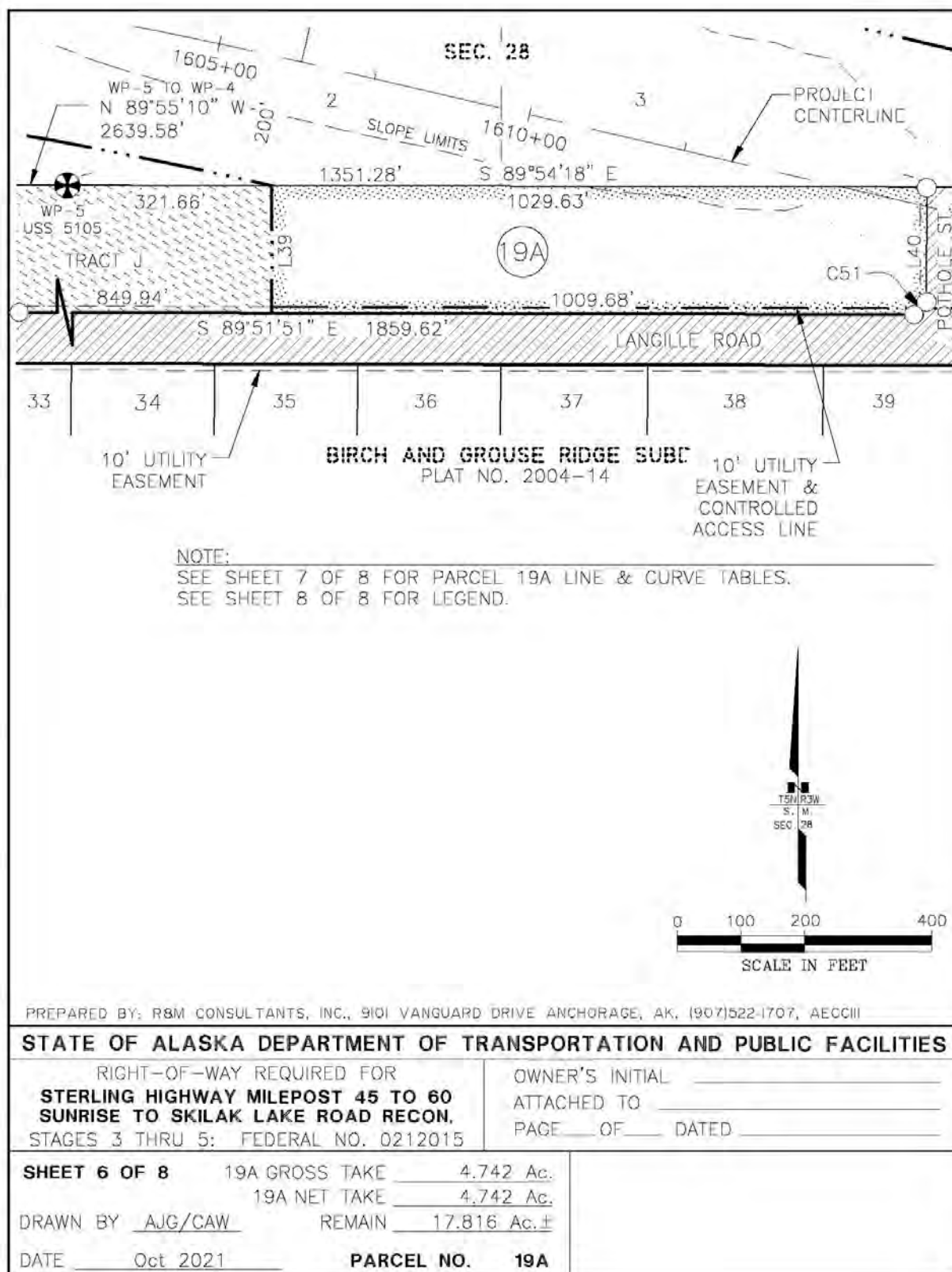
LINE TABLE		
LINE #	LENGTH	DIRECTION
L35	174.39'	S 00°04'59" W
L37	568.64'	N 75°33'35" E

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C32	31.60'	20.00'	090°13'52"	28.34'	S 44°43'28" E	20.08'
C33	17.70'	20.00'	050°42'33"	17.13'	N 64°41'40" E	9.48'
C34	142.50'	75.00'	108°51'55"	122.01'	N 86°22'10" W	104.89'
C66	220.05'	7800.00'	001°36'59"	220.05'	N 76°22'04" E	110.03'

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60</b> <b>SUNRISE TO SKILAK LAKE ROAD RECON.</b> STAGES 3 THRU 5: FEDERAL NO. 0212015	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 5 OF 8</b> 19B GROSS TAKE _____ 10.972 Ac. 19B NET TAKE _____ 10.972 Ac. DRAWN BY <u>AJG/CAW</u> REMAIN _____ 17.816 Ac.± DATE <u>Oct 2021</u> <b>PARCEL NO.    19B</b>	





LINE AND CURVE TABLES  
PARCEL 19A

**LINE TABLE**

LINE #	LENGTH	DIRECTION
L39	200.33'	S 00°08'09" W
L40	180.96'	N 00°07'57" E

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C51	31.48'	20.00'	090°11'03"	28.33'	N 44°55'28" E	20.06'

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
STAGES 3 THRU 5: FEDERAL NO. 0212015








OWNER'S INITIAL \_\_\_\_\_  
ATTACHED TO \_\_\_\_\_  
PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 7 OF 8**      19A GROSS TAKE \_\_\_\_\_ 4.742 Ac.  
                                 19A NET TAKE \_\_\_\_\_ 4.742 Ac.  
DRAWN BY AJG/CAW      REMAIN \_\_\_\_\_ 17.816 Ac.±  
DATE Oct 2021      **PARCEL NO.      19A**

GENERAL NOTE:

THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

LEGEND:

-  PRIMARY GOVERNMENT MONUMENT  
 MISC. PROPERTY CORNER  
 CONTROLLED ACCESS & RIGHT OF WAY LINE  
 RIGHT OF WAY LINE  
 EXISTING RIGHT-OF-WAY  
 RIGHT-OF-WAY REQUIRED  
 AREA REMAINING



THIS SEAL IS FOR ALL WORK  
CONTAINED ON SHEETS 1-7 OF 8.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 8 OF 8** 19 A&B GROSS TAKE \_\_\_\_\_ 15.714 Ac.  
 19 A&B NET TAKE \_\_\_\_\_ 15.714 Ac.  
 DRAWN BY AJG/CAW REMAIN \_\_\_\_\_ 17.816 Ac.±  
 DATE Oct 2021 **PARCEL NO. 19A&B**

SEC. 20	SEC. 21	SEC. 22
SEC. 29	<div style="display: flex; justify-content: space-around;"> <span>1</span><span>2</span><span>3</span><span>4</span> </div> <div style="display: flex; justify-content: space-around;"> <span>SEC. 28</span> </div>	<div style="display: flex; justify-content: space-around;"> <span>1</span> </div> <div style="display: flex; justify-content: space-around;"> <span>SEC. 27</span> </div>

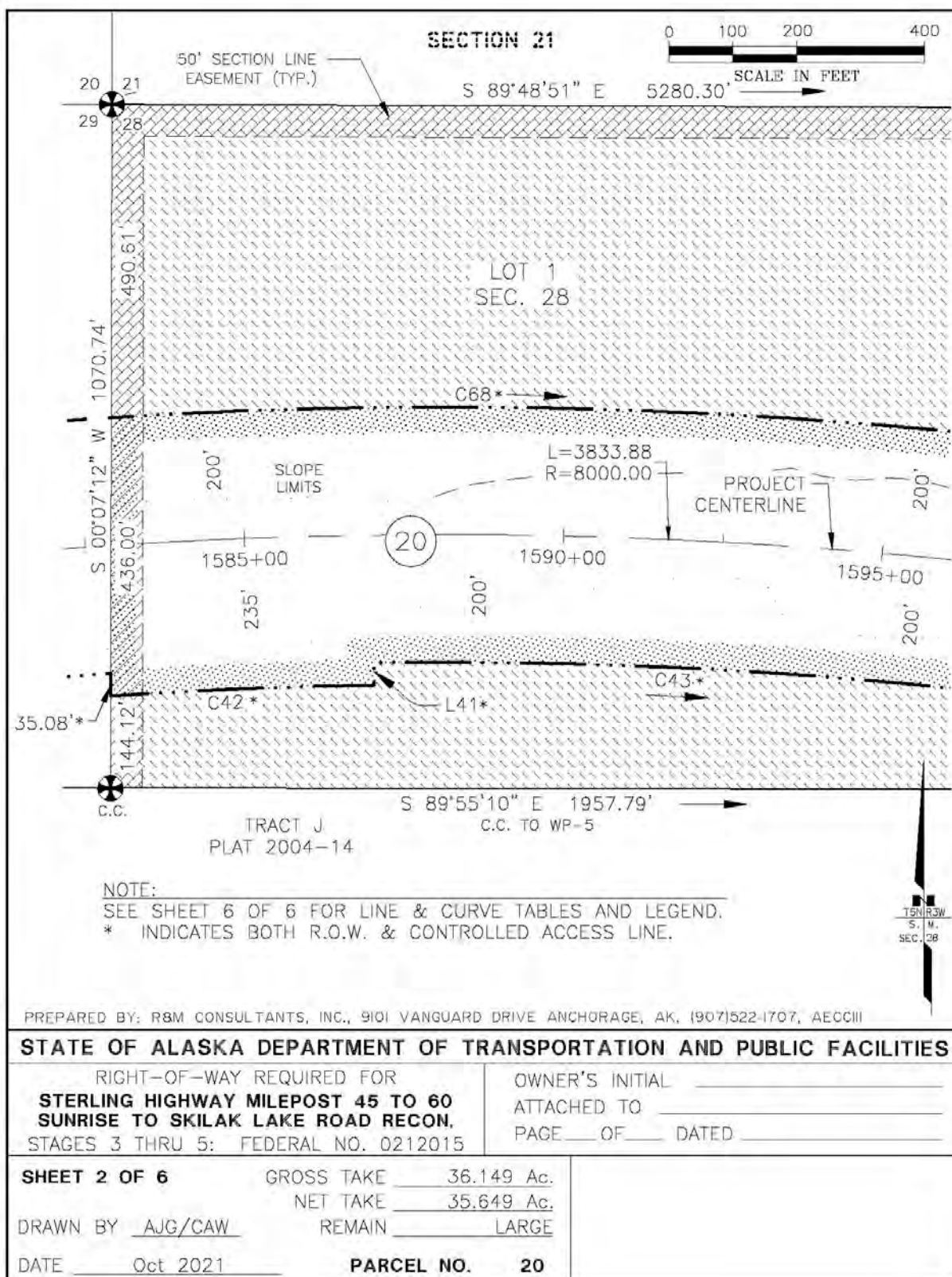
  

NOTE:  
 SEE SHEET 6 OF 6 FOR LINE & CURVE TABLES AND LEGEND.  
 \* INDICATES BOTH R.O.W. & CONTROLLED ACCESS LINE.

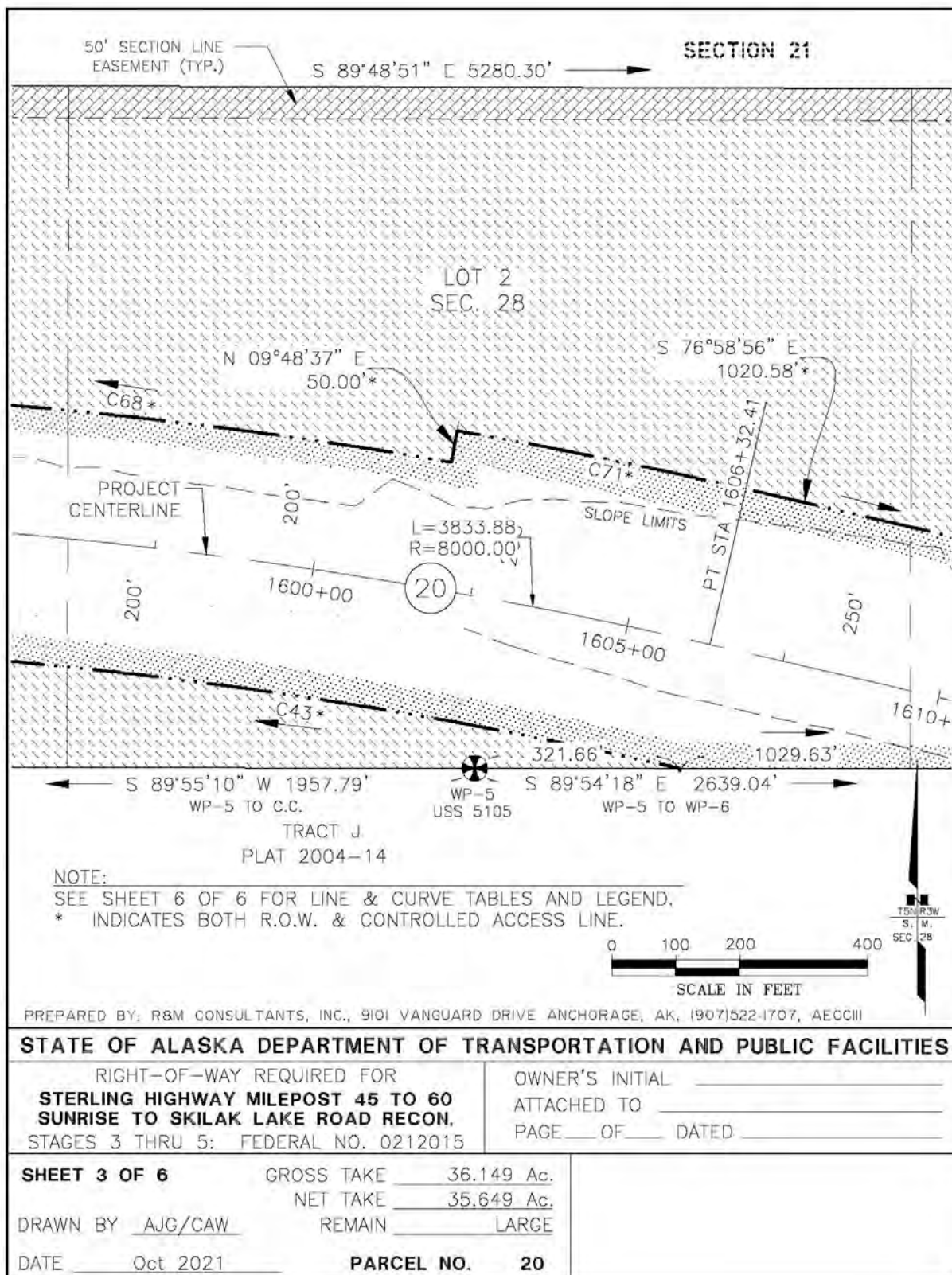
SCALE IN FEET

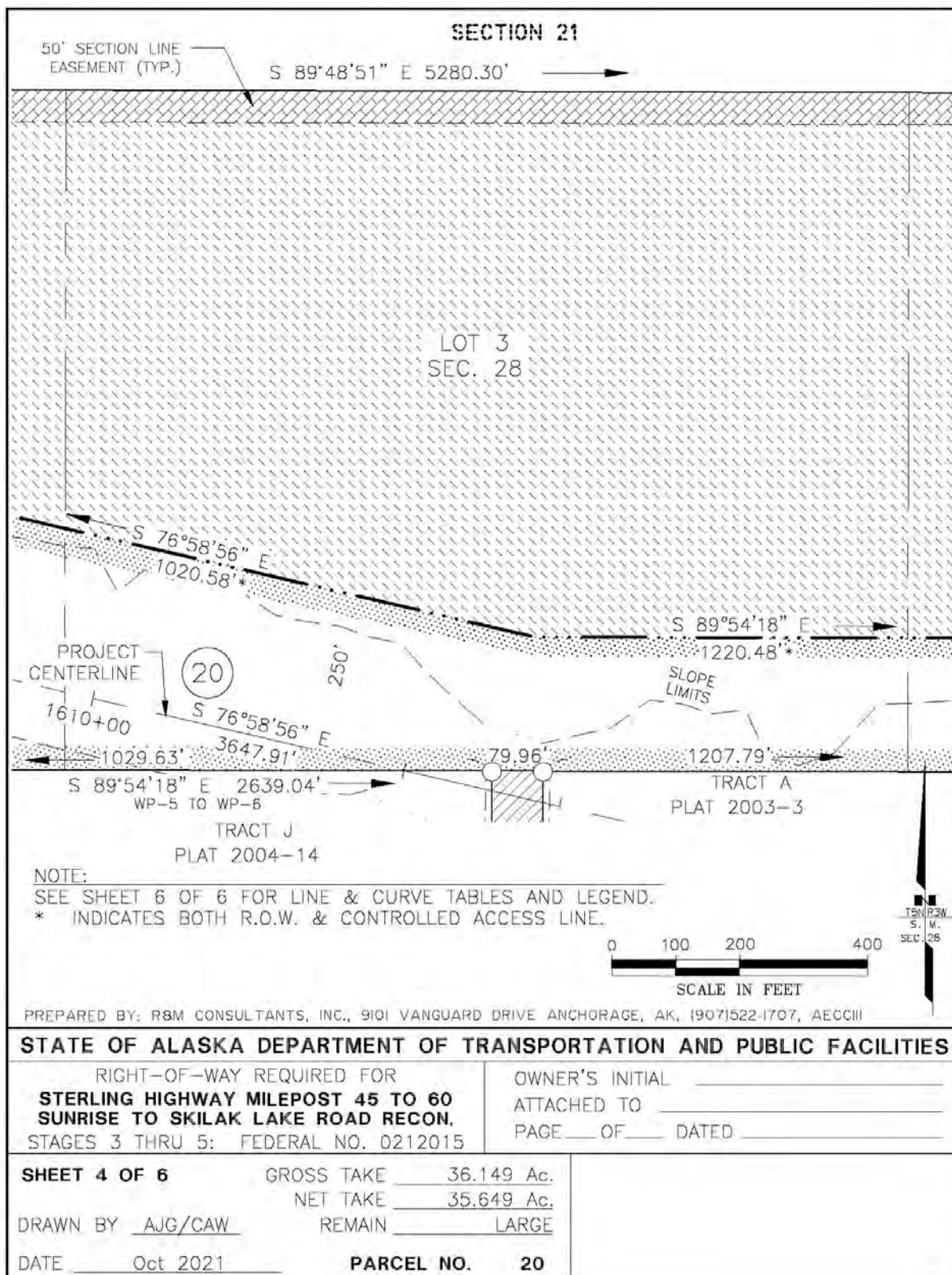
PREPARED BY: R&M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES	
RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60</b> <b>SUNRISE TO SKILAK LAKE ROAD RECON.</b> STAGES 3 THRU 5: FEDERAL NO. 0212015	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 1 OF 6</b> GROSS TAKE _____ 36.149 Ac. NET TAKE _____ 35.649 Ac. DRAWN BY <u>AJG/CAW</u> REMAIN _____ LARGE DATE <u>Oct 2021</u> <b>PARCEL NO. 20</b>	

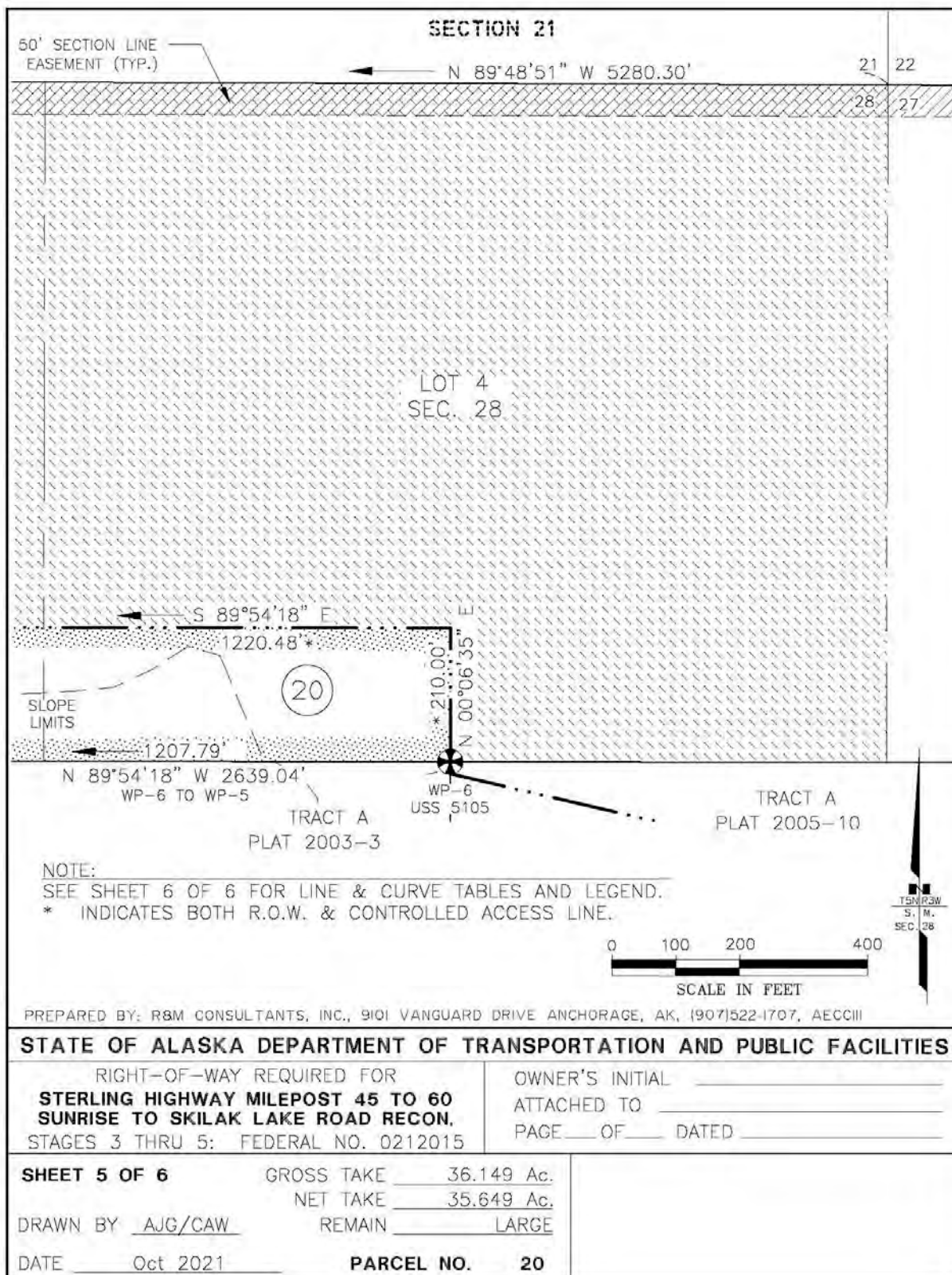




















**LINE TABLE**

LINE #	LENGTH	DIRECTION
L41	35.00'	N 00°49'19" W

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C42	412.73'	7765.00'	003°02'43"	412.68'	N 87°39'19" E	206.41'
C43	1882.48'	7800.00'	013°49'41"	1877.91'	N 83°54'29" W	945.83'
C68	1927.60'	8200.00'	013°28'07"	1923.17'	S 86°55'16" E	968.26'
C71	461.45'	8250.00'	003°12'17"	461.39'	S 78°35'04" E	230.78'

**LEGEND:**

	PRIMARY GOVERNMENT MONUMENT
	PRIMARY PROPERTY MONUMENT
	MISC. PROPERTY CORNER
	CONTROLLED ACCESS & RIGHT OF WAY LINE
	RIGHT OF WAY LINE
	EXISTING RIGHT-OF-WAY
	RIGHT-OF-WAY REQUIRED
	AREA REMAINING

**GENERAL NOTE:**

THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.



THIS SEAL IS FOR ALL WORK CONTAINED ON SHEETS 1-6 OF 6.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 6 OF 6** GROSS TAKE \_\_\_\_\_ 36.149 Ac.  
 NET TAKE \_\_\_\_\_ 35.649 Ac.  
 DRAWN BY AJG/CAW REMAIN \_\_\_\_\_ LARGE  
 DATE Oct 2021 **PARCEL NO. 20**



**SECTION 29**

JEROME COURT

22

TRACT J

8

7

9

10' UTILITY EASEMENT

SLAUGHTER

12

13

TRACT D

USS NO. 1442

14

15

16

17

18

19

20

21

ROAD

BIRCH AND GROUSE RIDGE SUBD.  
PLAT NO. 2004-14  
TRACT F

TRACT E

PROJECT CENTERLINE

**GENERAL NOTE:**  
THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

**STATE OF ALASKA**  
49<sup>TH</sup>  
CHAD A. WEILER  
L.S. 12042  
10/13/21  
REGISTERED PROFESSIONAL LAND SURVEYOR

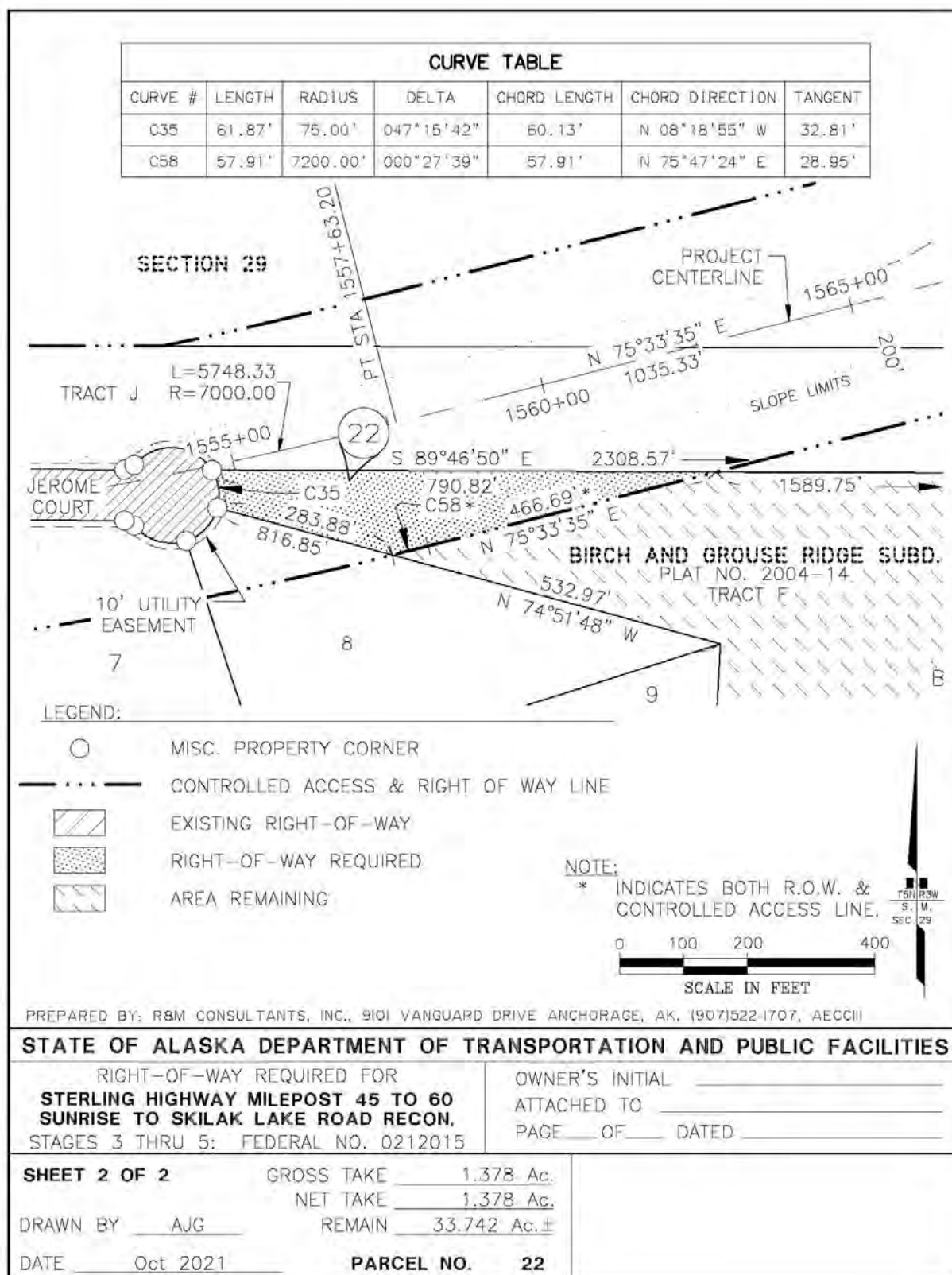
THIS SEAL IS FOR ALL WORK CONTAINED ON SHEETS 1-2 OF 2.

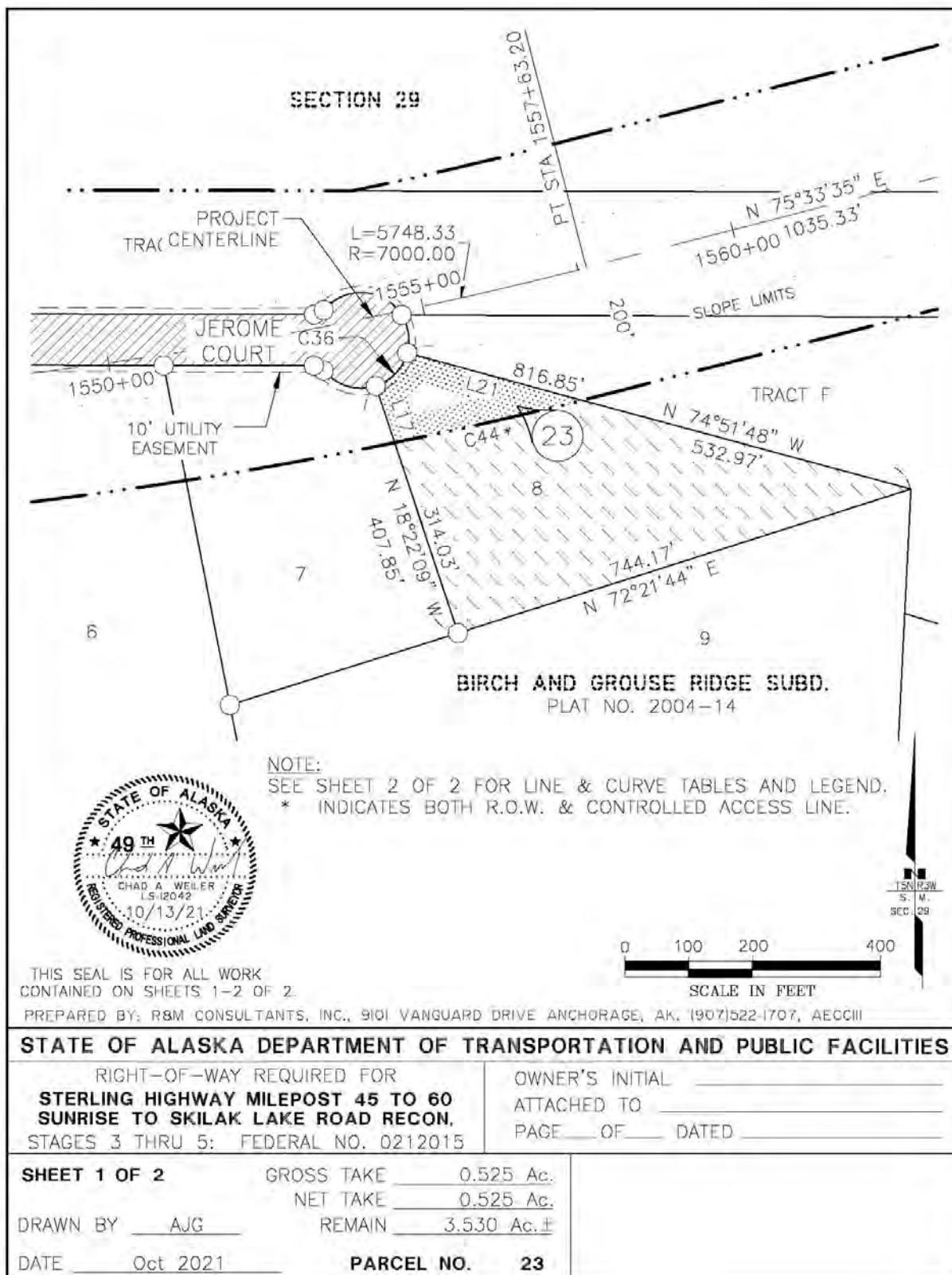
PREPARED BY: R&M CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

0 200 400 800  
SCALE IN FEET

T.B.V. R.S.W.  
S. M.  
SEC. 29

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60 SUNRISE TO SKILAK LAKE ROAD RECON. STAGES 3 THRU 5: FEDERAL NO. 0212015</b>		OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____	
<b>SHEET 1 OF 2</b>		GROSS TAKE _____ 1.378 Ac. NET TAKE _____ 1.378 Ac. REMAIN _____ 33.742 Ac.±	
DRAWN BY <u>AJG</u>		DATE <u>Oct 2021</u>	
PARCEL NO. <b>22</b>			







**LINE TABLE**

LINE #	LENGTH	DIRECTION
L17	93.82'	N 18°22'09" W
L21	283.88'	N 74°51'48" W

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C36	74.39'	75.00'	056°49'45"	71.38'	N 43°34'43" E	40.58'
C44	301.16'	7200.00'	002°23'47"	301.13'	N 77°13'08" E	150.60'

**LEGEND:**

MISC. PROPERTY CORNER



CONTROLLED ACCESS &amp; RIGHT OF WAY LINE



EXISTING RIGHT-OF-WAY



RIGHT-OF-WAY REQUIRED



AREA REMAINING

*Chad A. Wain*

**GENERAL NOTE:**

THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 2**

GROSS TAKE \_\_\_\_\_ 0.525 Ac.

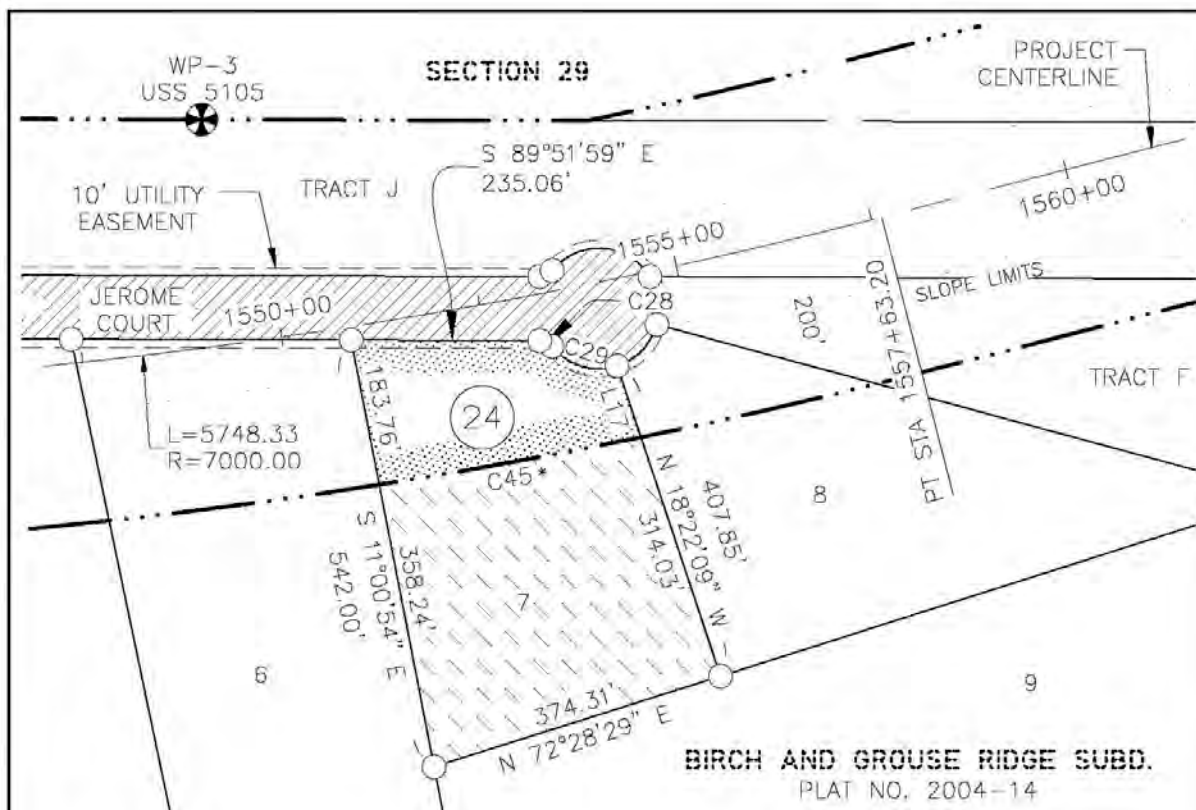
NET TAKE \_\_\_\_\_ 0.525 Ac.

DRAWN BY AJG

REMAIN \_\_\_\_\_ 3.530 Ac.±

DATE Oct 2021**PARCEL NO. 23**





## NOTE:

SEE SHEET 2 OF 2 FOR LINE &amp; CURVE TABLES AND LEGEND.

\* INDICATES BOTH R.O.W. &amp; CONTROLLED ACCESS LINE.

THIS SEAL IS FOR ALL WORK  
CONTAINED ON SHEETS 1-2 OF 2.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907) 522-1707, AECIII



0 100 200 400

SCALE IN FEET

## STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT-OF-WAY REQUIRED FOR  
STERLING HIGHWAY MILEPOST 45 TO 60  
SUNRISE TO SKILAK LAKE ROAD RECON.  
STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
ATTACHED TO \_\_\_\_\_  
PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

SHEET 1 OF 2

GROSS TAKE 1.103 Ac.

NET TAKE 1.103 Ac.

DRAWN BY AJG

REMAIN 2.697 Ac.±

DATE Oct 2021

PARCEL NO. 24

**LINE TABLE**

LINE #	LENGTH	DIRECTION
L17	93.82'	N 18°22'09" W

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C28	17.78'	20.00'	050°56'08"	17.20'	N 64°13'50" W	9.53'
C29	90.29'	75.00'	068°58'42"	84.94'	S 73°26'24" E	51.53'
C45	331.76'	7200.00'	002°38'24"	331.73'	N 79°44'13" E	165.91'

**LEGEND:**

PRIMARY GOVERNMENT MONUMENT



MISC. PROPERTY CORNER



CONTROLLED ACCESS &amp; RIGHT OF WAY LINE



EXISTING RIGHT-OF-WAY



RIGHT-OF-WAY REQUIRED



AREA REMAINING

**GENERAL NOTE:**

THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 2**

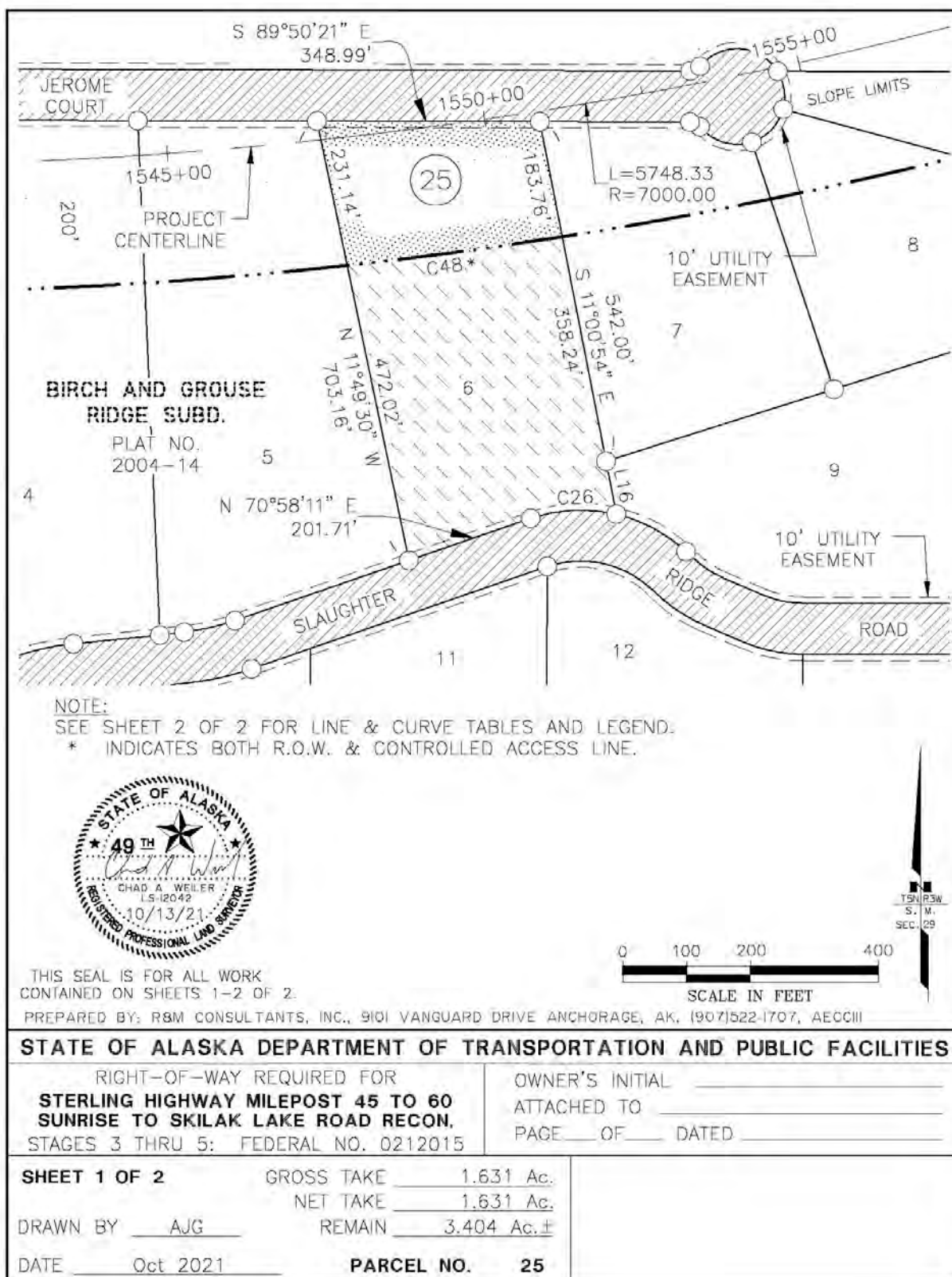
GROSS TAKE \_\_\_\_\_ 1.103 Ac.

NET TAKE \_\_\_\_\_ 1.103 Ac.

DRAWN BY AJG

REMAIN \_\_\_\_\_ 2.697 Ac.±

DATE Oct 2021**PARCEL NO. 24**



**LINE TABLE**

LINE #	LENGTH	DIRECTION
L16	84.19'	S 10°57'52" E

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C26	135.75'	240.00'	032°24'29"	133.95'	S 87°05'19" W	69.74'
C48	339.74'	7200.00'	002°42'13"	339.71'	N 82°24'32" E	169.90'

**LEGEND:**

MISC. PROPERTY CORNER



CONTROLLED ACCESS &amp; RIGHT OF WAY LINE



EXISTING RIGHT-OF-WAY



RIGHT-OF-WAY REQUIRED



AREA REMAINING

**GENERAL NOTE:**

THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 2**

GROSS TAKE \_\_\_\_\_ 1.631 Ac.

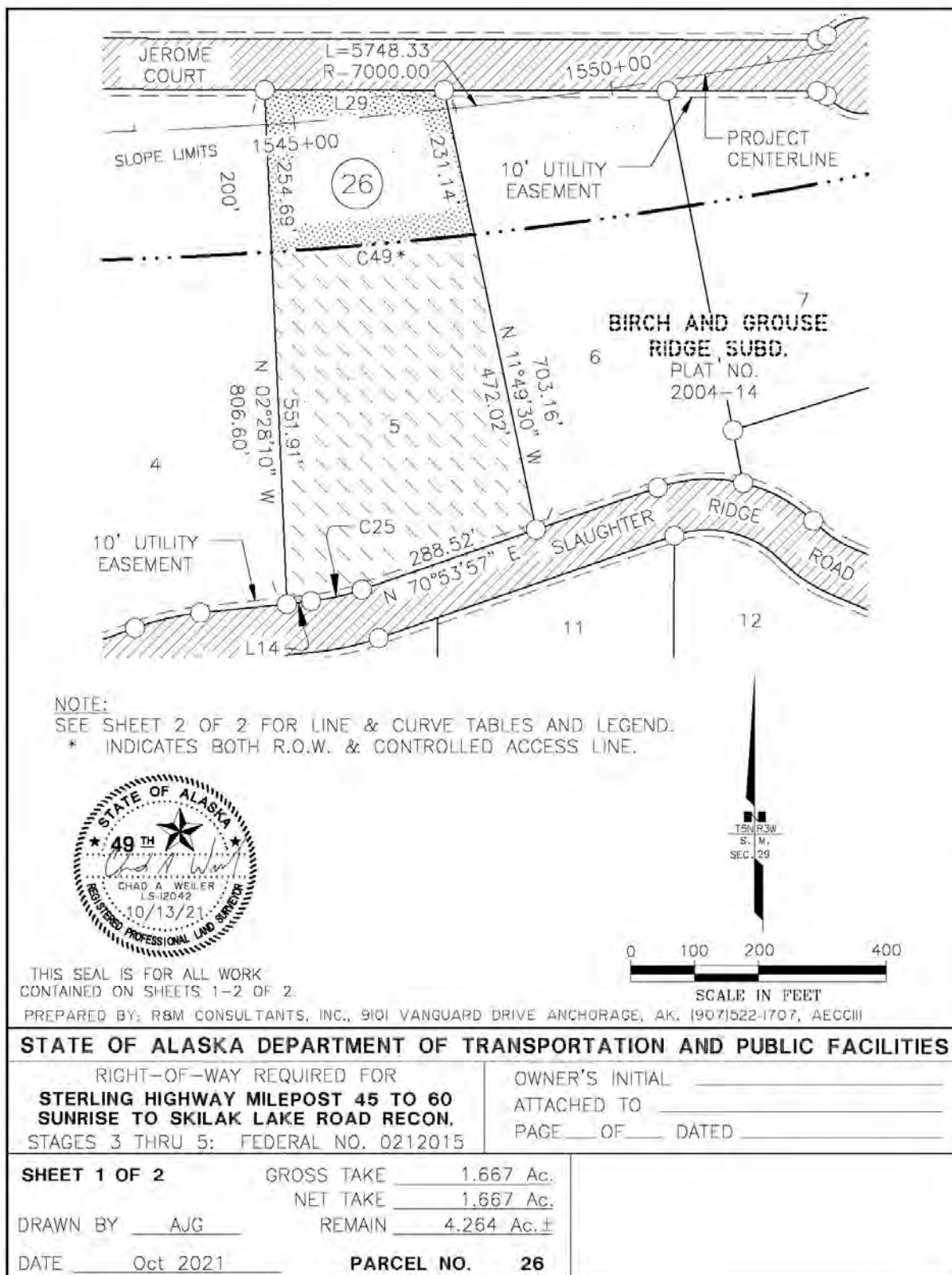
NET TAKE \_\_\_\_\_ 1.631 Ac.

