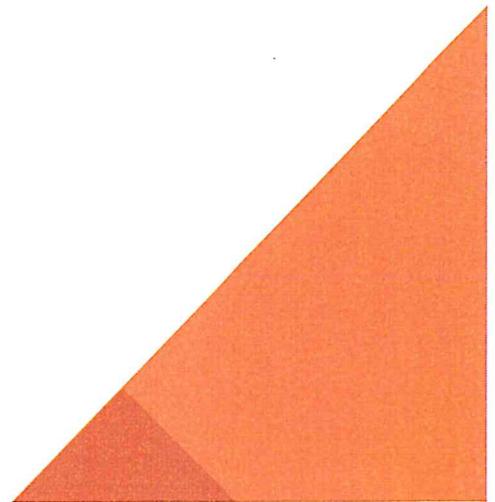


**APPENDIX 3: ZONING SPECIAL  
LIMITATIONS ORDINANCE**



Submitted by: Chair of the Assembly at  
the Request of the Mayor  
Prepared by: Planning Department  
For reading: March 27, 2007

CLERK'S OFFICE  
**AMENDED AND APPROVED**  
Date: 4-17-07 Anchorage, Alaska  
AO 2007-54

1  
2  
3  
4 AN ORDINANCE AMENDING THE ZONING MAP AND PROVIDING FOR THE  
5 REZONING OF APPROXIMATELY 95.2 ACRES, FROM T (TRANSITION)  
6 DISTRICT TO B-3 SL (GENERAL BUSINESS DISTRICT WITH SPECIAL  
7 LIMITATIONS) FOR ELMENDORF "95" SUBDIVISION, TRACTS A AND B;  
8 GENERALLY LOCATED AT THE NORTHWEST CORNER OF NORTH  
9 MULDOON ROAD AND THE GLENN HIGHWAY.

10  
11 (Northeast Community Council) (Planning and Zoning Commission Case 2006-154)

12  
13 THE ANCHORAGE ASSEMBLY ORDAINS:

14  
15 **Section 1.** The zoning map shall be amended by designating the following described  
16 property as B-3 SL (General Business District with Special Limitations) zone:

17  
18 Elmendorf "95" Subdivision, Tract A and Tract B, containing approximately 95.2 acres as  
19 shown on Exhibit "A."

20  
21 **Section 2.** This zoning map amendment is subject to the following special limitations:

22  
23 ~~1.~~ ~~Development of the petition site is limited to the site plan (Planning Case 2006-~~  
24 ~~155) approved by the Planning and Zoning Commission, or as subsequently~~  
25 ~~amended.~~

26  
27 1[2]. Maximum height of any structure shall be no more than ~~200~~ **75** feet unless  
28 otherwise approved as a conditional use. Under no circumstances shall a  
29 structure exceed 200 feet in height.

30  
31 2[3]. No building structures shall be constructed within 60 feet of the west property line.

32 3[4]. The uses anticipated within the Accident Potential Zone (APZ) shall fully comply  
33 with the allowed uses outlined in Patent No. 50-92-0050. These facilities include:  
34 Utility Structures (including, but not limited to, vaults, conduits, transformers,  
35 switches, power poles, conductors, subsurface gas lines, communication facilities,  
36 storm drain lines, storm drain retention/detention facilities, sewer and water  
37 facilities); parking lot; loading areas and facilities; mercantile and/or retail building  
38 structures, and the storage/stocking areas within proposed mercantile and/or retail  
39 building structures. All of the building structures are considered low-density  
40 mercantile and/or retail establishments, and are all in conformance with our  
41 understanding of the specific use guidelines of the APZ contained in the patent for  
42 this tract. The uses located within the APZ shall conform to the limitations and

1 restrictions currently outlined in the patent, unless formerly released by the military  
2 and the Bureau of Land Management.

3  
4 **Section 3.** The special limitations set forth in this ordinance prevail over any inconsistent  
5 provisions of Title 21 of the Anchorage Municipal Code, unless specifically provided  
6 otherwise. All provisions of Title 21 of the Anchorage Municipal Code not specifically  
7 affected by a special limitation set forth in this ordinance, shall apply in the same manner  
8 as if the district classification applied by the ordinance was not subject to special  
9 limitations.

