

Introduced by:	Mayor
Date:	08/07/12
Action:	Adopted
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2012-065**

**A RESOLUTION AUTHORIZING THE LEASE OF REAL PROPERTY LOCATED AT
3800 STERLING HIGHWAY FOR A TEMPORARY KACHEMAK EMERGENCY
SERVICE AREA FIRE STATION FACILITY**

WHEREAS, Kachemak Emergency Service Area (KESA), currently provides emergency response to the Diamond Ridge area near Homer; and

WHEREAS, KESA is working toward developing a new fire station on Diamond Ridge; and

WHEREAS, KESA requires garage space to house apparatus to support emergency response services to the Diamond Ridge area; and

WHEREAS, KESA has identified real property, which includes a 2,400 square foot Quonset style garage space with parking pad ingress/egress, available for lease that could serve as an interim fire station allowing KESA to provide services into the Diamond Ridge area; and

WHEREAS, KESA has sufficient funds budgeted in FY13 to pay rents through June 30, 2013 in Account No. 212.51810.43810 Rents and Operating Leases; and

WHEREAS, at its meeting of July 12, 2012, the Kachemak Emergency Service Area Board recommended approval; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of July 16, 2012 recommended approval;

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

SECTION 1. That the mayor is authorized to enter into a lease of real property with Daniel and Kasandra Stanislaw, more particularly described as follows:

A 2,400 square feet Quonset style garage space with parking pad, ingress/ egress located at 3800 Sterling Highway, Homer Alaska.

Situated on SEWARD MERIDIAN W1/2 NE1/4 SW1/4 NW1/4 Section 15 T 6S R 14W, Homer Recording District, Third Judicial District, State of Alaska.

SECTION 2. The purpose of the acquisition is for a temporary fire station facility to be operated by Kachemak Emergency Service Area to serve the Diamond Ridge area until such time as a permanent fire station is completed.

SECTION 3. The initial term of the lease shall be for one year commencing August 8, 2012 and shall continue month to month thereafter until terminated by 90-days written notice. Lease payments shall be \$1,500.00 per month for the duration of the lease. The terms and conditions of the lease shall be in accordance with those of the accompanying lease agreement and the terms and conditions of this resolution.

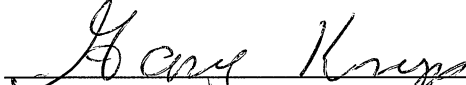
SECTION 4. That pursuant to KPB 17.10.080 (C), no land classification is proposed for this rental property.

SECTION 5. That expenditures for the lease will be charged to account number 212.51810.43810.

SECTION 6. That the mayor is authorized to execute all documents for a lease agreement substantially similar to the lease agreement submitted with this resolution, and to make all agreements deemed necessary in accordance with this resolution.

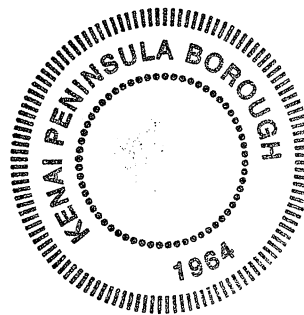
SECTION 7. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF AUGUST, 2012.


Gary Knopp, Assembly President

ATTEST:


Johni Blankenship, Borough Clerk



Yes: Haggerty, Johnson, McClure, Murphy, Pierce, Smalley, Smith, Tauriainen, Knopp
No: None
Absent: None

LEASE AGREEMENT

This Lease agreement, made this _____ day of _____, 2012, by and between Daniel and Kasandra Stanislaw (LESSOR) and the KENAI PENINSULA BOROUGH (KPB);

WITNESSETH:

1. **Premises.** LESSOR, for and in consideration of the rents, covenants, and conditions hereinafter specified to be paid by KPB, does hereby lease to KPB the real property, described as follows:

A 2,400 square feet Quonset style garage space with parking pad, ingress/ egress located at 3800 Sterling Highway, Homer Alaska.

Situated on T 6S R 14W SEC 15 SEWARD MERIDIAN W1/2 NE1/4 SW1/4 NW1/4, Homer Recording District, Third Judicial District, State of Alaska.

For fire station purposes including but not limited to fire station operations, equipment storage and maintenance, and training.

2. **Rent.** In consideration of the Lease of the premises by LESSOR, KPB covenants to pay to the LESSOR as rental for the premises described in paragraph 1 above, the sum of \$1,500.00 per month. Rent is due on the 8th of each month. Rent shall remain the same for the life of the lease and any renewal provided thereby.
3. **Term.** The initial lease term is 12 months commencing August 8, 2012. The lease term shall continue month to month thereafter until terminated by 90-days written notice. This term is subject to the appropriation and availability of funds.
4. **Lease.**
 - A. **Utilities.** Heating fuel, phone and electric utilities shall be paid by KPB for the duration of this lease. All other utilities are included in the Lease rent.
 - B. **Termination.** After the initial term, any extended term may be terminated by either party by giving written notice of termination no less than 90-days in advance.
5. **Covenants of KPB.** The KPB hereby covenants and agrees:
 - A. **To pay rent:** KPB will pay the said rent specified at the times and in the manner set out in paragraph 2 herein, except only in the case of fire or other casualty as herein provided.

