

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA BUILDING, INC., an Alaska
Corporation,

Plaintiffs,

vs.

716 WEST FOURTH AVENUE LLC and
LEGISLATIVE AFFAIRS AGENCY.,

Defendants.



Case No.: 3AN-15-05969 CI

**716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT (NOT EXTENSION) AND REQUEST FOR ORAL
ARGUMENT UNDER CIVIL RULE 77(E)(2)**

Plaintiff Alaska Building Inc. ("ABI") requests that this Court rule on matters that are consigned to the discretion of the Legislature and that are non-judicial. ABI claims that the "Extension of Lease and Lease Amendment No. 3" ("Lease Extension") between 716 and the Legislative Affairs Agency ("Agency") violates AS 36.30.083(a). Specifically, ABI alleges that as a matter of law a lease extension can never involve demolition work on an existing structure to any degree that would necessitate a tenant to temporarily relocate until the remodel is complete, and that the modification of various

ASHBURN & MASON P.C.
LAWYERS
1227 WEST 9TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
TEL 907.276.4331 • FAX 907.277.8235

lease terms in the Lease Extension preclude the lease from actually being an “extension” under AS 36.30.083(a).¹

The Legislative Council has the authority under the State Procurement Code to modify its procurement rules and to authorize lease extensions. ABI’s motion should be denied since (1) Plaintiff’s request for the Court to declare that the lease extension is not actually an “extension” would require the Court impermissibly interfere with the Legislature’s procurement findings, (2) the Lease Extension is in fact an extension under the Procurement Code, and (3) genuine issues of material fact exist precluding summary judgment. 716 requests the Court hear oral argument on the motion under Civil Rule 77(e)(2).

I. BACKGROUND

On April 6, 2004, 716 and the Agency entered into a lease for the LIO Premises.² The lease was competitively bid under FRP 391, which was publically issued on July 17, 2003. The Lease contained five one-year renewal options and was amended various

¹ See Plaintiff’s Memo in Support of Summary Judgment at 5. The cost savings compliance issue is not subject to the instant motion.

² Recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District State of Alaska. Attached as Exhibit A with Amendments.
716 LLC’S OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

times.³ The lease was renewed for a final one-year term on May 20, 2013 and was set to expire on May 31, 2014, unless the parties agreed to extend the lease.

On June 7, 2013, the Legislative Council met to discuss a series of four motions related to the extension of the Anchorage LIO lease.⁴ Eleven (11) of the Council members participated in the hearing.⁵ Mike Hawker, Chairman of the Legislative Council and the Legislative Council's Chief Procurement Officer with respect to contracts of the Legislative Affairs Agency, reported that the Council's efforts to find other downtown space suitable to legislative function had failed,⁶ and as a new state-owned building was not a desirable outcome, the council wanted to move forward by improving the existing location.⁷ Senator McGuire indicated that there were "significant health and safety issues" associated with the current building, and

³ In 2006, the number of parking spaces was decreased and the rent reduced to account for the change in the amount of rented property. *See* Lease Amendment No. 1, recorded in Book 2006-0635690. In 2006, the lease term was extended an additional year by exercising a renewal option, and the rent was modified to reflect changes in 716's variable costs. *See* Amendment No. 2. And Renewal of Lease, recorded in Book 2009-017284-0. Both amendments were submitted as exhibits attached to the Agency's opposition.

⁴ 28th Legislature (2013-2014) Committee Minutes from June 7, 2013, attached as Exhibit B.

⁵ *See Id.* at 1. Eight (8) members of the Council were physically present and three (3) members participated telephonically. Three members were absent: Senator Gary Stevens, Senator Charlie Huggins, and Representative Mike Chenault.

⁶ Chairman Hawker indicated that the most recent RFI generated two responses, neither of which would accommodate the Legislature downtown and that both responses had "limited utility regardless of location." *See Id.* at 2.

⁷ *Id.* at 2.

716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

Representative Stoltze indicated that the public would benefit from “larger meeting spaces” and other modifications designed to meet the needs of the legislature.⁸

After significant debate, the Legislative Council **unanimously passed** the following motions with **no objections**: 1) a motion allowing the Chairman to negotiate all the terms and conditions necessary to extend the lease under AS 36.30.083(a); 2) a motion for the Legislative Council to adopt Amendment No. 12 to the Legislative Procurement Procedure 040 to allow the Agency to “materially modify an existing lease that was previously competitively procured.”; 3) a motion to authorize material amendments to the lease, including the addition of 712 West Fourth Avenue with other terms and conditions necessary to accommodate renovations, and 4) a motion for the Legislative Council to authorize the Alaska Housing Finance Corporation to act as its representative during negotiations. Upon passage of the final motion, Chairman Hawker declared that this was “the beginning of a fabulous project to establish legislative facilities that will accommodate legislative needs for the next 10 or more years.”⁹

Prior to the execution of the lease extension, on September 16, 2013, in compliance with Alaska Legislative Procurement Procedure 040(d), Chairman Hawker made detailed **written findings** that the Lease may be materially modified without

⁸ *Id.*

⁹ *See Id* at 4.

716 LLC’S OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

procurement of a new Lease.¹⁰ The modifications included, as discussed at the June meeting, adding additional adjacent property at 712 West Fourth Avenue to the existing premises, and amending other sections of the Lease to allow for renovation of the expanded premises.¹¹ The written findings were included as an addendum to the lease extension.

Having satisfied the procedural and statutory requirements for the Lease Extension, the parties entered into the agreement on September 19, 2013.¹² The Lease Extension, which was made between the same exact parties as original lease, extended the existing lease from June 1, 2014 to May 31, 2024.¹³ Also on September 19, 2013, Pam Varni, Executive Director of the Legislative Affairs Agency, in compliance with AS 36.30.083(b), certified to the Legislative Budget and Audit Committee that the Agency was entering “a 10-year lease extension of the Anchorage Legislative Information Office”¹⁴ and that the lease met the requirements of AS 36.30.083(a).¹⁵

¹⁰ See Procurement Officer’s Findings Under Legislative Procurement Procedure 040(d), incorporated into the lease extension as Exhibit C and attached here as Exhibit C.

¹¹ *Id.* at 1.

¹² See Extension of Lease and Lease Amendment No. 3, Attached as Exhibit D.

¹³ See Exhibit D at 2.

¹⁴ See Exhibit E, marked as Exhibit D as incorporated into the Lease Extension.

¹⁵ AS 36.30.083(a) provides: Notwithstanding any other provision of this chapter, the department, the Board of Regents of the University of Alaska, the legislative council, or the court system may extend a real property lease that is entered into under this chapter for up to 10 years if a minimum cost savings of at least 10 percent below the market rental value of the real property at the time of the extension would be achieved on the rent due under the lease. The market rental value must be established by a real estate broker’s opinion of the rental value or by an appraisal of the rental value. Plaintiff separately challenges whether the lease extension exceeded 10 percent reduction under the statute.

716 LLC’S OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

II. ARGUMENT

A. Plaintiff raises a non-justiciable political question.

In compliance with AS 36.30.020 and the Alaska Legislative Procurement Procedures, the Legislative Council, as it deemed necessary, properly adapted its procurement procedures to meet the special needs of the legislative branch and entered into a proper lease extension under AS 36.30.080(a). Because the legislature adopted and followed its own rules of procedure, Plaintiff's claim that the lease extension is not an extension is not justiciable, and thus as a matter of law ABI's motion for summary judgment should be denied.

The Alaska Legislative Council is a constitutionally created permanent interim committee and service agency of the Legislature.¹⁶ It is composed of fourteen legislators, seven from each chamber, including the president of the senate and the speaker of the house.¹⁷ The legislative council has numerous powers, including the power to organize and adopt rules for the conduct of its business,¹⁸ and to exercise control and direction over all legislative space.¹⁹ The council has further power to "do

¹⁶ Alaska Const. art. II, § 11: There shall be a legislative council, and the legislature may establish other interim committees. The council and other interim committees may meet between legislative sessions. They may perform duties and employ personnel as provided by the legislature. Their members may receive an allowance for expenses while performing their duties.; *see also* AS 24.20.010

¹⁷ AS 24.20.020.

¹⁸ AS 24.20.060(1). *See also* AS 24.20.060(6)(granting the council further authority to produce, publish, distribute, and to contract for the printing of reports, memoranda, and other materials it finds necessary for the accomplishment of its work.)

¹⁹ AS 24.20.060(5)

716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

all things necessary to carry out legislative directives and law, and the duties set out in the uniform rules of the legislature.”²⁰ Under AS 36.30.020, the Legislative Council shall adopt and publish procedures to govern the procurement of supplies and services by the Legislature “and [the procedures] must be adapted to the **special needs** of the legislative branch **as determined by the legislative council.**”²¹ Accordingly, the council adopts and publishes the Alaska Legislative Procurement Procedures.

Section 040 of the Alaska Legislative Procurement Procedures exempts various contracts from competitive solicitation requirements if various conditions are met.²² As discussed *supra*, on June 7, 2013, the Legislative Council passed various motions related to the lease. First, it adopted Amendment No. 12 to the Legislative Procurement Procedure 040, which provided the Agency with the ability to materially modify an existing lease that was previously competitively procured. Second, it authorized Mr. Hawker, Chairman of the Legislative Council and its Chief Procurement Officer, to “remove the limitation of amending a lease that amounts to a material modification,” and to include adjacent space at 712 West Fourth Avenue into the definition of premises. Accordingly, subsection (d) was added to Legislative Procurement Procedure 040, which permitted the lease to be modified by an amendment and without procurement of a new lease if the following terms were met:

- 1) The reasons for the modification are legitimate;

²⁰ AS 24.20060(6).

²¹ AS 36.30.020(emphasis supplied.)

²² Attached as Exhibit F.

- 2) The reasons for the modification were unforeseen when the lease was entered into;
- 3) It is not practicable to competitively procure a new lease;
- 4) The modification is in the best interests of the agency of the committee;
- 5) The procurement officer makes a written determination that the items in paragraphs (1)-(4) exist, the determination is attached to the amended lease; and
- 6) The use of this subsection is approved by the procurement officer and, in the case of an amendment to a lease concerning a legislative committee, by a majority of the committee members.²³

Representative Hawker made detailed written findings as to why the Lease Extension complied with the requirements of Alaska Legislative Procurement Procedures as outlined above.²⁴ Importantly, the legislative council expressed that the modification of the lease to include the addition of the 712 West Fourth Avenue space allowed “the Legislature to **extend** its current Lease.”²⁵ This was so because the Legislature needed additional space, but also wanted to keep all the present legislative offices in one building.²⁶ As the council put it, “modifying the Lease by adding 712 West Fourth Avenue to the ‘premises’ and by amending other lease terms to accommodate the expanded premises and the Lease Extension under AS 36.30.083(a)

²³ See Exhibit C.

²⁴ See *Id.* On a fundamental level, the Legislative Council, in adopting the June 7, 2013 motions and subsequently making written compliance findings, was executing its constitutionally mandated function to meet, perform its duties, and regulate and adopt appropriate rules.

²⁵ Exhibit B at 4.

²⁶ *Id.*

does not subvert the purposes of competitive bidding, **and is a legitimate exercise of the Legislature's procurement authority.**"²⁷

In *Abood v. League of Women Voters of Alaska* the Alaska Supreme Court held that "[t]he Alaska Constitution expressly commits to the legislature authority to adopt its own rules of procedure."²⁸ *Abood* involved a challenge from the League of Women Voters of Alaska, the Anchorage Daily News, and the Fairbanks Daily News Miner (the "League") that various closed committee meetings of the Senate and House Finance Committees violated the League's implied right of public access to legislative committee or caucus meetings under the Alaska Constitution.²⁹

The Legislators opposing the challenge argued that under Article II, section 12 of the Alaska Constitution³⁰, the Legislature was "specifically and exclusively authorized to adopt its own rules of procedure."³¹ Under that authority, the legislature adopted a Uniform Rule addressing which types of meetings should be held open to the general public. The legislators therefore argued that "only the legislature may determine whether the Open Meetings Act should apply to the legislature, and how [the Act]

²⁷ See *Exhibit C* at 5.

²⁸ 742 P.2d 333, 337 (Alaska 1987).

²⁹ *Id.* at 333.

³⁰ "The houses of each legislature shall adopt uniform rules of procedure. Each house may choose its officers and employees. Each is the judge of the election and qualifications of its members and may expel a member with the concurrence of two-thirds of its members. Each shall keep a journal of its proceedings." See Alaska Const. art. II, § 12.

³¹ *Abood*, 742 P.2d at 337.

716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

should apply consistent with [the Uniform Rule.]³² Relying on *Malone v. Meekins*³³ and *Abood v. Gorsuch*³⁴, the Court agreed that it was the legislature's prerogative to make, interpret and enforce its own procedural rules, and the judiciary could not compel the legislature to exercise purely legislative prerogative.³⁵

Under Alaska law, in order to survive a justiciability challenge, ABI's claim that the lease extension was "not an extension" would have to involve a right protected by either the Alaska Constitution or the United States Constitution.³⁶ *Abood* is consistent with the long-standing and much emphasized principle that the judiciary must avoid engaging in unwarranted interference with a coordinate branch of government.³⁷ Although courts may intervene to protect constitutional rights from infringement by Congress, "where constitutional rights are not violated, there is no warrant for the judiciary to interfere with the internal procedures of Congress."³⁸ Plaintiff has never asserted that the lease extension has violated any constitutional right.

³² *Id.*

³³ 650 P.2d 351, 357 (Alaska 1982) ("For the courts to assume responsibility for overseeing the officer selection process of a legislative body would be highly intrusive and, in our opinion, inconsistent with the respect owed the legislature by the judiciary.")

³⁴ 703 P.2 1158, 1160 (Alaska 1985) ("There are certain questions involving coordinate branches of the government, sometimes unhelpfully called political questions, that the judiciary will decline to adjudicate.")

³⁵ *Abood*, 742 P.2d at 338 (citing *Moffitt v. Willis*, 459 Sp.2d 1018, 1021 (Fla. 1984).); see also *Green Part of Alaska v. State, Division of Elections*, 147 P.3d 718, 735 (Alaska 2006).

³⁶ *Abood v. League of Women Voters of Alaska*, 743 P.2d 333, 340 (Alaska 1987)

³⁷ *Exxon Corp. v. F.T.C.*, 589 F.2d 582 (D.C. Cir. 1978); see also *Railroad Comm'n v. Pullman Co.*, 312 U.S. 496, 500, 61 S.Ct. 642, 85 L.Ed 971 (1941) (holding that Courts should refrain from creating "needless friction" with a coordinate branch of government)).

³⁸ *Id.* at 590.

Both *Abood* and *Malone* hold that the *Baker v. Carr*³⁹ elements should also guide the trial court's decision whether the political question at issue is non-justiciable and thus immune from judicial scrutiny.⁴⁰ These elements include: (1) a textually demonstrable commitment of the issue to a coordinate political department; (2) the impossibility of a court's undertaking an independent resolution of the case without expressing lack of respect due coordinate branches of government; and (3) the need for adherence to a political decision already made. Here, Mr. Hawker's findings under Alaska 040(d) that the original competitively procured lease could be materially modified by an amendment without the need for procurement of a new lease were in compliance with AS 36.30.020, which explicitly permit the Legislative Council to adapt its procurement procedures to meet the "special needs of the legislative branch as determined by the legislative council."

It was the Legislative Council's explicit prerogative to make, interpret and enforce its own procedural rules in determining how best to extend its existing contract, accounting for the modifications encompassed in the extension. The Legislative Council thus, consistent with the authority vested in it under the Alaska Constitution and AS 36.30.020 could rightfully "adapt" its published procurement procedures "to meet the special needs of the legislative branch as determined by the legislative

³⁹ 369 U.S. 186, 217 (1962).

⁴⁰ *Abood v. League of Women Voters of Alaska*, 743 P.2d 333, 337 (Alaska 1987); *See also Malone v. Meekins*, 650 P.2d 351, 357 (Alaska 1982);.

council”⁴¹ Consistent with the principles of *Abood* and *Baker*, the Court must defer to the political decision already made by the legislative council. Indeed, one cannot think of a greater infringement on the Legislature’s prerogatives than to second guess its application of its own procurement rules in effect at this time. Plaintiff’s challenge is not justiciable and summary judgment should be denied.

B. The Lease Extension is an “extension” under the State Procurement Code.

Even if the court were to independently attempt to resolve and scrutinize a decision already made by a coordinate branch of government in that branch’s sole discretion, ABI’s argument that the lease extension is “not an extension” still fails.

Plaintiff argues that the lease extension does not comply with the “plain enough meaning of AS 36.30.083(a),” yet the **only** requirement for a lease extension to be valid under AS 36.30.080(a) is the achievement of a 10 percent savings as established by a real estate broker’s opinion of the rental value or by an appraisal of the rental value.⁴² The statute at issue contains absolutely no restriction on the degree to which the existing premises can be modified under a lease extension. The statute similarly does not restrict in any way the degree in which the terms may change from the original lease to the “extended” lease nor how many terms may or may not change.

⁴² Plaintiff’s Memorandum in Support of Motion for Partial Summary Judgment Re: Not Extension at 6.
716 LLC’S OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

Plaintiff offers no authority whatsoever for the court to conclude that the contract at issue is not what it purports to be – a lease extension – simply because some of the lease extension’s terms or the building structure changed as part of the extension. Plaintiff’s inflexible belief that a lease can only remain an “extension” if only the lease end date changes runs afoul of basic rules of statutory interpretation. When interpreting statutes or contracts, “unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning.”⁴³ Legislative history is useful only to the extent that it helps demonstrate the intent of the legislature.⁴⁴ The plainer the language, the more persuasive any legislative history to the contrary must be.⁴⁵

There is no question that the subject of the Lease Extension is a real property lease. It relates to the Agency’s leasing of defined real property rights from 716, its Landlord, with whom it had an existing lease. The recorded contract at issue is called “Extension of Lease and Lease Amendment No. 3” and establishes the effective term of the lease extension: June 1, 2014-May 31, 2024. Both parties to the actual contract -the Agency and 716 – continue to maintain that the contract at issue is an extension, and the Agency continues to make timely monthly payments under its contractual obligations. This is consistent with the intent of the contracting parties at the time the Lease

⁴³ *State v. Neidermeyer*, 14 P.3d 264, 272 n/ 38 (Alaska 2000)(citation omitted); *See also* Restatement (Second) of Contracts § 201 cmt a: “Unless a different intention is shown, language is interpreted in accordance with its generally prevailing meaning. *See* § 202(3).” Section 202(3) provides “[u]nless a different intention is manifested, (a) where language has a generally prevailing meaning, it is interpreted in accordance with that meaning.”

⁴⁴ *See Heller v. State, Dep’t of Revenue*, 314 P.3d 69, 74 (Alaska 2013).

⁴⁵ *Id.*

Extension as evidenced in the language of the lease and the supporting documents, principally Pam Varni's certification to the Legislative Budget & Audit Committee that the Agency was entering into a 10-year "**real property lease extension**" of the LIO.⁴⁶

AS 36.30.083(a) allows the Council to extend a real property lease if certain cost savings are achieved; the statute does not restrict the parties from renovating – either in a minimal or substantial way – the premises subject to the extension. Plaintiff can point to no language in the statute itself to support its proposition that the statutory language restricts lease or premises modifications in any way. As a backup, Plaintiff argues that even if the statutory language is not entirely clear, the legislative history "seals the conclusion" that the lease extension is not actually an extension under AS 36.30.083(a).⁴⁷ ABI argues, for example, that the lease extension cannot be a true lease extension because the occupants of the LIO had to move into interim space as the renovation and expansion project took place.⁴⁸ The argument, however, also lacks support in the language of the actual statute; there is nothing prohibitive in the plain language of AS 36.30.083(a) that would disallow a tenant from moving into interim space after an extension has been reached with the landlord.

The purpose of the 2004 bill at issue was to "**increase** the State's ability to negotiate lease extensions" by reducing the threshold from a ten to fifteen percent

⁴⁶ See Exhibit E.

⁴⁷ Plaintiff's Memorandum in Support of Motion for Partial Summary Judgment Re: Not Extension at 7.

⁴⁸ See *Id.* at 3; see also *Plaintiff's Affidavit in Support of Motion for Summary Judgment* at §§ 4,5.

716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

reduction off of the existing lease rate (as was required at the time), to a ten percent reduction of the current market rate.⁴⁹ In other words, tying the lease rate to the percentage of the current market rate would *help* the state negotiate more frequently and avoid an inefficient re-procurement process. While the legislature discussed that cutting out re-procurement would allow the state to avoid the cost and disruption of not having to move, the intent of the statute was to *increase* extensions for real estate leases with the State's existing landlords.

ABI has presented no factual evidence that the State was prejudiced financially (or in terms of lack of productivity caused by the relocation) by working in the interim space its lessor provided while it worked on the remodel and expansion of the LIO. Additionally, the state bore no additional expense at all during the renovation and expansion of the LIO. The lease specifically provided that the state would pay its then current base monthly rental rate until it took over occupancy in the refurbished building.⁵⁰ Lessor provided the interim office space and parking during the Renovations, and set forth a comprehensive schedule notifying the LIO tenants of the construction schedule – all of which was incorporated into the lease as Exhibit B-1.⁵¹ In short, the fact that the state offices had to be temporarily relocated while the renovation

⁴⁹ See 5/07/04 Legislative Minutes for CS HB 545 (L & C) in the Senate Finance Committee at 24 as attached to Plaintiff's Memorandum in Support of Motion for Partial Summary Judgment.(emphasis supplied.)

⁵⁰ See Exhibit D, Sec. 1.1(c) on Page 3.

⁵¹ See Exhibit D Sec. 1.1 (c)(2) on page 3 and Exhibit B-1 of Lease Extension.
716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

and expansion project that the legislative council specifically contracted for was being constructed does not, in any way, disqualify the lease as an extension of real property.

C. This Court has already found issues of material fact exist relating to Defendants' defense of laches, such that summary judgment is inappropriate at this time.

Defendants previously moved for summary judgment under the equitable doctrine of laches arguing that ABI's unreasonable delay in filing suit prejudiced Defendants. This Court denied the motion in an order dated January 7, 2016,⁵² finding genuine issues of material fact exist as to the extent of harm 716 (and the Agency) may suffer if the lease were declared "illegal, null and void" and thus decided that summary judgment was inappropriate as of the time it issued its order.⁵³ The court made several additional important findings. First, it found that Plaintiff's "financial gains served as acquiescence to the alleged wrongdoing and, combined with the seventeen months ABI waited to bring the lawsuit, this delay seems unreasonable'.⁵⁴" Second, "[u]nder the unique facts in this litigation, the court does find that the defense of laches is available to this lawsuit"⁵⁵ and that its order should "not be construed as a finding that the defense of laches is unavailable to the defendants at trial."⁵⁶ The court found that the following material facts remain: whether the Defendants may renegotiate the contract "to reflect a

⁵² Attached as Exhibit G.

⁵³ *Id.* at 9.

⁵⁴ *Id.* at 6.

⁵⁵ *Id.* at 4.

⁵⁶ *Id.* at 9.

10% below market value” rate, which would incur harm to 716 if it had to amortize the renovation’s expense over a longer period of time and thus lose the benefit of the bargain.; or whether upon declaration that the lease is illegal, and provided the Agency and 716 cannot reach a new agreement, 716 may succeed in renting the building at a rate greater than the 10% below market value of the current lease, and therefore profit from a declaration that the lease is illegal. Because the Court has already concluded that these material issues of fact entitle 716 to explore the prejudice prong of laches, partial summary judgment setting this Lease aside for non-compliance with AS 36.30.083(a) must be withheld until 716 has an opportunity to present all of its defenses in this case at trial.

IV. CONCLUSION

The Alaska Constitution expressly commits to the Legislature the authority to adopt its own rules of procedure and to the Legislative Council the ability to perform the duties assigned by the Legislature.⁵⁷ In properly exercising its authority, eleven members (11) of the Legislative Council unanimously approved four motions proposed by Chairman Hawker “related to the extension of the Anchorage LIO lease” in a June 7, 2013 Legislative Council session. Consistent with internal Legislative Procurement Procedure 040(d), as authorized by AS 36.30.020, Chairman Hawker provided a written

⁵⁷ See ALASKA CONST. ART. II, § § 11-12.

determination that the material modifications made to the existing lease were appropriate.

Based on these findings, Pam Varni certified that the Agency's would be entering a "10-year real property **lease extension**" of the LIO in compliance with AS 36.30.083(a). As the Legislative Council was constitutionally authorized to exercise and adapt its rulemaking prerogative, as it did here, Plaintiff's request that the court invalidate its decision to extend the lease is simply not justiciable.


Likewise, nothing in the plain language of the statute (or the legislative history) precludes a finding that the Lease Extension was indeed an "extension." The parties in this case unquestionably intended to enter into a lease extension when they executed the lease extension on September 19, 2013, and did in fact enter into such an extension. The Court should deny Plaintiff's motion for partial summary judgment and rule as a matter of law that the Lease Extension qualifies as an "extension" under AS 36.30.083.

A finding in Plaintiff's favor is further precluded by the existence of genuine issues of material fact regarding the availability of a complete defense to ABI's claim under the doctrine of laches. Finally, 716 requests that the court calendar oral argument on this motion under Civil Rule 77(e)(2).

ASHBURN & MASON P.C.
LAWYERS
1227 WEST 9TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
TEL 907.276.4331 • FAX 907.277.8235

ASHBURN & MASON, P.C.
Attorneys for 716 West Fourth Avenue, LLC

DATED: 2-16-16

By: 
Jeffrey W. Robinson
Alaska Bar No. 0805038

716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served ☐ electronically ☐ messenger
☐ facsimile ☒ U.S. Mail on the 16 day of February 2016, on:

James B. Gottstein
Law Offices of James B. Gottstein
406 G Street, Suite 206
Anchorage, Alaska 99501

Kevin Cuddy
Stoel Rives, LLP
510 L Street, Suite 500
Anchorage, Alaska 99501

ASHBURN & MASON

By: Heidi Wyckoff
Heidi Wyckoff

ASHBURN & MASON P.C.
LAWYERS
1227 WEST 9TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
TEL 907.276.4331 • FAX 907.277.8235

716 LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (NOT EXTENSION)
Alaska Building, Inc. vs. 716 West Fourth Avenue, LLC, et. al. 3AN-15-05969

A
L
A
S
K
A

2006-063569-0

Recording Dist: 301 - Anchorage
9/18/2006 4:02 PM Pages: 1 of 5



LEASE AMENDMENT NO. 1

THIS LEASE AMENDMENT, made and entered into on the date the Legislative Affairs Agency Executive Director or her designee signs the lease amendment, is by and between 716 WEST FOURTH AVENUE, LLC, an Alaska limited liability company, whose address is P.O. Box 241826, Anchorage, Alaska 99524, hereinafter referred to as "Lessor," and the LEGISLATIVE AFFAIRS AGENCY, whose address is State Capitol, Room 3, Juneau, Alaska 99801-1182, hereinafter referred to as "Lessee", hereby amends the lease dated April 6, 2004, recorded in Book 2004-024411-O, Pages 1 - 18, Anchorage Recording District, Third Judicial District, State of Alaska,

WITNESSETH

WHEREAS, Lessor is leasing to Lessee the following described premises, hereinafter "premises",

Approximately 22,834 square feet of office space, which consists of all net usable office space on the second through sixth floors and approximately 811 square feet of storage space in the basement, at the building located at 716 West 4th Avenue in Anchorage, Alaska at Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska;

WHEREAS, there has been a dispute between Lessee and Lessor as to the size and number of the reserved parking spaces provided to Lessee under the Lease;

WHEREAS, during the dispute described in the previous whereas clause, Lessee has rented additional parking spaces from another person and deducted the rental amount for these spaces from the rent paid by Lessee under this Lease; and

WHEREAS, this Lease Amendment represents a settlement of the dispute described in the previous two whereas clauses.

NOW, THEREFORE, LESSOR AND LESSEE AMEND THE LEASE AS FOLLOWS:

1. Section 1, "Rental Property and Rental Rate," of the Lease is amended by amending the phrase, "and Ninety-Eight (98) reserved off-street parking places," to now read "and Eighty-Six (86) reserved off-street parking places,"

2. Beginning on June 1, 2006, the monthly rental rate will be decreased by \$1,000.00 each month to reflect the reduced number of parking spaces that the Lessor will be providing to the Lessee.
3. The Lessor will permit the Lessee's security guard to occupy space in the first floor lobby common area space across from the elevators at no additional cost to the Lessee until the first floor lobby common area space is needed by the Lessor to fulfill space requirements of other tenants in the building.
4. Section 15, "Parking Requirements," of the Lease is deleted and replaced with the following section:
 15. **PARKING REQUIREMENTS:** The Lessor shall ensure the requirements of this section 15 are met.
 - A. Lessor will provide at no additional cost to the Lessee 86 off-street parking spaces in the upper and lower parking lots adjacent to the west side of the 716 West 4th Avenue building for the use of the Lessee and Lessee's invitees to the building. These 86 spaces must be available to Lessee and Lessee's invitees 24 hours a day 7 days a week.
 - B. Each parking space provided under A. of this sec. 15 shall be marked "Reserved" to identify the private parking nature of the space. The current striping of each parking space located in the upper and lower parking lots adjacent to the west side of the 716 West 4th Avenue building will remain in effect for the duration of the lease. In this subsection B, "current" means in existence on the date this lease amendment is entered into.
 - C. Parking spaces provided under A. of this sec. 15 must be of sufficient size to allow proper and easy parking and must have a hard and well-drained surface. Each parking space must be marked to provide for proper parking. All parking locations must be well lit and have good accessibility in and out of the parking area.
5. Notwithstanding any other provision in the Lease, Lessor waives any and all claims that Lessor may have or allege against the Lessee for or arising out of the Lessee's withholding of rent from the Lessor during the dispute between the Lessor and the Lessee over the size and number of the reserved parking spaces provided by Lessor under the Lease.
6. **AUTHORIZATION; CERTIFICATION:**

Execution of this lease amendment was authorized by a majority of the members of the Alaska Legislative Council at a meeting on May 22, 2006.

Execution of this lease amendment by the Legislative Affairs Agency Executive Director or her designee hereby constitutes a certification that funds are available in an



appropriation to pay for Lessee's monetary obligations under the Lease through June 30, 2006. Availability of funds to pay for Lessee's monetary obligations under the Lease after June 30, 2006, is contingent upon the appropriation of funds for the particular fiscal year involved. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs Agency Executive Director, sufficient funds are not appropriated, the Lease will be terminated by the Lessee or amended. To terminate under this section, the Lessee shall provide notice of the termination to the Lessor.

7. All other provisions of the Lease will remain the same.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this lease amendment and renewal on the day, month, and year indicated below.


LESSOR:

716 WEST FOURTH AVENUE, LLC

 8/23/06

Robert B. Acree Date
Member
Tax Identification No.: 03-0443569
Business License No.: 423463

CERTIFYING AUTHORITY

 9/12/06

Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

LESSEE:

STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY


Representative Pete Kott
Chair
Alaska Legislative Council 9-11-06
Procurement Officer Date

APPROVED AS TO FORM:

 6-14-2006
Legal Counsel Date



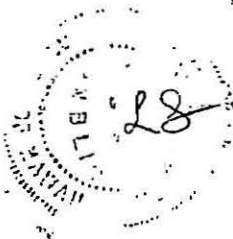
3 of 5

2006-063569-0

STATE OF ALASKA)
COUNTY OF HAWAII) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 23rd day of August, 2006, before me the undersigned Notary Public in and for the State of ~~Alaska~~ Hawaii, duly commissioned and sworn as such, personally appeared ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing lease amendment on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing lease amendment as his free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

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



[Signature]
Notary Public in and for Alaska Hawaii
My commission expires: _____



STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on the 11th day of September, 2006, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared REPRESENTATIVE PETE KOTT, known to me and to me known to be the individual named in and who executed the above and foregoing lease amendment and renewal as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and he acknowledged to me that he executed the foregoing instrument as the free and voluntary act and deed of his principal for the uses and purposes therein set forth.

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

STATE OF ALASKA
OFFICIAL SEAL
Wen C. Ibesate
NOTARY PUBLIC



Wen C. Ibesate
Notary Public in and for Alaska
My commission expires: 9/3/07



4 of 5

2006-063569-0

STATE OF ALASKA

FIRST JUDICIAL DISTRICT

)
) ss.
)

THIS IS TO CERTIFY that on the 12th day of September 2006, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing lease amendment as the EXECUTIVE DIRECTOR of the STATE OF ALASKA LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing instrument as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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

STATE OF ALASKA
OFFICIAL SEAL
Wen C. Iversen
NOTARY PUBLIC



Wen C. Iversen
Notary Public in and for Alaska
My commission expires: 9/3/07

FOR RECORDING DISTRICT OFFICE USE ONLY:

No Charge - State Business

After recording return to:
Jan Price, Supply Officer
Legislative Affairs Agency
State Capitol
Juneau, AK 99801-1182



A
L
A
S
K
A

2010-053405-0

Recording Dist: 301 - Anchorage
10/14/2010 2:15 PM Pages: 1 of 5



RENEWAL OF LEASE

LEASE AMOUNT FOR RENEWAL PERIOD: \$663,246.48

THIS RENEWAL OF LEASE, made and entered into on the date the Legislative Affairs Agency Executive Director or her designee signs the Lease, is by and between 716 WEST FOURTH AVENUE, LLC, an Alaska limited liability company, whose address is P.O. Box 241826, Anchorage, Alaska 99524, hereinafter referred to as "Lessor," and the LEGISLATIVE AFFAIRS AGENCY, whose address is State Capitol, Room 3, Juneau, Alaska 99801-1182, hereinafter referred to as "Lessee", hereby amends and renews the lease dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended September 12, 2006, and amended and renewed on March 11, 2009.

WITNESSETH

WHEREAS, the Lessor is currently leasing to the Lessee the following described premises, hereinafter "premises," described as follows:

Approximately 22,834 square feet of office space, which consists of all net usable office space on the second through sixth floors and approximately 811 square feet of storage space in the basement, at the building located at 716 West 4th Avenue in Anchorage, Alaska at Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska,

and Eighty-Six (86) reserved off-street parking places.

NOW, THEREFORE, LESSOR AND LESSEE, AGREE AS FOLLOWS:

1. That the Lease is renewed for a term of one (1) year beginning June 1, 2010, and terminating at 11:59 p.m. on May 31, 2011, with the Lessee having three (3) remaining one (1) year renewal options to be exercised by giving notice in writing to Lessor at the Lessor's above address at least thirty (30) days before the expiration of each term.

2. The monthly rental rate of Fifty-Four Thousand, Twenty-Four, and 84/100 dollars (\$54,024.84) remained firm until July 1, 2010, at which time the rent was adjusted to reflect changes in the Lessor's variable costs. The annual adjustment will be based on the percentage of change between 2003 and the calendar year before the calendar year of the adjustment, in the U.S. Department of Labor Consumer Price Index for All Urban Consumers, Anchorage Area (CPI-U). The Annual Adjusted Monthly Rental Rate will be computed as follows:

PERCENTAGE OF CHANGE IN CPI-U

(Annual average CPI-U for the calendar year preceding the year of adjustment) -
(Annual average CPI-U for the calendar year 2003 (162.50) = x

$$X / 162.50\% = y\%$$

ADJUSTED MONTHLY RENTAL RATE

$[(35\% \times \text{Base Monthly Rental Rate}) \times \% \text{ of change in CPI-U}] + \text{Base Monthly Rental Rate} = \text{Adjusted Monthly Rental Rate.}$

$[(35\% \times \text{Base Monthly Rental Rate}) \times y\%] + \text{Base Monthly Rental Rate} = \text{Adjusted Monthly Rental Rate.}$

The monthly rental rate for the year beginning July 1, 2010, is computed as follows:

Annual average CPI-U for the calendar year 2009 (191.70) -
Annual average CPI-U for the calendar year 2003 (162.50) = 29.20

$$29.20/162.50\% = 17.97\%$$

$$[(35\% \times \$52,000.00) \times 17.97\%] + \$52,000 = \$55,270.54$$

3. **AUTHORIZATION; CERTIFICATION:** Execution of this Renewal of Lease was authorized by a majority of the members of the Alaska Legislative Council at a meeting on July 19, 2010.

Funds are available in an appropriation to pay for the Lessee's monetary obligations under the lease through June 30, 2011. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs



2 of 5


2010-053405-0

Agency Executive Director, sufficient funds are not appropriated, the Lease will be terminated by the Lessee or amended. To terminate under this section, the Lessee shall provide written notice of the termination to the Lessor.

4. All other provisions of the original lease, as amended and renewed, will remain the same.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Renewal of Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

 9/29/10
Robert B. Acree Date
Member
Tax Identification No.: 03-0443569
Business License No.: 423463

CERTIFYING AUTHORITY:

 10/11/10
Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY
T. Bennter li' staff
for RP. John Harris
Representative John Harris Date
Chair 10-7-10
Alaska Legislative Council
Procurement Officer

APPROVED AS TO FORM:

 7/22/10
Legal Counsel Date

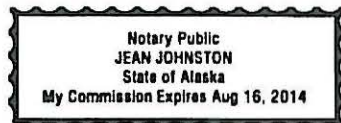


3 of 5
2010-053405-0

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 20th day of September, 2010, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Renewal of Lease on behalf of and as the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

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



Jean Johnston
Notary Public in and for Alaska
My commission expires: 8/16/14

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 1st day of October, 2010, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared Representative John Harris, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and he acknowledged to me that he executed the foregoing Renewal of Lease as the free and voluntary act and deed of his principal for the uses and purposes therein set forth.

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



Tina Strong
Notary Public in and for Alaska
My commission expires: "with office"



2010-053405-0

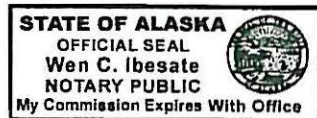
STATE OF ALASKA

)
) ss.

FIRST JUDICIAL DISTRICT

THIS IS TO CERTIFY that on the 11th day of October, 2010, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease as the EXECUTIVE DIRECTOR of the STATE OF ALASKA LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing Renewal of Lease as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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



Wen C. Ibesate
Notary Public in and for Alaska
My commission expires: "With Office"

FOR RECORDING DISTRICT OFFICE USE ONLY:

No Charge - State Business

After recording return to:
Tina Strong, Supply Officer
Legislative Affairs Agency
State Capitol, Rm 3
Juneau, AK 99801-1182



A
L
A
S
K
A

2011-019915-0

Recording Dist: 301 - Anchorage
4/29/2011 3:02 PM Pages: 1 of 5



RENEWAL OF LEASE

LEASE AMOUNT FOR RENEWAL PERIOD: \$667,876.56

THIS RENEWAL OF LEASE, made and entered into on the date the Legislative Affairs Agency Executive Director or her designee signs the Renewal of Lease, is by and between 716 WEST FOURTH AVENUE, LLC, an Alaska limited liability company, whose address is P.O. Box 241826, Anchorage, Alaska 99524, hereinafter referred to as "Lessor," and the LEGISLATIVE AFFAIRS AGENCY, whose address is State Capitol, Room 3, Juneau, Alaska 99801-1182, hereinafter referred to as "Lessee", hereby amends and renews the lease dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended September 12, 2006, amended and renewed on March 11, 2009, and renewed October 11, 2010.

WITNESSETH

WHEREAS, the Lessor is currently leasing to the Lessee the following described premises, hereinafter "premises," described as follows:

Approximately 22,834 square feet of office space, which consists of all net usable office space on the second through sixth floors and approximately 811 square feet of storage space in the basement, at the building located at 716 West 4th Avenue in Anchorage, Alaska at Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska,

and Eighty-Six (86) reserved off-street parking places.

NOW, THEREFORE, LESSOR AND LESSEE, AGREE AS FOLLOWS:

1. That the Lease is renewed for a term of one (1) year beginning June 1, 2011, and terminating at 11:59 p.m. on May 31, 2012, with the Lessee having two (2) remaining one (1) year renewal options to be exercised by giving notice in writing to Lessor at the Lessor's above address at least thirty (30) days before the expiration of each term.

2. The monthly rental rate of Fifty-Five Thousand, Two Hundred Seventy, and 55/100 dollars (\$55,270.55) will remain firm until July 1, 2011, at which time the rent will be adjusted to reflect changes in the Lessor's variable costs. The annual adjustment will be based on the percentage of change between 2003 and the calendar year before the calendar year of the adjustment, in the U.S. Department of Labor Consumer Price Index for All Urban Consumers, Anchorage Area (CPI-U). The Annual Adjusted Monthly Rental Rate will be computed as follows:

PERCENTAGE OF CHANGE IN CPI-U

(Annual average CPI-U for the calendar year preceding the year of adjustment) -
(Annual average CPI-U for the calendar year 2003 (162.50) = x

$$X / 162.50\% = y\%$$

ADJUSTED MONTHLY RENTAL RATE

$[(35\% \times \text{Base Monthly Rental Rate}) \times \% \text{ of change in CPI-U}] + \text{Base Monthly Rental Rate} = \text{Adjusted Monthly Rental Rate.}$

$[(35\% \times \text{Base Monthly Rental Rate}) \times y\%] + \text{Base Monthly Rental Rate} = \text{Adjusted Monthly Rental Rate.}$

The monthly rental rate for the year beginning July 1, 2011, is computed as follows:

Annual average CPI-U for the calendar year 2010 (195.14) -
Annual average CPI-U for the calendar year 2003 (162.50) = 32.64

$$32.64/162.50\% = 20.09\%$$

$$[(35\% \times \$52,000.00) \times 20.09\%] + \$52,000 = \$55,656.38$$

3. **AUTHORIZATION; CERTIFICATION:** Execution of this Renewal of Lease was authorized by a majority of the members of the Alaska Legislative Council at a meeting on March 17, 2011.

Funds are available in an appropriation to pay for the Lessee's monetary obligations under the lease through June 30, 2012. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs



2 of 5

2011-019915-0

Agency Executive Director, sufficient funds are not appropriated, the Lease will be terminated by the Lessee or amended. To terminate under this section, the Lessee shall provide written notice of the termination to the Lessor.

4. All other provisions of the original lease, as amended and renewed, will remain the same.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Renewal of Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

 4/5/11

Robert B. Acree Date

 04-13-11

Senator Linda Menard Date

Member
Tax Identification No.: 03-0443569
Business License No.: 423463

Chair
Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY:

APPROVED AS TO FORM:

 4/13/11

Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

 3/30/11

Theresa L. Benniston Date
Legal Counsel



3 of 5
2011-019915-0

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 5th day of April, 2011, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Renewal of Lease on behalf of and as the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

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



[Signature]
Notary Public in and for Alaska
My commission expires: 8/16/14

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 13 day of April, 2011, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared SENATOR LINDA MENARD, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and she acknowledged to me that she executed the foregoing Renewal of Lease as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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



[Signature]
Notary Public in and for Alaska
My commission expires: "with office"



4 of 5
2011-019915-0

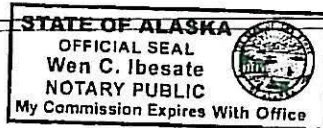
STATE OF ALASKA

)
) ss.