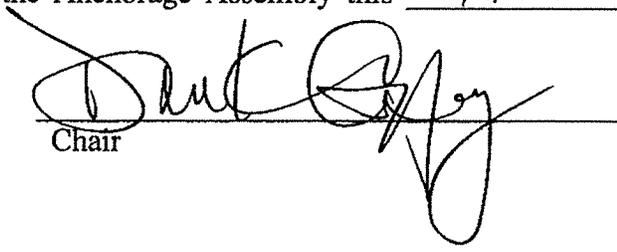
10  
11 **Section 4.** This ordinance shall become effective within 10 days after the Director of the  
12 Planning Department has received the written consent of the owners of the property within  
13 the area described in Section 1 above to the special limitations contained herein. The  
14 rezone approval contained herein shall automatically expire, and be null and void if the  
15 written consent is not received within 120 days after the date on which this ordinance is  
16 passed and approved. The Director of the Planning Department shall change the zoning  
17 map accordingly.

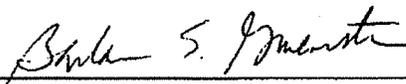
18  
19 **Section 5. The improvements required in the final approved Traffic Impact Analysis**  
20 **(TIA) for Planning and Zoning Case 2006-155 shall be installed prior to issuance of**  
21 **any Conditional or Final Certificate of Occupancy for any development on this site.**  
22 **The improvements shall include:**

- 23  
24 a. **Reconstruct Oilwell Road to a five lane facility from the Glenn Highway to the**  
25 **Elmendorf Gate, including all turn lanes as shown in the TIA.**  
26 b. **Construct the new intersection of Oilwell Road/Bartlett High/ANHC/East**  
27 **Mall access intersection to include signalization and connection to the signal**  
28 **interconnection system.**  
29 c. **Relocate the interior road to connect Bartlett High/ANHC to the new Oilwell**  
30 **Road/Bartlett High/ANHC signal location as shown in Figure 4-1 of the TIA.**

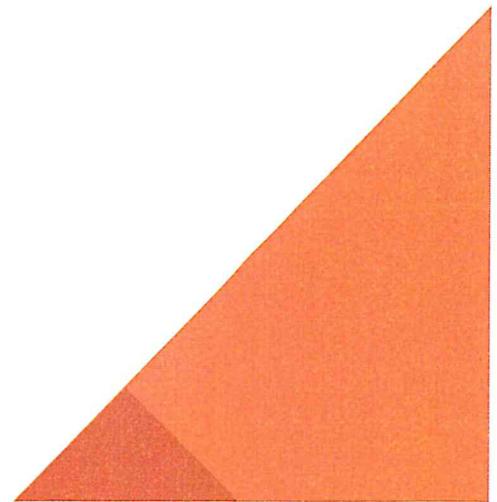
31  
32 **When the site development reaches 810,000 square feet of retail structure**  
33 **development, the TIA shall be addressed to determine the need to enter into an**  
34 **agreement with the State of Alaska Department of Transportation and Public**  
35 **Facilities for further improvements.**

36  
37 PASSED AND APPROVED by the Anchorage Assembly this 17<sup>th</sup>  
38 day of April 2007.

39  
40 ATTEST:   
Chair

  
Municipal Clerk

# **APPENDIX 4: PROPERTY INFORMATION**









00644140000	RP	2021 1	174,084.01	.01	-174,084.02	.00	.00	.00	.00	.00	.00	06/15/2021
00644140000	RP	2020 1	169,975.71	8,498.79	-178,474.50	.00	.00	.00	.00	.00	.00	07/15/2020
00644140000	RP	2019 1	159,833.92	.00	-159,833.92	.00	.00	.00	.00	.00	.00	06/15/2019
00644140000	RP	2018 1	287,145.96	.00	-287,145.96	.00	.00	.00	.00	.00	.00	06/15/2018
00644140000	RP	2017 1	271,294.21	.00	-271,294.21	.00	.00	.00	.00	.00	.00	06/15/2017
00644140000	RP	2016 1	248,901.38	.00	-248,901.38	.00	.00	.00	.00	.00	.00	06/15/2016