DRAWN BY AJG

REMAIN \_\_\_\_\_ 3.404 Ac.±

DATE Oct 2021**PARCEL NO. 25**










LINE TABLE		
LINE #	LENGTH	DIRECTION
L14	38.15'	N 82°54'28" E
L29	280.78'	S 89°52'22" E

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C25	81.78'	360.00'	013°00'58"	81.61'	N 77°20'45" E	41.07'
C49	318.39'	7200.00'	002°32'01"	318.37'	N 85°01'39" E	159.22'

## LEGEND:

	MISC. PROPERTY CORNER
	CONTROLLED ACCESS & RIGHT OF WAY LINE
	EXISTING RIGHT-OF-WAY
	RIGHT-OF-WAY REQUIRED
	AREA REMAINING

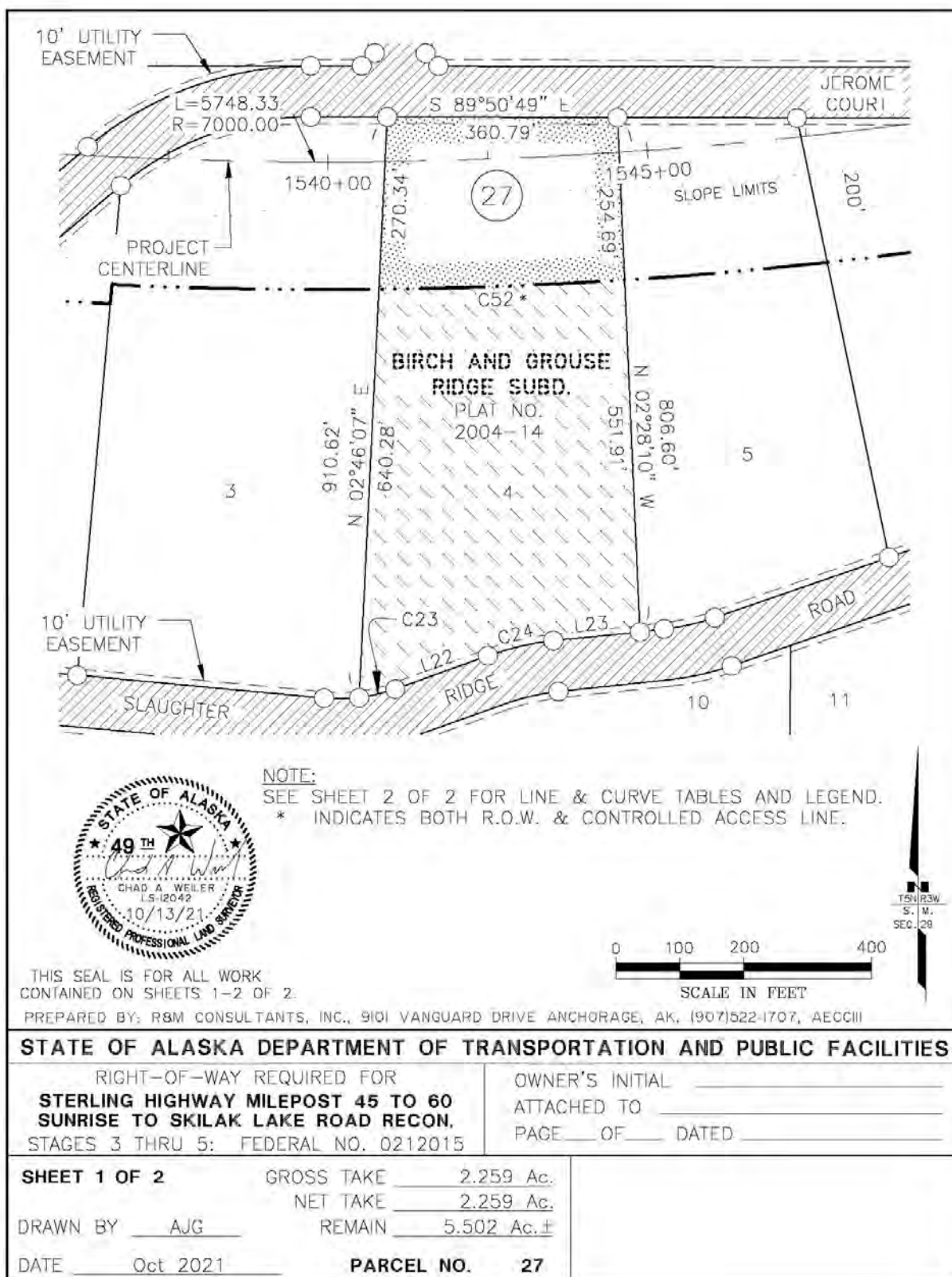
## GENERAL NOTE:

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PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

## STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT-OF-WAY REQUIRED FOR <b>STERLING HIGHWAY MILEPOST 45 TO 60 SUNRISE TO SKILAK LAKE ROAD RECON. STAGES 3 THRU 5: FEDERAL NO. 0212015</b>		OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
<b>SHEET 2 OF 2</b>	GROSS TAKE _____ 1.667 Ac. NET TAKE _____ 1.667 Ac. REMAIN _____ 4.264 Ac.±	
DRAWN BY <u>AJG</u>		
DATE <u>Oct 2021</u>		<b>PARCEL NO. 26</b>










LINE TABLE		
LINE #	LENGTH	DIRECTION
L22	154.14'	N 70°10'33" E
L23	136.32'	N 84°16'06" E

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C23	58.22'	260.00'	012°49'45"	58.10'	N 76°48'28" E	29.23'
C24	105.26'	440.00'	013°42'22"	105.01'	S 77°01'06" W	52.88'
C52	385.15'	7200.00'	003°03'54"	385.10'	N 87°49'36" E	192.62'

## LEGEND:

	MISC. PROPERTY CORNER
	CONTROLLED ACCESS & RIGHT OF WAY LINE
	EXISTING RIGHT-OF-WAY
	RIGHT-OF-WAY REQUIRED
	AREA REMAINING

## GENERAL NOTE:

THIS PLAT IS USED FOR THE ESTABLISHMENT OF THE RIGHT OF WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

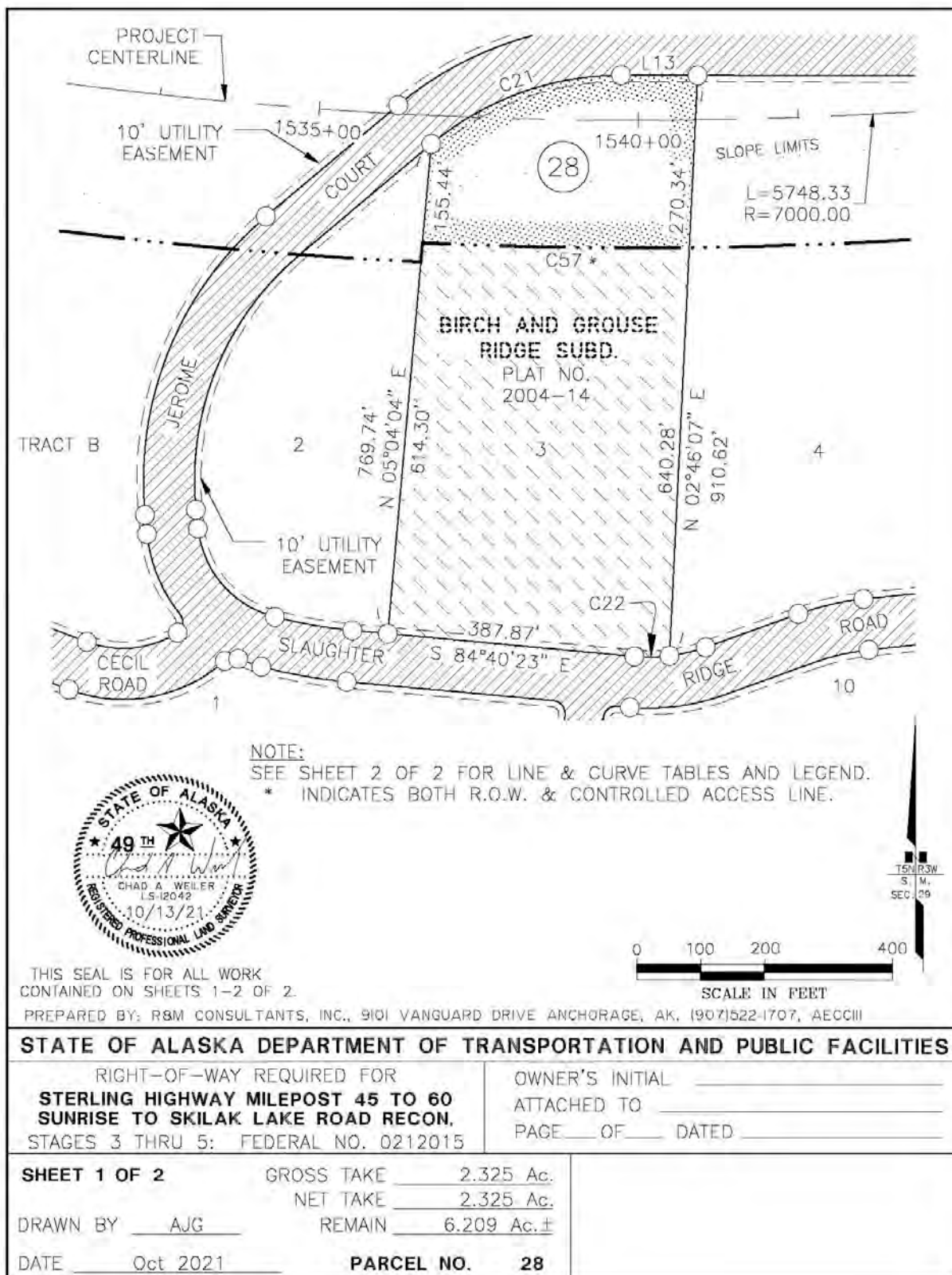
## STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 2** GROSS TAKE \_\_\_\_\_ 2.259 Ac.  
 NET TAKE \_\_\_\_\_ 2.259 Ac.  
 DRAWN BY AJG REMAIN \_\_\_\_\_ 5.502 Ac.±  
 DATE Oct 2021 **PARCEL NO. 27**










LINE TABLE		
LINE #	LENGTH	DIRECTION
L13	120.03'	S 89°53'40" E

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C21	322.65'	460.06'	040°11'01"	316.08'	S 70°01'45" W	168.28'
C22	55.04'	260.00'	012°07'41"	54.93'	N 89°02'34" E	27.62'
C57	417.91'	7200.00'	003°19'32"	417.85'	S 88°58'41" E	209.01'

## LEGEND:

	MISC. PROPERTY CORNER
	CONTROLLED ACCESS & RIGHT OF WAY LINE
	EXISTING RIGHT-OF-WAY
	RIGHT-OF-WAY REQUIRED
	AREA REMAINING

## GENERAL NOTE:

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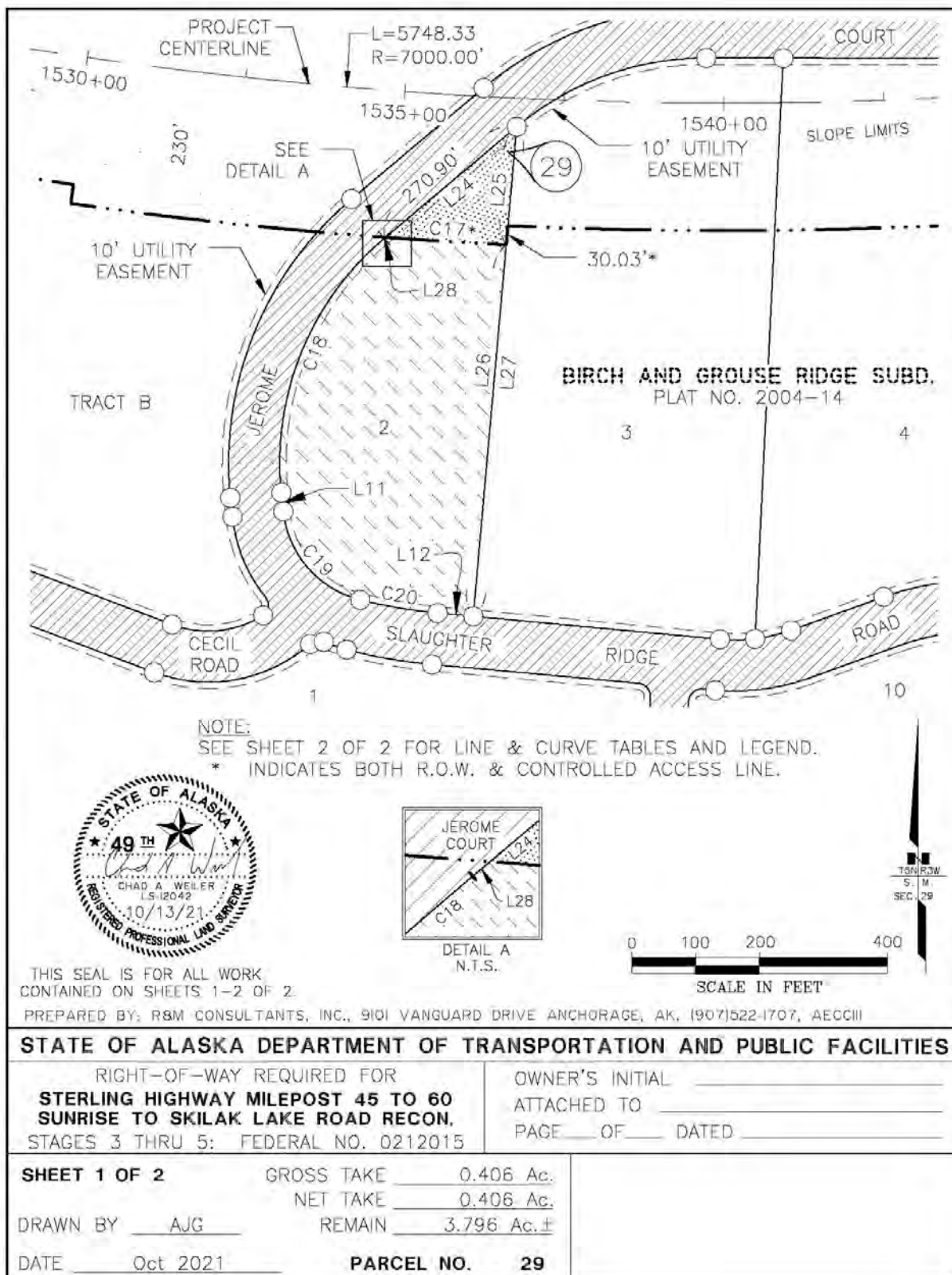
PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

## STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 2** GROSS TAKE 2.325 Ac.  
 NET TAKE 2.325 Ac.  
 DRAWN BY AJG REMAIN 6.209 Ac.±  
 DATE Oct 2021 **PARCEL NO. 28**










LINE TABLE		
LINE #	LENGTH	DIRECTION
L11	29.76'	S 05°53'24" E
L12	55.85'	S 84°50'01" E
L24	269.12'	N 49°54'17" E
L25	185.47'	S 05°04'04" W
L26	584.27'	N 05°04'04" E
L27	769.74'	N 05°04'04" E
L28	1.78'	S 49°54'17" W

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C17	189.83'	7230.00'	001°30'16"	189.83'	S 86°33'11" E	94.92'
C18	357.58'	460.00'	044°32'18"	348.64'	S 16°26'52" W	188.37'
C19	195.40'	160.00'	069°58'18"	183.48'	S 41°03'22" E	111.97'
C20	123.23'	760.00'	009°17'26"	123.10'	S 80°16'57" E	61.75'

LEGEND:

	MISC. PROPERTY CORNER
	CONTROLLED ACCESS & RIGHT OF WAY LINE
	EXISTING RIGHT-OF-WAY
	RIGHT-OF-WAY REQUIRED
	AREA REMAINING

GENERAL NOTE:

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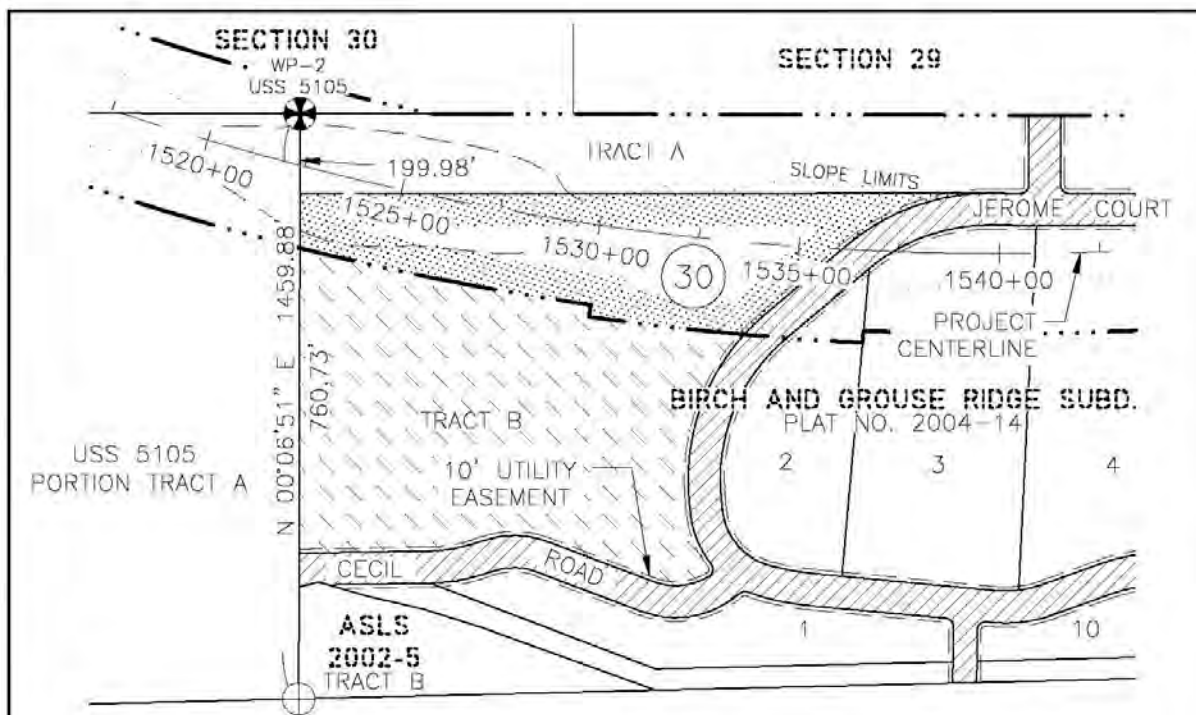
**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 2** GROSS TAKE \_\_\_\_\_ 0.406 Ac.  
 NET TAKE \_\_\_\_\_ 0.406 Ac.  
 DRAWN BY AJG REMAIN \_\_\_\_\_ 3.796 Ac.±  
 DATE Oct 2021 **PARCEL NO. 29**





## GENERAL NOTE:

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THIS SEAL IS FOR ALL WORK  
CONTAINED ON SHEETS 1-4 OF 4.

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

T6N R4W  
S. 1 M.  
SEC. 29, 30

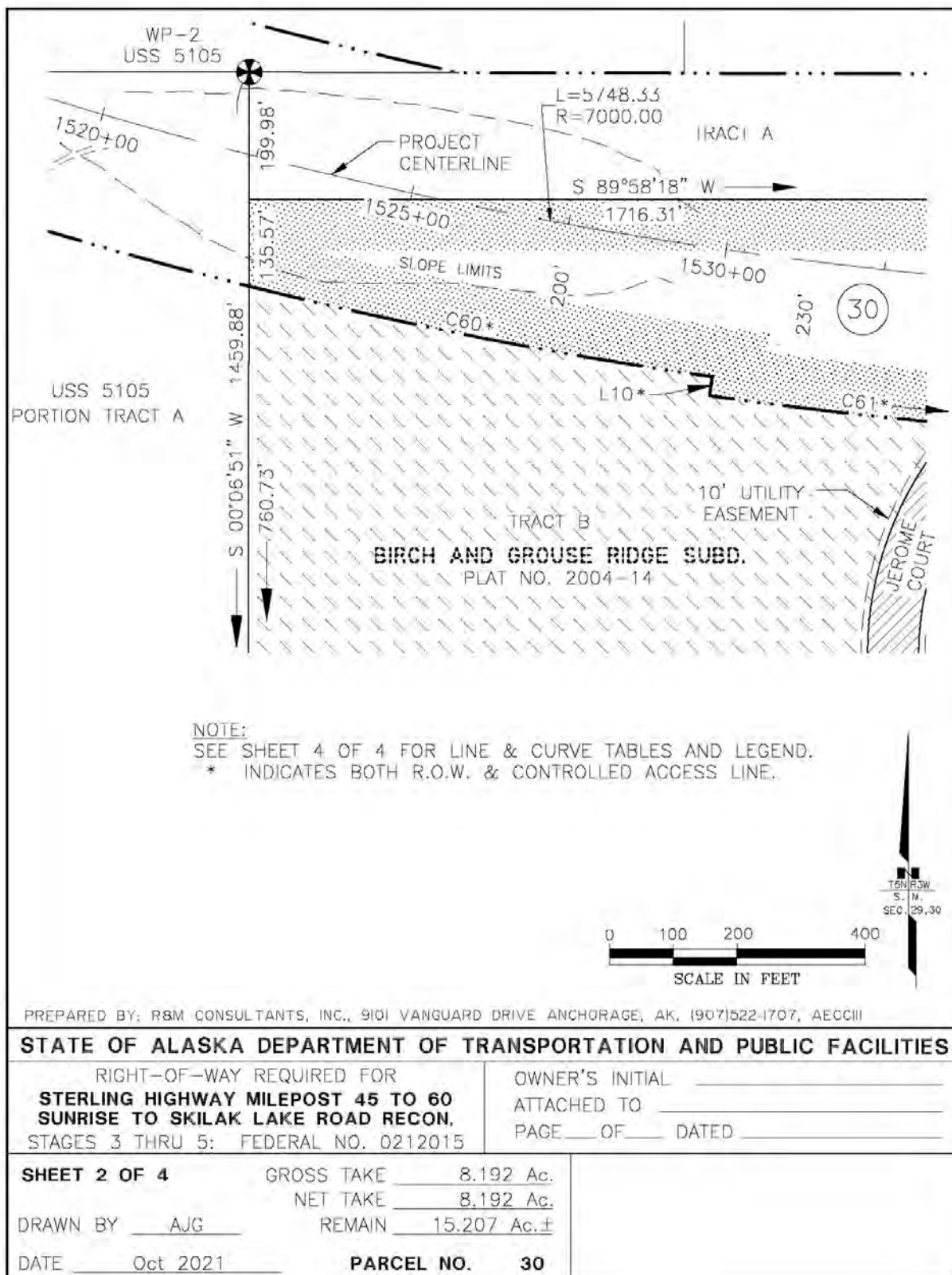
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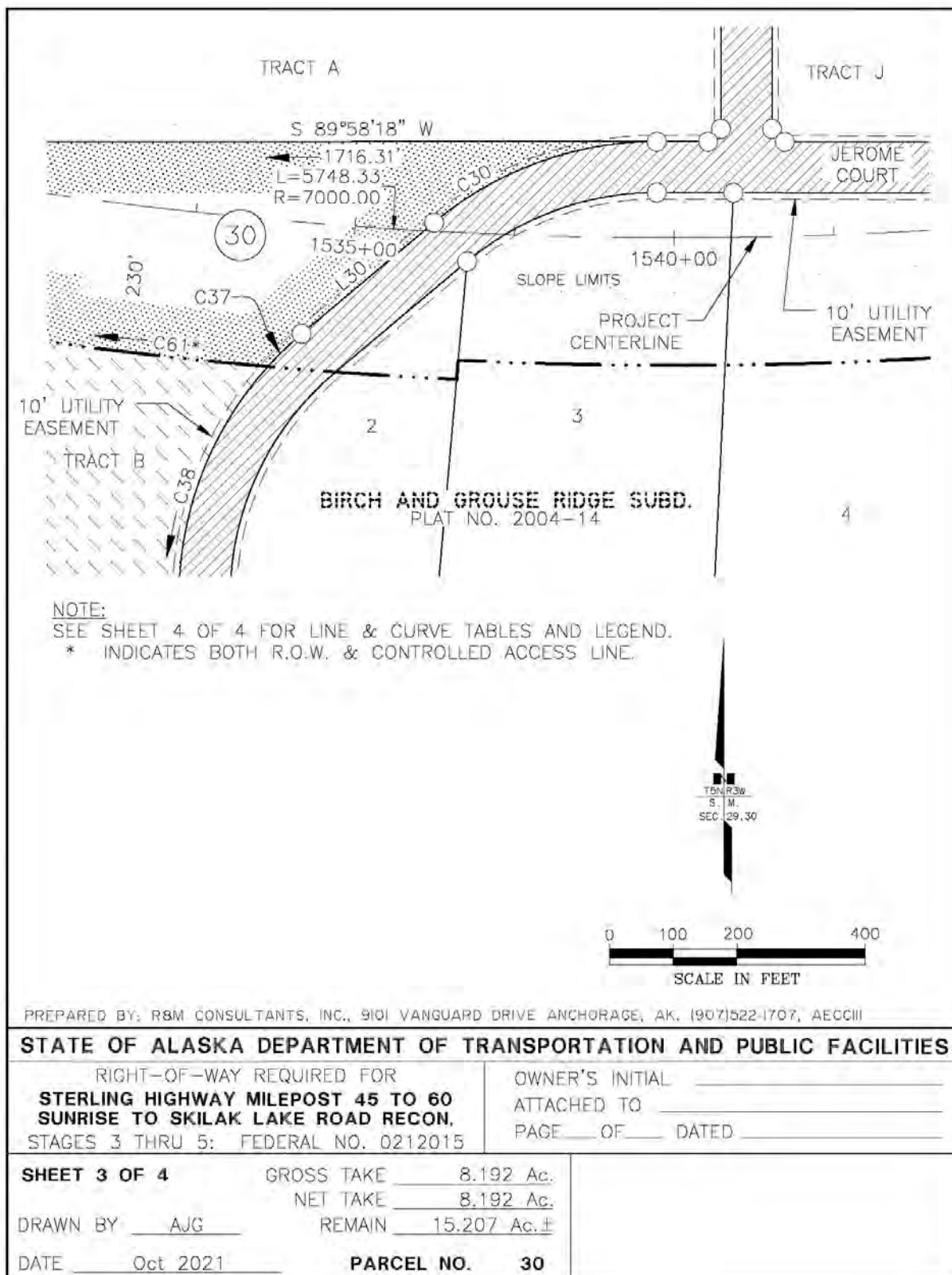
# STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60  
SUNRISE TO SKILAK LAKE ROAD RECON.**  
STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
ATTACHED TO \_\_\_\_\_  
PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 1 OF 4** GROSS TAKE \_\_\_\_\_ 8.192 Ac.  
NET TAKE \_\_\_\_\_ 8.192 Ac.  
REMAIN \_\_\_\_\_ 15.207 Ac.±  
DRAWN BY AJG  
DATE Oct 2021 **PARCEL NO. 30**







LINE TABLE		
LINE #	LENGTH	DIRECTION
L10	30.00'	S 08°07'24" W
L30	270.81'	N 49°54'22" E

CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C30	378.87'	540.00'	040°11'56"	371.14'	S 70°02'46" W	197.61'
C37	74.13'	540.00'	007°51'55"	74.07'	S 45°58'39" W	37.12'
C38	451.09'	540.00'	047°51'45"	438.09'	S 18°06'49" W	239.65'
C60	739.50'	7200.00'	005°53'05"	739.17'	S 78°56'03" E	370.07'
C61	388.71'	7230.00'	003°04'49"	388.66'	S 83°25'00" E	194.40'

## LEGEND:



PRIMARY GOVERNMENT MONUMENT



PRIMARY PROPERTY MONUMENT



MISC. PROPERTY CORNER



CONTROLLED ACCESS &amp; RIGHT OF WAY LINE



EXISTING RIGHT-OF-WAY



RIGHT-OF-WAY REQUIRED



AREA REMAINING

PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

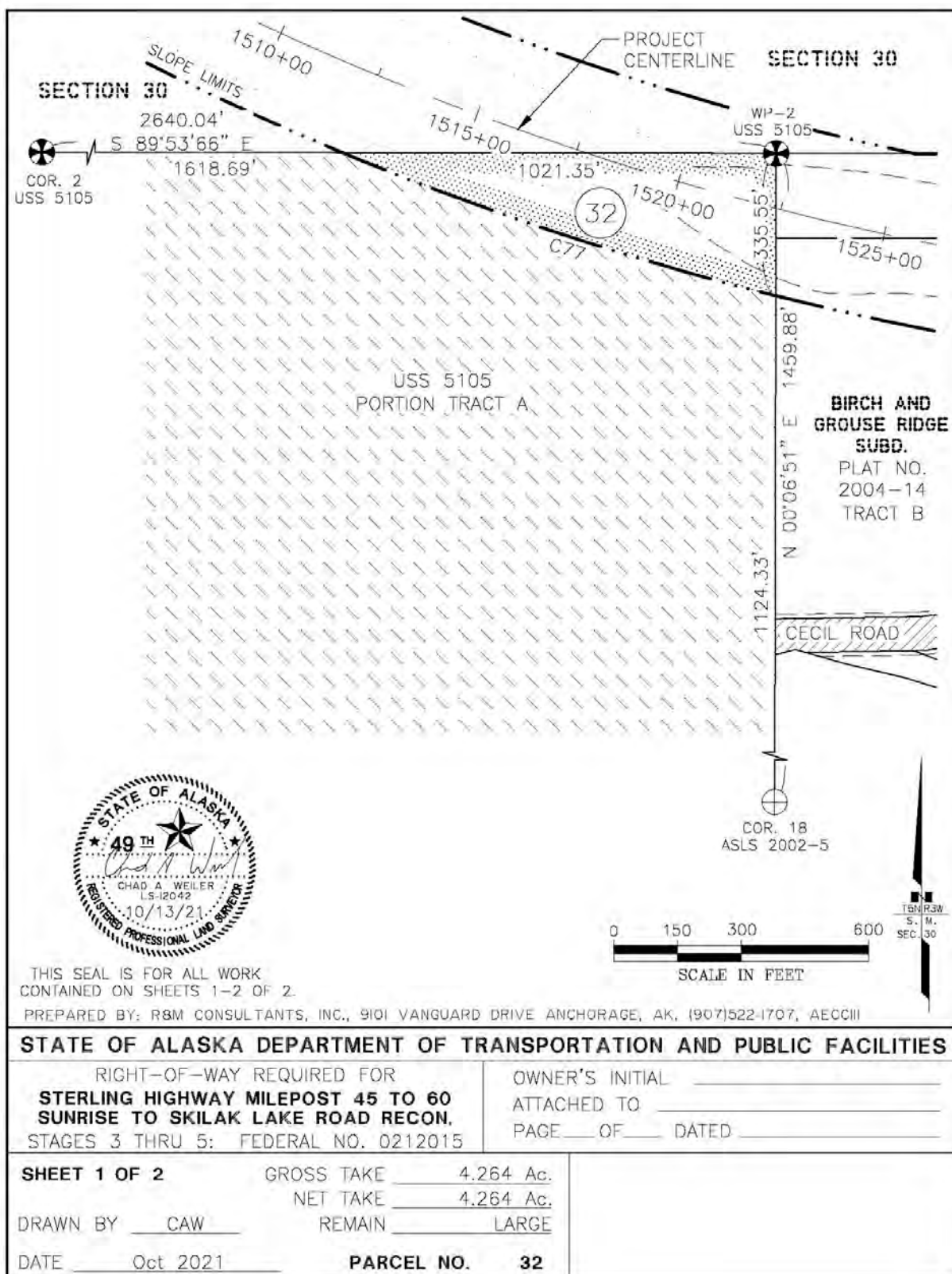
**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_







**SHEET 4 OF 4** GROSS TAKE \_\_\_\_\_ 8.192 Ac.  
 NET TAKE \_\_\_\_\_ 8.192 Ac.  
 DRAWN BY AJG REMAIN \_\_\_\_\_ 15.207 Ac.±  
 DATE Oct 2021 **PARCEL NO. 30**





CURVE TABLE						
CURVE #	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD DIRECTION	TANGENT
C77	1075.99'	7200.00'	008°33'45"	1074.99'	S 71°42'38" E	539.00'

## LEGEND:

	PRIMARY GOVERNMENT MONUMENT
	PRIMARY PROPERTY MONUMENT
	CONTROLLED ACCESS & RIGHT OF WAY LINE
	EXISTING RIGHT-OF-WAY
	RIGHT-OF-WAY REQUIRED
	AREA REMAINING

## GENERAL NOTE:

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PREPARED BY: RBM CONSULTANTS, INC., 9101 VANGUARD DRIVE ANCHORAGE, AK, (907)522-1707, AECCIII

## STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT-OF-WAY REQUIRED FOR  
**STERLING HIGHWAY MILEPOST 45 TO 60**  
**SUNRISE TO SKILAK LAKE ROAD RECON.**  
 STAGES 3 THRU 5: FEDERAL NO. 0212015

OWNER'S INITIAL \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_  
 PAGE \_\_\_\_ OF \_\_\_\_ DATED \_\_\_\_\_

**SHEET 2 OF 2** GROSS TAKE \_\_\_\_\_ 4.264 Ac.  
 NET TAKE \_\_\_\_\_ 4.264 Ac.  
 DRAWN BY \_\_\_\_\_ CAW REMAIN \_\_\_\_\_ LARGE  
 DATE \_\_\_\_\_ Oct 2021 \_\_\_\_\_ **PARCEL NO. 32**

# Kenai Peninsula Borough

## Planning Department – Land Management Division

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### MEMORANDUM

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

**THRU:** Charlie Pierce, Borough Mayor *AK for CP*  
Melanie Aeschliman, Planning Director *MA*  
Marcus A Mueller, Land Management Officer *[Signature]*

**FROM:** Aaron Hughes, Land Management Agent *AH*

**DATE:** April 6, 2022

**RE:** Amendment to Ordinance 2022-06, Authorizing the Negotiated Sale of 183.234 Acres in Cooper Landing as Part of the Sterling Highway Mile Post 45-60 Realignment Project to the State of Alaska Department of Transportation and Public Facilities for a Negotiated Amount Over Appraised Value (Mayor)(Hearing on 04/19/22)

---

This amendment to Ordinance 2022-06 is requested due an error discovered in the total acreage of the right-of-way sale parcels (the total acreage is 180.281).

[Please note the bold underlined language is new and the bold strikeout language in brackets is to be deleted.]

➤ Amend the title, as follows:

AN ORDINANCE AUTHORIZING THE NEGOTIATED SALE OF ~~**[183.234]**~~ **180.281** ACRES  
IN COOPER LANDING AS PART OF THE STERLING HIGHWAY MILE POST 45-60  
REALIGNMENT PROJECT TO THE STATE OF ALASKA DEPARTMENT OF  
TRANSPORTATION AND PUBLIC FACILITIES FOR A NEGOTIATED AMOUNT OVER  
APPRAISED VALUE

➤ Amend the third Whereas clause, as follows:

**WHEREAS,** DOT&PF has contracted with Black-Smith, Bethard & Carlson, LLC (Anchorage) for independent third-party appraisals of the identified ~~**[183.234]**~~ **180.281** acres of KPB land (Project Parcels) proposed as right-of-way under this project; and

**April 6, 2022**

**Page -2-**

**Re: Amendment to O2022-06**

➤ Amend Section 1, as follows:

**SECTION 1.** That the real property described below is owned by or under Management Authority of KPB and is identified by DOT&PF as necessary right-of-way acquisitions for completion of the Sterling Highway MP45-60 project.

Project Parcel	KPB Parent Parcel ID	Classification	Appraisal Effective Date	Right of Way Acreage	Appraised Value
1, 2, 3, 16	11912509 11912614 11912612 11912610	Preservation	2/01/2022	<del>[12.626]</del> <u>13.279</u>	\$44,200.00
11	11915007	Unclassified	10/25/2021	.28	\$13,700.00
13, 17	11912704	Preservation	2/01/2022	74.167	\$736,400.00
18	11907126	Preservation	12/03/2021	9.177	\$113,300.00
19A, 19B, 20	11907128 11907101	Recreational Preservation	2/01/2022	51.363	\$359,900.00
22	11907133	Recreational	12/03/2021	1.378	\$12,100.00
23	11907136	Residential	12/03/2021	.525	\$9,000.00
24	11907137	Residential	12/03/2021	1.103	\$32,100.00
25	11907138	Residential	12/03/2021	1.631	\$63,900.00
26	11907139	Residential	12/03/2021	1.667	\$55,700.00
27	11907140	Residential	12/03/2021	2.259	\$58,500.00
28	11907141	Residential	12/03/2021	2.325	\$54,900.00
29	11907142	Residential	12/03/2021	.406	\$26,100.00
30, 31	11907144 11907143	Recreational Preservation	12/03/2021	16.457	\$127,400.00
32	11907501(MA)	Recreational Preservation	2/01/2022	4.264	\$15,000.00
			<b>Total:</b>	<del>[183.234]</del> <u>180.281</u>	<b>\$1,722,200.00</b>

(MA = Municipal Entitlement Management Authority)

Your consideration of the above amendments is appreciated.



## **E. NEW BUSINESS**

### **ITEM E5 – RESOLUTION 2022-\_\_:**

**A resolution classifying certain parcel of borough owned land in the Diamond Ridge area.**

# Kenai Peninsula Borough

## Planning Department – Land Management Division

---

### MEMORANDUM

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

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

**FROM:** Julie Denison, Land Management Technician

**DATE:** March 31, 2022

**RE:** Resolution 2022-\_\_\_\_, Classifying Certain Parcels of Borough Owned Land in the Diamond Ridge Area (Mayor)

---

Pursuant to KPB 17.10.080, classification provides direction on how the Borough should manage its land. An application has been received to lease a 5-acre portion of borough land in the Diamond Ridge area. The Watermelon Trailhead is to the east of the subject area and is managed by Snomads, Inc. through a Community Trails Management Agreement. Land Management proposes to additionally classify the trailhead to reflect the current uses. The remainder of the parcels are not being proposed for classification.

Notification was sent by US mail on February 23, 2022, to all owners/leaseholders of record within a one-half mile radius of the parcels proposed for classification. Notice was also sent to KPB and state agencies. The notice consists of a cover letter, map and list of land classification definitions. Public notice will be published in the Peninsula Clarion and Homer News on March 23 and 30, 2022.

The attached staff report provides information regarding the classification process and detailed information regarding the parcel proposed for classification. This resolution would classify 7.3-acres consistent with the findings contained in the staff report.

Your consideration of this Resolution is appreciated.

Introduced by: Mayor  
Date: 04/19/22  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2022 -**

**A RESOLUTION CLASSIFYING CERTAIN PARCELS OF BOROUGH OWNED LAND  
IN THE DIAMOND RIDGE AREA**

**WHEREAS,** the Kenai Peninsula Borough has received title to the subject lands described below; and

**WHEREAS,** pursuant to KPB 17.10.080 classification provides guidance for the management of borough owned land; and

**WHEREAS,** public notice was published and notification was sent to land owners and/or leaseholders of record within a one-half mile radius of the land proposed for classification, including applicable departments, agencies, and interested parties; and

**WHEREAS,** the Kachemak Advisory Planning Commission at its regular scheduled meeting held on April 7, 2022 recommended \_\_\_\_\_; and

**WHEREAS,** the Kenai Peninsula Borough Planning Commission at its regular scheduled meeting of April 11, 2022 recommended \_\_\_\_\_.

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

**SECTION 1.** That based on the findings of fact, analysis, and conclusions contained in the staff report of April 11, 2022 the borough owned lands described below shall be classified as follows:

Description of Borough Land Proposed Lease				
Parcel ID No.	General Location	Legal Description	Acres + / -	Proposed Classification
17113141	Diamond Ridge	Portion of Tract A, ASLS 2003-6, Plat No. 2004-108, Homer Recording District, Third Judicial District, State of Alaska	4.3	Recreational

17113106	Diamond Ridge	Portion of SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> , NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , S <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , Section 27, Township 05 South, Range 13 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska	3.0	Recreational
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**SECTION 2.** This resolution shall be effective immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

\_\_\_\_\_  
Brent Johnson, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk



## AGENDA ITEM E5. PUBLIC HEARINGS

\_\_\_ Proposed Classification of Certain Borough Land, Pursuant to KPB Code of Ordinances, Chapter 17.10.080.

### STAFF REPORT

PC Meeting April 11, 2022

**Basis for Classification:** Subject parcels are being considered for future disposal or lease. Homer Rope Tow is requesting a lease of borough land for the construction/maintenance of a parking area for its visitors. Classification provides guidance for the management of borough land. KPB land must be classified prior to disposal or leasing pursuant to KPB Code of Ordinances, Chapter 17.10.090.

Description of Borough Land Proposed for Classification					
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Proposed Classification	Zoning
17113141	Diamond Ridge	Portion of Tract A, ASLS 2003-6, Plat No. 2004-108, Homer Recording District, Third Judicial District, State of Alaska	4.3	Recreational	Rural District
17113106	Diamond Ridge	Portion of SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> , NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , S <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , Section 27, Township 05 South, Range 13 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska	3	Recreational	Rural District

**Public Notice:** Public notice was published in the Peninsula Clarion and Homer Newspaper on March 23 and March 30, 2022. Public notice is sent to all land owners and/or leaseholders within a one-half mile radius of the land proposed to be classified, applicable agencies, and interested parties. The notice consists of a cover letter, map, and list of land classification definitions. Written public comments were requested to be returned by 4:00 p.m., April 6, 2022.

Description of Borough Land Proposed for Classification					
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Proposed Classification	Zoning
17113141	Diamond Ridge	Tract A, ASLS 2003-6, Plat No. 2004-108, Homer Recording District, Third Judicial District, State of Alaska	4.3	Recreational	Rural District
Classification Definition(s):	<p><b>"Recreational"</b> means land located in an area where the potential for recreational use exists. This may include both indoor and outdoor uses such as gun ranges, archery ranges, camping, golf courses, snow machine trails, cross country trails, skiing, boating, fishing or which may provide access to those activities. Recreational does not include use of lands for amusement parks. Site conditions for any authorized use must be appropriate and suited for such uses. Recreational lands disposed of to private parties must allow public use unless specifically waived by ordinance. If recreational lands are for sale or lease then restrictions may be imposed for appropriate uses given conditions and surrounding use. Not all activities are suitable for all sites.</p>				
Zoning:	Land use in the Rural District shall be unrestricted except as otherwise provided in KPB Title 21.				

**Overview:** A portion of a large acre parcel in the Diamond Ridge area near Mile Post 2 and along the north side of Ohlson Mountain Road. This parcel will be managed in combination with Parcel 17113106. Homer Rope Tow has applied for lease of five acres west of the Watermelon Trailhead.

**Findings of Fact:**

1. Property Status: The Borough received title by State Patent. The parcel is not classified (undesignated). The parcel is subject to several easements including a public parking area easement for the Watermelon trailhead, currently managed by Snomads, Inc. under a Community Trails Management Agreement serialized as CTMA 2021-01. Homer Rope Tow has applied for a lease of a 2-acre portion located west of the Watermelon Trailhead. This parcel is within Kenai Area Plan (KAP) Unit 209A. Per the KAP, conveyances will reserve legal access along the east side to provide access from Ohlson Mountain Road to top of the ski area, and Watermelon and Ohlson Mountain trails are reserved for access. This parcel does not have a South Peninsula Plan recommendation.

2. Zoning: The property is within the Rural District pursuant to KPB 21.04.010(B).

3. Topography: Subject parcel is generally level with rolling uplands and is partially wooded (~30%) with mostly spruce mixed with some birch and alder.

4. Soil: 8.6% of parcel is classified as **565 “Iliamna Silt Loam”**, sandy substratum, 4 to 15 percent slopes, well-drained with a depth to water table at more than 201 inches, somewhat limited for dwellings with and without basements, very limited for septic tank absorption, based on seepage, bottom layer.

28.7% of parcel is classified as **573 “Kachemak Silt Loam”**, sandy substratum, 4 to 8 percent slopes, well-drained with a depth to water table at more than 201 inches, not limited for dwellings with and without basements, very limited for septic tank absorption, based on seepage, bottom layer.

62.7% of parcel is classified as **575 “Kachemak Silt Loam”**, sandy substratum, 15 to 25 percent slopes, well-drained with a depth to water table at more than 201 inches, very limited for dwellings with and without basements, very limited for septic tank absorption, based on seepage, bottom layer.

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [Jan/19/2022].

(Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

5. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use includes residential and undeveloped land. The general area serves a wide variety of outdoor uses. Snomads, Inc. manages the Ohlson Mountain and Watermelon Trails and trailhead along the north side of Ohlson Mountain Road. Kachemak Nordic Ski Club, Inc. manages a system of trails and an event area on the south side of Ohlson Mountain Road. The Homer Rope Tow owns and operates a downhill skiing and snowboarding instructional program within close proximity.

6. Surrounding Land Ownership: The State of Alaska owns one parcel to the south of Ohlson Mountain Road. The surrounding land is primarily in private and borough ownership.

7. Access: The parcel has dedicated access along the south and west boundary. A 50-foot wide section-line easement exists along the west boundary of this parcel. The west side of the parcel also has a

gravel road built into it from Ohlson Mountain Road, a paved, AK DOT maintained road.

8. Utilities: Electric and telephone services are available.
9. Public Comment: As of the writing of this report **no written comments have been received**. Written comments received by the Planning Department after the writing of this report will be presented at the Planning Commission Hearing.
10. Kachemak Bay Advisory Planning Commission (KAPC) Review: On April 7, 2021 the KPAPC held a public meeting and recommended \_\_\_\_\_.
11. Department / Agency Comments: As of the writing of this report **three agencies responded with either no comment / no objection or had no issues**.