FIRST JUDICIAL DISTRICT

THIS IS TO CERTIFY that on the 13th day of April, 2011, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease as the EXECUTIVE DIRECTOR of the STATE OF ALASKA LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing Renewal of Lease as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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



Wen C. Ibesate
Notary Public in and for Alaska
My commission expires: "With Office"

FOR RECORDING DISTRICT OFFICE USE ONLY:

No Charge - State Business

After recording return to:
Tina Strong, Supply Officer
Legislative Affairs Agency
State Capitol, Rm 3
Juneau, AK 99801-1182



5 of 5
2011-019915-0

A
L
A
S
K
A

2012-040759-0

Recording District 301 ANCHORAGE

07/23/2012 03:15 PM Page 1 of 5



RENEWAL OF LEASE NO. 4

LEASE AMOUNT FOR RENEWAL PERIOD: \$675,624.30

THIS RENEWAL OF LEASE NO. 4, made and entered into on the date the Legislative Affairs Agency Executive Director or her designee signs the Renewal of Lease No. 4, is by and between 716 WEST FOURTH AVENUE, LLC, an Alaska limited liability company, whose address is P.O. Box 241826, Anchorage, Alaska 99524, hereinafter referred to as "Lessor," and the LEGISLATIVE AFFAIRS AGENCY, whose address is State Capitol, Room 3, Juneau, Alaska 99801-1182, hereinafter referred to as "Lessee", and hereby amends and renews the lease dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended September 12, 2006, amended and renewed on March 11, 2009, and renewed October 11, 2010 and April 13, 2011.

WITNESSETH

WHEREAS, the Lessor is currently leasing to the Lessee the following described premises, hereinafter "premises," described as follows:

Approximately 22,834 square feet of office space, which consists of all net usable office space on the second through sixth floors and approximately 811 square feet of storage space in the basement, at the building located at 716 West 4th Avenue in Anchorage, Alaska at Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska,

and Eighty-Six (86) reserved off-street parking places.

NOW, THEREFORE, LESSOR AND LESSEE, AGREE AS FOLLOWS:

1. That the Lease is renewed for a term of one (1) year beginning June 1, 2012, and terminating at 11:59 p.m. on May 31, 2013, with the Lessee having one (1) remaining one (1) year renewal option to be exercised by giving notice in writing to Lessor at the Lessor's above address at least thirty (30) days before the expiration of the renewal term.

2. The monthly rental rate of Fifty-Five Thousand, Six Hundred Fifty-Six, and 38/100 dollars (\$55,656.38) will remain firm until July 1, 2012, at which time the rent will be adjusted to reflect changes in the Lessor's variable costs. The annual adjustment will be based on the percentage of change between 2003 and the calendar year before the calendar year of the adjustment, in the U.S. Department of Labor Consumer Price Index for All Urban Consumers, Anchorage Area (CPI-U). The Annual Adjusted Monthly Rental Rate will be computed as follows:

PERCENTAGE OF CHANGE IN CPI-U

(Annual average CPI-U for the calendar year preceding the year of adjustment) -
(Annual average CPI-U for the calendar year 2003 (162.50) = x

$$X / 162.50\% = y\%$$

ADJUSTED MONTHLY RENTAL RATE

[(35% x Base Monthly Rental Rate) x % of change in CPI-U] + Base Monthly Rental Rate = Adjusted Monthly Rental Rate.

[(35% x Base Monthly Rental Rate) x y%] + Base Monthly Rental Rate = Adjusted Monthly Rental Rate.

The monthly rental rate for the year beginning July 1, 2012, is computed as follows:

Annual average CPI-U for the calendar year 2011 (201.247) -
Annual average CPI-U for the calendar year 2003 (162.50) = 38.927

$$38.927/162.50\% = 23.96\%$$

$$[(35\% \times \$52,000.00) \times 23.96\%] + \$52,000 = \$56,360.72$$

3. **AUTHORIZATION; CERTIFICATION:** Execution of this Renewal of Lease No. 4 was authorized by a majority of the members of the Alaska Legislative Council at a meeting on March 22, 2012.

Funds are available in an appropriation to pay for the Lessee's monetary obligations under the lease through June 30, 2013. In addition to any other right of the Lessee



under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs Agency Executive Director, sufficient funds are not appropriated, the Lease will be terminated by the Lessee or amended. To terminate under this section, the Lessee shall provide written notice of the termination to the Lessor.

4. All other provisions of the original lease, as amended and renewed, will remain the same.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Renewal of Lease No. 4 on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

Robert B. Acree 5/10/12
Member
Tax Identification No.: 03-0443569
Business License No.: 423463

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

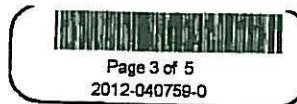
Senator Linda Menard 07/13/201
Chair
Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY:

APPROVED AS TO FORM:

Pamela A. Varni 7/19/12
Pamela A. Varni
Executive Director
Legislative Affairs Agency

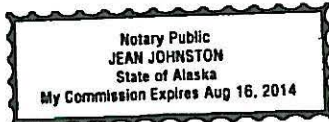
Shirley A. Bannister 4-18-12
Legal Counsel



STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 10th day of May, 2012, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Renewal of Lease on behalf of and as the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

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

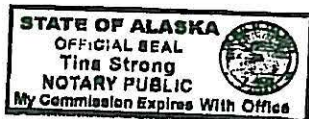


Jean Johnston
Notary Public in and for Alaska
My commission expires: 8/16/14

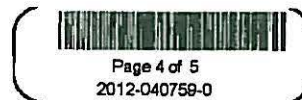
STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 12th day of July, 2012, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared SENATOR LINDA MENARD, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and she acknowledged to me that she executed the foregoing Renewal of Lease as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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



Tina Strong
Notary Public in and for Alaska
My commission expires: "with office"



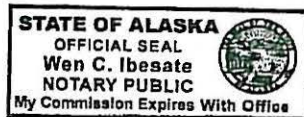
STATE OF ALASKA

FIRST JUDICIAL DISTRICT

)
) ss.
)

THIS IS TO CERTIFY that on the 19th day of July, 2012, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing Renewal of Lease as the EXECUTIVE DIRECTOR of the STATE OF ALASKA LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing Renewal of Lease as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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

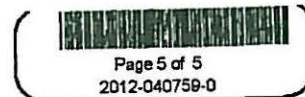


Wen C. Ibesate
Notary Public in and for Alaska,
My commission expires: "With Office"

FOR RECORDING DISTRICT OFFICE USE ONLY:

No Charge - State Business

After recording return to:
Tina Strong, Supply Officer
Legislative Affairs Agency
State Capitol, Rm 3
Juneau, AK 99801-1182



2004-024411-0

Recording List: 301 - Anchorage
4/9/2004 3:31 PM Pages: 1 of 18

A
L
A
S
K
A



LEASE

LEASE AMOUNT FOR FIRST YEAR: \$597,000.00
(excluding CPI-U adjustment amount)

THIS LEASE, made and entered into on the date the Legislative Affairs Agency Executive Director or her designee signs the Lease, is by and between 716 WEST FOURTH AVENUE, LLC, an Alaska limited liability company, whose address is P.O. Box 241826, Anchorage, Alaska 99524, hereinafter referred to as "Lessor," and the LEGISLATIVE AFFAIRS AGENCY, whose address is State Capitol, Room 3, Juneau, Alaska 99801-1182, hereinafter referred to as "Lessee".

WITNESSETH:

1. **RENTAL PROPERTY AND RENTAL RATE:** The Lessor leases to the Lessee and the Lessee leases from the Lessor the premises, hereinafter "premises," described as follows:

Approximately 22,834 square feet of office space, which consists of all net usable office space on the second through sixth floors and approximately 811 square feet of storage space in the basement, at the building located at 716 West 4th Avenue in Anchorage, Alaska at Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska,

and Ninety-Eight (98) reserved off-street parking places, for a term of five (5) years beginning June 1, 2004, and terminating at 11:59 p.m. on May 31, 2009, with the Lessee having five (5) one (1) year renewal options to be exercised by giving notice in writing to Lessor at the Lessor's above address at least thirty (30) days before the expiration of each term. The Base Monthly Rental is Fifty-Two Thousand and No/100 Dollars (\$52,000.00) each month; however for the period June 1, 2004, through May 31, 2005, the Base Monthly Rental will be reduced by \$2,250.00 each month by the Lessor to partially offset the costs incurred by the Lessee in purchasing and installing security camera equipment and any HVAC work that will have to be done as part of the Lessee's renovation.

The rent shall be adjusted the first of July of each year beginning in 2005 to reflect changes in the Lessor's variable costs. Variable costs are defined as all operational costs other than debt service and profit and further defined for the purpose of the Lease as thirty-five percent (35%) of the Base Monthly Rental Rate. The adjustment will be based on the percentage of change, between ~~2004~~ and the calendar year before the calendar year of the adjustment, in the U.S.

2003

Department of Labor Consumer Price Index for All Urban Consumers, Anchorage Area (CPI-U). The Annual Adjusted Monthly Rental Rate will be computed as follows:

PERCENTAGE OF CHANGE IN CPI-U

(Annual average CPI-U for the calendar year preceding the year of adjustment) - (Annual average CPI-U for the calendar year XX (XX)) = x

x/Annual average CPI-U for the calendar year XX (XX)% = y%

ADJUSTED MONTHLY RENTAL RATE

[(35% x Base Monthly Rental Rate) x % of change in CPI-U] + Base Monthly Rental Rate = Adjusted Monthly Rental Rate.

[(35% x Base Monthly Rental Rate) x y%] + Base Monthly Rental Rate = Adjusted Monthly Rental Rate.

Retroactive adjustments will not be allowed.

The monthly rental payments shall be due and payable on the first day of each month of the Lease and shall be sent by first class mail to the office of the Lessor whose address is listed above.

2. **ADA COMPLIANCE:** On the date of occupancy and throughout the entire occupancy of the Lessee, the Lessor shall ensure that the premises (including, but not limited to, restrooms), the reserved parking spaces, the common areas (including, but not limited to, restrooms and parking area), and any subsequent alterations to the premises shall meet the specifications of the ADA Accessibility Guidelines for Buildings and Facilities per the Americans with Disabilities Act (ADA) Appendix A to 28 CFR 36, as currently written and as they may be subsequently amended (hereafter referred to as ADA compliance).

Under the previous paragraph, the premises (including, but not limited to restrooms), the reserved parking spaces, the common areas (including, but not limited to, restrooms and parking area), and subsequent alterations must meet the ADA compliance requirements as they apply to a public entity. The Lessor must provide space that meets the same level of ADA compliance as if the leased space were in a newly constructed State-owned facility from which all program services are directly delivered to the public.

The Lessee's acceptance of the Lessor's space and alterations and any inspection by the Lessee do not relieve the Lessor of responsibility for ADA compliance. The Lessor further agrees to perform and pay the costs of any alterations needed to meet the above-prescribed ADA compliance.

The Lessor must furnish an ADA Facility Audit Report from an architect registered to practice in the State of Alaska, at no cost to the Lessee, after the completion of any new construction or any alteration, except for Lessee's and Lessor's improvements under section 3 of this Lease, of the existing space undertaken during the Lease. The ADA Facility Audit Report must indicate



2 of 18
2004-024411-0

that the offered space complies with all the requirements of the ADA compliance and this section.

If these provisions on ADA compliance conflict with another provision in this Lease, these provisions govern.

3. **DELIVERY OF PREMISES; RENOVATIONS:** The Lessee is currently occupying the premises under the current lease, which terminates May 31, 2004. Except for Lessor's carpeting obligations in this section 3, the Lessor will not be reconfiguring or making other improvements to prepare the premises for this Lease, unless the improvements are required by another section of this Lease. The Lessor has agreed to allow the Lessee to perform renovations to the current premises before the Lease term begins on June 1, 2004. Although Lessor and Lessee are currently leasing most of the premises under the current lease, this Lease will apply to the renovations allowed under this section 3, and the current lease is amended to that extent. These renovations will be paid for by the Lessee and will include, but are not limited to, the following:

- 1) re-locating the Data Processing Staff to what is currently Suite 240A, constructing a separate entrance to the room to split up the suite from what is currently 240B, and installing appropriate electrical, data, and phone jacks;
- 2) re-locating the Network Room from the basement area to what is currently the Supply Room on the second floor of the premises, and installing appropriate electrical, data and phone jacks;
- 3) re-wiring all offices located on floors 2 – 6 with Cat 5e or Cat 6 wiring;
- 4) re-locating the Legislative Ethics Office to what is currently Suite 240B, constructing a separate entrance to the room to split up the suite from what is currently 240A, and installing appropriate electrical, data, and phone jacks if required;
- 5) expanding the current large teleconference room by taking down a wall of what is currently Suite 230 and making Suite 230 part of the large teleconference room;
- 6) constructing walls, adding a door, tearing down walls, and installing appropriate electrical, data and phone jacks to make 3 House offices out of what is currently Suite 380 and the Storage Room;
- 7) constructing walls, adding a door, tearing down walls, and installing appropriate electrical, data and phone jacks to make 3 House offices out of what is currently Suite 470 and 2 Storage Rooms;
- 8) constructing a new office in what is currently open space in the hallway by the Senate Conference Room and installing appropriate electrical, data, and phone jacks;
- 9) enlarging what is currently a Storage Room, Suite 680, into a larger House office by constructing walls, tearing down a wall in House Conference Room, Suite 670, adding a door, and installing appropriate electrical, data, and phone jacks;
- 10) re-balancing the HVAC system due to the above remodel.

The Lessor has agreed to provide, at no cost to the Lessee, up to an additional 540 square yards of new high quality commercial quality carpet that matches the existing carpet in the amount necessary to patch any carpet that had been re-carpeted in the fall of 2002 in the offices affected by the above renovations. In addition, the Lessor has also agreed to provide and install new carpeting and cove base in all offices that were not re-carpeted in the fall of 2002, at no cost to the Lessee. The Lessee will notify the Lessor when these offices will be



3 of 18
2004-024411-0

ready to be carpeted, and the Lessor will complete the installation within one month after Lessee's notification.

4. **UTILITIES AND SERVICES:** The Lessor will provide at no additional cost beyond the rental payments all utilities, including heat, electricity, sewage, potable water, and trash removal from the premises, and janitorial services, except that the Lessee will pay its own telephone utility bills. The Lessor will also provide, at no additional cost beyond the rental payments, its building maintenance staff to promptly lower and raise the Alaska State Flag and the United States Flag, that are installed outside the building, whenever requested by the Lessee to do so.
5. **ELECTRICAL REQUIREMENTS:** The Lessor shall ensure that the requirements in this section 5 are met.
- A. **ELECTRICAL WIRING STANDARDS:** All electrical work performed and electrical systems shall comply with the current applicable editions of:
1. the National Electrical Code of National Board of Fire Underwriters;
 2. the rules, regulations, and codes of the State and applicable municipality;
 3. the standardized rules of the National Electrical Manufacturer's Association.

The above minimum requirements shall not preclude the use of higher-grade materials or better workmanship.

- B. **MAIN SERVICE FACILITIES:** The main service facilities and meter panel shall be adequate to provide the electrical load that will be required. This service shall be enclosed in a suitable enclosure which is readily accessible for inspection. Single phase, 60 cycle, 120/240 V service shall be supplied.
- C. **LIGHTING:** Lighting fixtures shall be provided which are capable of producing well diffused illumination at working levels of no less than 75 FT-C in office and clerical areas; and no less than 50 FT-C in lobbies, restrooms, parking areas and similar areas. Fixtures shall be provided with louvers or plastic diffusers. Bare lamp fixtures will not be acceptable.

Specified illumination levels must be at task surface height (generally 30 inches above floor) unless noted otherwise in this section 5. For types of spaces not listed in the previous paragraph, illumination levels must be in accordance with current IES recommendations.

All lamps shall be consistent throughout space with regard to color, temperature, quality, and type. A maintenance program shall be conducted throughout the duration of the Lease to maintain this consistency.

- D. **SWITCHING:** Individual switching shall be provided for each room or area. Switches shall be located inside the lighted space, adjacent to the entry, accessible with doors open or closed. In lieu of or in addition to the previous sentence, lighting may be controlled by a building control system. Motion detectors are acceptable in lieu of switches for all spaces except open offices. Three- or four-way switching, as



4 of 18

2004-024411-0

appropriate, shall be provided in corridors and large rooms with more than one entry.

- E. **ELECTRICAL OUTLETS:** Existing outlets in the premises currently occupied by the Lessee are sufficient. If additional outlets are required, the Lessee shall be responsible for these costs; however, the Lessor shall be responsible for maintaining all outlets in good working order.

Legislative Information Office: A 120V, 20 amp dedicated outlet shall be provided in the copy room for the LIO copier.

Senate Space: A 120V, 60hz, 20 amp dedicated shall be provided in each of the two (2) copy rooms.

House Space: A 120V 20 amp dedicated shall be provided in each of the two (2) copy rooms.

In toilet rooms a minimum of one duplex receptacle (with ground fault protection) shall be provided above the counter (adjacent to sink or mirror) and a minimum of one general use receptacle shall be provided.

- F. **DOCUMENTATION:** The Lessor shall post a floor plan at each circuit breaker panel with labeling to correspond to individual circuit breaker labels, and keep the posted floor plan up to date.

6. **DRINKING WATER AND RESTROOM REQUIREMENTS:** The Lessor shall ensure that the drinking water and restroom facilities meet the requirements in this section 6.

- A. **DRINKING WATER:** Water suitable for drinking purposes shall be provided through drinking fountains or water coolers located at a central location in the main hallways on each floor. If water coolers are provided, the delivered bottled water with disposable paper cups shall be supplied by the Lessor at no additional cost to the Lessee.

- B. **RESTROOMS:** The Lessor shall provide separate adequate toilet and lavatory facilities for men and women in compliance with all applicable codes and the state's safety regulations, and section 2 of this Lease. Each toilet room shall have single entrance doors, with automatic door closers or other approved entrance arrangement. They shall be equipped or provided with stall partitions with doors. They shall also be provided with adequate mirrors, soap, tissue and paper towel dispensers, sanitary napkin dispensers in the women's restrooms, deodorizers, sanitary tissue seat cover dispensers, and ventilation. Each restroom shall have hot and cold running water. Public restrooms shall not be located within the Lessee's leased space. Access to the public restrooms may not be through the Lessee's leased space.

7. **HEATING, COOLING, AND VENTILATION REQUIREMENTS:** The Lessor shall ensure that the requirements of this section 7 are met.

- A. **HEATING AND COOLING:** Facilities shall be provided to maintain a temperature in all the offices and similar type space uniformly within 68 degrees F to 78 degrees F

The existing configuration of the thermostat control units and heating zones in the premises currently occupied by the Lessee are sufficient, however, the Lessor shall be responsible for maintaining such in good working order.

range. The temperature to be maintained in this zone is the area two (2) feet above the floor to a height of five (5) feet above the floor.

If the temperature is not maintained within the 68 degrees F to 78 degrees F range, as required by the previous paragraph, for a period of more than one (1) working day, the Lessor shall, upon receipt of a written complaint from the Lessee, provide suitable temporary auxiliary heating or cooling equipment, as appropriate, to maintain the temperature in the specified range. If such temporary auxiliary equipment is necessary to meet normal weather contingencies for more than 21 consecutive working days, the Lessor shall not later than the 21st working day initiate a continuing and diligently applied effort to rectify the deficiency causing the failure in order to uniformly maintain the temperature range required. If after 42 consecutive working days the temporary auxiliary equipment is still necessary to meet normal weather contingencies, the Lessee shall be free to hold the Lessor in default, it being considered that the Lessee has proffered a reasonable amount of time for the Lessor to effect suitable modification or repair to the building in order to maintain the specified temperature range without resort to temporary auxiliary devices. "Working days" for the purpose of this section shall be defined as days normally scheduled by the Lessee as open for the conduct of its normal operations.

- B. **VENTILATION:** All occupied areas of the building shall be provided with at least the minimum amount of outside (ventilation) air prescribed by ASHRAE Standard 62-89: "Ventilation for Acceptable Indoor Air Quality". This ventilation air shall be introduced by mechanical means. A minimum of six air changes per hour shall be provided in occupied spaces. Exhaust air systems serving toilet rooms and janitor's closets shall be sized to provide a minimum of 10 air changes per hour.

8. **WINDOW COVERING REQUIREMENTS:** The Lessor shall comply with this section 8. All outside windows shall be equipped with blinds, or other approved material and shall be installed, ready for use with all necessary hardware when the Lessee occupies the rental premises. Window coverings shall be of good quality and appearance matching the decor of the space and shall adequately reduce incoming heat and light to a comfortable level. The Lessee reserves the right to select the color of the window coverings, if new window coverings are to be installed.
9. **FLOOR COVERING REQUIREMENTS:** The Lessor shall comply with this section 9. Office floors shall be covered with a good quality of commercial grade carpeting. Other floors shall be covered with carpet, suitable linoleum, or tile of standard size which is free of defects. The Lessee reserves the right to select the color of the floor covering, if a new floor covering is to be installed. Carpeting shall be of a good quality commercial grade and shall not generate more than a minimal amount of static electricity under normal use. New floor coverings shall be installed in a skilled manner common to the trade.
10. **ACOUSTICAL REQUIREMENTS:** All offices and similar type space shall be equipped with acoustical ceiling tiles, panels, or other sound absorption material. The overall noise factor shall not exceed 90 decibel (dba) for an eight-hour workday at level A reading. Acoustical control must be sufficient to permit conferences, waiting room noise, and office work to progress simultaneously. It is the Lessor's responsibility to furnish the proper combination of sound



6 of 18
2004-024411-0

absorptive material on ceilings, walls, and floors to achieve the specified preferred notice criteria level.

11. **PARTITION REQUIREMENTS:** Unless otherwise specified by Lessee, the Lessor shall ensure that all partitions are floor to ceiling, flush type, and of drywall construction, and that the finish is paint, paneling, or other Lessee-approved material.
12. **PAINTING REQUIREMENTS:** The Lessor shall ensure that all surfaces which normally would be painted are finished with a minimum of two coats of interior latex paint on walls and suitable semi-gloss enamel on woodwork and bare metal. The Lessee reserves the right to (a) select the colors for areas to be newly painted; or (b) determine whether existing painted surfaces are satisfactory, if the Lessor wants to use the existing painted surfaces without painting them for the Lease.
13. **DOOR HARDWARE REQUIREMENTS:** The Lessor shall ensure that the requirements of this section 13 are met. All doors shall be equipped with all necessary hardware. Cylinder locks and door checks shall be furnished and installed on all doors which open into public corridors or space otherwise accessible to other than those persons to be employed in the premises. All locks shall be masterkeyed and duplicate individual keys shall be supplied as required. Outside door keys shall be supplied as required by the Lessee.
14. **VOICE AND DATA REQUIREMENTS:** The Lessor shall ensure that adequate telephone service is be available and that all necessary conduit and other features necessary to satisfy the telephone company's requirements are included in the building. The Lessee will be responsible for the actual connection of telephone and communications equipment required by the Lessee and as stated in section 3 ("Delivery of Premises; Renovations"). Under section 3 of this Lease, the Lessee will be responsible for the re-wiring at the start of this Lease of all offices on floors 2 through 6 in the premises with Category 5e or Category 6 compliant wiring, including, but not limited to, the installation of any necessary conduit.
15. **PARKING REQUIREMENTS:** The Lessor shall ensure the requirements of this section 15 are met.

Reserved off-street parking shall be of sufficient size to allow proper and easy parking, and have a hard and well-drained surface. The area shall be marked "Reserved" to identify the private parking nature of each reserved space, and each space reserved by the Lessee within the area shall be at least 8-1/2 feet wide by 17 feet long and shall be marked to provide for proper parking and otherwise identified as private parking.

Ninety-Eight (98) reserved parking spaces shall be provided for the exclusive use of the Lessee. These ninety-eight (98) parking spaces must be provided at no additional cost to the Lessee.

Ninety (90) of the reserved ninety-eight (98) parking spaces provided for the exclusive use of the Lessee must be located in the parking lot adjacent to the west side of the 716 West 4th Avenue building. All parking locations must be well lit and have good accessibility in and out of the parking area.



7 of 18
2004-024411-0

An additional eight (8) reserved public parking spaces must be provided for the exclusive use of the Lessee for the Lessee's invitees to the building. This parking must be located no more than two blocks walking distance from the office location and have good accessibility in and out of the parking area.

16. **FIRE PREVENTION:** The Lessor shall maintain the premises in keeping with good fire prevention practices. The Lessee reserves the right at reasonable times to enter and make fire prevention and fire protection inspections of the building and space occupied.
17. **HAZARDS:** The Lessor shall maintain the building free of structural or mechanical hazards.
18. **JANITORIAL SERVICES:** The Lessor shall be responsible for janitorial services as outlined below for the entire premises, common areas, and private parking areas. Janitorial services must be performed by competent employees of the Lessor or by a competent janitorial company and the Lessor must notify the Lessee of all names of who will be performing these janitorial services. The Lessor must give the janitorial employees or company a copy of the actual janitorial duties that are stated in the Lease. The Lessor must notify the Lessee of all janitorial employee or company changes relating to who will be performing the janitorial services. When the janitorial work is being performed, a person not performing the janitorial work may not enter or remain on the leased premises, except as otherwise authorized by Lessee.

Janitorial services shall be performed after office hours unless otherwise specified or as conveniently as possible to the occupying entities. The premises generally are occupied Monday through Friday except State holidays. In the event that various areas are occupied at times other than specified herein, the janitorial services shall be performed at other times as convenient. The Lessee prefers the following:

A. DAILY SERVICES:

1. Empty wastebaskets. Empty and wipe ashtrays and place contents in a metal container separate from other waste material. Collect all wastepaper and trash and dispose of it away from the premises.
2. Sweep halls and floors in the interior of the building. Tile floors are to be swept with a yarn broom or a dust mop treated with polyethylene glycol or similar non-injurious material. (If lobby area is tiled, B-1 will become a daily service.)
3. Vacuum all carpets in offices, conference rooms, workstations, hallways, aisles used for circulation within said premises, common areas, entryways, elevator lobbies and corridors.
4. Dust all visible surfaces of furniture, fixtures, and equipment to a height of six (6) feet.
5. Mop or scrub toilet room floors, wash all plumbing fixtures with warm water and soap. Disinfect urinals and water closets. Damp wipes all dispensers, tiled portion of toilet room walls and stall partitions.



8 of 18
2004-024411-0

6. Provide and maintain adequate supplies of toilet paper, seat covers, deodorizers, sanitary napkins, towels and soap in toilet rooms. These supplies are to be of standard or better quality and are to be furnished by the Lessor. The Lessor shall also provide a closed disposal container for waste sanitary napkins.
7. Clean and disinfect any drinking fountains.
8. Police sidewalks by collecting and removing all trash and other discarded materials.
9. At the end of each workday, the Janitorial supervisor must inspect the entire building to ensure that all work is complete and all necessary doors are locked.

B. WEEKLY SERVICES:

1. Damp mop all waxed floors and machine buff to remove traffic marks and restore luster of wax.
2. Remove all fingermarks and smudges from walls, woodwork, and glass surfaces.

C. MONTHLY SERVICES: Vacuum fabric furniture.

D. EVERY SIX MONTHS SERVICES:

1. Dust or vacuum window coverings such as blinds, etc., as may be the case, overhead pipes, ventilation vents, or molding, etc., that must be reached by ladder.
2. Dust or wash light fixtures as appropriate for greatest light efficiency.
3. Wash windows and glass wind deflectors inside and out leaving no streaks or unwashed places. Wipe water spots from sills and frames. Use drop cloth as required to protect adjacent surfaces, fixtures, and furniture. Wash windows at equal intervals of time, weather and conditions permitting.
4. Wash all wastebaskets.
5. Wash walls in public halls and stairwells where wall covering permits. Wash pipes and rails in stairwells. Clean and wax all paneling.
6. Shampoo carpets in high traffic areas of the premises.

E. AS REQUIRED:

1. Replace burned out lamps (to be furnished by the Lessor).
2. Remove snow and ice from sidewalks, entrances, outside storage areas, parking areas, and other areas as applicable to an extent which will render the areas safe to pedestrian traffic and automobile operation.
3. Shampoo ALL carpeted areas of the premises.



9 of 18

2004-024411-0

4. Remove spots and stains from carpets, tile and linoleum. Remove all foreign matter (gum, smudges, etc.) from floors, handrails and furniture.
5. Remove all wax from all floors by mopping or scrubbing with a synthetic detergent or wax remover, rinse thoroughly and apply good skid resistant wax of a type recommended by floor tile manufacturers. When wax is dry, machine buff to smooth sheen.
6. Clean or replace all entry rugs. Rugs are to be furnished by the Lessor at each building entrance and will be of sufficient size to preclude the tracking of dirt and mud into the building.

19. **COMPLIANCE WITH LAWS:** The Lessor shall comply with the requirements of this section 19.

- A. Except as otherwise provided elsewhere in this Lease, all improvements and new construction of existing structures, and all appurtenances, improvements, new construction, and existing structures shall conform to all applicable state, Federal and local laws, ordinances, codes, and regulations pertaining to them. In the absence of local or state regulations, national codes shall apply. Minimum requirements of the Lease shall not be construed as lowering the standard established by local regulations, and when local regulations and codes contain more stringent provisions, they shall govern. The Lessor shall be responsible for obtaining all required permits. The premises and the common areas must comply with Federal and state law relative to occupational health and safety regulations. The Lessor shall be responsible for the accomplishment and cost of any building alterations necessary to comply with these requirements.
- B. The Lessor must comply with all other applicable federal and state labor, wage/hour, safety and associated laws that have a bearing on this Lease and must have all licenses and permits required by the state and/or municipality for the performance of the work required by this Lease.

20. **MAINTENANCE AND REPAIR:** The Lessor shall at all times maintain the premises and common areas in a safe condition and in a good state of general repair, maintenance, and tenantable condition, including, but not limited to, the roof and the heating, electrical, ventilation, plumbing, sanitary, and any elevator or escalator facilities. The Lessor shall keep the roof free from roof leaks. The Lessor shall keep the common areas in a clean condition. The Lessor shall keep the building and the areas immediately surrounding and belonging to the building free from objectionable tenancy, odors, vermin, rodents, and other features that will in the opinion of the Lessee be detrimental to Lessee's operation. The term "repair" includes repairs of any type, including, but not limited to, exterior and interior, structural and nonstructural, routine or periodic, except in the case of damage arising from the negligence of the Lessee's agents or employees.

21. **SIGNS:** The Lessor shall provide and erect/affix adequate signage to identify the Lessee's presence and to easily direct the public to the Lessee's space. The Lessor shall provide and erect, at no cost to the Lessee, signage as follows: in all buildings, entrances, and common lobbies, hallways and elevators, and on all doors or walls at entrances to the Lessee's leased spaces.



10 of 18
2004-024411-0

The Lessee reserves the right to erect or affix additional door or wall signs, at the Lessee's cost, within its leased space to further identify room names and/or numbers. The size and character of the signs shall be at the Lessee's discretion and shall not unreasonably detract from the aesthetics of the building.

22. **ELEVATORS:** The Lessor shall ensure that the premises under this Lease which are on the second floor and above are served by an elevator that, in addition to complying with section 2 of this Lease, complies with the current applicable editions of the rules, regulations, and codes of the State, and the applicable municipality. Documentation from a licensed elevator repairperson stating that the elevator is in good working order and meets all the minimum standards shall be provided by the Lessor, at no cost to Lessee, if requested by the Lessee.
23. **RENOVATION:** At least every five (5) years of occupancy or at the reasonable written request of the Lessee, the Lessor shall renovate the premises by refinishing all damaged or worn walls, ceilings, floors, or built-in fixtures or replacing damaged or worn wall, floor or window coverings or paint. If the Lessor does not respond to such reasonable renovation requests by the Lessee, the Lessee reserves the right to hire competent workers to accomplish such renovation(s) at the Lessor's expense, and may deduct the costs from the rent payments. For any renovation, the Lessee reserves the right to make on-site inspections and to determine if and when the renovation is complete and satisfactory. The Lessee reserves the right to select the color(s) of the floor covering, if a new floor covering is to be installed, window coverings, if new window coverings are to be installed, and paint for areas to be newly painted.
24. **WAGE-RELATED REQUIREMENTS:** If the Lessor performs construction, alteration, repair, renovation, or redecoration work while the Lessee is occupying the premises, and if this work amounts to 20 percent or more of the entire term of this Lease (excluding optional renewals), the Lessor is advised that the Lease will be considered by the Lessee to be subject to the minimum wage and other requirements of AS 36.05.010 - 36.05.110; the current minimum wages for various classes of laborers, mechanics, and field surveyors (as these terms are defined in AS 36.95.010), and the rate of wages paid during the contract must be adjusted to the wage rate indicated under AS 36.05.010; the Lessor and Lessor's subcontractors must pay all employees unconditionally and not less than once a week; the scale of wages must be posted in a prominent and easily accessible place at the site of the work; the Lessee shall withhold as much of its payments under this Lease as necessary to pay to laborers, mechanics, and field surveyors employed by the Lessor or the Lessor's subcontractors the difference between (A) the rates of wages required by the contract to be paid laborers, mechanics, or field surveyors on the work, and (B) the rates of wages in fact received by the laborers, mechanics, or field surveyors that are less than the required wages; the Lessor is encouraged to contact the Wage and Hour Administration of the Department of Labor for more information.
25. **INGRESS AND EGRESS:** All space shall be available on a 24-hour day, seven days a week basis to the Lessee and its invitees. The Lessee shall have full access to and use of all common areas of the building including, but not limited to, elevators, lobbies, stairwells, and restrooms. The Lessor shall provide seven day a week security patrolling for the building and parking area at no cost to the Lessee. The Lessee will be responsible for purchasing and installing security cameras in the lower parking area, and for their operation and maintenance, including any monitoring.


11 of 18
2004-024411-0

26. **ACCESS BY LESSOR:** The Lessor and its agents will have the right to enter the premises at any time during business hours and after reasonable notice to Lessee (in case of emergency, at any time and without notice) to examine and make the repairs, alterations, improvements, or additions that Lessor determines to be necessary or desirable, or to show the premises to actual or potential Lessees, purchasers, workers, or contractors. If the Lessee is not personally present to permit entry and an entry is necessary to make repairs, Lessor may enter the same by master key (or force if an emergency) without rendering the Lessor liable for the actual entry. The Lessor may not enter the premises for other reasons without the permission of the Lessee. Nothing contained in this section shall be construed to impose on the Lessor a duty of repair of the building except as provided for elsewhere in the Lease.
27. **USE OF PREMISES:** The Lessee will use the premises only for an office and in a careful and proper manner. Use for an office includes use for public meetings. The Lessee will not use or permit all or part of the premises to be used for another purpose without the prior written consent of the Lessor, which shall not be unreasonably withheld. The Lessee will not use or occupy the premises or permit them to be used or occupied for a purpose or business considered extra-hazardous on account of fire or other hazard, or in a manner which violates federal, state, or local laws or regulations.
28. **QUIET ENJOYMENT:** If the Lessee pays the rent as provided by the Lease and keeps, observes, and performs all of the other covenants of the Lease by it to be kept, performed and observed, the Lessee shall and may peaceably and quietly have, hold, and enjoy the premises for the term of such Lease.
29. **LESSEE ALTERATIONS:** Except as provided for in section 3 ("Delivery of Premises; Renovations") and section 33 ("Remedies on Default"), the Lessee may not make, or allow to be made, alterations of the premises without the written consent of Lessor, which shall not be unreasonably withheld. Alterations shall be performed in a professional and skilled manner. Lessee will not allow or permit a lien or other encumbrance to be placed against the premises.
30. **LESSEE-INSTALLED ITEMS:** All fixtures and/or equipment of whatever nature that are installed in the premises by the Lessee, whether permanently affixed or otherwise, shall continue to be the property of the Lessee and may be removed by the Lessee at any time, provided, however, that the Lessee shall, at its own expense, repair any injury to the premises resulting from such removal. However any conduit or wiring installed by the Lessee shall remain.
31. **RESTORATION LIABILITIES:** Lessee agrees to leave the premises at the expiration or termination of this Lease in as good a condition as when first occupied, except for reasonable wear and tear and loss or damage caused by fire, explosions, earthquakes, acts of God, or other casualty. At the termination of the Lease, the Lessee is not required to restore the premises to their condition before the Lessor or Lessee made the improvements required for the Lessee to occupy the premises under the current lease or before Lessee or Lessor made the improvements under section 3 of this Lease.
32. **UNTENANTABILITY:** During the term of this Lease, if the premises or any part is rendered untenable by public authority, or by fire, the elements, or other casualty, a proportionate part of the rent according to the extent of such untenability shall be abated and suspended until the premises are again made tenantable and restored to their former condition by the Lessor;



12 of 18
2004-024411-0

and if the premises or a substantial part of the premises is rendered untenable by public authority or casualty and remain untenable for a period of thirty (30) days, the Lessee may, at its option, terminate this Lease by written notice to the Lessor. The Lessee's decision shall be controlling as to whether or not the premises are fit or unfit for occupancy. This 30-day period shall not be so restrictively construed that the Lessee is bound to remain in the leased facility if the Lessee's business cannot be safely executed. If warranted due to unsafe conditions, the Lessee is free to move elsewhere. If the premises are made tenable again within this 30-day period, the Lessee will return to the facility for occupancy. The Lessee may also choose to recover from Lessor any excess costs, over the abated Lease payments, occasioned by relocation due to untenability.

33. **REMEDIES ON DEFAULT:** If the Lessee shall at any time be in default in the payment of rent, or in the performance of any of the terms of the Lease and shall fail to remedy such default within sixty (60) days after written notice of the default from the Lessor, the Lessor may retake possession of the premises by an unlawful detainer action or other lawful means, and the Lease will terminate, without prejudice, however, to the right of the Lessor to recover from the Lessee all rent due up to the time of such entry. In case of any default and entry by the Lessor, the Lessor shall relet the premises for the remainder of the term for the highest rent obtainable and may recover from the Lessee any deficiency between the amount obtained by reletting and the rent specified by the Lease.

If the Lessor shall at any time be in default in the performance of any of the terms or obligations of the Lessor under this Lease, the Lessee may fix the problem involved and deduct the cost, including, but not limited to, administrative costs, from the rent, if the Lessor fails to fix the problem within a reasonable time after Lessee notifies the Lessor in writing of the default. If the Lessee chooses not to fix the problem or cannot fix the problem, the Lessee may deduct from the rent the Lessee's damages, which are to be determined by the Lessee's Supply Officer; when deducting damages under this sentence, "damages" means either (1) the costs (including, but not limited to, administrative costs) of alleviating or adjusting to the problem, or (2) the diminution of the value of the Lease to the Lessee caused by the Lessor's default. ~~Instead of pursuing the other remedies provided by this paragraph, if the Lessor fails to correct a default within a reasonable time after receiving written notification of the default from the Lessee, the Lessee may terminate the Lease by giving 10 days written notice of the termination to the Lessor and may recover damages from the Lessor.~~ This paragraph does not apply to a situation covered by section 32 ("Untenability").

34. **INDEMNIFICATION:** The Lessor shall indemnify, hold harmless, and defend the Lessee from and against any claim of, or liability for, error, omission, or negligent act of the Lessor under this Lease. The Lessor will not be required to indemnify the Lessee for a claim of, or liability for, the independent negligence of the Lessee. If there is a claim of, or liability for, the joint negligent error or omission of the Lessor and the independent negligence of the Lessee, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. In this section 34, "Lessor" and "Lessee" include the employees, agents, and other contractors who are directly responsible, respectively, to each. In this section 34, "independent negligence" means negligence other than in the Lessee's selection, administration, monitoring, or controlling of the Lessor and in approving or accepting the Lessor's work.

35. **INSURANCE:** Without limiting the Lessor's indemnification responsibilities under section 34 ("Indemnification"), it is agreed that the Lessor shall purchase at its own expense and maintain



13 of 18
2004-024411-0

in force at all times during the Lease the following insurance, except as provided elsewhere in this section 35:

- A. workers' compensation insurance as required by AS 23.30.045(d) for all employees engaged in work under the contract and as required by any other applicable law;
- B. comprehensive general liability insurance covering all business premises of, and operations by or on behalf of, the Lessor in the performance of the contract, including, but not limited to, blanket contractual coverage, products coverage, premises and operations coverage, independent contractors coverage, broad form property damage endorsement, and personal injury endorsement; the policy must have minimum coverage limits of \$1,000,000 combined single limit per occurrence; unless waived by the Lessee, the insurance policy shall name the Lessee as an additional insured;
- C. commercial automobile liability insurance covering all vehicles used by the Lessor in the performance of the contract, with minimum coverage limits of \$500,000 combined single limit per occurrence.

The Lessor is an entity without employees and does not have the workers' compensation insurance required above. If at any time during the term of the Lease, including any renewals, the Lessor hires one or more employees, the Lessor will purchase at its own expense and maintain in force at all times workers' compensation insurance under A. of this section 35 for the employee or employees and submit proof of the workers' compensation insurance to the Lessee.

Upon request, the Lessor shall provide the Lessee with evidence satisfactory to the Lessee of the insurance identified in B. - C. above. Each of the required insurance policies must provide for the Lessee to receive a 30-day prior notice of any cancellation. Where specific limits are shown above, it is understood that they are the minimum acceptable limits. If a policy contains higher limits, the Lessee will be entitled to coverage to the extent of the higher limits. All insurance policies must comply with, and be issued by, insurers licensed to transact the business of insurance in Alaska or in another state.

In addition, the Lessor shall require any contractor or subcontractor to provide and maintain for its employees workers' compensation insurance.

36. **DELAYS IN PERFORMANCE:** Delays in performance by the Lessor due to unforeseeable causes beyond the control and without fault or neglect of the Lessor may be excused. Unforeseeable causes may include but are not limited to: (1) acts of God, (2) public enemy, (3) acts of the state in its sovereign capacity, (4) acts of another contractor in the performance of a contract with the Lessee, (5) fires, (6) floods, (7) quarantine restrictions for epidemics, (8) strikes, (9) freight embargoes, (10) unusually severe weather conditions, and (11) delays unusual in nature by subcontractors or suppliers. Notification of such delays must be made to the Lessee's Supply Officer in writing within ten (10) days of the commencement of the unforeseeable cause. The Supply Officer shall ascertain the facts and the extent of delay and the extent of the time for completing the project. The Supply Officer may approve an extension when, in the Supply Officer's judgment, the findings of fact justify an extension. Pending final decision on an extension of time under this section, the Lessor shall proceed diligently with the



14 of 18
2004-024411-0

performance of the Lease. Inability to comply with state or municipal construction or zoning laws or ordinances or restrictive covenants shall not be regarded as an unforeseeable cause.