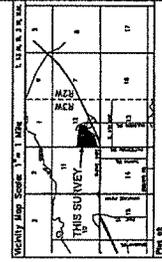
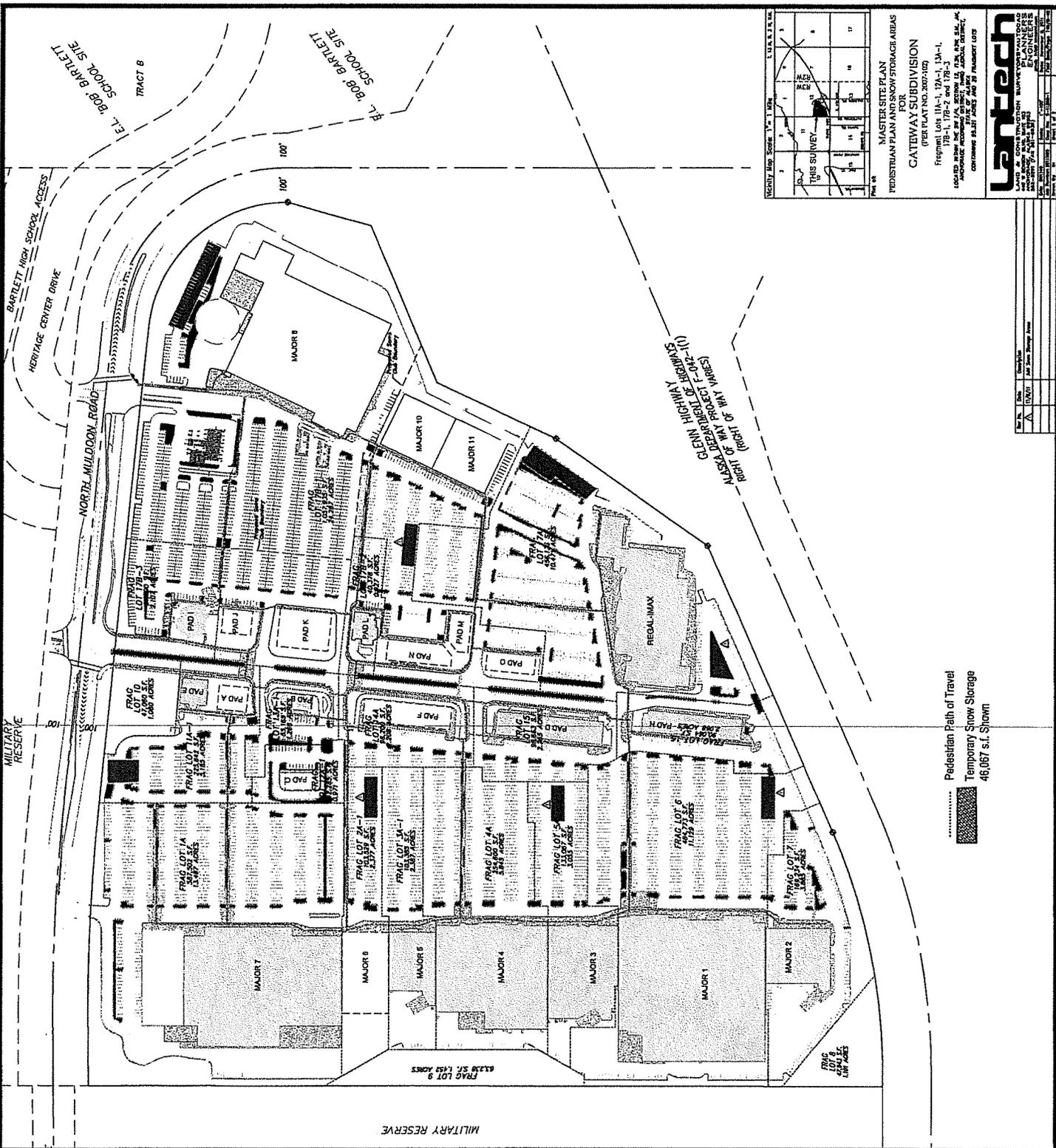
**Make a Payment**

**Assessed Value**

Tax Year	Roll Type	LUC	Class	Land	Building	Total Appraised
2022	RP	341	C	5,554,200	4,106,400	9,660,600