**Analysis:**

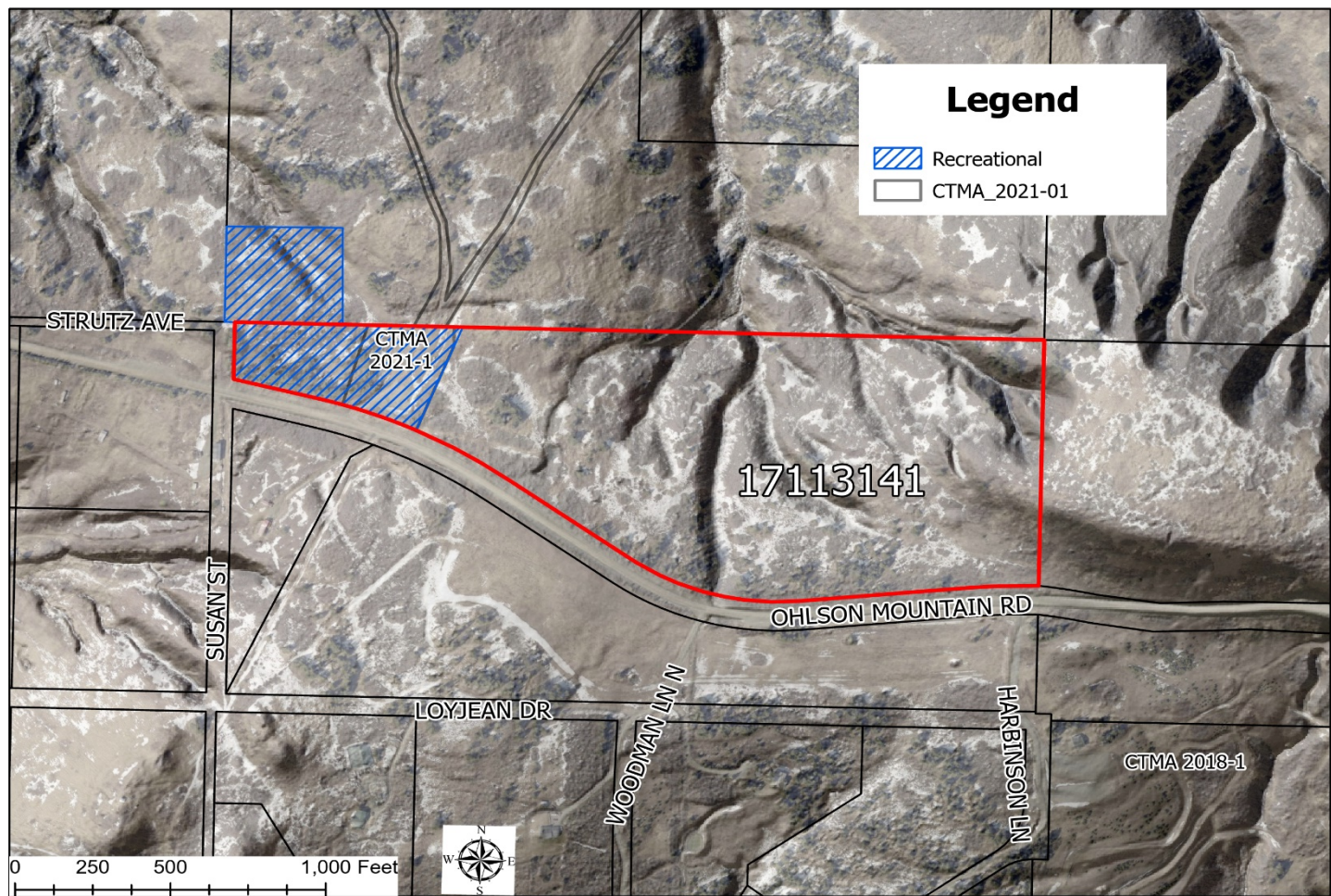
Several factors limit the development potential of this parcel including its shape and topography, wetlands, easements, and the existing road. The general area has historically served a variety of recreational public uses. The Watermelon Trailhead is actively managed by Snomads, Inc. and serves as a staging/parking area for accessing the Watermelon and Ohlson Mountain trails. Parking for visitors of the Homer Rope Tow is currently located to the west in a small pull-out along Ohlson Mountain Road. The pull-out is often full resulting in visitors parking along Ohlson Mountain Road and creating a safety concern within the right-of-way. Classifying subject parcel as Recreational is supported by Goal 1 (Focus Area: Tourism and Recreation), Objective B, Strategy 3, Goal 2 (Focus Area: Land Use), Objective A, Strategy 1.c, Objective C, Strategy 2.c, and Objective F, Strategy 1.c, Goal 3 (Focus Area: Housing), Objective D, Strategy 4 and Goal 4 (Focus Area: Transportation), Objective C, Strategy 1.g of the Kenai Peninsula Borough Comprehensive Plan.

**Conclusions:**

A recreational classification is compatible with the existing uses and the proposed new use.

**Recommendation:**

Based on the findings of fact, analysis, and conclusions, a Recreational classification is recommended.





Description of Borough Land Proposed for Classification					
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Proposed Classification	Zoning
17113106	Diamond Ridge	Portion of SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> , NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , S <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , Section 27, Township 05 South, Range 13 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska	3	Recreational	Rural District
Classification Definition(s):	<p><b>"Recreational"</b> means land located in an area where the potential for recreational use exists. This may include both indoor and outdoor uses such as gun ranges, archery ranges, camping, golf courses, snow machine trails, cross country trails, skiing, boating, fishing or which may provide access to those activities. Recreational does not include use of lands for amusement parks. Site conditions for any authorized use must be appropriate and suited for such uses. Recreational lands disposed of to private parties must allow public use unless specifically waived by ordinance. If recreational lands are for sale or lease then restrictions may be imposed for appropriate uses given conditions and surrounding use. Not all activities are suitable for all sites.</p>				
Zoning:	Land use in the Rural District shall be unrestricted except as otherwise provided in KPB Title 21.				

**Overview:** Large acre parcel in the Diamond Ridge area access off of Ohlson Mountain Road by way of Susan Street and a section line easement. This parcel will be managed in combination with Parcel 17113141. Homer Rope Tow has applied for a lease of five acres west of the Watermelon Trailhead.

#### Findings of Fact:

Property Status: The Borough received title by State patent. This parcel is not classified (undesignated). The parcel is subject to a public access and a public travelway easement for the Watermelon and Ohlson Mountain trails, each which are managed by Snomads, Inc., under a Community Trails Management Agreement serialized as CTMA 2021-01. The final recommendation of the South Peninsula Plan was for residential with a recreation corridor centered on existing trail, and possible Grazing overlay on the south end of the parcel.

1. Zoning: The property is within the Rural District pursuant to KPB 21.04.010(B).
2. Topography: This parcel is relatively level and mostly forested with spruce trees.
3. Soil: 46.4% of this parcel is classified as **573 "Kachemak Silt Loam"**, sandy substratum, 4 to 8 percent slopes, well-drained with a depth to water table at more than 201 inches, not limited for dwellings with and without basements, very limited for septic tank absorption, based on seepage, bottom layer.

53.6% of this parcel is classified as **575 "Kachemak Silt Loam"**, sandy substratum, 15 to 25 percent slopes, well drained with a depth to water table at more than 201 inches, very limited for dwellings with and without basements, very limited for septic tank absorption, based on seepage, bottom layer.

19.9% of this parcel is classified as **577 "Kachemak Silt Loam"**, sandy substratum, 35 to 45 percent

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [Jan/19/2022].

(Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

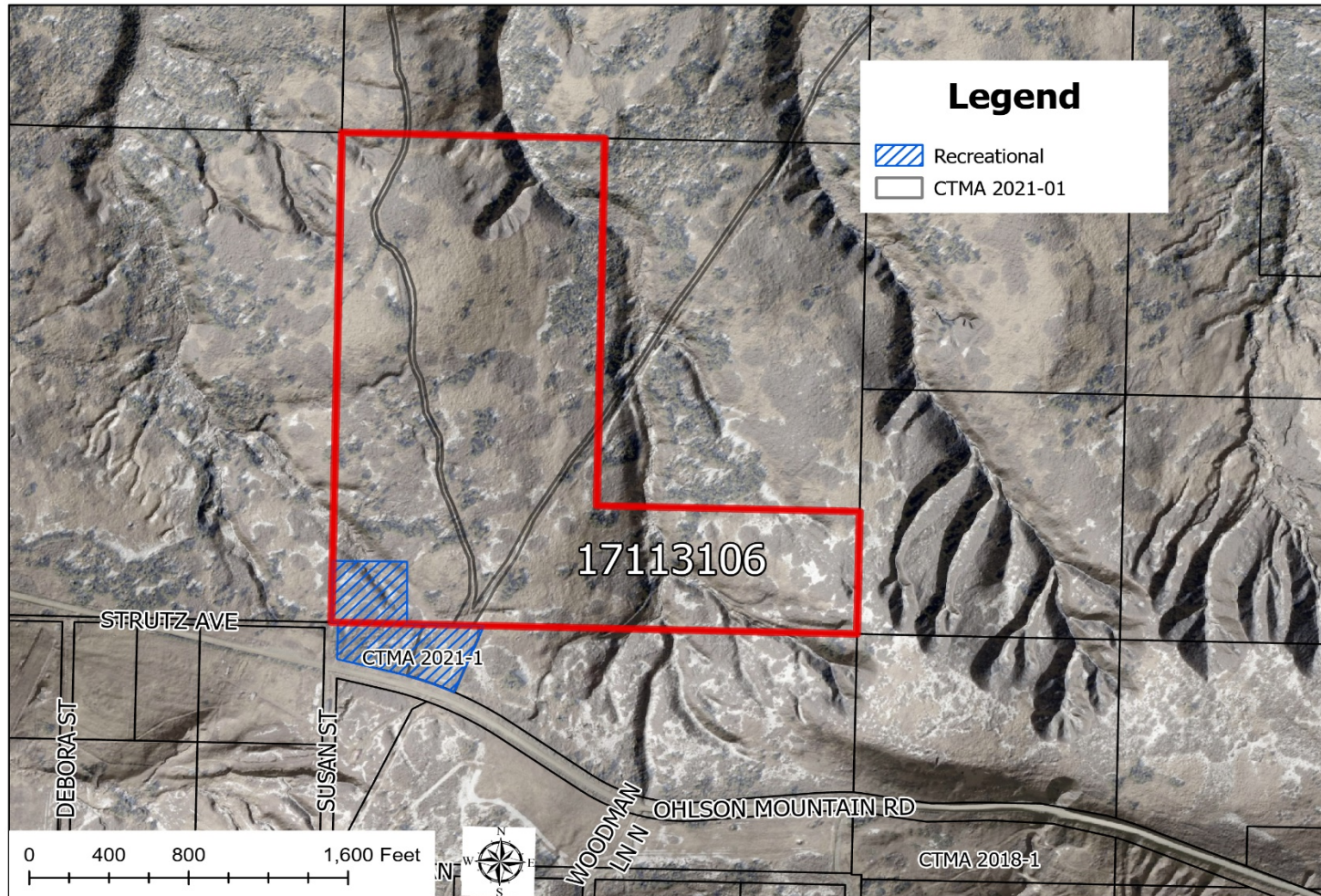
4. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use includes residential and undeveloped land. The Watermelon and Ohlson Mountain trails and trailhead are located in the area and are currently managed by Snomads, Inc. under a Community Trails Management Agreement serialized as CTMA 2021-01. Borough lands managed by the Kachemak Nordic Ski Club, Inc. under CTMA 2018-01 and east of Harbinson Lane have been classified as Recreational pursuant to KPB Resolution 2009-099.
6. Surrounding Ownership: Surrounding land ownership is primarily in private and borough ownership, with one parcel to the south of Ohlson Mountain Road being owned by the State of Alaska.
7. Access: The parcel is accessed from Susan Street located at approximately Mile Post 2.5 of Ohlson Mountain Road. There is an undeveloped 50-foot wide section line easement along the west parcel boundary. The parcel is subject to a 60-foot wide Public Access Easement shown on Plat No. 88-12, Homer Recording District (Watermelon Trail) and a 60-foot wide Public Travelway Easement (Ohlson Mountain Trail) recorded as document number 2016-001878-0 in the Homer Recording District.
8. Utilities: Electric and telephone services are available.
9. Public Comments: As of the writing of this report **one written comment has been received**. Written comments received by the Planning Department after the writing of this report will be presented at the Planning Commission Hearing.
10. Department / Agency Comments: As of the writing of this report **three agencies responded with either no comment / no objection or had no issues**.

#### **Analysis:**

With dedicated access, a section line easement, developed and maintained trails providing access to and through this parcel, suitable topography, and availability of utilities, this parcel has potential for economic development. Classifying the subject parcel as Recreational is supported by Goal 1 (Focus Area: Tourism and Recreation), Objective B, Strategy 3; Goal 2 (Focus Area: Land Use), Objective A, Strategy 1.c, Objective C, Strategy 2.c, and Objective F, Strategy 1.c; Goal 3 (Focus Area: Housing), Objective D, Strategy 4; and Goal 4 (Focus Area: Transportation), Objective C, Strategy 1.g of the Kenai Peninsula Borough Comprehensive Plan.

#### **Conclusions:**

A Recreational classification is compatible with the attributes and existing or future uses of the parcel and does not restrict future overlapping classifications.

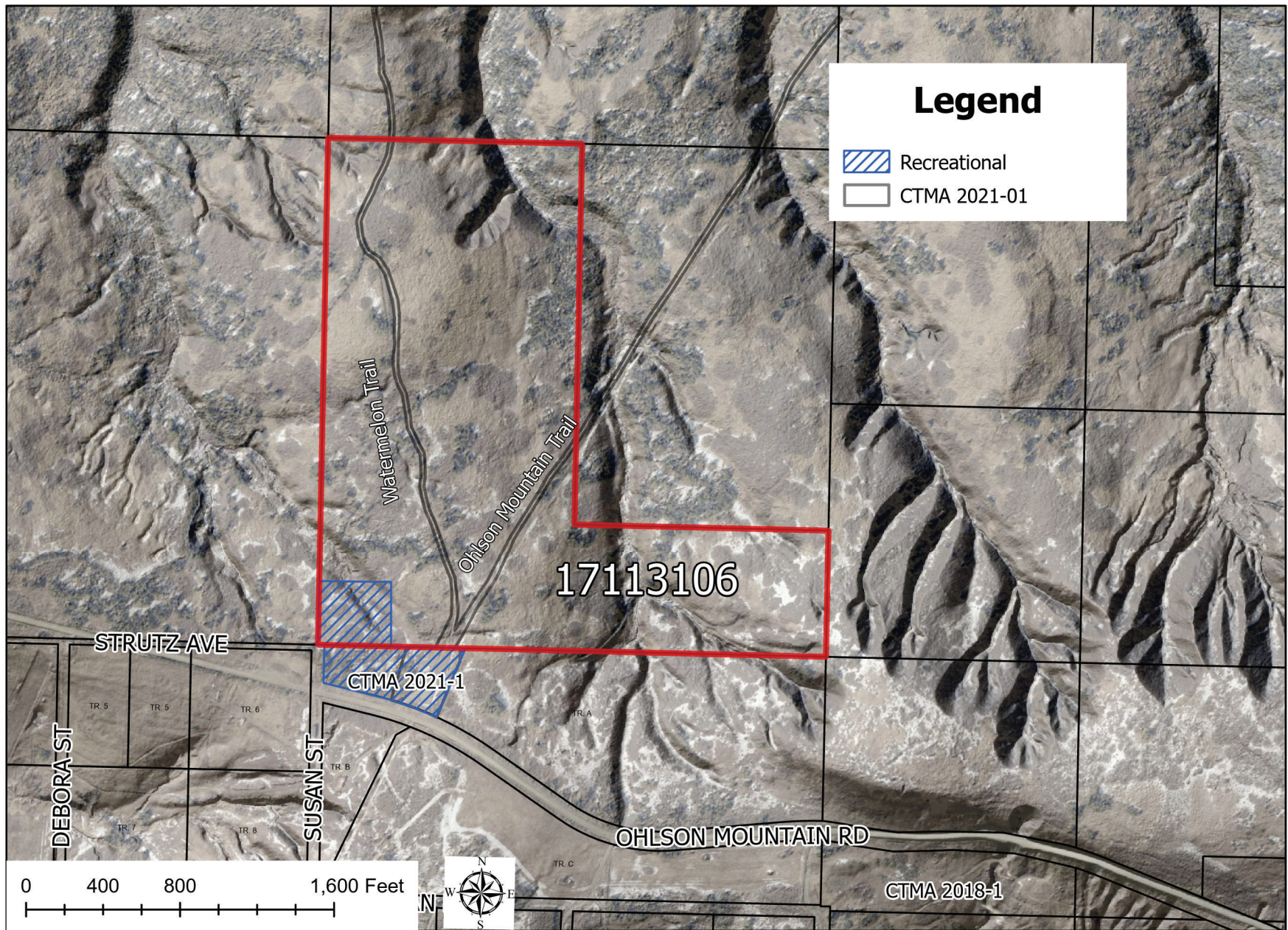


**STAFF RECOMMENDATION:** Based on the findings of fact, analysis, and conclusions that the KPB Planning Commission finds that it is in the borough's best interest to recommend adoption of a Resolution classifying subject land as follows:

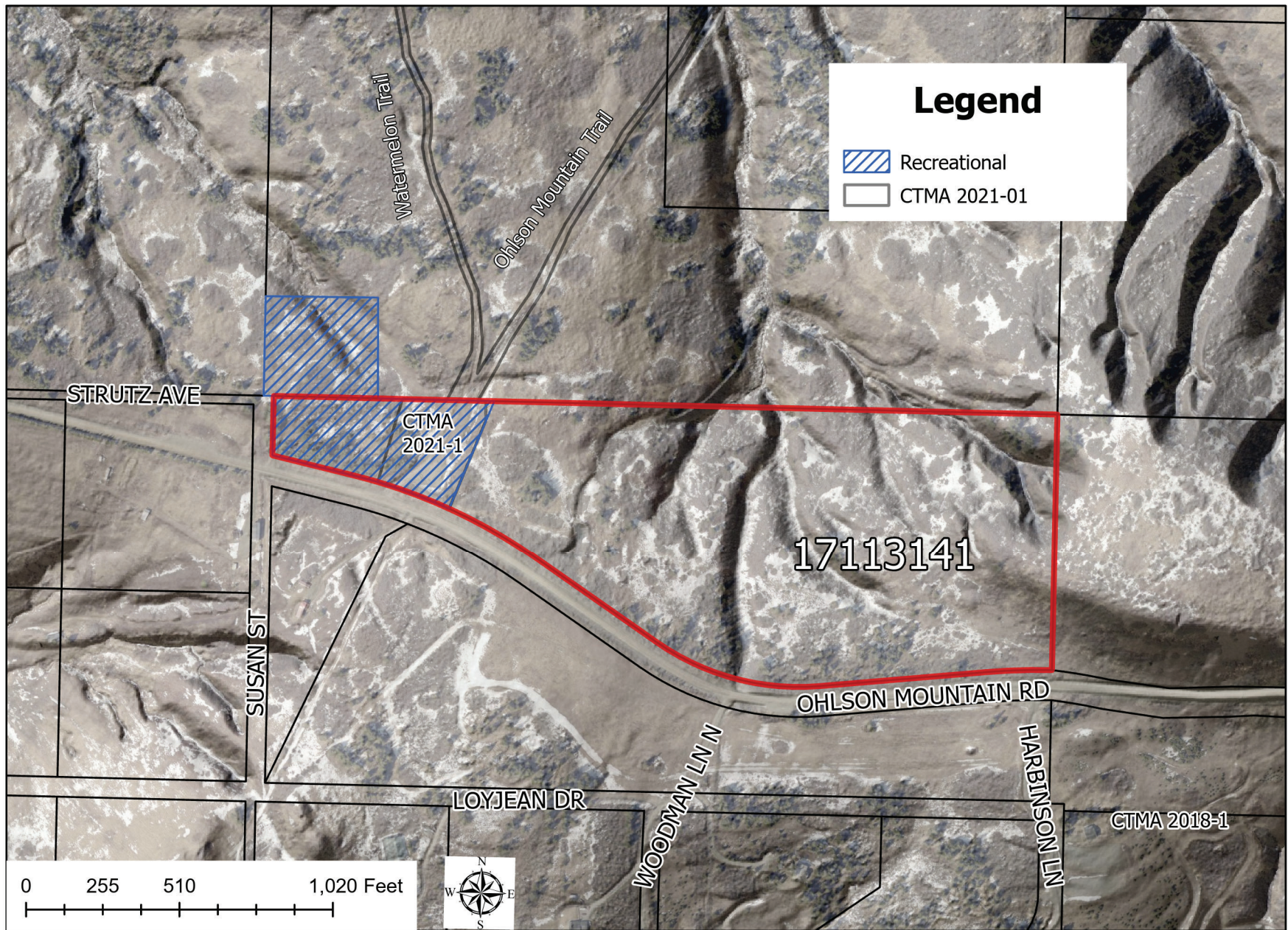
		<b>Description of Borough Land Proposed for Classification</b>			
<b>Assessor's Parcel No.</b>	<b>General Location</b>	<b>Legal Description</b>	<b>Acres+/-</b>	<b>Classification</b>	<b>Zoning</b>
17113141	Diamond Ridge	Portion of Tract A, ASLS 2003-6, Plat No. 2004-108, Homer Recording District, Third Judicial District, State of Alaska	4.3	Recreational	Rural District
17113106	Diamond Ridge	Portion of SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> , NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , S <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , Section 27, Township 05 South, Range 13 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska	3	Recreational	Rural District

END OF STAFF REPORT









## **E. NEW BUSINESS**

### **ITEM E6 – ORDINANCE 2022-09:**

**Authorizing a negotiated lease at less than fair market value of certain real property containing 3.5 acres more or less to the Anchor Point Food Pantry for a food pantry and other community uses.**



# Kenai Peninsula Borough

## Planning Department – Land Management Division

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### MEMORANDUM

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

**THRU:** Charlie Pierce, Mayor *CP*  
Melanie Aeschliman, Planning Director *MA*

**FROM:** Marcus Mueller, Land Management Officer *MM*

**DATE:** March 24, 2022

**RE:** Ordinance 2022-\_\_\_\_, Authorizing a Negotiated Lease at Less Than Fair Market Value of Certain Real Property Containing 3.5 Acres More or Less to the Anchor Point Food Pantry for a Food Pantry and Other Community Uses (Mayor)

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The Anchor Point Food Pantry (APFP) is a volunteer led local non-profit that has provided weekly meal service and food distribution for the greater Anchor Point area in partnership with several other organizations. APFP is working on plans to develop a long-term facility to continue their mission, with goals to expand services to the community.

APFP has applied for a negotiated lease of 3.5 acres of borough land, which was classified as institutional by Resolution 2021-075, located along School Avenue in Anchor Point. The property is currently being surveyed to form "Common Ground Subdivision" through the platting process.

This ordinance would authorize the Mayor to execute a 20-year lease, with one 10-year renewal option to APFP, with annual rental at a property tax rate equivalent for the 3.5-acre parcel of land. The lease is specified for purposes of community food pantry, community gatherings, community center uses and related activities, with a requirement that the uses be open to the general public.

Your review and consideration of this ordinance is appreciated.



Introduced by:	Mayor
Date:	04/05/22
Hearing:	04/19/22
Action:	
Vote:	

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-**

**AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE AT LESS THAN FAIR  
MARKET VALUE OF CERTAIN REAL PROPERTY CONTAINING 3.5 ACRES MORE  
OR LESS TO THE ANCHOR POINT FOOD PANTRY FOR A FOOD PANTRY AND  
OTHER COMMUNITY USES**

**WHEREAS,** the Kenai Peninsula Borough (“the borough”) owns the subject property; and

**WHEREAS,** Resolution 2021-075 classified 3.5 acres of land as institutional; and

**WHEREAS,** the Anchor Point Food Pantry (“APFP”) has submitted an application for negotiated lease of the 3.5 acres of land; and

**WHEREAS,** the APFP’s application includes a plan for phased development of a community food pantry with longer term plans of expansion to include a community center; and

**WHEREAS,** entering into a negotiated lease of the property to the APFP meets an identifiable community need which is supported by the borough’s Comprehensive Plan Land Use Objective F Strategy 1(c); and

**WHEREAS,** the Anchor Point Advisory Planning Commission at its regularly scheduled meeting of April 7, 2022 recommended \_\_\_\_\_; and

**WHEREAS,** the borough’s planning commission at its regularly scheduled meeting of April 11, 2022, recommended \_\_\_\_\_;

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

**SECTION 1.** That leasing 3.5 acres, described as: A 3.5 acre portion of the S1/2NE1/4 Per WD Book 143, Page 830 and Per QCD Book 194, Page 985, excluding that portion as per Commissioners QCD Book 194, Page 990, Section 4, T5S, R15W, Seward Meridian, Third Judicial District, State of Alaska, to the Anchor Point Food Pantry (APFP) at other than fair market value, pursuant to KPB 17.10.100 (I) and

17.10.120 (D) is in the best interest of the borough based on the following findings of facts:

- A. The APFP is currently in need of relocation to develop long term facilities to meet ongoing community needs through its weekly meal and food distribution programs.
- B. The APFP is organized and has a demonstrated history of providing and operating a food pantry for the public in the community at large.
- C. The identified location is an appropriate location for the proposed land use and is consistent with the land classification.
- F. Leasing the property to the Anchor Point Food Pantry meets an identifiable community land use need which is supported by the borough's Comprehensive Plan Land Use Objective F Strategy 1(c).
- G. The lease shall contain a condition that the land use is open to the public.

**SECTION 2.** That based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (I) to lease the land described in Section 1 above to APFP for a period of 20 years, with a 10-year renewal provision, at a rental rate equal to the unexempted real property tax rate, as determined by multiplying the most recent assessed value of the land by the effective real property tax mill rate for the locality, per year subject to the terms and conditions of this ordinance and subject to the terms and conditions substantially similar to those contained in the lease accompanying this ordinance. The authorization is for lease solely to the APFP and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

All other applicable terms and conditions of KPB Chapter 17.10 shall apply to this sale unless inconsistent with this ordinance.

**SECTION 3.** That in consideration for the lease at less than fair market value the property leased to APFP is subject to the restriction that the land shall be used solely for community food pantry, community gatherings, community center uses and related activities. APFP shall have the right to regulate use and may restrict use, provided that the manner of use is open to anyone regardless of race, color, religion, national origin, gender, marital status, pregnancy, parenthood or political affiliation. In the event APFP does not use, or ceases to use, the land leased as specified herein, the borough may terminate the lease.

**SECTION 4.** That the mayor is authorized to sign any documents necessary to effectuate this ordinance.

**SECTION 5.** That APFP shall have until 180 days after enactment of this ordinance to accept this offer by execution of the lease.

**SECTION 6.** That this ordinance takes effect immediately upon enactment.

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

\_\_\_\_\_  
Brent Johnson, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk

## **KENAI PENINSULA BOROUGH REAL PROPERTY LEASE**

For good and valuable consideration, and pursuant to Ordinance 2022-\_\_, enacted \_\_\_\_, 2022, the Kenai Peninsula Borough, an Alaska municipal corporation whose address is 144 North Binkley Street, Soldotna, Alaska 99669, ("KPB"), grants to the Anchor Point Food Pantry, an Alaska non-profit corporation, PO Box 266 Anchor Point, AK 99556 ("Lessee" or "APFP"), use of the following described parcel of real property ("the Property") situated in the Homer Recording District, Third Judicial District, State of Alaska, and described as follows:

A 3.5 acre portion of the S1/2NE1/4 Per WD Book 143, Page 830 and Per QCD Book 194, Page 985, excluding that portion as per Commissioners QCD Book 194, Page 990, Section 4, T5S, R15W, Seward Meridian, State of Alaska, containing 3.5 acres, more or less, subject to survey and platting, as shown on Exhibit A, Plan of Survey.

### **PURPOSE OF LEASE**

Pursuant to Ordinance 2022-\_\_ the purpose of this Lease is for the development, use, and maintenance of a community food pantry and community center and other related activities, as described in Lessee's Approved Development Plan ("the Development Plan"), attached hereto and incorporated by reference. The Property shall be used for the purposes within the scope of the application, the terms and conditions of the Lease, and in conformity with the Lessee's Development Plan. Use or development for other than allowed purposes shall subject the Lease to termination.

- a. Modification of Development Plan. The Development Plan may be modified by mutual agreement to advance the purpose of this Lease. Modifications of Lessee's development plan may be made through the written approval of the KPB Mayor of a modified development plan submitted by Lessee to the KPB in writing at least 60 days prior to anticipated modification of uses or improvements on the Lease. Approved modifications shall be attached to this Lease and effective upon the Mayor's written approval.
- b. Special Requirements. KPB may impose special requirements under this Lease as it deems reasonable and necessary to advance the public's best interest in the management of the Property.



## **TERMS AND CONDITIONS**

1. Lease Term. This Lease is for a term of 20 years commencing May 15, 2022, and terminating May 14, 2042. Lessee shall have the option to renew this Lease for one additional ten (10) year term. Renewal option shall be exercised in writing by Lessee no less than 90 days in advance of the expiration of the initial term.
2. Lease Rental. Pursuant to KPB Ordinance 2022-\_\_ the annual lease rental for the term of this Lease shall be equal to the unexempted real property tax rate, as determined by multiplying the most recent assessed value of the land by the effective real property tax mill rate for the locality. Payment shall be made in advance, on or before 15<sup>th</sup> day of May of every year of the said term. The lease rental amount is separate from and in addition to any real property tax that the Lessee is responsible for under the Lease. The rental for the 1<sup>st</sup> year of the Lease is calculated at \$280.00.
3. Use By General Public. In consideration for the Lease at less than fair market value the Property leased to APFP is subject to the restriction that the Property shall be used solely for community food pantry, community gatherings, community center uses and related activities. Lessee shall have the right to regulate use and may restrict use, provided that the manner of use is open to anyone regardless of race, color, religion, national origin, gender, marital status, pregnancy, parenthood or political affiliation. In the event Lessee does not use, or ceases to use, the Property leased as specified herein, KPB may terminate the lease.
4. Waste. Lessee shall not commit waste or injury upon the Property leased herein.
5. Fire Protection. Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress, destructive and uncontrolled grass, brush, and forest fires on the Property, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.
6. Safety. Lessee shall be solely responsible for maintaining the Property in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the Property developed or used for pedestrian traffic.
7. Sanitation. Lessee shall comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property shall be kept in a clean and sanitary condition and every effort shall be made to prevent pollution of the waters and lands.
8. Hazardous Materials and Hazardous Waste. Except as may be authorized through an approved development plan as customary and necessary for shooting range facilities, including provisions for the means and methods of handling and management of materials, the storage, handling and disposal of hazardous waste shall not otherwise be allowed on lands under lease from KPB per KPB Code, Section 17.10.240(H).

Lessee shall comply with all applicable laws and regulations concerning hazardous chemicals and other hazardous materials, and shall properly store, transfer and use all

hazardous chemicals and other hazardous materials and not create any environmental hazards on the lands leased herein. In no event may LESSEE utilize underground storage tanks for the storage or use of hazardous chemicals or other hazardous materials.

Should any hazardous chemicals or hazardous materials of any kind or nature whatsoever, or hazardous wastes be released upon the subject lands during the term of this lease, Lessee shall IMMEDIATELY report such release to the KPB Planning Director or other appropriate KPB official and to any other agency as may be required by law, and Lessee shall, at its own cost, assess, contain and clean up such spilled materials in the most expedient manner allowable by law.

As used herein, "hazardous chemical" means a chemical that is a physical hazard or a health hazard.

As used herein, "hazardous material" means a material or substance, as defined in 49 C.F.R. 171.8, and any other substance determined by the federal government, the state of Alaska or KPB, to pose a significant health and safety hazard.

As used herein, "hazardous waste" means a hazardous waste as identified by the Environmental Protection Agency under 40 C.F.R. 261, and any other hazardous waste as defined by the federal government, the state of Alaska or KPB.

The covenants and obligations described in this article shall survive the termination of this lease.

9. Compliance with Laws. Lessee agrees to comply with all applicable federal, state, borough and local laws and regulations.
10. Easements and Rights-of-Way. This Lease is subject to all easements, rights-of-way, covenants and restrictions of which Lessee has actual or constructive notice. KPB reserves and retains the right to grant additional easements for utility and public access purposes across the Property and nothing herein contained shall prevent KPB from specifically reserving or granting such additional easements and rights-of-way across the Property as may be deemed reasonable and necessary.

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

11. Inspections. Lessee shall allow KPB, through its duly authorized representative, to enter and inspect the Property at any reasonable time, with or without advance notice to Lessee, to ensure compliance with the terms and conditions of this lease. KPB's right to enter and inspect shall be exercised at KPB's sole discretion and the reservation or exercise of this right, and any related action or inaction by KPB, shall not in any way impose any obligation whatsoever upon KPB, and shall not be construed as a waiver of any rights of KPB under this Lease.

12. Indemnification and Liability Insurance.

- a. Indemnification and Hold Harmless. The Lessee shall indemnify, defend, save and hold KPB, its elected and appointed officers, agents, volunteers, counsel, and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys' fees resulting from Lessee's performance or failure to perform in accord with the terms of this lease in any way whatsoever. The Lessee shall be responsible under this clause for any and all claims of any character resulting from Lessee or Lessee's officers, agents, employees, partners, attorneys, suppliers, and subcontractors performance or failure to perform this agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by KPB or its agents, which are said to have contributed to the losses, failure, violations, or damage. However, Lessee shall not be responsible for any damages or claims arising from the sole negligence or willful misconduct of the borough, its agents, or employees.
- b. Liability Insurance. Lessee shall purchase at its own expense and maintain in force at all times during the term of this Lease Comprehensive General Liability Insurance, which shall include bodily injury, personal injury, and property damage with respect to the property and the activities conducted by the Lessee in which the coverage shall not be less than \$1,000,000 per occurrence. The policy purchased shall name Lessee as the insured and KPB as an additional insured, and shall also require the insurer to provide KPB with thirty (30) days or more advance written notice of any pending cancellation or change in coverage. Insurance coverage limits shall be adjusted every 10 years to match KPB's then-current standard limit requirements for similar contracts.
- c. Proof of Insurance. At the time of executing this agreement, and at the time of each renewal of insurance, Lessee shall deliver to the KPB Planning Director certificates of insurance meeting the above criterion.

13. Property Taxes. Lessee shall timely pay all real property taxes, assessments and other debts or obligations owed to KPB. Pursuant to KPB Code, Section 17.10.120(F) this agreement will terminate automatically should Lessee become delinquent in the payment of any such obligations.

14. Assignments. Lessee may assign this Lease only if approved in advance by KPB. Applications for assignment shall be made in writing on a form provided by the Land Management Division. The assignment shall be approved if it is found that all interests of KPB are fully protected. The assignee shall be subject to and governed by the provisions of this Lease and laws and regulations applicable thereto.

15. Subleasing. No Lessee may sublease lands or any part thereof without written permission of the KPB Mayor when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

16. Cancellation. At any time that this Lease is in good standing it may be canceled in whole or in part upon mutual written agreement by the Lessee and either the KPB Mayor or Planning Director when applicable. This Lease is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts.
17. Termination. Upon termination of this Lease, Lessee covenants and agrees to return the Property to KPB in a neat, clean and sanitary condition, and to immediately remove all items of personal property subject to the terms and conditions of paragraph 21 below. All terms and conditions set out herein are considered to be material and applicable to the use of the Property under this Lease. Subject to the following, in the event of Lessee's default in the performance or observance of any of the agreement terms, conditions, covenants and stipulations thereto, and such default continues thirty (30) calendar days after written notice of the default, KPB may terminate this lease, or take any legal action for damages or recovery of the Property. No improvements may be removed during the time in which the contract is in default.

In the event Lessee breaches any provisions prohibiting the release of hazardous chemicals, hazardous materials or hazardous waste upon the Property, and fails to immediately terminate the operation causing such release upon notice from KPB, then KPB may immediately terminate this Lease without further notice to Lessee.

18. Violation. Violation of any of the terms of this Lease may expose Lessee to appropriate legal action including forfeiture of lease/purchase interest, termination, or cancellation of its interest in accordance with state law.
19. Notice of Default. Notice of the default, where required, will be in writing and as provided in the Notice provision of this agreement.
20. Entry or Re-entry. In the event that the Lease is terminated, canceled or forfeited, or in the event that the Property, or any part thereof, should be abandoned by the Lessee during the Lease term, KPB or its agents, servants or representatives, may immediately or any time thereafter, enter or re-enter and resume possession of the Property or such part thereof, and remove all persons and property therefrom either without judicial action where appropriate, by summary proceedings or by a suitable action or proceeding at law or equity without being liable for any damages therefor. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the contract.
21. Removal or Reversion of Improvements Upon of Lease.
  - a. Improvements on the property owned by Lessee shall, within thirty calendar days after the termination of the Lease, be removed by Lessee; provided such removal will not cause injury or damage to the Property; and further provided that the Mayor, or Planning Director when applicable, may extend the time for removing such improvements in cases where hardship is proven. The Lessee may dispose of its improvements to a succeeding Lessee with the consent of the KPB Mayor.
  - b. If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within



the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee under the terminated or canceled contract, be sold at public sale under the direction of the KPB Mayor and in accordance with the provisions of KPB Code. The proceeds of the sale shall inure to the Lessee who placed such improvements and/or chattels on the Property, or its successors in interest, after paying to KPB all monies due and owing plus all costs, fees and expenses incurred in storing the goods and making such a sale. In case there are no other bidders at any such sale, the KPB Mayor is authorized to bid, in the name of KPB, on such improvements and/or chattels. The bid money shall be taken from the fund to which said Property belongs, and the fund shall receive all moneys or other value subsequently derived from the sale or leasing of such improvements and/or chattels. KPB shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

- c. If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the KPB Mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in KPB. Upon request, the purchaser, Lessee, or permittee shall convey said improvements and/or chattels by appropriate instrument to KPB.

- 26. Rental for Improvements or Chattels not Removed. Any improvements and/or chattels belonging to the Lessee or placed on the Property during its tenure with or without its permission and remaining upon the Property after the termination of the Lease shall entitle KPB to charge a reasonable rent therefor.
- 27. Resale. In the event that this Lease should be terminated, canceled, forfeited or abandoned, KPB may offer the Property for sale, lease or other appropriate disposal pursuant to the provisions of KPB Code, Chapter 17.10 or other applicable regulations. If the Property is not immediately disposed of, then said land shall return to the Land Bank.
- 28. Notice. Any notice or demand, which under the terms of this Lease must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the Lease. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

All notices shall be sent to both parties as follows:

Lessor  
 KENAI PENINSULA BOROUGH  
 Planning Director  
 144 N. Binkley  
 Soldotna, AK 99669-7599

Lessee  
 Anchor Point Food Pantry  
 Melissa Martin, President  
 PO Box 266  
 Anchor Point, AK 99556

29. Responsibility of Location. It shall be the responsibility of the Lessee to properly locate itself and its improvements on the leased lands.
30. Liens and Mortgages. Lessee shall not cause or allow any liens of any kind or nature whatsoever to attach to the property during the term of this lease, except in connection with financing transactions as discussed below. In the event that any prohibited lien is placed against the Property, Lessee shall immediately cause the lien to be released. Lessee shall immediately refund to KPB any monies that KPB may, at its sole discretion, pay in order to discharge any such lien, including all related costs and a reasonable sum for attorneys' fees.

For the purpose of interim or permanent financing of improvements to be placed upon the Property, and for no other purpose, Lessee, after giving written notice thereof to KPB, may encumber by mortgage, deed of trust, assignment or other appropriate instrument, Lessee's interest in the Property and in and to this Lease, provided such encumbrance pertains only to such leasehold interest and does not pertain to or create any interest in KPB's title to or interest in the Property. Any such encumbrance shall be entirely subordinate to KPB's rights and interest in the Property.

A leasehold mortgagee, beneficiary of a deed of trust or security assignee shall have and be subrogated to any and all rights of the Lessee with respect to the curing of any default hereunder by Lessee.

In the event of cancellation or forfeiture of this Lease for cause, the holder of a properly recorded mortgage, deed of trust, or assignment will have the option to acquire the Lease for the unexpired term thereof, subject to the same terms and conditions as in the original instrument.

31. Non-Waiver Provision. The receipt of payment by KPB, regardless of KPB's knowledge of any breach by Lessee, or of any default on the part of the Lessee in observance or performance of any of the conditions or covenants of this Lease, shall not be deemed to be a waiver of any provision of the agreement. Failure of KPB to enforce any covenant or provision herein contained shall not discharge or invalidate such covenant or provision or affect the right of KPB to enforce the same in the event of any subsequent breach or default. The receipt by KPB of any payment of any other sum of money after notice of termination or after the termination of the Lease for any reason, shall not reinstate, continue or extend the Lease, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and the payment fully satisfies the breach.
32. Jurisdiction. Any suits filed in connection with the terms and conditions of this Lease, and of the rights and duties of the parties, shall be filed and prosecuted in the Third Judicial District at Homer, Alaska and shall be governed by Alaska law.
33. Savings Clause. Should any provision of this Lease fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of this Lease or constitute any cause of action in favor of either party as against the other.

34. Binding Effect. It is agreed that all covenants, terms and conditions of this Lease shall be binding upon the successors, heirs and assigns of the original parties hereto.
35. Full and Final Agreement. This Lease constitutes the full and final agreement of the parties hereto and supersedes any prior or contemporaneous agreements. This Lease may not be modified orally, or in any manner other than by an agreement in writing and signed by both parties or their respective successors in interest. Lessee avers and warrants that no representations not contained within this Lease have been made with the intention of inducing execution of this Lease.
36. Lessee warrants that the persons executing this agreement are authorized to do so on behalf of APFP.

Anchor Point Food Pantry

KENAI PENINSULA BOROUGH

\_\_\_\_\_  
Melissa J. Martin, President

\_\_\_\_\_  
Charlie Pierce, Mayor

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Chris Anne Syme, Secretary

Dated: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY BY:

\_\_\_\_\_  
Johni Blankenship  
Borough Clerk

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

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Melissa J. Martin, President, Anchor Point Food Pantry, an Alaska non-profit corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_



## NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Chris Anne Syme, Secretary, Anchor Point Food Pantry, an Alaska non-profit corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

Return to:   Kenai Peninsula Borough  
              Land Management Division  
              144 N. Binkley Street  
              Soldotna, AK 99669

---

(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: Anchor Point Food Pantry  
 Legal Description: Lot 4, Common Ground  
 Subdivision, Plat No 2022-\_\_\_\_\_  
 Homer Recording District, Alaska

**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 ("**Lessor**") and **ANCHOR POINT FOOD PANTRY**, an Alaska non-profit corporation, having a mailing address of PO Box 266, Anchor Point, AK 99556 ("**Lessee**").

1. Lessor and Lessee entered into a certain Real Property Lease ("Lease") on the 15<sup>th</sup> day of May, 2022, for the purpose of development, use, and maintenance of a community food pantry and community center and other related activities, as described in Lessee's Approved Development Plan. All of the foregoing is set forth in the Lease.
2. The initial lease term will be twenty (20) years commencing on the Effective Date with one (1) ten (10) year option to renew.
3. The Real Property being leased to Lessee is described as Lot 4, Common Ground Subdivision, Plat No. 2022-22, Homer Recording District, Third Judicial District, State of Alaska.
4. Lessor and Lessee now desire to execute this Memorandum to provide constructive knowledge of Lessee's lease of the Real Property.
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.

Anchor Point Food Pantry

KENAI PENINSULA BOROUGH

\_\_\_\_\_  
 Melissa J. Martin, President

\_\_\_\_\_  
 Charlie Pierce, Mayor

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Chris Anne Syme, Secretary

Dated: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY BY:

\_\_\_\_\_  
Johni Blankenship  
Borough Clerk

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

#### NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Melissa J. Martin, President, Anchor Point Food Pantry, an Alaska non-profit corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Chris Anne Syme, Secretary, Anchor Point Food Pantry, an Alaska non-profit corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_



# NEGOTIATED SALE, LEASE OR EXCHANGE OF BOROUGH LAND

## KENAI PENINSULA BOROUGH

### LAND MANAGEMENT DIVISION

144 N. Binkley Street  
Soldotna, AK 99669-7599  
[lmweb@kpb.us](mailto:lmweb@kpb.us)

Phone: 907-714-2205  
Fax: 907-714-2378

A \$500.00 fee must be submitted with this application. The \$500.00 is not applied to the purchase price and is refunded only if the application is not found to be in the public's best interest.

This form is to be completed by individuals or organizations wishing to purchase, lease or exchange borough land pursuant to KPB 17.10.100 (C) or (I). The application is to be completed in full to the best of knowledge of the individual or authorized representative. If requested, proprietary and financial information of the applicants, that is so marked, will be kept confidential. The assembly must approve, by ordinance, any disposition of borough land. The application process generally takes between 90-180 days.

Attach separate sheets of paper if more space is needed for explanation. If a section (*or portion thereof*) is not applicable, mark with the abbreviation "N/A". Contact Kenai Peninsula Borough Land Management staff if you have any questions about the information requested on the application. Please type or print.

### Applicant Information

Name: \_\_\_\_\_

Organization: \_\_\_\_\_ Anchor Point Food Pantry

Mailing Address: \_\_\_\_\_ PO Box 266, Anchor Point, AK 99556

Phone: \_\_\_\_\_ 907-299-8437 Email: \_\_\_\_\_ apfp.266@gmail.com

### Other individuals(s) or organizations(s) party to this application *(add additional pages if needed):*

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### Type of Organization *(check one):*

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Individual            | <input type="checkbox"/> Sole Proprietorship       | <input type="checkbox"/> General Partnership |
| <input checked="" type="checkbox"/> Non-Profit | <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Limited Partnership |
| <input type="checkbox"/> Corporation           | <input type="checkbox"/> Other:                    |  |

Note: Please submit, as appropriate, the following items with this application:

1. Current Alaska Business License
2. Designation of Signatory Authority to Act for Organization or Individual
3. Non-Profits – IRS Tax Exemption Status
  - ☒ Yes – Please attach letter of determination
  - ☐ No – Please attach certificate, articles of incorporation, by-laws, or other appropriated documentation.

**Description of parcel(s) of interest (add additional pages if needed):**

Legal Description: T53 R 15W SEC 4 SEWARD MARIDIAN;  
Institutional portion of parcel 16905071

Plat Number (if applicable): \_\_\_\_\_ Recording District: \_\_\_\_\_

Tax Parcel ID: 16905071 Size/Acreage: 3.5

**This application is being made for the following (check the appropriate box);**

☐ Purchase    ☒ Lease    ☐ Exchange    ☐ Other (please specify)

**Complete this section for Negotiated Sales Only:**

a. Offer Price: \_\_\_\_\_

b. Are you wishing to seek Borough financing for this purchase    ☐ Yes    ☐ No  
 (If yes, terms will be discussed during the negotiations)

c. Please explain the reasons why you believe the Borough should sell this land to you, be specific (add additional pages if needed):

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**If the proposal is for other than fair market value, please state why it would be in the public's best interest to approve this proposal. Include all supporting facts & documents.**

As a lease, the Anchor Point Food Pantry and its planning committee (June 2021)

collaborated on plans to build a hall that will facilitate a revenue for the pantry, thus providing a  
venue for general public use.