37. **EXTENSION:** Any holding over after the expiration date of this Lease or of a renewal of this Lease shall be construed to be a tenancy from month-to-month at the same monthly rental rate, and on the same terms and conditions as specified in this Lease.
38. **TIME:** Time is of the essence.
39. **ASSIGNMENT OR TRANSFER:** Assignment or other transfer of this Lease is subject to Section 160 of the Procurement Procedures of the Alaska State Legislature. The Lessee's interest in this Lease may not be assigned without Lessor's prior written consent and Lessor's consent will not be unreasonably withheld.
40. **BINDING ON SUCCESSORS:** Subject to section 39, this Lease and all the covenants, provisions and conditions contained in the Lease shall inure to the benefit of and be binding upon the successors and assigns of the Lessor and the Lessee.
41. **USE OF LOCAL FOREST PRODUCTS:** AS 36.15.010 requires that in a project financed by State money in which the use of timber, lumber, and manufactured lumber products is required, only timber, lumber, and manufactured lumber products originating in this state from local forests shall be used wherever practicable. Therefore, if construction, repair, renovation, redecoration, or other alteration is to be performed by the Lessor during the Lease, the Lessor must use, wherever practical, timber, lumber, and manufactured lumber products originating in this state from local forests.
42. **LEASE AMENDMENTS:** In addition to any other amendment the parties may be allowed to make under the Lease, the terms of the Lease entered into may be amended by mutual agreement of the parties, if the Lessee determines that the amendment is in the best interests of the Lessee and if the amendment does not amount to a material modification of the Lease.
43. **AUTHORIZATION; CERTIFICATION:** Execution of this Lease was authorized by a majority of the members of the Alaska Legislative Council at a meeting on January 15, 2004.

Funds are available in an appropriation to pay for the Lessee's monetary obligations under the lease through June 30, 2005. The availability of funds to pay for the Lessee's monetary obligations under the Lease after June 30, 2005, is contingent upon appropriation of funds for the particular fiscal year involved. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs Agency Executive Director, sufficient funds are not appropriated, the Lease will be terminated by the Lessee or amended. To terminate under this section, the Lessee shall provide written notice of the termination to the Lessor.

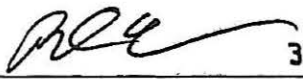
44. **VENUE AND CHOICE OF LAW:** In the event that the parties of the Lease find it necessary to litigate the terms of the Lease, venue shall be the State of Alaska, First Judicial District, at Juneau and the Lease shall be interpreted according to the laws of Alaska.


15 of 18
2004-024411-0

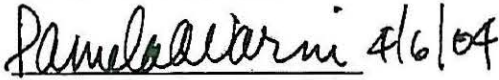
45. **ENTIRE AGREEMENT:** This Lease sets forth the entire understanding of Lessor and Lessee, and no modification may be made to this Lease except by written addendum signed by all parties.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

 3/30/04
Robert B. Acree Date
Member
Tax Identification No.: 03-0443569
Business License No.: 423463

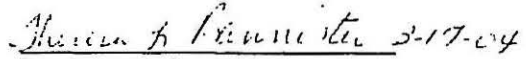
CERTIFYING AUTHORITY

 4/6/04
Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

 4/2/04
Senator Gene Therriault Date
Chair
Alaska Legislative Council
Procurement Officer

APPROVED AS TO FORM:

 3-17-04
Theresa K. Brunister Date
Legal Counsel



16 of 18
2004-024411-0

~~OREGON~~
STATE OF ALASKA
County of Matanuska) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 30 day of March, 2004, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

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

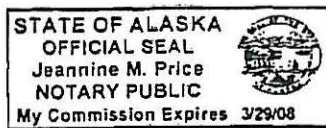


Donna Lemaster
Notary Public in and for ~~Alaska~~ Oregon
My commission expires: July 10, 2005

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on the 2nd day of April, 2004, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared SENATOR GENE THERRIault, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and he acknowledged to me that he executed the foregoing instrument as the free and voluntary act and deed of his principal for the uses and purposes therein set forth.

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



Jeannine M. Price
Notary Public in and for Alaska
My commission expires: 3/29/08



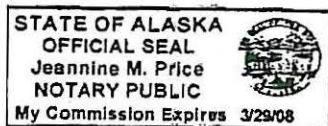
STATE OF ALASKA

)
) ss.
)

FIRST JUDICIAL DISTRICT

THIS IS TO CERTIFY that on the 16th day of April, 2004, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the EXECUTIVE DIRECTOR of the STATE OF ALASKA LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing instrument as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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



Jeannine M. Price
Notary Public in and for Alaska
My commission expires: 3/29/08

FOR RECORDING DISTRICT OFFICE USE ONLY:

No Charge - State Business

After recording return to:
Jan Price, Supply Officer
Legislative Affairs Agency
State Capitol
Juneau, AK 99801-1182



18 of 18
2004-024411-0

28th Legislature(2013-2014)
Committee Minutes
 HOUSE LEGISLATIVE COUNCIL
 June 07, 2013

House Friday, June 07, 2013 9:53:00 AM

[Download Mp3](#) <- Right click and save file as

JUNE 07, 2013
 10:00 AM

MEMBERS PRESENT

Representative Mike Hawker, Chair
 Representative Max Gruenberg
 Representative Craig Johnson
 Representative Lance Pruitt
 Representative Bill Stoltze
 Senator Dennis Egan
 Senator Lesil McGuire
 Senator Kevin Meyer

MEMBERS ON TELECONFERENCE

Senator Peter Micciche, Vice Chair
 Representative Peggy Wilson
 Senator John Coghill

MEMBERS ABSENT

Senator Gary Stevens
 Senator Charlie Huggins
 Representative Mike Chenault

AGENDA

APPROVAL OF MINUTES
 RATIFICATION OF CHARITY EVENTS
 CONTRACT APPROVALS
 OTHER COMMITTEE BUSINESS

SPEAKER REGISTER

DOUG GARDNER, Legal Services Director, Legislative Affairs Agency

10:04:42 AM

I. CHAIR MIKE HAWKER called the Legislative Council meeting to order at 10:00 a.m. in room 670 of the Anchorage Legislative Office Building. Chair Hawker noted that the meeting would start with the executive session first and then Council would proceed to routine motions and business activities. Due to a technical issue with the recorder's microphone, Chair Hawker recited the roll call for purposes of establishing a quorum. Present at the call were Representatives Hawker, Johnson, Stoltze and P. Wilson (via teleconference); and Senators Coghill (via teleconference), Egan, and Micciche (via teleconference), and Hoffman (alternate member).

REPRESENTATIVE JOHNSON moved that that Legislative Council go into executive session under Uniform Rule 22 (b) for the discussion of matters the immediate knowledge of which would adversely affect the finances of a government unit.

10:06:50 AM

Legislative Council went into executive session.

1:02:43 PM

Legislative Council came out of executive session.

CHAIR HAWKER called the roll. Present at the call were Representatives Hawker, Johnson, Pruitt, Stoltze and P. Wilson (via teleconference); and Senators Egan, McGuire, Meyer and Hoffman (alternate member).

II. ANCHORAGE LIO LEASE

Chair Hawker noted that the first order of business is a series of four motions related to the extension of the Anchorage LIO lease.

MOTION - LEASE EXTENSION

SENATOR MCGUIRE moved that Legislative Council authorize the chairman to negotiate all the terms and conditions necessary to extend Lease 2004-024411-0 pursuant to AS 36.30.083(a).

REPRESENTATIVE STOLTZE objected to ask for a brief description of the thought process for this item for the public record.

CHAIR HAWKER said this suite of motions allows the Legislature to extend our current lease under AS 36.30.083(a), which provides for lease extension on a sole source basis as long as certain financial conditions are met; amends the Legislature's procurement procedures to allow material amendments to existing leases; empowers the Chairman to negotiate material amendments to the existing lease - amending paragraph 42 to comply with the amended procurement procedures and incorporating the leasehold improvements proposed by the landlord to modernize the existing LIO facility, limited in cost to be less than similarly sized, located, and apportioned newly constructed facilities in downtown Anchorage as determined by the Alaska Housing Finance Corporation (AHFC); and allows AHFC to be engaged as the Legislature's tenant representative for lease negotiation with the landlord and project oversight. He further noted for the record that Council sought other downtown Anchorage properties suitable to legislative function and found none, leaving the option of constructing a new building. Council has definitively said that a new state-owned building is not a desirable outcome, leading to the decision to improve the existing location.

Representative Gruenberg joined the meeting at this time.

REPRESENTATIVE STOLTZE spoke to the suite of motions. He said he was inclined to support these motions noting the lack of suitable alternative space. He said that the current option of improving the existing space would allow for the possibility of 40 members and 20 members having the ability to meet on some basis. He said he was not talking about a capital move, but under certain circumstances where the public would be served, and he thinks the Legislature would be well-served by the opportunity to meet in Anchorage in possible special sessions. The opportunity to have larger meeting spaces for the public and for the entire Legislature for short-term meetings is something his district would support. He said he has some reservations about parts of the process, is a little bit hesitant about sole-source procurement, but under the circumstances and with the meeting space accommodations being offered, this option has his support.

SENATOR MCGUIRE said for the record that considering the controversy generated when previous Legislative Councils have considered the option of purchasing a building, the current members felt that purchasing a new building at this stage is simply not something this Legislative Council wants to go through. She said they think it is more in the public benefit to keep this particular building on the municipal tax rolls; that keeping with the existing leaseholder is in the public interest; and allowing this leaseholder to make the tenant improvements that are necessary is in the public interest. She said that there are significant health and safety issues with this building that have been brought up time and time again to the Legislative Affairs Agency Executive Director that will need to be covered in those improvements.

CHAIR HAWKER added that pursuing the sole source option within

Alaska statute was deemed to be the most practicable method forward as the lease on the current building expires in 11 months with no renewal options left; there is no other option at this point as the Request for Information (RFI) that was issued regarding real estate across the Municipality of Anchorage received only two responses, neither of which was able to accommodate the Legislature downtown at all and both had limited utility regardless of location. He said Council has done adequate due diligence and they are working within the parameters of the time frame in which they find it necessary to work. For these reasons and the substantive reasons stated by Senator McGuire, Council has chosen to pursue a sole sourcing option.

The motion allowing the chairman to negotiate all the terms and conditions necessary to extend Lease 2004-024411-0 pursuant to AS 36.30.083(a) passed with no objections.

MOTION - AMEND PROCUREMENT PROCEDURE

1:13:32 PM

SENATOR MCGUIRE moved that Legislative Council adopt proposed Amendment No. 12 to the Legislative Procurement Procedure 040 to provide a limited ability for the Legislative Affairs Agency, or a legislative committee, to materially modify an existing lease that was previously competitively procured.

CHAIR HAWKER, in response to a question for clarification by Representative Stoltze regarding the motion made by Senator McGuire, confirmed that Senator McGuire was mistaken when she said, in part, "...Legislative Affairs Council..." and that the motion reads "Legislative Affairs Agency...".

REPRESENTATIVE GRUENBERG asked about paragraph four, specifically that one of the factors is that the modification must be in the best interest of the Agency or the committee and he wondered if there was a difference between saying that and saying "in the public interest." He said he could foresee something where a narrow Agency might have a particular interest but it might not necessarily be in the public interest and he wondered legally about that.

DOUG GARDNER, Legal Services Director, said some contracts are entered into by the Agency at the direction of Legislative Council and those would be approved by Legislative Council; some contracts are entered into by committee. He said he could not think of any committee leases at the moment, but in order to accommodate the traditional type of leasing, it is broken down into those two categories.

REPRESENTATIVE GRUENBERG interrupted to say that he was drawing a distinction between local interests as opposed to broad public interest or if this amendment considers them to be the same.

MR. GARDNER responded that this Council would be approving those items and because of the composition of Legislative Council which has statewide representation, there wasn't a local interest that wouldn't also be a public interest as a consideration. Representative Gruenberg was satisfied with that response and simply wanted it on the record.

Senator Coghill joined the meeting at this time via teleconference.

CHAIR HAWKER repeated the motion and asked if there were further objections.

The motion to amend Legislative Procurement Procedure 040 passed with no objections.

MOTION - AUTHORIZE MATERIAL AMENDMENTS TO LEASE

1:17:19 PM

SENATOR MCGUIRE moved that Legislative Council authorize the chairman to negotiate amendments to lease 2004-024411-0 by mutual agreement with the Lessor to remove the limitation of amending a lease that amounts to a material modification in paragraph 42; and to include 712 West Fourth Avenue, with other terms and

Committee Minutes

conditions necessary to accommodate renovations, not to exceed the estimated cost of a similarly sized, located and apportioned newly constructed building as determined by the Alaska Housing Finance Corporation.

CHAIR HAWKER said this motion authorizes material amendments to be made to the extended lease and would allow the chair to negotiate material modifications and renovations for the facility currently occupied.

SENATOR EGAN asked for a copy of the motions.

CHAIR HAWKER said a copy of the motions for this meeting should have been emailed to each member. In response to a question posed by Senator Coghill, he said that the quorum is on record so there is no need for a roll call vote.

The motion to authorize material amendments to the lease passed with no objections.

REPRESENTATIVE STOLTZE said he has not talked to Mr. Pfeffer about this project but he had in the past received political contributions from him. He was not asking to be excused from the vote, simply noting it for the record.

CHAIR HAWKER noted as a point of reference that Mr. Pfeffer is a landlord for the building currently occupied by the Legislature in Anchorage. He further noted that he also has received contributions from Mr. Pfeffer over the course of his political career.

REPRESENTATIVE GRUENBERG stated that he also has received political contributions from Mr. Pfeffer.

CHAIR HAWKER stated for the record that the following members indicated that they too had received political contributions from Mr. Pfeffer: Representatives Pruitt and Johnson and Senators Egan, Meyer, Hoffman, Coghill, and McGuire. Representative Peggy Wilson said she has not received a contribution from Mr. Pfeffer that she knows of.

MOTION - ENGAGE AHFC AS LESSEE'S REPRESENTATIVE

CHAIR HAWKER said that there was a benchmark number of \$50,000 in this motion. He said he spoke with Mr. Fauske at AHFC and depending on the amount of work done; the final amount could be anything from gratis to the full amount authorized in this motion. He said he will continue to work with AHFC to accommodate this on as much of a gratis basis as possible.

1:21:58 PM

SENATOR MCGUIRE moved that that Legislative Council authorize the chairman to enter into a contract for payment not to exceed \$50,000, for AHFC to act as the Lessee's representative in negotiating an extension to Lease 2004-024411-0, as amended to include 712 West 4th Avenue, and to assist in managing the Lessor's compliance with the terms and conditions of the Lessor's improvements, as described in the lease extension.

The motion to engage AHFC as Lessee's representative passed with no objections.

CHAIR HAWKER said that with the passage of the fourth and final motion, that takes care of the beginning of a fabulous project to establish legislative facilities that will accommodate legislative needs for the next 10 or more years.

SENATOR MEYER commented that, for the record, he appreciated as an Anchorage legislator that Council has opted to extend and renovate rather than buy or build a new building. He remembered being upset as an Anchorage Assembly member in the '90s when the State bought the Atwood Building and took it off the tax rolls. He said every time that happens it is essentially a property tax increase for the rest of Anchorage. He said he also appreciates that Council is keeping its obligation to the downtown area and

staying in the downtown area even when it's sometimes difficult.

SENATOR HOFFMAN asked about the time frame and transition of the project.

CHAIR HAWKER said that although it is subject to final determination as there will need to be a design process for scope of improvement, he hopes the project will be concluded in approximately a nine month period - commencing sometime between October and December, with completion timed to permit reoccupation as soon as possible after the 2014 legislative session is concluded.

III. APPROVAL OF MINUTES

1:25:18 PM

SENATOR MCGUIRE moved that the minutes from the Legislative Council meeting on May 13, 2013 be approved.

The minutes were approved with no objections.

IV. RATIFICATION OF CHARITABLE EVENT

1:25:53 PM

SENATOR MCGUIRE moved that Legislative Council ratify the following charity event, which was previously sanctioned by the Legislative Council Chair in accordance with AS 24.60.080(a)(2)(b):

a. 14th Annual Calista Heritage Foundation Golf Tournament benefitting the Calista Heritage Foundation, Inc.

CHAIR HAWKER noted for the record that the 14th Annual Calista Heritage Foundation Golf Tournament benefitting the Calista Heritage Foundation, Inc., met all the qualifications in statute of being a 501(c) (3) organization.

The event was ratified with no objections.

V. CONTRACT APPROVALS

a. Mat-Su LIO Lease

CHAIR HAWKER noted this item was a routine reauthorization of the Mat-Su LIO lease with no particular changes.

1:27:55 PM

SENATOR MCGUIRE moved that Legislative Council authorize the chairman to approve a one-year renewal of the existing lease agreement for the Mat-Su Legislative Information Office and Legislators' District Office space for a cost of \$182,215.20.

REPRESENTATIVE STOLTZE objected to note that the general feedback is that the Mat-Su is a delegation that has increased in size, space was added after 2010 reapportionment and there will probably be more space needed after 2020; he said the space has a good landlord who is very responsive to the tenant concerns; it's a good location; and this space has good support from the Mat-Su delegation.

The motion to renew the Mat-Su lease passed with no objections.

b. Seward LIO

CHAIR HAWKER said this last item was requested by the Speaker of the House. He said currently the Seward LIO operates on a six month basis for legislative session. Seward has been a very active community and the Speaker has asked that this facility be staffed and available year round for an additional cost of \$59,200. He said this amount can be accommodated within existing budgets with the understanding that all items currently budgeted will be reviewed in the next budget cycle.

1:30:45 PM

SENATOR MCGUIRE moved that Council approve the Seward LIO going from session only to full time effective June 4, 2013, and ask

2/16/2016

Committee Minutes

the Agency to include that increase in their FY 15 budget request.

The motion passed with no objections.

CHAIR HAWKER said that items for future meetings include Capitol security issues, legislative information office security issues, and Facebook access among a number of other items for Council to deal with over the summer.

SENATOR EGAN noted that Steve Daigle, Chief of Security, has volunteered to arrange a presentation to Legislative Council on a variety of security options.

CHAIR HAWKER said his staff is working to schedule that. He added that the Capitol exterior portico project is underway now, the steps have been removed from the front of the Capitol and the project is going as well as could possibly be hoped. It is, at the moment, on time and going forward as authorized.

REPRESENTATIVE STOLTZE said he has had contact from constituent groups regarding Capitol Security's involvement on the incident on the protest censorship encroachment, specifically mentioning Mr. Daigle's name as an intervener. He said he would be remiss if he didn't bring this up and that Council would be avoiding an important policy issue if this wasn't looked at.

CHAIR HAWKER said that the ACLU filed a Freedom of Information Act request with the Governor's Office related to that issue. The Governor's Office has responded completely with their full disclosure. He said it is his understanding that the ACLU was not contemplating going any further with this issue. Should they provide any further request to the Legislature, we will certainly comply with that. Immediately after he became aware of the circumstance during session, he issued a statement of policy under executive authority reaffirming the Legislature's commitment to freedom of speech and public access to the Capitol. With that affirmation and very specific directives about being sure to err on the side of the public's freedom of speech, at this point, from a legislative perspective, he sees the issue as closed; the Legislature has taken preventative action and the administration has taken the remedial action that was requested by the ACLU.

Chair Hawker expressed his gratitude in response to Representative Stoltze's statement that he would gauge what the continued public interest is as he is not guided by what the ACLU deems as relevant.

There being no further business before the committee, the Legislative Council meeting was adjourned at 1:35 p.m.

1:35:35 PM

EXHIBIT C

PROCUREMENT OFFICER'S FINDINGS UNDER LEGISLATIVE PROCUREMENT PROCEDURE 040(d)

Introduction

The purpose of this document is to provide a written determination, in compliance with Alaska Legislative Procurement Procedure 040(d), setting forth in detail the procurement officer's determination supporting material modifications of the Legislature's Lease of the Anchorage Legislative Information Office dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended March 3, 2009, renewed for the final one-year term on May 20, 2013, which was previously competitively bid under RFP 391 and publicly issued on July 17, 2003, (hereinafter "Lease"). The current Lease will expire on May 31, 2014.

The material modifications to the Lease that are the subject of this written determination were authorized by Legislative Council, and by mutual agreement with the Lessor. The material modifications to the Lease are amending the existing definition of "premises" within Section 1 of the Lease, titled "RENTAL PROPERTY AND RENTAL RATE," by adding the additional property commonly known as 712 West Fourth Avenue, which is immediately adjacent to the existing leased premises at 716 West Fourth Avenue, and amending other sections of the Lease as necessary to allow for the renovation and retrofit of the expanded premises, including but not limited to, a transition to a triple net leasing structure and changes necessary to accommodate renovation of the premises as described in Exhibits A and B of the Lease.

Background

A. Legislative Council's Authorization to Materially Modify Lease

On June 7, 2013, Legislative Council passed the following motions¹ related to the Legislature's Lease of the Anchorage Legislative Information Office dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended March 3, 2009, renewed for the final one-year term on May 20, 2013, and which will expire on May 31, 2014:

MOTION - AMEND PROCUREMENT PROCEDURE: I move that Legislative Council adopt proposed Amendment No. 12 to the Legislative Procurement Procedure 040 to provide the limited ability for the Legislative Affairs Agency, or a Legislative Committee, to materially modify an existing lease that was previously competitively procured.

MOTION - AUTHORIZE MATERIAL AMENDMENTS TO LEASE: I move that Legislative Council authorize the chairman to negotiate amendments to lease 2004-024411-0 by mutual agreement with the Lessor to remove the limitation of amending a lease that amounts to a material

¹ In addition to the motions set out in the text of these findings, two additional related motions were also passed by Legislative Council on June 7, 2013:

MOTION - LEASE EXTENSION: I move that Legislative Council authorize the chairman to negotiate all the terms and conditions necessary to extend Lease 2004-024411-0 pursuant to AS 36.30.083(a).

MOTION - ENGAGE AHFC (Alaska Housing Finance Corporation) AS LESSEE'S REPRESENTATIVE: I move that Legislative Council authorize the chairman to enter into a contract for payment not to exceed \$50,000, for AHFC to act as the Lessee's representative in negotiating an extension to Lease 2004-024411-0, as amended to include 712 West 4th Avenue, and to assist in managing the Lessor's compliance with the terms and conditions of the Lessor's improvements, as described in the lease extension.

modification in paragraph 42; and to include 712 West Fourth Avenue, with other terms and conditions necessary to accommodate renovations, not to exceed the estimated cost of a similarly sized, located and apportioned newly constructed building as determined by the Alaska Housing Finance Corporation.

B. Requirements of Alaska Legislative Procurement Procedure 040(d)

Legislative Procurement Procedure 040, as amended by Amendment No. 12 and authorized by Legislative Council as set forth in the motion above, added subsection (d), which provides:

(d) A lease that was procured competitively may be materially modified by amendment, and the material modification of the lease does not require procurement of a new lease, if

(1) the reasons for the modification are legitimate;

(2) the reasons for the modification were unforeseen when the lease was entered into;

(3) it is not practicable to competitively procure a new lease;

(4) the modification is in the best interests of the agency or the committee;

(5) the procurement officer makes a written determination that the items in paragraphs (1) - (4) exist, the determination details the reasons for concluding why the items exist, and the determination is attached to the amended lease; and

(6) the use of this subsection is approved by the procurement officer and, in the case of an amendment for the lease of a legislative committee, by a majority of the committee members.

Procurement Officer's Determination Under Legislative Procurement Procedure 040(d)

040(d): Previously Competitively Bid Requirement

As previously discussed, the Legislature's Lease of the Anchorage Legislative Information Office dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended March 3, 2009, renewed for the final one-year term on May 20, 2013, was previously competitively bid under RFP 391, which was publicly issued on July 17, 2003. Accordingly, under Legislative Procurement Procedure 040(d), the Lease may be materially modified.

040(d)(1): Reasons for the Modification are Legitimate

The decision to modify the Lease is consistent with the purpose of the present Lease, which is to provide office space for the Legislature. These amendments do not alter the essential identity or main purpose of the contract, and do not constitute a new undertaking, and therefore are a legitimate modification of the Lease.

The property at 712 West Fourth Avenue is unique, since it is the only adjacent space to 716 West Fourth Avenue available to satisfy the Legislature's need for additional space, and meets the essential requirement of keeping all the present legislative offices in one building. The addition of 712 West Fourth Avenue allows the Legislature to extend its current Lease as provided under AS 36.30.083(a). Given the uniqueness of the property, and the fact that no other bidder would be able to provide space adjacent to 716 West Fourth Avenue, it would be a waste of private sector resources and legislative procurement resources to competitively bid for the only adjacent property.

The expanded premise will be renovated to meet the needs of the Lessee. In accordance with the expansion of the leased premises, the renovation, and the Lease Extension executed under AS 36.30.083(a), it is necessary to amend material terms of the Lease. Without the modifications, the Lease would not be functional to govern the premises. Given the uniqueness of the property and the ability of the Legislature to have input in the design and function of the renovated building, a competitively bid procurement would be impractical, inefficient, and ultimately, likely unsuccessful in providing premises as suited to the needs of the Legislature.

Accordingly, modifying the Lease by adding 712 West Fourth Avenue to the "premises" and by amending other lease terms to accommodate the expanded premises and the Lease Extension under AS 36.30.083(a) does not subvert the purposes of competitive bidding, and is a legitimate exercise of the Legislature's procurement authority.

040(d)(2): Reasons for Modification Unforeseen When Lease was Entered Into

When the Lease was entered into for 716 West Fourth Avenue in 2004, it was unforeseen that the Legislature would need significant additional space, or that the infrastructure problems with the building would worsen, e.g., the exhausted service life of the HVAC system and the water system, and the elevator failing to handle the demands of staff and public use.

In 2004, based on the Executive Director's Office's best assessment, there were approximately 54 legislative staff working in the building. Today, in 2013, there are approximately 72, which is an increase during the ten-year term of the Lease of approximately one-third. The result of this unforeseen increase in staffing demands on the space in the building is that the staff for some legislators work in shared space. Shared space fails to meet standards for confidential meetings with constituents, and other intra-office privacy concerns. The space has only worked because of the patience and cooperation of Anchorage legislative staff and legislators. However, after the current

Lease term expires the limited space will no longer be acceptable. In addition to the staff of different legislators sharing space, three Anchorage area legislators are sharing space with their staff, which is also not acceptable.

The Legislature requires office space beyond the needs of the Anchorage-area legislators and staff. Once the Lease is amended, the renovated facility will provide space for the Speaker of the House, and the Senate President, who are both out-of-Anchorage legislators, and for rural legislators who require space for conducting work and attending legislative meetings in Anchorage.

Further, the existing building is in need of substantial renovation and upgrade. The condition of the premises is no longer suitable for legislative use. Physical deficiencies include lack of potable water, limited restroom facilities, ineffective HVAC system, deteriorated and leaking plumbing, an unreliable and inadequate elevator, insecure and unsafe below-ground parking facilities, leaking windows, worn window coverings and carpeting, inadequate electrical service, unpleasant odors in the elevator, inefficient lighting, and hazardous materials used in the original construction of the building. All of these will be remediated in the renovation and upgrade.

Had each of these factors been taken individually, fluctuating space demands may have been foreseen at some level. However, the pressure on space in the building from the multiple impacts discussed above was not foreseen when the Lease was entered into in 2004.

040(d)(3): Not Practicable to Competitively Procure a New Lease

The Anchorage Legislative Information Office has been located in leased space at 716 West Fourth Avenue for approximately 20 years. Occupancy was initially under a 10 year lease which terminated in 2003, that was extended month-by-month through 2004, when the current lease was established following an RFP process. The Legislature

is now in its 10th year under the current Lease, having just exercised the final of five one-year renewal options allowed under the terms of the Lease.

Over the past five years the Legislature has explored and requested proposals on numerous occasions seeking alternative space. None of those efforts has resulted in a solution that was possible, practicable or acceptable. Given that the Lease has nearly expired, the Legislature recently provided notice to the public of a Request For Information ("RFI")² from parties interested in providing legislative office space in Anchorage. Two parties provided responses detailing the space they had available. Both spaces were located in areas that were not acceptable to Legislative Council for the needs of the Legislature. The available properties in the responses to the RFI failed to provide constituent access, access to other state and local centers of government, access to public transportation, and access to lodging and meeting spaces. In summary, based on the RFI responses, there are no facilities available for lease that are suitable for the Legislature's unique needs.

Because of the limited interest shown in the RFI and the lack of suitable legislative space available for lease, Legislative Council reconsidered the existing leased space at 716 West Fourth Avenue, and made the determination that the existing building, if renovated and with the addition of a suitable amount of additional space, could continue to serve the Legislature and public. The only available property adjacent to 716 West Fourth Avenue that would facilitate the needed renovations to 716 West Fourth Avenue, and provide additional space, is 712 West Fourth Avenue.

In addition to its efforts to formally identify potential lease space through the issue of an RFI, commercial real estate brokers and others were consulted in an attempt to determine if lease space suitable to meet the Legislature's needs might be available.

² The complete RFI is available at
<http://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=168321>.

These inquiries delivered the same results as the RFI; there are no existing facilities available to meet the Legislature's needs,

Based on the foregoing discussion and factors, inclusive of the lack of suitable remaining time for any additional procurement efforts, as Procurement Officer, I find that it would not be practicable to competitively bid a lease for Anchorage legislative office space because of: (1) limited interest demonstrated by the response to the RFI; (2) no available property suitable for legislative needs offered in response to the RFI; (3) the decision by Legislative Council to exercise its option under AS 36.30.083(a) and extend its lease of 716 West Fourth Avenue, subject to renovations by the Lessor and a cost saving of 10 percent less than fair market value; and (4) the uniqueness of the location of 712 West Fourth Avenue to the Legislature's existing office space at 716 West Fourth Avenue.

040 (d)(4): The Modification is in the Best Interests of the Agency or the Committee

The existing leased space at 716 West Fourth Avenue, while at the end of the service life of the building systems, and despite chronic maintenance problems, has served the Legislature and constituent needs for approximately 20 years. The location on Fourth Avenue provides central access for legislators and constituents to meeting spaces, hotels, the courts, state and local government offices, public transportation, and other support facilities. The current lease includes parking, which is essential for public access to government by constituents, legislators, and staff.

Based on all factors considered above, the Legislative Council made the decision to exercise its option under AS 36.30.083(a) to enter into negotiations with the Lessor, to extend the Lease subject to the building being suitably improved with a modest addition of space, and subject to the requirements in AS 36.30.083(a) that the cost to the Legislature be at least 10 percent below the market rental value of the real property at the time of the extension. The decision to amend the Lease as provided by Alaska

Final
Page 9

Legislative Procurement Procedure 040(d), is in Legislative Council's best interest, since it will facilitate the extension of the Lease with the necessary improvements and with additional needed space, at a cost-savings to the Legislature, as provided by AS 36.30.083(a).

Lastly, in addition to the determination herein, as Chairman of Legislative Council and Procurement Officer, I have provided written notice to legislative leadership of the successful conclusion of negotiations and the intent to extend and amend the lease as provided herein.



Representative Mike Hawker
Chairman of Legislative Council and
Procurement Officer

9.16.13
Date

EXTENSION OF LEASE AND LEASE AMENDMENT NO. 3

Extension of Lease Under AS 36.30.083; Amendment of Lease; Material Modification of Lease

THIS EXTENSION OF LEASE AND THIRD AMENDMENT OF LEASE is made and entered into on the date the Legislative Affairs Executive Director or her designee signs the Lease, is by and between 716 WEST FOURTH AVENUE, LLC, an Alaska limited liability company, whose address is P.O. Box 241826, Anchorage, Alaska 99524, hereinafter referred to as "Lessor," and the LEGISLATIVE AFFAIRS AGENCY, whose address is State Capitol, Room 3, Juneau, Alaska 99801-1182, hereinafter referred to as "Lessee," and hereby amends the Lease dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, as previously amended, and renewed through May 31, 2014 by Renewal of Lease No. 5, recorded May 23, 2013 in Book 2013-028824-0, Anchorage Recording District, Third Judicial District, State of Alaska, hereafter referred to as the "Lease".

WITNESSETH:

WHEREAS, the Lessor is currently leasing to the Lessee the following described Premises, hereinafter "Existing Premises," described as follows:

Approximately 22,834 square feet of office space, which consists of all net usable office space on the second through sixth floors and approximately 811 square feet of storage space in the basement, at the building located at 716 West 4th Avenue in Anchorage, Alaska at Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska, and eighty-six (86) reserved off-street parking places.

WHEREAS, on June 7, 2013, the Legislative Council (Lessee) authorized its chairman to negotiate all the terms and conditions necessary to extend Lease 2004-024411-0 pursuant to AS 36.30.083(a), and, to seek the assistance of Alaska Housing Finance Corporation (AHFC) if needed, and to negotiate material amendments to the Lease;

WHEREAS, the existing Premises are not adequate to meet the needs of the Lessee, and the Lessee requires up to approximately 64,000 gross square feet of office space and appropriate off-street parking spaces in order to adequately house the offices of the legislature and legislative staff and to properly accommodate the public;

WHEREAS, a property directly adjacent to the existing Premises, located at 712 West 4th Avenue, when added to the existing Premises, will be adequate to meet the needs of the Lessee and, subject to successful negotiation with the property owner, the property may be made available to Lessee;

WHEREAS, subject to the provisions of AS 36.30.083 and other applicable authority, the Lessee wishes to incorporate the existing Premises along with the property located at 712 West 4th Avenue into this Extension of Lease and Lease Amendment, and further, to reference the combined real property parcels as the "Premises" for the purposes of this Extension of Lease and Lease Amendment;

WHEREAS, the Premises must be renovated in order to meet the needs of the Lessee and, subject to successful negotiation between the parties, a renovation plan and renovation schedule will be documented as Exhibit "A" and Exhibit "B" of this Extension of Lease and Lease Agreement;

WHEREAS, Alaska Legislative Procurement Procedures designate the chairman of the Legislative Council as procurement officer with respect to contracts of the Legislative Affairs Agency, and the chairman has made a written determination under Procurement Procedures Section 040(d) (Exhibit C) that the Lease may be materially modified without procurement of a new Lease to include the property known as 712 West Fourth Avenue;

WHEREAS, the current lease term expires May 31, 2014 and it is the intention of the Lessor and Lessee to extend the Lease for 10 years under AS 36.30.083(a) effective June 1, 2014 through May 31, 2024;

WHEREAS, modifications and amendments to the Lease made under Legislative Procurement Procedure Section 040(d) are required prior to the extension of the lease term to proceed with renovations of the premises and therefore amendments to the Lease, with the exception of the lease term, are effective on the date the Legislative Affairs Director signs the Lease;

NOW, THEREFORE LESSOR AND LESSEE AGREE that the Lease is hereby extended for 10 years until May 31, 2024 pursuant to AS 36.30.083; and the Lease is hereby amended pursuant to Legislative Procurement Procedure Section 040(d) as follows:

Sec. 1 of the Lease is amended to read as follows:

1.1 DESCRIPTION OF PREMISES; LEASE TERM; MONTHLY LEASE RATES:

- a. The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the Premises described below:

All space within the office building, all space within the parking garage, and all real property located at 716 West 4th Avenue in Anchorage, Alaska further described as Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska; and all space located within the building and all real property located at 712 West 4th Avenue in Anchorage, Alaska further described as Lot 2 W 39.5' Block 40 Original Townsite of Anchorage.

On the Effective Date as defined in Section 1(b) below, the Lease shall be for the Existing Premises. On the schedule as set forth in Exhibit "B-1" the Premises will be renovated and expanded as described in Exhibit "A" ("LIO Approval Plans") (hereinafter the "Renovations"). Following completion of the Renovations, the Premises will include approximately 64,048 gross square feet of building space and approximately 86 off-street parking spaces with the spaces striped as directed by Lessee.

b. The term of the Lease is extended for ten (10) years from the termination of the original term on May 31, 2014 until May 31, 2024. The covenants and requirements set forth in this Extension of Lease and Lease Amendment are effective the date it is signed by both parties (the "Effective Date").

c. Base Monthly Rental. This Lease will have three applicable rental rates.

1. On the Effective Date the Base Monthly Rental shall be \$56,863.05 which is the lease rate under current lease for the Existing Premises.
2. The Lessor will provide the Lessee with interim office space and parking (Interim Space) as defined in Exhibit "B-1" during Lessor's work on the Renovations ("Renovation Period"). Lessee shall move to interim office space ("Interim Space") on the dates set forth in Exhibit "B-1" after 10 days written notice by Lessor.

During the Renovation Period and while the Lessee is occupying the Interim Space, the Base Monthly Rental will be reduced to the lesser of the amounts that follow:

- i. To an amount equivalent to the actual costs the Lessor incurs in providing the Lessee with the Interim Space during the Renovation Period, including all costs of moving the Lessee to and from different space throughout the Renovation Period; or
 - ii. The Base Monthly Rental rate paid on November 1, 2013 per the provisions of Renewal of Lease Number 5.
 - iii. Notwithstanding Option #1 and Option #2 above; the Lessee shall not pay rent in any amount for the portion of the Premises located at either 712 W. 4th Avenue or 716 W. 4th Avenue if the Lessee is not occupying space in the respective building and the Monthly Base Rent shall be adjusted accordingly.
3. Upon final acceptance and occupancy of the renovated Premises, then the Base Monthly Rental will increase to \$281,638 per month.

d. Base Monthly Rental Adjustments

Unless otherwise amended in writing signed by both parties, the Base Monthly Rental set forth in 1.1(c)(3) above shall remain the same through May 31, 2024.

e. Monthly Lease Payments

The monthly lease payments are due and payable on the 1st day of each month. Payments will be made as agreed between the Lessee and Lessor. If the post Renovation Period occupancy date is a date other than the first day of the month, then the Base Monthly Rental shall be prorated and the increased rent paid with the payment of the first full month Base Monthly Rental payment due after the post Renovation occupancy.

1.2. **AS 36.30.083(a) COST SAVINGS:**

The Base Monthly Rental rate paid for the Premises to be paid upon final acceptance and occupancy of the renovated space has been determined to provide a minimum cost savings of at least 10 percent below the market rental value of the Premises. Supporting documentation is attached as Exhibit D (Executive Director's Cost Saving Calculation and Report to the Legislative Budget and Audit Committee per AS 36.30.083(b)).

Under AS 36.30.083(a), notwithstanding any other provision of AS 36.30.083, the Legislative Council may extend a real property lease that is entered into under AS 36.30 for up to 10 years if a minimum cost savings of at least 10 percent below the market rental value of the real property at the time of the extension would be achieved on the rent due under the lease. The market rental value must be established by a real estate broker's opinion of the rental value or by an appraisal of the rental value. Timothy Lowe, MAI, CRE, FRICS of the firm of Waronzo Associates, Inc. at 999 North Sepulveda Boulevard Suite 440 El Segundo, California has completed an independent analysis of the provisions of this lease extension and amendment and has concluded that the rent due under the terms and conditions of this lease extension and amendment is at least a 10 percent below the market rental value of the real property at the time of the extension for a ten year term.

Under AS 36.30.083(a), Legislative Council has approved the extension of this Lease as legally required. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs Agency Executive Director, sufficient funds are not appropriated in an amount adequate to pay the then annual lease payments and expenses, the Lease will be terminated by the Lessee as of the date appropriated funds are exhausted, or will be amended by mutual agreement of the Parties. To terminate under this section, the Lessee shall provide not less than 90 days advance written notice of the termination to the Lessor.

Sec. 2 of the Lease is amended to read as follows:

2. **ADA COMPLIANCE:** On the date of final acceptance and occupancy and throughout the entire occupancy of the Lease, the Lessor shall ensure that the Premises, and any improvements or alterations to the Premises, and all accessible routes shall meet the specifications of the ADA Accessibility Guidelines (ADAAG) for Public Buildings and Facilities per Title II of the Americans with Disabilities Act (ADA), as currently written and as they may be subsequently amended (hereafter referred to as ADA compliance).

Under the previous paragraph, the Premises, and any improvements or alterations to the Premises, and all accessible routes, must meet the ADA compliance requirements as they apply to a public entity.

The Lessee's acceptance of the Premises or of any improvements or alterations to the Premises, or any inspection of the Premises by the Lessee, do not relieve the Lessor of its responsibility for ADA compliance.

If these provisions on ADA compliance conflict with another provision in the Lease, the provisions of this section shall govern.

Prior to the date of final acceptance and occupancy, the Lessor, at its own expense, must furnish the Lessee with an ADA Facility Audit Report prepared by an architect registered to practice in the State of Alaska certifying that the Premises comply with all requirements of the current version of the ADA and this section.

Sec. 3 of the Lease is amended to read as follows:

3. **RENOVATION AND DELIVERY OF PREMISES:** The Lessor agrees to renovate the Premises consistent with the specifications as set forth in Exhibit "A", on the schedule as set forth in Exhibit "B", and in accordance with applicable law.

Exhibit "A" describes all terms and conditions of the renovations to be completed by the Lessor and incorporates the drawings, schematics, and deliverables for the same. Exhibit "B" sets forth the milestones for the renovation of the Premises as well as the final completion date. Exhibit B-1 sets forth the schedule for the interim occupancy during the renovation period.

The Lessee shall pay up to \$7,500,000 in direct reimbursement payments to Lessor toward the cost of that portion of the renovation work that represents the tenant improvements to the Premises. All invoices submitted to Lessee by Lessor must be accompanied by appropriate documentation and in addition, must be approved by the Procurement Officer prior to payment. Invoices, unless disapproved, shall be due within 30 days of submission. An invoice may be disapproved by the Procurement Officer for lack of appropriate documentation or any other legitimate reason. In the event that it is disapproved by the Procurement Officer, the Lessor may challenge the decision of the Procurement Officer under the Legislative Procurement Procedures. The balance of the tenant improvement costs at occupancy, if any, shall be added to the Lessor's renovation costs and amortized over the term of the Lease.

The Lessee is responsible for the acquisition of and installation of its own furniture, fixtures and equipment and shall schedule the same in a manner that does not conflict with the progress of the renovation work.

Sec. 4 of the Lease is amended to read as follows:

4. The Lease shall be what is described as a "modified triple net lease"

a. **LESSOR'S RESPONSIBILITY AND COSTS:**

1. The installation and maintenance of all structural components, core components, roof membrane/surface, and building systems that are incorporated into the Premises, including but not limited to: HVAC, elevators, plumbing, electrical, and fire suppression systems.
2. Providing connections to city water and sewer, electric service, and other public utility service to the Premises.

3. Parking lot repair, striping, work required to maintain conformance with ADA or other accessibility issues.
4. Any/all work required to maintain conformance with ADA or other accessibility issues.
5. Extraordinary maintenance – replacing worn carpeting, painting interior walls, replacing damaged casework, every 10 years, or sooner if reasonably required.
6. Exterior light fixture repair/replacement.
7. Interior light fixture repair/replacement.
8. Plumbing fixture repair/replacement.
9. Elevator inspection/repair/replacement.
10. HVAC inspection/maintenance/repair/replacement.
11. Fire suppression system inspection/maintenance/replacement.
12. The payment of any/all pending or levied assessments.
13. Other services or maintenance as may be agreed by the parties.

b. **LESSEE'S RESPONSIBILITY AND COSTS:**

1. Building janitorial service and supplies.
2. Landscaping and grounds maintenance.
3. Interior and exterior window washing.
4. Parking lot sweeping, sanding and snow removal.
5. Interior and exterior light bulb replacement.
6. Hallway and entrance walk-off mats.
7. Carpet cleaning on a commercially reasonable regular schedule.
8. Professional property management services.
9. Real property taxes (reimburse Lessor).
10. Downtown business district assessments (reimburse Lessor).
11. Monthly utility service: water, gas, electric, sewer (either established in Lessee's name or reimburse Lessor).