**Taxable Value**

Net Taxable Value 9,660,600



**MASTER SITE PLAN**  
**PEDESTRIAN PATH AND SNOW STORAGE AREAS**  
**FOR**  
**GATEWAY SUBDIVISION**  
 (PER PLAT NO. 2007-10)  
 Precinct Lots 11A-1, 12A-1, 13A-1,  
 14A-1, 15A-1, 16A-1, 17A-1, 18A-1, 19A-1, 20A-1,  
 21A-1, 22A-1, 23A-1, 24A-1, 25A-1, 26A-1, 27A-1,  
 28A-1, 29A-1, 30A-1, 31A-1, 32A-1, 33A-1, 34A-1,  
 35A-1, 36A-1, 37A-1, 38A-1, 39A-1, 40A-1, 41A-1,  
 42A-1, 43A-1, 44A-1, 45A-1, 46A-1, 47A-1, 48A-1, 49A-1, 50A-1

Pedestrian Path of Travel  
 Temporary Snow Storage  
 46,067 s.f. Shown



LICENSE

North Anchorage Real Estate Investors, LLC & the Municipality of Anchorage

This License is entered into on February 12, 2018 (the "Effective Date"), by and between the Municipality of Anchorage, Alaska ("MOA"), and North Anchorage Real Estate Investors, LLC, a Delaware limited liability company ("NAREI"), throughout this License collectively referred to as "parties" and individually referred to as "party" or "each party."

RECITALS

- A. MOA, pursuant to a land lease date December 31, 1987 leased certain real property ("Land Lease") from Cook Inlet Region, Inc. ("CIRI"), containing approximately 56.24 acres and generally located along Glenn Highway, east of Muldoon Road (the "Property"). MOA later subdivided the Property and assigned a portion thereof ("Tract 1") to Alaska Native Heritage Center ("ANHC"). In addition, MOA retained the Land Lease rights to the remainder of the Property ("Tract 2") and, pursuant to those certain Memorandums of Understanding dated August 28, 2000 and April 14, 2010 (the "MOUs"), developed Tract 2 for use as a snow disposal site to facilitate snow removal in the Muldoon area.
- B. NAREI, or its affiliate, maintains and/or is the owner of record of those certain parcels of real property within the Muldoon area commonly known as Tikahtnu Commons Shopping Center at the northwest corner of North Muldoon Road and the Glenn Highway, Anchorage, Alaska 99504 (the "NAREI Property").
- C. MOA agrees to grant to NAREI a License (as defined in Section 2 below) in, on and over a portion of Tract 2 identified as the "Licensed Area" in Exhibit "A", attached hereto and incorporated herein by reference (the "Licensed Area") for use as a snow disposal site and for such other purposes as set forth herein.

NOW, THEREFORE, with regard to the foregoing recitals and for good and sufficient consideration, the adequacy of which is acknowledged, MOA and NAREI agree as follows:

LICENSE

- 1. Recitals. The foregoing recitals are hereby incorporated herein in their entirety.
- 2. Grant of the License. MOA hereby grants, as of the Effective Date, to NAREI a non-exclusive license for the use of the Licensed Area for the following purposes (the "License"):
  - a. To cross, use, and access the Property, with a single loader and/or a single bulldozer for snow disposal activities only.
- 3. Term of the License. The term of the License shall commence as of the Effective Date and

shall automatically terminate on December 30, 2042 (unless in accordance with the provisions of the Land Lease, the term thereof is extended, in which case this License shall terminate on such later date (the "Term")).

4. Insurance. At all times, during the term of this License, NAREI shall obtain and maintain in effect business automobile liability insurance and commercial general liability and property damage insurance with respect to the use, ownership and operation of the NAREI Property and/or the Licensed Area at its sole cost. Such insurance shall, at minimum, meet the following standards:
  - a. Commercial general liability insurance with a minimum coverage of two million dollars (\$2,000,000) for each occurrence and five million dollars (\$5,000,000) in the aggregate, or combined single limit in the amount of five million dollars (\$5,000,000) per occurrence, for bodily or personal injury to, illness of, or death of persons, and damage to property. Such limits may be met through any combination of primary and excess liability policies.
  - b. Workers' compensation and employer's liability coverage as required by Alaska law.
  - c. The insurance required under this section shall be issued by good and responsible companies admitted to do and doing business in the State of Alaska and be rated in the "A-/VII" or better category by Best's Insurance Guide.
  - d. The Municipality of Anchorage must be listed as an additional insured on all of the policies. The actual policy endorsement shall accompany each Certificate of Insurance.
  - e. Any self-insured retentions in excess of ten thousand dollars (\$10,000.00) must be declared to and approved by MOA.
5. Indemnification. NAREI agrees to indemnify, defend and hold MOA harmless from and against any and all 3<sup>rd</sup> Party claims arising from NAREI and its officers, directors, employees, agents, partners and contractors ("NAREI Party") use of the Licensed Area or from any negligent act or omission by NAREI or NAREI Party at the Licensed Area. NAREI further agrees to indemnify defend and hold MOA harmless from and against any and all 3<sup>rd</sup> Party claims arising from any material breach or material default in the performance of NAREI's obligations under §4, 6.b., 6.d., 7 & 8 of this License (including reasonable costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon). In case any action or proceedings are brought against MOA as a result of any such 3<sup>rd</sup> party claims occurring on the Licensed Area, NAREI shall defend the same at NAREI's expense by counsel reasonably satisfactory to NAREI.
6. Environmental Considerations. NAREI must, at its own expense, comply with all laws, ordinances, regulations and administrative agency or court orders relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water