**Are there any existing improvements on this land? If yes please describe and provide photos if available.**

None known

**Attach a site plan depicting the proposed use of the property.**

Plan attached ☒ Yes ☐ No

**Has the applicant or affiliated entity previously purchased or leased Borough owned land or resources:**

☒ No ☐ Yes (*If yes provide legal description; type of purchase/lease and its' current status*)

**Has the applicant or affiliated entity ever filed a petition for bankruptcy, been adjudged bankruptor, or made an assignment for the benefit of a creditor?**

☒ No ☐ Yes (*If yes please explain, including dates*):

**Is the applicant or affiliated entity now in default on any obligation to, or subject to any unsatisfied judgment or liens?**

☒ No ☐ Yes (*If yes, please explain*):

**Complete the following applicant qualification statement for each individual applicant or organization (*attach additional statements as necessary*):**

**APPLICANT QUALIFICATION STATEMENT**

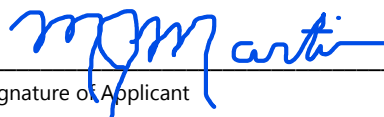
**Name:** Anchor Point Food Pantry

**Address:** PO Box 266, Anchor Point, AK 99556

I hereby swear and affirm to the best of my knowledge:

- That I am eighteen years of age or older; and
- I am a citizen of the United States or a permanent resident who has filed a declaration of intention to become a citizen or a representative of a group, association or corporation which is authorized to conduct business under the laws of Alaska; and
- I am not delinquent on any deposit or payment obligation to the Kenai Peninsula Borough (KPB); and
- I am not currently in breach or default on any contract or lease involving land in which KPB has not acted to terminate the contract or lease or to initiate legal action.
- Unless agreed otherwise in writing and signed by the KPB mayor, the above named applicant agrees to provide a performance bond, general liability insurance, damage deposit, and pay for remote site inspection, if applicable.

I hereby certify that the information contained herein is true to the best of my knowledge and belief.

  
\_\_\_\_\_  
Signature of Applicant

March 19, 2022  
Date

Melissa J. Martin  
Print Name



# Tax Compliance Certification

## Kenai Peninsula Borough

### Finance Department

144 N. Binkley Street  
Soldotna, Alaska 99669-7599  
www.kpb.us

Phone: (907) 714-2197  
or: (907) 714-2175  
Fax: (907) 714-2376



**Fill in all information requested. Sign and date, and submit with bid or proposal.**

For Official Use Only

Reason for Certificate:	Food Pantry relocation	For Department:	
Business Name:	Anchor Point Food Pantry		
Business Type:	<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Other:		
Owner Name(s):			
Business Mailing Address:	PO Box 266, Anchor Point, AK 99556-0266		
Business Telephone:	907-299-8437	Business Fax:	
Email:	apfp.266@gmail.com		

As a business or individual, have you ever conducted business or owned real or personal property within the Kenai Peninsula Borough? (If yes, please supply the following account numbers and sign below. If no, please sign below.)

☐ Yes    ☐ No    Kenai Peninsula Borough Code of Ordinances, Chapter 5.28.140, requires that businesses/individuals contracting to do business with the Kenai Peninsula Borough be in compliance with Borough tax provisions. No contract will be awarded to any individual or business who is found to be in violation of the Borough Code of Ordinances in the several areas of taxation.

REAL/PERSONAL/BUSINESS PROPERTY ACCOUNTS	
ACCT. NO.	ACCT. NAME

\_\_\_\_\_  
KPB Finance Department (signature required)

SALES TAX ACCOUNTS	
ACCT. NO.	ACCT. NAME

\_\_\_\_\_  
KPB Sales Tax Division (signature required)

Melissa J. Martin

CERTIFICATION: I, \_\_\_\_\_ the \_\_\_\_\_, hereby certify that, to the  
(Name of Applicant)  
 best of my knowledge, the above information is correct as of \_\_\_\_\_.  
(Date)

TAX ACCOUNTS/STATUS (TO BE COMPLETED BY KPB)	
YEAR LAST PAID	BALANCE DUE

\_\_\_\_\_  
☐ In Compliance    ☐ Not in Compliance  
 Date

TAX ACCOUNTS/STATUS (TO BE COMPLETED BY KPB)	
YEAR LAST PAID	BALANCE DUE

\_\_\_\_\_  
☐ In Compliance    ☐ Not in Compliance  
 Date

President

\_\_\_\_\_  
 Signature of Applicant (Required)

Resolution of the Anchor Point Food Pantry Board of Directors  
Regarding the application of a long-term property lease from the Kenai Peninsula Borough

Whereas the Board believes the mission of the Anchor Point Food Pantry is important to, valued by and needed by the Anchor Point and surrounding community; and

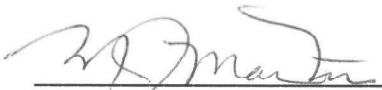
Whereas the Board believes the establishment of a permanent place for the Pantry is necessary to assure its long-term sustainable operation; and

Whereas the Board believes the establishment of a permanent place for the Pantry can be leveraged to further realize the long-term vision of the Anchor Point Food Pantry as a cornerstone community organization; and

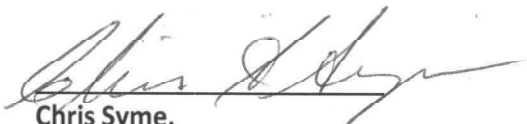
Whereas the Anchor Point Food Pantry Board believes that the Kenai Peninsula Borough Property Tax Parcel ID: 16905071 (3.5 acres, Institutional Portion) is the best opportunity for the Pantry to establish a long-term permanent place that will sustainably continue the Pantry's mission for the community and the opportunity to realize the long-term vision of the Pantry, having the community's best interest in mind.

Now, therefore, be it resolved that the Board of Directors of the Anchor Point Food Pantry hereby directs Melissa Martin, President, Executive Director, to prepare and apply for a land lease to the Kenai Peninsula Borough for the subject property; and furthermore, authorizes the president to enter into a lease agreement with the Kenai Peninsula Borough; and to sign for and perform any and all responsibilities in relation to such agreement. The Board of Directors further authorizes the president to undertake such planning and development preparation activities as is necessary to establish sustainable Pantry operations on said property.

Location: KPB Tax Parcel ID: 16905071 (3.5 acres, Institutional Portion)



**Melissa J Martin,**  
APFP President, Executive Director



**Chris Syme,**  
APFP Secretary

Date: March 3, 2022

Alaska Business License # 2090225

## Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing

PO Box 110806, Juneau, AK 99811-0806

This is to certify that

### Anchor Point Food Pantry

PO Box 266, 73358 School St., ANCHOR POINT, AK 99556-0266

owned by

Anchor Point Food Pantry

is licensed by the department to conduct business for the period

December 3, 2020 to December 31, 2022  
for the following line(s) of business:

62 - Health Care and Social Assistance



This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.  
It is not transferable or assignable.

Julie Anderson  
Commissioner

ANCHOR POINT FOOD PANTRY  
CINCINNATI, OH 45201

Date: DEC 22 2016

ANCHOR POINT FOOD PANTRY  
PO BOX 266  
ANCHOR POINT, AK 99556-0266

Employer Identification Number:  
46-1962921  
DLN:  
26053740003066  
Contact Person:  
CUSTOMER SERVICE ID# 31954  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
October 31  
Public Charity Status:  
509(a)(2)  
Form 990/990-EZ/990-N Required:  
Yes  
Effective Date of Exemption:  
December 01, 2016  
Contribution Deductibility:  
Yes  
Addendum Applies:  
Yes

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Letter 947



## **The Anchor Point Food Pantry Development Plan**

Prepared for: The Anchor Point Food Pantry

Prepared By: Steve Theno, PE; Retired

### Introduction

The Anchor Point Food Pantry (APFP) is a non-profit (501c3 tax exempt) organization based in Anchor Point. The APFP is a community focused organization. The mission of the APFP is outreach and support for members of the community, working to spread awareness and make a difference in residents' lives. It does this through a number of programs anchored around its core food program. The APFP serves the rural areas of the lower Kenai Peninsula from Ninilchik south; including Happy Valley, Anchor Point, Nikolaevsk and some residents of Homer that are unable to make it to the Homer Pantry during their normal hours of operation.

The APFP has a broader vision to be a cornerstone organization the lower Kenai Peninsula community can depend on, serving the community's needs, and making a difference. To carry out its mission reliably and sustainably, the APFP needs a permanent facility supported with the appropriate infrastructure. To achieve its vision, the APFP needs a location within which growth can occur. The Kenai Peninsula Borough (KPB) property for which a lease application is being submitted by the APFP would provide a suitable location for the APFP to construct a permanent facility and the associated infrastructure to continue its mission and to leverage growth to achieve its vision.

### Purpose

The purpose of the APFP Development Plan is to provide the framework with which to responsibly and sustainably plan, construct, manage and operate the necessary physical facilities and associated infrastructure that enable the mission of the APFP to be successfully performed.

The APFP Development Plan further establishes a broader overall Masterplan that guides the on going planning and development of additional physical facilities and expanded infrastructure on the site with the features and capabilities necessary to realize its broader vision of supporting local community needs and fostering a sense of community – for charity, for education (like teaching youth how to can and bake bread), and for fun.

The APFP Development Plan clearly establishes for the Borough, the community, the stakeholders, and supporters: the goals and objectives of the organization, the expectations for the development of the site and the strategies for sustainable management and operations. It forms the foundation of an open and transparent commitment to the community. And it provides the framework for dialogue with other community partners in maximizing community benefit.

### Proposed Site

The Borough property which the APFP proposes to lease under this development plan is the Institutional portion of parcel 16905071. The property is part of the larger 16.21-acre parcel of previously unclassified Borough land, a portion of which has been developed as a solid waste transfer facility. This larger parcel is within the central area of the Anchor Point community. It is generally bounded by School

Street on the north, Birch Street on the west, Spinnaker Street on the south and private commercial property on the east. The southeast corner has an extension which provides a land corridor to the Old Sterling highway.

Earlier in 2021, through Borough action, the original parcel was subdivided to create a 3.52 acre parcel classified as Institutional and a 1.53 acre parcel classified as Residential. The larger balance of 9.81 acres, which includes the solid waste transfer station, was classified as Waste Handling. The remaining 1.35 acres establishes Right of Ways along the property boundaries bordering School, Birch and Spinnaker streets. The Residential parcel is a strip with a north-south alignment. It's west property boundary abuts the Right of Way established along Birch Street.

The property then which is proposed in this lease is the 3.52 acre Institutional parcel. It is nominally 500' by 300'; with the long axis aligned north-south. The northern property boundary abuts the Right of Way established along School Street and the southern boundary borders the Right of Way established along Spinnaker Street and its future alignment. The property abuts the Residential parcel on the west and the remaining Borough Waste Handling site on the east.

The property has no existing structures nor permanent improvements. It is generally level, with localized grade variations of several feet, although there is a general slope down to the east and south; with an overall elevation difference of approximately 8 feet. There is standing surface water on the Borough land just east of the subject parcel and this appears to be a natural area low point. Approximately one-half of the site is undisturbed, in its natural state. This is generally concentrated along the west and north portions of the site. The surface here generally has a natural vegetative cover with dispersed low density timber stands.

While there are no existing structures or permanent improvements on the property, there is a fairly large segment of the site, generally in the east and south that has been previously stripped of vegetation and roughly graded. There are several pioneer trails and paths into and out of this area; that appear to be used periodically by 4-wheelers, off road vehicles and perhaps other vehicles. Within the rough graded area is there is a shallow depression that looks like an old open pit, perhaps used in the past as a borrow source.

It has been reported that portions of the site had served as a highway maintenance staging area in the past by the State of Alaska. It is possible the rough graded area and open pit are remnants of past State highway maintenance activities. There has been speculation that there may be some localized chemical contamination resulting from the State activities. The most likely forms of contamination might be brines, salts and chemicals used in highway deicing; oils and lubricants, asphalt mixtures and road paints. However, no contamination has been identified and the Borough indicates they have no evidence to suspect contamination nor any justification to conduct a Phase I Environmental Assessment at this time.

Public utilities are available in close proximity to the site. Homer Electric Association (HEA) provides electric utility service to the area. HEA has an overhead 120/240V 1Ph power line running east-west in an alignment just north of School St. Electrical service to the site may be extended from this line. Higher capacity 3Ph power would only be available to this location if extended from the Sterling Highway. Anchor Point Safe Water Company provides local water service. Anchor Point Safe Water Company has a 6" transmission main running north-south in an alignment just west of Birch Street. Water service to the site may be extended from this line. It will require a branch extension of the 6" transmission main from

the vicinity of the School Street and Birch Street intersection east in an alignment along School Street to a convenient location from which to extend a water service into the site. There is no public waste water disposal system nor storm drain system in the vicinity of the site.

Vehicular access to the site may be approached from either Spinnaker St or from School Street. School Street generally functions as an east-west arterial roadway for this area, with a connection to the Sterling Highway. It would offer the most appropriate approach.

The proposed site offers very good opportunities for development. The site has sufficient area to construct the core facilities proposed for the Anchor Point Food Pantry. There is sufficient space to optimize vehicular and pedestrian circulation, flexibility in siting the facilities to be constructed, space to accommodate on-site waste water disposal systems and nice opportunities to create natural buffers between the facilities and activities on site and adjacent land parcels and public ways. Furthermore, with prudent masterplanning efforts, the site provides the opportunity to explore the development of additional community facilities as envisioned by the APFP.

### Development Strategy

The APFP will develop the proposed site in a series of strategic phases. Each phase will achieve an increasing level of service and benefit the APFP provides the local community. Each phase builds on the previous. The development strategy and the development phases will be focused on enabling the APFP to deliver its core mission and to establish the foundation and infrastructure that will enable realization of the longer-term vision.

The phased development strategy is structured such that the APFP can begin to deliver services early in its occupancy and to maintain those services without major interruption throughout all development phases. Furthermore, the phased development strategy recognizes the need to accommodate fund raising and financing efforts, to develop, implement and optimize sustainable business plans and to develop and cultivate necessary administrative, operations and maintenance expertise and resources.

The development strategy is founded on the following key precepts:

1. All facilities and site improvements will be designed to reflect the culture and values of the community, to be inviting, and something the community will be proud of.
2. The APFP will be a good neighbor, mindful of the local setting and surroundings. The new facilities, site improvements and operations will be developed to work well with the neighborhood and to mitigate any local concerns.
3. The APFP will be a good steward of the land, cognizant of the Borough's ownership and respectful of the natural environment.
4. All facilities and site improvements will be designed and constructed in compliance with Borough and State of Alaska codes and standards, as applicable.
5. The new facilities will be designed to be economical to construct and operate. The new facilities will be designed to meet and exceed current energy efficiency standards and incorporate renewable energy and sustainability features to the extent feasible. The LEED (Leadership in Energy and Environmental Design) program will be used as a guideline.

6. The new facilities and site will be well maintained and responsibly operated. A dedicated operations and maintenance program will be established to assure a fully functional and sustainable development is achieved and maintained throughout its life.
7. The site and facilities will be developed to maximize their ability to generate a revenue for the Pantry, when providing a venue for general public use (meeting space, group dining/kitchen, etc).
8. The site and facilities will be developed to maximize the ability to leverage the infrastructure to maximum benefit in supporting future site amenities and facilities developed by or with other community partners.

The guiding philosophy of the development strategy is the creation of a permanent, sustainable home for the APFP and to create this home in a way that is beneficial to the community, valued by the community, accepted by the community, and can grow in what it can deliver for the community.

#### Site Development Masterplan

A Masterplan has been generated to visualize, optimize and guide the site development. The Masterplan graphically illustrates how the site will be developed through a series of logical, sequential phases. It presents a vision of the preferred arrangement of the site.

The Masterplan may be found in the Appendices. Key features of the Masterplan include:

1. Primary access into and out of the site is via School Street. The primary access facilitates both vehicular and pedestrian access. On site pedestrian pathways can link to future public pathways should they be developed along School Street.
  - a. Vehicular access points from/to School Street are sited well east of the School – Birch intersection to minimize any potential congestion.
2. A natural buffer is maintained between the facilities and activities on the site and School Street. The buffer takes advantage of the Right of Way property established by the Borough. A natural buffer between the site and Spinnaker Street along the south side of the site is maintained by limiting any development in this location. A privacy fence may be considered along the western boundary of the site, providing further separation between the site and adjacent Residential property. Selective natural vegetation and timber is left in place to further buffer and screen the property boundary.
3. Constructed facilities are generally clustered in the northwest quadrant of the site. This offers good drainage opportunities, and the vegetation and timber stands provide opportunities for selective landscaping to create a pleasant setting.
4. Parking and vehicular circulation is generally distributed along the eastern half of the site. This provides the opportunity to take advantage of the existing clearing and grading that exists and the opportunity to dress it up. Discrete parking areas are arranged to work with the slopes, grade changes and contours that exist in this area of the site. On-site circulation generally attempts to separate vehicular movement from pedestrian movement to and from the facilities.
5. Delivery truck access makes use of the primary vehicular access points to/from School St, but maneuvering is otherwise separated from public circulation as much as possible.
6. The playground is strategically positioned to provide ready viewing, monitoring and pedestrian movement to/from the Pantry facility, yet be convenient to vehicle parking. The playground is separated from primary vehicular circulation traffic ways as best possible.



## 7. Utilities

- a. Electric utility will be extended from the HEA overhead line on the north side of School Street. It is anticipated the road crossing will be an aerial service line, transitioning to an underground service line through the Borough Right of Way to the facilities on the site. Sizing of the service line for current and future needs will be coordinated with the serving utility.
  - b. Water service shall include a 6" branch main line extension from the existing Anchor Point Safe Water Company's 6" transmission main located along the west side of Birch Street. The branch main line extension shall extend east along the south side of School Street to a suitable location for a fire hydrant. A service line shall be extended into the site from this 6" branch main line extension. A 4 or 6" service is anticipated to accommodate future on site fire hydrants and fire sprinkler systems in the constructed facilities.
  - c. Wastewater disposal will be accommodated on site. Either a conventional septic tank and leach field will be employed, or a raised bed leach field with a combination septic tank/lift station arrangement, as dictated by the soil's conditions. The leach field is sited towards the southern and eastern region of the site; areas generally set aside to be maintained as a natural buffer to adjacent properties.
8. The site masterplan is arranged to allow continued development along the western boundary, progressing southward from the initial facilities. Such development could be readily accommodated by the existing parking, vehicular circulation, and pedestrian pathways. There is also space available to continue to expand the parking configuration in a compatible way, to the south in parallel with facilities expansion. Similarly, utility services are sized and arranged to expand southward to support new development. And finally, expanding facilities south in the proposed manner allows the facilities to be conveniently linked to leverage the assets each possesses, but also the opportunity to create unique identities for each component.

### Near Term Development Phase

Near term development would occur years 2022 and 2023. Development activities would begin immediately following award of the lease in the spring of 2022. Initial activities would include finalizing the near-term scope of work and site layout, developing construction documents for work to be accomplished on site, engaging contractors to perform the work, and coordination with local utilities.

The primary objective for development work in 2022 would be to put in place the necessary infrastructure, facilities and improvements sufficient to establish interim operations. It would provide an initial functional base from which the Anchor Point Food Pantry could deliver its baseline food assistance program. Major work tasks would include:

1. Clear and grub site – clearing and grubbing would be accomplished as necessary to support the initial limits of construction
2. Construct gravel pad and access roads – a gravel pad would be constructed sufficient to accommodate vehicular circulation, parking and the placement of facilities on the site. The primary vehicular access roads to/from School Street would be constructed
3. Electric service – initial site electrical service from HEA would be installed
4. Gas service – the primary gas service from Enstar would be installed

5. Relocate and set structures – the existing structures owned by the APFP would be relocated from their current sites and set in place on the new site. The structures include a cold storage shed, a semi-trailer van previously repurposed as a warm storage facility and a 16' by 32' newly constructed general-purpose building.
6. Upgrade and energize structures – the relocated structures would be upgraded to meet applicable codes and standards and connected to gas and electric utility services
7. Site lighting – initial site lighting would be installed for year around safe and secure operations

Work for 2022 would be complete by the fall of 2022 and the APFP would be capable of sustainable year around operations from the site.

The primary objective for continued development work under this near-term phase in 2023 would be to add the additional facilities space, infrastructure and improvements necessary to incorporate a full service kitchen into operations on the site. This would provide the APFP the capability of expanding their food program to include warm meal service prepared on site. Major work tasks would include:

1. Water service – the transmission line extension from the Anchor Point Safe Water Company main and the primary water service into the site would be installed and extended initially to serve the expanded general purpose building
2. Waste water disposal system – a site waste water disposal system would be constructed and waste service extended to initially serve the general purpose building
3. Expand 16x32 general purpose building to 36x32 – the recently constructed 16' by 32' building would be expanded to 36' by 32'
4. Complete interior of 36x32 building – work to complete the 36' x 32' building, including all interior finishes, fixtures, equipment and mechanical and electrical systems would be accomplished
5. Install commercial grade kitchen in 36x32 building – a fully certified commercial grade kitchen would be installed and made ready for operation

At the completion of the near-term development phase the APFP would be delivering its core food service program year-round from the site and able to do so indefinitely. In addition, all baseline utilities infrastructure would be in place to support the next development phases.

#### Mid Term Development Phase

Mid term development is targeted to occur years 2024 and 2025. The overall objective for this phase is the construction of the permanent pantry facility and integrating it with the facilities established under the near-term phase.

In 2024, the shell for the new permanent pantry would be constructed. Major work tasks include:

1. Expand gravel pad – the existing gravel pad would be expanded to accommodate the permanent pantry facility and additional vehicular circulation and parking
2. Construct pantry shell – the permanent pantry facility shell would be constructed; linked to the 36' by 32' building. The permanent pantry would be configured to facilitate expansion in follow-on phases
3. Temporary heat and electric – temporary heat and electrical systems would be installed to maintain appropriate interim conditions within the pantry interior

Rough in for building subs systems (mechanical, heating, plumbing, fire protection and electrical) would be accomplished in coordination with the shell construction to readily accommodate full pantry buildout the following season. Temporary heating and electrical systems would be provided to preserve the facility and to enable selective beneficial use until full buildout is completed.

Completion of the permanent pantry and its integration with the other site facilities would be targeted for 2025. Major work tasks include:

1. Complete pantry interior – the pantry would be fully built-out
2. Relocate and repurpose structures – the 36' by 32' building with the commercial kitchen remains permanently linked with the pantry and becomes an integral part. Additional kitchen space will be developed within the pantry to increase food service capabilities. The balance of the 36' by 32' will be renovated and repurposed for other pantry functions. The semi-trailer warm storage van and the cold storage shed will be removed; possibly repositioned for other uses on site.
3. Finish site work – final work to finish out the site improvements will be completed. This will include final configuration of on-site vehicular circulation and pedestrian pathways, additional site lighting, various site appurtenances, final grading and drainage and final landscaping.

At the completion of the mid term development phase the permanent pantry facility would be in its complete and final configuration. The pantry would be capable of delivering its core mission; the full food program and warm meal service with sit down dining, as well as hosting special dinners and other events and programs as the opportunities arise. The APFP would also be able to support some community events and programs with the buildings and infrastructure in place.

#### Long Term Development Phase

The long-term development phase is envisioned to occur through years 2026-2030. The objective of this development phase is the construction of multi-purpose assembly space along with additional support spaces that would be compatible with and an extension of the permanent pantry facility. The objective of the expanded space is to provide the capability to host a variety of general public functions and activities. It would be undertaken with the involvement and support of the community and by or with other community partners. The following spaces would be included in the expansion:

1. Multi-purpose assembly space with a dedicated stage and/or exercise room.
2. Public restrooms and shower facilities
3. Multipurpose storage space
4. Office space for the APFP and partner organizations and possibly additional rental office space to provide some supporting revenue

The expanded space will likely take the form of a physical expansion of the base pantry facility, but could be a detached structure, strategically linked to the pantry facility. In addition to the expanded facility space, the long-term development phase would include an expansion of the on site parking areas, able to accommodate the traffic flow associated with the expanded space capacity, expansion of utility capacities to accommodate the increased load and expansion of the on-site waste water disposal system.

The construction of the expanded facilities in this long-term development phase would likely occur over multiple years. The multiple year development would strategically fit with the need for strategic planning with community partners, fund raising and financing efforts, business planing and the expansion of administrative, operations and maintenance capabilities. As with the mid term development phase strategies, it is likely an expansion of the building shell would be constructed one season, followed by build-out the following season. In this way, development would progress in step increments, and some level of selective functionality would be available after each step.

At the completion of the long-term development the facilities and infrastructure available on the developed site would enable the APFP to realize its full vision, to be a cornerstone organization the lower Kenai Peninsula community can depend on, serving the community's needs, and making a difference. The assets complete on site would be able to support and host a variety of community and general public functions and activities including sit-down dinners, trade shows, talent shows, musical events, etc.

### Future Development

The Anchor Point Community has expressed aspirations for additional community assets including a community greenhouse, a fitness facility, and a community pool. There may be other assets the community would value and would make good use of. The Anchor Point Food Pantry, in line with its vision, has an interest in leveraging the infrastructure and facilities that results from its development activities to facilitate and host such other community opportunities. The site lends itself to hosting other facilities. The timing and nature of any future development would be based on careful planning and appropriate feasibility analysis. The Anchor Point Food Pantry would anticipate working closely with the Community and interested partner entities and organizations to realize such development.

### Description of Proposed Facilities

Several buildings and site improvements will be constructed during the Near-, Mid-, and Long-Term Development Phases.

For interim operations during the Near-Term Phase, legacy structures owned by the APFP will be relocated to the site, upgraded and placed into operation. These facilities will enable the APFP to begin to deliver their core mission services. These legacy facilities include:

1. A cold storage shed, nominal 8x12. This facility will be provided with electrical service for general purpose power and lighting but will remain unheated and serve as dry goods and non-perishables cold storage.
2. A converted semi-van trailer, nominal 8x40. This facility has been repurposed in the past to serve as a storage and workspace. It has a basic electrical system and heating system. This facility will be provided with electrical service and gas service. It will serve as shelf stable dry goods warm storage.
3. A recently constructed 16x32 wood framed single-story general-purpose building. This facility will be expanded to 32x36 and finished on the interior. It will be complete with electrical, mechanical and plumbing systems. It will be provided with electrical, gas, water and wastewater services. It will serve as a receiving hall to distribute food packages and takeout warm meal



service. It will include a commercial grade kitchen and related support spaces. It is planned to contain a single unisex handicap toilet.

During the Mid Term Development Phase, the permanent pantry facility will be constructed. This will be a nominal 50x80, 4000 square foot single story building. It will be of wood frame or light steel construction with sloping roof and a nominal height to underside of roof structure of 16-18'. It will have a durable low maintenance exterior siding and finish, with appropriate treatment to create a quality appearance, compatible with the surrounding environment, expressive of its function and welcoming in nature.

The permanent pantry facility will house a number of spaces and functions. It will be linked with and work in conjunction with the 36' by 32' building completed in the near-term phase. A preliminary Program of Requirements defining the spaces, functions, sizes, and characteristics may be found in the Appendices. Key spaces include a Dining Hall for sit down meals; commercial grade kitchen; dry goods, perishables and frozen foods storage; public restrooms (ADA compliant); a main work bay for receiving and processing bulk food products and preparing food distribution packages; and related support spaces.

Once the permanent pantry facility is complete and integrated with the 36' by 32' building, the two remaining legacy structures will be removed or relocated and repurposed.

In the Long-Term Development Phase, should the community favor and support it, the larger companion facility to the permanent pantry will be constructed. This facility will be nominally 6000 -7000 square feet. It will be compatible in scale to the permanent pantry and of similar construction, character and quality.

If brought to completion, this facility will house a large multi-use assembly space with a stage and/or exercise room; public restrooms and showers (ADA compliant), and a number of flexible office and storage spaces. This facility may be an expansion of the permanent pantry, or a detached but linked facility. It will present a complementary yet independent look from the permanent pantry to differentiate its function and access.

In addition to the facilities, various site improvements will be constructed. The most visually apparent will be pedestrian and vehicular driveways and pathways; parking areas; site lighting and a playground. All will be easily identifiable, clearly marked and arranged for safety and to manage movement on site.

#### Development Standards

The new permanent facilities developed on site and the associated site improvements will be accomplished in accordance with applicable codes and standards, of commercial/institutional quality and designed for a sustainable long-term life.

Specific codes, standards, procedures and best practices that will guide the development include:

1. All of the Pantry facilities will be classified non-residential
2. The State will be the controlling entity; there has been no deferral of building code standards to local governments in this location.

3. The following codes shall apply in accordance with State requirements and as amended by the State
  - a. IBC – International Building Code
  - b. IFC – International Fire Code
  - c. IMC – International Mechanical Code
  - d. NEC – National Electrical Code
  - e. UPC – Uniform Plumbing Code
  - f. ADA – Americans with Disability Act
  - g. AFC – Alaska Food Code
4. Plans and specifications shall be prepared by licensed architects and engineers in accordance with State requirements.
5. Plan review will be accomplished by The State Department of Public Safety and the Authority Having Jurisdiction (AHJ) will be the State Fire Marshall.
6. The State Department of Environmental Conservation administers water and wastewater standards. DEC performs plan reviews and issues construction and operating permits for water supply systems and wastewater disposal systems. The water and wastewater systems shall be designed and constructed in accordance with DEC requirements.
7. In addition, the Anchor Point Safe Water Company has adopted water utility specific standards, modeled after the City of Soldotna Department of Public Works Standards. These Standards shall be followed in the design and construction of the branch water main and site water service.
8. The Department of Environmental Conservation administers Food Safety standards. DEC performs plan reviews and issues construction and operating permits for food handling facilities. The Pantry commercial kitchen shall be designed, constructed and certified in accordance with DEC requirements.
9. Enstar Natural Gas Company requires compliance with utility specific requirements and standards and shall be complied with.
10. Homer Electric Association requires compliance with utility specific requirements and standards and shall be complied with.

In addition, as stated previously under the Development Strategy, new facilities will be developed with respect to the following strategic guidelines:

1. All facilities and site improvements will be designed to reflect the culture and values of the community, to be inviting, and something the community will be proud of.
2. The APFP will be a good neighbor, mindful of the local setting and surroundings. The new facilities, site improvements and operations will be developed to work well with the neighborhood and to mitigate any local concerns.
3. The APFP will be a good steward of the land, cognizant of the Borough's ownership and respectful of the natural environment.
4. The new facilities will be designed to be economical to construct and operate. The new facilities will be designed to meet and exceed current energy efficiency standards and incorporate renewable energy and sustainability features to the extent feasible. The LEED (Leadership in Energy and Environmental Design) program will be used as a guideline.

### Facilities Operations and Maintenance

Operations and maintenance costs will ultimately be a major component of the overall development's life cycle cost. A successful Operations and Maintenance program will help ensure facilities remain cost effective, fully functional, reliable and sustainable throughout their life.

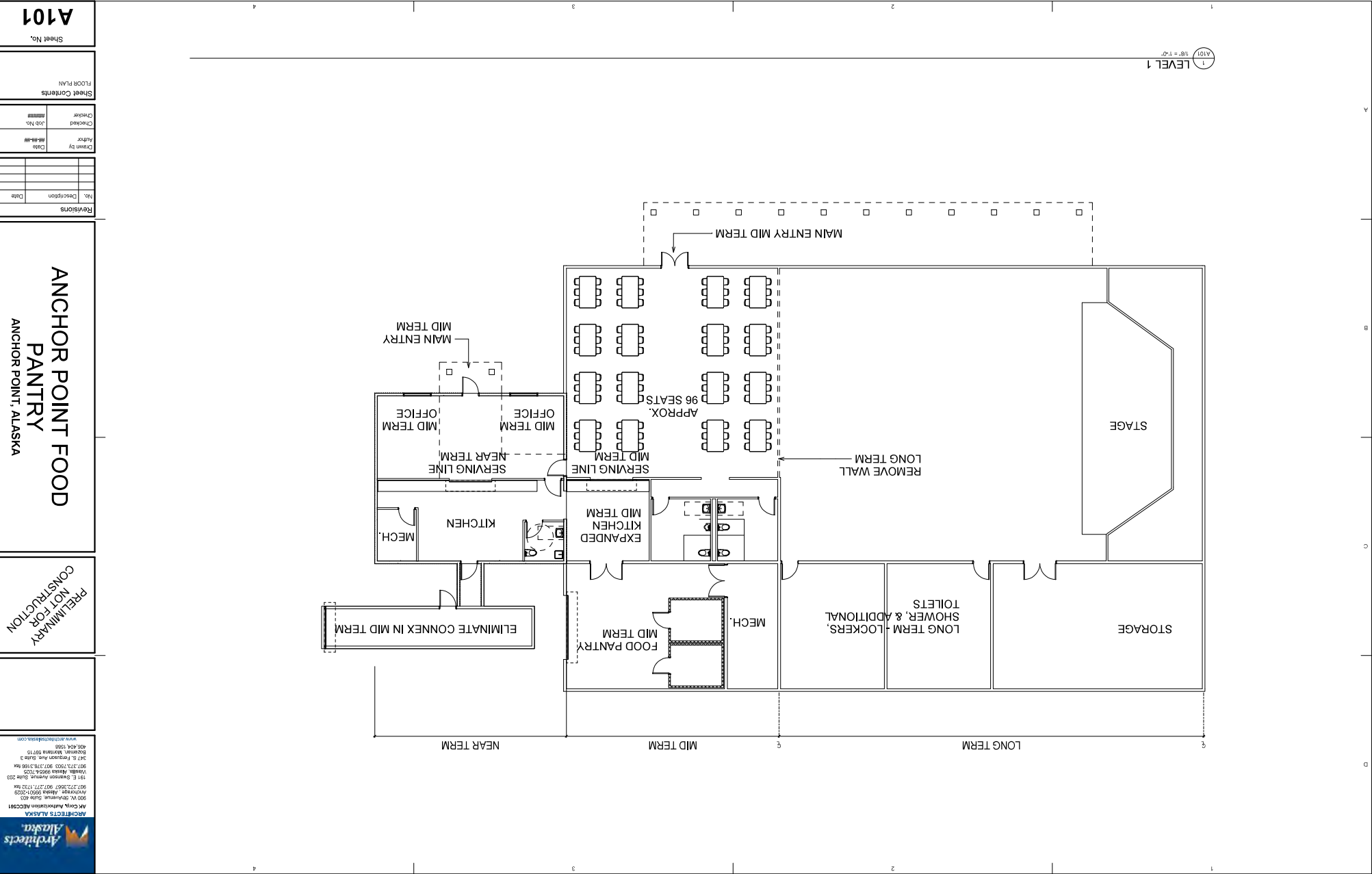
As each phase of development is completed, detailed operations and maintenance data and documents will be prepared to support operations and maintenance activities. Training will be arranged for the APFP staff who will take responsibility for and lend support for the facilities on-going operations and maintenance. A robust proactive operations and maintenance program will be established and will become a core, budgeted component of the APFP operating plan.

### Management, Administration and Operations

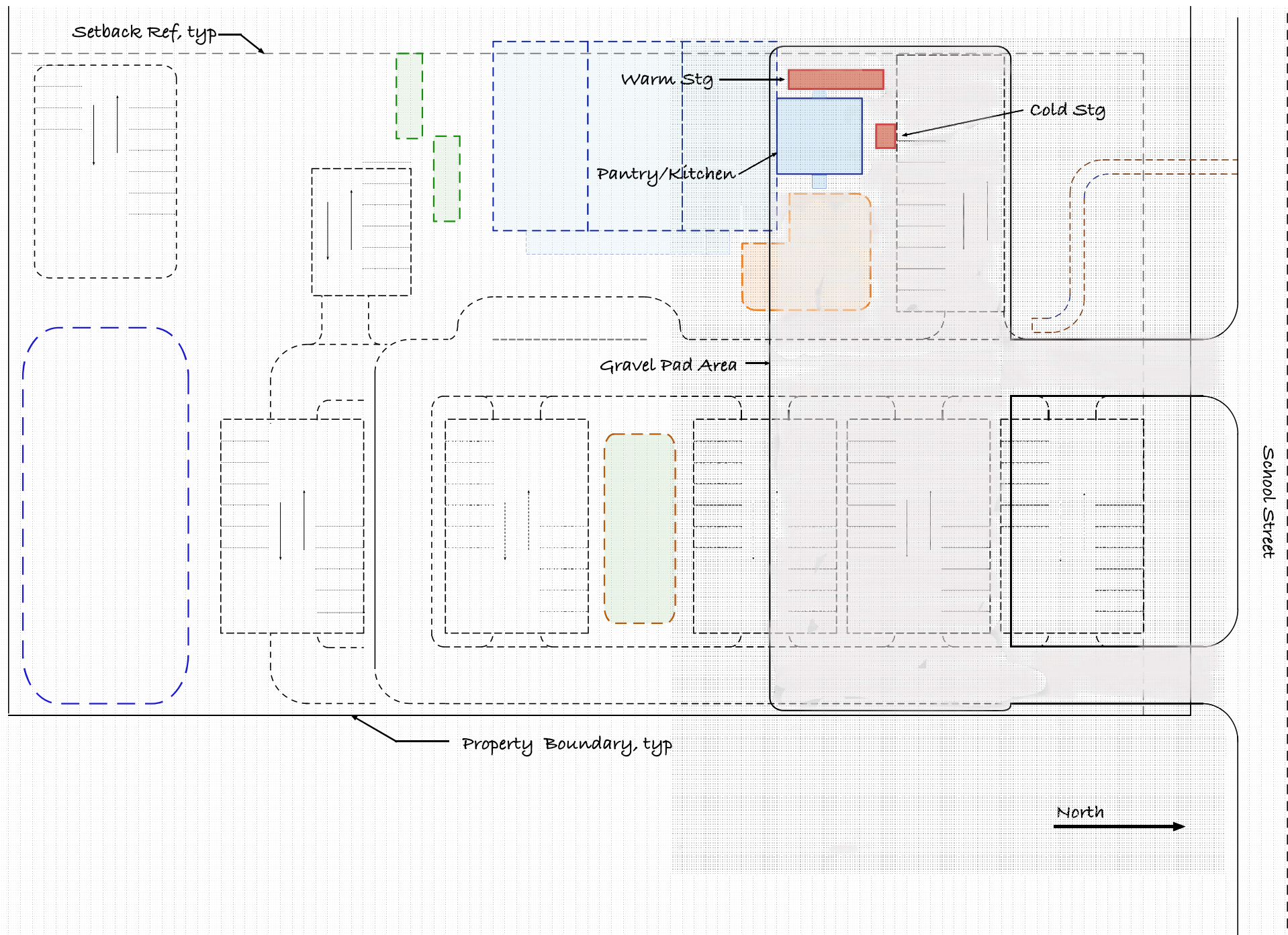
The site and facilities will be managed, administered and operated by the APFP organization. Ultimately, the APFP Board of Directors hold the authority and responsibility. Initially, management and operations will mirror that currently performed by the APFP; it will simply be a new location for what has been a successful operation with a strong track record. The organization's all volunteer management and staff will carry on in the roles and responsibilities they have reliably and successfully accomplished for many years.

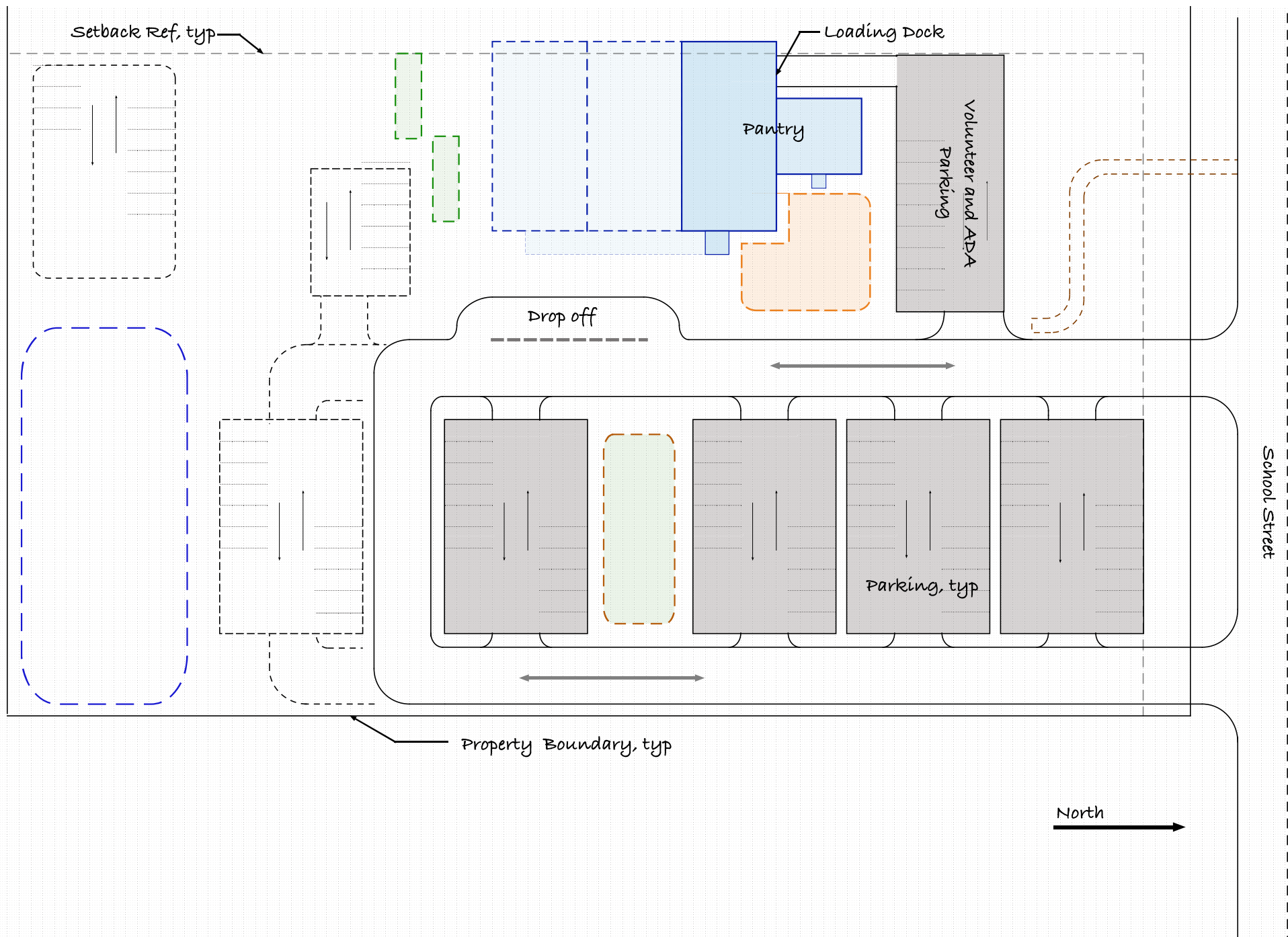
As new facilities are developed and activities grow, the APFP will expand the volunteer staff support and put in place the administrative tools to continue to ensure stable, efficient and responsive operations. A dedicated site manager position will be established and staffed, providing single point of contact, oversight and management. Possibly a full-time site manager may be considered, with suitable onsite accommodations integrated with the pantry facility.

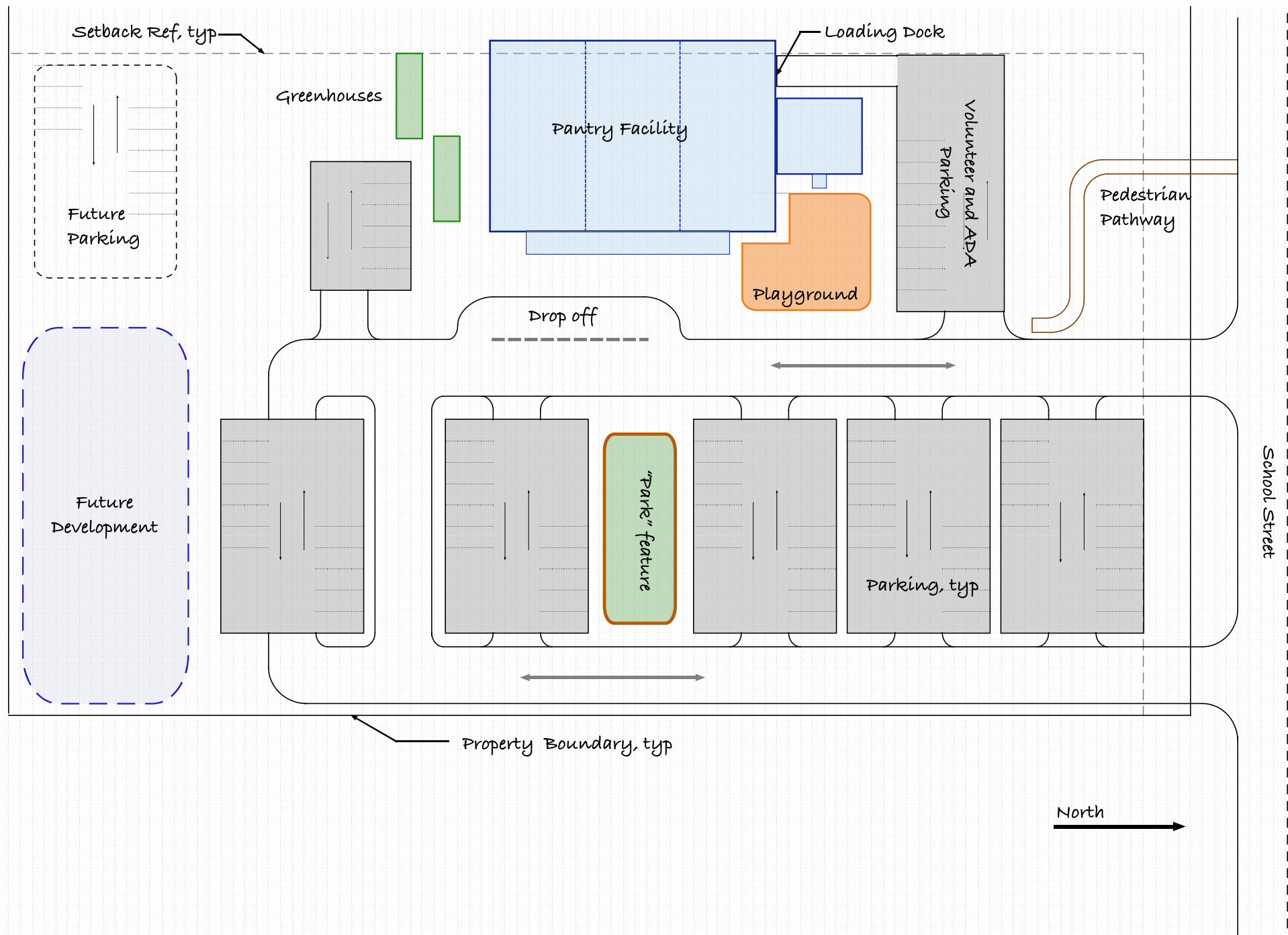
The APFP anticipates building a team consisting of part-time paid staff and a network of volunteers, hired contractors, service personnel and on call community resources to assure a reliable, responsive and sustainable operations is achieved.