12. Post renovation/following final acceptance and occupancy installation and maintenance of all data cables and systems. Initial installation is described in Exhibit "A" .
13. Post Renovation and following the final acceptance and occupancy installation and maintenance of internet service to the Premises. Initial installation is described in Exhibit "A".
14. Property casualty insurance coverage only (reimburse Lessor). All other insurance required under the Lease shall be at the sole expense of Lessor.
15. Security guards or other security services.
16. Post Renovation and following final acceptance and occupancy, the installation and maintenance of key-card or other access system. Initial installation is described in Exhibit "A".
17. Installation, maintenance, and use of a flagpole.

Sec. 5 of the Lease is amended to read as follows:

5. ELECTRICAL REQUIREMENTS:

- a. The electrical requirements of the Premises are described in Exhibit "A".
- b. The Lessor shall post a schematic at each circuit breaker panel with labeling to correspond to individual circuit breaker labels and shall keep the posted plan up to date.

Sec. 6 of the Lease is amended to read as follows:

6. PLUMBING REQUIREMENTS:

- a. The plumbing requirements of the Premises are described in Exhibit "A" .

Sec. 7 of the Lease is amended to read as follows:

7. HEATING, COOLING AND VENTILATION (HVAC) REQUIREMENTS:

- a. The HVAC installation requirements of the Premises are described in Exhibit "A" .
- b. Facilities shall be provided to maintain the temperature in all the offices and similar type space uniformly within 68 degrees F to 78 degrees F range.

If the temperature is not maintained within the 68 degrees F to 78 degrees F range for a period of more than two consecutive working days, the Lessor shall, upon receipt of a written complaint from the Lessee, provide suitable temporary auxiliary heating or cooling equipment, as appropriate, to maintain the temperature in the specified range. If such temporary auxiliary equipment is necessary to meet normal weather contingencies for more than 21 consecutive working days, the Lessor shall, not later than the 21st working day, initiate a continuing and diligently

applied effort to rectify the deficiency causing the failure in order to uniformly maintain the temperature range required. If after 42 consecutive working days the temporary auxiliary equipment is still necessary to meet normal weather contingencies, the Lessee shall be free to hold the Lessor in default, it being considered that the Lessee has proffered a reasonable amount of time for the Lessor to effect suitable modification or repair to the building in order to maintain the specified temperature range without resort to temporary auxiliary devices. "Working days" for the purpose of this section shall be defined as days normally scheduled by the Lessee as open for the conduct of its normal operations.

- c. Adequate ventilation shall be provided in accordance with the mechanical code adopted by the Department of Public Safety for the State or ventilation may be provided by windows with screens that open.

Sec. 8 of the Lease is amended to read as follows:

8. **WINDOW COVERING REQUIREMENTS:** Window covering requirements are described in Exhibit "A".

Sec. 9 of the Lease is amended to read as follows:

9. **FLOOR COVERING REQUIREMENTS:** Floor covering requirements are described in Exhibit "A". In addition, the Lessor is responsible for replacing floor coverings at least once every ten (10) years or sooner if reasonably required, provided the sooner replacement is not required due to extraordinary wear and tear or other fault of Lessee.

The Lessee shall use grating, runners, rubber finger mats or other aggressive methods at the front entrance to the building and the Premises to minimize tracking dirt, snow or ice into the space.

Sec. 10 of the Lease is amended to read as follows:

10. **ACOUSTICAL REQUIREMENTS:** Acoustical requirements are described in Exhibit "A".

Sec. 11 of the Lease is amended to read as follows:

11. **PARTITION REQUIREMENTS:** Partition requirements are described in Exhibit "A".

Sec. 12 of the Lease is amended to read as follows:

12. **PAINTING REQUIREMENTS:** Painting requirements related to the renovation are described in Exhibit "A". In addition, the Lessor is responsible for repainting at least once every ten (10) years or sooner if reasonably required, provided the sooner repaint is not required due to extraordinary wear and tear or other fault of Lessee. All surfaces which normally would be painted shall be finished with a minimum of two coats of interior latex paint on walls and suitable semi-gloss enamel on woodwork and bare metal. The Lessee reserves the right to select the colors for areas to be newly painted.

Sec. 13 of the Lease is amended to read as follows:

13. **DOOR HARDWARE REQUIREMENTS:** Door hardware requirements related to the renovation are described in Exhibit "A". The Lessee is responsible for any subsequent (post-renovation - after final acceptance and occupancy) modification to door hardware that may be necessary to install additional components of a key card or other security system. The Lessee is responsible for the security and safekeeping of all keys to the Premises.

Sec. 14 of the Lease is amended to read as follows:

14. **VOICE AND DATA REQUIREMENTS:** Voice and data requirements are described in Exhibit "A". The Lessee is responsible for the installation and maintenance of all voice, data, and internet service to the Premises post-renovation; following final acceptance and occupancy.

Sec. 15 of the Lease is amended to read as follows:

15. **PARKING REQUIREMENTS:** Parking requirements are described in Exhibit "A".

If additional parking is constructed, it shall be of sufficient size to allow proper and easy parking, and have a hard and well-drained surface. All parking locations must be well lit and have good accessibility in and out of the parking area.

Lessee shall be responsible to maintain the parking areas and to provide that the above grade/surface parking lot is available to the public between the hours of 5:00pm and 6:00am Monday thru Friday and full time on Saturdays and Sundays. Any revenue rates for public parking shall be as determined by Lessee and any collected revenue for public parking shall be the property of the Lessee or its vendors as Lessee may so choose. Lessee shall direct the initial signage installation requirements for the parking areas which Lessor shall install as provided in Exhibit "A". Thereafter the Lessee shall be responsible for signage installation, maintenance and changes.

Sec. 16 of the Lease is amended to read as follows:

16. **FIRE PREVENTION:** The Lessor shall ensure that the Premises are at all times compliant with local fire code or other authority and shall inspect and maintain all fire suppression equipment and systems as necessary. The Lessee shall maintain the premises in keeping with good housekeeping and fire prevention practices. The Lessor reserves the right at reasonable times to enter and make fire prevention and fire protection inspections of the Premises.

Sec. 17 of the Lease is amended to read as follows:

17. **HAZARDS:** Both the Lessor and Lessee shall endeavor to keep the Premises free from environmental and other hazards.

Sec. 18 of the Lease is amended to read as follows:

18. **JANITORIAL SERVICES:** The Lessee shall be responsible for janitorial services for the entire Premises including common areas, parking areas and exterior areas.

Sec. 19 of the Lease is NOT amended except for the addition of the following provisions:

The last sentence of section 19 A is amended to read:

The Lessor shall be responsible for completing the Renovations described in Exhibit "A" prior to the Lessee accepting and taking occupancy of the Premises. After the Renovations have been completed and the Lessee has accepted and taken occupancy of the Premises, any subsequent alterations to the Premises agreed by the parties will be documented by separate agreement.

Sec. 20 of the Lease is deleted in its entirety.

Sec. 21 of the Lease is amended to read as follows:

21. **SIGNS:** The installation of signage as part of the renovation is described in Exhibit "A". After renovation is complete, Lessee reserves the right to erect or affix signs at the Premises, including the parking areas, so long as such installation does not cause damage to the roof, elevators or structural components of the buildings. The placement of signs at or upon the Premises shall be coordinated with the Lessor to avoid injury to the Premises and to comply with applicable law.

Sec. 22 of the Lease is amended to read as follows:

22. **ELEVATORS:** The Lessor shall ensure that all floors of the Premises under this Lease are served by elevators that comply with the current applicable editions of the rules, regulations and codes of the State and the Municipality of Anchorage. Prior to occupancy by the Lessee, the Lessor shall provide the Lessee with documentation from a licensed elevator maintenance organization stating that the elevator is in good working order and meets all the minimum standards.

Sec. 23 of the Lease is amended to read as follows:

23. **RENOVATION AFTER FINAL ACCEPTANCE OF PREMISES BY LESSEE:** After final acceptance and occupancy, at the reasonable request of the Lessee, the Lessor shall renovate the Premises at Lessee's expense by refinishing all damaged or worn walls, ceilings, floors, or built-in fixtures or replacing damaged or worn wall, floor, or window coverings and paint that are not the responsibility of Lessor. For any renovation, the Lessee reserves the right to make on-site inspections and to determine if and when the renovation is complete and satisfactory. The Lessee reserves the right to work with the Lessor on selecting colors and finishes. If the Lessor does not perform a renovation requested by the Lessee that is allowed by this Section 23 ("Renovation"), the failure to respond is a default under Section 32 ("Remedies on Default").

Sec. 24 of the Lease is amended to read as follows:

24. **WAGE-RELATED REQUIREMENTS:** If construction, alteration, repair, renovation, or redecorating work by the Lessor that is over \$25,000 is required in order for the Premises to be ready for occupancy or if work that is over \$25,000 is performed by Lessor, that directly relates to the Lessee's Premises, while the Lessee is occupying the Premises, the Lessor is advised that the Lease will be considered by the Lessee to be subject to the minimum wage and other requirements of AS 36.05.010 - 36.05.110; the current minimum wages for various classes of laborers, mechanics, and field surveyors (as these terms are defined in AS 36.95.010) and the rate of wages paid during the contract must be adjusted to the wage rate indicated under AS 36.05.010; the Lessor and Lessor's contractors must pay all employees unconditionally and not less than once a week; the scale of wages must be posted in a prominent and easily accessible place at the site of the work; the Lessee shall withhold as much of its payments under this Lease as necessary to pay to laborers, mechanics, and field surveyors employed by the Lessor or the Lessor's contractors the difference between (A) the rates of wages required by the contract to be paid laborers, mechanics, or field surveyors on the work, and (B) the rates of wages in fact received by the laborers, mechanics, or field surveyors that are less than the required wages. The Lessor is encouraged to contact the Department of Labor and Workforce Development for more information about these and other related requirements.

If it is found that a laborer, mechanic, or field surveyor employed by the Lessor or the Lessor's contractor has been or is being paid a rate of wages less than the rate of wages required by the Lease to be paid, the Lessee may, by written notice to the Lessor, terminate the Lessor's right to proceed with the work or the part of the work for which there is a failure to pay the required wages and to prosecute the work to completion by contract or otherwise, and the Lessor and the Lessor's sureties are liable to the Lessee for excess costs for completing the work.

Sec. 25 of the Lease is amended to read as follows:

25. **INGRESS AND EGRESS:** All space shall be available on a 24-hour day, seven days a week basis to the Lessee and its invitees. The Lessee shall have full access to and use of all common areas of the building including elevators, lobbies, stairwells, and restrooms. The Lessor shall install and the Lessee shall maintain a security camera system which covers all of the common areas of the building but not limited to hallways, stairwells, and elevators and the upper and lower parking areas, and provide monitors for the Lessee to operate and monitor.

Sec. 30 of the Lease is amended to read as follows:

30. **LESSEE-INSTALLED ITEMS:** All fixtures and/or equipment of whatever nature that are installed in the Premises by the Lessee, whether permanently affixed or otherwise, shall continue to be the property of the Lessee and may be removed by the Lessee at any time, provided however, that the Lessee shall, at its own expense, repair any injury to the Premises resulting from such removal. However any conduit or wiring installed by the Lessee shall remain. Notwithstanding the foregoing, Lessee may not raze and replace the improvements or make any alterations whose cost exceeds \$5,000 without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, conditioned, or delayed.

Sec. 31 of the Lease is amended to read as follows:

31. **RESTORATION LIABILITIES:** Lessee agrees to leave the Premises at the expiration or termination of this Lease in as good a condition as when first occupied under this Lease, except for reasonable wear and tear and loss or damage caused by fire, explosions, earthquakes, acts of God, or other casualty. At the termination of the Lease, the Lessee is not required to restore the Premises to their condition before the Lessor or Lessee made the improvements required for the Lessee to occupy the Premises under the Lease.

Sec. 33 of the Lease is amended to read as follows:

33. **REMEDIES ON DEFAULT:** If the Lessee shall at any time be in default in the payment of rent, or in the performance of any of the terms of the Lease and shall fail to remedy such default within thirty (30) days after written notice of the default from the Lessor, the Lessor may retake possession of the Premises by an unlawful detainer action or other lawful means, and the Lease will terminate, without prejudice, however, to the right of the Lessor to recover from the Lessee all rent due up to the time of such entry. In case of any default and entry by the Lessor, the Lessor shall relet the Premises for the remainder of the term for the highest rent obtainable and may recover from the Lessee any deficiency between the amount obtained by reletting and the rent specified by the Lease.

If the Lessor shall at any time be in default in the performance of any of the terms or obligations of the Lessor under this Lease, the Lessee may fix the problem involved and deduct the cost, including administrative costs, from the rent, if the Lessor fails to fix the problem after Lessee notifies the Lessor in writing of the default. Upon such notice, Lessor shall cure the default within a reasonable time as defined in Section 49, or if the default cannot reasonably be cured within a reasonable time, then Lessor shall commence the cure within such reasonable time and prosecute it diligently until completion. If Lessor fails to so act, then it shall be in default and Lessee may elect its remedies for default. If the Lessee chooses not to fix the problem or cannot fix the problem, the Lessee may deduct from the rent the Lessee's damages, which are to be determined by the Lessee's Supply Officer. When deducting damages under this sentence, "damages" means either (1) the costs (including administrative costs) of alleviating or adjusting to the problem, or (2) the diminution of the value of the Lease to the Lessee caused by the Lessor's default. Instead of pursuing the other remedies provided by this paragraph, if the Lessor fails to correct a default within the time set forth herein after receiving written notification of the default from the Lessee, the Lessee may terminate the Lease by giving 30 days written notice of the termination to the Lessor and may recover damages from the Lessor. This paragraph does not apply to a situation covered by Section 28 ("Untenantability") or to the termination allowed under Section 20 ("Wage-Related Requirements").

Sec. 34 of the Lease is amended to read as follows:

34. **INDEMNIFICATION:** The Lessor shall indemnify, save harmless, and defend the Lessee, and its officers, agents and employees from liability of any nature or kind, including costs, attorney fees, and other expenses, for or on account of any and all legal actions or claims of any character whatsoever resulting from injuries or damages sustained by any person or persons or property as a result of any error, omission, or negligence, of the Lessor that occurs on or about the rental Premises or that relates to the Lessor's performance of its lease obligations.

Sec. 35 of the Lease is amended to read as follows:

Without limiting Lessor's indemnification, it is agreed that Lessor will purchase at its own expense and maintain in force at all times during the Lease the following policies of insurance:

The requirements contained herein, as well as Lessee's review or acceptance of insurance maintained by Lessor is not intended to, and shall not in any manner, limit or qualify the liabilities or obligations assumed by Lessor under this Lease.

Insurance policies required to be maintained by Lessor will name Lessee as additional insured for all coverage except Workers' Compensation and Professional Liability/E&O insurance.

Lessor and its subcontractors agree to obtain a waiver, where applicable, of all subrogation rights against Lessee, its officers, officials, employees and volunteers for losses arising from work performed by the Lessor and its subcontractors for Lessee. However, this waiver shall be inoperative if its effect is to invalidate in any way the insurance coverage of either party.

Where specific limits are shown, it is understood that they will be the minimum acceptable limits. If the Lessor's policy contains higher limits, Lessee will be entitled to coverage to the extent of such higher limits. The coverages and/or limits required are intended to protect the primary interests of Lessee, and the Lessor agrees that in no way will the required coverages and/or limits be relied upon as a reflection of the appropriate types and limits of coverage to protect Lessor against any loss exposure whether a result of this Agreement or otherwise.

Failure to furnish satisfactory evidence of insurance or lapse of any required insurance policy is a material breach and grounds for termination of the Lease.

- a. **Property Insurance:** The Lessor will provide and maintain (with Lessee reimbursement as per Section 4(b)(14):
1. Property insurance in an amount of not less than 100% of the replacement cost of the building(s) and contents, including improvements made on behalf of Lessee. Coverage shall be written on an "all risk" replacement cost basis and include an endorsement for ordinance and law coverage.

2. If the property is located in a floodplain, flood insurance in an amount of not less than 100% of the replacement cost of the building(s) and contents, including improvements made on behalf of Lessee; or the maximum amount available from the National Flood Insurance Program, whichever is less.
- b. Workers' Compensation Insurance: The Lessor will provide and maintain, for all employees of the Lessor engaged in work under the Contract, Workers' Compensation Insurance as required by AS 23.30.045. The Lessor shall be responsible for ensuring that any subcontractor that directly or indirectly provides services under this Lease has Workers' Compensation Insurance for its employees. This coverage must include statutory coverage for all States in which employees are engaging in work and employer's liability protection for not less than \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e., USL & H and Jones Acts) must also be included.
- c. Commercial General Liability Insurance: The Lessor will provide and maintain Commercial General Liability Insurance with not less than \$1,000,000 per occurrence limit, and will include premises-operation, products/completed operation, broad form property damage, blanket contractual and personal injury coverage. Coverage shall not contain any endorsement(s) excluding or limiting contractual liability nor providing for cross liability.
- d. Automobile Liability Insurance: The Lessor will provide and maintain Automobile Liability Insurance covering all owned, hired and non-owned vehicles with coverage limits not less than \$1,000,000 per occurrence bodily injury and property damages. In the event Lessor does not own automobiles, Lessor agrees to maintain coverage for hired and non-owned liability which may be satisfied by endorsement to the CGL policy or by separate Business Auto Liability policy.
- e. Umbrella or Excess Liability: Lessor may satisfy the minimum liability limits required above for CGL and Business Auto under an umbrella or excess Liability policy. There is no minimum per occurrence limit under the umbrella or excess policy; however the annual aggregate limit shall not be less than the highest per occurrence limit stated above. Lessor agrees to endorse Lessee as an additional insured on the umbrella or excess policy unless the certificate of insurance states that the umbrella or excess policy provides coverage on a pure "true follow form" basis above the CGL and Business Auto policy.
- f. Professional Liability Insurance: The Lessor will provide and maintain Professional Liability Insurance covering all errors, omissions or negligent acts of the Lessor, its property managers, subcontractors or anyone directly or indirectly employed by them, made in the performance of this Lease which results in financial loss to the State. Limits required are \$500,000.
- g. Fidelity Bond: The Lessor will provide and maintain a Fidelity Bond in the amount of \$250,000 covering all acts of the Lessor, its property managers, or subcontractors who shall have access or perform work upon the Premises.

- h. Certificates of Insurance Lessor agrees to provide Lessee with certificates of insurance evidencing that all coverages, limits and endorsements as described above are in full force and effect and will remain in full force and effect as required by this Lease. Certificates shall include a minimum thirty (30) day notice to Lessee cancellation or non-renewal. The Certificate Holder address shall read:

Legislative Affairs Agency
State Capitol, Room 3
Juneau, Alaska 99801-1182
Fax (907) 465-2918

Sec. 36 of the Lease is amended to read as follows:

36. **DELAYS IN PERFORMANCE:** If the Lessor delays in providing the Premises to the Lessee in a condition the Lessee determines satisfactorily meets the descriptions provided in the attached Exhibit "A", by the deadline set forth in section 3 and Exhibit "B", the Lessor shall provide a written explanation for the delay in performance. The Lessor may be excused from performance due to unforeseeable causes beyond the control and without fault or neglect of the Lessor. Unforeseeable causes may include, but are not limited to: (1) acts of God, (2) public enemy, (3) acts of the state in its sovereign capacity, (4) acts of another contractor in the performance of a contract with the Lessee, (5) fires, (6) floods, (7) quarantine restrictions for epidemics, (8) strikes, (9) freight embargoes, (10) unusually severe weather conditions, and (11) delays unusual in nature by subcontractors or suppliers. Notification of such delays must be made to the Lessee's Procurement Officer in writing within ten (10) days of the commencement of the unforeseeable cause. The Procurement Officer shall ascertain the facts and the extent of delay and the extent of the time for completing the project. The Procurement Officer may approve up to four (4) thirty (30) day extensions if, in the Procurement Officer's judgement, the findings of fact justify an extension. The cause of the extension need not be unforeseeable to justify an extension. The Lessor shall provide written explanation for the delay in performance after the exhaustion of each extension. The Procurement Officer may terminate the Lease at any time after the four (4) thirty (30) day extensions if the Lessor has not provided the Premises to the Lessee in a condition the Lessee determines satisfactorily meets the descriptions provided in the attached Exhibit "A" by the deadline set in Exhibit "B". Pending final decision on an extension of time under this section, the Lessor shall proceed diligently with the performance of the Lease. Inability to comply with state or municipal construction or zoning laws or ordinances or restrictive covenants shall not be regarded as an unforeseeable cause. To terminate the Lease under this section, the Procurement Officer shall provide notice by e-mail or delivery of hard copy to the Lessor, whichever method is selected in the sole discretion of the Procurement Officer. The Procurement Officer shall provide thirty (30) days notice before terminating this Lease.

Sec. 37 of the Lease is amended to read as follows:

37. **HOLDING OVER:** At the Lessee's sole discretion, prior to the Lease expiration, the Lessee may provide a one hundred eighty (180) day written notice to the Lessor informing the Lessor that the Lessee wishes to hold over following the end of the Lease Term. Such election for a holdover shall be not less than six months in duration and not more than one year in duration following the end of the Lease Term. Base Monthly Rental for the Holdover Period shall be as was in effect at the end of the Lease Term plus the applicable Base Monthly Rental adjustment set forth in Section 1(d). Only one holdover election shall be allowed. All other terms and conditions specified by the Lease remain the same.

Sec. 39 of the lease (as amended by Lease Amendment #2 and Renewal # 1 (2009-2010) signed 3/11/2009) is amended as follows:

Delete all content beginning with the second paragraph which begins "The Lessor consents to the Lessee's assignment..."

Sec. 41 of the Lease is amended to read as follows:

41. **USE OF LOCAL FOREST PRODUCTS:** AS 36.15.010 requires that in a project financed by State money in which the use of timber, lumber, and manufactured lumber projects is required, only timber, lumber, and manufactured lumber products originating in this State from local forests shall be used wherever practicable. Therefore, if construction, repair, renovation, redecoration, or other alteration is to be performed by the Lessor to satisfy this Lease, the Lessor must use, wherever practical, timber, lumber, and manufactured lumber products originating in the State from local forests and only products manufactured, produced, or harvested in the state may be purchased if the supplies are competitively priced, available, and of like quality compared with products manufactured, produced, or harvested outside the state.

Sec. 42 of the Lease is amended to read as follows:

42. **LEASE AMENDMENTS:** In addition to any other amendment the parties may be allowed to make under the Lease, the terms of the Lease entered into may be amended by mutual agreement of the parties, if the Lessee determines that the amendment is in the best interests of the Lessee.

Sec. 43 of the Lease is amended to read as follows:

43. **AUTHORIZATION; CERTIFICATION:** Authority for the Chairman of Legislative Council to execute this Lease was authorized by a majority of the members of the Alaska Legislative Council at a meeting on June 7, 2013.

Funds are available in an appropriation to pay for the Lessee's monetary obligations under the Lease through June 30, 2015. The availability of funds to pay for the Lessee's monetary obligations under the Lease after June 30, 2015, is contingent upon appropriation of funds for the particular fiscal year involved. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs Agency Executive Director, sufficient funds are not appropriated by the

Legislature, the Lease will be terminated by the Lessee or amended. To terminate under this section, the Lessee shall provide written notice of the termination to the Lessor. The Executive Director will include a budget request to cover the obligations of Lessee in the proposed budget as presented to the Legislative Council for each lease year as a component of Lessee's normal annual budget request and approval process.

The Lease is amended by adding new sections to read as follows:

46. **HUMAN TRAFFICKING:** By the Lessor's signature on this Lease, the Lessor certifies that the Lessor is not headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

In addition, if the Lessor conducts business in, but is not headquartered in, a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report, a certified copy of the Lessor's policy against human trafficking must be submitted to the Agency prior to contract award.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/g/tip/rls/tiprpt>.

If the Lessor is or becomes headquartered in a Tier 3 country, or fails to comply with this Section 46 ("Human Trafficking"), the Lessee may terminate the Lease.

47. **OPTION TO EXTEND LEASE:** The Lessee may exercise an option under this section 47 to extend, as provided by AS 36.30.083, the Lease for up to 10 years following the end of the expiring lease term. To exercise this option, the Lessee shall give notice to the Lessor at least six (6) months before the end of the Lease of the Lessee's intent to negotiate with the Lessor to extend the Lease under AS 36.30.083. The Lessor shall respond within thirty (30) days to the Lessee stating whether the Lessor intends to negotiate an extension under AS 36.30.083 with the Lessee.

48. **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT (SNDA):**

- a. **Mortgages.** This Lease is subordinate to prior or subsequent mortgages covering the Premises. Lessor shall obtain from Lessor's mortgage lender for the Premises an agreement that in the event of a foreclosure by Lessor's lender, this Lease shall stay in effect and Lessee's quiet enjoyment shall not be disturbed so long as it is not in default.
- b. **Foreclosures.** If any mortgage is foreclosed, then:
 1. This Lease shall continue; and Lessee's quiet possession shall not be disturbed if Lessee is not in default;
 2. Lessee will attorn to and recognize the mortgagee or purchaser at a foreclosure sale ("Successor Lessor") as Lessee's lessor for the remaining Term; and

3. The Successor Lessor shall not be bound by:

- i. any payment of Rent or Additional Rent for more than one month in advance, except as specified in the Lease;
 - ii. any amendment, modification, or ending of this Lease without Successor Lessor's consent after the Successor Lessor's name is given to Lessee unless the amendment, modification, or ending is specifically authorized by the original Lease and does not require Lessor's prior agreement or consent; and
 - iii. any liability for any act or omission of a prior Lessor.
- c. **Notice.** Lessee shall give notice to mortgagee of any claim of default under the Lease and allow mortgagee at least thirty (30) days to cure the default prior to terminating the Lease. Lessor and such mortgagee shall provide Lessee with a notice address for this purpose.
- d. **Self-Operating.** These provisions are self-operating. However, Lessee shall promptly execute and deliver any documents needed to confirm this arrangement and such other commercially reasonable terms as required by a mortgagee provided such document also confirms Lessee's right of non-disturbance so long as it is not in default.
- e. **Estoppel Certificate.**
- 1. **Obligation.** Either party ("Answering Party") shall from time to time, within ten (10) business days after receiving a written request by the other party (Asking Party), execute and deliver to the Asking Party a written statement. This written statement, which may be relied upon by the Asking Party and any third party with whom the Asking Party is dealing shall certify: (i) the accuracy of the Lease document; (ii) the Beginning and Ending Dates of the Lease; (iii) that the Lease is unmodified and in full effect or in full effect as modified, stating the date and nature of the modification; (iv) whether to the answering Party's knowledge the Asking Party is in default or whether the Answering Party has any claims or demands against the Asking Party and, if so, specifying the default, claim, or demand; and (v) to other correct and reasonably ascertainable facts that are covered by the Lease terms.
 - 2. **Remedy.** The Answering Party's failure to comply with its obligation shall be a default. The cure period for this Default shall be ten (10) business days after the Answering Party receives notice of the default.

49. **DEFINITIONS:**

"commercially reasonable regular schedule" per Section 4 (a) 7 is defined as professional carpet cleaning performed at least once every six (6) months or sooner if the carpeting and walk-off mats show excessive soiling or staining.

"final acceptance and occupancy" is defined as the date that the Lessee takes occupancy of the renovated Premises. This date is related to the lease agreement only and shall not be confused with terms such as substantial completion, partial completion, or other terminology that is directly related to Exhibit "A" and Exhibit "B".

"reasonable time" per Section 33 is defined as follows with respect to the Lessor's obligations as described under Section 4 and more specifically, to the Lessor's responsibility to ensure uninterrupted service to the Premises:

- a. any interruption in a critical building service that immediately and substantially interferes with the Lessee's ability to use the Premises and that is under the control of Lessor including but not limited to items in Section 4 (a) 1 and 2 or any failure or interruption in HVAC, plumbing, water, sewer, electricity, elevators, or fire safety; the Lessor shall commence repairs/restoration as soon as notified and shall endeavor to restore services or temporary substitute services within a "reasonable time" of 24 hours.
- b. ordinary maintenance requests per Sections 4 (a) 3, 4, 6, 7, 8, 9, 10, and 11; the Lessor shall commence work as soon as possible and shall complete the work within a "reasonable time" of thirty (30) days.
- c. extraordinary maintenance requests per Section 4 (a) 5; the Lessor shall commence work within ninety (90) days and shall diligently pursue the work to completion.

"reasonably required" per Section 4 (a) 5, Section 9, and Section 12 – is defined as the time the carpeting or other floor coverings, paint, or casework is no longer in good condition or repair and in the Lessee's opinion is in need of repair or replacement.

50. **INCORPORATION:**

The following documents are incorporated by reference and form a material part of this into this Extension of Lease and Lease Amendment No. 3:

Exhibit "A" LIO Approval Plans (plans, drawings, technical specifications).

Exhibit "B" Project Schedule

Exhibit B-1 Interim Occupancy Schedule

Exhibit "C" Written determination by the Procurement Officer regarding the procurement process leading to this Extension of Lease and Lease Amendment No. 3.

Exhibit "D" Executive Director's Cost Saving Calculation and Report to the Legislative Budget and Audit Committee per AS 36.30.083(b).

51. **AGREEMENT IN ITS ENTIRETY:**

The Lease represents the entire understanding between the parties. No prior oral or written understandings shall have any force or effect with respect to any matter covered in the Lease or in interpreting the Lease. The Lease shall only be modified or amended in writing.

51. AGREEMENT IN ITS ENTIRETY:

The Lease represents the entire understanding between the parties. No prior oral or written understandings shall have any force or effect with respect to any matter covered in the Lease or in interpreting the Lease. The Lease shall only be modified or amended in writing.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423463

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Robert B. Acree Date
Member

 9/19/13

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Mark E. Pfeiffer Alaska Trust UTAD 12/28/07

Alana Williams date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer


IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

By its Member:

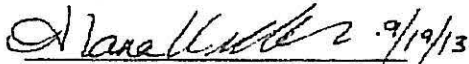


Mark E. Pfeffer 9/19/13 Date
Manager
Tax Identification No.: 46-3882212
Business License No.: 423463

Robert B. Acree Date
Member

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:
Mark E. Pfeffer Alaska Trust UTAD 12/28/07



Alana Williams 9/19/13 Date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY

APPROVED AS TO FORM:

Pamela A. Vami Date
Executive Director
Legislative Affairs Agency

Legal Counsel Date

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423463

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

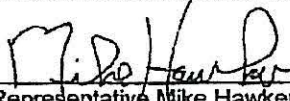
Robert B. Acree Date
Member

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:
Mark E. Pfeffer Alaska Trust UTAD 12/28/07

Alana Williams Date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

 9.19.13

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY

APPROVED AS TO FORM:

Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

Legal Counsel Date

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423463

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Robert B. Acree Date
Member

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:
Mark E. Pfeffer Alaska Trust UTAD 12/28/07

Alana Williams Date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY

Pamela A. Varni 9/19/13
Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

APPROVED AS TO FORM:

Legal Counsel Date

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423463

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Robert B. Acree Date
Member

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:
Mark E. Pfeffer Alaska Trust UTAD 12/28/07

Alana Williams Date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY

Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

APPROVED AS TO FORM:

Legal Counsel Date
9-19-13

CERTIFYING AUTHORITY

APPROVED AS TO FORM:

Pamela A. Varni
Executive Director
Legislative Affairs Agency

Date

Legal Counsel

Date

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, MARK E. PFEFFER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that they had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires: _____

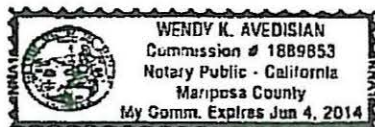
STATE OF ~~ALASKA~~ ^{California})
) ss.
THIRD JUDICIAL DISTRICT)

County of Mariposa

THIS IS TO CERTIFY that on this 19 day of September, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires: 6/4/14



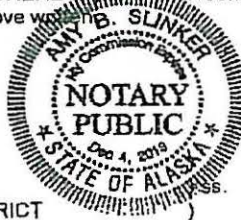
STATE OF ALASKA

)
) ss.
)

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this 19th day of September, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, MARK E. PFEFFER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that they had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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



Amy B. Slinker
Notary Public in and for Alaska
My commission expires: 12/4/13

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this _____ day of _____, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires: _____

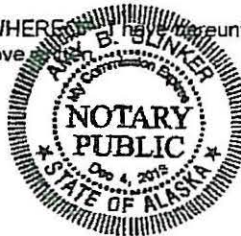
STATE OF ALASKA

)
) ss.
)

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this 19th day of September, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ALANA WILLIAMS, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of MARK E. PFEFFER ALASKA TRUST UTAD 12/28/07, and who acknowledged to me that she had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

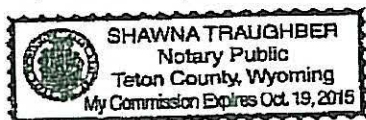


Amy B. Slinker
Notary Public in and for Alaska
My commission expires: 12/4/13

Wyoming
STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 19th day of September, 2013, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared REPRESENTATIVE MIKE HAWKER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and he acknowledged to me that he executed the foregoing Lease as the free and voluntary act and deed of his principal for the uses and purposes therein set forth.

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



Shawna Traughber
Notary Public in and for Alaska - Wyoming
My commission expires: 10/19/2015

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 2013, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the EXECUTIVE DIRECTOR of the STATE OF ALASKA LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing instrument as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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

Notary Public in and for Alaska
My commission expires: _____

FOR RECORDING DISTRICT OFFICE USE ONLY:
No Charge - State Business

After recording return to:
Tina Strong, Supply Officer
Legislative Affairs Agency
State Capitol, RM 3
Juneau, AK 99801-1182

)

SS.

)

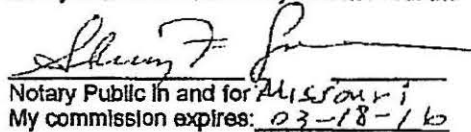
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day, month and year first above written.

My commission expires:

1

ss.

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



No Charge - State Business

Page 22 of 22

EXHIBIT A – LIO

APPROVAL PLANS

Dec 9/19/13

Exhibit A – LIO Architectural Plans

See 9/19/17

PFEFFER DEVELOPMENT 716 W 4TH AVE. Renovation

09.17.2013

ANCHORAGE, ALASKA



CIVIL ENGINEER

ERSC ENGINEERING
11301 OLIVE LANE
ANCHORAGE, ALASKA 99518
Ph: 907.222.1005 Fax: 907.222.5210

STRUCTURAL ENGINEER

REID MIDDLETON, INC.
4300 B STREET SUITE 503
ANCHORAGE, ALASKA 99503
Ph: 907.563.3436 Fax: 907.561.5319

MECHANICAL ENGINEER

RSA ENGINEERING, INC.
2522 ARCTIC BOULEVARD, SUITE 200
ANCHORAGE, ALASKA 99503
Ph: 907.276.0531 Fax: 907.276.1751

ELECTRICAL ENGINEER

ESC ENGINEERS
6027 OLD SEWARD HWY
ANCHORAGE, ALASKA 99518
Ph: 907.349.9712 Fax: 907.349.9713

DEVELOPER

PFEFFER DEVELOPMENT, LLC
425 G STREET, SUITE 210
ANCHORAGE, ALASKA 99501
Ph: 907.648.4844 Fax: 907.648.4855

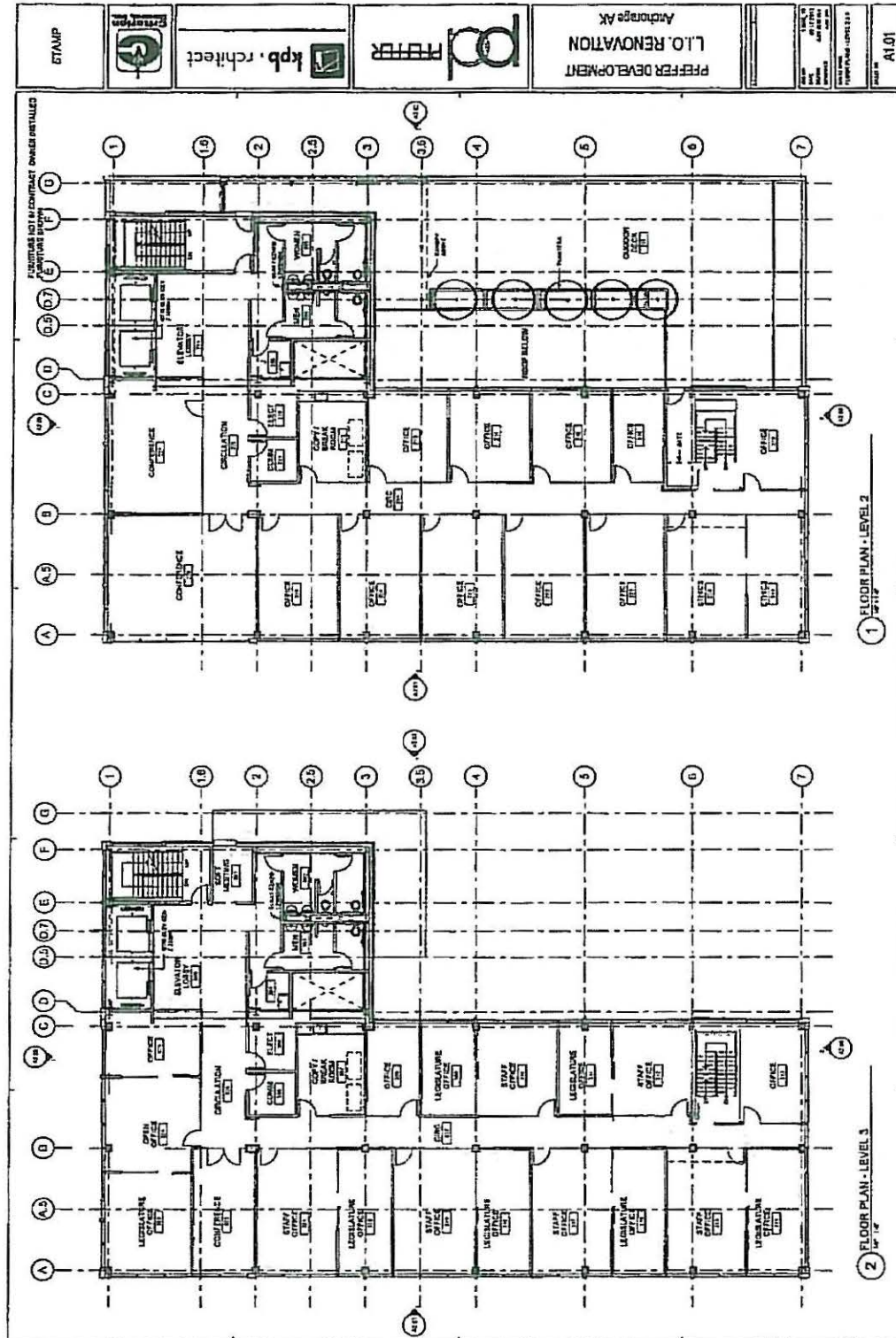
CONTRACTOR / TEAM LEAD

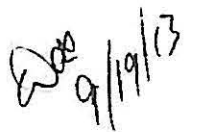
CRITERION GENERAL, INC.
2820 COMMERCIAL DRIVE
ANCHORAGE, ALASKA 99501
Ph: 907.277.3200 Fax: 907.272.9544

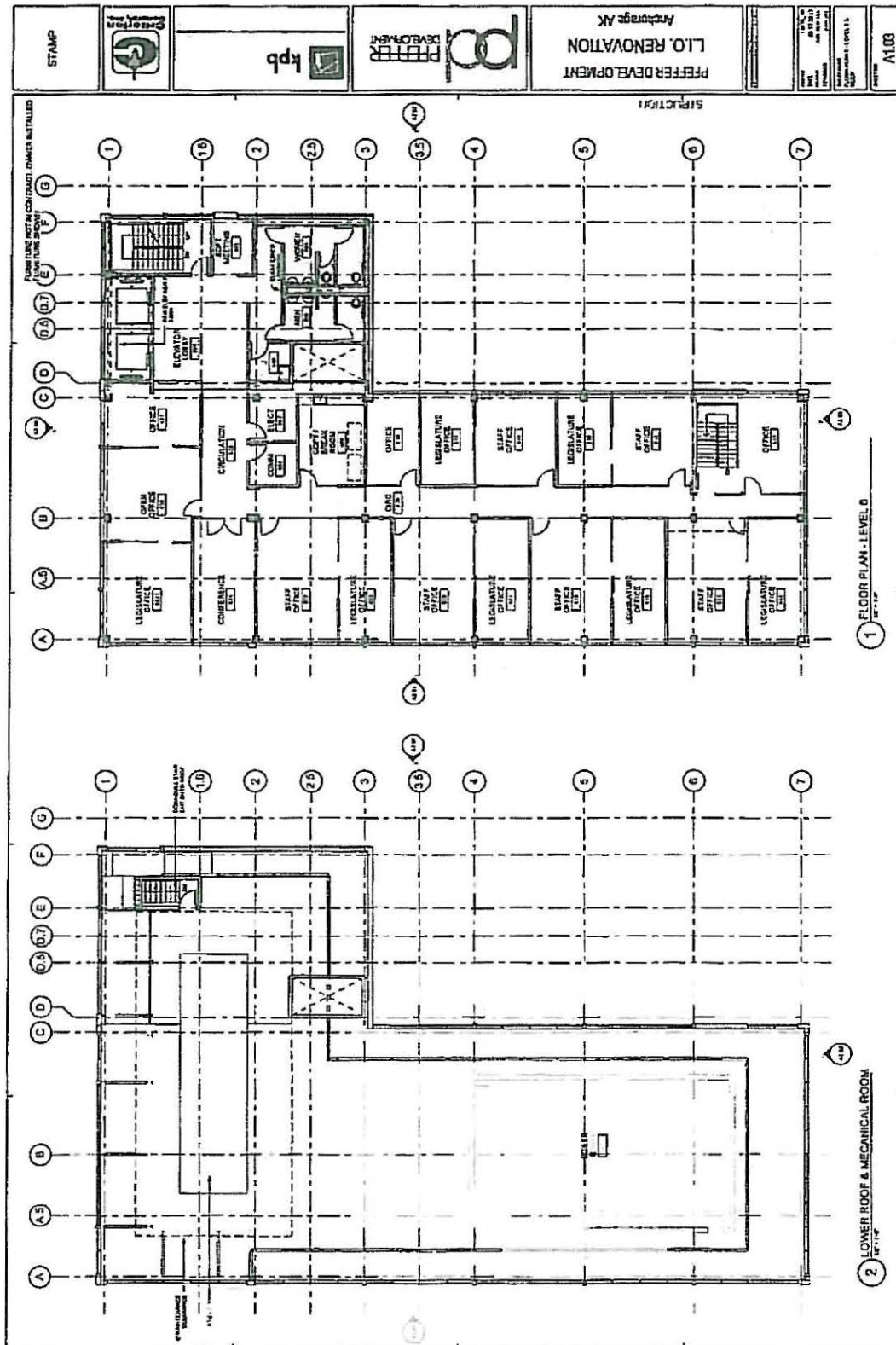
ARCHITECT

hps architects
425 G STREET, SUITE 600
ANCHORAGE, ALASKA 99501
Ph: 907.274.7443 Fax: 907.274.7497