- B. Not to assign. KPB shall not assign, sublet or part with the possession of all or any part of the leased premises without the prior written consent of the LESSOR. LESSOR shall not unreasonably withhold such consent.
 - C. To permit LESSOR to enter. LESSOR will be permitted supervised access to premises at reasonable times for inspection, maintenance, or repair upon 24 hours notice, provided that notice is not required in the event of an emergency.
 - D. To yield up premises. At the expiration of the term of this Lease agreement, KPB will peaceably yield up to the LESSOR the premises, in good repair in all respects, reasonable use and wear and damage by fire and other casualties excepted.
 - E. Alterations. KPB may not alter the premises without first obtaining prior approval of LESSOR.
6. **LESSOR'S Warranties.** The LESSOR covenants, guarantees and provides the following express warranties:
- A. No existing restrictions interfere with the KPB'S permitted and intended use of the leased property;
 - B. Adequate ingress and egress to the leased property;
 - C. LESSOR has sufficient interest in the property to grant tenant this leasehold;
 - D. KPB shall have quiet enjoyment of the premises;
 - E. The property is fit for its intended use;
 - F. Any use, treatment, storage, or transportation of hazardous substances has been in compliance with all applicable federal, state and local laws. No hazardous substances have been released, discharged, spilled, leaked, disposed of, or omitted on, in, or under the premises. The premises are free of hazardous substance; and
 - G. LESSOR shall be responsible for maintaining the premises in good repair at all times.
 - H. Snow Removal. LESSOR shall be responsible for all snow removal from the premises.
 - I. Grounds Maintenance. LESSOR shall be responsible for routine grounds maintenance such as lawn mowing and watering.

7. **Default by LESSOR/KPB.** Should either KPB or LESSOR default in the performance of the obligations of any covenants of this Lease agreement and fail to fully remedy such default within 30 days after written notice by the nondefaulting party, then the Lease agreement may be terminated by written notice to the defaulting party. All rent hereunder shall abate during the period of any such default. Upon termination of this Lease agreement, LESSOR shall refund to KPB any unearned advance rent paid by KPB.
8. **Subject to Annual Appropriation.** Unless the Kenai Peninsula Borough Assembly by resolution provides otherwise, this lease shall automatically terminate without penalty on June 30 of any year during which the Kenai Peninsula Borough assembly fails to appropriate funds sufficient to make the lease payments on the leased property for the following fiscal year.
9. **Liability and Insurance.** Each party shall be responsible and liable for its own acts and omissions under this Lease agreement and shall carry insurance adequate to protect its interest.

Lessor at its sole cost and expense agrees to keep the building, land and improvements, including the leased premises, insured against damage or loss by fire or other casualty insurable under standard fire and extended coverage insurance in an amount equal to the full current replacement cost of said building.

Lessee assumes the risk of damage to their equipment, machinery, supplies or other personal property on the leased premises or used in connection with Lessee's business or as to which Lessee retains the right of removal from the leased premises.

Lessee will also maintain General Liability insurance insuring Lessee's activities in or about the leased premises against loss, damage or liability for personal injury or death of any person or loss or damage to property occurring in, upon or about the leased premises in the amount of not less than One Million Dollars (\$1,000,000) per claim or occurrence. Lessor shall be named as an additional insured on such policy.

Lessee will maintain insurance coverage for equipment, machinery goods, supplies or other personal property on the leased premises or used in connection with Lessee's business.

10. **Permits, Laws, and Taxes.** LESSOR shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to the performance under this Lease agreement. All actions taken by the LESSOR under this agreement shall comply with all applicable statutes, ordinances, rules and regulations. LESSOR shall pay all taxes that may be due and owing to a federal, state, or local taxing entity.
11. **No Waiver.** No assent, expressed or implied, by either party to any breach of either party's covenants shall be deemed to be a waiver of any succeeding breach of the same covenants, nor shall any forbearance by a party to seek a remedy for any breach be deemed a waiver by that party of its rights or remedies with respect to such breach.

12. **Integration.** This document contains the entire lease agreement of the parties hereto and supersedes any prior or contemporaneous verbal or written agreements or statements.
13. **Modification.** The parties may mutually agree to modify the terms of this agreement. Any modifications shall be in writing executed by both parties.
14. **Interpretation and Enforcement.** This agreement has been drafted following negotiations between the parties. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The interpretation and enforcement of this agreement shall be governed by the laws of the State of Alaska. The titles of sections in this agreement are not to be construed as limitations or definitions but are for identification purposes only.
15. **Severability.** If any section or clause of this agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this agreement shall remain in full force and effect.
16. **Notice.** Whenever notice is required hereunder, it shall be addressed as follows until written notice of change of address is given to the other party:

LESSOR:

Daniel & Kasandra Stanislav
P.O. Box 251
Homer, AK 99603

LESSEE/KPB:

Kenai Peninsula Borough
Attn: Planning Director
144 N. Binkley Street
Soldotna, AK 99669

LESSOR

KENAI PENINSULA BOROUGH

Daniel Stanislav

Date: _____

LESSOR

Kasandra Stanislav

Date: _____

Mike Navarre

Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship, Borough Clerk

Holly B. Montague
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____ 2012,
by Mike Navarre, 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: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____ 2012,
by Daniel Stanislaw.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____ 2012,
by Kasandra Stanislaw.

Notary Public in and for Alaska
My commission expires: _____