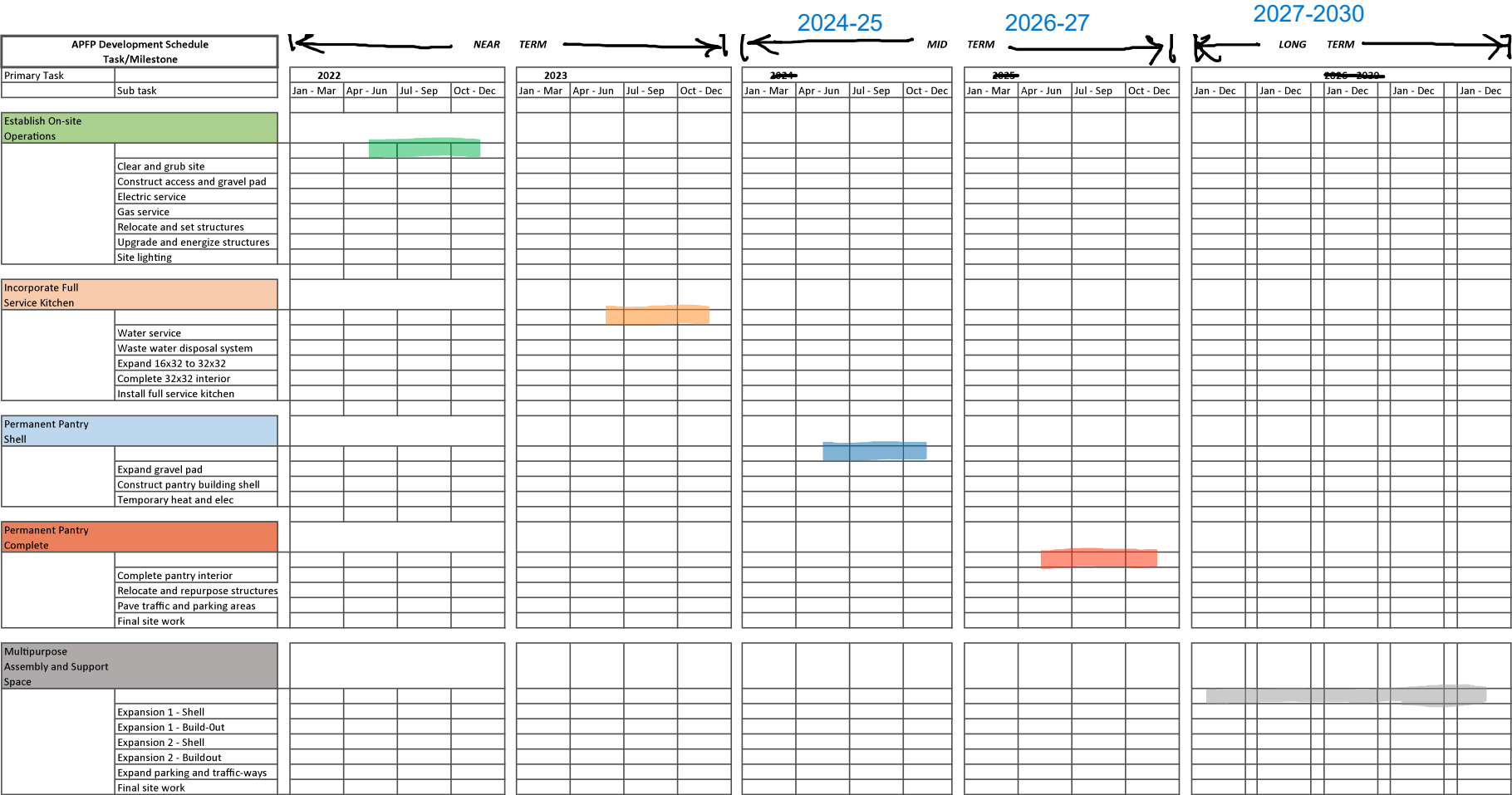














## The Anchor Point Food Pantry Story

The Anchor Point Food Pantry is a local community non-profit volunteer organization based in Anchor Point. The Pantry serves the rural areas of the lower Kenai Peninsula from Ninilchik south; including Happy Valley, Anchor Point, Nikolaevsk and some residents of Homer that are unable to make it to the Homer Pantry during their normal hours of operation. The Pantry was established in 2006 and continues today with its mission of outreach and support for members of the community, working to spread awareness and make a difference in residents' lives.

"We are a food pantry with a mission to serve the hungry with empathy, respect and honesty. To be effective, we believe we must exercise the attitude of kindness and cheerfulness, not that of duty." - mission statement. The core program the organization offers is that of a food pantry, providing weekly distribution of shelf stable food products and a warm meal to those experiencing hunger and food insecurity. In addition to the core food program, the Anchor Point Food Pantry currently supports the community with a number of special programs as well;

- Salvation Army Commodities program
- Holiday boxes and dinners
- Summer produce
- Children's Kids Day
- Home deliveries
- Homeless outreach and Cheeky Moose vouchers

The Anchor point Food Pantry has been registered as a business in the state of Alaska since 2012 and became a 501(c)(3) organization in 2016. It is classified by the Internal Revenue Service as a tax-exempt nonprofit organization. The Pantry is governed by a diverse Board of Directors; whose members include Alaska Natives, a Veteran, Seniors and Disabled. Presently all seven members, along with the President are women. The Pantry is a volunteer organization and is currently supported by 22 volunteers, many of whom are regularly engaged. And historically, the Pantry has been, and continues to be, supported by a broad spectrum of donors and supporting organizations within the community. They include the Kenai Peninsula Food Bank in Soldotna, the Homer Pantry, the Homer Foundation, 100 Women Who Care, the Rasmuson Foundation, Hillcorp, a number of local businesses and a host of individual contributors. Since its founding in 2006, the Pantry has seen an ever increasing demand for its core food program. After a brief period operating from founder and social worker Donna Silsbee-Dennis's home it was clear the Pantry needed more space. The Church of the Nazarene in Anchor Point agreed to support the Pantry and store food donations. The pantry worked with the Church of the Nazarene until 2012, by which time it had grown to need a larger facility. The Pantry was able to find new space with the Great Land Worship Center. The church provided a room for food storage, space for sit down meals and full kitchen facilities, all within their recently renovated fellowship hall. The Pantry operated from the Great Land Worship Center until 2020, when once again, it had outgrown the available space; spurred by the Covid 19 pandemic conditions. Since that time the Pantry has strived to maintain its much needed programs, operating from temporary facilities and sites.

It became clear the Pantry needed a permanent place, a home. Given the historic need, the growing demand and the challenge of securing suitable space, the Pantry began the search for a permanent solution. The Pantry was looking for a home that would allow them to continue to help meet the community's needs. And while the Pantry was founded in response to a recognized need to address food insecurity, it goes beyond that. As stated by President Martin, "To feed the hungry, yes, but not to let it end there.". And as Past-President Teece Scovell observed at the time, "The community is beginning to come together, and we're acting like a cohesive unit. We're becoming something that people can depend upon, which is what we want. We're there to help make a difference, and to serve the community.". Through outreach and dialogue with members of the community, the Pantry has recognized there is a need, a desire and a demand for not only the valued food program, but for a number of additional programs along with the infrastructure to facilitate those programs. The expressed needs include:

- Community accessible greenhouses.
- A community playground where the parents can bring their kids and feel their kids are safe.
- A space homeschoolers may use for their academic and gym activities.
- A venue for community garage sales and perhaps a place to shop for secondhand furniture and appliances.

After much consideration, the Anchor Point Food Pantry believes the Borough land now available for lease offers the best opportunity. It best enables the Pantry to continue its important mission, the core food program, for the community. It also allows the Pantry the ability to facilitate additional programs valued by the community; its broader vision; to make a difference and to serve the community.

To summarize, the Anchor Point Food Pantry needs the Borough land for the following reasons;

- The Pantry has a mission that provides a much needed service in the community. It has a broader vision to facilitate a host of additional programs the community has expressed a strong need for.
- To reliably and sustainably carry out its mission, the Pantry needs a facility with the appropriate infrastructure. To achieve its vision, the Pantry needs a location within which growth can occur.
- The 3.5 acre property made available for lease by the Kenai Peninsula Borough would provide a suitable location for the Pantry to construct a permanent facility and the associated infrastructure to continue its mission and to leverage growth to achieve its vision in support of the community.
- There are no suitable facilities available in Anchor Point for long term lease. While other commercial property may be available, the lease with the Borough offers a significant financial advantage.
- The Borough property is centrally located within the community and offers ready access to community users. Adjacent vehicular traffic ways are well developed and utility services are readily available. It is an ideal location.

And The Anchor Point Food Pantry believes it would be a good choice by the Borough to lease the subject land parcel because;

- The Pantry provides a much needed service in the community, and to continue to do so sustainably, it needs a suitable site for a permanent facility. This property provides that key piece.
- The Pantry, once developed, provides a much needed venue for other general public functions and activities (meeting space, community dining/kitchen, etc).
- The Pantry facility and associated infrastructure, can help leverage additional development with community support, to meet a host of additional needs expressed by the community (community center, event space, activity space, community greenhouse, playground, etc).
- The Pantry has the demonstrated experience and track record of having the ability to organize, fund, manage and operate facilities that support community activities and deliver community services.
- The Pantry has long standing relationships with other organizations and community groups and the ability to partner with them for the benefit of the community.
- The Pantry will be good neighbor and good steward of the land.
- The Pantry's mission and vision are solely to serve the community, to make a difference.

The Anchor Point Food Pantry sees this as a win-win opportunity. With a lease made available by the Borough, the Pantry can sustainably deliver its mission and aspire to realize its vision; delivering for the community much valued services, facilities and opportunities. Ultimately the community will benefit from the development the Pantry has planned. "Our plan would be perfect for the expressed needs of the community. The pantry and community desire a greenhouse. We plan on having greenhouses. The community needs a place to assist them with keeping the kids busy. We plan on having a playground and children's activities. The homeschoolers are interested in utilizing such a place for some of their programs. The community needs a place to buy secondhand furniture and appliances, which we can support. And the community needs a space for events larger than what exists now. We will have the space available to lease for private events. The plan is to have it available for community events requesting a minimal fee to cover costs." Melissa Martin; President

### **The Anchor Point Food Pantry business plan for the KPB (leased) land.**

Historically the Pantry has operated by using a traditional funding model for non-profit charitable organizations. We have relied on grants and donations from a diverse group of contributors including foundations, corporations, businesses, and individuals. And we have pursued government support.

We have traditionally supplemented the grants and donations with fund raising efforts including raffles, yard sales, community events, etc. And of course, we have relied heavily on volunteer support, since the Pantry is an all-volunteer organization.

From time to time we have received in-kind support from local businesses ranging from surplus fish and produce donations from local entrepreneurs for distribution, to some construction and maintenance work by local contractors.

Over the years of operation of the Pantry, the budget, and associated funding has grown from under \$10,000 to over \$50,000 a year, increasing steadily over the years.

More specifically, our business plan will be a continuation of what we are already doing - FY 2021-22

1. **Asking the experts** - the Foraker Group; Greg Meyer of Kenai Peninsula Food Bank (30 years experience); Mike Miller of Homer Foundation (25 yrs.); Food Bank of Alaska; The Foraker Group; Rasmuson; our Laurie Rudy, treas., grant writer of 25 yrs.; Steve Theno, retired engineer (building plans; quality advice and volunteered service)
2. **Grant writing** with expert guidance (We acquired \$39,000 in 2021)
3. **Seeking Corporate funders** with expert guidance (\$3,500 for the holidays in 2021)
4. **Fundraising plans:** 2 mail campaigns; Line Dance at Chapman; Garage sales; Raffle; Pick.Click.Give; Online fundraisers. (last year we received \$2100 from the local community. The fundraiser was put on by a local business.)
5. **Donors:** (We acquired \$22,000 in 2021)

This year we have already started grant writing. We are hindered on who and how much we can ask because we don't have land.

We are having meetings with the food coalition, legislators, and the Foraker Group to network, to make our situation known, and to gather ideas and suggestions.

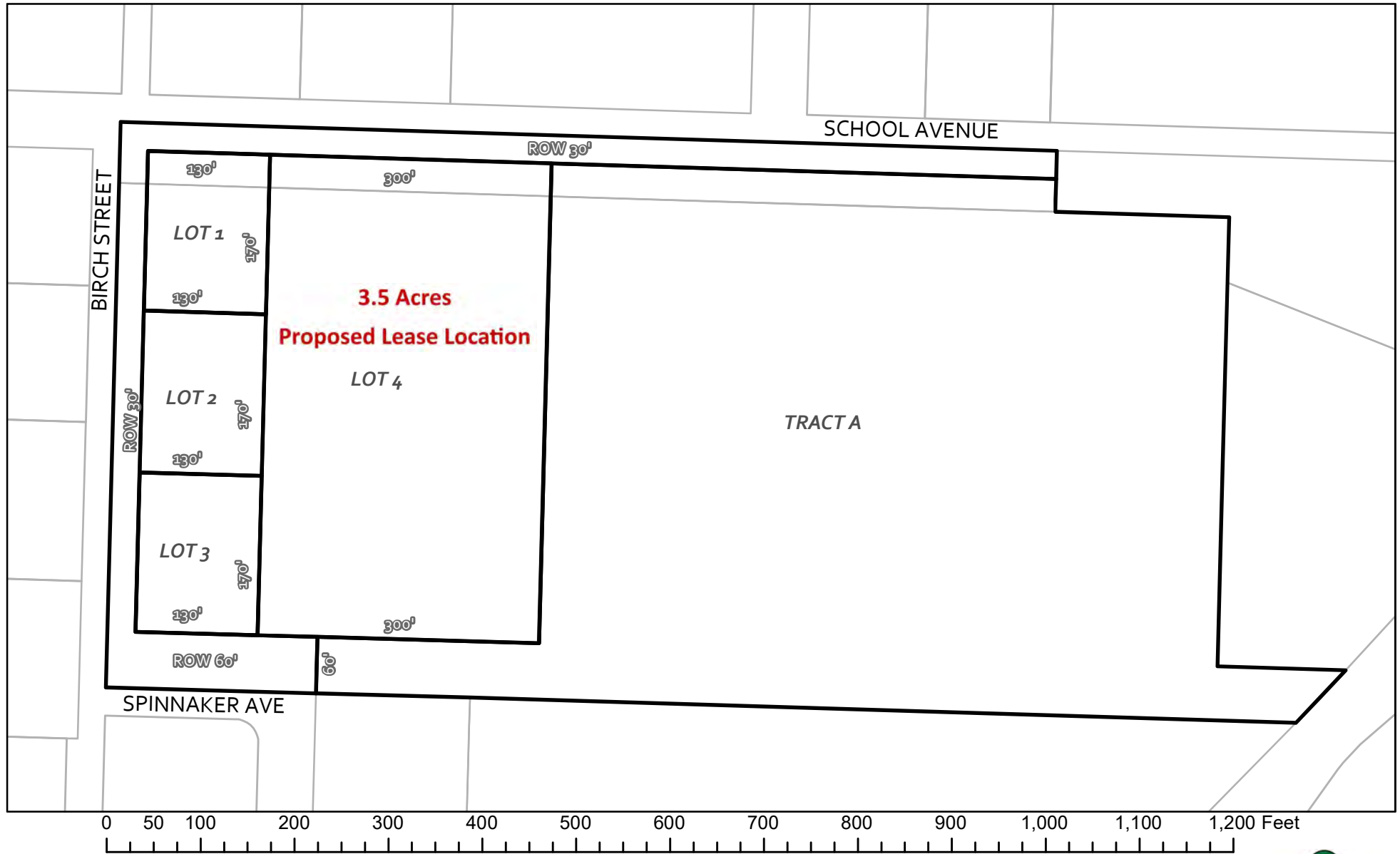
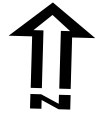
Going forward with the planned permanent pantry development, we anticipate: Continuing with our traditional funding program. This funding stream would be primarily dedicated to the on-going day to day operations necessary to carry out the Pantry mission. Increased goals would be set, and fundraising efforts elevated to match the operational costs of the new facility (or facilities) as they are brought on-line.

Support from the community at large and community partners is both needed and anticipated; and has historically been realized.

We plan on implementing targeted requests and special fundraising campaigns designed to secure one-time funds specifically earmarked for the construction of the pantry facilities and infrastructure on the proposed property. This will be a major effort. It will be linked with the phased development of the site. We anticipate this fundraising effort to focus heavily on grants, corporate and business donations, and on in-kind services from local and regional contractors, subcontractors and design professionals.

As the new facilities move from construction to operational status, we will begin to implement new revenue streams from the facilities themselves; including renting to private parties for events; charging usage fees to the general public for their special events; perhaps some rental income, etc. All the while keeping in mind the community that helped and supported us. We intend to keep costs to a minimum, if any, for community events. These new revenue streams will help with the day to days costs of ongoing operations, and the operations and maintenance of the facilities themselves.

# EXHIBIT A PLAN OF SURVEY "COMMON GROUND SUBDIVISION"



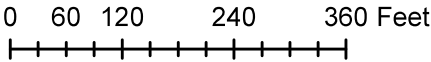
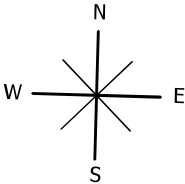
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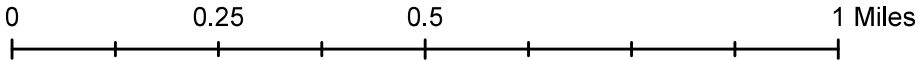
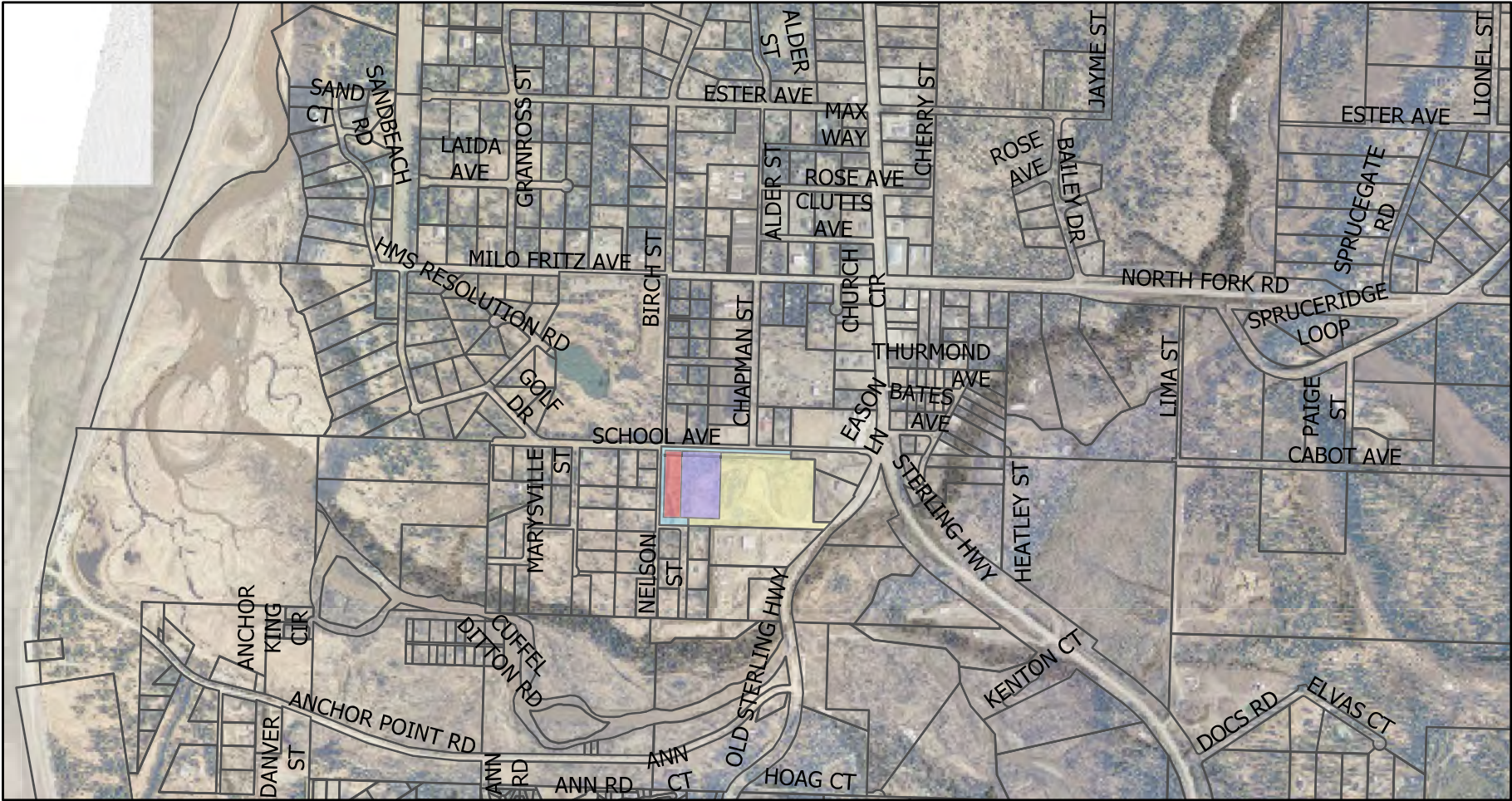
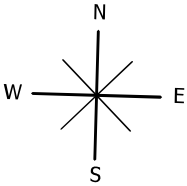




Land Classification Plan  
16.2 Acres in Anchor Point, Alaska  
Kenai Peninsula Borough Land Management Division



Land Classification Vicinity Map  
Anchor Point, Alaska  
Kenai Peninsula Borough Land Management Division



Classification Plan

- Right of Way (Utility/Transportation)
- Waste Handling
- Residential
- Institutional





33955 Community College Drive, Soldotna, AK 99669 • PHONE: 907-262-3111 • FAX: 907-262-6428

June 7, 2021

To Whom This May Concern:

The Kenai Peninsula Food Bank provides nutritional support across the Kenai Peninsula. This involves the use of trucks, boats and small airplanes. To fully understand the needs of our neighbors, upon accepting the position of executive director in 2018, my priority was visiting all 70 of the food pantries that the food bank partners with.

The largest underserved population that I saw was in the Anchor Point community. The heart and soul of the Anchor Point Food Pantry are the most dedicated volunteers I have ever had the pleasure of meeting. They provide a hot meal and food bags for their community with joy and respect. What I also witnessed was a lack of resources. The food they provided was what they were able to receive from the end of the Homer Food Pantry distribution and food they could purchase through their fundraising efforts. I was amazed at what they were able to accomplish with limited food resources, but an army of passionate volunteers.

Seeing the huge need, the food bank began running a truck to Anchor Point on Mondays for over a year and a half ago. To help eliminate food waste in our community and to provide additional support to Anchor Point Food Pantry, the food bank began picking up donated food 7 days a week. When the pandemic hit, the need increased, and the food bank provided additional support with produce boxes, shelf stable food and hot meals. The Kenai Peninsula Food Bank provided over 200,000 pounds of food in 2020, in the first 5 months of 2021 we have delivered over 70,000 pounds.

Anchor Point Food Pantry has increased its ability to serve their community in amazing ways, so much so, that they have outgrown their current donated facility. It is not only time for them to obtain a permanent home, but also imperative. Their value to the community is immeasurable and the loss of the weekly meal and food distribution would be devastating.

The Kenai Peninsula Food Bank is 100% supportive and engaged in assisting the Anchor Point Food Pantry to secure property and facilities to continue and expand their mission.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Meyer", with a long, sweeping horizontal line extending to the right.

Greg Meyer  
Executive Director

---

*We feed people because no one deserves to be hungry!*

---

**Volunteer Letter**

1 message

---

**Steve Theno** <stevethenoak@gmail.com>  
To: apfp.266@gmail.com

Thu, Sep 9, 2021 at 12:42 PM

Anchor Point Food Pantry and To Whom It May Concern:

My name is Steve Theno. I am a registered professional engineer in the State of Alaska. I am retired now, and living in Homer, however I maintain my professional registration.

Here is a little about my background. I am a life long Alaskan. I grew up in McGrath, went to high school in Sitka and spent most of my adult life in Anchorage. I have been living in Homer the past six years.

My career path as a professional engineer was in consulting engineering. I was a founding partner in the Alaskan consulting engineering firm, PDC Engineers, and led the firm as its President for over a decade, with over 40 years overall engineering experience. While my discipline is mechanical engineering, PDC Engineers was a full service engineering firm and I had the opportunity to work on and lead projects across the State. I have accomplished projects in remote villages, small communities, hubs and urban centers.

I have experience on projects involving facilities, utilities and infrastructure as well as energy systems. In the facilities sector, my project experience includes schools and community centers, clinics, health care centers and full service hospitals, labs and research facilities, malls, grocery stores and warehouse, as well as a broad range of public, commercial and institutional buildings. I frequently led project teams in the evaluation, planning, programming and design phases of facility projects and provided oversight support during construction and startup operation.

While in Anchorage I served on the Board of Campfire Alaska for six years. During that period Campfire was in the process of replacing and expanding their summer camp facilities on Kenai Lake, Camp-K, and I was involved in the planning and development activities.

While living in Homer, I have been looking for opportunities to support the local communities. I heard that the Anchor Point Food Pantry was in the need of a new home and was in the very early stages of planning the development of a new Food Pantry Facility. I understand that the services provided by the Anchor Point Food Pantry organization fills a critical need in the community and is much valued. I would like to help.

I have volunteered to help the Anchor Point Food Pantry Planning Committee, in a technical role, plan the development of the proposed facility. This effort would include planning, developing a program of requirements for the facility and developing a planning level concept site plan and facility floor plan. This effort with the planning committee would bring the proposed project to the point where the program of requirements are well defined, a preliminary budget can be established and a site and building concept is established from which formal design and construction documents could be prepared.

I look forward to supporting the important work of the Anchor Point Food Pantry.

Sincerely,  
Steve Theno, PE

Steve Theno



# ANCHOR POINT TOWN MEETING

**WHERE:** Anchor Point Senior Center

**WHEN:** May 5, 2021, at 6pm

**WHY:** To address a new home for the  
**ANCHOR POINT FOOD PANTRY**, and  
**attempt to merge it** with the town's  
desire for a **COMMUNITY CENTER**

**IT IS A GREAT IDEA!**

**IT'S UP TO YOU!**

Part one:  
Letting  
Community  
Know

**COME and ENDORSE our EFFORTS!**

**Influential people** that are eager to support such an effort will be at the meeting and  
**are watching** to see if it is truly of interest to our community.

Show your interest in a **community center** with a **dining hall half the size** of the  
school gymnasium, harboring a **nice kitchen** that could be used for **social functions**  
such as Weddings, Family Reunions, Fundraisers and Community Events  
**PLEASE** at least **DRIVE BY** and **TOOT LOUDLY** to show your **SUPPORT!**

(Back | FRONT)

A Special thank you to the Great Land Worship Center for having housed our pantry for 9 years and for having paid our bills as well as enduring all the wear and tear.

God bless you!

Thank you so much to the A.P. Senior Citizens, Inc. for hosting this town meeting; and to our Speakers who stepped up to help us with this meeting.

We want to especially thank our donors who so generously give to our cause.

Thank you to the Anchor Point Food Pantry Board for their unremitting time and effort.

And we so very much want to thank all our Anchor Point Food Pantry Volunteers! We wouldn't have a food pantry without you!

Thank you to  
Cathy Kremer of <sup>Beth</sup>~~Billy~~ Jean's Chuck Wagon and  
Sue Cox of The Race for Veteran Recovery  
and their helpers  
for catering this event.



Meeting NIT 262

48 adults

3 children

minutes

Melissa Martin  
APFP President

m.j. Martin

## Anchor Point Food Pantry

**Town Meeting**

**May 5<sup>th</sup>, 2021**

**6:00pm - 8:00pm**

**Thank you for being here!!!**

Board Members present: Teece + Melissa (Miss)  
Paulette, Sherie B., Sue C.

Staff present: Matthew + Ruth, Cassie K.,  
Cathy K. + John Cox

This meeting was to enlighten the Town of (INSIDE)  
 our need to relocate - soon, and to let them  
 know that we want to include them in  
 our plans. Here we formed a Planning Committee.

~Coffee, Food and Greetings~

Speakers -each speaker is about 15 min.

A food pantry serves the hungry,  
 the lonely,  
 the one that got laid off,  
 families that have sudden illnesses,  
 newly-weds and singles, veterans and the disabled,  
 that pay high rents,  
 those new to the area,  
 Seniors with high medical bills,  
 and more.

This is what YOU help us do!

Business present showing support.  
 Salvation Army - Ltr David,  
 KPFB - Greg Meyer, Ex Director  
 Homer Foundation - M.M., Ex. Dir.  
 Senior Center - Cindy Burns, + Bobbie Ness, Dir.  
 VFW - Bobby Ness, State Dir.  
 Chamber of Commerce - Dawson Slaughter <sup>Chair</sup>  
 Plus various other businesses.

• **D. "Teece" Scovell, Honorary Past-President** - History to date of the Anchor Point Food Pantry *Self-explanatory*

• **Greg Meyer, Executive Director of the Kenai Peninsula Food Bank** - Food Bank partnership. *30 yrs. experience*  
*He saw a need at APFB + filled it. Working together*

• **Mike Miller, Executive Director of The Homer Foundation** - How one can help  
 • *Matthew Mitchell spoke about his credentials for security*

+ **Intermission - Food and Mingling** +

• *Paulette Sortor read these letters from women who benefit from the pantry.*

• **John Cox, Pantry Staff** - Our Vision of the Future - How about a community center? *Introduced proposed floor plan. Invited all present to go to the next Assembly meeting*

• **Laurie Rudy, Grant/Financial Treasurer** - Working with Grants. How, as a team, we can get there from here. *25 yrs experience*

Pantry clearly stated that we are not being kicked out of GLWC. It is a mutual agreement. (Although ~ **Open to Questions** ~ they did ask us. Not many questions. Dawson Slaughter says the Chamber of Commerce is standing behind us. *to leave*



Guests

## A.P. TOWN MEETING

MAY 6, 2021

Anchor Point Food Pantry needs a new home. We wish to merge it with Anchor Point's desire for a community center.

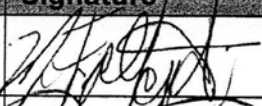
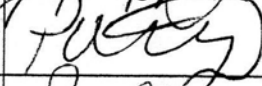


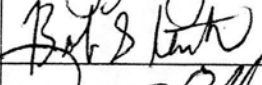

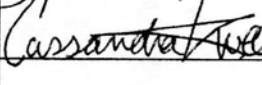
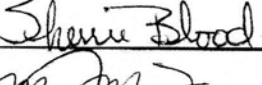
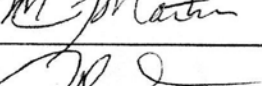
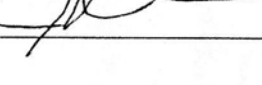
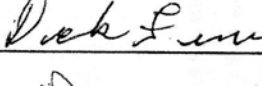
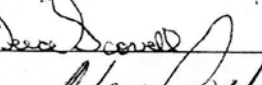
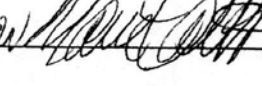
NO.	NAME	PHONE (CELL)	EMAIL OR MAIL ADDRESS	AREA OF EXPERTISE/INTEREST
1	JOHN NEVILLE		john.neville@horizon-satellite.com	help
2				
3	Melissa Martin	299-8437	apfp.266@gmail.com	Volunteer/office
4	Zach Martin			
5	Quin Folkstad	299-9231	folkstadfamily@gmail.com	Volunteer/Draftsman
6	Laurie Rudy	717-805-3948	Lauriearudy@gmail.com	Volunteer
7	Sherrie Blood	907-299-8948		
8	Cheryl Richardson	235488	3582 North Fork Rd.	
9	Lora L. Craig	967/399-7311	34039 N Fork Rd	craig67a@gmail.com
10	Cassandra Mueft	219-290-3631		
11	PATRICIA Stringer	907-394-1270		
12	Ruth Mitchell			
13	Matthew Mitchell			
14	Donna White	907-444-8879		
15	Bobby Nell	907-299-4071		
16	Jennifer Dress	907-299-9052		
17	Josh Dress			



	Name	Phone	Email	Area of Interest Expertise
18	LYNN WHITMORE	907 299 1760		
19	Bob Stark	907. 435. 4181		
20	SAVANNA STARK	907 435-4181		
21	DAVE Hendren	235 8881		
22	Marilyn Hendren	235-8881		
23	Richard Finney	947-8239		
24	Craig Dew	947-8239		
25	Mani Pany	235-7910		
26	Cathy Kerner	907 767 9030		
27	NORALEE Ithoak	907-299-8002		
28	Vincent Mercadante	299-1356		Human
29	Andrew Brooke	340 787 1092		Building + Living
30	Rob Johnson	907-299-7461	robertjohnsonat7@gmail.com	Community garden lot
31	Pamette Sertor	(907) 395-7939		
32	KRIZZIE / DAWSON SLAUGHTER	907 344 9917		
33	Scott Lewis Wheat (CFSERK)	907-399-7099		Mental Health
34	Robert Rietzen	319-8015		
35	Wm Newcorn	235-1954		
36	Bob Stark	435-4181		
37	Savanna Stark	435-4181		
38	Primrose Stark	435-4181		
	CINDY BURNS	235-7786		

# PLANNING COMMITTEE MEETING SIGN-IN

<b>Project:</b>	Anchor Point Food Pantry Relocation	<b>Meeting Date:</b>	5/19/2021
<b>Facilitator:</b>	Melissa Martin	<b>Place/Room:</b>	Cheeky Moose

Name	Signature	Company	Phone	E-Mail
Quin Folkestad		Northern Reflections Design		
Patricia Stringer		PJ's Thrift Store	9073941270	*
Sue Cox		Race for Veteran's Recovery		
Greg Meyer		Kenai Peninsula Food Bank, Ex.Dir.		
Bob Stark		—	435-4181	* bob.alaskan@gmail.com
Dawson Slaughter		Chamber of Commerce, Chair	2994775	"
Cassandra Kwell		APFP Volunteer		*
Rob Johnson			*	*
Marie Carlton				
Cassie Kwell				
Sherrie Blood		Anchor Pt. Food Pantry (APFP), VP		
Melissa Martin		APFP President		
John Cox			399 3610	
Diane Meyer				
Dick Finney				
Teece Scovell			399-6286	8mamamoose@gmail.com
Wesley Carlton			509-430-4304	

# Anchor Point Food Pantry (APFP) Planning Committee Meeting Minutes

Wednesday, May 19, 2021

Call to order 6:30pm.

**Planning Committee members:** Quin Folkestad; PJ Stringer; Sue Cox; Greg Meyer; Bob Stark; Dawson Slaughter; Cassandra Kwell; and Rob Johnson (absent). Missy Martin chairing meeting but would like other members to chair the meetings on a rotating basis. Five other people also attended. Attendance is attached.

All agreed the importance of **developing the subject of a food pantry first** with a plan of sustainability before including the topic of a Community Center.

**Signatures** for support from the community is suggested to bring before the Assembly.

**Quin** will make a **Facebook Page** to organize donations and mailing distributions.

**Dawson Slaughter** has agreed to allow the pantry to **lease his property** as his donation to the success of the pantry. Also, Dawson suggested to contact "Share the Wealth" (CAP Grant) from Kenai Peninsula Borough as a possible source of donations. Missy noted that we already get this grant.

**Bob Stark** will contact the **Tribal Association** for assistance.

**Application** to submit to the Borough is almost complete. Need to secure an **established fund-raising plan**, meaning possible **monthly or yearly contributions from community**.

**Greg** suggested to apply to the **Rasmuson Foundation first**. A tier 1 allotment including a pantry plan.

As we move forward with plans and donations, our budgets will want to be reviewed.

**Greg** will **help** with information from Anchorage to use **templates** for appropriate accounting.

**Business donations:** **Quin** will approach **Tutka and Enstar**. **Missy** is approaching **Hilcorp** and is waiting on their reply. Other possibilities include Essential One. Homer Foundation. **Cinda Martin** will approach "**100 Women Who Care**" for donations but a well procured plan is instrumental for success.

**P.J.'s** store proprietor will place a **donation box** in their store as well as placing donation boxes **around town** and will approach the **Elks** organization.

**Conoco Phillips timeline for donations is now.**

**Greg** can help with newspaper advertising ( template ) for **letters to the editor**. Radio advertising is also a possibility.

**Greg** suggested a "**soup bowl awareness meal**."

**John** will ask the **VFW** to use their gaming license if they host a **fund-raising dinner**. He has also attempted to contact the "Cares Act Fund" people, as well as the **Alaska Legislature**, and the **Borough Assembly** and has suggested that we approach them as a group.

**Dawson** will ask the **Chamber of Commerce** for possible donations as well as approaching **South Peninsula Hospital**. He, too, has been in contact with the **Borough Assembly**.

Minutes taken by Marie Carlton; edited by Melissa (Missy) Martin, President APFP


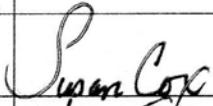
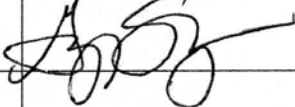
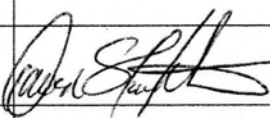

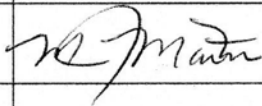
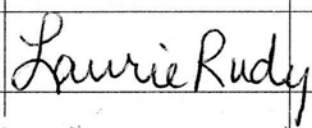
Ended at 7:27pm  
Cheeky Moose  
mm

*mf Martin*

Planning Committee  
meeting minutes 5/19/21 267

# MEETING SIGN-IN SHEET

<b>Project:</b>	Anchor Point Food Pantry Relocation	<b>Meeting Date:</b>	6/23/21
<b>Facilitator:</b>	Melissa Martin / Quinn Folkestad	<b>Place/Room:</b>	GWC

Name	Signature	Company	Phone	E-Mail
Quin Folkestad		Northern Reflections Design	299-9231	folkestadfamily@gmail.com
Patricia Stringer	_____	PJ's Thrift Store		*
Sue Cox		Race for Veteran's Recovery	907 226 3020	SUECOX@ACSALASKA.NET
Greg Meyer		Kenai Peninsula Food Bank, Ex.Dir.		
Bob Stark	_____			*
Dawson Slaughter		Chamber of Commerce, Chair	907 299 4775	sloughterdawson1@gmail.com
Cassandra Kwell	_____	APFP Volunteer		*
Rob Johnson		KPBSD / AK State Parks	* 907-299-7461	* robertjohnsonak72@gmail.com
Sherrie Blood	_____	Anchor Pt. Food Pantry (APFP), VP		
Melissa Martin		APFP President	299-8437	
John Cox	_____			
Diane Meyer	_____			
Laurie Rudy		Anchor Pt., Food Pantry (APFP) Tres.	717-865-3948	Laurie arudy@gmail.com



Need to say we ~~own~~/have land  
start smaller. 2500  
looking

get solid plan  
together.

## Planning Committee Meeting Agenda 06/22/2021

Missy's Notes Not waisting food

✓ Read minutes and approve

Things accomplished: ~~(S)~~ (✓ = mentioned at meeting)

- ✓ Jars have been put around town for donations by PJ Stringer
- ✓ We have 4 pages of names asking the borough to honor our request to move swiftly in deciding on the School Ave. property. *Dawson met w/ the Mayor*
- ✓ The application for the land from the borough was presented to Willy Dunne for pre-approval. Marie Carlton .... It has now been sent in to the borough to request a date at the Assembly meeting.

✓ The pantry has received a grant from the 100 Women Who Care for the \$13,000. This is a good start. *This helps other organizations to say yes when we ask for help.*

✓ The application to the Rasmuson Foundation is about done. We are applying for the <sup>\$24,995-</sup>\$25,000. We must have one of these \$25,000 grants to be able to apply to Rasmuson for the larger grants. Greg has some info for us on that and a few other items... *He said he will apply for this grant for us.*

✓ Mike Miller wrote a great letter to the Anchor Point Foundation on our behalf. It may take 30 days or so to hear back from them.

✓ Sue Cox wrote a letter to the churches to ask for their support.

There is an opportunity to make information available and possibly do fundraising at a Concert on the Lawn that is being put on at Fireweed Meadows. They have asked us to set up a table and get our information out to the public. Dawson, do you have anything to add to this? *Trimbles; Hobo Jim; Food Trucks. Alison or Tracy - Brochure. + Envelopes*  
*July 22<sup>nd</sup> Soldotna* *Take opportunities*

Any others have things to share?

To the Planning Committee:

*→ the Planning Committee*  
✓ We, the pantry, would like you to have a more active roll in the planning. We would like your opinion on the plans. Do you think that as soon as the Borough approves of the land that you would be able to put a building committee together? We would like your input pertaining to the building on behalf of the community. It is important that they like it. Hopefully it will be used more by the community than it will be used by the pantry. Is the size good? Is it set up the way you like? Would you be willing to take over the meetings, to find a treasurer you all feel comfortable with, to concentrate on fundraising to fill the thermometer? *They want to concentrate on the Pantry 1st*

**Building Plans / Fire Marshal / Anchorage**

Raffles use VFW Gaming license  
Highlands. games  
Concert on the lawn  
Homer Farmers Market / Community Table.

4th of July AP Heidi or Jeff Hunt  
Public Awareness  
Greg will help us sponsor July 4<sup>th</sup>  
Two envelopes on for  
D. 1145<sup>th</sup> around town

Petition - Please hurry  
winter is coming

To the Kenai Peninsula Borough (KPB) Assembly: -

WHEREAS The community of Anchor Point (and its surrounding area as far as Ninilchik, Happy Valley, Nikolaevsk, and Homer) need the Anchor Point Food Pantry to continue its mission to assist, on a weekly basis, those that are in need of food.

We the undersigned petition the KPB Assembly to grant a lease of 5 acres of the School Ave./Birch St. (property owned by the KPB [parcel # 1690571]) for such a purpose as mentioned above in a timely manor so that they may set up their pantry and provide our area with their much-needed assistance before the winter of 2021.

NAME (Printed)	ADDRESS (Printed)	SIGNATURE
Sherrie Blood	5093 Nikolaevsk AK	Sherrie Blood
Ruth Mitchell	38096 Sterling Hwy <sup>APAK</sup>	Ruth Mitchell
John Nott	32320 Cottonwood Ln <sup>APAK</sup>	John Nott
Nathan Isaac	Westwood Dr AP	Nathan Isaac
Matthew Mitchell	38096 Sterling Hwy	Matthew Mitchell
Deanna Chesser	AP. 99556 35020 Scandinavian Dr	Deanna Chesser
Marna Kuchersoff	PO Box 515-B AP	Marna Kuchersoff
Emily Eller	PO Box 515-AK AP	Emily Eller
CLAY Bird	P.O. Box 64 - AK & AP	Clay Bird
TINA CONNER	PO Box 64 - AK + AP	Tina Conner
Mildred Syvander	P.O. Box 743 AP AK	Mildred Syvander
Chris Syme	PO Box 1457 AP AK	Chris Syme
Amber Kelly	PO Box 871 <sup>Anchor Pt</sup> 99556	Amber Kelly
MARIE CARLTON	P.O. BOX 29 <sup>AP</sup> 99556	Marie Carlton
JAY WRIGHT	P.O. Box 1297 <sup>AP, AK</sup> 99556	Jay Wright
PAULETTE SORTOR	PO Box 34 99556	Paulette Sortor
Terrence Ebert	32785 Hedwell St Anchor point	Terrence Ebert

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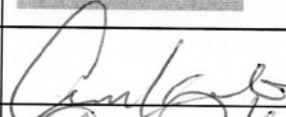
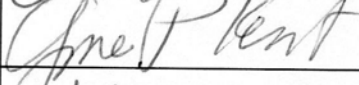

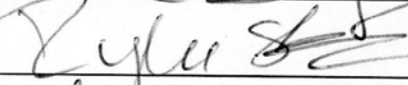

NAME (Printed)	ADDRESS (Printed)	SIGNATURE
Richard Bolton	35820 <sup>Old Hwy</sup> Sterling <sup>Anchor Point</sup>	Richard Bolton
Phillip Duren	Bumble Bee	Lili M Duren
20 Trace Scovell	69139 Sergeant Ave. Anchor Point 99556	Trace Scovell
Angie Hickel	P.O. Box 470, AP, AK	Angie Hickel
Ray Hughes	Box 5076 <sup>Apurv</sup> Point	Ray Hughes
Starlet F. Tangman	P.O. Box 743 <sup>Anchor</sup> Point AK	Starlet F. Tangman
Reyan Cohen	P.O. Box 1064 Anchor Point	Reyan Cohen
25 Tuzn Usoltseff	P.O. Box 322 Anchor Point AK 99556	Tuzn Usoltseff
Alan Bearley	P.O. 311 99556	Alan Bearley
Rod Banes	P.O. Box 5085 N. KOLAEVSK 99556	Rod Banes
Patrick Slate	P.O. Box 561 Anchor Point	Patrick Slate
Mark McConnell	P.O. Box 1125 AP	Mark McConnell
30 Ashley Treger	P.O. Box 742 AP	Ashley Treger
Melvin Crosser	P.O. Box 1147 AP	Melvin Crosser
Frank Loosle	Frank Loosle	Box 1345 anchor point AK
Tony Watson	34141 Chapman St	Tony Watson
James Pirkle	67848 <sup>St</sup> Johns	James Pirkle
35 Jerry Wood	28186 McKechnie Rd	Jerry Wood
Sara Raterick	32651 Comic Circle Anchor Point	Sara Raterick
Rachael Jansen	P.O. Box 195 <sup>Anchor</sup> Point	Rachael Jansen
Monica Pelkey	41326 Kang Ct 99603	Monica Pelkey
40 Becky Carr	437 Steidi Ct	Becky Carr



To the Kenai Peninsula Borough (KPB) Assembly: -

WHEREAS The community of Anchor Point (and its surrounding area as far as Ninilchik, Happy Valley, Nikolaevsk, and Homer) need the Anchor Point Food Pantry to continue its mission to assist, on a weekly basis, those that are in need of food.