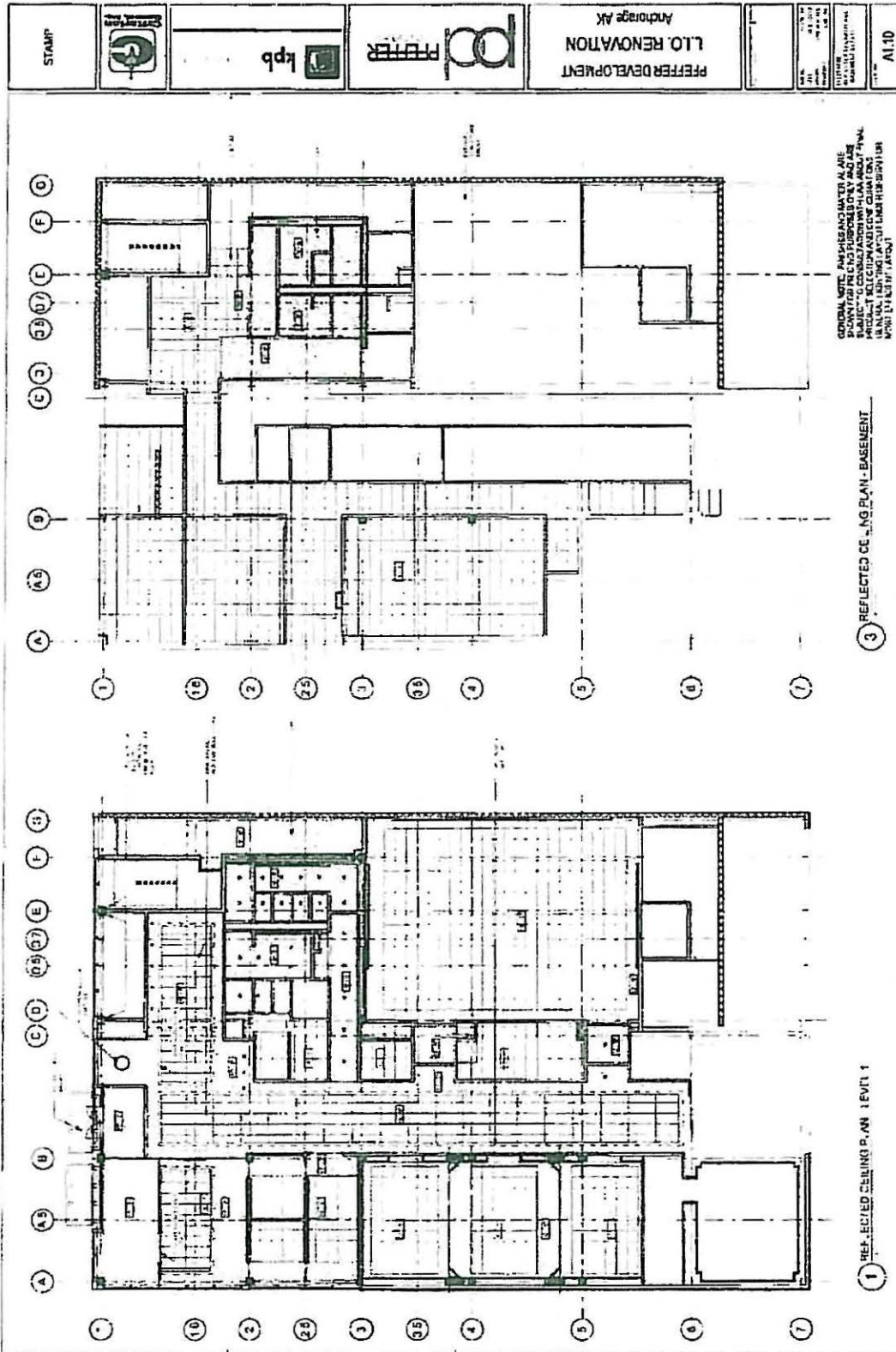
9/19/13



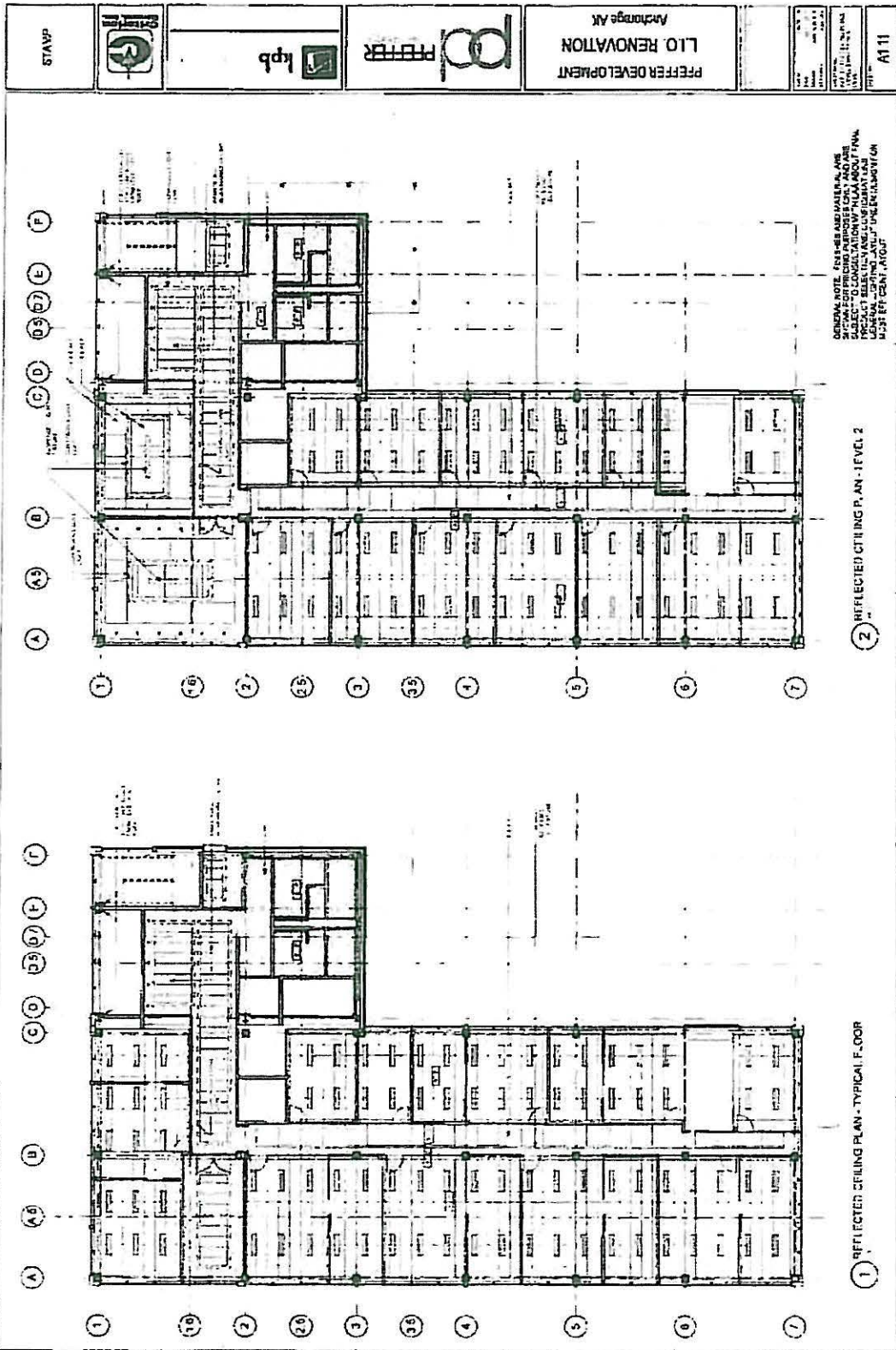




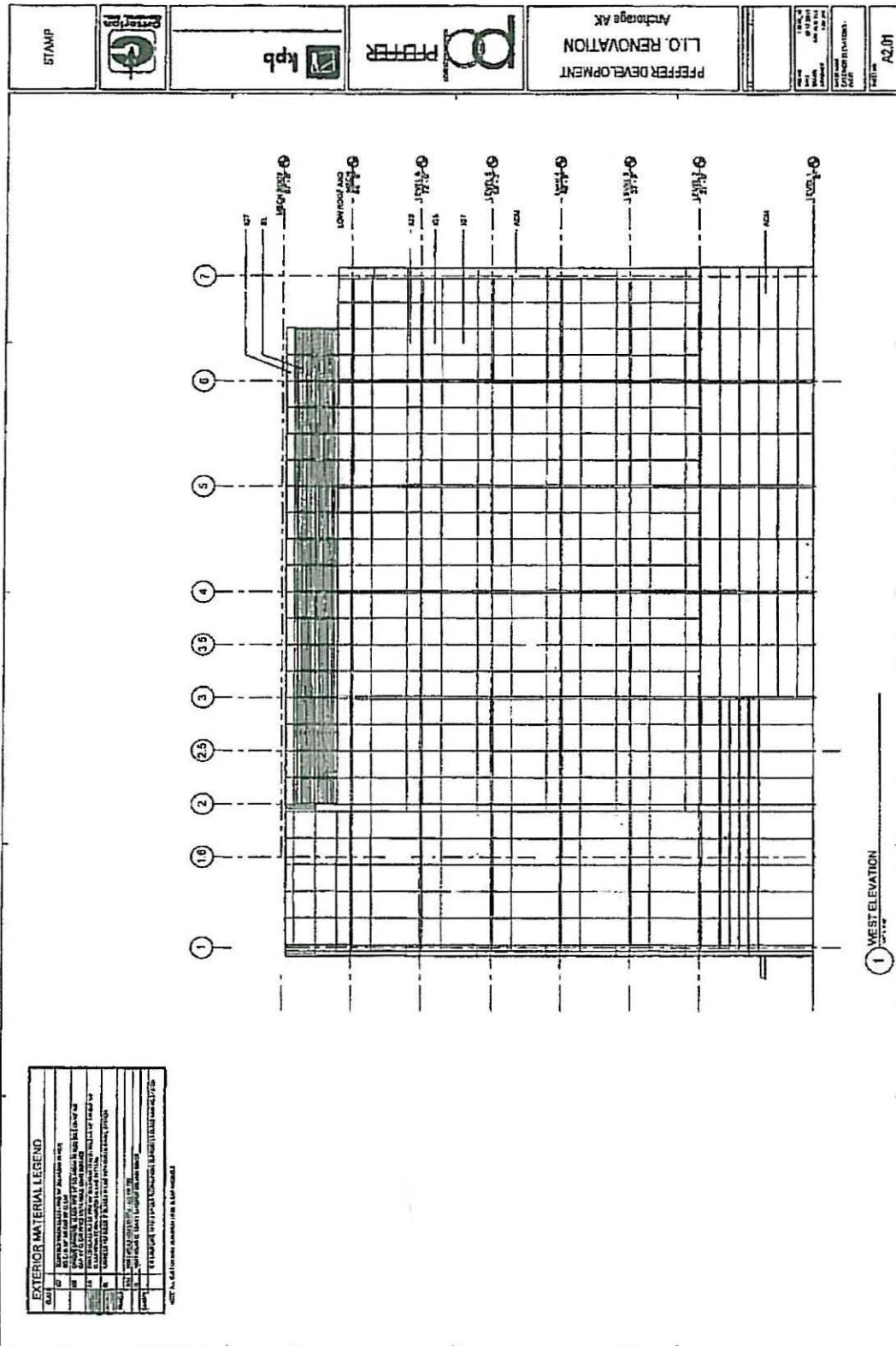
2009
9/19/10

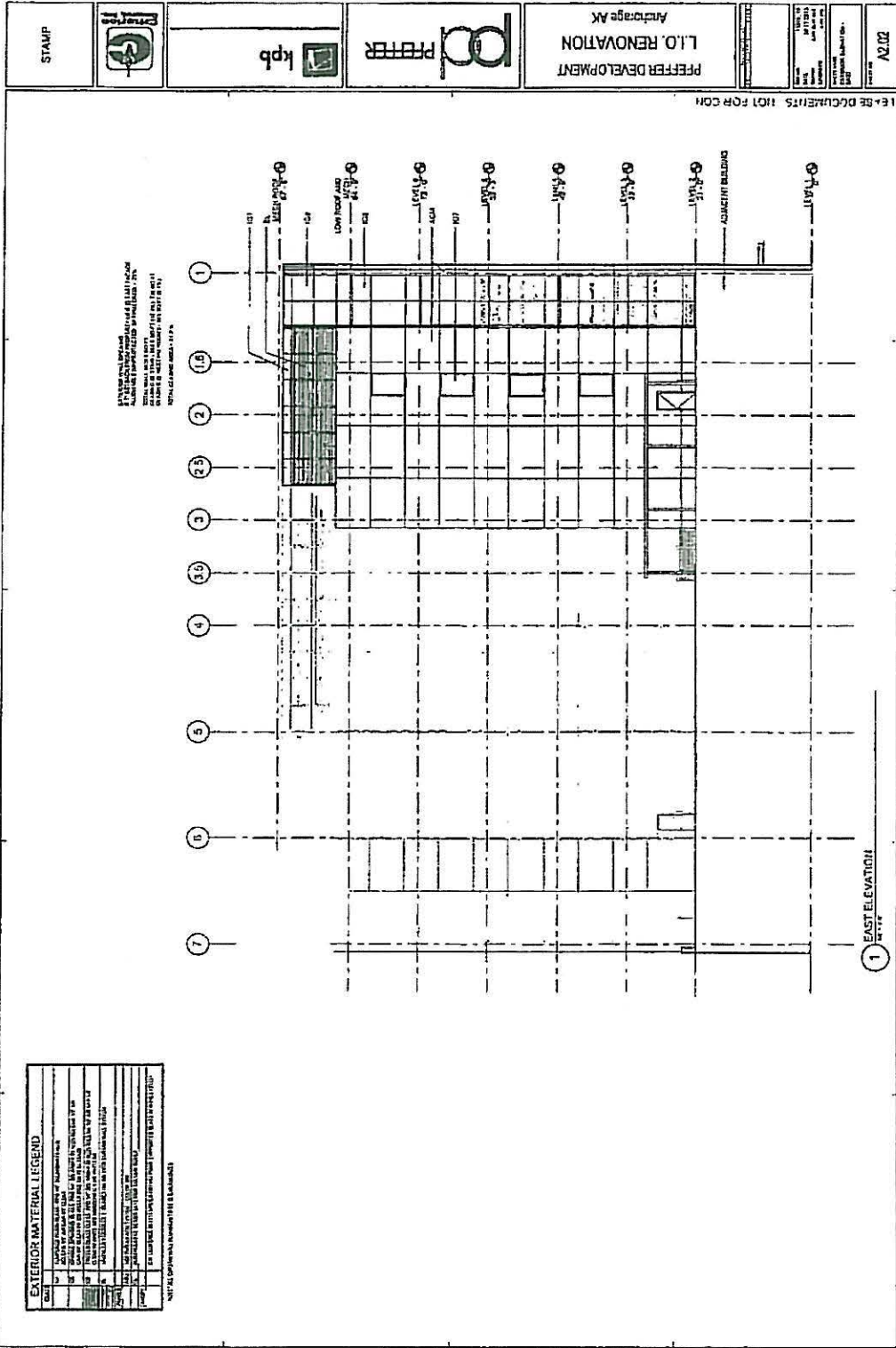


2-06
9/19/13



Vol
9/19/15





**LEGISLATIVE INFORMATION OFFICE RENOVATION
WEST 4TH AVENUE**

LEGAL

ORIGINAL TOWN SITE SUBDIVISION; LOTS: 2 AND 3A
LOT SIZES COMBINED: 0.71 ACRES
ZONE: B2B

BLOCK: 40 LOT 2 W39.5' (712 W. 4TH AVE.)
LOT SIZE: 5,135 SF
TAX CODE: 002-105-26-000
GRID NO: SW1230

BLOCK: 40 LOT 3A (716 W 4TH AVE)
LOT SIZE: 25,994 SF
TAX CODE: 002-105-49-000
GRID NO: SW1230

IBC 2009, IEBC 2009, IFC 2009

CHAPTER 3 – USE AND OCCUPANCY CLASSIFICATION

304.1 ASSEMBLY GROUP A-3, BUSINESS GROUP B, TENANT STORAGE ROOM GROUP S-1

CHAPTER 4 – SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY

405.3 AUTOMATIC SPRINKLER SYSTEM. THE HIGHEST LEVEL OF AN EXIT DISCHARGE SERVING THE UNDERGROUND PORTIONS OF THE BUILDING AND ALL LEVELS BELOW SHALL BE EQUIPPED WITH AN AUTOMATIC SPRINKLER SYSTEM INSTALLED IN ACCORDANCE WITH SECTION 903.3.1.1. WATER-FLOW SWITCHES AND CONTROL VALVES SHALL BE SUPERVISED IN ACCORDANCE WITH SECTION 903.4.

CHAPTER 5 – GENERAL BUILDING HEIGHTS AND AREAS

TABLE 503 ALLOWABLE BUILDING HEIGHTS AND AREAS

OCCUPANCY:	A-3/B/S-1
CONSTRUCTION TYPE:	TYPE II A
BUILDING HEIGHT:	5 STORIES + 1 PER HEIGHT INCREASE (504.2) 6 STORIES ACTUAL BUILDING HEIGHT 6 TH LEVEL FLOOR 64'-6" + 20 FEET INCREASE (504.2)
BUILDING AREA:	A-3/B/S-1 (GROSS) 11,140 SF BASEMENT 11,549 SF FIRST FLOOR

1 A11076.01

QW 9/19/13

7,968 SF FLOORS 2-6
1,659 SF MECHANICAL PENTHOUSE
64,188 SF ACTUAL GROSS

506.1 BUILDING AREA MODIFICATIONS

ALLOWABLE AREA = $37,500 + [37,500 \times .75] = 65,625$ SF/FLOOR (OK)

$LF = [363.75 / 363.75 - .025] \times 30 / 30 = .75$

TABLE 508.2.5 INCIDENTAL ACCESSORY OCCUPANCIES

MECHANICAL ROOM – 1 HOUR OR PROVIDE AUTOMATIC FIRE-EXTINGUISHING SYSTEM.

508.2.5.2 NONFIRE-RESISTANCE-RATED SEPARATION AND PROTECTION. WHERE TABLE 805.2.5 ALLOWS FOR AUTOMATIC FIRE-EXTINGUISHING SYSTEM IN LIEU OF 1-HOUR FIRE BARRIER INCIDENTAL ACCESSORY OCCUPANCIES SHALL BE SEPARATED FROM THE BUILDING BY CONSTRUCTION CAPABLE OF RESISTING THE PASSAGE OF SMOKE.

TABLE 508.4 REQUIRED SEPARATIONS OF OCCUPANCIES

NO FIRE BARRIER OR HORIZONTAL ASSEMBLY CONSTRUCTED IS REQUIRED BETWEEN:
A-3, B AND S-1 OCCUPANCIES.

CHAPTER 6 – TYPES OF CONSTRUCTION

TABLE 601 FOR TYPE II A CONSTRUCTION

PRIMARY STRUCTURE:	1 HOUR
BEARING WALLS EXTERIOR:	1 HOUR
BEARING WALLS INTERIOR:	1 HOUR
NON-BEARING WALLS EXTERIOR:	1 HOUR AT GREATER THAN OR EQUAL TO 30 FEET (TABLE 602)
NON-BEARING WALLS INTERIOR:	0 HOUR
FLOOR CONSTRUCTION:	1 HOUR
ROOF CONSTRUCTION:	1 HOUR

CHAPTER 7 – FIRE AND SMOKE PROTECTION FEATURES

TABLE 705.8 MAXIMUM AREA OF OPENINGS

EAST WALL AT PROPERTY LINE:	NO OPENINGS PERMITTED
EAST WALL AT SETBACK:	25% GREATER THAN 5' TO 10'
WEST WALL:	UNLIMITED
NORTH WALL:	UNLIMITED
SOUTH WALL AT ALLEY:	UNLIMITED

708 SHAFT ENCLOSURES

2 A11076.01

See
9/19/13

708.4 FIRE-RESISTANCE RATING

2 HOUR FIRE-RESISTANCE RATING (6 STORY BUILDING)

708.14.1 EXCEPTION 4. ENCLOSED ELEVATOR LOBBIES ARE NOT REQUIRED WHERE THE BUILDING IS PROTECTED BY AN AUTOMATIC SPRINKLER SYSTEM INSTALLED IN ACCORDANCE WITH SECTION 903.3.1.1 OR 903.3.1.2.

715 OPENING PROTECTIVES

TABLE 715.4 FIRE DOOR AND FIRE SHUTTER FIRE PROTECTION RATINGS:

FIRE PARTITION OR CORRIDOR WALLS:

1 HOUR ASSEMBLY RATING: ¾ HOUR MINIMUM

2 HOUR ASSEMBLY RATING: 1.5 HOUR MINIMUM

FIRE BARRIERS:

1 HOUR ASSEMBLY RATING: ¾ HOUR MINIMUM

2 HOUR ASSEMBLY RATING : 1.5 HOUR MINIMUM

715.4.3.2 GLAZING IN DOOR ASSEMBLIES: IN A 20-MINUTE FIRE DOOR THE GLAZING MATERIAL IN THE DOOR ITSELF SHALL HAVE A MINIMUM FIRE-PROTECTION-RATED GLAZING OF 20 MINUTES. NFPA 257 OR UL 9.

TABLE 715.5 FIRE WINDOW ASSEMBLY FIRE PROTECTION RATINGS:

FIRE BARRIERS WITH GREATER THAN 1 HR.: NP

FIRE BARRIERS WITH 1 HOUR RATING: ¾ HOUR MINIMUM

FIRE PARTITIONS WITH ½ HOUR RATING: 1/3 HOUR MINIMUM

FIRE PARTITION WITH 1 HOUR RATING: 3/4 HOUR MINIMUM

PARTY WALLS: NP

716 DUCTS AND AIR TRANSFER OPENINGS

TABLE 716.3.2.1 FIRE DAMPER RATING: 1.5 HR. MINIMUM DAMPER RATING FOR PENETRATIONS OF 3 HR. OR LESS FIRE-RESISTANCE RATED ASSEMBLIES.

CHAPTER 9 - FIRE PROTECTION SYSTEMS

903 OCCUPANCY B/S-1: AN AUTOMATIC SPRINKLER SYSTEM INSTALLED IN ACCORDANCE WITH SECTION 903 SHALL BE PROVIDED.

905.3.1 REQUIRED INSTALLATION. CLASS I STANDPIPE SYSTEM WILL BE INSTALLED PER EXCEPTION 1.

See
9/19/13

906 PORTABLE FIRE EXTINGUISHERS

TABLE 906.3 MAXIMUM TRAVEL DISTANCE TO EXTINGUISHER = 75 FEET

907 FIRE ALARM AND DETECTION SYSTEMS

907.2.2 GROUP B/S-1. FIRE ALARM SYSTEMS AND SMOKE ALARMS SHALL BE PROVIDED.

907.2.9.1 MANUAL FIRE ALARM SYSTEM. IS PROVIDED ALONG WITH A AN AUTOMATIC SPRINKLER SYSTEM AND THE OCCUPANT NOTIFICATION APPLIANCES WILL AUTOMATICALLY ACTIVATE THROUGHOUT THE NOTIFICATION ZONES UPON A SPRINKLER WATER FLOW.

CHAPTER 10 - MEANS OF EGRESS

1004 OCCUPANT LOAD (USABLE)

BASEMENT: 9,806 SF <i>MINIMUM)</i>	A-3	891 SF/15=60 OCCUPANTS (EGRESS WIDTH .2 X 60=12"
	B	3,631 SF/100=36 OCCUPANTS (EGRESS WIDTH .2 X 36=7.2"
	MECH	1,393 SF/300=5 OCCUPANTS
	S-1	3,561 SF/300=12 OCCUPANTS
LEVEL 1: 10,374 SF <i>MINIMUM)</i>	A-3	3,227 SF/15=215 OCCUPANTS (EGRESS WIDTH .2 X 215=43"
	B	6,179 SF/100=62 OCCUPANTS
	MECH	308 SF/300=1 OCCUPANT
	S-1	660 SF/300=7 OCCUPANTS
LEVEL 2-6:	B	6,964 SF /100=70 OCCUPANTS X 5=350 OCCUPANTS (EGRESS WIDTH .3 X 70=21" MINIMUM PER FLOOR)
ROOF:	PENT	1,442 SF/300=5 OCCUPANTS

TOTAL BUILDING OCCUPANT LOAD=753

TABLE 1016.1 EXIT ACCESS TRAVEL DISTANCE:

B/S-1	300 FT SPRINKLERED
A	250 FT

TABLE 1018.1 CORRIDOR FIRE-RESISTANCE RATING:

A/B/S-1:	0 SPRINKLERED
----------	---------------

1018.4 DEAD END CORRIDOR:

B/S-1:	50 FT SPRINKLERED
A:	20 FT SPRINKLERED

4 A11076.01

Doc
9/14/13

TABLE 1021.1 MINIMUM NUMBER OF EXITS. 2 REQUIRED

1022.1 ENCLOSURES REQUIRED EXIT STAIRWAYS ARE CONSTRUCTED IN ACCORDANCE WITH SECTION 707. THE FIRE-RESISTANCE RATINGS ARE 2 HOURS.

CHAPTER 11 - ACCESSIBILITY

DUE TO THE EXISTING CONDITIONS OF THIS 1969 BUILDING, NOT ALL ACCESSIBILITY COMPONENTS FOR NEW CONSTRUCTION CAN BE ACHIEVED.

1104.1 SITE ARRIVAL POINTS: THE BUILDING IS ACCESSIBLE FROM ARRIVAL POINTS ON THE EXISTING SITE.

1105.1 PUBLIC ENTRANCE: THE ENTRY POINTS ARE ACCESSIBLE.

1105.1 PUBLIC ENTRANCE: MODIFIED ACCESSIBLE ELEMENTS ARE PROVIDED ON EACH FLOOR. DUE TO EXISTING STRUCTURAL LIMITATION NOT ACCESSIBLE ROUTES AND CLEARANCES ARE ACHIEVABLE.

CHAPTER 29 - PLUMBING SYSTEMS

TABLE 2902.1

753/2=377 M&W

	MEN	WOMEN	REQUIRED	PROVIDED
<u>BUSINESS</u>				
WATER CLOSETS				
1 PER 25 FIRST 50	2	2		
1 PER 50 BALANCE	7	7		
TOTAL	9 *A (3)	9	3 M 9 W	9 M 17 W
URINALS (.67% OF WC'S)*A	6		6 M	9 M
LAVATORIES	5	5	5 M 5 W	15 M 16 W
DRINKING FOUNTAINS			8	7 (+ WATER SERVICE STATIONS)
SERVICE SINK			1	5

*Doc
9/19/13*

LLO – Architectural Narrative

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Conference Areas

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Elevator Lobby – level one

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Elevator Lobbies – typical floors

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Office Suites

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09.05.13

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

Refer to Elevation drawings A2.01, A2.02 and A2.03 for exterior materials.

09/19/13

9/19/13

Exhibit A – LIO Civil Narrative

See 9/14/13

Legislative Information Office, Anchorage, AK
Concept Civil Narrative
07/03/2013

CIVIL NARRATIVE

The proposed project is located within Municipality of Anchorage Grid SW1230 and will occupy Lots 3A and Lot 2 W39.5', Block 40, Original Subdivision. The properties are zoned B2B by the MOA. The two lots combined are approximately 0.71 acres and are currently occupied by a restaurant/bar, 7-story building, and a two-level parking area. As part of this project, the two lots will be combined, the restaurant demolished, and the 6-story office building remodeled and expanded.

It is expected that construction of the new Legislative Information Office (LIO) will also include major sidewalk and alleyway improvements.

Site Demolition

Site preparation will include the following:

- Complete demolition of the existing Anchor Pub, with exception of the east wall.
- Approximately 1,800 sf existing sidewalk along 4th Avenue.
- 2,000 sf existing asphalt in alleyway.

Excavation and Backfill

The existing foundation material is suitable for foundation support. Excavation and backfill will follow the recommendations of the geotechnical report that is being prepared for this project by Northern Geotechnical Engineering – Terra Firma Testing.

Water Service

An 8" cast iron pipe (CIP) water main is located in the alley to the south of the properties, approximately 10-feet below the road surface. An existing 6" DIP water service extends into the alley behind the LIO. An existing 4" CIP water service connects the Anchor Pub to the 8" water main in the alley. Both existing services will be abandoned at the main.

A new 6" water service will be connected to the 8" service line entering the new addition. All water system components will be based on the Municipality of Anchorage Standard Specifications and Details.

Water system improvements required for this project will likely include the following:

- Abandon the existing water service connections to the main.
- Installation of 12 lf new 8" service connection to the 8" cast iron main.
- Installation of a new Private Fire Hydrant on property. NFPA requires that the FDC is located less than 100' from the nearest fire hydrant.
- Installation of 10.5 lf new 6" water service from the hydrant leg to the structure.

Sanitary Sewer Service

An existing 12" Vitrified Clay (VC) sanitary sewer main is located in the alley, at approximately 8 to 10-feet below grade. AWWU is planning to upgrade the existing sewer pipe in the fall of 2013 using a Cured In Place Pipe (CIPP) rehabilitation method. Coordination with AWWU will be required to inform them which connections will need to be reestablished. All wastewater from this area is treated at the John M. Asplund Wastewater Treatment Facility in Anchorage. All sanitary sewer system components will be based on the Municipality of Anchorage Standard Specifications and Details.

Sewer system improvements for this project will likely include the following:

- Install 4' diameter sewer control manhole on property in loading area.
- Install approximately 28 LF of 6" PVC sewer service.

Storm Water System

Currently, storm water is collected on the roofs of the existing structures and directed to the municipal storm drain system via roof drains.

Due 9/19/13

- Verify current roof drain location and size.
- If size and location is acceptable, connect new structure roof drains to existing roof drain.
- If the size and location of the existing roof drain piping is not acceptable, install an additional 125 If 12" CPEP in the alleyway and a 1 Type I Manhole near the south west corner of the LIO. Connect new roof drain to the new manhole.

Site Access

The property will be easily accessible to pedestrians, bicyclists, automobiles, and service/ emergency vehicles. The existing surface lot and underground parking are to remain. Sidewalk and alleyway improvements are planned along 4th Avenue and in the alley to the south of the properties. A loading area is planned on the south side of the building adjacent to the alley to accommodate truck loading, dumpsters and an emergency generator.

Site Access improvements for this project will likely include the following:

- 1,000 sf of heated sidewalk along 4th Avenue
- 2,000 sf asphalt replacement in alley

Geotechnical Considerations

A subsurface investigation of the project site by Northern Geotechnical Engineering -- Terra Firma Testing is underway. Four borings are to be drilled and samples taken from various depths to classify the surrounding soils. A geotechnical report will be prepared which will include recommendations for the following:

- Excavation & Fill Placement
- Utilities
- Pavement
- Foundation Design

Required Development Permits

The following is a list of development permits that most likely will be required from the Municipality of Anchorage to construct the new LIO Development.

- Municipality of Anchorage (MOA) Right-of-Way Permit
- MOA Storm Water Site Plan Review
- MOA Grading, Excavation, and Fill Permit
- MOA Building Permit
- AWWU Private System Water & Sewer Service Permits

Parking

Existing onsite parking is available for up to 103 spaces. Upgrades to the existing garage consist of new lighting, paint and a secure basement level with access control.

De
9/19/13

Exhibit A – LIO Mechanical Narrative

File 9/19/12

PROJECT NARRATIVE

LIO Anchorage State Legislative Office Building Renovation

Design Parameters:

The latest adopted version of the following codes and standards as amended by the Municipality of Anchorage are currently applicable for this project:

International Mechanical Code
International Fuel Gas Code
Uniform Plumbing Code
International Building Code
International Fire Code
NFPA 13
SMACNA – Sheet Metal Design Standards
National Electrical Code
Americans with Disabilities Act (ADA)
ASHRAE/IES Standard 90.1
International Energy Conservation Code

The design parameters listed in this document may be considered a working document as well. As the design progresses the parameters in this document may be revised as a result of changing technology, payback analysis and/or feedback from the owner.

Mechanical & Plumbing Demolition:

All existing mechanical and plumbing systems will be demolished from the building. Remodel work will provide all new plumbing systems from the main AWWU utilities in the alley; and will be installed completely new to support the new building addition and existing structure. All existing heating and ventilation systems will be completely demolished from the building and will be replaced with new efficient systems.

Fire Protection:

As this is a design build project the sprinkler contractor will work with a NICET licensed sprinkler designer to provide design and installation of the sprinkler system. It is anticipated that a standard wet-pipe sprinkler system complying with NFPA 13 will be provided throughout the facility. A dry-pipe sprinkler system may be necessary to protect canopies or overhangs if they are built of combustible construction.

C:\Users\KKakizaki\AppData\Local\Microsoft\Windows\Temporary Internet
Files\Content.Outlook\KLTXS4MA\L3141 LIO Mechanical Narrative-Final Without
High Rise.docx

Doc 9/19/11

The building height of 110' to the mechanical penthouse level in combination with the available water pressure at the site is very close to needing a fire pump to supply adequate pressure to the sprinkler heads at the top of the building. The need for a fire pump will need to be analyzed by the sprinkler designer to determine if piping can be sized to meet site conditions. Static water pressure is approximately 80 PSI; available flow at the main is 2,436 GPM at 20 PSI residual.

A single sprinkler riser will be acceptable since the building is less than 52,000 square feet per floor. Dry standpipe risers will be located in the stairwell exit enclosure(s). One dry pipe will need to extend through the roof for fire department access.

A suitably sized fire department connection line will be routed from the sprinkler riser to near the building's main entry. Sprinkler piping will need to conform to the requirements of NFPA 13.

Plumbing:

The new water service and sprinkler riser will be located in the basement and first floor mechanical room adjacent to the South alley to support both domestic water and sprinkler systems. The requirement for a fire pump (if necessary) will drive space constraints and locations as the design moves forward.

It is anticipated that a 6" water service will be provided for the building. The domestic water system will be separated from the sprinkler system by a double check back flow prevention device in accordance with requirements of the UPC.

Due to the height of the building a domestic water pressurization pump package will be necessary to provide adequate pressure for plumbing fixtures in the upper floors. A variable speed controlled multiple pump package will be specified to service the upper floors. The basement and lower level floors will operate using city water pressure and will be piped separate from the domestic water booster pump. The domestic water service will also include a backflow preventer. All domestic water piping will be specified to be Copper, CPVC or PEX piping.

The new sanitary sewer service will enter the building from the South alley. The pipe will be 6" diameter and enter the building above the floor level of the basement. The basement plumbing fixtures will drain to a duplex lift station that will pump the sanitary waste up to the level of the incoming sanitary sewer line. The lift station will be located in a dedicated room that is ventilated continuously at 5 air changes per hour. Sanitary piping will be specified to be cast iron no-hub or copper, drain waste and vent (DWV). ABS and PVC can be considered for areas that do not have return air plenums, or noise concerns.

See
9/19/13

Domestic hot water for the building will be provided using two separate water heaters. One water heater will be located in the first floor area and supply the lower floors that operate using city water pressure. The second water heater will be located in the mechanical penthouse and will serve the fixtures that operate using the domestic water pressure booster pump. Water heaters will be gas fired sealed combustion high efficiency equipment. A hot water recirculation system will be required to provide hot water to plumbing fixtures located on each floor. Water will be stored in the tank at 140 degrees and will be routed through a tempering valve prior to distribution to the rest of the building. The distribution temperature will be adjustable but we recommend a 115-degree temperature. Tempering valves with the appropriate ASSE listing will be utilized at public lavatories.

New plumbing fixtures will be installed throughout the facility. All the existing fixtures will be demolished. The new plumbing fixtures will be specified to include water and energy saving devices and will incorporate vandal resistant features to prevent tampering. New floor drains will be installed where required. All new floor drains will be equipped with trap primers as required by code. In addition to the new restroom groups, each legislative office floor will include a kitchen sink, dishwasher & hydration station and refrigerator. Single stall shower rooms will be provided in the basement for the small locker and exercise equipment areas.

New exterior, frost-proof hose bibbs will be provided for both the new addition and existing portion of the building. Hose bibbs will be installed around the exterior of the building at approximately 150' intervals or specifically where needed for clean-up or irrigation for planting. Hot water and cold water hose bibbs will be installed in the toilet rooms where Janitor rooms are not located adjacent to the toilet rooms.

New rainleader piping will be installed to support the new roof drains and overflow drains serving the facility. The roof drains and overflow drains will connect at the roof and tie into the primary storm drain lines inside the building; an overflow scupper will be installed where the building storm sewer leaves the building in accordance with Handout Number 39 of the Municipality of Anchorage Building Safety Division.

The existing gas meter bar has several gas meters that serve various buildings on the block. The final location of the gas meter(s) and service to the building(s) that are currently supplied from the South alley will need to be coordinated with Enstar and the various building owners.

Elevator sump pumps will be necessary; current code requires 50 GPM capacity per elevator car. The Municipality of Anchorage is currently preparing a policy that may allow 50 GPM capacity per elevator pit; this will be evaluated during the design process.

258
9/19/13

Fuel Systems:

New natural gas piping will be provided to supply the boilers, water heater, and the rooftop HVAC unit on the roof. Due to the length of run from the meter location to the roof it is anticipated that a medium pressure gas piping system will be designed to limit the size of the gas piping. The location of the medium pressure gas piping will need to be coordinated with the architecture. Enstar has restrictions on the use of medium pressure gas piping within a building. The gas piping may have to be enclosed in a decorative chase or be routed exposed up the exterior of the building. The gas meter will be provided with a mechanical operated earthquake valve to shut off gas in the event of a significant seismic event.

In addition the gas meter and gas piping that was recently installed for the Verizon generator located on the roof of the building will need to be addressed in the remodel similar to that described above (for new gas piping to the boiler/HVAC system).

The packaged standby generator will be provided and specified by the electrical engineer. The generator will include a double wall subbase fuel storage tank with the unit for fuel storage.

Heating:

The new boiler system will be installed in the existing penthouse mechanical room. The heating system will include two (2) sealed combustion high efficiency-modulating boilers. Two in-line mounted circulating pumps with variable frequency drives will supply heating water to the building.

Depending upon the selected boilers; piping will be either a parallel pipe design, or a primary/secondary piping arrangement with a boiler pump. The hot water supply temperature will be reset based on outside air temperature. The outside air reset schedule will increase supply hot water temperatures during peak heating season operation and decrease hot water supply temperatures to minimum levels during shoulder and summer seasons.

The building will be heated with fintube radiation. The fintube will be located continuously along the perimeter of the building to provide warmth where the heat is lost through the exterior wall. Entryway terminal heat transfer equipment will be cabinet unit heaters; storage rooms and penthouse areas will utilize hydronic unit heaters. Perimeter fintube and the terminal heating units will provide heat to the building during unoccupied hours when the air-handling units are off. Hydronic heating coils will be installed in each of the VAV boxes to provide tempering of supply air and supplemental heating for occupant comfort. Fintube, terminal heating equipment, and heating coils will be oversized to

9/19/13

operate with 140 degree F water to allow the high efficiency boilers to operate at condensing temperatures throughout the year.

A direct return heating system will supply the terminal heating equipment. The piping mains will be routed vertically in the ventilation shaft and tee off at each floor to serve fin tube, unit heaters, and VAV box coils. Heating coils and terminal heating equipment will be provided with 2-way valves to take advantage of the variable speed pumps. Isolation valves will be provided at each floor where piping exits the shaft for maintenance and isolation for remodel work.

The primary heating system will utilize water with inhibitors for corrosion protection and stabilization a chemical feed and test station will be incorporated into the design. Glycol water systems are not necessary for the building as the rooftop HVAC unit has gas heat and there will be no heating coils exposed to freezing conditions.

Ventilation:

The ventilation system for the building will consist of a new packaged, gas fired, electric cool, direct expansion HVAC rooftop unit. The air distribution system will be designed to conform to ASHRAE Standard 62.1 to ensure good indoor air quality. CO2 sensors and outside air intake volumetric measurement sensors will be employed to ensure adequate ventilation rates. A post construction, pre-occupancy ventilation purge of the building is planned to remove indoor air contaminants produced by off gassing of new construction materials.

The building ventilation system will be variable air volume (VAV). Medium pressure supply air ductwork will be routed from the rooftop HVAC unit to each floor using a ventilation shaft. A combination fire/smoke damper will be required where the supply duct penetrates the shaft wall. The ventilation shaft will also provide the path for return and relief air back to the rooftop HVAC unit. Return air openings complete with combination fire/smoke dampers and sound lined elbows will be provided above ceiling at each floor to allow return air to transfer into the shaft. The space above the T-Bar ceiling on each floor will be a return air plenum.

Sound control is important between legislative suits. As such the walls will go full height for each of the suites and the corridors. An air transfer opening with a sound lined transfer boot will be located above the ceiling at the entry door of each suite to allow return air to transfer to the space above the corridor ceiling and back to the ventilation shaft.

The VAV system will be sized to cool the building using 55 degree F supply air in the ductwork distribution system. The VAV system supply air temperature will be reset based upon the air temperature required to cool the hottest room. The air

CS
9/19/13

handling unit fan will modulate up or down as needed to meet the required demand load. The fin tube radiation will be controlled with the local VAV box and coil in sequence to maintain a comfortable space temperature.

Air distribution will include multiple types of inlet/outlets for the various building areas. Flow bar style diffusers are anticipated for the legislative offices and common areas supply air. A combination of flowbar and 4-way throw diffusers will supply air to the remainder of the spaces. A combination of eggcrate and bar grilles are anticipated for return and exhaust.

The packaged rooftop unit will include relief fans to ensure air turnover during economizer operation. The relief fans will include a variable frequency drive to allow capacity modulation to maintain a ± 0.05 " (adjustable) pressure differential between the indoor and outdoor.

The main restrooms rooms, break rooms, janitor closets and other similar spaces in the facility will be served by a roof mounted variable speed domex exhaust fan. The exhaust fan will be scheduled to operate during the owner's occupied/unoccupied schedule. Ductwork will be slightly oversized to allow the addition of exhaust requirements in the future. This will allow exhaust modifications by simply rebalancing the system.