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NAME (Printed)	ADDRESS (Printed)	SIGNATURE
Amanda K. Bright	109222 Tipton Ave. <sup>99556</sup>	
Gina P Kent	73020 TRYABAIN AVE	
Ashley Larsen	2914 Stage Stramen	
Jerr L Mark	010 8700 ling, AP, AK	Gore L Martin
45 Mark W. Chapman	34139 Green Widge St. AP, 99556	mark w. Chapman
Betha Sargeant	31410 Judges Bliss	Betha Sargeant
Rylee Short	37645 Old Sterling Hwy	
Lisa Twitchell	AP, Alaska.	Lisa Twitchell
Karen Fuller	P.O. Box 138 AP.	Karen S Fuller
50 Thomas J Clegg	General Delivery	Thomas J. Clegg
Budd Risinger	31970 Laduganosa	Buddy Risinger
Cassandra Days	BOX 149 AP 32354 Dorothy Dr	Cassandra Days
Nicole Donham	PO BOX 1263 Homer, AK 99603	Nicole Donham
55 Mel A. Grosse	P.O. Box 1064 Anchor Point, AK 99556	Mel A Grosse
Charles Inales III	152 W Bayview	Charles Inales III
CHARLES QUALES	152 W. BAYVIEW	



NAME (Printed)	ADDRESS (Printed)	SIGNATURE
Alex Savelsky	P.O. Box 5044 Nikolai VSK AK	Alex Savelsky
Gary Robbins	P.O. Box 523 Homer	Gary Robbins
Sam Stevens	P.O. 195 Anchor Pt.	Sam Stevens
Alexia Claunch	Box 353 A.P. 99556	Alexia Claunch
Robin Crocker	P.O. Box 526 Anchor Point	Robin Crocker
Angie Nickel	P.O. Box 470 A.P. 99556	Angie Nickel
Isaac Blood	P.O. Box 5093 Nikolai VSK AK	Isaac Blood
Tracy Sherwood	(McDaniel St. Anchorage) 99603 P.O. Box 984 Homer AK	Tracy Sherwood
Nikita Kuzman	P.O. Box 1004	Nikita Kuzman
Nicole Dorian	P.O. Box 1263 Homer	Nicole Dorian
Larry Baragin	Anchor Point	Larry Baragin
James Shaw	66671 Homer AK Nulik	James Shaw
Walter Wain	109 9th Ave. Homer	Walter Wain
VARS MARTUSHEL	P.O. Box 5146 Nikolai VSK	VARS MARTUSHEL
Wendy Wain	P.O. Box 5006 Nikolai VSK	Wendy Wain
Christina Brown	P.O. Box 39531 Nulik AK	Christina Brown
Douglas K Pruett	P.O. Box 39531 Nulik AK	Douglas K Pruett
Al Steehout	3850 Homer AK	Al Steehout
Duane Cochran	Hoot Owl Ln.	Duane Cochran
Lori Christensen	P.O. Box 454 Anchor Point	Lori Christensen
Ron Zimlich	P.O. Box 1373 Anchor Point	Ron Zimlich
Zera Badner	P.O. Box 712 Anchor Point	Zera Badner
Nikita Kuzman	P.O. Box 712 Anchor Point	Nikita Kuzman

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We the undersigned were at the AP Planning Advisory meeting September 9, 2021.

NAME (Please Print)	TOWN	SIGNATURE
60 Melissa Martin	A.P.	M Martin
John B. Cox	AP	J B Cox
Susan Cox	AP	Susan Cox
John A Nott	AP	John A Nott
Laurie Rudy	AP	Laurie Rudy
85 Bryan Taylor	KPB staff	Bryan Taylor
Kirk J. Daman	A.P.	Kirk J Daman
Many Stover	A.P.	Many Stover
Thomas Clegg	AP	Thomas Clegg
TODD CAUDEL	AP	Todd Caudel
90 Chris A Syme	AP	Chris A Syme
John Neville	AP	John Neville
Jerry Wood	A.P.	Jerry Wood
Nate Isaac	AP	Nate Isaac
Cassandra Kwell	A.P.	Cassandra Kwell
95 Darlene K Carey	Nikolaevsk AK	Darlene K Carey
Patricia Stringer	A.P.	Patricia Stringer
Karen S Fuller	Anchor Point	Karen S Fuller
Jeanne Bilben	AP	Jeanne Bilben

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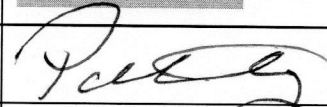
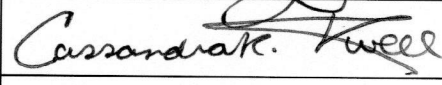

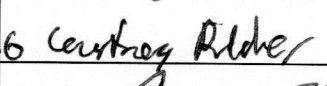

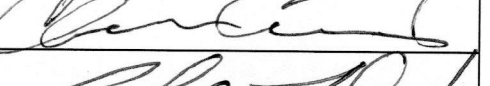

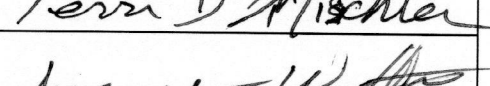
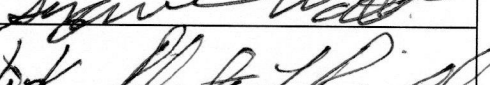

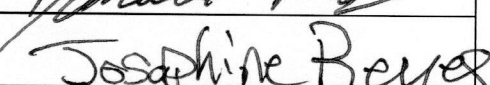
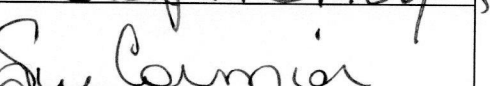
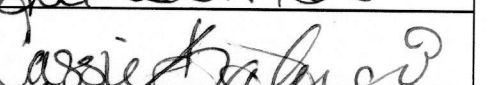
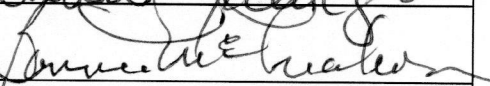

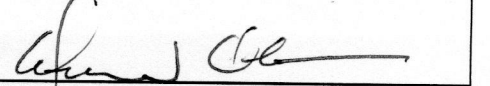
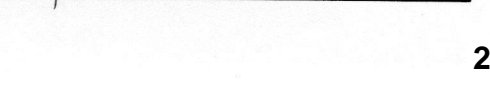
NAME (Printed)	ADDRESS (Printed)	SIGNATURE
AMANDA HAVERMAN		Amanda Haverman
Vasily N Yakunin	P.O. Box 5035 Niko-KA9556	
Danielle Tripp	39105 Little Creek AK	Danielle Tripp
Deanna Jones	41871 Kachemak Dr 99556 Homer	Deanna Jones
Heather Beaman	PO BOX 295 Anchor Point	Heather Beaman
BRA9 SHEFFIELD	67878 HOMESTEAD AVE	
Toni Daman	32995 Heddel AP	Toni Daman
Diana Rauh	PO Box 303	Diana Rauh
Robin Crocker	P.O. Box 526 Anchor Point	Robin Crocker
Samelle Gassler	P.O. Box 795 Anchor Point	Samelle Gassler
Morgan Hannum	P.O. Box 24116 Homer	Morgan Hannum
Nichole Smith	PO Box 453, Anchor Point	Nichole Smith
Diana Kennedy	22230 Sterling Hwy	Diana Kennedy
Charles Shewyer	22230 Sterling Hwy	Charles Shewyer



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NAME (Printed)	ADDRESS (Printed)	SIGNATURE
PATRICIA STRINGER	P.O. Box 1249 AP AK 99556	
Cassandra Kweil	PO BOX 1228, A.P. AK 99556	
Tapanga Roderick	PO Box 1376 AP AK 99556	
Courtney Rider	PO Box 1359 AP AK 99556	
185 Lisa Kcraftman	PO Box 190 AP	
185 Chuck Collins	PO Box 955 AP	
Robin C Lydecker	PO. Bx 1394, AP 99556	
Terri D Mischler	PO Bx 756, AP 99556	
Suzanne Watkins	PO. Box 5007, Nikolaevsk 99556	
180 Jeff Kitch	PO Box 39508 Ninilchik	
Danielle Reyer	P.O. Box 1418 AP.	
Josaphine Reyes	P.O. Box 1418 AP	
Sue Cormier	PO Box 1451 AP	
Cassandra Kalugin	PO Box 835 Kenai AK 99611	
185 Donnie McMahon	PO Box 824 Anchorage AK	
Heather Davis	PO Box 1151 Anchor Point AK	
Duane Olson	PO. Box 974 KENAI, AK	



NAME (Printed)	ADDRESS (Printed)	SIGNATURE
Chris Dubbs	PO Box 902 Anchor Point	Chris Dubbs
Sue Hanny	35870 Old Sterling	Sue Hanny
130 Greg Dunn	PO Box 1334 AP 99556	Greg Dunn
Cathy Kremer	PO Box 686 AP 99556	Cathy Kremer
Melvin Kremer	PO Box 686 AP 99556	Melvin Kremer
Cheryl A. Richardson	35182 North Fork Rd Anchor Point 99556	Cheryl A. Richardson
Jodie Roberts	PO Box 1613 Homer AK 99603	Jodie Roberts
135 Tim Klein	PO Box 15042	Tim Klein
Gabe Selig	PO Box 1228, AP, 99556	Gabe Selig
Debra Erosky	PO Box 39525 Ninilchik 99639	Debra Erosky
Rylee Short	PO Box 39645	Rylee Short
Shanna S. Anderson	Box 2373	Shanna Anderson
140 Mildred Harman	3598 Donald Road	Mildred Harman
Alisha Turpin-Grane	P.O. Box 705	Alisha Turpin-Grane
Angus Crane	P.O. Box 705	Angus Crane
Tim Taylor	P.O. Box 1223	Tim Taylor
Doug Ihly	1134 Melchior St. MC	Doug Ihly
145 Brad Wrobel	PO Box 1305 Anchor Point	Brad Wrobel
Judith G. Leonard	PO Box 39254 Ninilchik	Judith G. Leonard
Brandy M. Nelson	PO Box 1177 Anchor Point	Brandy M. Nelson
Garnet Morey	PO Box 5045 N. Koludak	Garnet Morey

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NAME (Printed)	ADDRESS (Printed)	SIGNATURE
Julie Spelling	64405 Alice Ave	Julie Spelling
Paulina Baker	72930 Laida Ave.	Paulina Baker
Stacie Counts	31365 Birchhaven	Stacie Counts
Jonny Redden	P.O. BOX 9941 Anchor Point	Jonny Redden
Brandon / Shannon	P.O. Box 1043 Homer	Brandon & Shannon
Patrick Slate	P.O. Box 561 AP	Patrick Slate
Adelaide Smardo	" "	Adelaide Smardo
James Pickle	67448 39 Johns. Anchor Point	James Pickle
Tammy Barclay	72465 Norwegian Wood Anchor Pt.	Tammy Barclay
Trevor Jodence	798 Anchor Point	Trevor Jodence
Russell Johnson	PO 795 AP, AK	Russell Johnson
Evelyn N. Parker	PO Box 5115	Evelyn N. Parker
Rebecca Larsen	Home St. Anchor Point	Rebecca Larsen
Emily Johnson	68778 Homestead Rd	Emily Johnson
Casey Mitchell	68778 Homestead Rd	Casey Mitchell

## ANCHOR POINT FOOD PANTRY

WE NEED YOUR HELP TO SECURE PROPERTY  
FROM THE PENNINSULA BOROUGH  
YOUR SUPPORT WILL BE PRESENTED TO THE  
PENNINSULA BOROUGH

PLEASE SIGN BELOW

NAME	ADDRESS	ZIP CODE	SIGNATURE	DO YOU SUPPORT THE FOOD PANTRY	Column 6
C. Kwell	PO Box 1228	99556	Cassandra Kwell	YES	
S. Cormier	PO Box 1451	99556	Sue Cormier	Yes	
P. Stinger	P.O. Box 1248	99556	P. Stinger	yes	
J. Kent	P.O. Box 1296	99556	J. Kent	yes	
L. Baran	PO Box 450	99556	L. Baran	yes	
Andy Fox	PO Box 507	99610	Andy Fox	YES	
Emily Brennan		99603	Emily Brennan	YES	
Stephanie Leach	Person	99603	Stephanie Leach	yes	



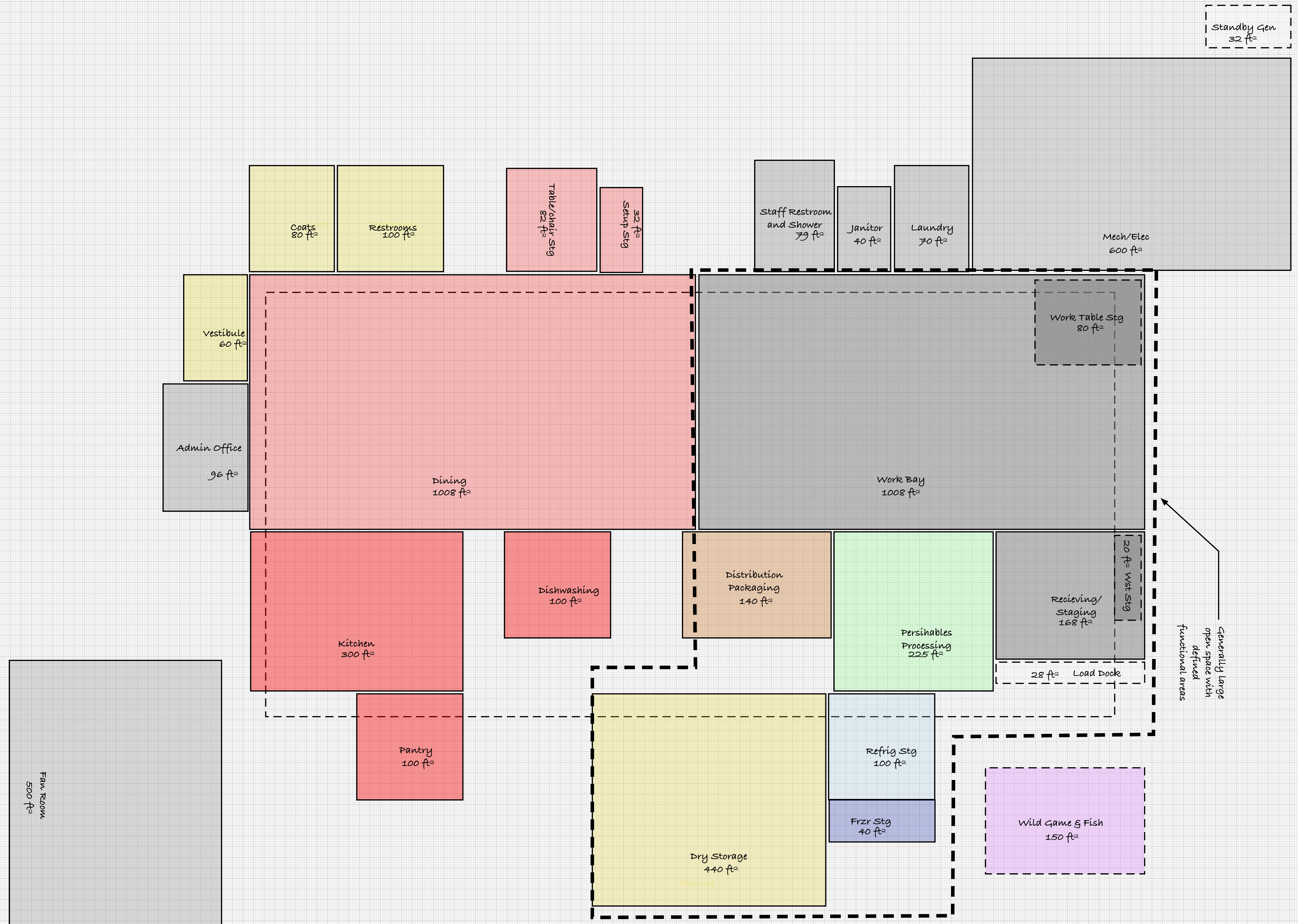
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NAME (Printed)	ADDRESS (Printed)	SIGNATURE
JAN WILSON	POB 161 HOMER AK	Jan Wilson
DEBORAH BROWN	PO Box 294 ANCHOR PT	Deborah Brown
Melissa Malcolm	P.O. Box 283 Anchor Point, AK	Melissa Malcolm
EILEEN FAULKNER	3671 POPPY CIRCLE HOMER AK	Eileen Faulkner
Robert Fryer	P.O. Box 39265 Ninilchik AK	Robert Fryer
Bryan Epley	PO BOX 153 A.P.	Bryan Epley
Winston H. Miller Jr	72600 Mil. Fritz #3 Anchor Point AK 99556	Winston H. Miller Jr
M. June Picard	PO Box 712 Anchor Point AK	M. June Picard
JOHN C HARRIS	PO BOX 1113 ANCHOR POINT AK	John C Harris
Cindy Beus	PO Box 438 AP AK	Cindy Beus
R. D. McChesney	PO BOX 465 AP AK	R. D. McChesney
Kim Delay	PO BOX 1197 AP AK	Kim Delay
R. J. Austin	PO Box 584 AP AK	R. J. Austin
Scott Lewis Wheat	40360 Growing Circle	Scott Lewis Wheat
Tressa Hidden Friend	PO BOX 1455, AP, AK	Tressa Hidden Friend
CHARLESE WIEHER	P.O. Box 949 AP AK	Charles S Wieher
RICHARD M <sup>E</sup> LAUGHLIN	PO BOX 564 AP. AK.	Richard M <sup>E</sup> Laughlin







**APFP Program of Requirements**
**Functional Spaces**

Designation		Space Description	Basis for Sizing	Area	Ceiling Height	Finishes Floor Walls Ceiling	Fixtures, Furnishings & Equipment (FF&E)	Special	Mech	Elec	Remarks
CS01	Dining Hall	Main customer service space. Customers can sit down for a warm meal and pick-up food and perishables bags/boxes.	*Accomodate up to 110 sit down meals over 2 hour period. *Provide table layout space to stage food distribution bags/boxes for pickup.	950-1350 sqft	9 ft+	*Accomodate high foot traffic. *Easily cleanable.  Gypbd  Gypbd or lay-in ceiling tile	*Folding tables and stacking chairs to seat up to 45 *Tables with top and lower shelves, 50 lf, to layout food distribution bags/boxes ?Beverage line?	*Wall and corner guards			Create warm atmosphere Also used for special meal events; i.e. Holiday Dinners
CS02	Vestibule	Main entry/exit Space used for customer check-in/registration via pass-thru window to adjacent APFP Office		60 sqft							
CS03	Coats	Customer winter coat and outer gear storage during meal service		80 sqft			*Coat racks				
CS04	Restrooms	Public restrooms		105 sqft			*Mens - W/C, urinal, lav *Womens - W/C, lav *Floor drain ea restroom *Shared drinking fountain				Consider arranging to allow expansion under phase II to accomodate all public restroom requirements
FS01	Table and Chair Storage	Storage for folding tables and stacking chairs used in Dining Hall		80 sqft				*Wall and corner guards			Could be just an alcove storage area within the Dining Hall Assume dining tables store by folding legs Assume chairs store by stacking Food distribution tables have lower shelf. Unclear if they can fold for storage or, if not, where they will be stored.
FS02	Setup Storage	Storage for table clothes, accessories and other items used in Dining Hall	Sizing guestimate	30 sqft			*Storage shelves				
FS03	Kitchen	Kitchen for preparation of warm meal service	*Serve up to 110 sit down meals over 2 hour period.	300 sqft			*Full service light commerical ??Baking oven? ??Bread/convection ovens?? ?Warming ovens?? ?Serving line or self-serve? *Multi-burner stove top *Grease hood w/fire protection *Floor drains/Floor sinks *Prep sink *Handwash sink *Reach-in refrig/freezer *Island work table *Shelves, cabinets, drawers, countertops and work tables	*Stainless fixtures and equipment finish *Wall and corner guards			Also used for special meal events; i.e. Holiday Dinners
FS04	Pantry	Storage for typical dry, packaged food products used in meal preparation	See FS03	100 sqft			*Storage racks and shelving	*Wall and corner guards			

FS05	Dishwashing	Dishwashing	See FS03	100 sqft						<ul style="list-style-type: none"> <li>*Commercial grade dishwasher</li> <li>*Exhaust hood</li> <li>*3-compartment sink</li> <li>*Floor drains/Floor sinks</li> <li>*Grease trap</li> <li>*Storage racks and shelving</li> <li>*Work tables</li> </ul>	<ul style="list-style-type: none"> <li>*Stainless fixtures and equipment finishes</li> <li>*Wall and corner guards</li> </ul>			
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Note: Most P and S Spaces are functional areas within a larger Open Space

P01	Work Bay	Main work space. Volunteers receive and transfer bulk food products to dry storage. Receive, inspect and transfer frozen foods to freezer storage. Receive and process perishables (see P05). Retrieve food products from storage and package for distribution (see P06). Support processing of wild game and fish (see P08).	<ul style="list-style-type: none"> <li>*Set out 150 bags/boxes of mixed dry goods for distribution</li> <li>*Set out perishables for bagging for distribution; sufficient to serve 150 customers</li> <li>*General circulation and work space</li> </ul>	1000 sqft	High bay	<ul style="list-style-type: none"> <li>*Accomodate handcarts, pallet jacks, dollies, etc.</li> <li>*Suitable for washdown and pressure washing</li> <li>*Sealed concrete or similar</li> </ul>	<ul style="list-style-type: none"> <li>*Robust, suitable for impact from space activities</li> <li>*Easily cleanable</li> <li>*Lower portion compatible with floor washdown process</li> </ul>	Open to structure(??) or Gypbd	<ul style="list-style-type: none"> <li>*Work tables, 100 lf, with undershelves</li> <li>*Assorted handcarts and dollies to facilitate product movement</li> <li>*Floor scales to weigh products received, handled and transferred</li> <li>*Work station to interface with products record keeping</li> <li>*Floor drains/Trench drains with grates, screens and/or sediment traps</li> </ul>	<ul style="list-style-type: none"> <li>*Wall and corner guards</li> </ul>				<p>Receiving and transfer of bulk dry products usually involves 6-8 volunteers</p> <p>Receiving and processing perishables usually involves 6-8 volunteers</p> <p>Retrieving and packaging dry food distribution packages usually involves 1-2 volunteers</p> <p>Making dry food and perishables distribution to customers generally involves 3-5 volunteers</p> <p>Bulk dry food products receiving and transfer, wild game processing and fish processing would occur as independent non-concurrent activities. Perishables receiving and processing, dry food packaging and distribution to customers may occur simultaneously.</p>
P02	Loading Dock	Service portal for accessing and unloading transfer vehicles	<ul style="list-style-type: none"> <li>*Able to interface with delivery van with 24' long box, roll up cargo door and integral tailgate lift</li> </ul>	Xx sqft		Same as P01	Same as P01			<ul style="list-style-type: none"> <li>*Wall and corner guards</li> <li>*Overhead door; nominal 10' w x 12' h</li> <li>*Weather enclosure/weather seals</li> <li>*Adjacent exterior personnel door</li> </ul>				<p>Must also accomodate delivery van with 12' box, roll up cargo door and integral tailgate</p> <p>Must also facilitate delivery via semi tractor trailer van with swing out cargo doors and forklift unloading</p> <p>Weather enclosure/weather seals intended to seal against vehicle when in place to minimize infiltration and heat loss</p> <p>Traditional loading dock with raised platform not necessarily suitable for site, drainage and facility arrangement</p> <p>Delivery van requires rear side access, adjacent to tailgate lift, to access van box via integral ladder and to access lift controls</p>
P03	Receiving/Staging	Space to temporarily position bulk product during transfer vehicle unloading	<ul style="list-style-type: none"> <li>*Accomodate delivery van cargo capacity</li> </ul>	180 sqft		Same as P01	Same as P01			<ul style="list-style-type: none"> <li>*Wall and corner guards</li> </ul>				
P04	Work Table Storage	Storage for work tables used in Work Bay		Xx sqft										TBD - will tables need to be stored or left in place? Will tables be foldable?

P05	Perishables Processing	Volunteers receive and process perishables. Processing consists of inspecting perishables, screening for contaminants and spoiling, discarding waste perishables, cleaning acceptable perishables. Retained perishables are repackaged in crates and containers and either moved to refrigerated storage or repositioned for immediate distribution.	*Receive up to 4000# perishables in single delivery; equivalent to delivery van cargo capacity *Model after KPFB	225 sqft		Same as P01	Same as P01		*Utilize Work Bay FF&E *4 ea 2-1/2' x 5' work tables with undershelf *Hand washing sink *Multi-compartment sink with side boards for washing/cleaning perishables	*Wall and corner guards *Stainless fixtures *Stainless work tables			This space is a subset of Work Bay
P06	Distribution Packaging	Volunteers make up food bags and boxes for distribution to individual customers using an assortment of packaged food products retrieved from Dry storage. Some food products are in bulk containers and must be opened and portions redistributed to distribution sized packaging (zip-loc bags). Processed perishables (either just processed and/or retrieved from Refrigerated storage) are set out so that Volunteers can bag individual customer orders for distribution ☐	*Makeup 150 customer bags/boxes and 150 perishables bags per weekly event	135 sqft		Same as P01	Same as P01		*Utilize Work Bay FF&E *2 ea 2-1/2' x 5' work tables with undershelves for repackaging bulk foods into distribution packages *Utilize up to 50 lf work table space for packaging food bags/boxes *Utilize up to 50 lf work table space for perishables set out	*Wall and corner guards			This space is a subset of Work Bay
P07	Waste Storage	Space to accommodate temporary storage of waste products from Work Bay activities (cardboard boxes, discarded perishables, general waste)		Xx sqft		Same as P01	Same as P01		*Waste bins *Recycle containers	*Wall and corner guards			TBD - Assume waste and recycle containers placed in areas of use; including Work Bay, Kitchen, Dishwasher and Dining Hall Assume waste and recycle containers routinely emptied into exterior dumpsters Assume waste containers, recycle containers and packaging materials can be stored temporarily in receiving area or unused work bay space during work activities ☐
P08	Wild Game/Fish Processing	Space to process raw game and fish Game processing (i.e. roadkill moose received from the field gutted) includes hanging, capping, cleaning, quartering, aging, butchering, grinding, packaging and freezing Fish processing (i.e. bycatch salmon received gutted) includes filleting, rinsing, vacuum packing and freezing		Xx Sq ft									Requirements TBD Space for future build-out Consider: Game Processing: 1. Capping and quartering area 2. Overhead trolley 3. Refrigerated room for hanging/aging 4. Work tables for cutting and wrapping 5. Meat saw 6.Grinder 7. Vacuum packer Fish Processing: 1. Cleaning and fillet tables 2. Packaging prep tables 3. Vacuum packer



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S01	Dry Storage	Storage for bulk dry food products	*Store nominal 2+ weeks of dry food products needed for weekly distributions	450 sqft			*Accomodate handcards, pallet jacks, dollies, etc. *Concrete or similar	*Robust, suitable for impact from space activities		*Storage racks and shelves - est 100lf multi-level shelving	*Wall and corner guards				Layout assumes shelving limited to 5-6' height and hand loaded versus high stacked storage used with forklifts
S02	Refrigerated Storage	Space for refrigerated storage units for perishables held for weekly distribution	*Accumulate perishables recieved through the week for once weekly distribution	100 sqft			*Accomodate handcards, pallet jacks, dollies, etc. used for loading/unloading storage units *Concrete or similar	*Robust, suitable for impact from space activities		*Multiple unitary reach-in refrigerators or walk-in prefabricated refrigerated storage unit *Est 100lf total of shelf space	*Wall and corner guards				Reachin units versus walk-in unit TBD
S03	Freezer Storage	Space for freezer storage units for frozen packaged foods held for weekly distribution	*Store processed, packaged meat and fish for distribution *Minimum capacity assumes 2 ea 15 ft^3 chest freezers; can accomodate 1000# *Maximum capacity assumes 100 ft^3; which can accomodate up to 3500#	40 sqft			*Accomodate handcards, pallet jacks, dollies, etc. used for loading/unloading storage units *Concrete or similar	*Robust, suitable for impact from space activities		*Multiple unitary reach-in freezers or walk-in prefabricated freezer storage unit	*Wall and corner guards *Underfloor heating system for long term ground frost prevention				Reachin units versus walk-in unit TBD Target capacity TBD Walk-in unit would typically be accomplished as an add-on to walk in refrigerator Planning sq ft assumes 100 ft^3 walk-in freezer add on to walk-in refrigerator

H01	Staff Restroom and Shower	Unisex restroom and shower for staff		80 sqft						*W/C *Lav *Shower					
H02	Janitor Closet	Janitor closet		40 sqft						*Service sink *Cabinest and/or shelving for cleaning supplies and consumables	*Wall and corner guards				
H03	Laundry	Laundry for in-house reusable items (table clothes, kitchen towels, etc)		70 sqft						*Washer and dryer; heavy duty residential *Cabinets and/or shelving for consumables *Countertop for folding	*Wall and corner guards				Space for dirty laundry holding cart and clean laundry cart

L01	Office	APFP Office	*Single work station and seating for 2 visitors	100 sqft						*Single work station	*Pass-thru window to adjacent Vestibule				Office also enables check-in of customers entering Pantry thru Vestibule
L02	Conference	APFP Conference Room	*Conference table and seating for 6	220 sqft						*Conference table and chairs *White board					

BS01	Mech/Elec	Mech/Elec building services	*Size to accomodate future building expansion *Nominal 12% of gross building area	600 sqft											Size to accomodate future building expansion
BS02	Fan Room	Central mech ventilation fans and air handling equipment	*Size for Phase I only *Nominal 10% of Phase I gross area	500 sqft											

BS03	Backup Generator	Space or accomodation for back-up generator	*Size to meet backup power requirements for ultimate building	Xx sqft										Generator room versus external self-contained generator unit versus receptacle and switchgear for external portable generator connection TBD Backup power requirements TBD; i.e. building heating? refrigerators? Freezers? Ability to continue operations?
Phase I Subtotal				5600+ sq ft										

Department of Commerce, Community, and Economic Development  
**CORPORATIONS, BUSINESS & PROFESSIONAL  
LICENSING**

State of Alaska / Commerce / Corporations, Business, and Professional Licensing / Search & Database Download /  
Corporations / Entity Details

## ENTITY DETAILS

### Name(s)

Type	Name
Legal Name	Anchor Point Food Pantry

**Entity Type:** Nonprofit Corporation

**Entity #:** 10008094

**Status:** Good Standing

**AK Formed Date:** 10/11/2012

**Duration/Expiration:** Perpetual

**Home State:** ALASKA

**Next Biennial Report Due:** 7/2/2022

**Entity Mailing Address:** PO BOX 266, ANCHOR POINT, AK 99556

**Entity Physical Address:** GREATLAND WORSHIP CENTER, 73358 SCHOOL ST., ANCHOR  
POINT, AK 99556

### Registered Agent

**Agent Name:** DONNA (TEECE) SCOVELL

**Registered Mailing Address:** 69139 SERGEANT AVE, ANCHOR POINT, AK 99556

**Registered Physical Address:** 69139 SERGEANT AVE, ANCHOR POINT, AK 99556

### Officials

☐ Show Former

AK Entity #	Name	Titles	Owned
	ANGIE HICKEL	Director	
	CHRIS SYME	Secretary	

Biennial Report 287



# CERTIFICATE OF LIABILITY INSURANCE

ANCHO-8

OP ID: BV

DATE (MM/DD/YYYY)

10/11/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Coastline Insurance Agency 412 E Pioneer Ave, Ste 1 Homer, AK 99603	<b>907-435-0699</b>	<b>CONTACT NAME:</b> Brian Vecellio <b>PHONE (A/C, No, Ext):</b> 907-435-0699 <b>FAX (A/C, No):</b> 907-435-0669 <b>E-MAIL ADDRESS:</b>
<b>INSURED</b> Anchor Point Food Pantry PO Box 266 Anchor Point, AK 99556		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Umialik Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X		CPP1241753 01 0001161836	06/15/2021	06/15/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRE AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

In respects to designated operations as listed on the policy. Subject to policy terms and conditions.  
This policy covers the following locations:  
33200 Sterling Hwy Anchor Point, AK 99556 & 73358 School Ave Anchor Point, AK 99556 & 34361 Old Sterling Hwy, Unit A, Anchor Point, AK 995556.

**CERTIFICATE HOLDER****CANCELLATION**

<b>Anchor Point Ventures, LLC</b> 3930 Tarrytown Lane Agoura Hills, CA 91301	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b> 
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Umialik Insurance Company  
725 E Fireweed Ln, Suite 500  
Anchorage, AK 99503  
www.umialik.com  
A Stock Company

## BUSINESS AUTO DECLARATION



Group # 0001161836  
Policy # CPP 1241783 02

Policy Period: From JUNE 15, 2021 To JUNE 15, 2022  
12:01 A.M. standard time at the Named Insured's mailing address.

Transaction QUOTE DECLARATION

**Insured Name and Address**  
ANCHOR POINT FOOD PANTRY  
PO BOX 266  
ANCHOR POINT AK 99556

**Agent**  
COASTLINE INSURANCE AGENCY 05166  
412 E PIONEER AVE STE 1  
HOMER, AK 99603-7621

Telephone: 907-435-0699

Business Description	Type of Business	Audit Period	Billing Type
FOOD PANTRY	NOT-FOR-PROFIT	ANNUAL	DIRECT

### ITEM TWO: SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the Covered Autos Section of the Business Auto Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTO SYMBOLS	LIMIT THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	PREMIUM
COVERED AUTOS LIABILITY	7	\$1,000,000 Each Accident minus Deductible	\$681.00
PERSONAL INJURY PROTECTION (Or equivalent No-fault coverage)		Separately stated in each PIP endorsement minus	
ADDED PERSONAL INJURY PROT. (Or equivalent No-fault coverage)		Separately stated in each Added PIP endorsement	
AUTO MEDICAL PAYMENTS	7	\$5,000 Each Insured	\$7.00
UNINSURED MOTORISTS	7	\$1,000,000 Each Accident	\$66.00
UNDERINSURED MOTORISTS (When not included in Uninsured Motorists Coverage)		Each Accident	
PHYSICAL DAMAGE COMPREHENSIVE	7	Actual Cash Value or Cost Of Repair, whichever is less, minus the Deductible stated in the Schedule of Covered Autos for each covered auto, but no Deductible applies to loss caused by lightning or fire. See ITEM FOUR for hired or borrowed "autos".	\$120.00
PHYSICAL DAMAGE SPECIFIED CAUSES OF LOSS		Actual Cash Value or Cost Of Repair, whichever is less, minus the Deductible stated in the Schedule of Covered Autos for each covered auto for loss caused by Mischief or Vandalism. See ITEM FOUR for hired or borrowed "autos".	
PHYSICAL DAMAGE COLLISION	7	Actual Cash Value or Cost Of Repair, whichever is less, minus the Deductible stated in the Schedule of Covered Autos for each covered auto. See ITEM FOUR for hired or borrowed "autos".	\$203.00
PHYSICAL DAMAGE TOWING AND LABOR (not available in California)			
Premium for Endorsements			
Estimated Total Premium *			\$1,077.00

\* This policy may be subject to final audit

Forms and Endorsements applicable to this policy

See Forms and Endorsements Schedule

Issued Date: 03/16/2022

WN CA 01 06 16

AGENT COPY

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**ASSETS**

Bank Reserves	\$ 29,635.00
Shelves	\$ 500.00
Cabinets	\$ 100.00
Tables	\$ 150.00
Trailer Unit	\$ 8,500.00
Generator	\$ 250.00
Shed	\$ 4,500.00
Freezers	\$ 1,100.00
Fridge	\$ 650.00
Food on shelves	\$ 5,500.00
Box Van	\$ 9,200.00

**TOTAL ASSETS** \$60,085.00

**LIABILITIES**

NONE \$ -

**TOTAL LIABILITIES** \$ -

**APFP Project Team Design Professionals**

Architect

Architects Alaska – David Moore

Civil – Site & Wastewater

RESPEC Engineers (formerly PDC Engineers) – Dave Arehart

Geotechnical

Bishop Engineering - John Bishop

Structural

Nelson Engineering – Mathew Dura

Electrical

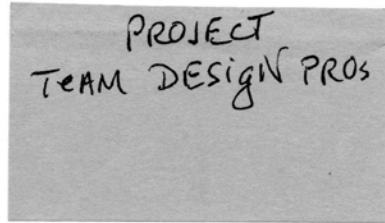
EDC Engineers – John Pepe

Mechanical

RESPEC Engineers – Luke Rubalcava and Randy Williams

Kitchen Consultant

Arctic Food Service Design - Tim Agusti





## Manage Form 990-N (e-Postcard)

[Home](#) | [Security Profile](#) | [Logout](#)

EIN	Organization Name	Tax Year	End Date	Created On	Status	Submission ID	Action
46-1962921	ANCHOR POINT FOOD PANTRY	2015	10-31-2016	01-20-2017	Accepted	<a href="#">10065520170200754309</a>	
46-1962921	ANCHOR POINT FOOD PANTRY	2016	10-31-2017	02-05-2018	Pending	<a href="#">10065520180361701649</a>	<a href="#">Get Updated Status</a>
46-1962921	ANCHOR POINT FOOD PANTRY	2017	10-31-2018	01-28-2019	Accepted	<a href="#">10065520190282516001</a>	
46-1962921	ANCHOR POINT FOOD PANTRY	2018	10-31-2019	02-12-2020	Accepted	<a href="#">10065520200433487049</a>	
46-1962921	ANCHOR POINT FOOD PANTRY	2019	10-31-2020	02-12-2021	Accepted	<a href="#">10065520210434326096</a>	

««« Prev Page 1 ▼ Next »»»

**CREATE NEW FILING**



CLIENT 30065

**LAMBE TUTOR & ASSOCIATES APC  
189 S. BINKLEY STE 201  
SOLDOTNA, AK 99669  
907-262-9123**

March 3, 2022

ANCHOR POINT FOOD PANTRY  
PO Box 266  
ANCHOR POINT, AK 99556

FEDERAL ID: 46-1962921

Dear Client:

Your 2020 Federal Form 8868 Application for Automatic Extension was acknowledged as accepted by the Internal Revenue Service on March 2, 2022. No tax is payable with the filing of your extension.

Please be sure to call if you have any questions.

Sincerely,

Stephanie J. Lambe, CPA

## **E. NEW BUSINESS**

### **E7 Resolution 2022-020:**

**A resolution approving memoranda of understanding for sharing geographic data and imagery with the cities of the borough.**

# Kenai Peninsula Borough

## Planning Department – Geographic Information Systems Division

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### MEMORANDUM

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

**THRU:** Charlie Pierce, Mayor *CP*  
Melanie Aeschliman, Planning Director *MA*

**FROM:** Marcus Mueller, Geographic Information Systems Manager *MM*

**DATE:** March 24, 2022

**RE:** Resolution 2022-\_\_\_\_, Approving Memoranda of Understanding for  
Sharing Geographic Data and Imagery with the Cities of the Borough  
(Mayor)

---

The Kenai Peninsula Borough contracted with Pictometry International Corp to acquire new imagery and building footprint data across the Kenai Peninsula Borough. Under the terms of the contract the borough is allowed to share the geographic information with the cities within the borough.

Memoranda of Understanding (MOU's) have been drafted to facilitate data sharing with each city, and to ensure compliance with the terms of the contract.

The new imagery and building footprint data can be useful to each city for public safety, ports and harbors, infrastructure management, street addressing, planning, project development, and other matters of general interest to the residents of the borough.

This resolution would approve the MOU's and authorize the Mayor to sign them on behalf of the borough.

Your review and consideration of this resolution is appreciated.

Introduced by: Mayor  
Date: 4/5/21  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2022 - \_\_\_\_**

**A RESOLUTION APPROVING MEMORANDA OF UNDERSTANDING FOR  
SHARING GEOGRAPHIC DATA AND IMAGERY WITH THE  
CITIES OF THE BOROUGH**

**WHEREAS,** the Kenai Peninsula Borough (“borough”) contracted with Pictometry International Corp (“Pictometry”) to acquire new imagery and building footprint data (“data”) across the borough; and

**WHEREAS,** the Pictometry contract allows for the borough to share the data with the cities within the borough, subject to the terms of the contract; and

**WHEREAS,** a Memorandum of Understanding has been drafted for the cities of Kenai, Homer, Seldovia, Seward, and Soldotna to facilitate data sharing and to ensure compliance with contract terms; and

**WHEREAS,** the assembly finds it in the best interest of the borough to share data which provides benefits to each city in their operations, and consequently to the residents of the borough;

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

**SECTION 1.** that the Memoranda of Understanding with the cities of Kenai, Homer, Seldovia, Seward, and Soldotna to share data under the terms of the Pictometry contract are approved.

**SECTION 2.** That the mayor is authorized to execute a Memorandum of Understanding with each of the cities of Kenai, Homer, Seldovia, Seward and Soldotna to facilitate data and imagery sharing pursuant to the terms of borough’s contract with Pictometry .

**SECTION 3.** That this resolution takes effect immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \_\_\_\_  
DAY OF \_\_\_\_\_, 2022.**



---

Brent Johnson, Assembly President

ATTEST:

---

Johni Blankenship, MMC, Borough Clerk

## Memorandum of Understanding

Between Kenai Peninsula Borough and the City of \_\_\_\_\_  
Regarding Access to Pictometry Data

This Memorandum of Understanding (hereinafter the “MOU”) is by and between the Kenai Peninsula Borough, whose address is 144 North Binkley Street, Soldotna, AK 99669, (hereinafter “Borough”) and the City of \_\_\_\_\_, whose address is \_\_\_\_\_, \_\_\_\_\_, AK 99\_\_\_\_, (hereinafter “City”) for the purpose of outlining the City and the Borough’s responsibilities and obligations to grant the City access to certain content and products owned by Pictometry International Corp. and licensed to the Borough as part of a contract between the Borough and Pictometry.

WHEREAS, KPB entered into a contractual agreement with Pictometry International Corp. (“Pictometry”), effective April 7, 2021, for the purpose of Pictometry providing the KPB with access to and use of certain products and services as specified in Section A of the Agreement related to mapping data and imagery, software, and licensed access for other government agency access (the “Pictometry Agreement”)] ; and

WHEREAS, Pursuant to Section B of the Pictometry Agreement, the City of is considered an Authorized Subdivision and therefore may be considered an Authorized User under the Pictometry Agreement so long as the City agrees to abide by and comply with the Delivered Content Terms and Conditions provisions of the Pictometry Agreement; and

WHEREAS, pursuant to this MOU the City agrees to work cooperatively with KPB with respect to the benefits and responsibilities of such products and services; and

THE PARTIES THEREFORE AGREE, in consideration of the mutual promises contained in this MOU and the services and fees provided, as set forth below:

### 1. PURPOSE AND INTENT

This MOU is to provide for City access to Delivered Content as an Authorized User under, and upholding, the terms and conditions of the Pictometry Agreement held by KPB. This MOU is to provide specific terms between KPB and the City to share in the cost of imagery products.

### 2. BOROUGH’S OBLIGATIONS

- a. To deliver to the City the content described in Section 3(B) within 30 days of order.
- b. To deliver an invoice to the City for such costs identified in Section 3(B) at time of delivery.
- c. To notify the City of the availability of new content applicable to this MOU.
- d. To serve as point of contact with respect to the Pictometry Agreement and the servicing of Delivered Content.

### 3. CITY’S OBLIGATIONS

- a. Comply with all terms, conditions and covenants contained in Section B of the Pictometry Agreement, which is hereby incorporated by reference and attached to this MOU.

- b. To order the content to be delivered to the City, from the menu below. Order may be submitted to rlay@kpb.us

<u><b>Service</b></u>	<u><b>Cost</b></u>	<u><b>Description</b></u>
Ortho Imagery Mosaic inside City	N/A	Georeferenced .jpg or web service
Ortho Imagery Mosaic areawide	N/A	Georeferenced .jpg or web service
Building Footprints	N/A	Feature Class Dataset or web service
Connect Explorer	\$ 150/ Individual Account/ Year, subject to license availability	User Account & Software for Proprietary Oblique Image Services

- c. To obtain approval from Pictometry via KPB prior to sharing content with any contractor or third party per the terms of the Pictometry Agreement.

#### **4. WITHDRAWAL**

If the Borough or City wants to withdraw from agreement, they must provide 60 days written notice.

#### **5. TERM OF AGREEMENT**

This MOU shall be in effect year-to-year beginning February 11, 2022 for as long as the Delivered Content is being used by the City and the Delivered Content Terms and Conditions are in effect, whichever ends first.

Notwithstanding this Section or Section 4 (Withdrawal), the parties understand that should the Pictometry Agreement terminate for any reason, the MOU is automatically terminated.

#### **6. CITY AND KPB CODE AND STATE LAW**

This MOU does not supersede City or KPB code or state law. If a provision of this MOU conflicts with KPB or City code or state law, the respective code and state law controls.

#### **7. DEFAULT**

Failure of either party to fully perform its obligations under the terms of this MOU will constitute a default. If default is not cured, within 30 days, by full performance under this MOU, then the non-defaulting party may immediately terminate the MOU by delivering written notice to the defaulting party.

#### **8. AMENDMENT OF AGREEMENT**

This MOU may only be modified or amended by written agreement of the parties.

#### **9. COUNTERPARTS; ELECTRONIC SIGNATURE**

This MOU may be executed in counterparts and may be executed by way of facsimile or electronic signature in compliance with AS 09.80, each of which when so executed shall constitute an original and all of which together shall constitute one and the same instrument.

**10. ENTIRE AGREEMENT**

This MOU constitutes the entire agreement between the parties. There are no other understandings or agreements between the parties, either oral or memorialized in writing regarding the matters addressed in this MOU. The parties may not amend this MOU unless agreed to in writing with both parties signing through their authorized representatives.

**11. SAVINGS CLAUSE**

If any provision of this MOU shall be invalidated on any ground by any court of competent jurisdiction, then the invalidated provision shall remain in force and effect only to the extent not invalidated and the remainder of this MOU shall not be affected thereby and shall remain in full force and effect.

**12. OBLIGATIONS**

All of the Borough's and the Cities obligations as specified in Sections 2 and 3 are subject to lawful appropriations, if necessary, for the specific purpose of carrying out the Borough and City's obligations.

**KENAI PENINSULA BOROUGH**

\_\_\_\_\_  
Charlie Pierce, Mayor

\_\_\_\_\_  
Date

ATTEST:

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
Johni Blankenship, Borough Clerk

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

**CITY OF \_\_\_\_\_**

\_\_\_\_\_  
\_\_\_\_\_, City Manager

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk



**AGREEMENT BETWEEN  
PICTOMETRY INTERNATIONAL CORP. (“PICTOMETRY”) AND  
KENAI PENINSULA BOROUGH, AK (“CUSTOMER”)**

1. This order form (“Order Form”), in combination with the contract components listed below:

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

- Delivered Content Terms and Conditions of Use
- Online Services General Terms and Conditions
- Software License Agreement

Section C: Non-Standard Terms and Conditions

Appendix 1: Photogrammetric Product Specifications

Map(s)

(all of which, collectively, constitute this “Agreement”) set forth the entire understanding between Pictometry and Customer with respect to the subject matter hereof and supersedes all prior representations, agreements and arrangements, whether oral or written, relating to the subject matter hereof. Any modifications to this Agreement must be made in writing and be signed by duly authorized officers of each party. Any purchase order or similar document issued by Customer in connection with this Agreement is issued solely for Customer’s internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties.

2. In the event of any conflict among any contract components comprising this Agreement, order of precedence for resolving such conflict shall be, from highest (i.e., supersedes all others) to lowest (i.e., subordinate to all others): Section C: Non-Standard Terms and Conditions; Appendix 1: Photogrammetric Product Specifications; Section A: Product Descriptions, Prices and Payment Terms; License Terms in order as listed above under the heading 'Section B: License Terms'; and Order Form.
3. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

<b>CUSTOMER NOTICE ADDRESS</b>	
144 North Binkley Street	
Soldotna, AK 99669	
Attn: Marcus Mueller, Land Management Officer	
Phone: 907-262-4441	Fax:

<b>PICTOMETRY NOTICE ADDRESS</b>	
25 Methodist Hill Drive	
Rochester, New York 14623	
Attn: General Counsel	
Phone: (585) 486-0093	Fax: (585) 486-0098


Either party may change their respective notice address by giving written notice of such change to the other party at the other party’s then-current notice address. Notices shall be given by any of the following methods: personal delivery; reputable express courier providing written receipt; or postage-paid certified or registered United States mail, return receipt requested. Notice shall be deemed given when actually received or when delivery is refused.

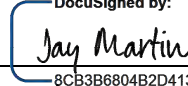
4. This Agreement, including all licenses granted pursuant to it, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not be assignable by either party except that (i) Pictometry shall have the right to assign its right to receive Fees under this Agreement, provided no such assignment shall affect Pictometry's obligations hereunder, and (ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement.
5. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry pursuant to this Agreement.
7. The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.

8. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.
9. Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.
10. In consideration of, and subject to, payment by Customer of the Fees specified in Section A of this Agreement, Pictometry agrees to provide Customer with access to and use of the products specified in Section A of this Agreement, subject to the terms and conditions set forth in this Agreement. Customer hereby agrees to pay the Fees specified in Section A of this Agreement in accordance with the stated payment terms and accepts and agrees to abide by the terms of this Agreement.

This Agreement shall become effective upon execution by duly authorized officers of Customer and Pictometry and receipt by Pictometry of such fully executed document, such date of receipt by Pictometry being the "Effective Date."

**PARTIES:**

<b>CUSTOMER</b>	<b>PICTOMETRY</b>
<b>KENAI PENINSULA BOROUGH, AK</b>	<b>PICTOMETRY INTERNATIONAL CORP.</b>
	a Delaware corporation
<b>SIGNATURE:</b>	<b>SIGNATURE:</b>  <small>DocuSigned by: 919C59280FF1419...</small>
<b>NAME:</b> Charlie Pierce	<b>NAME:</b> Brian Brockmann
<b>TITLE:</b> Kenai Peninsula Borough Mayor	<b>TITLE:</b> Corporate Vice President and Assistant Secretary
<b>DATE:</b>	<b>EXECUTION DATE:</b> 4/7/2021

<b>PICTOMETRY INTERNATIONAL CORP.</b>
a Delaware corporation
<b>SIGNATURE:</b>  <small>DocuSigned by: 8CB3B6804B2D413...</small>
<b>NAME:</b> Jay Martin
<b>TITLE:</b> Treasurer, Secretary and Corporate Vice President
<b>EXECUTION DATE:</b> 4/7/2021
<b>DATE OF RECEIPT (EFFECTIVE DATE):</b>

ATTEST:

AGREEMENT AND ATTACHMENTS  
TO ORIGINAL APPROVED AS TO  
FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Johni Blankenship, Borough Clerk

Patty Burley  
Patty Burley, Deputy Borough Attorney

(Borough Seal)

**ACKNOWLEDGMENTS**

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this\_\_day of \_\_\_\_\_20\_\_\_\_\_, by \_\_\_\_\_, 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:

(Notary Seal)

**SECTION A****PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS**

Pictometry International Corp.  
25 Methodist Hill Drive  
Rochester, New York 14623

**ORDER #**

C8479897

**BILL TO**

Kenai Peninsula Borough, AK  
Marcus Mueller, Land Management Officer  
144 North Binkley Street  
Soldotna, AK 99669  
907-262-4441  
mmueller@kpb.us

**SHIP TO**

Kenai Peninsula Borough, AK  
Marcus Mueller, Land Management Officer  
144 North Binkley Street  
Soldotna, AK 99669  
907-262-4441  
mmueller@kpb.us

**CUSTOMER ID**

A118141

**SALES REP**

dwalt

**FREQUENCY OF PROJECT**

Annual

**FIRST PROJECT**

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT <sup>1</sup>
3,082	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 215,740.00
251	Reveal Essentials+ Property	Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 95,380.00
55,639	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Data Source – Base:</i> Pictometry Imagery <i>Data Source Year – Base:</i> 2021	\$ 0.35		\$ 19,473.65



		<p><i>Data Source – Comparison:</i> N/A</p> <p><i>Data Source Year – Comparison:</i> N/A</p> <p><i>Deck Identification:</i> Marked with a Point</p> <p><i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i> Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
2	FutureView Adv Training	<p>Full conference registration to advanced training designed to maximize deployment. Includes hotel room for up to three nights, event registration, and round-trip airfare up to \$500. Customer will be provided with discount code to complete FutureView registration. (Air Travel Restrictions - 30 day advance purchase for airfare, per person round trip airfare at standard coach class rates through Pictometry's travel provider only.) Must be redeemed within three years of agreement execution date.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 2,499.00		\$ 4,998.00
1	Pictometry Connect - CA - 50	<p>Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters: <i>Admin User Name:</i> Bobbi Lay <i>Admin User Email:</i> rlay@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	Reveal Orthomosaic - Combined	<p>This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00

		Pictometry CONNECT account and the current purchase of access to an imagery product.  Applicable Terms and Conditions: Online Services General Terms and Conditions			
1	Oblique Imagery Bundle with One (1) Year of Maint & Support	Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.  Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00
SUBTOTAL					\$338,791.65

**SECOND PROJECT**

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT <sup>1</sup>
1,229	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 86,030.00
76	Reveal Essentials+ Property	Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 28,880.00
2	FutureView Adv Training	Full conference registration to advanced training designed to maximize deployment. Includes hotel room for up to three nights, event registration, and round-trip airfare up to \$500. Customer will be provided with discount code to complete FutureView registration. (Air Travel Restrictions - 30 day advance purchase for airfare, per person round trip airfare at standard coach class rates through Pictometry's travel provider only.) Must be redeemed within three years of agreement execution date.  Applicable Terms and Conditions: Order Form	\$ 2,499.00		\$ 4,998.00
11,775	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned	\$ 0.39		\$ 4,592.25

		<p>by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters:  <i>Data Source – Base:</i>  Pictometry Imagery  <i>Data Source Year – Base:</i>  2022  <i>Data Source – Comparison:</i>  N/A  <i>Data Source Year – Comparison:</i>  N/A  <i>Deck Identification:</i>  Marked with a Point  <i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i>  Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
1	Pictometry Connect - CA - 50	<p>Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters:  <i>Admin User Name:</i>  Bobbi Lay  <i>Admin User Email:</i>  rlay@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	Reveal Orthomosaic - Combined	<p>This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters:  <i>Leaf:</i>  Leaf Off: Less than 30% leaf cover</p>	\$ 0.00		\$ 0.00
1	Oblique Imagery Bundle with One (1) Year of Maint & Support	<p>Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.</p> <p>Applicable Terms and Conditions: Software License Agreement</p>	\$ 0.00		\$ 0.00

1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product.  Applicable Terms and Conditions: Online Services General Terms and Conditions	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00
SUBTOTAL					\$127,700.25

**THIRD PROJECT**

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT <sup>1</sup>
1,173	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 82,110.00
52	Reveal Essentials+ Property	Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 19,760.00
15,438	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Data Source – Base:</i> Pictometry Imagery <i>Data Source Year – Base:</i>	\$ 0.39		\$ 6,020.82



		<p>2023  <i>Data Source – Comparison:</i>  N/A  <i>Data Source Year – Comparison:</i>  N/A  <i>Deck Identification:</i>  Marked with a Point  <i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i>  Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
2	FutureView Adv Training	<p>Full conference registration to advanced training designed to maximize deployment. Includes hotel room for up to three nights, event registration, and round-trip airfare up to \$500. Customer will be provided with discount code to complete FutureView registration. (Air Travel Restrictions - 30 day advance purchase for airfare, per person round trip airfare at standard coach class rates through Pictometry's travel provider only.) Must be redeemed within three years of agreement execution date.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 2,499.00		\$ 4,998.00
1	Pictometry Connect - CA - 50	<p>Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters:  <i>Admin User Name:</i>  Bobbi Lay  <i>Admin User Email:</i>  rlay@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	RapidAccess - Disaster Response Program	<p>RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product.</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00

		Applicable Terms and Conditions: Online Services General Terms and Conditions			
1	Reveal Orthomosaic - Combined	This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 0.00		\$ 0.00
1	Oblique Imagery Bundle with One (1) Year of Maint & Support	Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.  Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
SUBTOTAL					\$116,088.82

FOURTH PROJECT					
QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT <sup>1</sup>
110	Reveal Essentials+ Property	Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 41,800.00
110	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 7,700.00
16,133	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Data Source – Base:</i> Pictometry Imagery	\$ 0.39		\$ 6,291.87

		<p><i>Data Source Year – Base:</i> 2024</p> <p><i>Data Source – Comparison:</i> N/A</p> <p><i>Data Source Year – Comparison:</i> N/A</p> <p><i>Deck Identification:</i> Marked with a Point</p> <p><i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i> Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
2	FutureView Adv Training	<p>Full conference registration to advanced training designed to maximize deployment. Includes hotel room for up to three nights, event registration, and round-trip airfare up to \$500. Customer will be provided with discount code to complete FutureView registration. (Air Travel Restrictions - 30 day advance purchase for airfare, per person round trip airfare at standard coach class rates through Pictometry's travel provider only.) Must be redeemed within three years of agreement execution date.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 2,499.00		\$ 4,998.00
1	Pictometry Connect - CA - 50	<p>Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters:  <i>Admin User Name:</i> Bobbi Lay  <i>Admin User Email:</i> rlay@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	Reveal Orthomosaic - Combined	<p>This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters:  <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00

		through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product.  Applicable Terms and Conditions: Online Services General Terms and Conditions			
1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00
1	Oblique Imagery Bundle with One (1) Year of Maint & Support	Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.  Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
SUBTOTAL					\$63,989.87

Thank you for choosing Pictometry as your service provider.	<b>TOTAL</b>	\$ 646,570.59
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<sup>1</sup>Amount per product = ((1-Discout %) \* Qty \* List Price)

#### STANDARD ORTHO MOSAIC PRODUCTS

Pictometry standard ortho mosaic products are produced through automated mosaicking processes that incorporate digital elevation data with individual Pictometry ortho frames to create large-area mosaics on an extremely cost-effective basis. Because these products are produced through automated processes, rather than more expensive manual review and hand-touched corrective processes, there may be inherent artifacts in some of the resulting mosaics. While Pictometry works to minimize such artifacts, the Pictometry standard ortho mosaic products are provided on an 'AS IS' basis with respect to visible cutlines along mosaic seams resulting from the following types of artifacts:

- Disconnects in non-elevated surfaces generally caused by inaccurate elevation data;
- Disconnects in elevated surfaces (e.g., roadways, bridges, etc.) generally caused by elevated surfaces not being represented in the elevation data;
- Building intersect and clipping generally caused by buildings not being represented in the elevation data;
- Seasonal variations caused by images taken at different times during a season, or during different seasons;
- Ground illumination variations caused by images taken under different illumination (e.g., sunny, high overcast, morning light, afternoon light, etc.) within one flight day or during different flight days;
- Single GSD color variations caused by illumination differences or multiple-aircraft/camera captures;
- Mixed GSD color variations caused by adjacent areas being flown at different ground sample distances (GSDs); and
- Water body color variations caused by multiple individual frames being used to create a mosaic across a body of water (e.g., lakes, ponds, rivers, etc.).

Other Pictometry products may be available that are less prone to such artifacts than the Pictometry standard ortho mosaic products.

#### Geofences:

##### FIRST PROJECT

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

AK Kenai Peninsula (Primary)

##### SECOND PROJECT

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

AK Kenai Peninsula (Primary)

##### THIRD PROJECT

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

AK Kenai Peninsula (Primary)

##### FOURTH PROJECT

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

AK Kenai Peninsula (Primary)

#### RapidAccess—Disaster Response Program (“DRP”)

Customer is eligible for DRP described below from the Effective Date through the second anniversary of the initial Project delivery. Following payment to Pictometry of amounts due with respect to each subsequent Project, Customer will be eligible for the then-current DRP for a period of two years from delivery of such subsequent Project. Customer must be in good-standing with Pictometry to maintain eligibility for DRP.



- A. Disaster Coverage Imagery at No Additional Charge** – Pictometry will, upon request of Customer and at no additional charge, provide standard quality imagery of up to 200 square miles of affected areas (as determined by Pictometry) upon the occurrence of any of the following events during any period Customer is eligible for DRP:
- ☐ **Hurricane:** areas affected by hurricanes of Category 2 and higher.
  - ☐ **Tornado:** areas affected by tornados rated EF4 and higher.
  - ☐ **Terrorist:** areas affected by damage from terrorist attack.
  - ☐ **Earthquake:** areas affected by damage to critical infrastructure resulting from earthquakes measured at 6.0 or higher on the Richter scale.
  - ☐ **Tsunami:** areas affected by damage to critical infrastructure resulting from tsunamis.
- B. Discounted Rate** – Coverage for areas affected by the events set forth above exceeding 200 square miles will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates. Also, coverage for areas affected by hurricanes below Category II, tornadoes below EF4 or earthquakes rated below 6.0 on the Richter scale will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates.
- C. Online Services – Use of Pictometry Connect Explorer™** – Pictometry’s DRP includes the use of Connect Explorer for a term of ninety days from the date of delivery of the DRP imagery. Customer shall have access to the DRP imagery for as long as they maintain an active Connect account.

### FEES; PAYMENT TERMS

All amounts due to Pictometry pursuant to this Agreement (“Fees”) are expressed in United States dollars and do not include any duties, taxes (including, without limitation, any sales, use, ad valorem or withholding, value added or other taxes) or handling fees, all of which are in addition to the amounts shown above and, to the extent applicable to purchases by Customer, shall be paid by Customer to Pictometry without reducing any amount owed to Pictometry unless documents satisfactory to Pictometry evidencing exemption from such taxes is provided to Pictometry prior to billing. To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less). In addition, Customer shall pay Pictometry all costs Pictometry incurs in collecting past due amounts due under this Agreement including, but not limited to, attorneys’ fees and court costs.

### FIRST PROJECT

Due upon activation of Early Access	\$271,033.32
Due upon shipment of imagery	\$67,758.33
<b>Total Payments</b>	<b>\$338,791.65</b>

### SECOND PROJECT

Due upon activation of Early Access	\$102,160.20
Due upon shipment of imagery	\$25,540.05
<b>Total Payments</b>	<b>\$127,700.25</b>

### THIRD PROJECT

Due upon activation of Early Access	\$92,871.06
Due upon shipment of imagery	\$23,217.76
<b>Total Payments</b>	<b>\$116,088.82</b>

### FOURTH PROJECT

Due upon activation of Early Access	\$51,191.90
Due upon shipment of imagery	\$12,797.97
<b>Total Payments</b>	<b>\$63,989.87</b>

**SECTION B****LICENSE TERMS****PICTOMETRY DELIVERED CONTENT  
TERMS AND CONDITIONS OF USE**

These Pictometry Delivered Content Terms and Conditions of Use (the “Delivered Content Terms and Conditions”), in combination with the corresponding Agreement into which these terms are incorporated, collectively set forth the terms and conditions that govern use of Delivered Content (as hereinafter defined) for use within computing environments operated by parties other than Pictometry. As used in the Delivered Content Terms and Conditions the terms “you” and “your” in uppercase or lowercase shall mean the Customer that entered into the Agreement into which the Delivered Content Terms and Conditions are incorporated.

**1. DEFINITIONS**

- 1.1 “Authorized Subdivision” means, if you are a county or a non-state consortium of counties, any political unit or subdivision located totally or substantially within your boundaries that you authorize to have access to Delivered Content pursuant to the Delivered Content Terms and Conditions.
- 1.2 “Authorized System” means a workstation or server that meets each of the following criteria (i) it is owned or leased by you or an Authorized Subdivision, (ii) it is located within and only accessible from facilities that are owned or leased by you or an Authorized Subdivision, and (iii) it is under the control of and may only be used by you or Authorized Subdivisions.
- 1.3 “Authorized User” means any employee of you or Authorized Subdivisions that is authorized by you to have access to the Delivered Content through an Authorized System.
- 1.4 “Delivered Content” means the images, metadata, data layers, models, reports and other geographic or structural visualizations or embodiments included in, provided with, or derived from the information delivered to you by or on behalf of Pictometry pursuant to the Agreement.
- 1.5 “Project Participant” means any employee or contractor of persons or entities performing services for compensation for you or an Authorized Subdivision that has been identified by written notice to Pictometry prior to being granted access to Delivered Content and, unless Pictometry expressly waives such requirement for any individual, has entered into a written agreement with Pictometry authorizing such access.

**2. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP**

- 2.1 Subject to the terms and conditions of the Agreement, you are granted nonexclusive, nontransferable, limited rights to:
  - (a) install the Delivered Content on Authorized Systems;
  - (b) permit access and use of the Delivered Content through Authorized Systems by:
    - (i) Authorized Users for performance of public responsibilities of you or Authorized Subdivisions that are to be performed entirely within facilities of you or Authorized Subdivisions;
    - (ii) Project Participants under the supervision of Authorized Users for performance of tasks or preparation of materials using only hard copies (or jpg copies) of Delivered Content solely for fulfilling public responsibilities of you or Authorized Subdivisions to be performed entirely within facilities of you or Authorized Subdivisions; and
    - (iii) individual members of the public, but only through Authorized Users and solely for the purpose of making hard copies or jpg copies of images of individual properties or structures (but not bulk orders of multiple properties or structures) to the individual members of the public requesting them.
- 2.2 You may not reproduce, distribute or make derivative works based upon the Delivered Content in any medium, except as expressly permitted in the Delivered Content Terms and Conditions.
- 2.3 You may not offer any part of the Delivered Content for commercial resale or commercial redistribution in any medium.
- 2.4 You may not distribute or otherwise make available any Delivered Content to Google or its affiliates, either directly or indirectly.
- 2.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 2.6 You may not remove, alter or obscure copyright notices or other notices contained in the Delivered Content.
- 2.7 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in Delivered Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Delivered Content acquire any proprietary interest in the Delivered Content, or any copies thereof, except the limited use rights granted herein.

**3. OBLIGATIONS OF CUSTOMER**

- 3.1 **Geographic Data.** If available, you agree to provide to Pictometry geographic data in industry standard format (e.g., shape, DBF) including, but not limited to, digital elevation models, street centerline maps, tax parcel maps and centroids, which data, to the extent practicable, shall be incorporated into the Delivered Content. You agree that any of this data that is owned by you may be distributed and modified by Pictometry as part of its products and services, provided that at no time shall Pictometry claim ownership of that data.
- 3.2 **Notification.** You shall (a) notify Pictometry in writing of any claims or proceedings involving any of the Delivered Content within ten (10) days after you learn of the claim or proceeding, and (b) report promptly to Pictometry all claimed or suspected defects in Delivered Content.
- 3.3 **Authorized User Compliance.** You shall at all times be responsible for compliance by each Authorized User with the Delivered Content Terms and Conditions.
- 3.4 **Authorized Subdivision Compliance.** You shall at all times be responsible for compliance by each Authorized Subdivision with the Delivered Content Terms and Conditions.
- 3.5 **Project Participants.** Each notice to Pictometry identifying a potential Project Participant shall include a detailed description of the scope and nature of the Project Participants’ planned work and the intended use of the Delivered Content in such work. Pictometry retains the right to restrict or revoke access to Delivered Content by any Project Participant who does not comply with the terms of the Delivered Content Terms and Conditions.

**4. LICENSE DURATION; EFFECT OF TERMINATION**

- 4.1 **Term.** The license granted to you in the Delivered Content Terms and Conditions is perpetual, subject to Pictometry’s right to terminate the license in the event you do not pay in full the Fees specified elsewhere in the Agreement, the Agreement is terminated for any reason other than a breach of the Agreement by Pictometry, or as otherwise provided in the Agreement.
- 4.2 **Effect of Termination.** Upon termination of the license granted to you in the Delivered Content Terms and Conditions, you shall immediately cease all use of the Delivered Content, promptly purge all copies of the Delivered Content from all workstations and servers on which any of it may be stored or available at the time, and return hard drive/media containing Delivered Content to Pictometry.

**5. TRADEMARKS; CONFIDENTIALITY**

- 5.1 **Use of Pictometry’s Marks.** You agree not to attach any additional trademarks, trade names, logos or designations to any Delivered Content or to any copies

of any Delivered Content without prior written approval from Pictometry. You may, however, include an appropriate government seal and your contact information so long as the seal and contact information in no way obscure or deface the Pictometry marks. You further agree that you will not use any Pictometry trademark, trade name, logo, or designation in connection with any product or service other than the Delivered Content. Your nonexclusive right to use Pictometry's trademarks, trade name, logos, and designations are coterminous with the license granted to you in the Delivered Content Terms.

- 5.2 Confidentiality of Delivered Content.** The Delivered Content consists of commercially valuable, proprietary products owned by Pictometry, the design and development of which reflect an investment of considerable time, effort, and money. The Delivered Content is treated by Pictometry as confidential and contains substantial trade secrets of Pictometry. You agree that you will not disclose, provide a copy of, or disseminate the Delivered Content (other than as expressly permitted in the Delivered Content Terms and Conditions) or any part thereof to any person in any manner or for any purpose inconsistent with the license granted to you in the Delivered Content Terms and Conditions. You agree to use your best efforts to assure that your personnel, and any others afforded access to the Delivered Content, protect the Delivered Content against unauthorized use, disclosure, copying, and dissemination, and that access to the Delivered Content and each part thereof will be strictly limited.

## **6. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES**

- 6.1 Limited Warranties; Exclusive Remedy.** Pictometry warrants that the Delivered Content will contain true and usable copies of the designated imagery as of the date of capture. As the sole and exclusive remedy for any breach of the foregoing warranty, Pictometry shall use reasonable efforts to correct any deficiency that precludes use of the Delivered Content in the manner intended.
- 6.2 Disclaimer of Other Warranties.** Except as provided in Section 6.1, above, THE DELIVERED CONTENT IS PROVIDED TO YOU "AS IS" AND "WITH ALL FAULTS." PICTOMETRY MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ACCURACY, ARE HEREBY DISCLAIMED AND EXCLUDED BY PICTOMETRY.
- 6.3 Limitation of Liability.** With respect to any other claims that you may have or assert against Pictometry on any matter relating to the Delivered Content, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry in payment for Delivered Content during the immediately preceding twenty-four (24) month period.

## **7. MISCELLANEOUS PROVISIONS**

- 7.1 Restricted Rights.** Delivered Content acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable.
- 7.2 Governing Law.** This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles.

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**[END OF DELIVERED CONTENT TERMS AND CONDITIONS]**

**SECTION B****LICENSE TERMS****PICTOMETRY ONLINE SERVICES  
GENERAL TERMS AND CONDITIONS**

These Pictometry Online Services General Terms and Conditions (the "General Terms and Conditions"), in combination with the corresponding Pictometry order form, if any, collectively constitute the license agreement (the "License Agreement") that governs your use of the Pictometry online services (the "Online Services"), the images available in the Online Services, and all associated metadata and data layers included in, provided with, or derived from those images (the "Licensed Content") provided by Pictometry International Corp. and its affiliated companies (collectively, "Pictometry"). The terms "you" and "your" in uppercase or lowercase shall mean the individual, entity (e.g., corporation, limited liability company, partnership, sole proprietor, etc.) or government agency entering into the License Agreement.

**1. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP**

- 1.1 You are granted a nonexclusive, nontransferable, limited right to access and use the Online Services and the Licensed Content obtained or derived from the Online Services solely for your internal business purposes and not for resale or redistribution. The rights granted to you include, subject to the restrictions set forth below and on the Order Form, the right to copy limited portions of the Licensed Content onto your computer to facilitate preparation of hardcopies and work product records, and the right to make hardcopies of the Licensed Content, provided that the Licensed Content and the permitted copies thereof may not be sold, leased, loaned, distributed, or copied for use by anyone other than you.
- 1.2 You may not make the Online Services available to any other party.
- 1.3 You may not copy the Licensed Content or portions thereof onto any computer or storage device or media for the purpose of creating or maintaining one or more databases of that content for use in substitution for subsequent access to the content through the Online Services.
- 1.4 You may not distribute or otherwise make available any Licensed Content to Google or its affiliates, either directly or indirectly.
- 1.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 1.6 You may not remove, alter or obscure copyright notices or other notices contained in the Licensed Content.
- 1.7 You may not offer any part of the Online Services or the Licensed Content for commercial resale or commercial redistribution in any medium.
- 1.8 You may not use the Online Services or the Licensed Content to compete with any businesses of Pictometry.
- 1.9 You may not use information included in the Online Services or the Licensed Content to determine an individual consumer's eligibility for (a) credit or insurance for personal, family, or household purposes; (b) employment; or (c) a government license or benefit. The term "consumer" is defined in the United States Fair Credit Reporting Act at 15 USC §1681.
- 1.10 You may not access the Online Services via mechanical, programmatic, robotic, scripted or any other automated means. Unless otherwise agreed by Pictometry in writing, use of the Online Services is permitted only via manually conducted, discrete, human-initiated individual search and retrieval activities.
- 1.11 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in the Online Services and the Licensed Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Online Services or the Licensed Content acquire any proprietary interest in the Online Services, the Licensed Content, or any copies thereof, except the limited use rights granted herein.

**2. ACCESS TO SERVICES**

- 2.1 Only you, your employees, and temporary or contract employees dedicated to performing work exclusively for you (each, an "Eligible User" and collectively, the "Eligible Users") are eligible to access and use the Online Services and the Licensed Content pursuant to the License Agreement. Each Eligible User to be provided access to the Online Service shall be assigned a unique login/password ("Pictometry Credential") for purposes of accessing the Online Services. You agree that each Pictometry Credential shall only be used by the Eligible User to whom it was originally assigned and that Pictometry Credentials may not be shared with, or used by, any other person, including other Eligible Users. You will promptly deactivate an Eligible User's Pictometry Credential in the event the Eligible User no longer meets the eligibility requirements or you otherwise wish to terminate the Eligible User's access to the Online Services. You are responsible for all use of the Online Services accessed with Pictometry Credentials issued to your Eligible Users, including associated charges, whether by Eligible Users or others. You will use reasonable commercial efforts to prevent unauthorized use of Pictometry Credentials assigned to your Eligible Users and will promptly deactivate any Pictometry Credentials you suspect are lost, stolen, compromised, or misused.
- 2.2 The Online Services, the Licensed Content, and features and functionality within the Online Services may be enhanced, added to, withdrawn, or otherwise changed by Pictometry without notice.
- 2.3 You are aware and understand that any user data collected or stored by the Online Services may be accessed by US law enforcement agencies under the US PATRIOT Act. You hereby release, and agree to hold Pictometry harmless from, all claims against Pictometry with respect to such access.

**3. DISCLAIMERS**

- 3.1 The Online Services and the Licensed Content are provided for visualization purposes only, are not authoritative or definitive, and do not constitute professional engineering or surveying services.
- 3.2 The Online Services and the Licensed Content are not to be relied upon to precisely locate or determine property boundaries and should not be used in lieu of a professional survey where the accuracy of measurements, distance, height, angle, area and volume, may have significant consequences.
- 3.3 All measurements and reports generated by the Online Services or from the Licensed Content are based upon second order visualization and measurement data that do not provide authoritative or definitive measurement results suitable for professional engineering or surveying purposes.
- 3.4 Contour information obtained from the Online Services or contained in the Licensed Content is generated from undersampled elevation data, is provided for informational purposes only, and is not suitable for use as the basis for hydrographic computations, estimations or analyses.
- 3.5 While the Online Services and the Licensed Content may be considered useful supplements for life critical applications, they are not designed or maintained to support such applications and Pictometry and its third party suppliers of the Online Services and the Licensed Content hereby disclaim all liability for damages claims and expenses arising from such use.
- 3.6 Your reliance on the Online Services and the Licensed Content should only be undertaken after an independent review of their accuracy, completeness, efficacy, timeliness and adequacy for your intended purpose.
- 3.7 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content assume no responsibility for any consequences resulting from the use of the Online Services or the Licensed Content.
- 3.8 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content hereby disclaim all liability for damages, claims and expenses arising from or in any way related to the accuracy or availability of the Online Services and the Licensed Content.
- 3.9 By accepting these General Terms and Conditions or by using the Online Services or the Licensed Content, you waive any and all rights you may have against Pictometry, each third party supplier of any portion of the Online Services or the Licensed Content, and each of their directors, officers, members and employees, arising out of use of or reliance upon the Online Services or the Licensed Content.

**4. LIMITED WARRANTY**



- 4.1 Pictometry represents and warrants that it has the right and authority to make the Online Services and the Licensed Content available to you and your Eligible Users as authorized expressly by this License Agreement.
- 4.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 4.1, THE ONLINE SERVICES AND LICENSED CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PICTOMETRY AND EACH THIRD PARTY SUPPLIER OF LICENSED CONTENT EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## 5. LIMITATION OF LIABILITY

- 5.1 No Covered Party (as defined below) shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (a) any errors in or omissions from the Online Services or the Licensed Content, (b) the unavailability or interruption of the Online Services or any features thereof or the Licensed Content, (c) your or an Eligible User's use of the Online Services or the Licensed Content, (d) the loss or corruption of any data or equipment in connection with the Online Services or the Licensed Content, (e) the content, accuracy, or completeness of the Licensed Content, all regardless of whether you received assistance in the use of the Online Service from a Covered Party, (f) any delay or failure in performance beyond the reasonable control of a Covered Party, or (g) any content retrieved from the Internet even if retrieved or linked to from within the Online Services.
- 5.2 "Covered Party" means (a) Pictometry and any officer, director, employee, subcontractor, agent, successor, or assign of Pictometry; and (b) each third party supplier of any Licensed Content, third party alliance entity, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of any Licensed Content or third party alliance entity and their affiliates.
- 5.3 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE ONLINE SERVICES OR THE LICENSED CONTENT OR THIS LICENSE AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE ONLINE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY.
- 5.4 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, NEITHER YOU NOR THE COVERED PARTIES WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE ONLINE SERVICES, THE LICENSED CONTENT, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS OR YOUR (AND YOUR ELIGIBLE USERS') INFRINGEMENT OF INTELLECTUAL PROPERTY OR MISAPPROPRIATION OF PROPRIETARY DATA BELONGING TO PICTOMETRY OR ITS THIRD PARTY SUPPLIERS.
- 5.5 Notwithstanding anything to the contrary in this Section 5:
- (a) If there is a breach of the warranty in Section 4.1 above, then Pictometry, at its option and expense, shall either defend or settle any action and hold you harmless against proceedings or damages of any kind or description based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to use of the Online Services or the Licensed Content, asserted against you by such third party provided: (i) all use of the Online Services and the Licensed Content was in accordance with this License Agreement; (ii) the claim, cause of action or infringement was not caused by you modifying or combining the Online Services or the Licensed Content with or into other products, applications, images or data not approved by Pictometry; (iii) you give Pictometry prompt notice of such claim; and (iv) you give Pictometry the right to control and direct the investigation, defense and settlement of such claim. You, at Pictometry's expense, shall reasonably cooperate with Pictometry in connection with the foregoing.
- (b) In addition to Section 5.5(a), if the Online Services, the operation thereof or the Licensed Content become, or in the opinion of Pictometry are likely to become, the subject of a claim of infringement, Pictometry may, at its option and expense, either: (i) procure for you the right to continue using the Online Services or the Licensed Content, (ii) replace or modify the Online Services or the Licensed Content so that they become non-infringing; or (iii) terminate the License Agreement on notice to you and grant you a pro-rata refund or credit (whichever is applicable) for any pre-paid fees or fixed charges.
- (c) The provisions of Sections 5.5(a) and (b) shall constitute your sole and exclusive remedy for the respective matters specified therein.

## 6. MISCELLANEOUS

- 6.1 The terms and conditions of this License Agreement may be changed from time to time immediately upon notice to you. If any changes are made to this License Agreement, such changes will: (a) only be applied prospectively; and (b) not be specifically directed against you or your Eligible Users but will apply to all similarly situated Pictometry customers using the Online Services. You may terminate this License Agreement upon written notice to Pictometry if any change to the terms and conditions of this License Agreement is unacceptable to you. For termination to be effective under this Section 6.1, written notice of termination must be provided to Pictometry within 90 days of the effective date of the change. Continued use of the Online Services following the effective date of any change constitutes acceptance of the change, but does not affect the foregoing termination right. Except as provided above, this License Agreement may not be supplemented, modified or otherwise revised unless signed by duly authorized representatives of both parties. Furthermore, this License Agreement may not be supplemented, modified or otherwise revised by email exchange, even if the email contains a printed name or signature line bearing signature-like font. The foregoing does not prohibit the execution of electronic contracts bearing electronic signatures of authorized representatives of both parties, provided such signatures include digital certifications or are otherwise authenticated.
- 6.2 In the event of a breach of this License Agreement by you, any Eligible User or someone using the Pictometry Credential of an Eligible User, Pictometry may temporarily suspend or discontinue providing access to the Online Services to any or all Eligible Users without notice and Pictometry may pursue any other legal remedies available to it.
- 6.3 All notices and other communications hereunder shall be in writing or displayed electronically in the Online Services by Pictometry. Notices shall be deemed to have been properly given on the date deposited in the mail, if mailed; on the date first made available, if displayed in the Online Services; or on the date received, if delivered in any other manner. Legal notices to Pictometry should be sent to Pictometry, Attn: General Counsel, 25 Methodist Hill Drive, Rochester, New York 14623.
- 6.4 The failure of you, Pictometry, or any third party supplier of the Online Services or any Licensed Content to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 6.5 Neither you nor any Eligible User may assign or otherwise transfer your rights or delegate your duties under this License Agreement without the prior written consent of Pictometry. Any attempt by you or any Eligible User to assign, transfer or delegate your rights or obligations under this License Agreement without Pictometry's consent shall be void, and shall also void the limited license granted to you by this License Agreement. This License Agreement and any amendment thereto shall be binding on, and will inure to the benefit of the parties and their respective successors and permitted assigns.
- 6.6 This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles. Unless you are a government entity, in the event that any legal proceedings are commenced with respect to any matter arising under this License Agreement, the parties specifically consent and agree that the courts of the State of New York or, in the alternative, the Federal Courts located in the State of New York

shall have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings, and that the venue of any such action shall be in Monroe County, New York or the U.S. District Court for the Western District of New York, as applicable.

- 6.7 This License Agreement will be enforced to the fullest extent permitted by applicable law. If any provision of this License Agreement is held to be invalid or unenforceable to any extent, then (a) such provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent and (b) such invalidity or unenforceability will not affect any other provision of this License Agreement.
- 6.8 Where applicable, each affiliated company of Pictometry and each third party supplier of the Online Services or any Licensed Content has the right to assert and enforce the provisions of this License Agreement directly on its own behalf as a third party beneficiary.
- 6.9 In the event of a breach of your obligations under this License Agreement or your payment obligations with respect to access to the Online Services or the Licensed Content, you agree to pay all of Pictometry's costs of enforcement and collection, including court costs and reasonable attorneys' fees.
- 6.10 This License Agreement constitutes the entire agreement of the parties with respect to its subject matter and replaces and supersedes any prior written or verbal communications, representations, proposals or quotations relating to that subject matter.

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**[END OF ONLINE SERVICES GENERAL TERMS AND CONDITIONS]**

**SECTION B****LICENSE TERMS****PICTOMETRY SOFTWARE  
LICENSE AGREEMENT**

**PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE DOWNLOADING, INSTALLING OR USING THE SOFTWARE. BY USING THE SOFTWARE, YOU AGREE TO THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE.**

1. **GENERAL.** The software ("Pictometry Software") and any written materials that accompany the software ("Documentation") in any media or form are licensed, not sold, to you by Pictometry International Corp. ("Pictometry") for use only under the terms of this License. Pictometry reserves all rights not expressly granted to you in this License.
2. **LICENSE.** Subject to the terms and conditions of this License, you are granted a limited, non-transferable, terminable, non-sublicenseable, non-exclusive license to install and use the Pictometry Software and the Documentation (collectively, the "Proprietary Materials") solely for internal use. Use of the functionality provided by the Pictometry Software other than for your internal use is prohibited, except with the prior written approval of Pictometry. You may make one copy of the Pictometry Software in machine-readable form for backup purposes only; provided that the backup copy must include all copyright and other proprietary notices contained in the original. You will not and will not enable others to decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, create derivative works of, or tamper with or disable any security or monitoring features within the Pictometry Software. Any attempt to do so is a violation of the rights of Pictometry and its licensors.
3. **TITLE.** The Proprietary Materials are confidential information of, trade secrets of, and are proprietary to Pictometry. Title to the Proprietary Materials is and will remain in Pictometry and its licensors. All applicable rights to patents, copyrights, trademarks, trade secrets, and other intellectual property rights in the Proprietary Materials are and will remain in Pictometry and its licensors. You will not assert any right, title or interest in the Proprietary Materials provided to you under this License, except for the express license granted to you hereunder. You will not remove any copyright or other proprietary notice or legend contained on or included in any Proprietary Materials and you will reproduce all such information on all copies made hereunder. You will keep the Proprietary Materials free of all claims, liens and encumbrances.
4. **DISCLAIMERS OF WARRANTY.** USE OF THE PICTOMETRY SOFTWARE IS AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PICTOMETRY SOFTWARE IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND PICTOMETRY HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE PICTOMETRY SOFTWARE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. PICTOMETRY DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN OR PROVIDED BY THE PICTOMETRY SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE PICTOMETRY SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE PROPRIETARY MATERIALS WILL BE CORRECTED.
5. **LIMITATION OF LIABILITY.** IN NO EVENT WILL PICTOMETRY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PICTOMETRY SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), EVEN IF PICTOMETRY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PICTOMETRY'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THE PICTOMETRY SOFTWARE EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
6. **TERMINATION.** This License will terminate automatically without notice from Pictometry if you fail to comply with any term of this License. Upon the termination of this License, you will cease all use of the Pictometry Software and destroy all copies, full or partial, of the Proprietary Materials.
7. **MISCELLANEOUS PROVISIONS.**
  - A. **Restricted Rights.** Pictometry Software acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable. Pictometry must be notified in advance of any license grants to United States federal governmental entities. The Pictometry Software is developed for general use in a variety of applications and is not developed or intended for use in any inherently dangerous applications or applications that could lead to property damage, personal injury or death. If you use the Pictometry Software in such applications, then you will be responsible for taking all appropriate fail-safe, backup, redundancy, and other measures to ensure the safe use of the Pictometry Software in such applications, including but not limited to, in any nuclear, aviation, mass transit, public safety or medical applications.
  - B. **Foreign Trade Restrictions.** The parties acknowledge that certain information, software technology, accompanying documentation and technical information may be subject to United States export control laws. You will not directly or indirectly export or re-export the Pictometry Software in violation of the Export Administration Regulations of the U.S. Department of Commerce.
  - C. **Governing Law.** This License will be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflict of laws principles.
  - D. **Assignment.** You may not assign this License without Pictometry's prior written consent. Any assignment in violation of this License will be null, void and of no force and effect. For all purposes under this License, any merger, consolidation, spin-off, acquisition or change-in-control will be deemed an assignment.
  - E. **Partial Invalidity; Survival.** If any provision of this License is held invalid or unenforceable by competent authority, that provision will be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it will then appear. The total invalidity or unenforceability of any particular provision of this License will not affect its other provisions and this License will be construed in all respects as if the invalid or unenforceable provision were omitted. The provisions of this License that by their nature would survive its termination will survive indefinitely.

- F. **Force Majeure.** Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.
- G. **Waiver.** No waiver of a breach of any term of this License will be effective unless in writing and duly executed by the waiving party. No such waiver will constitute a waiver of any subsequent breach of the same or any other term of this License. No failure on the part of a party to exercise, and no delay in exercising any of its rights hereunder will operate as a waiver thereof, nor will any single or partial exercise by a party of any right preclude any other or future exercise thereof or the exercise of any other right. No course of dealing between the parties will be deemed effective to modify, amend or discharge any part of this License or the rights or obligations of any party hereunder.
- H. **Entire Agreement; Construction.** This License contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings regarding that subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Pictometry. There are no representations, warranties, or obligations of any party not expressly contained herein. The headings in this License are for convenience only. They do not constitute a portion of this License and will not be used in any construction of it.

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[END OF SOFTWARE LICENSE AGREEMENT]



**SECTION C****NON-STANDARD TERMS AND CONDITIONS**

1. **Online Services Eligible Users:** Notwithstanding anything in the Online Services General Terms and Conditions incorporated in this Agreement to the contrary, the terms 'Eligible User' and 'Eligible Users' as defined in those Online Services General Terms and Conditions shall, for the purposes of this Agreement, also include each 'Authorized User' as that term is defined in the Delivered Content Terms and Conditions of Use incorporated in this Agreement.

2. **Applicable Law:** Notwithstanding anything to the contrary set forth elsewhere in this Agreement, this Agreement and any modifications, amendments or alterations shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Alaska, excluding its conflicts of law principles. Each party irrevocably consents to the exclusive jurisdiction of the courts of the State of Alaska in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of this Agreement.

3. The following shall be added to the Pictometry Delivered Content Terms and Conditions of Use:

"2.2.1 For the term of this license, as may be renewed or extended from time to time, Customer may reproduce and distribute hard copies of Delivered Content for Customer's internal business purposes including board of equalization hearings and visual presentations of the Delivered Content used during governmental meetings."

4. Pictometry hereby agrees to indemnify and hold harmless Customer, its officers, and its employees from any and all claims arising from the acts or negligence of Pictometry that directly result in bodily injury, death or real property damage or loss of property while in the performance of the Agreement.

5. **Insurance:** Pictometry, including any subcontractors, will acquire insurance policies including commercial general liability insurance and commercial automobile liability insurance with minimum aggregate amounts of one million dollars (\$1,000,000.00) insuring against the commission of any negligent act or acts or omissions by the Pictometry. Pictometry will provide the Customer thirty (30) calendar days' notice of cancellation, non-renewal or material change of conditions concerning those insurance policies. Pictometry shall list the Customer as a Certificate Holder and Pictometry's insurance coverage shall cover customer as an additional insured in respects to liability arising out of work or operations performed by or on behalf of Pictometry or automobiles owned, leased, hired, or borrowed by Pictometry. Pictometry hereby agrees to waive subrogation and agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation. Pictometry shall also provide and maintain workers' compensation insurance for all of its employees engaged in work under this contract as required by AS 23.30.045 and, where applicable, any other statutory obligations.

Pictometry shall also maintain aviation liability insurance with limits of five million dollars (\$5,000,000.00) per occurrence combined single limit for bodily injury and properly damage liability. This coverage shall include all owned, hired and non-owned aircraft. This policy shall name the Customer as an additional insured.

6. Pictometry shall use commercially reasonable efforts to activate Pictometry Connect - EarlyAccess by June 1st following an imagery capture project referenced herein and deliver the remaining imagery after July 1st. These are target dates only because the image capture process and the delivery dates may be affected by numerous conditions outside of Pictometry's control including weather, aircraft availability, and airspace permissions.