Communication closets and AV Room areas will be provided with a dedicated cooling exhaust air fan with transfer air duct to maintain space temperature. The exhaust fan will draw air from the occupied space and discharge the air into the return air plenum above the ceiling. A close on rise thermostat will start the exhaust fan when temperature rises above set point and shut off the fan when the set point is achieved. The dedicated exhaust fan will be capable of 24/7 operation allowing cooling of the communication closets when main building air handling units are shut off during unoccupied modes.

The lift station enclosure room located in the basement will include a dedicated exhaust fan that is extended to discharge to the exterior of the building. The fan will be sized to provide a minimum of 5 air changes per hour and will operate continuously.

IT Room Cooling:

The IT room will be provided with two completely redundant cooling systems. Each cooling system will be sized to meet 100% of the cooling load (plus some expansion) to allow back-up should one unit fail. This will also allow one unit to be taken down for service without affecting operation of the IT Room computer equipment.

Each cooling system will be specified to include humidification and dehumidification capability to maintain the space between 30% and 50% relative

9/19/13

humidity. Condensate will be pumped (or drain by gravity if possible) to an indirect waste location in the facility.

Each cooling system will include a remote dry cooler and duplex pump package to provide free cooling when outside air temperatures are suitable. The dry coolers (or a single two circuit dry cooler) will be located in the adjacent parking garage. Glycol piping will extend between the dry cooler(s) and the cooling units in the IT Room to transfer rejected heat from the IT Room to the exterior. During winter operation a cooling coil in the unit provides cooling. During the summer the heat rejected from the operating compressors is rejected to the exterior using the drycooler.

The system will utilize a 50/50 mixture of propylene glycol and water and will include a glycol fill tank and expansion tank. (deleted "air separator." We don't typically install air separators on dry coolers)

Snowmelt:

The owner is providing snowmelt for three areas of the building: the front entry/sidewalk, the South rear entry/loading area and the parking garage ramp for safety and reduced snow removal and icemelt use. This will reduce maintenance of high traffic areas in the building. The first two areas can be combined and supplied from a single snowmelt boiler located in the first floor mechanical room located at the South end of the building. An alternate approach under consideration will be to provide a heat exchanger and snowmelt pump at each snowmelt location and provide the energy for melting snow from the main boiler system that supplies the building.

If a separate boiler is used it will be a gas fired sealed combustion high efficiency boiler. The boiler will supply heat into a snowmelt piping distribution loop that extends to each of the snowmelt areas. A snowmelt distribution manifold will supply tubing loops at each snowmelt location. Snowmelt tubing will typically be 5/8" diameter located 6" on center (over insulation) but embedded in the slab.

A stand alone Tekmar controller would operate the distribution pumps and enable the boiler in sequence to melt snow in the two locations. A snowmelt sensor located in each of the areas can be employed to automatically start/stop the system and control idle mode between snowfalls.

Insulation:

The building will be designed in accordance with LEED concepts. Insulation for piping, ductwork, and equipment will be in accordance with the International Energy Conservation Code (IECC). Supply air ductwork located in the return air plenum above the ceiling plenum will require insulation. Insulation will also be

AS
9/19/13

installed on the air separator, as well as valves/hydraulic specialties larger than 2" diameter.

Controls:

A microprocessor based direct digital control (DDC) system will be specified for the facility. The control system will be performance specified by the engineer to meet the sequence of operations listed in the contract documents. The control system will be specified to be a Trane Tracer Building Automation system.

The control system will include a full graphics package to allow point and click access for control of mechanical system.

The boiler system will be specified to include a package boiler controller. The boiler controller will communicate with the building DDC system to provide alarm information only.

The rooftop HVAC unit and VAV boxes can be provided complete with Trane Tracer controls to seamlessly integrate into the DDC network. The main building exhaust fan would also be controlled by the DDC system.

Remaining equipment such as unit heaters, cabinet unit heaters, communication closet exhaust fans, will be controlled with standalone electric/electronic controls that do not require connection to the DDC system.

9/19/13

Exhibit A – LIO Electrical Narrative

Dec 9/14

ELECTRICAL AND TELECOMMUNICATIONS DESIGN NARRATIVE
LIO ANCHORAGE STATE LEGISLATIVE OFFICE BUILDING RENOVATION

Scope of Work Basis of Design

Design and construction of the facilities will comply with the latest publications identified under the References section. In addition the apparatus, equipment, materials, and installation will conform to the standards of the National Electrical Manufacturers' Association (NEMA), Underwriters' Laboratories, Inc. (UL)*, the Institute of Electrical and Electronic Engineers (IEEE), the Illuminating Engineers Society (IES), and the Occupational Safety and Health Administration (OSHA). *All electrical devices and equipment will be listed by an acceptable certified testing laboratory.

The design will include calculations supporting the designed fault interrupting capacities, calculations supporting the total connected building load, panel loads and estimated building and panel feeder voltage drops.

The electrical design and construction will include, but is not limited to:

- Main distribution switchboards consisting of metering equipment and overcurrent protection for distribution and branch circuit panels.
- Feeders to distribution and branch circuit panels.
- Branch circuit panels for power, lighting, HVAC, etc.
- Branch circuit wiring systems for equipment, lighting, duplex receptacles, appliances, motors, motor starters, etc., as required.
- Wall switches, duplex receptacles and other wiring devices.
- All hangers, anchors, sleeves, chases, support for fixture, and electrical materials and equipment.
- Interior lighting fixtures, controls complete with all lamps.
- Wiring and connections to all equipment furnished by the owner.
- Exterior lighting and controls.
- Telecommunication system.
- Fire Alarm system with monitoring of sprinkler system.
- Door Access.
- CCTV System.
- Cable TV system.

References

The following electrical codes and standards will be applicable to the electrical design of the facility:

- International Building Code (IBC)
- International Residential Code (IRC)
- Illuminating Engineers Society (IES) Lighting Handbook
- NFPA 101 Life Safety Code
- NFPA 70 - NEC National Electrical Code
- NFPA 72, National Fire Alarm Code
- TIA/EIA 568A, Commercial Building Telecommunications Cabling Standard
- TIA/EIA 568B, Commercial Building Telecommunications Wiring Standard
- TIA/EIA 569A, Commercial Building Telecommunications Pathways and Spaces
- TIA/EIA 600, The Administration Standard for the Telecommunications Infrastructure of Commercial Buildings
- TIA/EIA-606
- TIA/EIA 607, Commercial Building Grounding and Bonding Requirements for Telecommunications

Joe 9/19/13

Design and construction of the facility will comply with the latest publications identified under the References section. In addition the apparatus, equipment, materials, and installation will conform to the standards of the National Electrical Manufacturers' Association (NEMA), Underwriters' Laboratories, Inc. (UL)*, the Institute of Electrical and Electronic Engineers (IEEE), the Illuminating Engineers Society (IES), and the Occupational Safety and Health Administration (OSHA).

*All electrical devices and equipment will be listed by an acceptable certified testing laboratory.

Power Distribution

Electrical Service

The current service is a 208V 3 Phase 1200 Amp. It is planned to replace the existing electrical service with a new 2500 Amp 208 Volt or a 1200 Amp 480V 3 phase service depending on which proves more cost effective. Verizon has existing equipment on the roof which must remain functional during the remodel. The load is 200 Amp 208V single phase and includes a natural gas fire generator.

Service Equipment - Main Distribution Switchboard

Service entrance equipment will be dead front construction, equipped with circuit breakers and sized to accommodate 125% of building load. The building loads will be metered at the service entrance equipment. Meter will be digital and equipped with communication port for future remote energy monitoring. The digital meter will provide as minimum voltage and amps each phase, KW/KWH demand, KVA and usage. Meter provided will be equipped with an output connection to transmit the signal to a remote location via telephone lines at a later date. Transient voltage surge suppressor will be provided at the service equipment. Surge suppressor will meet the requirements of IEEE C62.41 and be UL listed and labeled as having been tested in accordance with UL 1449.

Standby Power

A 150 KW standby power generator is planned to be installed on the alley side of the building. Generator to be installed in a weatherproof enclosure. An integral sub base fuel module will be provided in the unit.

A single 600 Amp 4 pole automatic transfer switch with distribution for the elevators, telecommunication equipment in each telecom room, heating equipment, partial lighting and misc power receptacles deemed critical.

Interior Electrical Power Distribution

Complete interior electrical distribution system will be provided as required by the National Electrical Code. Voltage drop will be in accordance to National Electrical recommendation. An electrical room will be provided on each floor. Each floor will be provided with a 480Y/277V lighting panel and two 208Y/120V power panel for receptacles etc. Outlets in all office suites will exceed code and will be placed on office suite demising walls perpendicular to exterior walls to accommodate at least four workstations per office.

Panelboards

All panels will be sized for the load served plus 25% spare capacity and 15% space. Only bolt-on circuit breakers will be used. All panels located in finished areas will be recessed and all panels and conduits located in unfinished areas will be surface mounted. Separate electrical rooms will be provided to the greatest extent possible and on each floor of multi-story buildings.

Conduit and Raceways

9/19/13

All interior wiring in the building will be run in conduit. Raceways will be specified of the type suited for the applications and locations. Raceways installed for future systems will include pull wire. To the maximum extent practical, conduit will be installed concealed in all areas except utility spaces.

Conductors

Conductors will be copper. Conductor #12 or smaller will be solid. Conductor #10 or larger will be stranded. All building wiring (line-voltage between 100-600 volts) will have type THHN, or XHHW 75 ° C (167 ° F) insulation and be rated at 600 volts unless some other type is specifically required for a particular application. Power conductors will not be smaller than #12 AWG.

A separate insulated grounding conductor will have green color or marking insulated and be sized and installed per NEC requirements, in all secondary, distribution, feeder and branch circuit conduits.

Branch Circuits for Receptacle and Lighting Circuits

Lighting and convenience outlets will be run on separate circuits. Dedicated circuits for loads greater than 50% of the circuit capacity will be provided.

Circuits for computers and electronic devices will be designed to have a dedicate neutral and the panels and transformers rated accordingly.

Devices

All duplex receptacles will be 20 amp, 125 volt, three pole grounded type specification grade duplex receptacles NEMA 5-20R are acceptable unless type of equipment requires different configuration. Impact resistant plastic plates will be provided for boxes and devices. Ground fault Interrupt (GFI) type duplex receptacles will be provided in locations as required by the NEC and provided with weatherproof device plate covers at exterior locations. At least one GFI receptacle will be provided in each restroom and janitor's closet. Arc-fault circuit interrupter protection will be provided in accordance with NEC.

Provide the minimum power outlets required by NEC but not less than a duplex outlet on each wall. In office and administration areas provide double-duplex receptacles at each location and near a data outlet.

Lighting

Exterior Lighting

General

All lighting shall comply with the recommendations of the Illumination Engineering Society of North America (IESNA). All exterior site and area lighting will be LED.

Interior Lighting

General

Illumination levels will be in accordance with the recommendations of the latest Illuminating Engineering Society (IES) Lighting Handbook.

The lighting systems will be designed to provide comfortable visibility conditions having adequate intensities for the safe and effective accomplishment of the tasks to be performed. The finish and color of room surfaces will be coordinated with the lighting system design to reduce glare, increase light utilization, and attain an acceptable brightness ratio recommended by Illuminating Engineering Society (IES) Lighting Handbook. Light sources and fixtures will be selected to provide the most efficient and economical system practicable. Linear fluorescent and compact fluorescent lighting will be provided as the primary source of illumination. Lighting calculations will be based on the actual finish material reflectance or a maximum of

6/19/13

80% for ceiling, 50% for the wall and 20% for floor whichever is lower. Light fixture schedules including lamp type, voltage, wattage, type of mounting, manufacturer name and catalog number will be provided.

All conference rooms will include 5% dimming ballast.

Refer to architectural reflected ceiling plans and catalog cuts for additional information.

Lighting Control

Control switches for general room lighting will be located at room entrances and other locations for control of lighting fixtures and systems. Typically, rooms with more than one door will have three or four-way switches as required.

Emergency Lighting System

Emergency lighting will be provided per NFPA 101. Emergency lighting will be designed as an integral part of the facility lighting system, and will be incorporated as part of the system lighting fixture. As a minimum, emergency lighting will be provided for building corridors, stairs and common areas.

Exit Signs

Exit signage will conform to NFPA 101. Exit signs will be glass green edge light emitting diode (LED).

Grounding

Provide a building grounding electrode system consisting of a ground ring, metal underground water pipe, building structural steel, concrete encased electrodes, and copper clad steel rod electrodes. A ring ground of #1/0 AWG bare copper buried within the building foundation interconnecting to a 3-meter minimum length ground rods and foundation every interior/exterior corner 2 meters from the building.

All line voltage circuit wiring will contain a separate bare or green insulated grounding conductor. Conduit raceways will not be utilized as the only grounding method. A min #6 AWG copper will be provided from service equipment ground to main telecommunication closet per TIA/EIA 607 requirements.

Other Requirements

Mechanical Connections

Mechanical connections for mechanical equipment. See mechanical narrative.

Provide option to provide power for fire pump as sized by mechanical engineer.

Conference Rooms

Conference rooms will include wall flat screens with network connections, laptop interface, video conferencing and power/telecom under the conference tables.

Lighting in conference room will be dimmable.

Seismic and Testing Requirements

Design, calculations, and testing of all seismic requirements for electrical and communications equipment shall be provided. All electrical equipment shall be tested in accordance with applicable specification for each type of equipment. Testing shall include any required factory testing, field testing, and operating testing. As a minimum, testing shall include, transformers, wiring, switches, light fixtures, circuit breakers, contactors, and head bolt outlets.

Exe
9/19/13

Telecommunications (Voice and Data)

Cat 6 horizontal Telecommunication cabling system will be provided with all cables routed back to dedicated telecommunication room on each floor.

Vertical Telecommunication system will include 200 pair copper voice cable and 24 strand fiber optic riser.

Distribution will be design in compliance with ANSI/EIA/TIA standards. The telecommunications system will be complete and include the telephone/data and cable system backboards, punch down blocks, and all associated raceways, cable tray, j-hooks, outlets and cabling.

Equipment racks shall be floor mounted 19 inch wide. Provide minimum 50 foot-candle lighting level and minimum two dedicated 20-ampere 110 volt power branch circuits in the communications room. A wall-mounted telephone near the entry door of each main communications rooms will be provided.

Cable tray will be used for interior distribution of com systems.

Provide 24 port, rack mounted fiber optic patch panel with coupling plates and ST connector ports
Distribution of fiber optic cables throughout the new building will be by others.

Copper cable distribution shall be 4-pair 24 AWG, 100-ohm unshielded twisted pair (UTP) in 1 inch conduit. All copper pairs and fiber optic strands shall be terminated and tested. Copper connectors will be EIA/TIA Cat 6 8-pin/8-position insulation displacement terminations wired per T568B. Fiber optic connectors will be EIA/TIA "SC" type 5685C. A minimum of two 8-pin modular RJ45 type connectors will be provided in each outlet box. In finished areas standard outlet boxes will be 4-11/16 x 4-11/16 double gang electrical box with the faceplate flush with the wall surface. In unfinished areas the outlets shall be surface mounted.

One outlet in each main mechanical and electrical room of the buildings for official communications. Communications outlets will be provided in all private offices, platoon offices, conference rooms. Number of outlets will be per the requirements of the RFP in each area.

Cable TV (CATV) System

Cable television connection will be provided to all buildings. Service will be coordinated with GCI. Each office suite and conference rooms will include outlets.

Fire Alarm

The building will be equipped with an addressable fire alarm system with a fire alarm panel and dialer panel. A remote annunciator will be provided at the building entrance.

Access Control System

Door access control system will be required for approximately 20 doors. System to be compatible with existing State of Alaska systems at other facilities.

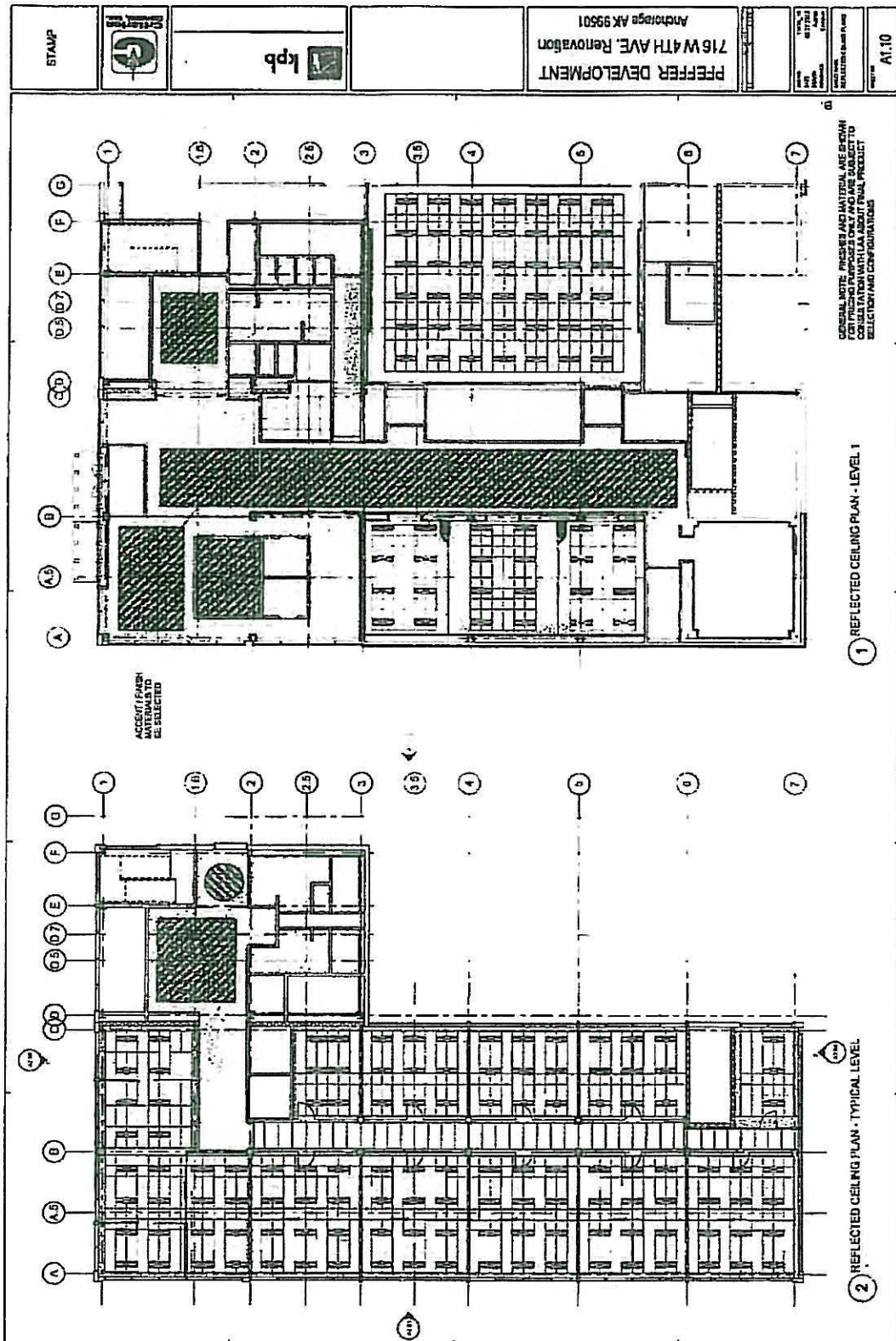
CCTV Security

A CCTV system will be required with an assumed 20 cameras with recording DVR's for a 2 week period.

ASD
9/19/17

Exhibit A – LIO Reflected Ceiling Plans

See 9/19/13



9/19/11

Exhibit A – LIO Structural Plans Narrative

Rev 9/19/12

Legislative Information Office (LIO) Building Renovation

Structural Narrative

08-28-13

Existing Construction

The existing legislative information office building is a 7-story (6-story + 1-story basement) building located in downtown Anchorage, AK. No as-built or original construction drawings are available for this building. All the information below is based on data accumulated in the field and assumptions based on typical construction techniques.

The existing gravity-resisting system starts with concrete on metal deck floors, supported by steel bar-joists. The floor decks are typically 1.5-inch metal deck with concrete topping between 3.5 and 4.5 inches thick for a total average thickness of 5.5-inches. The roof uses the same deck and concrete as the floors. The typical floor and roof framing are steel bar joists spanning in the north-south direction between girders. The joists are 14 to 18-inches deep, spaced at 24-inches on-center, and span 20 to 27-feet. The girders and columns supporting the steel bar joists are steel wide-flange moment frames oriented in the east-west direction and are located in seven lines spaced over the length of the building. The girders are 24-inches deep (W24) and the columns are 14-inches wide (W14).

The exterior walls on the east and west sides are 8-inch thick cast-in-place concrete shear walls for the full height of the building. On the north side, the wall consists of a precast and glazing system. On the south wall, the exterior wall is a panelized exterior system similar to an exterior insulated finishing system (EIFS).

The basement floor is 12-feet below the first floor and is a concrete slab on grade that is 2-feet below the grade of the parking garage on the west side, and 3.5-feet below the basement of the Anchor Bar on the east side. Large grade beams run north-south along the sides of the building supporting the 8-inch concrete walls above and the columns along Grids A & C (east and west sides).

At the southwest corner of the first floor, a concrete vault (used by the previous bank tenant) anchors the corner of the building. The first floor is 21-feet tall, while the other stories are 12.75-feet tall. The roof has two penthouses on top; one toward the north end for the elevator, and one on the south side for the mechanical units. In addition, a cell-phone antenna has recently been added on the roof between the penthouses.

The existing lateral system is separated by direction. In the east-west direction, the lateral system is steel moment frames, with W14 columns and W24 beams at each numbered grid. The connections between the beams and columns are referred to as "Pre-Northridge Welded Unreinforced Flange, Welded Web" connections (Pre-Northridge WUF-W). These connections weld the top and bottom flange, as well as the web, of the beam to the column flange. These welds have exhibited low ductility behavior during past seismic events in California over the last 20 years. These types of connections have now been prohibited by the building code without specialized detailing to make them more ductile. Ductile behavior is

9/19/13

important in buildings, because preventing collapse of buildings after an earthquake is a function of not just the building's strength, but also its ductility.

In the north-south direction, the lateral system is concrete shear walls on the east and west sides. When originally built, these walls were solid for their entire length. In a previous renovation, windows were cut in these walls to bring daylight into the building. No calculations are available for the renovation, so it is unclear whether any strengthening measures were undertaken to verify or enhance the capacity of the perforated shear walls.

Proposed Renovation

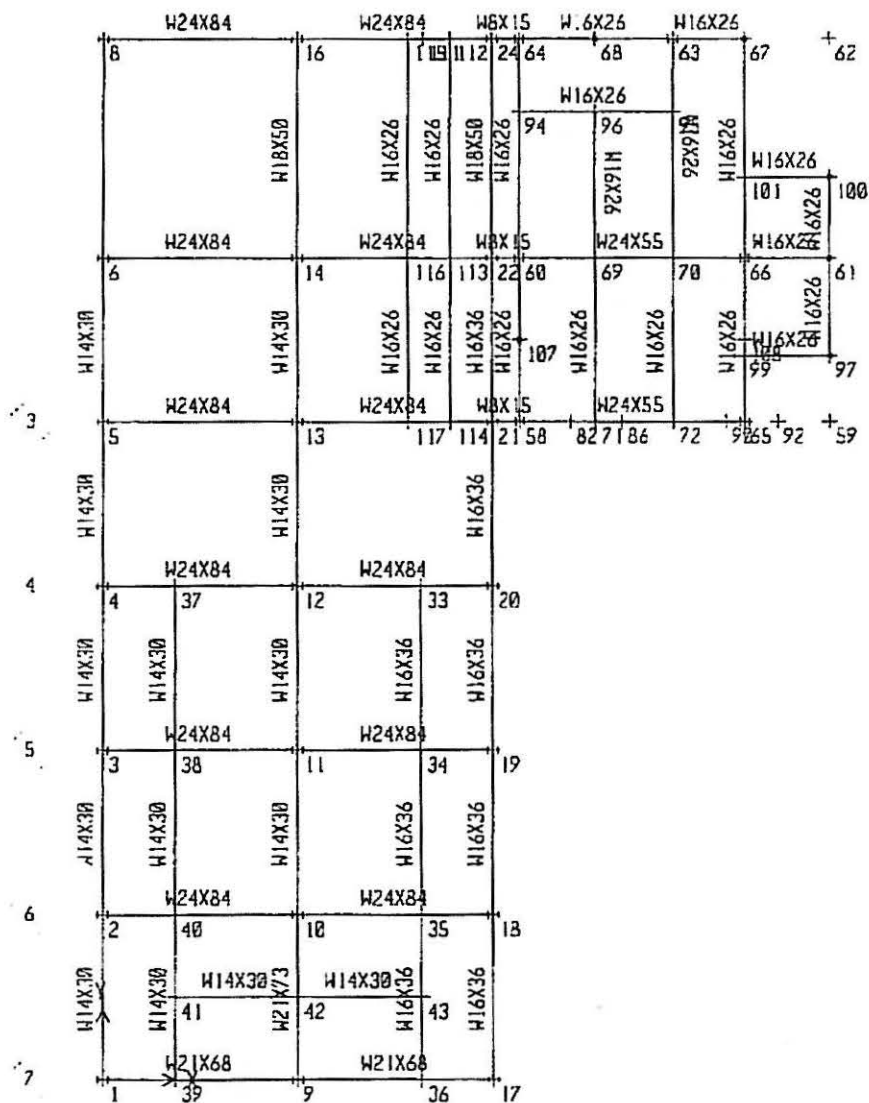
The proposed renovation consists of removing the Anchor Bar from the east side of the building, removing the east and west concrete walls from the existing building, and removing the existing north elevator and stair core (along with the northern penthouse). When these items are removed, the east side addition will be in-filled with a new meeting and hearing space on the basement and first floors, and a six story elevator and stair core on the north end.

During the demolition process, new shoring will be required along the northern edge of the Anchor Bar (along 4th Ave) and on the eastern side (adjacent to the existing building) to retain the basement and foundation excavation for the new building, which is expected to be 15 to 16 feet deep. This shoring will likely consist of steel piling with lagging between piling and will be permanent.

Since the usage and loads in the existing building are not changing, the gravity load resisting system in the existing building is adequate for the new gravity loads and only needs to be modified where the north core stairs and elevator are being removed. The gravity system in the new portion of the building will be tube-steel and wide-flange columns with wide-flange beams. The new floor and roof framing will be concrete on metal deck and supported by wide-flange beams. The foundation of the 6-story tower portion will be a thick concrete mat foundation (approximately 3-feet thick) and with the remainder of the new addition being founded on isolated concrete footings.

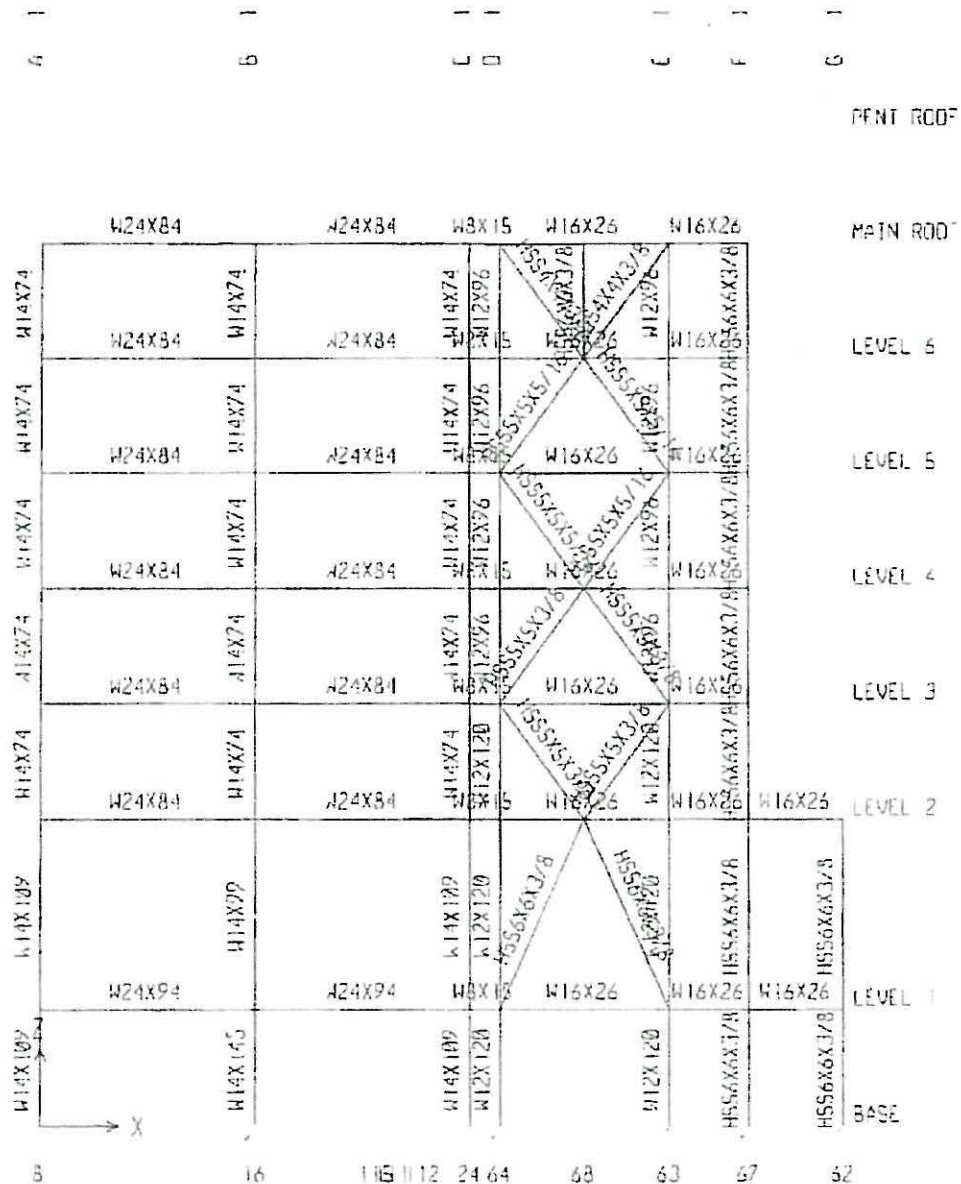
The lateral-load resisting system in the existing building is being completely revised in this renovation. The moment frame connections in the east-west direction are inadequate under current codes, and the concrete walls in the north-south direction are being removed to allow for new curtain wall. To replace the lateral system, new buckling restrained braced frames (BRBF) will be added in both the existing and new portions of the building. Since the entire system is being updated, the new and existing portions of the building will be combined and no seismic joint will be used. BRBF's are an advanced braced frame system that equalizes the braces capacity in both compression and tension, which creates a more balanced response to seismic forces and creates a significantly more ductile response. These braces will be welded and bolted to the existing and new steel frames in three bays in both the north-south and east-west directions.

DE
9/19/13



ETABS v9.7.4 - File: LIO-v2.0 - August 28, 2013 11:08
Plan View - MAIN ROOF - Elevation 1171 - Kip-In Units

9/19/13



9/19/13

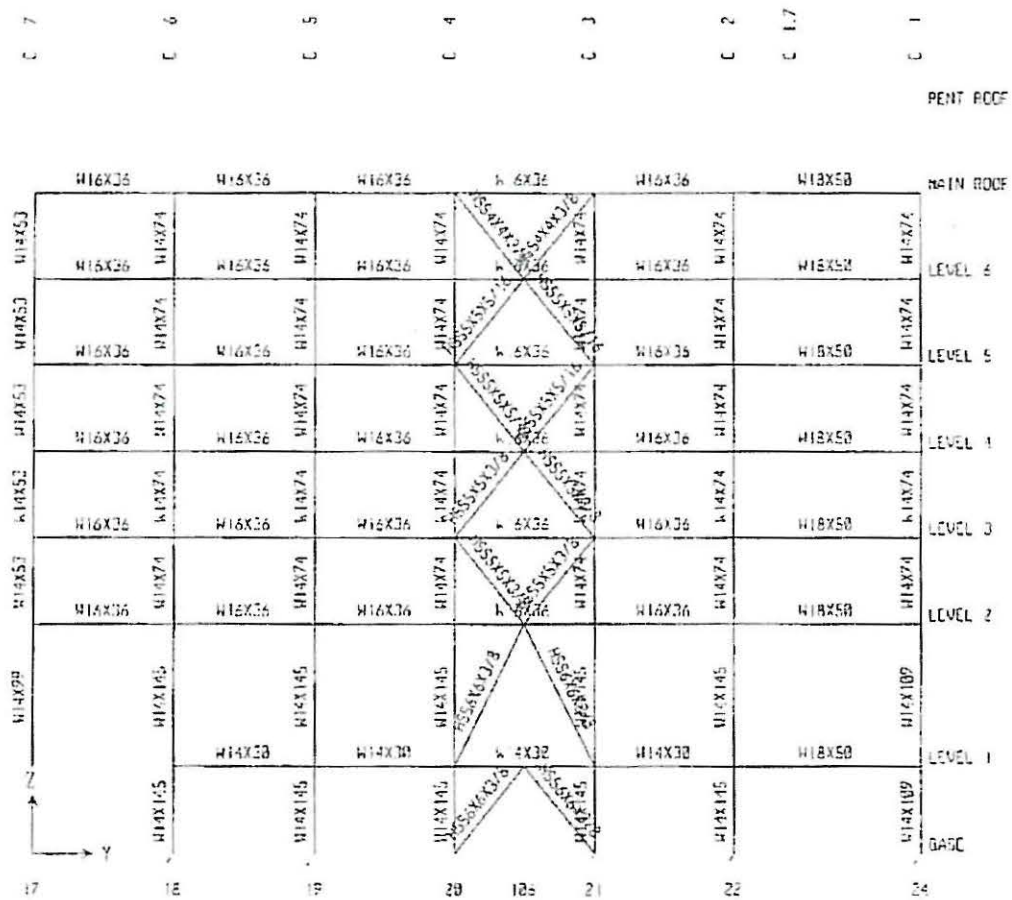
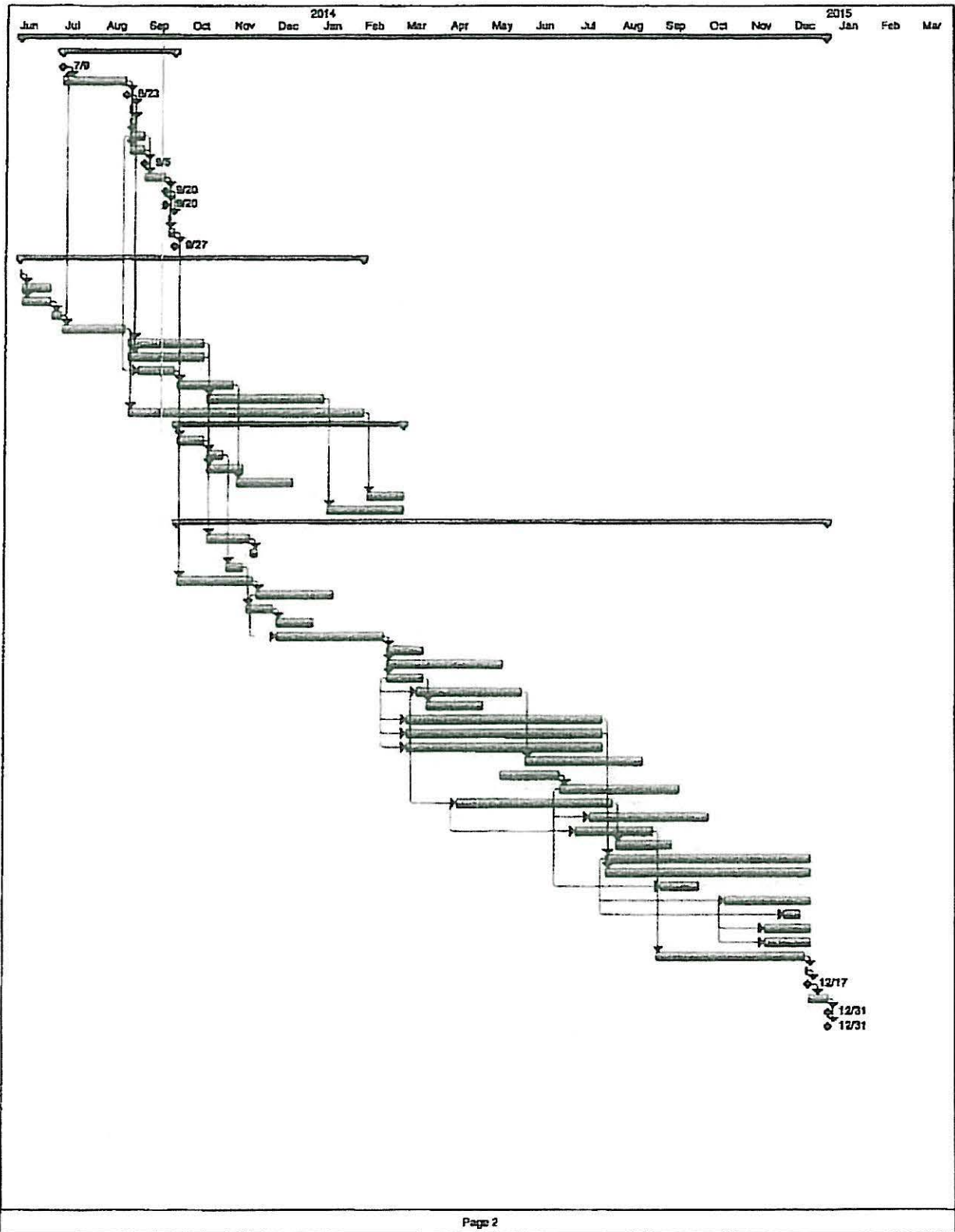


EXHIBIT B

Dec 9/19/13

ID	Task Name	Duration	Start	Finish	Predecessors	Feb	Mar	Apr	May
1	LIO Building	407 days	Tue 6/11/13	Wed 12/31/14					
2	Financing	50 days	Tue 7/9/13	Fri 8/27/13					
3	Concept Design and Pricing to AHFC	0 days	Tue 7/9/13	Tue 7/9/13 21					
4	Lease Rate and Scope Discussions with Legislature	33 days	Wed 7/10/13	Fri 8/23/13 3					
5	NTP to Design Build Team to progress drawings	0 days	Fri 8/23/13	Fri 8/23/13 4					
6	Design and Schedule Exhibits to AHFC	2 days	Mon 8/26/13	Tue 8/27/13 5					
7	Added Garage Deck Proposal	5 days	Mon 8/26/13	Fri 8/30/13 5					
8	Deal Term discussion with Legislature	9 days	Mon 8/26/13	Thu 9/5/13 4					
9	Appraiser Meetings	9 days	Mon 8/26/13	Thu 9/5/13 4					
10	Finalize Deal Terms	0 days	Thu 9/5/13	Thu 9/5/13 8					
11	Final Appraisal	11 days	Fri 9/6/13	Fri 9/20/13 9					
12	Execute Lease amendment	0 days	Fri 9/20/13	Fri 9/20/13 11					
13	Close on Anchor Pub Financing	0 days	Fri 9/20/13	Fri 9/20/13 11					
14	Close on Anchor Pub acquisition	1 day	Mon 9/23/13	Mon 9/23/13 12					
15	Close on Construction Loan	5 days	Mon 9/23/13	Fri 9/27/13 11					
16	Final Construction NTP	0 days	Fri 9/27/13	Fri 9/27/13 15					
17	Design	174 days	Tue 6/11/13	Fri 2/7/14					
18	Design Kick-off meeting	1 day	Tue 6/11/13	Tue 6/11/13					
19	Geotechnical and Survey	15 days	Wed 6/12/13	Tue 7/2/13 18					
20	15% Design core and Shell and TI Scope	15 days	Wed 6/12/13	Tue 7/2/13 18					
21	Slip Sum Pricing	5 days	Wed 7/3/13	Tue 7/9/13 20					
22	Scope Adjustments	83 days	Wed 7/10/13	Fri 8/23/13 21					
23	100% Structural Building Design	40 days	Mon 8/26/13	Fri 10/18/13 5					
24	65% Design core and shell	40 days	Mon 8/26/13	Fri 10/18/13 5					
25	Temporary Relocation Space Design	20 days	Mon 8/27/13	Fri 9/27/13 855+5 days					
26	95% Design core and shell	30 days	Mon 8/30/13	Fri 11/8/13 25					
27	Added Garage Deck Design	60 days	Mon 10/21/13	Fri 11/10/13 24					
28	95% TI Design	120 days	Mon 8/26/13	Fri 2/7/14 22					
29	Permitting	115 days	Mon 8/30/13	Fri 3/7/14					
30	Temporary Space TI Permit	15 days	Mon 8/30/13	Fri 10/18/13 25					
31	Demolition Permit	10 days	Mon 10/21/13	Fri 11/1/13 24					
32	Structural Shell Permit (needed for LIO Demo)	20 days	Mon 10/21/13	Fri 11/15/13 23					
33	Core and Shell Permit	30 days	Mon 11/11/13	Fri 12/20/13 29					
34	TI Permit	20 days	Mon 2/10/14	Fri 3/7/14 28					
35	Garage Deck Permit	40 days	Mon 1/13/14	Fri 3/7/14 27					
36	Construction	328 days	Mon 8/30/13	Wed 12/31/14					
37	Build Out Temporary Space	23 days	Mon 10/21/13	Wed 11/20/13 30					
38	Relocate Legislature and LIO	3 days	Thu 11/21/13	Mon 11/25/13 37					
39	Bar Demolition	10 days	Mon 11/4/13	Fri 11/15/13 31					
40	Crane Mobilization	40 days	Mon 9/30/13	Fri 11/22/13 15					
41	LIO Building Demo	40 days	Mon 11/25/13	Fri 1/17/14 40					
42	Shoring on Bar Site	15 days	Mon 11/18/13	Fri 12/6/13 39					
43	Foundation construction	20 days	Mon 12/9/13	Fri 1/3/14 42					
44	Structural Steel/Eismic Refit	55 days	Mon 12/9/13	Fri 2/21/14 41SS+10 days					
45	Site Utility Work- Building foundation	20 days	Mon 2/24/14	Fri 3/21/14 44					
46	Exterior Skin/curtain wall	60 days	Mon 2/24/14	Fri 5/1/14 44					
47	Membrane Roofing/Insulation	20 days	Mon 2/24/14	Fri 3/21/14 44					
48	Interior Framing	55 days	Mon 3/17/14	Fri 5/30/14 47SS+15 days					
49	Stair Construction	30 days	Mon 3/24/14	Fri 5/2/14 47					
50	Electrical Rough In	100 days	Mon 3/10/14	Fri 7/25/14 47SS+10 days					
51	Mechanical Rough In	100 days	Mon 3/10/14	Fri 7/25/14 47SS+10 days					
52	HVAC Rough In	100 days	Mon 3/10/14	Fri 7/25/14 47SS+10 days					
53	Elevator Installation	60 days	Mon 8/2/14	Fri 8/22/14 48					
54	Site utility Work - In RCW	30 days	Thu 5/15/14	Wed 6/25/14					
55	Garage Deck foundation and structural work	60 days	Thu 5/28/14	Wed 8/17/14 54					
56	Gypsum Wall board	60 days	Mon 4/14/14	Fri 6/1/14 48SS+20 days					
57	Garage Deck architectural, mechanical and electrical	60 days	Thu 7/17/14	Wed 10/8/14 55SS+15 days					
58	Interior Taping and Painting	40 days	Mon 7/7/14	Fri 8/29/14 58SS+60 days					
59	Grid/Gyp Ceilings	30 days	Mon 8/4/14	Fri 9/12/14 58					
60	Electrical Trim	105 days	Mon 7/28/14	Fri 12/10/14 60					
61	Mechanical Trim	105 days	Mon 7/28/14	Fri 12/19/14 51					
62	Alley Paving, Sidewalk concrete, Landscaping	20 days	Thu 9/4/14	Wed 10/1/14 55SS+50 days					
63	Flooring	45 days	Mon 10/20/14	Fri 12/19/14 60SS+60 days					
64	Elevator finishes	10 days	Mon 12/1/14	Fri 12/12/14 60SS+90 days					
65	Casework install	25 days	Mon 11/17/14	Fri 12/19/14 63SS+20 days					
66	Doors and Hardware	25 days	Mon 11/17/14	Fri 12/19/14 63SS+20 days					
67	Finishes	78 days	Mon 8/1/14	Mon 12/15/14 58					
68	Final Cleaning	2 days	Tue 12/16/14	Wed 12/17/14 67					
69	Substantial completion/CCO	0 days	Wed 12/17/14	Wed 12/17/14 68					
70	Tenant FF&E	10 days	Thu 12/18/14	Wed 12/31/14 69					
71	Tenant Occupancy	0 days	Wed 12/31/14	Wed 12/31/14 70					
72	Final Completion/CO	0 days	Wed 12/31/14	Wed 12/31/14 70					