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[END OF NON-STANDARD TERMS AND CONDITIONS]

**APPENDIX 1****PHOTOGRAMMETRIC PRODUCT SPECIFICATIONS**

## Essentials+ Property deliverables

<b>Product</b>	Essentials+ Property
<b>Ortho frame imagery</b>	<ul style="list-style-type: none"> <li>Nominal 2in GSD ortho imagery, Imagery as good as 1.2in and no worse than 3in</li> </ul>
<b>Orthomosaic Specifications</b>	<ul style="list-style-type: none"> <li>Orthomosaic Resolution 2in or 3in GSD (Best Available provided)</li> <li>Typical Positional Horizontal Accuracy: 1m at a 95% confidence level</li> <li>Fully automated photogrammetric orthomosaic. Imagery may contain seamlines</li> <li>Project-wide color and contrast balancing</li> </ul>
<b>Oblique Imagery</b>	<p>Nominal 2.6in GSD oblique imagery ranging from 1.7in to 3.5in GSD:</p> <ul style="list-style-type: none"> <li>Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines</li> </ul>
<b>Metadata and Reporting</b>	<p>Metadata:</p> <ul style="list-style-type: none"> <li>Metadata generated that meets FGDC Standards upon request</li> <li>Shapefile(s) with discrete deliverable boundaries and directional metadata</li> </ul>
<b>Orthomosaic Deliverable Format (Online)</b>	<p>Resolution:</p> <ul style="list-style-type: none"> <li>2in or 3in GSD (Best Available Provided)</li> </ul> <p>Access Methods:</p> <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> <li>Also available via WMS/WMTS (Image Service) - Contracted separately</li> </ul>
<b>Orthomosaic Deliverable Format (Physical)</b>	<p>Resolution:</p> <ul style="list-style-type: none"> <li>2in or 3in GSD (Best Available Provided)</li> </ul> <p>Projection/Coordinate System:</p> <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> <p>Datum:</p> <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> <p>File Format:</p> <ul style="list-style-type: none"> <li>Mosaic Tiles <ul style="list-style-type: none"> <li>Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file</li> <li>Includes separate Pictometry Map Image (PMI) trailer file</li> </ul> </li> <li>Project-Wide Mosaic <ul style="list-style-type: none"> <li>Available in ECW, MrSID (All versions) format</li> </ul> </li> </ul>
<b>Oblique Imagery &amp; Frame Imagery Deliverable Format</b>	<p>Access methods:</p> <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> </ul>
<b>Delivery Timeline</b>	<ul style="list-style-type: none"> <li>Best efforts to make frame imagery available online within 20 days of capture complete</li> <li>Best efforts to make ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion</li> </ul>

## Essentials+ Community deliverables

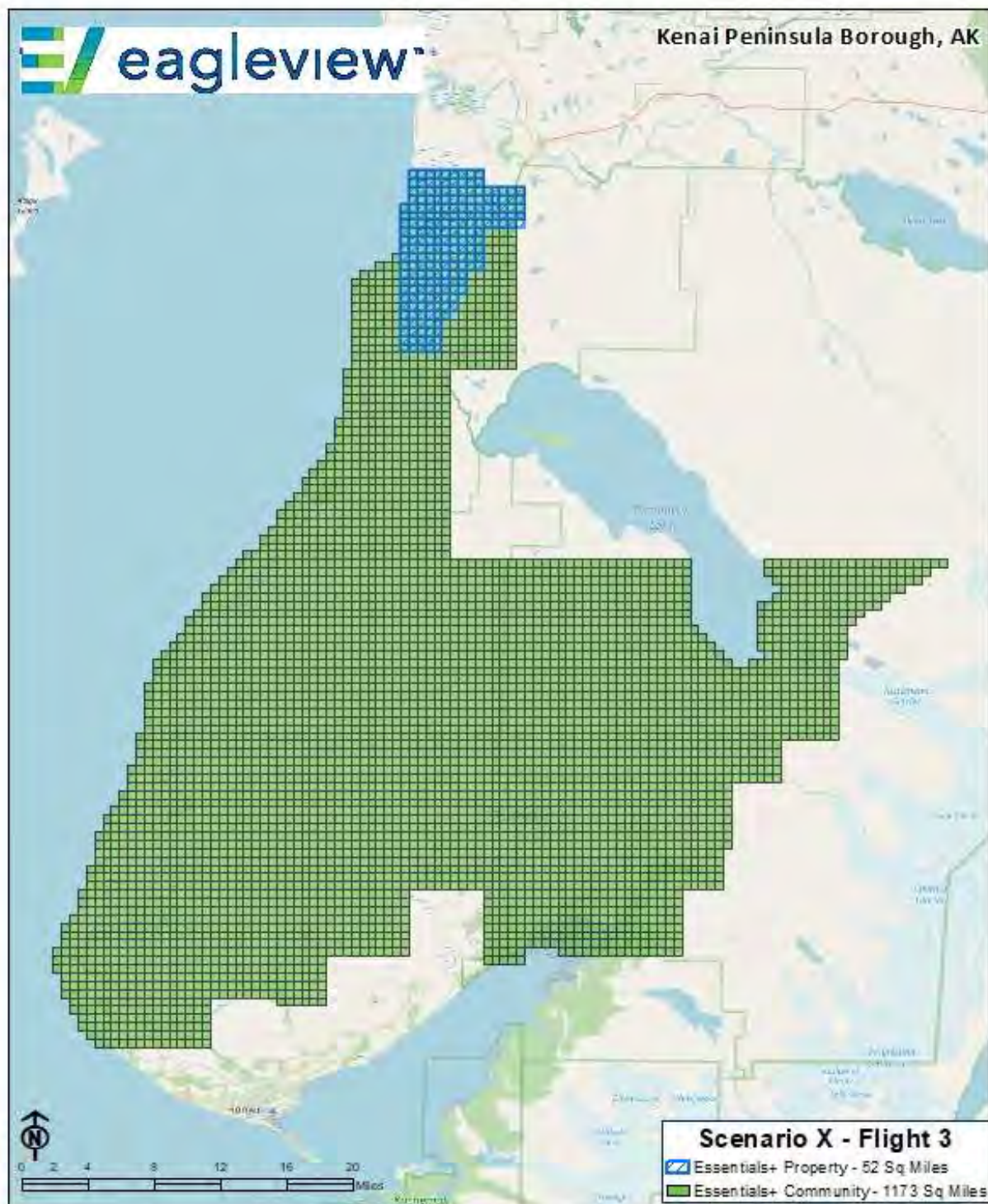
Product	Essentials+ Community
<b>Orthomosaic Specifications</b>	<ul style="list-style-type: none"> <li>Resolution at 9in GSD</li> <li>Typical Positional Horizontal Accuracy: 1m at a 95% confidence level</li> <li>Fully automated photogrammetric orthomosaic. Imagery may contain seamlines</li> <li>Project-wide color and contrast balancing</li> </ul>
<b>Oblique Imagery</b>	Nominal 9in GSD oblique imagery or better: <ul style="list-style-type: none"> <li>Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines</li> </ul>
<b>Metadata and Reporting</b>	Metadata: <ul style="list-style-type: none"> <li>Metadata generated that meets FGDC Standards upon request</li> <li>Shapefile(s) with discrete deliverable boundaries and directional metadata</li> </ul>
<b>Orthomosaic Deliverable Format (Online)</b>	Resolution: <ul style="list-style-type: none"> <li>Resolution at 9in GSD</li> </ul> Access Methods: <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> <li>Also available via WMS/WMTS (Image Service) - Contracted separately</li> </ul>
<b>Orthomosaic Deliverable Format (Physical)</b>	Resolution: <ul style="list-style-type: none"> <li>Resolution at 9in GSD</li> </ul> Projection/Coordinate System: <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> Datum: <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> File Format: <ul style="list-style-type: none"> <li>Mosaic Tiles               <ul style="list-style-type: none"> <li>Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file</li> <li>Includes separate Pictometry Map Image (PMI) trailer file</li> </ul> </li> <li>Project-Wide Mosaic               <ul style="list-style-type: none"> <li>Available in ECW, MrSID (All versions) format</li> </ul> </li> </ul>
<b>Oblique Imagery Deliverable Format</b>	Access methods: <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> </ul>
<b>Delivery Timeline</b>	<ul style="list-style-type: none"> <li>Best efforts to make ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion</li> </ul>

MAP(S)

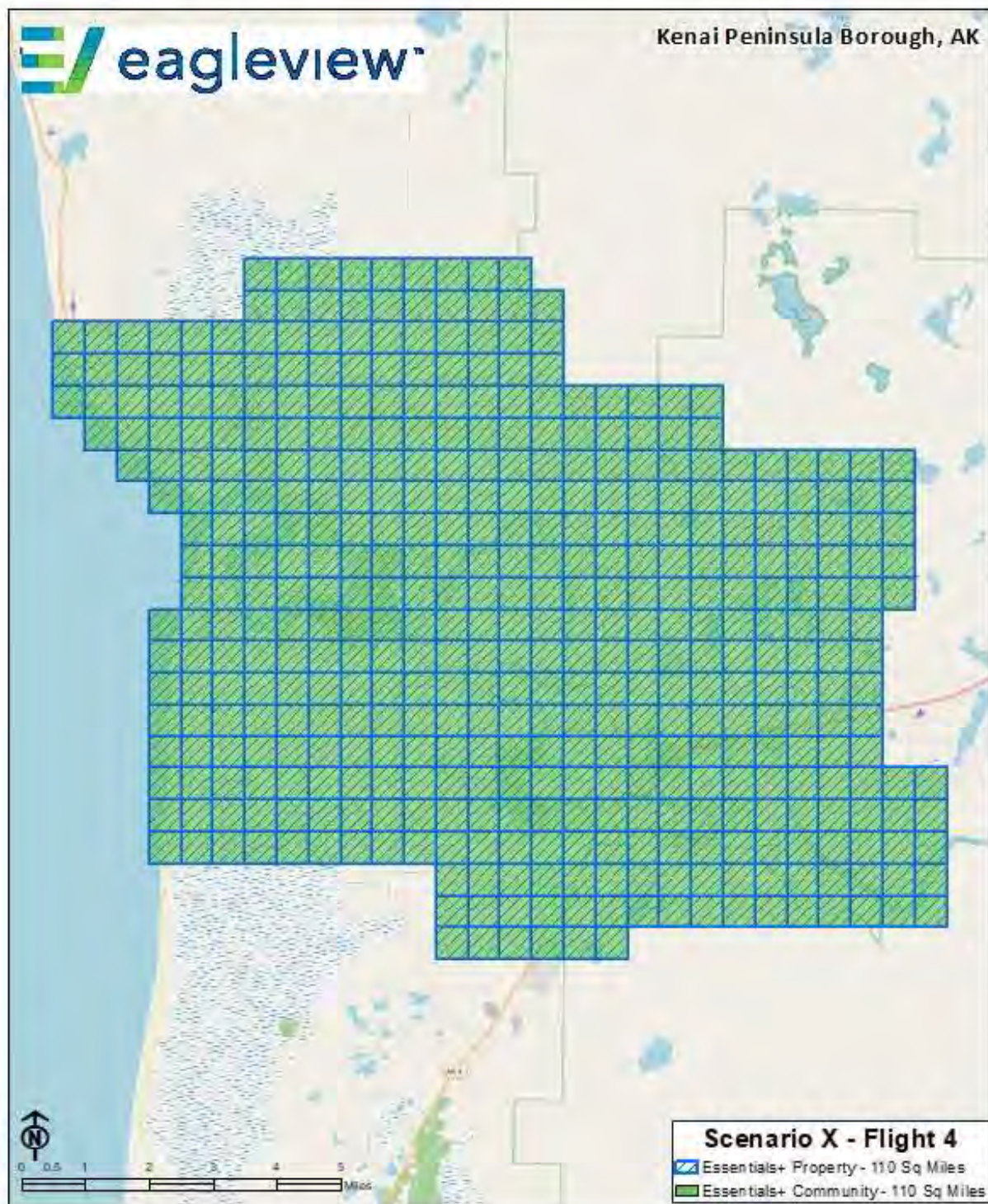














## Imagery and Building Footprint Examples



A subset of the imagery in the City of Kenai.



A larger scale view of the high-resolution imagery.



Building footprints generated from the above imagery.

E7-34

Shown here are examples of the data referenced in the Memoranda of Understanding developed to share data with the incorporated cities of the Kenai Peninsula borough.



Geographic Information Systems

144 North Binkley Street, Soldotna, Alaska 99686 328



**MEMORANDUM**

**TO:** Kenai Peninsula Borough Planning Commissioners  
**THRU:** Blair Martin, Chair  
Melanie Aeschliman, Planning Director  
**FROM:** Julie Hindman, Acting Platting Manger  
**DATE:** April 4, 2022  
**RE:** Certificate to Plat requirements

---

At this time, I would like to bring to your attention some concerns brought before the Platting Department regarding Certificate to Plats. Per KPB 20.25.080(E), "A certificate to plat current to not more than 28 business days prior to submittal, issued by a title company authorized to issue title policies in the State of Alaska, which shall be considered as prima facie evidence of all parties having an interest in the land being subdivided. An updated certificate to plat in compliance with KPB 20.60.190(A)(2) will be required for the final plat." This submittal of a certificate to plat is part of the petition requirements and staff deems the application incomplete until received. Once a complete application is received, the file is scheduled in accordance with KPB 20.25.100.

At the end of last year and beginning of this year, there were significant delays at the title companies due to some ongoing issues with Covid, the changes in the market and the huge influx of refinancing and real estate transactions. The Platting Manger at the time allowed several preliminary plats to be reviewed without the certificate to plat. Staff had received some petitions for the March 21, 2022 meeting with the certificate to plats not submitted. Due to the previous allowance, staff allowed the plats to be scheduled but notified the surveyor that the time frame provided, 5 weeks, was not deemed excessive and we would begin to require them with submittal for future petitions. If time frames become longer, discussions could occur on how to proceed.

Staff has received a request by several surveyors regarding allowing applications to move forward without the certificate to plat. Staff informed them that they are now required with the petition submittal as outlined in code. We currently have a surveyor with some delay issues with the title companies located on the southern peninsula and is again requesting his applications be allowed without the certificate to plat.

Staff at this time would like to make the Planning Commission aware of the issues and if possible have a discussion on how they wish for staff to proceed. There are currently two files scheduled for the April 25, 2022 meeting were the surveyor is formally requesting an exception of code to allow the plats to be heard.

Staff is willing to work with the surveyors but does feel that the code outlines what is needed prior to being scheduled for a meeting. If a surveyor requests an exception staff feels there should be some criteria for the exceptions to be supported. We would need to know how long to continue to allow this portion of code to receive exceptions. There are no longer any emergency declarations neither at borough nor state level.

The inclusion of a Certificate to Plat was part of Ordinance 2014-02. Prior to that ordinance the certificate to plat was only required at the time of final. The requirement was carried forward in Ordinance 2020-45. An unlimited continuation of this practice would need to be reviewed as the requirement is in code. If it is felt that this requirement only needs a request to move forward then a review of code should be done.

## **H.       PRESENTATION**

### **ORDINANCE 2022-XX:**

**An ordinance authorizing emergency harvest of spruce bark beetle impacted forestlands and amending KPB 17.08.020(J) to remove limitation of harvestable timber.**



# SBB TIMBER SALES & REFORESTATION

LAND MANAGEMENT DIVISION





**“AN ORDINANCE AUTHORIZING EMERGENCY  
HARVEST OF SPRUCE BARK BEETLE IMPACTED  
FORESTLANDS INCLUDING SPRUCE WHICH ARE  
DYING OR SUSCEPTIBLE TO DYING AND  
ESTABLISHING A FRAMEWORK TO GUIDE FOREST  
TREATMENTS”**



# MAJOR POINTS

- ▶ The management and disposal of timber is provided for under KPB 17.08, 17.10.210, and 17.50
- ▶ 17.08 speaks to dead, down and mature timber, but does not provide for harvest of dying spruce or susceptible spruce. This ordinance would allow for dying and susceptible spruce to be harvested
- ▶ That the scope of this ordinance would be bound by those KPB spruce dominated forestland that are impacted by spruce bark beetle. And that such area would be publicly available through the publication of a map. An online interactive map has been prepared.
- ▶ That the ordinance clarify or allow for spruce bark beetle timber treatments regardless of land classification. There is a bit of confusion as the only place in code that timber harvest and classification are spoken of together is at 17.10.230, which affirms that timber can be harvested from land classified as resource management. Neither is it practical to classify all beetle kill stand areas as “resource management” nor is it practical to ignore the need to treat beetle kill stands across any land classification status. What is practical, however is to use any existing land classification to guide the treatment method and means so that treatments are consistent with the underlying management intent at each site.
- ▶ Reinforces “Forest Management Sale Reports” to be used for timber unit planning, documentation, review and approval process, including reviews at APC levels. This provision was adapted from Ordinance 2000-50, the prior emergency timber authorization. 17.50.035 provides “Forest Management Sale Reports” as being the vehicle used to describe timber management units, treatment specifications, and contract terms to be adopted prior to a timber disposal.
- ▶ Establishes a standard for Detailed Plan of Operations forms to be completed and submitted to SOA DNR, whether or not required by the Alaska Forest Practices Act.
- ▶ Requirement for quarterly updates to the Assembly along with notification of any changes to the published map of beetle kill stands subject to treatment under the ordinance
- ▶ Establishing a reforestation requirement and a statement of intent that timber receipts be available for reforestation (assembly appropriation is required to actually make that happen).
- ▶ Puts in place a sunset clause, 3 years out. Provides a statement of intent for annual review of the ordinance.

Introduced by:	Mayor
Date:	05/03/22
Hearing:	
Action:	
Vote:	

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-**

**AN ORDINANCE AUTHORIZING EMERGENCY HARVEST OF SPRUCE BARK  
BEETLE IMPACTED FORESTLANDS INCLUDING SPRUCE WHICH ARE DYING  
OR SUSCEPTIBLE TO DYING AND ESTABLISHING A FRAMEWORK TO GUIDE  
FOREST TREATMENTS**

**WHEREAS,** Southcentral Alaska is experiencing a severe spruce bark beetle outbreak with more than 1.6 million acres infested during the past 6 years; and

**WHEREAS,** the Land Management Division has identified 21,000 acres of forested lands in the Kenai Peninsula Borough impacted by spruce bark beetle; and

**WHEREAS,** spruce bark beetle is killing white and lutz spruce generally 5” Diameter-at-breast-Height (DBH) and greater, which then create hazards in the forest in the form of falling, jackstrawing, fuel loading, and leading to invasion of grasses that present a heightened level of increased fire risk and a significant vegetation shift; and

**WHEREAS,** in combination with increased hazards, the KPB is losing a valuable timber resource which could be utilized as fuelwood, fiber-wood, lumber, or house logs for building and which could stimulate the local economy by providing commercial and non-commercial forest products to the market; and

**WHEREAS,** these 21,000 acres are a high priority for planning and implementing forest management treatments, and additional areas may become mapped as the infestation progresses; and

**WHEREAS,** timber harvest via selective thinning, sanitation cuts, and/or salvage harvests can be an economical means to mitigate fire hazard and prevent further degradation of resources, and could promote utilization of timber with commercial value ; and

**WHEREAS,** the KPB Code of Ordinances provides for the disposition of KPB-owned forest resources by competitive bidding and for the over-the-counter sale of forest resources when a competitive bidding process results in no bids; and

**WHEREAS,** vegetation management treatments are needed regardless of how the land is classified; however, land classifications are used to inform the most appropriate types and methods of treatment; and

**WHEREAS,** the forest conditions are anticipated to rapidly deteriorate, as will the quality and value of the timber, translating to an urgent need to take actions; and

**WHEREAS,** competition with *Calamagrotis canadensis* (Canada bluejoint) grass occurs rapidly, often within three years, and impacts spruce regeneration by creating thick root and litter mats that prevent spruce germination and recruitment thereby lowering natural regeneration success, without intervention; and

**WHEREAS,** site preparation and/or reforestation practices with resilient tree species are necessary management steps to conserve forest values, ecosystem services, and functions and will provide important forest resources for the next generation; and

**WHEREAS,** treatments will establish and preserve logging infrastructure such as roads, resource management access, and recreational trails, as well as methods to close out temporary forest access; and

**WHEREAS,** allocating revenue generated from timber sales to reforestation efforts would support a responsible timber program; and

**WHEREAS,** KPB's planning commission at its regularly scheduled meeting of \_\_\_\_, 2022, recommended \_\_\_\_\_;

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

**SECTION 1.** That in addition to the authority under 17.08.010 for the salvage or other harvest of dead and mature timber upon KPB-owned or KPB-selected lands, and not withstanding 17.08.020(J), the borough mayor is authorized for the salvage or other harvest of dying spruce and spruce susceptible to dying, due to spruce bark beetle tree mortality; clearcutting is not authorized, in accordance with the provisions of this ordinance and KPB Chapter 17.

**SECTION 2.** That the mayor shall publish a map showing the location forestlands dominated by white or lutz spruce that are affected by or susceptible to spruce bark beetle infestation subject to this ordinance.

**SECTION 3.** That the salvage or other harvest of dead, dying, or susceptible to dying spruce, due to spruce bark beetle tree mortality, and mature timber subject to this ordinance shall have a classification requirement, however treatment types, means and methods shall be consistent with the purposes of any parcel's classification.



**SECTION 4.** That disposition of above-described timber resources, the KPB mayor is hereby authorized to prepare a single forest management sale report for each unit. The forest management sale report shall be subject to review by the advisory planning commissions, where applicable, planning commission and approval by the assembly in accordance with KPB 17.50.035.

**SECTION 5.** That detailed Plans of Operations for all timber units shall be submitted to the Alaska Department of Natural Resources, Division of Forestry for review and approval prior to any salvage or other harvest.

**SECTION 6.** That the mayor shall provide the assembly with quarterly reports on the status of such timber activities and revenues as of Dec 31, March 31, June 30, Sept 30, along with any changes to the map described in Section 2.

**SECTION 7.** That all timber sale receipts shall be deposited in account 250.21210.\_\_\_\_.\_\_\_\_ and will be available for appropriation for reforestation.

**SECTION 8.** That reforestation methods shall be prescribed, planned and implemented within 3 years of harvest, subject to appropriation and procurement requirements.

**SECTION 9.** That Sections 1 through 8 shall be subject to annual review and shall be automatically repealed on June 21, 2025, unless the assembly by ordinance has extended that date.

**SECTION 10.** That the mayor is authorized to sign any documents necessary to effectuate this ordinance.

**SECTION 11.** That this ordinance takes effect immediately upon enactment.

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

\_\_\_\_\_  
Brent Johnson, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk

## **Directors Report**

### **04/11/2022**

#### **Planning:**

I have submitted my resignation as Director for the KPB. It's time to expand my government experience and take on a new challenge. I recently accepted a position as the State Supervisor of Assessments working for the Governor's office in ND. I am truly sad to leave such a wonderful department. The Planning Department staff give wholeheartedly to their positions and this borough everyday. Lastly, I want to personally thank each of you. This planning commission has been a great example of what local government is supposed to look like. A group of appointed residents who, despite differencing opinions, can be professional, respectful, and deliberate on an item, thus resulting in sound decisions. It has been an honor to work with you all of you.

#### **Code Compliance:**

As of 04/06/2022 Code Compliance has had 4 new 2022 cases of ROW encroachments. In these 4 cases it was reported that structures were observed on imagery to have been built in the ROW. Currently Warning letters have been sent to listed property holders, that an As-built will be completed. A request for bids have been sent to survey companies. The deadline for bids is April 15<sup>th</sup>.

4 previous ROW cases are either in process of getting ROW modification or vacations with the Platting Dept. Those have stipulated agreements with the responsible parties.

4 Trespass cases from 2021 have had action to resolve the issues. The solutions range from paying fines to moving of the house structure.

This body could propose code or ask staff to draft a proposed code that could require a permit be required to build in the borough areas outside the cities. This would allow staff the opportunity to show the owner a map, encourage a survey etc. as a way to help deter ongoing issues this department faces with trespassing cases/ homes being built in the right of way. Just some options to consider; the permit could be free, it wouldn't need to be a permit that requires signing off etc. but in the end it could result in less costly issues for property owners, less work for platting, planning, roads department and last but not least, code enforcement battles that are not a great pace to have with your local government and result in fines and may include court battles.

#### **River Center:**

Staff met with FEMA on 3/22 and 3/23 to go over basic training on the National Flood Insurance Program, as well as to review the newly drafted floodplain maps for the Kenai River. The preliminary floodplain maps are expected to be released to the public for comment this winter, with the final maps coming in the spring of 2024.

**Platting:**

Paper Birch Lane right of way-this planning commission approved at their March 21 meeting was vetoed down by the Assembly at the April 5 meeting.

An engineer recently brought to our attention that are some discrepancies between Alaska Department of Environmental Conservation 18 AAC 72 and KPB Code regarding Wastewater Disposal (Chapter 20.40). DEC is currently in the process of revising 18 AAC 72. Once DEC has made their revisions, we will review and may possibly be proposing an Ordinance to update our code. We are not sure of the period and will update once more information is available.

**KPB Land Management-**

Has held a series of public engagement meetings to present and discuss timber sales, reforestation and forest management. One of the meetings was a timber industry focus that was attended by about 20 individuals with a variety of experience and roles in the local timber industry. These meetings have helped to shape our thought process and more clearly identify concerns and opportunities as we move through the program development and related grant applications. Land Management has applied for a BLM grant at a \$150,000 level to support spruce bark beetle mitigation treatments around school sites. Land Management is currently working on a multi-million dollar USDA Climate Smart Commodities grant to support reforestation, to convert some acreage from forest to farmland as a launching point for the agricultural initiative, and to support the development of local tree nursery infrastructure.

**GIS-**

the assembly has approved a data sharing agreement to allows KPB to deliver to each city in the borough new high resolution imagery and building footprint data, which extends the benefit of this information for other municipal uses.

**APC's:**

We are running into issues with APC's; what they are discussing, reviewing, and providing comments on.

Below is the code, which outlines the purpose and powers awarded to an APC.

**21.02.010. - Purposes of an advisory planning commission.****[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONEMAIL SECTION](#)**

Advisory planning commissions are established to provide:

- A. Residents with an additional avenue to participate in land use planning activities proposed for their community; and
- B. Recommendations to the Kenai Peninsula Borough planning commission and, to the assembly when requested by majority vote of the assembly on land use planning and public land management issues which may affect the existing and/or future character of the community.

- **21.02.020. - Powers and duties.**

**[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONEMAIL SECTION](#)**

- A. The APC may advise the borough planning commission regarding land use planning, public land management, or other issues within the community boundary, which may be subject to a vote of the planning commission.

B. Unless direct comments from the APC are requested by majority vote of the assembly, the APC may make recommendations to the planning commission for review and comment, and to be forwarded to the assembly regarding;

1. Needs in unincorporated legislative districts within the APC boundaries in assembly development of capital project plans, legislative matters affecting land use or the disposal of borough lands or resources within APC areas, and other assembly actions affecting APC areas, all as provided for in KPB 22.40.190; and

2. Removal of deed restrictions as provided for in KPB 17.10.130(F)(4).

C. A recommendation from the APC to the planning commission, or to the assembly when requested by majority vote of the assembly, shall be submitted in writing to the planning director. Recommendations shall be signed by the APC chairperson or his/her designee.

(Ord. No. 2004-04, § 2, 3-16-04; Ord. No. 96-22, § 2(part), 1996)

Since the creation, several APC's have taken on broader roles, which is far beyond what code has allowed for. Under the current code, they are an extension of the borough planning commission. therefore, what they are doing and how they are presenting is a direct reflection of the borough and with that comes liabilities to the borough. I would ask this PC to consider an alternative option, which allows the APCs to grow and expand as the individual communities see fit. It would allow them to discuss relevant important topics of the community while freeing the department and the borough from liabilities. The goal would be to establish a win-win for the community and the borough. If this commission would like, we can extend an invite to the Matsu Planning director or Matsu legal team to present on how their community councils operate which would be similar to the APC's but may be a great solution for us to consider.



**COOPER LANDING ADVISORY PLANNING COMMISSION  
REGULAR MEETING  
LOCATION: ZOOM TELECONFERENCE  
WEDNESDAY, APRIL 06, 2022  
6:00 PM  
UNAPPROVED MINUTES**

1. CALL TO ORDER – 6:00pm
2. ROLL CALL – J. Cadieux, C. Degernes, Y. Galbraith, H. Harrison, L. Johnson, K. Recken, D. Story present
  - a. Members of public and agency representatives present:
    - i. Phil Weber, Aaron Hughes – KPB Land Management, Cindy Ecklund, Borough Assembly, Jonathan Tymick, ADOT&PF Sean Baski, ADOT&PF Heather Pearson, Ruth D’Amico, USFS, Aziz Atallah, Alvin Talbert, ADOT&PF, Dakota Truitt, KPB Land Agent, Samantha Lopez, KPB Planning Mngr, Michael Link, Jerry Fox, Marcus Mueller, KPB Land Mngr., Virigina Morgan KPB PC, and Tommy Gossard
3. APPROVAL OF AGENDA – K. Recken moves to approve, C. Degernes seconds, all approve.
4. APPROVAL OF MINUTES for March 16, 2022 – H. Harrison moves to approve as written, C. Degernes seconds, K. Recken abstains, all others approve.
5. CORRESPONDENCE – none
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE
  - a. K. Recken requested a primer on the difference between land classification and zoning.
    - i. Samantha Lopez explained that there is not zoning in the borough other than local option zoning.
    - ii. J. Cadieux said that land classification only lasts until the parcel is sold while zoning is something that can be created through the majority of a local area’s land owners which might come together to decide what the limitations of use would be for the local area parcels.
  - b. C. Ecklund mentioned that local option zoning has been done by the KPB before a land sale making the requirements potential purchasers must abide by more solid.
7. REPORT FROM BOROUGH
  - a. C. Ecklund – Borough Assembly Representative
    - i. Assembly passed a resolution supporting HB 367 relating to the apportionment requirement for planning commissions for 1<sup>st</sup> and 2<sup>nd</sup> class boroughs to match with assembly and school districts.
      1. She explained that this would result in the planning commission becoming a nine-member commission with

- one planning commission representative for the whole east peninsula rather than the two that represent this area now.
- 2. Ordinance 2207 for the apportionment committee introduced two options. The first option would keep the districts close to the 9 what they are now and the second would make it 11 districts.
- b. Samantha Lopez
  - i. Land classification updates have come out regarding Cooper Landing.
  - ii. Kenai River from outlet of Skilak Lake to the mouth is being remapped by FEMA. She said that if individuals know of needs for remapping they can contact FEMA directly or through the River Center.
- c. Aaron Hughes
  - i. Classification Resolution should be released sometime in the next week allowing a couple weeks prior to the May 4<sup>th</sup> CLAPC meeting for public review to develop comment.
- d. DOT&PF Sterling Hwy MP 45-60 Project report and questions/answers. Jonathan Tymick, PE, Project Manager, AKDOT&PF.
  - i. Construction contract for the bypass has been awarded to QAP/Trailer Brothers Joint Venture.
    - 1. Trailer Brothers is very active with bridge construction in the lower 48 and around the world.
    - 2. Goals are exceeding environmental commitments and prioritizing community enhancement.
      - a. Slaughter Gulch Trailhead will be a priority for improving if things go as now planned.
      - b. They will likely be able to deal with the small rock face at MP 47 of the Safety Path so that the new bike/ped path does not end in a safety pinch point.
  - ii. The DOT is beginning a programmatic agreement for this season's archeologic work. As many as 24 personnel will be living and working here this season for this.
  - iii. Phase 1A
    - 1. Efforts are going on now to complete blasting operations between MP 56-58 soon. The operations will close the road for an hour or so each time. Watch <https://alaskanavigator.org/> to find out about closures.
    - 2. During this season they will continue to install retaining walls and wildlife underpasses.
    - 3. Aiming to have Phase 1A completely paved by September 15<sup>th</sup>.
  - iv. Pioneer road contracts awarded to QAP/Trailer Brothers.
    - 1. This section of the project is avoiding using local gravel sources to prevent invasive species found in some local gravel sources from being introduced to the project.
    - 2. Surface water rights for one of the landowners will have a mitigation plan developed and monitoring installed.
    - 3. USFS will grant an easement for project work to cross USFS lands this month.
    - 4. Sale of KPB land should be completed in the next month.

5. Phases 3 and 4 are still being worked out but project managers are hoping to access bridge site by August.
6. The final bridge type is still being determined. Steel arch and Steel plate girder construction are the choices and the DOT is expecting 30-45 days to make the final selection to allow the contractor to weigh in on the selection.
  - a. M. Link asked for elaboration on the material site on Langille. He said he sees lots of rock crushing equipment there. He asked where the material is coming from that they are crushing?
    - i. J. Tymick said they have a pending permit for a material site, are starting to excavate the road section and aim to use the material on Slaughter Ridge Rd. and W. Juneau Rd. though they do not anticipate hauling the material around from one side to the other. This will limit truck traffic on local roads.
  - b. P. Weber asked if surface water rights are going to be revoked.
    - i. J. Tymick said no and that they are creating a mitigation plan for those landowners based on whether any of the sources are being impacted as observed by piezometers.

8. OLD BUSINESS – none.

9. NEW BUSINESS

- a. Sharing ideas with Chugach National Forest Seward District Ranger, Ruth D'Amico.
  - i. R. D'Amico reiterated the intentions of the spruce bark beetle project presented last month. She apologized for the bad hyperlink from the last presentation's recording.
  - ii. R. D'Amico said the Quartz Creek project has the fire crew working hard to burn the slash piles generated by the contractor.
  - iii. She explained that there are a number of projects coming up over the next few years.
    1. Replacing the fire rings and picnic tables in campgrounds.
    2. A new fee-based cabin will be added to Trail River Campground
    3. Other infrastructure will be replaced over the next few years as deferred maintenance is caught up on.
  - iv. J. Cadieux asked about the wildlife underpasses on the highway project and the difference between the USFWS and USFS' approach to the management of hunting and trapping near the wildlife underpasses.
    1. R. D'Amico said she was unaware of this difference but was working to familiarize herself with the project. She agreed that trapping or hunting in a wildlife underpass doesn't make sense.

- v. K. Recken said that Cooper Landing Safe Trails is submitting several proposals to the Board of Game and would like to connect with R. D'Amico regarding them.
  - 1. R. D'Amico welcomed the input.
- vi. Y. Galbraith said that there was a FireWise event last Saturday to clean up beetle kill around the community hall as a component of being recognized as a FireWise community.
- vii. J. Cadieux mentioned that there are a number of trails in the community that start on borough land and travel to USFS land. Slaughter Gulch is one of these trails and it appears that there are some procedural steps for the agencies to coordinate on the management of these types of trails but an update would be welcome.
  - 1. R. D'Amico said that she will follow up with Jesse Labenski to find out the circumstances with this collaboration.
- viii. Y. Galbraith asked about who to reach out to regarding enforcement of issues.
  - 1. R. D'Amico said that the best way is to contact the Seward USFS front desk who will get in touch with the law enforcement officers.
- ix. J. Cadieux mentioned the effect of social media on trail use and how it can result in resource damage to non-maintained trails and asked what methods of response are being used in other parts of the country to deal with this.
  - 1. R. D'Amico said that most land managers did not expect the amount of use of the pandemic. If it is a trail system, even if it is previously unmaintained, it can be figured out how to do something different in that area to minimize the resource damage. She just needs to be made aware of the problem areas. J Cadieux mentioned Slaughter Gulch and Russian Gap.
  - 2. D. Story asked about options for communities like ours to mitigate the issues created by the increased use of unimproved trails. He said that while trails like Slaughter Gulch may have started as a social trails, their use can outpace the scope of established management plans. He said that while the levels of use will likely not reach the peak experienced post shelter-in-place orders in 2020 but that once they are well known, use numbers are unlikely to subside. He said that partnerships can work to a certain extent when there is a large base of volunteers but asked for advice for small communities with limited volunteer bases like ours to help prevent resource degradation.
  - 3. P. Weber said that at one time there had been a flagging operation to move the base of the Slaughter Gulch Trail away from private properties on South Face Place and wondered about the status of those efforts.
  - 4. H. Harrison mentioned that it is very common for users to park and traverse through private property because there is not clear indication of where an official trailhead is actually



located and that Google directions etc. often point to the wrong locations as the trailhead.

5. M. Link submitted by chat, “ I hear everyone. The headaches of the temporary relocation /alternate route via Langille Road...well, really “sucked”. Kicking the trail next door isn’t the solution. These are all good points. The trail is a gem of CL. It warrants some consideration rather than being an impromptu trail.”
6. Ruth D’Amico reiterated she would consult J Labenski on this.
- x. Y. Galbraith complimented the work by the contractors dealing with the beetle kill at Quartz Creek Campground.
  1. She also mentioned a past program of volunteer clearing of beetle kill trees in communities and even on private lands.
    - a. R. D’Amico said this might be similar to the All Lands, All Hands project which can funnel funds to facilitate work on private lands adjacent to USFS lands. She said she will follow up to clarify those options.
- xi. J. Cadieux thanked R. D’Amico for her involvement with these meetings as she gets her feet underneath her in the new role.
- xii. R. D’Amico said for Spruce Beetle response on Forest Service land individuals can send written comments to [Alaska-chugach-seward@usda.gov](mailto:Alaska-chugach-seward@usda.gov)
- b. Sterling Hwy MP 45-60 Project: Right of Way acquisition from Borough lands. Ordinance 2022-06
  - i. M. Mueller explained that this ordinance is what will allow the KPB to sell the lands within the ROW to the DOT. He said that this process is fairly procedural including appraisals of each of the project parcels similar to other property owners.
  - ii. He said that it will be approximately 183 acres and the appraisal is about \$1.7 million dollars and through negotiations the KPB came away with an administrative settlement reaching an agreed upon price of approximately \$2.1 million dollars.
  - iii. He said the Juneau Creek Alternative was identified in the 1996 CL Land Use Plan and that the disposal of the acres in the ROW has been a part of this planning at least since then.
  - iv. J. Cadieux asked M. Mueller to confirm that these lands are the same as what has been presented in the lead up to this process.
    1. M. Mueller confirmed them as such.
  - v. C. Degernes moves to recommend the support of the ordinance as proposed. K. Recken seconds. All approve.
- c. KPB Timber Harvest Project: Next Steps and more detail, Dakota Truitt, KPB Land Agent/Forester
  - i. This project is similar to the USFS project around the campgrounds – an effort to remove dead and dying trees affected by the spruce bark beetle – but differs in the mode of implementation. The USFS uses service contracts while this project uses timber sales contracts to perform treatment operations addressing forest health due to KPB budget constraints.

- ii. [Presentation information was requested for posting with supporting documentation. Visit [www.kpb.us/forestmanagement](http://www.kpb.us/forestmanagement) for more information]
- iii. Section 1 – Situation and Proposed Action
  - 1. J. Cadieux asked about the length of the project given the apparent limited supply of trees once the spruce bark beetle killed (SBB) trees are dealt with.
    - a. D. Truitt said that there will be waves of impact that can be treated proactively rather than reactively. It will be a slow roll out of a few hundred acres so kinks can be worked out by the forester before it is scaled up to other areas but that the goal is building a sustainable, small-scale timber industry so harvesting efforts as a management tool can be relied upon in the long term. KPB anticipates ongoing SBB tree death.
    - b. K. Recken asked how the project's short timeline can be a slow roll out.
      - i. D. Truitt said that there is not the capacity to deal with the thousands of acres that need treatment and that the set-up of the infrastructure of this program is the goal that will allow it to sustain itself later. She said timber is a cottage industry on the Kenai and the forests on KPB managed land will not ever support major industry in this realm as much as make the smaller scale industry workable in the long term.
- iv. Section 2 – Benefits of Forest Management
  - 1. D. Truitt said The KPB is not authorized to nor will it seek authorization for clear cutting.
  - 2. She said the program is seeking comment regarding the direction of KPB forest management especially if there are areas where fuel breaks are desired.
  - 3. She reviewed KPB Regulations regarding Forest Resources
    - a. Forest management plan will conduct site specific inventory of forest resources for project areas since the last comprehensive inventory was conducted in 1986.
  - 4. K. Recken asked whether there will be a meeting held here in Cooper Landing.
    - a. D. Truitt said that there will be as the project scope is determined.
- v. Section 3 – Reforestation
- vi. Section 4 – Developing our Process
  - 1. Website is available for comment – [www.kpb.us/forestmanagement](http://www.kpb.us/forestmanagement)
    - a. D. Truitt said the site is intended to provide information and transparency to the public about where management will occur and to accept public comment.

- vii. Section 5 – Forest Industry
- viii. Section 6 – Next Steps
  - 1. Legislative Process
    - a. D. Truitt explained the original Authorizing Legislation was Ordinance 2000-50 and that the new ordinance updates the above.
    - b. She said the new ordinance will be presented at the next CLAPC meeting May 4th and explained many of the changes in the update can be seen in this presentation's slides and that one feature is that it includes a 3-year sunset clause.
    - c. She said that they are seeking authorization by end of June. There are several opportunities for engagement including the next CLAPC meeting.
      - i. J. Cadieux asked about the intent of the management clause and whether it would include the land classification.
        - 1. D. Truitt – yes.
      - ii. Y. Galbraith asked about the timeline and whether it is true that the clearing from this project would not begin until 2023.
        - 1. D. Truitt – yes.
      - iii. Y. Galbraith asked about whether KPB rules for tree removal by adjacent private land owners can be modified to allow for more than 10 trees per acre to be removed.
        - 1. D. Truitt mentioned the FireWise considerations that allow for the increased amount of removal from KPB lands up to 100 ft from private land infrastructure.
      - iv. Y. Galbraith asked about management plans for the organic dump site.
        - 1. D. Truitt said the contractor should be pushing those piles together to make them neater and create more usable space.
        - 2. She said they will also be determining the impact of greater than normal residential use.
        - 3. M. Mueller said the site is managed with zero budget through a partnership with local folk including the past volunteer effort by Keith Freeman and organizations like CLES to minimize additional costs being placed on the KPB while still helping provide a needed resource.
      - v. K. Recken said she has concerns about only burning in the fall since it can become

untenable faster and wondered about having more frequent burns as the piles develop.

- d. M. Mueller pointed out the significant efforts that D. Truitt has put into this project and said that when the project is soliciting comments it is to find out how the public can better be engaged participants in the management of public lands.
- e. J Cadieux thanked all of the KPB personnel for this effort and for all of those attending the CLAPC meetings. Keeping the public informed makes us better partners to KPB.

10. PLAT REVIEW - none

11. INFORMATION and ANNOUNCEMENTS - none

12. COMMISSIONER'S COMMENTS

- a. D. Story brought up that he has been approached by several community members asking when the CLAPC might return to in-person meetings and suggested that CLAPC explore options for hybrid meetings to continue enjoying the increased participation of agency personnel and community members while still facilitating a venue for community members unlikely to attend virtually.
- b. H. Harrison echoed the sentiment.
- c. K. Recken suggested a worksession to determine feasibility.
- d. J Cadieux will contact KPB staff to learn how hybrid in-person/Zoom meetings may be done technically.
- e. Y Galbraith will check on the strength of the WiFi at CLCC Hall.

13. ADJOURNMENT

- a. L. Johnson moves to adjourn. Y. Galbraith seconds. All approve. 8:52pm

For more information or to submit comments please contact:

David Story, Secretary Treasurer or Janette Cadieux, Chair, P.O. Box 694, Cooper Landing, 99572 [CooperLandingAPC@gmail.com](mailto:CooperLandingAPC@gmail.com)



**KACHEMAK BAY ADVISORY PLANNING COMMISSION**  
**Regular (VIDEO CONFERENCE) MEETING**  
**LOCATION: ZOOM**  
**Thursday, April 7, 2022**  
**7:00 P.M.**

**UNAPPROVED MINUTES**

A. CALL TO ORDER: 7:03 pm

B. ROLL CALL

Present: Eric Knudtson, Owen Meyer, Bruce Robinson, Courtney Cox Brod, and Louise Seguela.

Quorum has been met to move forward with the meeting.

Also present are Matt Steffy of the City of Homer and Doug Malone, Jurgen Jensen, and Sarah B of the Kachemak Ski Club.

C. APPROVAL OF MINUTES

1. Approved March 17, 2022 minutes.

D. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE

1. Doug Malone of the Kachemak Ski Club updated us on their efforts to build a parking lot.

E. REPORT FROM THE BOROUGH

F. NEW BUSINESS

1. Matt Steffy, the Parks Superintendent for the City of Homer, presented his work on trails for the City of Homer.
2. We unanimously approved the following motion.

The KB APC supports KPB resolution 2022-\_\_ classifying a portion of tract A, parcel # 17113141, plat # 2004-18, as recreational.

3. We scheduled a special in-person meeting for 7 pm on April 21st at the Kachemak City Center to work on our plan.

G. OLD BUSINESS

1. We discussed the introduction, survey, and goals for our KB APC plan. We agreed to work more on this at our next special meeting.

H. ANNOUNCEMENTS

1. None

I. COMMISSIONERS' COMMENTS

J. ADJOURNMENT – 7:58 pm.

Anchor Point Advisory Planning Commission  
Meeting Minutes: April 7, 2022

Call to Order: Meeting called to order by Dawson Slaughter at 7:00 pm

Roll Call: Dawson Slaughter, John Cox, Jay Wright, Donna White and Raymond Drake were present. Maria Bernier and Mary Trimble were absent.

Approval of previous minutes: A motion was made by Jay Wright and seconded by Raymond Drake to approve the minutes. The motion passed.

Approval of Agenda: Donna White made a motion to approve the agenda and John Cox seconded. The motion passed.

Correspondence: We received notice that the Planning Commission approved the utility easement for Piper's Haven.

Public Comment/ Presentation without previous notice: None

Report from Borough

- a. Ryan Raidmae, KPB planner, informed us that there will be a 1 day zoom commissioner training available at a later date. He reiterated the change in what information the planning department wants regarding plat review.

Old Business: None.

New Business:

- a. Anchor Point Food Pantry lease-ordinance- Marcus Mueller, Land Management.  
14 community members signed in, however, there were more people present than that number represents.

Marcus Mueller, Land Management from the KPB presented the proposed lease of borough land to the Anchor Point Food Pantry (APFP) . It is an initial lease of 20 years with the possibility of an additional 10 years. He was questioned about whether or not the neighboring property owners were notified of this lease. The neighbors were noticed reading the land classification in the fall, but it was not required to notify the neighbors regarding the proposed lease. The KPB decided that 3.5 acres was a good size for community use.

Melissa (Misty) Martin explained the events that have led to the APFP requiring a new space. There has been a lot of work done developing the plan for this property. It has been difficult to raise funds when they have no property to use.

Robert Hallam, pastor of the Great land Worship Center (GLWC) stated that the Food Pantry had outgrown the space available at that location. They requested that they be allowed to put containers on the property to provide additional storage. The GLWC was not interested in having that curb appeal and suggested that they have 6 months to find a different location. They are very supportive of the FP and believe it provides a valuable service to the community of Anchor Point.

Chris Syme, Secretary of the Food Pantry, clarified that they required more space due to the influx of food as a result of the COVID virus and subsequent food supplies. She also included that there are trees on the property that they are hoping to use as a buffer around the property.

Robert Hallam inquired about the timelines for development of the property. According to the lease agreement the three phases are planned for 2022-2023, 2024-2025 and 2026-2028. The Borough will monitor the progress.

John Neville stated that there are a lot of people in distress this year. To get through this, we need to deal with the issues as the Anchor Point people. It is important that we deal with the issues of the distressed people as a town



problem and work to solve it as a community. The **FP** is an important aspect of this approach.

A neighbor of the property was concerned that the plan would be altered for another route into the property instead of School Street. Although the Borough cannot guarantee that that would never happen, the only plan for access is School Road. She was also concerned about the fact that people loiter in that area and what was the **FP** going to do about loiterers. The **FP** has had a procedure in place to not allow people to just hang around the area. They pick up food and are told to move on.

Emmitt Trimble stated that he has concerns about this location. He stated that the first Borough proposal was for 5 acres, but he 'bitched' to the Borough and it was moved to 3.5 acres. He stated that this land is an abandoned gravel pit and will be expensive for the **FP** to bring it up to the necessary standards to do what they plan. It will be expensive to bring water to the property and because the water table is low it will be expensive to get a sewer system installed. He suggested that the school would be a better use of the property and that this plan has been 'fast tracked' through the Borough. He thinks a better location would be the 40 acres of Borough property behind the Post Office.

Trent Herbst, a teacher at Chapman School stated that the school is always looking for more space. His classroom last year was 12 students, and this year he has 32.

Robert Hallam thanked the Borough for their generosity, but wondered if this is the best property for the **FP** in Anchor Point.

It is obvious to everyone in attendance that the **FP** needs to go somewhere and have the support of the community.

It was noted that the school has after school activities that use School Road. The **FP** was on that street for the last nine years and never had an issue with the school children. With the proposed lease, they will be even

farther away. Jay Wright asked about when school was out: 2:30 and the FP opens at 4:00 pm one day a week. It was noted that the after-school activities are over at 4:00pm.

Raymond Drake inquired about the Borough conducting test holes to determine the water level. Marcus stated that it was not the responsibility of the Borough to conduct these tests for private entities. Emmet Trimble volunteered to pay for the test holes. Marcus stated that the Borough has information from the state regarding test wells conducted by the state when the classification of the property was being considered.

Robert Hallam stated that it was important that the FP get the best possible land available. He also suggested that the FP consider a purchase agreement for when the lease is expired and suggested this be done prior to signing the lease agreement.

The KPB stated that there is no engineer on staff to conduct or interpret the results of the test holes. Marcus explained that for any KPB property under 5 acres, the Borough has a surveyor to test the property. If it is deemed unable to be used for the proposed use, the FP will have no penalty if they decide to bow out.

Donna White made the motion to recommend approval of the lease agreement to the Planning Commission and Borough Assembly. John Cox seconded. Emmitt will allow the FP to *move* onto his property if they can find someone to *move* the buildings they have.

It was pointed out that the FP cannot *move* onto the property until the lease has been signed.

A *vote* was taken on the motion, the motion passed 3 votes to 2 votes.

There are two letters submitted to the commission which will be included with the minutes.

- b. Anchor Point Land Use Plan was tabled for the next meeting. It was not clear what this topic was regarding.

Announcements: None

Next Regular Meeting: May 5, 2022.

Commissioner comments: Dawson thanked those community members for attending the meeting and offering comments.

Adjournment: Meeting was adjourned by Dawson Slaughter at 8:46.

Attachments:

Email from Mary Trimble

Letter from Jeanette Shafer