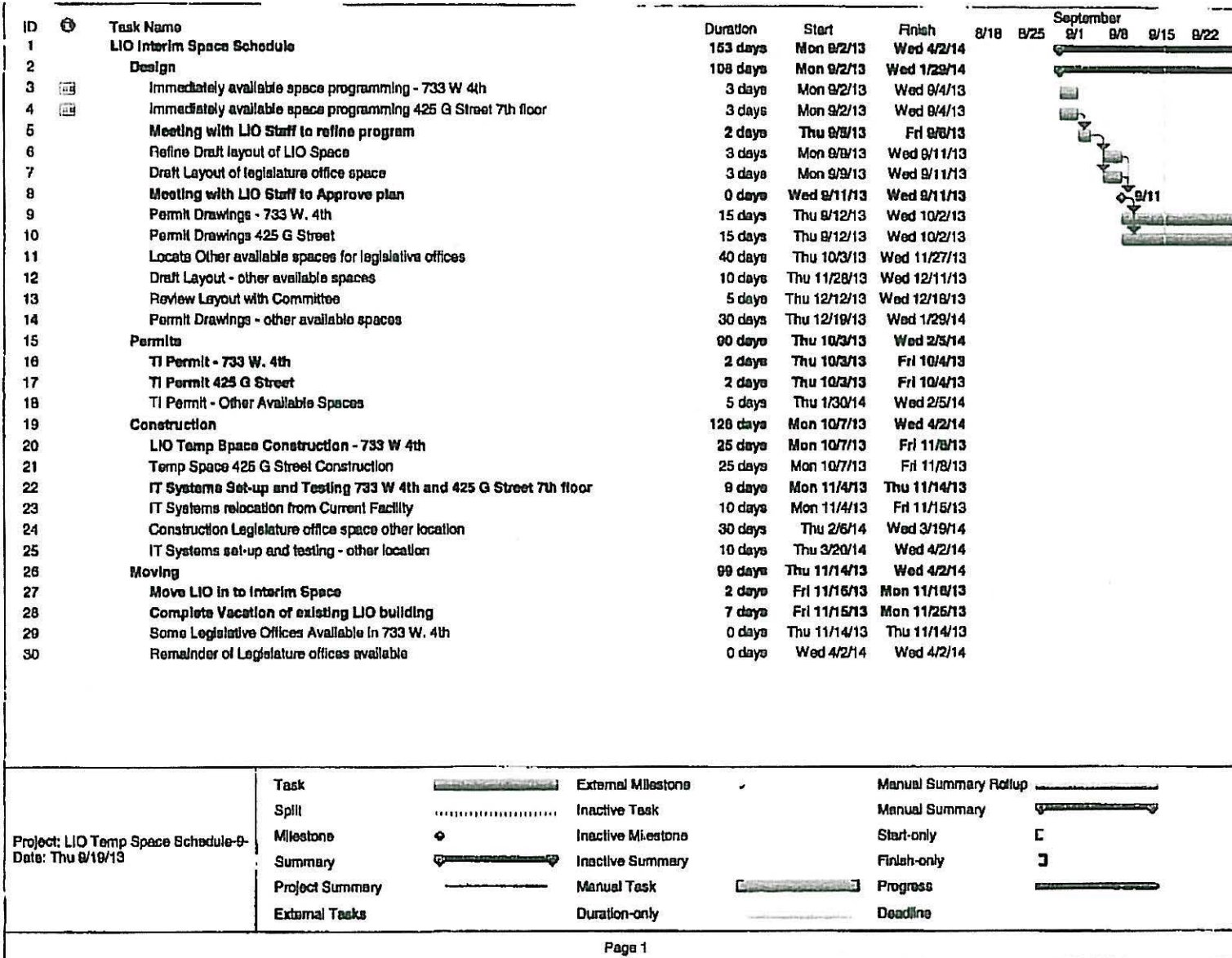
See 9/19/13



9/19/13

EXHIBIT B-1

File 9/19/12



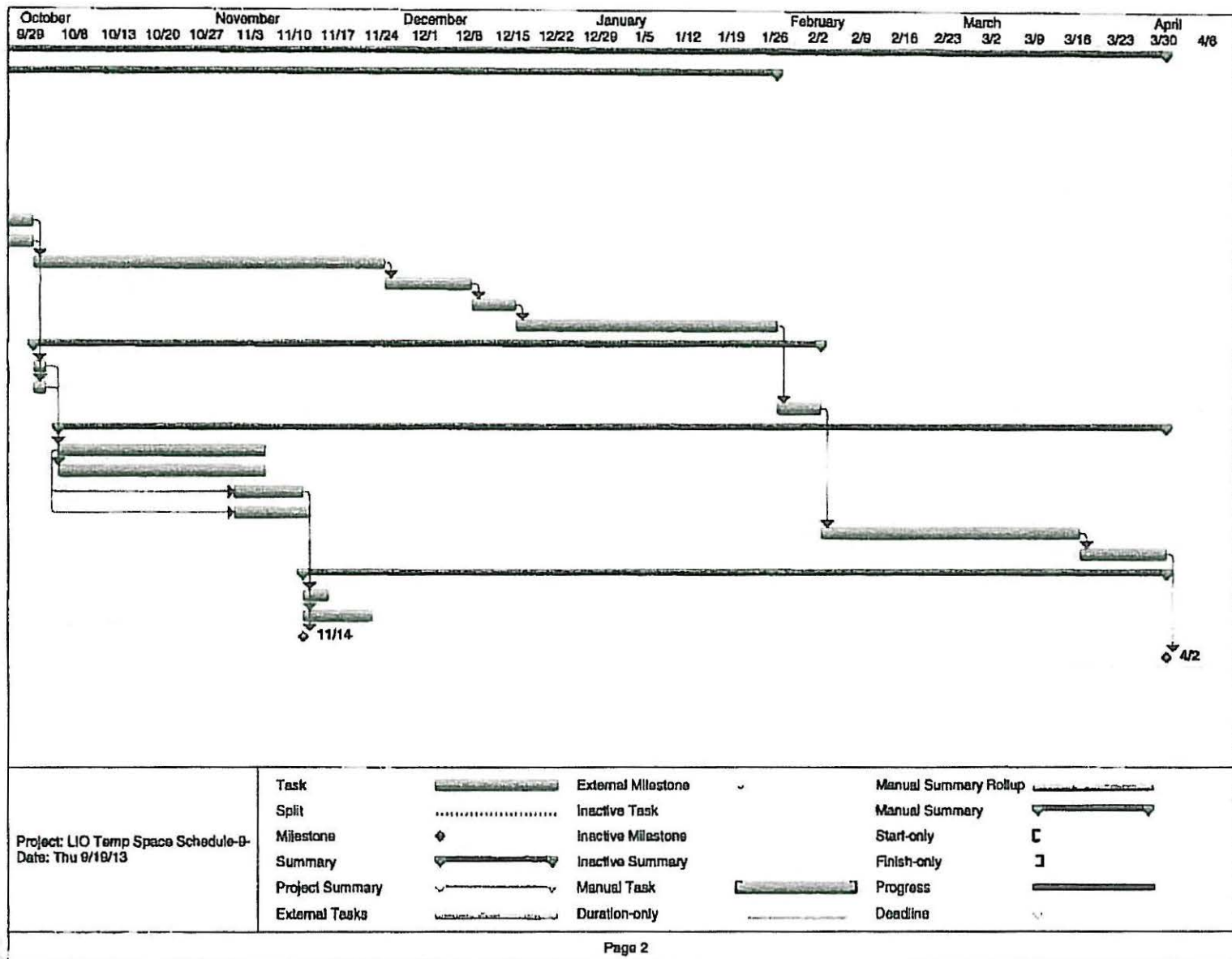


EXHIBIT C

PROCUREMENT OFFICER'S FINDINGS UNDER LEGISLATIVE PROCUREMENT PROCEDURE 040(d)

Introduction

The purpose of this document is to provide a written determination, in compliance with Alaska Legislative Procurement Procedure 040(d), setting forth in detail the procurement officer's determination supporting material modifications of the Legislature's Lease of the Anchorage Legislative Information Office dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended March 3, 2009, renewed for the final one-year term on May 20, 2013, which was previously competitively bid under RFP 391 and publicly issued on July 17, 2003, (hereinafter "Lease"). The current Lease will expire on May 31, 2014.

The material modifications to the Lease that are the subject of this written determination were authorized by Legislative Council, and by mutual agreement with the Lessor. The material modifications to the Lease are amending the existing definition of "premises" within Section 1 of the Lease, titled "RENTAL PROPERTY AND RENTAL RATE," by adding the additional property commonly known as 712 West Fourth Avenue, which is immediately adjacent to the existing leased premises at 716 West Fourth Avenue, and amending other sections of the Lease as necessary to allow for the renovation and retrofit of the expanded premises, including but not limited to, a transition to a triple net leasing structure and changes necessary to accommodate renovation of the premises as described in Exhibits A and B of the Lease.

Background

A. Legislative Council's Authorization to Materially Modify Lease

On June 7, 2013, Legislative Council passed the following motions¹ related to the Legislature's Lease of the Anchorage Legislative Information Office dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended March 3, 2009, renewed for the final one-year term on May 20, 2013, and which will expire on May 31, 2014:

MOTION - AMEND PROCUREMENT PROCEDURE: I move that Legislative Council adopt proposed Amendment No. 12 to the Legislative Procurement Procedure 040 to provide the limited ability for the Legislative Affairs Agency, or a Legislative Committee, to materially modify an existing lease that was previously competitively procured.

MOTION - AUTHORIZE MATERIAL AMENDMENTS TO LEASE: I move that Legislative Council authorize the chairman to negotiate amendments to lease 2004-024411-0 by mutual agreement with the Lessor to remove the limitation of amending a lease that amounts to a material

¹ In addition to the motions set out in the text of these findings, two additional related motions were also passed by Legislative Council on June 7, 2013:

MOTION - LEASE EXTENSION: I move that Legislative Council authorize the chairman to negotiate all the terms and conditions necessary to extend Lease 2004-024411-0 pursuant to AS 36.30.083(a).

MOTION - ENGAGE AHFC (Alaska Housing Finance Corporation) AS LESSEE'S REPRESENTATIVE: I move that Legislative Council authorize the chairman to enter into a contract for payment not to exceed \$50,000, for AHFC to act as the Lessee's representative in negotiating an extension to Lease 2004-024411-0, as amended to include 712 West 4th Avenue, and to assist in managing the Lessor's compliance with the terms and conditions of the Lessor's improvements, as described in the lease extension.

modification in paragraph 42; and to include 712 West Fourth Avenue, with other terms and conditions necessary to accommodate renovations, not to exceed the estimated cost of a similarly sized, located and apportioned newly constructed building as determined by the Alaska Housing Finance Corporation.

B. Requirements of Alaska Legislative Procurement Procedure 040(d)

Legislative Procurement Procedure 040, as amended by Amendment No. 12 and authorized by Legislative Council as set forth in the motion above, added subsection (d), which provides:

(d) A lease that was procured competitively may be materially modified by amendment, and the material modification of the lease does not require procurement of a new lease, if

(1) the reasons for the modification are legitimate;

(2) the reasons for the modification were unforeseen when the lease was entered into;

(3) it is not practicable to competitively procure a new lease;

(4) the modification is in the best interests of the agency or the committee;

(5) the procurement officer makes a written determination that the items in paragraphs (1) - (4) exist, the determination details the reasons for concluding why the items exist, and the determination is attached to the amended lease; and

(6) the use of this subsection is approved by the procurement officer and, in the case of an amendment for the lease of a legislative committee, by a majority of the committee members.

Procurement Officer's Determination Under Legislative Procurement Procedure 040(d)

040(d); Previously Competitively Bid Requirement

As previously discussed, the Legislature's Lease of the Anchorage Legislative Information Office dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, amended March 3, 2009, renewed for the final one-year term on May 20, 2013, was previously competitively bid under RFP 391, which was publicly issued on July 17, 2003. Accordingly, under Legislative Procurement Procedure 040(d), the Lease may be materially modified.

040(d)(1); Reasons for the Modification are Legitimate

The decision to modify the Lease is consistent with the purpose of the present Lease, which is to provide office space for the Legislature. These amendments do not alter the essential identity or main purpose of the contract, and do not constitute a new undertaking, and therefore are a legitimate modification of the Lease.

The property at 712 West Fourth Avenue is unique, since it is the only adjacent space to 716 West Fourth Avenue available to satisfy the Legislature's need for additional space, and meets the essential requirement of keeping all the present legislative offices in one building. The addition of 712 West Fourth Avenue allows the Legislature to extend its current Lease as provided under AS 36.30.083(a). Given the uniqueness of the property, and the fact that no other bidder would be able to provide space adjacent to 716 West Fourth Avenue, it would be a waste of private sector resources and legislative procurement resources to competitively bid for the only adjacent property.

The expanded premise will be renovated to meet the needs of the Lessee. In accordance with the expansion of the leased premises, the renovation, and the Lease Extension executed under AS 36.30.083(a), it is necessary to amend material terms of the Lease. Without the modifications, the Lease would not be functional to govern the premises. Given the uniqueness of the property and the ability of the Legislature to have input in the design and function of the renovated building, a competitively bid procurement would be impractical, inefficient, and ultimately, likely unsuccessful in providing premises as suited to the needs of the Legislature.

Accordingly, modifying the Lease by adding 712 West Fourth Avenue to the "premises" and by amending other lease terms to accommodate the expanded premises and the Lease Extension under AS 36.30.083(a) does not subvert the purposes of competitive bidding, and is a legitimate exercise of the Legislature's procurement authority.

040(d)(2); Reasons for Modification Unforeseen When Lease was Entered Into

When the Lease was entered into for 716 West Fourth Avenue in 2004, it was unforeseen that the Legislature would need significant additional space, or that the infrastructure problems with the building would worsen, e.g., the exhausted service life of the HVAC system and the water system, and the elevator failing to handle the demands of staff and public use.

In 2004, based on the Executive Director's Office's best assessment, there were approximately 54 legislative staff working in the building. Today, in 2013, there are approximately 72, which is an increase during the ten-year term of the Lease of approximately one-third. The result of this unforeseen increase in staffing demands on the space in the building is that the staff for some legislators work in shared space. Shared space fails to meet standards for confidential meetings with constituents, and other intra-office privacy concerns. The space has only worked because of the patience and cooperation of Anchorage legislative staff and legislators. However, after the current

Lease term expires the limited space will no longer be acceptable. In addition to the staff of different legislators sharing space, three Anchorage area legislators are sharing space with their staff, which is also not acceptable.

The Legislature requires office space beyond the needs of the Anchorage-area legislators and staff. Once the Lease is amended, the renovated facility will provide space for the Speaker of the House, and the Senate President, who are both out-of-Anchorage legislators, and for rural legislators who require space for conducting work and attending legislative meetings in Anchorage.

Further, the existing building is in need of substantial renovation and upgrade. The condition of the premises is no longer suitable for legislative use. Physical deficiencies include lack of potable water, limited restroom facilities, ineffective HVAC system, deteriorated and leaking plumbing, an unreliable and inadequate elevator, insecure and unsafe below-ground parking facilities, leaking windows, worn window coverings and carpeting, inadequate electrical service, unpleasant odors in the elevator, inefficient lighting, and hazardous materials used in the original construction of the building. All of these will be remediated in the renovation and upgrade.

Had each of these factors been taken individually, fluctuating space demands may have been foreseen at some level. However, the pressure on space in the building from the multiple impacts discussed above was not foreseen when the Lease was entered into in 2004.

040(d)(3): Not Practicable to Competitively Procure a New Lease

The Anchorage Legislative Information Office has been located in leased space at 716 West Fourth Avenue for approximately 20 years. Occupancy was initially under a 10 year lease which terminated in 2003, that was extended month-by-month through 2004, when the current lease was established following an RFP process. The Legislature

is now in its 10th year under the current Lease, having just exercised the final of five one-year renewal options allowed under the terms of the Lease.

Over the past five years the Legislature has explored and requested proposals on numerous occasions seeking alternative space. None of those efforts has resulted in a solution that was possible, practicable or acceptable. Given that the Lease has nearly expired, the Legislature recently provided notice to the public of a Request For Information ("RFI")² from parties interested in providing legislative office space in Anchorage. Two parties provided responses detailing the space they had available. Both spaces were located in areas that were not acceptable to Legislative Council for the needs of the Legislature. The available properties in the responses to the RFI failed to provide constituent access, access to other state and local centers of government, access to public transportation, and access to lodging and meeting spaces. In summary, based on the RFI responses, there are no facilities available for lease that are suitable for the Legislature's unique needs.

Because of the limited interest shown in the RFI and the lack of suitable legislative space available for lease, Legislative Council reconsidered the existing leased space at 716 West Fourth Avenue, and made the determination that the existing building, if renovated and with the addition of a suitable amount of additional space, could continue to serve the Legislature and public. The only available property adjacent to 716 West Fourth Avenue that would facilitate the needed renovations to 716 West Fourth Avenue, and provide additional space, is 712 West Fourth Avenue.

In addition to its efforts to formally identify potential lease space through the issue of an RFI, commercial real estate brokers and others were consulted in an attempt to determine if lease space suitable to meet the Legislature's needs might be available.

² The complete RFI is available at
<http://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=168321>.

These inquiries delivered the same results as the RFI; there are no existing facilities available to meet the Legislature's needs,

Based on the foregoing discussion and factors, inclusive of the lack of suitable remaining time for any additional procurement efforts, as Procurement Officer, I find that it would not be practicable to competitively bid a lease for Anchorage legislative office space because of: (1) limited interest demonstrated by the response to the RFI; (2) no available property suitable for legislative needs offered in response to the RFI; (3) the decision by Legislative Council to exercise its option under AS 36.30.083(a) and extend its lease of 716 West Fourth Avenue, subject to renovations by the Lessor and a cost saving of 10 percent less than fair market value; and (4) the uniqueness of the location of 712 West Fourth Avenue to the Legislature's existing office space at 716 West Fourth Avenue.

040 (d)(4): The Modification is in the Best Interests of the Agency or the Committee

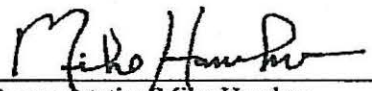
The existing leased space at 716 West Fourth Avenue, while at the end of the service life of the building systems, and despite chronic maintenance problems, has served the Legislature and constituent needs for approximately 20 years. The location on Fourth Avenue provides central access for legislators and constituents to meeting spaces, hotels, the courts, state and local government offices, public transportation, and other support facilities. The current lease includes parking, which is essential for public access to government by constituents, legislators, and staff.

Based on all factors considered above, the Legislative Council made the decision to exercise its option under AS 36.30.083(a) to enter into negotiations with the Lessor, to extend the Lease subject to the building being suitably improved with a modest addition of space, and subject to the requirements in AS 36.30.083(a) that the cost to the Legislature be at least 10 percent below the market rental value of the real property at the time of the extension. The decision to amend the Lease as provided by Alaska

Final
Page 9

Legislative Procurement Procedure 040(d), is in Legislative Council's best interest, since it will facilitate the extension of the Lease with the necessary improvements and with additional needed space, at a cost-savings to the Legislature, as provided by AS 36.30.083(a).

Lastly, in addition to the determination herein, as Chairman of Legislative Council and Procurement Officer, I have provided written notice to legislative leadership of the successful conclusion of negotiations and the intent to extend and amend the lease as provided herein.



Representative Mike Hawker
Chairman of Legislative Council and
Procurement Officer

9.16.13
Date

EXHIBIT D

Alaska State Legislature
Legislative Affairs Agency

Office of the Executive Director

Terry Miller Legislative Office Building, Room 217

Mailing Address: State Capitol, Rm. 3 Juneau, Alaska 99801-1182 Phone (907) 465-3800 Fax (907) 465-3234



September 19, 2013

2013 SEP 25 AM 9:49

Senator Anna Fairclough, Chair
Representative Mike Hawker, Vice-Chair
Legislative Budget & Audit Committee
State Capitol
Juneau, AK 99801-1182

RE: AS 36.30.083(b) Lease Reporting Requirement

Dear Senator Fairclough and Representative Hawker:

In accordance with the requirements of AS 36.30.083(b), the Legislative Affairs Agency would like to report to the Legislative Budget and Audit Committee that the Agency will be entering into a 10-year real property lease extension of the Anchorage Legislative Offices and Anchorage Legislative Information Office at 716 West 4th Avenue effective June 1, 2014, during the end of fiscal year 2014.

The lease will also be amended to accommodate an expansion and renovation of the premises. As required by AS 36.30.083(a), the market rental value of the renovated premises, including the parking garage, was appraised by real estate appraiser Tim Lowe, MAI, CRE, FRICS, of Waronzof and Associates, Inc. on September 18, 2013, and reviewed by the Alaska Housing Finance Corporation, to establish that the rent due under the lease is 10 percent below the market rental value of the real property. Mr. Lowe has assessed the rental value of the property, as of the effective date of the lease extension on June 1, 2014, at \$325,667 a month or \$3,908,000 annually. The annual rental payment will be \$281,638 a month or \$3,379,656 annually, exceeding the 10 percent reduction in market rental value required by AS 36.30.083(a). Our annual savings will be \$528,344.

Sincerely,

A handwritten signature in cursive script that reads "Pamela A. Varni".

Pamela A. Varni
Executive Director

cc: Tina Strong, Contracting Officer, LAA

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423483

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Robert B. Acree Date
Member

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Mark E. Pfeffer Alaska Trust UTAD 12/28/07

Alana Williams Date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY

Pamela A. Varni 9/19/13

Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

APPROVED AS TO FORM:

Legal Counsel Date

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, MARK E. PFEFFER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that they had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ALANA WILLIAMS, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of MARK E. PFEFFER ALASKA TRUST UTAD 12/28/07, and who acknowledged to me that she had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA

)
) ss.
)

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on the _____ day of _____, 2013, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared REPRESENTATIVE MIKE HAWKER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and he acknowledged to me that he executed the foregoing Lease as the free and voluntary act and deed of his principal for the uses and purposes therein set forth.

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

Notary Public in and for Alaska
My commission expires: _____

STATE OF *Missouri*
County of Jackson)
) ss.

THIS IS TO CERTIFY that on the 19 day of September, 2013, before me, the undersigned Notary Public in and for ~~Missouri~~, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the EXECUTIVE DIRECTOR of the STATE OF ~~Alaska~~ LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing instrument as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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



Sherry F. Couchner

Notary Public in and for *Missouri*
My commission expires: 03-18-16

FOR RECORDING DISTRICT OFFICE USE ONLY:
No Charge - State Business

After recording return to:
Tina Strong, Supply Officer
Legislative Affairs Agency
State Capitol, RM 3
Juneau, AK 99801-1182

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423463

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Robert B. Acree Date
Member

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:
Mark E. Pfeffer Alaska Trust UTAD 12/28/07

Alana Williams Date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY

Pamela A. Varni Date
Executive Director
Legislative Affairs Agency


APPROVED AS TO FORM:

R. J. Anderson 9-19-13
Legal Counsel Date

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

 7/19/13

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423463

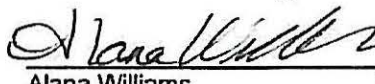
LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Robert B. Acree Date
Member

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:
Mark E. Pfeffer Alaska Trust UTAD 12/28/07

 7/19/13

Alana Williams Date
Its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

CERTIFYING AUTHORITY

Pamela A. Varni Date
Executive Director
Legislative Affairs Agency

APPROVED AS TO FORM:

Legal Counsel Date

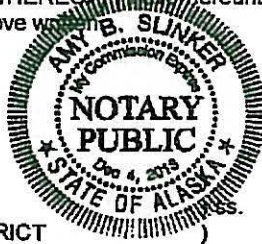
STATE OF ALASKA

)
) ss.
)

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this 19th day of September, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, MARK E. PFEFFER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that they had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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



Amy B. Slinker
Notary Public in and for Alaska
My commission expires: 12/4/13

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this _____ day of _____, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires: _____

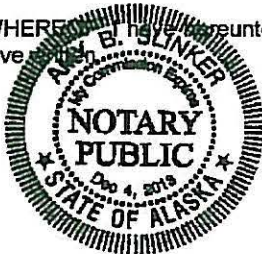
STATE OF ALASKA

)
) ss.
)

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this 19th day of September, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ALANA WILLIAMS, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of MARK E. PFEFFER ALASKA TRUST UTAD 12/28/07, and who acknowledged to me that she had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

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



Amy B. Slinker
Notary Public in and for Alaska
My commission expires: 12/4/13

ASHBURN & MASON P.C.

LAWYERS

DANI CROSBY • MATTHEW T. FINDLEY • MERA MATTHEWS • DONALD W. MCCLINTOCK III
JACOB A. SONNEBORN • THOMAS V. WANG • REBECCA A. WINDT
OF COUNSEL MARK E. ASHBURN • JULIAN L. MASON III • A. WILLIAM SAUPE

September 23, 2013

Via Hand Delivery:

Michael Buller
Alaska Housing Finance Corporation
4300 Boniface Parkway
Anchorage, Alaska 99504

Re: the Extension of Lease and Lease Amendment No. 3 between 716 W.
Fourth Avenue, LLC and the Legislative Affairs Office.
Our File No.: 10708.050

Dear Mr. Buller:

Please find enclosed the original signature of Robert Acree on the Extension of Lease and Lease Amendment No. 3 between 716 W. Fourth Avenue, LLC and the Legislative Affairs Office.

Please contact our office should you have any questions.

Very truly yours,

ASHBURN & MASON, P.C.



Donald W. McClintock

Enc.

{10708-050-00152370;1}

1227 WEST 9TH AVENUE, SUITE 200, ANCHORAGE, AK 99501 • TEL 907.276.4331 • FAX 907.277.8235

51. AGREEMENT IN ITS ENTIRETY:

The Lease represents the entire understanding between the parties. No prior oral or written understandings shall have any force or effect with respect to any matter covered in the Lease or in interpreting the Lease. The Lease shall only be modified or amended in writing.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Manager:

Mark E. Pfeffer Date
Manager
Tax Identification No.: 46-3682212
Business License No.: 423463

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Robert B. Acree Date
Member

 9/19/13

LESSOR:
716 WEST FOURTH AVENUE, LLC

By its Member:

Mark E. Pfeffer Alaska Trust UTAD 12/28/07

Alana Williams date
its: Trustee

LESSEE:
STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

Representative Mike Hawker Date
Chair, Alaska Legislative Council
Procurement Officer

APPROVED AS TO FORM:

Legal Counsel _____ Date _____

THIS IS TO CERTIFY that on this _____ day of _____, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, MARK E. PFEFFER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that they had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

Notary Public in and for Alaska
My commission expires: _____

County of Mariposa

THIS IS TO CERTIFY that on this 19 day of September, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, ROBERT B. ACREE, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that he had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said organization, for the uses and purposes therein mentioned.

Notary Public in and for Alaska
My commission expires: 6/4/14

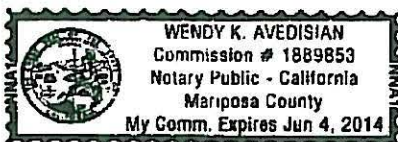


EXHIBIT D

Alaska State Legislature
Legislative Affairs Agency

Office of the Executive Director

Terry Miller Legislative Office Building, Room 217

Mailing Address: State Capitol, Rm. 3 Juneau, Alaska 99801-1182 Phone (907) 465-3800 Fax (907) 465-3234



2013 SEP 25 AM 9:49

September 19, 2013

Senator Anna Fairclough, Chair
Representative Mike Hawker, Vice-Chair
Legislative Budget & Audit Committee
State Capitol
Juneau, AK 99801-1182

RE: AS 36.30.083(b) Lease Reporting Requirement

Dear Senator Fairclough and Representative Hawker:

In accordance with the requirements of AS 36.30.083(b), the Legislative Affairs Agency would like to report to the Legislative Budget and Audit Committee that the Agency will be entering into a 10-year real property lease extension of the Anchorage Legislative Offices and Anchorage Legislative Information Office at 716 West 4th Avenue effective June 1, 2014, during the end of fiscal year 2014.

The lease will also be amended to accommodate an expansion and renovation of the premises. As required by AS 36.30.083(a), the market rental value of the renovated premises, including the parking garage, was appraised by real estate appraiser Tim Lowe, MAI, CRE, FRICS, of Waronzof and Associates, Inc. on September 18, 2013, and reviewed by the Alaska Housing Finance Corporation, to establish that the rent due under the lease is 10 percent below the market rental value of the real property. Mr. Lowe has assessed the rental value of the property, as of the effective date of the lease extension on June 1, 2014, at \$325,667 a month or \$3,908,000 annually. The annual rental payment will be \$281,638 a month or \$3,379,656 annually, exceeding the 10 percent reduction in market rental value required by AS 36.30.083(a). Our annual savings will be \$528,344.

Sincerely,

A handwritten signature in cursive script that reads "Pamela A. Varni".

Pamela A. Varni
Executive Director

cc: Tina Strong, Contracting Officer, LAA

ALASKA LEGISLATIVE PROCUREMENT PROCEDURES
(revised 11/21/13)

* Section 1. The Administrative Services Policy and Procedures Manual is amended by adding new sections to read:

Sec. 010. PURPOSE.

The purpose of these procurement procedures is to adopt competitive procurement principles applicable to the Legislature that ensure the fair and equitable treatment of all persons who deal with the procurement system of the Legislature.

Sec. 020. APPLICATION.

(a) These procedures apply to all contracts entered into after December 31, 1987, for services, professional services, supplies, or construction to be provided to a legislative agency or legislative committee except:

- (1) employment contracts;
- (2) contracts that do not exceed \$35,000 each year;
- (3) contracts for utilities; in this paragraph, "utilities" includes water, heat, sewer, telephone services and garbage;
- (4) contracts with a state agency, including a department, the University of Alaska, and a public corporation;
- (5) contracts to purchase memberships in professional and legislative organizations;
- (6) contracts to handle an emergency situation, including a situation that arises because of fire, flood, equipment failure, or other compelling reason; to qualify for this exemption, the procurement officer shall make a written determination that there is an emergency, and the determination must recite the facts on which the determination is based;
- (7) contracts for the purchase of maintenance services for equipment, software, or both;
- (8) contracts for hospitality or government protocol; and
- (9) contracts for artifacts or art.

(b) Only section 150(b) of these procedures applies to contracts with a municipality in the state.

Sec. 030. NOTICE OF SOLICITATIONS.

(a) A solicitation to procure services, professional services, supplies, or construction under a contract must be extended to a sufficient number of firms or persons to insure that public interest in competition is adequately served. Bids or proposals from at least six firms or persons listed on

the appropriate contractor list maintained by the Department of Administration and the Department of Transportation and Public Facilities shall be solicited for contracts equal to or greater than \$100,000. Bids or proposals from at least three firms or persons listed on the appropriate contractor list maintained by the Department of Administration and the Department of Transportation and Public Facilities shall be solicited for contracts of less than \$100,000. Lists of contractors maintained by the Department of Administration and the Department of Transportation and Public Facilities shall be used in soliciting bids or proposals under this section.

(b) Advertising in a medium that will reasonably bring the invitation or proposal to the attention of persons able to provide the required services, professional services, supplies, or construction may be substituted for direct solicitation or used jointly with direct solicitation of bids or proposals.

(c) The procurement officer shall give notice of the solicitation at least 21 days before the date for the opening of bids or proposals unless the officer makes a determination in writing that a shorter notice period is necessary for a particular solicitation.

(d) If an insufficient number of firms or persons have the expertise required to enable an agency to solicit the number of bids or proposals required under (a) of this section, the agency shall solicit bids or proposals

- (1) from each person or firm listed on the appropriate contractor list that appears to possess the required expertise;
- (2) from any person or firm with the required expertise of which the contracting agency or committee may be aware.

(e) A legislator or the procurement officer for a legislative committee may request the Legislative Affairs Agency to carry out the solicitation responsibilities under this section.

Sec. 033. LIMITED COMPETITION PROCUREMENTS.

(a) A procurement may be made without using competitive sealed bidding or competitive sealed proposals if the procurement is

- (1) for supplies and does not exceed \$100,000; this paragraph includes a space lease that does not exceed
 - (A) \$100,000, even if the lease exceeds 7,000 square feet; or
 - (B) 7,000 square feet, even if the lease exceeds \$100,000;
- (2) for services and does not exceed \$100,000; or
- (3) for construction and does not exceed \$200,000.

(b) A procurement made under this section shall be made by contacting at least three firms or persons for written bids or proposals and is not subject to the solicitation requirements of sec. 030 or the preference requirements of secs. 142 or 145.

Sec. 035. PRACTICAL COMPETITION PROCUREMENT.

A construction contract that does not exceed \$100,000, or a contract for supplies, services, or professional services may be awarded without using competitive sealed bidding or competitive sealed proposals, if the procurement officer determines in writing that a situation exists that makes competitive sealed bidding or competitive sealed proposals impractical or contrary to the public interest. Procurements made under this section shall be made with competition that is practical under the circumstances and without complying with the solicitation requirements of sec. 030 or the preference requirements of secs. 142 or 145.

Sec. 040. EXEMPTIONS.

(a) A contract is exempt from the solicitation requirements of sec. 030 and from sec. 145, if

- (1) the procurement officer determines in writing that
 - (A) it is not practicable to award a contract by competitive sealed bidding, competitive sealed proposals, or other competitive method; and
 - (B) award of the contract under this paragraph is in the agency's or committee's best interest;
- (2) the contract is with a contractor that the Department of Administration has selected by competitive bidding to provide to state agencies the service, product, leased space, or construction that is the subject of the contract; or
- (3) the contract is for legal services.

(b) An exemption in (a)(1) of this section applies only if it is approved by the procurement officer, and in the case of a contract for a legislative committee, by a majority of the committee members. A written justification that details the reasons for the exemption in (a)(1) of this section shall be attached to the contract and filed under sec. 200 of these procedures as a public record. A contract proposed for award under the exemption in (a)(1) of this section is not valid unless the required approval is received.

(c) Sections 142, 147, and 210 of these procedures do not apply to a contract that is exempt under (a)(2) of this section.

(d) A lease that was procured competitively may be materially modified by amendment, and the material modification of the lease does not require procurement of a new lease, if

- (1) the reasons for the modification are legitimate;
- (2) the reasons for the modification were unforeseen when the lease was entered into;

- (3) it is not practicable to competitively procure a new lease;
- (4) the modification is in the best interests of the agency or the committee;
- (5) the procurement officer makes a written determination that the items in paragraphs (1) - (4) exist, the determination details the reasons for concluding why the items exist, and the determination is attached to the amended lease; and
- (6) the use of this subsection is approved by the procurement officer and, in the case of an amendment for the lease of a legislative committee, by a majority of the committee members.

Sec. 045. SMALL PROCUREMENTS.

(a) Professional services contracts that do not exceed \$100,000 may be made as small procurements under this section. Procurements made under this section are not subject to sec. 145 or to the solicitation requirements set forth in sec. 030 of these procedures. Small procurements are subject to the provisions of sec. 147 of these procedures. A small procurement that is made by a solicitation of bids is subject to the Alaska bidder preference set out in sec. 145(c) of these procedures.

(b) A contract awarded as a small procurement under this section may be amended so that the contract amount exceeds the amounts set out in (a) of this section, without complying with the solicitation requirements set forth in sec. 030 of these procedures. However, a contract may not be artificially divided to avoid the solicitation requirements set forth in sec. 030 of these procedures.

Sec. 050. ONLY ONE BID OR PROPOSAL RECEIVED.

(a) If only one responsive bid is received in response to an invitation for bids, including multi-step bidding, an award may be made to the single bidder if the procurement officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise the bid may be rejected and:

- (1) new bids or offers may be solicited;
- (2) the proposed procurement may be cancelled; or
- (3) if the procurement officer determines in writing that the need for the supply or service continues, but that the price of the one bid is not fair and reasonable and there is not time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted under sec. 040 of these procedures.

(b) If only one proposal is received in response to a request for proposals, the procurement officer may, as the officer deems appropriate, make an award, cancel the procurement, or if time permits, resolicit for the purpose of obtaining competitive sealed proposals.

Sec. 070. BID AND PERFORMANCE BONDS FOR SUPPLY CONTRACTS OR SERVICE CONTRACTS.

In addition to any other bond required by law, bid and performance bonds or other security may be required for supply contracts or service contracts as the procurement officer deems advisable to protect the interest of the agency. These requirements shall be set forth in the solicitation. Bid or performance bonds may not be used as a substitute for a determination of bidder or offeror responsibility.

Sec. 080. CONDITIONING BIDS OR PROPOSALS UPON OTHER AWARDS NOT ACCEPTABLE.

A bid or proposal that is conditioned upon receiving award of both the particular contract being solicited and another legislative contract is nonresponsive and not acceptable.

Sec. 090. DETERMINATION OF TERMS AND CONDITIONS.

The procurement officer is authorized to determine the provisions, terms and conditions of solicitations and contracts, provided the provisions, terms and conditions are not contrary to statutory or other requirements governing the procurement.

Sec. 095. HUMAN TRAFFICKING.

(a) A procurement may not be made from a person that has headquarters in a country listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C).

(b) The procurement officer may set restrictions on procurement from a person that conducts business in but does not have headquarters in a country listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C).

Sec. 100. UNSOLICITED OFFERS.

(a) An unsolicited offer is an offer other than one submitted in response to a solicitation.

(b) The procurement officer shall consider an unsolicited offer as provided in this section. To be considered for evaluation an unsolicited offer:

- (1) must be in writing;
- (2) must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the agency;
- (3) must be unique or innovative;
- (4) must demonstrate that the proprietary character of the offering warrants consideration of the use of a noncompetitive procurement; and
- (5) may be subject to testing under terms and conditions specified by the agency.

(c) The unsolicited offer must be evaluated to determine its use to the agency and whether it would be to the agency's advantage to enter into a contract based on the offer.

(d) A written request for confidentiality of technical data and trade secrets contained in an unsolicited offer that is made in writing shall be honored. If an award is made, confidentiality of data shall be agreed upon by the parties and governed by the provisions of the contract. Confidential data not contained in the contract are not open to public inspection under sec. 200 of these procedures. If agreement cannot be reached on confidentiality, the agency may reject the unsolicited offer.

Sec. 110. POLICY FOR CANCELLATION OF SOLICITATIONS.

Solicitations should only be issued when there is a valid procurement need unless the solicitation states that it is for informational purposes only. The solicitation must give the status of funding for the procurement. Preparing and distributing a solicitation requires the expenditure of state time and funds. Businesses also incur expense in examining and responding to solicitations. Therefore, although issuance of a solicitation does not compel award of a contract, a solicitation may be cancelled only when there are cogent and compelling reasons to believe that the cancellation of the solicitation is in the agency's best interest.

Sec. 120. CANCELLATION OF SOLICITATION: REJECTION OF ALL BIDS OR PROPOSALS.

(a) A solicitation issued by an agency must state that the solicitation may be cancelled as provided in this section.

(b) Before opening, a solicitation may be cancelled in whole or in part when the procurement officer determines in writing that cancellation is in the agency's best interest. Reasons for cancellation include:

- (1) the agency no longer requires the supplies, services, or construction;
- (2) the agency no longer can reasonably expect to fund the procurement; or
- (3) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

(c) When a solicitation is cancelled before opening, notice of cancellation shall be sent to all businesses solicited. The notice of cancellation must:

- (1) identify the solicitation;
- (2) briefly explain the reason for cancellation; and
- (3) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, professional services, or construction.

(d) After opening but before award, all bids or proposals may be rejected in whole or in part when the procurement officer determines in writing that rejection is in the agency's best interest. Reasons for rejection include:

- (1) the supplies, services, professional services, or construction being procured are no longer required;
- (2) ambiguous or otherwise inadequate specifications were part of the solicitation;
- (3) the solicitation did not provide for consideration of all factors of significance to the agency;
- (4) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- (5) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
- (6) there is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

(e) A notice of rejection that includes the information required under (c) of this section shall be sent to all businesses that submitted bids or proposals.

(f) In this section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

(g) The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

Sec. 125. BID OR PROPOSAL PREPARATION COSTS.

If for any reason a contract is not awarded after a solicitation, an agency of the legislature may not be held liable for bid or proposal preparation costs.

Sec. 130. REJECTION OF INDIVIDUAL BIDS OR PROPOSALS.

(a) A solicitation issued by an agency shall provide that a bid or proposal may be rejected in whole or in part when in the best interest of the agency as provided in this section.

(b) Reasons for rejecting a bid submitted in competitive sealed bidding or in the second phase of multi-step sealed bidding include:

- (1) the business that submitted the bid is nonresponsible as determined under sec. 210 of these procedures;

- (2) the bid is not responsive, that is, it does not conform in all material respects to the invitation for bids;
- (3) the supply, service, professional service, or construction item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the invitation for bids.

(c) In this section, "proposal" means an offer submitted in response to a solicitation other than a bid. Unless the solicitation states otherwise, proposals need not be unconditionally accepted without alteration or correction, and the stated requirement in the solicitation may be revised or clarified after proposals are submitted. This flexibility must be considered in determining whether reasons exist for rejecting all or part of a proposal. Reasons for rejecting proposals include:

- (1) the business that submitted the proposal is nonresponsive as determined under sec. 210 of these procedures;
- (2) the proposal ultimately fails to meet the announced requirements of the agency in a material respect; or
- (3) the proposed price is clearly unreasonable.

(d) Upon request, unsuccessful bidders or offerors shall be advised of the reasons for the rejection.

Sec. 140. ALL-OR-NONE BIDS OR PROPOSALS.

Unless a solicitation permits a bid or proposal to limit acceptance to the entire bid or proposal offering, a bid or proposal so limited is nonresponsive. If the solicitation permits such a limitation, the agency may not reject part of the bid or proposal and award on the remainder.

Sec. 142. ALASKA PRODUCT PREFERENCE.

In a contract involving the purchase of supplies, including a construction contract, only products manufactured, produced, or harvested in the state may be purchased if the supplies are competitively priced, available, and of like quality compared with products manufactured, produced, or harvested outside the state.

Sec. 145. CONTRACT AWARD.

(a) Except as provided in (c) of this section, the procurement officer shall award a contract based on a solicitation of bids with reasonable promptness to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set out in the solicitation.

(b) In this section, "Alaska bidder" means a person who

- (1) holds a current Alaska business license;

- (2) submits a bid or proposal for goods, services, or construction under the name as appearing on the person's current Alaska business license;
- (3) has maintained a place of business within the state staffed by the person or an employee of the person for a period of six months immediately preceding the date of the bid or proposal;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and
- (5) if a joint venture, is composed entirely of ventures that qualify under (1) - (4) of this subsection.

(c) Except as provided in (e) of this section, the procurement officer shall award a contract based on a solicitation of bids to the lowest responsible and responsive Alaska bidder if the bid is not more than five percent higher than the lowest nonresident bidder's.

(d) The procurement officer shall award a contract based on a solicitation of proposals with reasonable promptness to the responsible and responsive offeror whose proposal is determined in writing by the procurement officer to be the most advantageous to the state after taking into consideration price and the evaluation factors set out in the request for proposals. Other factors and criteria may not be used in the evaluation. When determining whether a proposal is advantageous to the state, the procurement officer shall consider whether the offeror qualifies as an Alaska bidder under (b) of this section.

(e) Notwithstanding sec. 142, if the procurement is done by competitive sealed bidding, the procurement officer shall award the contract to the lowest responsible and responsive bidder after application of an Alaska bidder preference of five percent, an Alaska products preference under AS 36.30.322 - 36.30.338, and a recycled products preference under AS 36.30.337, an Alaska veterans' preference under AS 36.30.321(f), and preferences under AS 36.20.321(b), (d), (g), (i), and (k) relating to persons with disabilities, including employment programs. In this subsection, "employment program" has the meaning given in AS 36.30.990.

Sec. 147. DETERMINATION TO AWARD A CONTRACT TO A NONRESIDENT.

If the procurement officer awards a contract to a person who does not reside or maintain a place of business in the state and if the supplies, services, professional services, or construction that is the subject of the contract could have been obtained from sources in the state, the procurement officer shall issue a written statement explaining the basis of the award. The statement required under this section shall be kept in the contract file.

Sec. 150. PREPARATION AND AWARD OF CONTRACTS.

(a) A contract must be self-contained and written with care and thoroughness.

(b) Contracts and amendments to contracts must be authorized as follows:

- (1) contracts involving House operating funds must be authorized by the Speaker of the House and a majority of the members of the Legislative Council in a meeting, except that contracts for legal services need be authorized by the Speaker only;
- (2) contracts involving Senate operating funds must be authorized by the President of the Senate and a majority of the members of the Legislative Council in a meeting, except that contracts for legal services need be authorized by the President only;
- (3) contracts of a legislative committee must be authorized by a majority of the members of the committee in a meeting;
- (4) contracts of the Legislative Affairs Agency must be authorized by a majority of the members of the Legislative Council in a meeting of the Legislative Council;
- (5) contracts of the Legislative Finance Division and the Legislative Audit Division must be authorized by a majority of the members of the Legislative Budget and Audit Committee in a meeting of the committee;
- (6) contracts of a research agency established by the legislature must be authorized by a majority of the members of the Legislative Council in a meeting.

(c) A contract must be executed by the provider of the service, professional service, supply, or construction, and the procurement officer and shall be approved as to form by legislative legal counsel.

(d) A contract must contain:

- (1) the amount of the contract stated on its first page;
- (2) the date for the work to begin or the supplies to be delivered;
- (3) the date by which the work must be completed;
- (4) a description of the services to be performed or the supplies to be procured under the contract; and
- (5) a statement of the status of the funding for the contract.

(e) Subsections (a), (c), and (d) of this section do not apply when a State of Alaska delivery order form is used.

(f) Notwithstanding (b) of this section, the procurement officer for a construction contract may, without obtaining committee authorization otherwise required by (b) of this section, authorize an

increase in the amount to be paid a contractor under the construction contract if the increase results from a change to the construction contract that is within the general scope of the original construction contract. The cumulative amount of all increases that may be authorized for one construction contract by a procurement officer under this subsection may not exceed \$25,000, or 10 percent of the original amount of the construction contract, whichever is more. In this subsection, "construction contract" means a contract in which the work includes construction services, even if supplies or other services are also provided under the contract.

The procurement officer will notify members of the appropriate committee of any authorized change orders.

Sec. 160. NOVATION OR CHANGE OF NAME.

(a) A legislative contract for the lease of legislative space that does not include a subordination agreement, may be assigned with the consent of the procurement officer. Any other legislative contract is not transferable, or otherwise assignable, without the consent of the procurement officer, and in the case of a contract for a committee, a majority of the members of that committee. However, a contractor may assign money receivable under a contract after due notice to the procurement officer.

(b) When it is in the best interest of the agency, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee must agree that:

- (1) the transferee assume all of the transferor's obligations;
- (2) the transferor waives all rights under the contract as against the agency; and
- (3) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required, furnish a satisfactory performance bond.

(c) When a contractor requests to change the name in which it holds a contract with an agency, the procurement officer responsible for the contract shall, upon receipt of a document indicating a change of name, enter into an agreement with the requesting contractor to effect the change of name. The agreement changing the name must specifically indicate that no other terms and conditions of the contract are thereby changed.

Sec. 170. CONTRACTING FOR INSTALLMENT PURCHASE PAYMENTS, INCLUDING INTEREST.

Supply contracts may provide for installment purchase payments, including interest charges, over a period of time. Installment payments, however, should be used judiciously in order to achieve economy and not to avoid budgetary restraints and must be justified in writing by the procurement officer. The justification shall be attached to the contract and filed under sec. 200 of these procedures. An installment payment agreement may not be used unless a provision for installment payments is included in the solicitation document.

Sec. 180. STANDARD OVERHEAD RATE.

(a) If the University of Alaska or any other state agency has established an applicable standard overhead rate, the standard overhead rate shall be included in a proposal for a contract submitted by the University of Alaska or the state agency.

(b) In this section, "standard overhead rate" means a charge established by the University of Alaska or a state agency that is designed to compensate the University of Alaska or the state agency for administration and support services incidentally provided with the services.

Sec. 195. DISCLOSURE OF PROPOSALS.

Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the selection process. A register of proposals containing the name and address of each offeror shall be prepared. The register and the proposals are open for public inspection after the notice of intent to award a contract is issued. To the extent that the offeror designates and the procurement officer concurs, trade secrets and other proprietary data contained in the proposal documents are confidential.

Sec. 200. PROCUREMENT FILES.

(a) A copy of each solicitation or unsolicited offer that does not result in a contract together with relevant documents shall be filed, as is appropriate, with the Legislative Affairs Agency, the legislative finance division, or the legislative audit division. The invitation to bid or request for proposals and each bid or proposal submitted shall be filed with the filed contract copy unless the contract is one in which an invitation to bid or a request for proposals is not required. Except as otherwise provided in secs. 100 and 195 of these procedures, procurement files are open for public inspection.

(b) A contract for services provided to the legislative audit division in the preparation of an audit report or a performance review report does not have to be filed under (a) of this section until the report is released under AS 24.20.311.

Sec. 210. RESPONSIBILITY OF PROSPECTIVE CONTRACTORS.

Before awarding a contract, the procurement officer must be satisfied that the prospective contractor is responsible. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the procurement officer. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination must be made part of the procurement file.

Sec. 220. STANDARDS OF RESPONSIBILITY.

(a) Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective contractor has:

- (1) the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;

- (2) a satisfactory record of performance;
- (3) a satisfactory record of integrity;
- (4) qualified legally to contract with the agency; and
- (5) supplied all necessary information in connection with the inquiry concerning responsibility.

(b) The prospective contractor shall supply information requested by the procurement officer concerning the responsibility of the contractor. If the contractor fails to supply the requested information, the procurement officer shall base the determination of responsibility upon any available information or may find the prospective contractor nonresponsible if the failure is unreasonable.

(c) The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- (1) evidence that the contractor possesses the necessary items;
- (2) acceptable plans to subcontract for the necessary items; or
- (3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

Sec. 230. FILING OF A PROTEST.

An interested party may protest the award of a contract, the proposed award of a contract, or a solicitation for supplies, services, professional services, or construction by an agency. The protest shall be filed with the procurement officer in writing and include the following information:

- (1) the name, address, and telephone number of the protester;
- (2) the signature of the protester or the protester's representative;
- (3) identification of the contracting agency and the solicitation or contract at issue;
- (4) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and
- (5) the form of relief requested.

Sec. 240. TIME FOR FILING A PROTEST.

(a) A protest based upon alleged improprieties in a solicitation involving competitive sealed bidding that are apparent before the bid opening shall be filed before the bid opening. A protest

based on alleged improprieties in a solicitation involving competitive sealed proposals that are apparent

- (1) before the due date for receipt of initial proposals shall be filed before that due date;
 - (2) after the due date for receipt of initial proposals shall be filed before the next due date for receipt of adjusted proposals that occurs after the improprieties are apparent.
- (b) In situations not covered under (a) of this section, protests shall be filed within 10 days after a notice of intent to award the contract is issued by the procurement officer.
- (c) If the protester shows good cause, the procurement officer of the contracting agency may consider a filed protest that is not timely.

Sec. 250. NOTICE OF A PROTEST.

The procurement officer shall immediately give notice of a protest filed under sec. 240 of these procedures to the contractor if a contract has been awarded or, if no award has been made, to all interested parties.

Sec. 260. STAY OF AWARD.

If a protest is filed the award may be made unless the procurement officer of the contracting agency determines in writing that a:

- (1) reasonable probability exists that the protest will be sustained; or
- (2) stay of the award is not contrary to the best interests of the state.

Sec. 270. DECISION BY THE PROCUREMENT OFFICER.

- (a) The procurement officer of the contracting agency shall issue a written decision containing the basis of the decision within 14 days after a protest has been filed. A copy of the decision shall be furnished to the protester by certified mail or other method that provides evidence of receipt.
- (b) The time for a decision may be extended up to 26 days for good cause by the Legislative Council. If an extension is granted, the procurement officer shall notify the protester in writing of the date the decision is due.
- (c) If a decision is not made by the date it is due, the protester may proceed as if the procurement officer had issued a decision adverse to the protester.

Sec. 280. PROTEST REMEDIES.

- (a) If the procurement officer sustains a protest in whole or in part, the procurement officer shall implement an appropriate remedy.
- (b) In determining an appropriate remedy, the procurement officer shall consider the circumstances surrounding the solicitation or procurement including the seriousness of the

procurement deficiencies, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent the procurement has been accomplished, costs to the agency and other impacts on the agency of a proposed remedy, and the urgency of the procurement to the welfare of the state.

(c) Notwithstanding (a) and (b) of this section, if a protest is sustained in whole or part, the protestor's damages are limited to reasonable bid or proposal preparation costs.

Sec. 290. APPEAL ON A PROTEST.

(a) An appeal from a decision of a procurement officer on a protest may be filed by the protester with the Legislative Council. An appeal shall be filed within seven days after the decision is received by the protester. The protester shall file a copy of the appeal with the procurement officer.

(b) An appeal must contain the information required under sec. 230 of these procedures. In addition, the appeal must include

- (1) a copy of the decision being appealed; and
- (2) identification of the factual or legal errors in the decision that form the basis for the appeal.

Sec. 300. NOTICE OF A PROTEST APPEAL.

(a) The procurement officer shall immediately give notice of an appeal filed under sec. 290 of these procedures to the contractor if a contract has been awarded or, if no award has been made, to all interested parties.

(b) The Legislative Council shall, on request, furnish a copy of the appeal to a person notified under (a) of this section, except that confidential material shall be deleted from the copy.

Sec. 310. STAY OF AWARD DURING PROTEST APPEAL.

If a protest appeal is filed before a contract is awarded and the award was stayed under sec. 260 of these procedures, the filing of the appeal automatically continues the stay until the Legislative Council makes a written determination that the award of the contract without further delay is necessary to protect substantial interests of the state.

Sec. 320. PROTEST REPORT.

(a) The procurement officer of the contracting agency shall file a complete report on the protest and decision with the Legislative Council within 10 days after a protest appeal is filed. The procurement officer shall furnish a copy of the report to the protester and to interested parties that have requested a copy of the appeal under sec. 300(b) of these procedures.

(b) The procurement officer may request the Legislative Council chair for an extension of time to prepare the protest report. The request must be in writing listing the reasons for the request. The Legislative Council chair shall respond to the request in writing. If an extension is granted, the Legislative Council chair shall list the reasons for granting the extension and indicate the date

the protest report is due. The Legislative Council chair shall notify the protester in writing that the time for submission of the report has been extended and the date the report is due.

(c) The protester may file comments on the protest report with the Legislative Council within 10 days after the report is received. The protester shall provide copies of the comments to the procurement officer and to interested parties that have requested a copy of the appeal under sec. 300(b) of these procedures.

(d) The protester may request the Legislative Council chair for an extension of time to prepare the comments on the protest report. The request must be in writing listing the reasons for the request. The Legislative Council chair shall respond to the request in writing. If an extension is granted, the Legislative Council chair shall list the reasons for granting the extension and indicate the date the comments are due. The Legislative Council chair shall notify the procurement officer in writing that the time for submission of the comments has been extended and the date the comments are due.

Sec. 330. DECISION WITHOUT HEARING.

(a) The Legislative Council shall dismiss a protest appeal before a hearing is held if it is determined in writing that the appeal is untimely under sec. 290 of these procedures.

(b) The Legislative Council may issue a decision on an appeal without a hearing if the appeal involves questions of law without genuine issues of fact.

(c) Within 30 days after the period for filing comments under sec. 320(c) or (d) has expired the Legislative Council may adopt the decision of the procurement officer as the final decision without a hearing.

Sec. 340. HEARING ON PROTEST APPEAL.

A hearing on a protest appeal shall be conducted in accordance with sec. 450 of these procedures.

Sec. 350. CONTRACT CONTROVERSIES.

(a) A contractor shall file a claim concerning a contract awarded under this chapter with the procurement officer. The contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of the contractor's knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the state is liable.

(b) If a controversy asserted by a contractor concerning a contract awarded under these procedures cannot be resolved by agreement, the procurement officer shall, after receiving a written request by the contractor for a decision, issue a written decision. The decision shall be made no more than 90 days after receipt by the procurement officer of all necessary information from the contractor. Failure of the contractor to furnish necessary information to the procurement officer constitutes a waiver of the claim. Before issuing the decision the procurement officer shall review the facts relating to the controversy and obtain necessary assistance from legal, fiscal, and other advisors.

(c) The time for issuing a decision under (b) of this section may be extended for good cause by the Legislative Council chair if the controversy concerns an amount in excess of \$50,000. The procurement officer shall notify the contractor in writing that the time for the issuance of a decision has been extended and of the date by which a decision shall be issued.

(d) The procurement officer shall furnish a copy of the decision to the contractor by certified mail or other method that provides evidence of receipt. The decision shall include a:

- (1) description of the controversy;
- (2) reference to the pertinent contract provisions;
- (3) statement of the agreed upon and disputed facts;
- (4) statement of reasons supporting the decision; and
- (5) statement substantially as follows:

"This is the final decision of the procurement officer. This decision may be appealed to the Legislative Council. If you appeal, you must file a written notice of appeal with the Legislative Council within 14 days after you receive this decision."

(e) If a decision is not made by the date it is due, the contractor may proceed as if the procurement officer had issued a decision adverse to the contractor.

(f) If a controversy asserted by the Legislature concerning a contract awarded under this chapter cannot be resolved by agreement the matter shall be immediately referred to the Legislative Council.

Sec. 360. APPEAL ON A CONTRACT CONTROVERSY.

(a) An appeal from a decision of the procurement officer on a contract controversy may be filed by the contractor with the Legislative Council. The appeal shall be filed within 14 days after the decision is received by the contractor. The contractor shall file a copy of the appeal with the procurement officer.

(b) An appeal shall contain a copy of the decision being appealed and identification of the factual or legal errors in the decision that form the basis for the appeal.

Sec. 370. HEARING ON A CONTRACT CONTROVERSY.

(a) Except as provided in (b) of this section, a hearing shall be conducted according to sec. 450 of these procedures on a contract controversy appealed to the Legislative Council or referred to the Legislative Council under sec. 350(f) of these procedures.

(b) Within 30 days after receipt of an appeal on a contract controversy the Legislative Council may adopt the decision of the procurement officer as the final decision without a hearing.

Sec. 380. AUTHORITY TO DEBAR OR SUSPEND.

(a) After consultation with the using agency and the attorney general and after a hearing conducted according to sec. 450 of these procedures the Legislative Council may debar a person for cause from consideration for award of contracts. Notice of a debarment hearing shall be provided in writing at least seven days before the hearing. The debarment may not be for a period of more than three years.

(b) The Legislative Council, after consultation with the using agency and the attorney general, may suspend a person from consideration for award of contracts if there is probable cause for debarment and compelling reasons require suspension to protect state interests. The suspension may not be for a period exceeding three months.

Sec. 390. CAUSES FOR DEBARMENT OR SUSPENSION.

The causes for debarment or suspension include the following:

- (1) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a state contractor;
- (3) conviction or civil judgment finding a violation under state or federal antitrust statutes;
- (4) violation of contract provisions of a character that is regarded by the Legislative Council to be so serious as to justify debarment action, such as
 - (A) knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (B) failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;
- (5) for violation of the ethical standards set out in law or regulation; and
- (6) any violation of these procedures or other cause determined to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity.

Sec. 400. WRITTEN DETERMINATIONS.

(a) The Legislative Council shall issue a written decision to debar or suspend. The decision must:

- (1) state the reasons for the action taken; and
- (2) inform the debarred person of rights to judicial appeal or inform the suspended person of rights to administrative and judicial appeal.

(b) A copy of the decision under (a) of this section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other intervening party.

Sec. 410. HEARING ON A SUSPENSION.

(a) A person suspended under sec. 380 of these procedures is entitled to a hearing conducted according to sec. 450 of these procedures if the person files a written request for a hearing with the Legislative Council within seven days after receipt of the notice of suspension under sec. 400 of these procedures.

(b) If a suspended person requests a hearing the Legislative Council shall schedule a prompt hearing unless the attorney general determines that a hearing at the proposed time is likely to jeopardize an investigation. A hearing may not be delayed longer than six months after notice of the suspension is provided under sec. 400 of these procedures.

Sec. 420. LIST OF PERSONS DEBARRED OR SUSPENDED.

The chairman of the Legislative Council shall maintain a list of all persons debarred or suspended from consideration for award of contracts.

Sec. 430. REINSTATEMENT.

(a) The Legislative Council may at any time after a final decision to debar a person from consideration for award of contracts reinstate the person after determining that the cause for which the person was debarred no longer exists or has been substantially mitigated.

(b) A debarred person may request reinstatement by submitting a petition to the Legislative Council supported by evidence showing that the cause for debarment no longer exists or has been substantially mitigated.

(c) The Legislative Council may require a hearing on a reinstatement petition. A decision on reinstatement shall be made in writing within seven days after a reinstatement petition is submitted. The decision shall specify the factors on which it is based.

Sec. 440. LIMITED PARTICIPATION.

The Legislative Council may permit a debarred person to participate in a contract on a limited basis during the debarment period if the Legislative Council determines in writing that the participation is advantageous to the state. The determination shall specify the factors on which it is based and the limits imposed on the debarred person.

Sec. 450. HEARING PROCEDURES.

(a) The chairman of the Legislative Council shall act as a hearing officer or appoint a hearing officer for a hearing conducted under these procedures. The hearing officer shall arrange for a prompt hearing and notify the parties in writing of the time and place of the hearing. The hearing shall be conducted in an informal manner.

(b) The hearing officer may:

- (1) hold prehearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
- (2) require parties to state their positions concerning the various issues in the proceeding;
- (3) require parties to produce for examination those relevant witnesses and documents under their control;
- (4) rule on motions and other procedural matters;
- (5) regulate the course of the hearing and conduct of the participants;
- (6) establish time limits for submission of motions or memoranda;
- (7) impose appropriate sanctions against a person who fails to obey an order of the hearing officer, including
 - (A) prohibiting the person from asserting or opposing designated claims or defenses or introducing designated matters into evidence;
 - (B) excluding all testimony of an unresponsive or evasive witness; and
 - (C) excluding a person from further participation in the hearing;
- (8) take official notice of a material fact not appearing in evidence, if the fact is among the traditional matters subject to judicial notice;
- (9) administer oaths or affirmations.

(c) A transcribed record of the hearing shall be made available at cost to a party that requests it.

Sec. 460. RECOMMENDATION BY THE HEARING OFFICER.

(a) The hearing officer shall recommend a decision to the Legislative Council based on the evidence presented. The recommendation shall include findings of fact and conclusions of law.

(b) The Legislative Council may affirm, modify, or reject the hearing officer's recommendation in whole or in part, may remand the matter to the hearing officer with instructions, or take other appropriate action.

Sec. 470. FINAL DECISION BY LEGISLATIVE COUNCIL.

A final decision by the Legislative Council after a hearing under these procedures shall be sent within 20 days after the hearing to all parties by personal service or certified mail.

Sec. 480. APPEAL.

The decision of the Legislative Council under sec. 470 may be appealed to the Superior Court in accordance with the procedures established in AS 44.62.560 - 44.62.570 for appeals from decisions of executive branch agencies. A claimant may also bring an action under AS 09.50.250 - 09.50.300 at any time after one year has elapsed since the presentation of the claim under sec. 360, if no decision has been made by the Legislative Council.

Sec. 900. DEFINITIONS.

In these procedures, unless the context in which a term is used clearly requires a different meaning,

- (1) "agency" means any subdivision of the legislative branch that conducts procurements, including legislative committees;
- (2) "days" means calendar days and includes weekends and holidays; if a due date falls on a weekend or a legal holiday then the due date is the next working day;
- (3) "interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract; whether an actual or prospective bidder or offeror has an economic interest depends on the circumstances;
- (4) "procurement officer" means:
 - (A) the chairman of the Finance Committee with respect to contracts of that committee and the chairman of the Rules Committee with respect to contracts of that committee;
 - (B) the chairman of a legislative committee, other than the Finance Committees and the Rules Committees, with respect to a contract of that committee;
 - (C) the Speaker of the House with respect to House leadership contracts;
 - (D) the President of the Senate with respect to Senate leadership contracts;

- (E) the chairman of the Legislative Council with respect to contracts of the Legislative Affairs Agency and contracts of a research agency established by the legislature;
 - (F) the chairman of the Legislative Budget and Audit Committee with respect to contracts of the Legislative Finance Division and the Legislative Audit Division;
- (5) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character and that
- (A) include analysis, evaluation, prediction, planning, or recommendation; and
 - (B) result in the production of a report or the completion of a task;
- (6) "solicitation" means an invitation for bids, a request for proposals, or any other document issued by the legislature for the purpose of soliciting bids or proposals to perform a contract.
- (7) "supplies" has the meaning given in AS 36.30.990.

* Sec. 2. The following sections of the Administrative Services Policy and Procedures Manual are repealed:

- (1) the section headed "Contracts" on page 1.13;
- (2) the section headed "Purchasing" on page 3.1.

* Sec. 3. These procedures take effect January 1, 1988.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA BUILDING, INC., an Alaskan)	
corporation,)	
Plaintiff,)	
vs.)	
716 WEST FOURTH AVENUE, LLC, and)	
LEGISLATIVE AFFAIRS AGENCY,)	
Defendants.)	
_____)	3AN-15-05969 CI

ORDER DENYING MOTION FOR SUMMARY JUDGMENT RE: LACHES

I. Background

On September 9, 2013, the Legislative Affairs Agency (LAA) and the 716 West Fourth Avenue LLC (716) entered into an agreement to renovate and expand the existing Legislative Information Office (LIO Project).¹ The project required a virtual "gutting" of the existing rental space, demolition and subsequent reconstruction of a separate building on an adjoining lot, increasing the square footage of the leasehold from approximately 23,645 square feet to approximately 64,048 square feet. The agreement called for the LAA to pay for certain tenant improvements estimated to have cost in excess of \$7.5 million. The project required relocation of the tenants for several months. At the completion of this project, the LAA once again leased the office space. Construction began in December 2013 and was completed around January 9, 2015.²

¹ LAA Mot. for Summ. J. at 2.

² *Id.* at 5.

The monthly rental increased from \$56,863.05 to \$281,638 and the term of the lease was extended to May 31, 2024.

The Alaska Building, owned by Alaska Building Inc. (ABI) whose president and sole member is James Gottstein, is a building adjacent to the LIO Project. By October 3, 2013, Mr. Gottstein was aware that the LAA and 716 had signed a contract for the LIO Project and that the project would cost several million dollars.³ By October 11, 2013, Mr. Gottstein had met with the attorney for 716 and expressed concerns that the lease was illegal and was contemplating filing an injunction⁴. Around October 28, 2013, he once again met with 716's attorney and expressed his opinion that the project was illegal under AS 36.30.083(a).⁵ Mr. Gottstein filed a lawsuit on behalf of ABI on March 31, 2015 alleging in relevant part that because the LIO Project did not comply with the requirements of AS 36.30, the project is illegal.⁶ Under AS 36.30, leases in which the LAA is a party are subject to a competitive bidding process and legislative notice, unless exempted. AS 36.30.083 exempts lease "extensions" that will result in a "cost savings of at least 10 percent below the market rental value of the... property." Over defendants' objections, Mr. Gottstein was granted citizen taxpayer standing.⁷ LAA filed this motion requesting summary judgement under the laches doctrine. 716 joined in LAA's motion for summary judgement.

II. Issues Presented

- A. Is the equitable defense of laches available to ABI's declaratory relief request?
- B. Did ABI fail to bring its complaint in a timely manner?

³ LAA Mot. Summ. J. Exhibit A Request for Admission (RFA) Nos. 4-5.

⁴ *Id.* Interrogatory No. 1.

⁵ *Id.* Interrogatory No. 2.

⁶ First Amended Complaint ¶¶17-21.

⁷ ABI's original complaint contained two counts: Count 1 alleged the illegality of the lease and Count 2 alleged damage to ABI's building during the renovations. The LAA moved that the suit be dismissed as against it because ABI lacked standing to bring suit on Count 1 and the LAA was not the correct party against whom to bring suit in Count 2. Alternatively, the LAA requested that the suit be severed. The court found that ABI had citizen taxpayer standing for Count 1 and severed the counts pursuant to Alaska's Civil Rule 20(a) in its Aug. 8, 2015 Order. ABI filed an amended complaint as to Count 1 and filed a separate suit regarding the allegations in Count 2 that is currently before Judge Rindner in 3AN-15-09785CI.

C. Will ABI's delay harm the LAA?

D. Will ABI's delay harm 716?

III. Summary Judgement Standard

Summary judgement is appropriate where "there is no issue as to any material fact and the moving party is entitled to a judgement as a matter of law."⁸ The non-moving party must "set forth specific facts showing that he could produce evidence reasonably tending to dispute or contradict the movant's evidence and thus demonstrate that a material issues of fact exists."⁹ Alaska has a lenient summary judgement standard,¹⁰ but mere allegations are insufficient and the non-moving party "must set forth specific facts showing that there is a genuine issue of material fact."¹¹ The court views "the facts in the light most favorable to the non-moving party and draw[s] all factual inferences in the non-moving party's favor."¹²

IV. Analysis

Both the LAA and 716 assert the equitable defense of laches against ABI's lawsuit. For a laches defense to succeed, the defendants must show that 1) the plaintiff waited an unreasonable amount of time in bringing his suit and 2) that the plaintiff's unreasonable delay resulted in prejudice or undue harm to the defendants.¹³ As part of determining whether the delay was unreasonable, the court can consider "a lack of diligence in seeking a remedy, or acquiescence in the alleged wrong..."¹⁴ Importantly, "[t]he analysis is actually less of a distinct two-part test than an overall balancing of the equities."¹⁵ Because of the balancing nature of the laches test, whether a delay is unreasonable is often better judged in light of the harm suffered by the defendants. Unless the Alaska Supreme Court is left with a "definite and firm conviction that a

⁸ Alaska R. Civ. P. 56(c).

⁹ *Christensen v. Alaska Sales and Service, Inc.* 335 P.3d 514, 517 (Alaska 2014).

¹⁰ *Estate of Milos v. Quality Asphalt Paving, Inc.*, 145 P.3d 533, 537 (Alaska 2006).

¹¹ *Kelly v. Municipality of Anchorage*, 270 P. 3d 801, 803 (Alaska 2012) (internal citations omitted).

¹² *Kalenka v. Jadon, Inc.*, 305 P.3d 346, 349 (Alaska 2013).

¹³ *Laverty v. Alaska R.R. Corp.*, 13 P.3d 725, 729 (Alaska 2000).

¹⁴ *Kollander v. Kollander*, 322 P.3d 897, 903 (Alaska 2014).

¹⁵ *McGill v. Wahl*, 839 P.2d 393, 399 (Alaska 1992).

mistake has been committed"¹⁶ it will not overturn the trial court's determination of whether laches bars a suit.¹⁷

A. Is the equitable defense of laches available to ABI's declaratory relief request?

Mr. Gottstein objects to the defense of laches being raised, arguing that this defense is not available against his requested declaratory relief. Alaska courts have held that "laches is an equitable defense against equitable causes of action, but not a legal defense against actions at law."¹⁸ However, declaratory relief is neither equitable nor legal, but an additional remedy.¹⁹ The LAA urges the court to view this requested relief as an equitable pleading and allow it to raise the defense of laches.²⁰

In its complaint, ABI only seeks declaratory relief. But ABI has also requested a preliminary injunction²¹, asking the court to utilize equitable powers to prevent perceived harm during the period of the pending lawsuit. Realistically, the declaratory relief requested would effectively bar either defendant from reliance on the provisions of the lease, opening up a myriad of both legal and equitable resolutions to the situation which defendants would then find themselves. Under the unique facts in this litigation, the court does find that the defense of laches is available to this lawsuit.

B. Did ABI fail to bring his complaint in a timely manner?

In determining whether a delay was unreasonable, the court "will look to the point in time at which the defendants' actions indicated that their conduct was irrevocable and

¹⁶ *Laverty*, 13 P.3d at 729.

¹⁷ *Id.*

¹⁸ *Laverty*, 13 P.3d at 730; See also *Hanson v. Kake Tribal Corp.*, 939 P.2d 1320, 1325 n. 1 (Alaska 1997).

¹⁹ *Laverty*, 13 P.3d at 730.

²⁰ ABI belatedly raised the unclean hands doctrine to defeat the laches summary judgment motion. While certainly one who requests an equitable ruling must "come with clean hands", the court notes there may be additional material questions of fact surrounding this issue, but does not base its current decision on this recently raised legal argument.

²¹ Pl.'s Mot for Prelim.Inj. (docketed Oct. 6, 2015). ABI requests that 716 be enjoined from disbursing any funds received under the lease beyond what is necessary to operating expenses and debt service.

would have galvanized a reasonable plaintiff into seeking a lawyer."²² There is no specific length of time that serves as the threshold for a successful defense of laches. [Instead], the court will balance the length of the delay against the seriousness of the prejudice the defendant suffers.²³ As part of determining whether the delay was unreasonable, the court can consider "a lack of diligence in seeking a remedy, or acquiescence in the alleged wrong..."²⁴

LAA and 716 rely heavily on *City and Borough of Juneau v. Breck*, 706 P.2d 313 (Alaska 1985) to persuade the court that Mr. Gottstein's seventeen month delay was unreasonable. In that case, Ms. Breck sued the City of Juneau for violating the city code's competitive bid process when it hired a construction firm to complete a project. From April through June 1984, Ms. Breck appeared before the borough assembly expressing her concerns that the construction contract was illegal. In August, after nearly 50% of the project was completed and the city had spent approximately \$1.5 million, she sued the city asking for an injunction. The Alaska Supreme Court found that the two elements necessary for laches to apply were present: "1) that the plaintiff ha[d] unreasonably delayed in bringing the action; and 2) that this unreasonable delay ha[d] caused undue harm or prejudice to the defendant."²⁵ The court reasoned that though that Plaintiff had waited only four months from when the contract was signed until she brought her law suit, her delay had prejudiced the city because of the amount of money it had already spent and the additional costs the city would incur by cancelling the contract, send the project out to bid, and complete the project with a new firm.²⁶

Specifically, the court in *Breck* found that when the parties signed the construction contract and subsequently started construction, Mrs. Breck should have been prompted to seek counsel.²⁷ Without explicitly saying so, the Court balanced the

²² McGill v. Wahl, 839 P.2d 393, 398-99 (Alaska 1992).

²³ Pavlik v. State, Dept. of Community and Regional Affairs, 637 P.2d 1045, 1047-8 (Alaska 1981) (internal citations omitted) (No specific time must elapse before the defense of laches can be raised because the propriety of refusing to hear a claim turns as much upon the gravity of the prejudice suffered by the defendant as the length of the plaintiff's delay." Thus, where there is a long delay, a lesser degree of prejudice will be required).

²⁴ Kollander v. Kollander, 322 P.3d 897, 903 (Alaska 2014).

²⁵ *Id.* at 315.

²⁶ *Id.*

²⁷ 706 P.2d 313, 315-16 (Alaska 1985).

length of her delay against the prejudice that ensued from her delay citing estimates that such a delay would cost between \$1.5-2 million. Thus, when balanced against the prejudice Ms. Breck's delay caused the ostensibly short amount of time (four months) it took for her to file her suit rose to the level of "unreasonable."

The court finds that Mr. Gottstein was aware of the potential illegality of the contract within weeks of its announcement. Yet he waited seventeen months and until the completion of the project to bring suit.²⁸ In his responses to LAA's request for admissions, Mr. Gottstein admitted that "there was no indication, once construction began in late 2013, that [the LAA] had any intention to voluntarily declare the Lease Extension void due to an alleged irregularity in the procurement process." During the seventeen month delay, Mr. Gottstein also collected \$15,000 in professional fees from 716²⁹ and \$10,000 in rent from the construction company.³⁰ The court views Mr. Gottstein's financial gains as acquiescence and, combined with the seventeen months ABI waited to bring the law suit, this delay seems "unreasonable."

Mr. Gottstein cites concerns over retaliatory actions from 716 if he brought this law suit during the construction period. The court finds that Mr. Gottstein's fears do not seem particularly well-founded³¹ and any threatened retaliatory damage could be remedied by damages. The court finds that fear of retaliation is not a legitimate reason to not bring a timely lawsuit especially when damages could have made Mr. Gottstein whole again.

²⁸ See Ex. A Interrogatory No. 2.

²⁹ See id. RFA 9.

³⁰ See id. RFA 12-14.

³¹ Mr. Gottstein states several times during his October 23, 2015 deposition that he was concerned that 716 was going to shut off the gas to the ABI building. See e.g. Pl.'s Opp. Mot. Sum. J. Laches, Exhibit 1, pg. 4-5 (Gottstein Dep. 87: 5-7; 97: 17-19) However, he also admits that 716 never actually threatened to disconnect his gas. Id. at pg 11-12 (Gottstein Dep. 141:22-142:6). . Bolstering this assertion, he also provides a series of emails between 716's counsel and himself discussing 716 disconnecting and re-connecting Alaska Building's gas lines. Pl.'s Opp. Mot. Sum. J. Laches, Exhibit 2. Even viewing these emails and statements in the light most favorable to Mr. Gottstein, it does not appear that 716 was threatening to cut off the Alaska Building's gas supply for longer than it would take to reconnect it to another meter. He also states that he was worried that 716 would demolish a shared "Party Wall." Pl.'s Opp. Mot. Sum. J. Laches, pg. 3-5. It appears this fear stems from a disagreement over who owned portions of that wall. See Pl.'s Opp. Mot. Sum. J. Laches, Exhibit 3. It is unclear whether 716 would have torn down this wall regardless of ownership if Mr. Gottstein had moved ahead with his suit.

Though the court could find ABI's delay was unreasonable, the court must still balance the delay against the hardship the defendant's will suffer. Neither the LAA's nor 716's future harm seems particularly egregious. In fact, viewing the facts in a light most favorable to ABI as this court is required to do, a finding that the lease is "illegal, null and void" may potentially benefit either party, as discussed below. Thus, when balanced against the unknown degree of harm that the parties may incur because of this delay, the court may ultimately determine that the seventeen month delay is not so unreasonable.

While balancing the harm, the court might come to a different conclusion if ABI were seeking an award of damages³². The court would find unreasonable delay if damages were requested for the period between the fall of 2013 and the date of the lawsuit. But all that is before the court is a request for declaratory relief³³ seeking to declare void a process which resulted in an executory contract that still has eight and one-half years (8½) of monthly rental payments remaining.

C .Will ABI's delay harm the LAA?

As part of the LIO Project, the LAA paid \$7.5 million in tenant improvements. The LAA argues it will be harmed if the lease is found null and void because it may have to relocate and abandon those improvements. Had Mr. Gottstein brought this suit before or even during construction, the LAA contends it could have saved all or part of the \$7.5 million.

Though there are many similarities between *Breck* and the current case, a key distinguishing element is that in *Breck* the expense was a one-time outlay of money. Here, the LAA will continue paying a sizeable monthly rent for several additional years in addition to its initial \$7.5 million investment in tenant improvements. Mr. Gottstein's real estate expert conservatively calculated that over the course of the current lease, the LAA will be paying over \$17 million in excess of allowable rent. If the lease is found

³² Other than the novel claim of *qui tam* damages which is subject to a separate dispositive motion.

³³ Laverty, 13 P.3d at 730,731.

"illegal, null and void"³⁴ and the LAA abandons the building in favor of less expensive office space, it and the Alaskan tax payers will be saving potentially much more than the original \$7.5 million. It remains a question of fact whether the LAA would ultimately forfeit the entire \$7.5 million it spent on improvements since the lease makes no specific mention of such a contingency.³⁵

There are other material questions pertaining to the extent of harm the LAA may suffer. The lease provides for termination if not funded by the legislature, meaning the requested declaratory relief may not harm either party if the court simply determines the legality of an already voidable contract.³⁶ The court finds that summary judgment favoring the LAA is inappropriate at this time without an opportunity to fully develop the facts, determine the credibility of the witnesses, and test the data supplied in support of harm alleged in the request for summary judgment.

D. Will ABI's delay harm 716?

716 similarly argues that it will be unfairly prejudiced absent a successful defense of laches. In joining the LAA's motion for summary judgment under this doctrine, 716 utilized its briefing against Mr. Gottstein's motion for a preliminary injunction in its entirety to argue it will be unfairly prejudiced. There, 716 argues that it spent over \$44 million in renovations, some which were specifically tailored to the LAA's needs.³⁷ 716 further argues had Mr. Gottstein brought this suit earlier, it could have avoided this tremendous outlay of money. Obviously the money spent could have been avoided, but spending money is not the equivalent of suffering harm if the money is recouped in a different fashion.

³⁴ First Amended Complaint Requested Relief A.

³⁵ See September 19, 2013 Lease Extension and Amendment 3, Section 3 (Renovation and Delivery of Premises) and Section 33 (Remedies on Default). Neither section mention what would happen to the \$7.5 million in the event of a default or otherwise. The court does not intend to speculate on legal remedies or "attachments" to the leasehold in this summary judgment format. Suffice to say that uncertainty exists.

³⁶ Extension of Lease and Lease Amendment NO.3, Sec. 1.2, at p.4 of 22. Neither party seemed to commit to the legal ramifications of that clause in the lease.

³⁷ 716 Opp. to Mot. for Prelim. Inj. 12

The facts on this issue are not yet fully ascertainable and certainly aren't presented with such a degree of certainty that this court should rely on them for summary judgment. On the one hand, if the court finds the lease "illegal, null and void" 716 and the LAA may renegotiate the contract to reflect a 10% below market value rental rate meaning 716 may have to amortize the renovation's expense over a longer time and lose some of the benefit of its bargain, therefore incurring some harm. 716 may not be able to lease to any one on similar terms also incurring harm. On the other hand, in the event that the court declares the lease "illegal, null and void," and the parties are unable to reach a new agreement, 716 will be able to lease the building at a greater rate since it claims the current rate is 10% below the market value. Indeed, 716 may even benefit from a finding that the lease is "illegal, null and void."

The court finds that there are genuine issues of material facts pertaining to the extent of harm 716 may suffer and that summary judgment favoring 716 is inappropriate at this time.

V. Conclusion

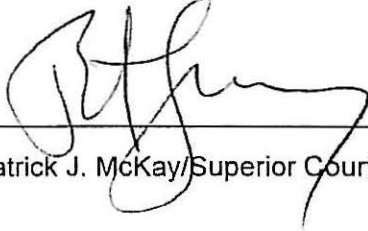
After balancing the equities, the court finds that while it is fairly clear ABI should have brought this law suit at an earlier date, there are material questions of fact as to the continuing harm suffered by the two defendants. ABI's only acknowledged request is for a declaratory ruling on the legality of the lease for failure to follow procurement procedures mandated by Alaska law. Summary dismissal of this litigation by the court's invoking its equitable powers and utilizing the defense of laches would result in a complete avoidance of a ruling on the legality of the LAA/716 lease -- hardly an equitable result to any involved party, but most especially to the citizen taxpayer.

Summary judgement is not appropriate at this time. In particular, the court finds that neither the LAA nor 716 have conclusively established that it will be harmed by a court ruling on the legality of the LAA/716 lease extension agreement.

This decision is not to be construed as a finding that the defense of laches is unavailable to the defendants at trial. The court simply finds that defendants have not

met the substantial burden required by a party seeking summary judgment. Summary judgment is DENIED.³⁸

Dated this 7th day of January, 2016, at Anchorage, Alaska.


Patrick J. McKay/Superior Court Judge

I certify that on 1/7/16 a copy
of the following was ~~mailed/faxed/hand-delivered~~ emailed
to each of the following at their addresses of
record: James Gottstein
Jeffrey Robinson/Kevin Cuddy
Administrative Assistant PC

³⁸ ABI's motion for a ARCP 56(f) continuance is deemed moot.