and air quality, including any applicable Alaska Department of Environmental Conservation Permit and/or approved Operating Plan. In the event any discharge, leakage, spillage, emission or pollution caused by NAREI, (or their contractors), occurs upon or from the Licensed Area during the License Term, or any holdover by NAREI thereafter, NAREI shall notify MOA and shall, at NAREI's own expense, perform or caused to be performed, clean and restore the Licensed Area to the condition satisfaction of the governmental body or court having jurisdiction of the matter.

- a. Condition of the Licensed Area. Based on MOA's use, on-site inspection, and knowledge of any information acquired about the Property (including the Licensed Area), and upon reasonably diligent inquiry and testing, MOA represents and warrants that no toxic or hazardous substances, as defined below, now exists on the Property (including the Licensed Area) or in the Property (including the Licensed Area) surface or subsurface soils or groundwater as of the Effective Date.
- b. Environmental Remediation. During the License Term NAREI agrees, at its sole cost and expense, to remediate the Licensed Area in compliance with the Environmental Laws and the requirements of the governmental agency having jurisdiction over the Licensed Area of those matters, arising from any release (including discharge, leakage, spillage, emission or pollution) on the Licensed Area of toxic or hazardous substances in violation of (and at such levels that violate) Environmental Laws, caused by NAREI during the License Term; provided, however, that NAREI shall not be required to perform remediation under this paragraph if (i) the parties agree, (ii) any such toxic or hazardous substances exists on the Licensed Area prior to the Effective Date of this License, and/or (iii) any such release of toxic or hazardous substances is not caused by NAREI. The foregoing remediation obligation shall survive the expiration or earlier termination of this License.
- c. Toxic or Hazardous Substances. For purposes of this License, Toxic or Hazardous Substances shall be interpreted broadly to include, but not be limited to, any material or substance that is defined or classified under federal, state or local laws as ("Environmental Laws"): (a) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601(14) or Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321, each as now or hereafter amended; (b) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the resource Conservation and Recovery Act, 42 U.S.C. § 6903, 42 U.S.C. § 6921, as now or hereafter amended; (c) a toxic pollutant under Section 307(1)(a) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(1)(a); (d) a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. § 7412, as now or hereafter amended; (e) a "hazardous material" under the Hazardous Material Transportation Act, 49 U.S.C. §1802(2), as now or hereafter under the aforementioned laws; or (f) presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinance, or regulations, as now or as may be passed or promulgated in the future. "Toxic or Hazardous Substances" shall also mean any substance that after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or indirectly by ingestion, inhalation or assimilation, either directly from the

environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities. "Toxic or Hazardous Substances" specifically includes, but is not limited to, asbestos, polychlorinated biphenyls (PCBs), petroleum based products and derivatives, flammable explosives, radioactive materials and urea formaldehyde.

- d. Environmental Testing. NAREI agrees that it shall be responsible, at its sole cost and expense, for the performance of environmental testing of the Licensed Area, which may be required if the MOA has reasonable basis for believing that NAREI caused a release on the Licensed Area of toxic or hazardous substances in violation of (and at such levels that violate) Environmental Laws during the License Term, upon the expiration or other termination of this License. Such environmental testing, conducted by a recognized engineering or environmental consulting firm acceptable to the MOA, shall be the basis for determining the extent of any environmental impairment caused by NAREI's use and occupancy of the Licensed Area.

7. Termination. This License may be terminated by:

- a. Mutual agreement of the parties;
- b. By MOA giving NAREI 90 days written notice of such termination; or
- c. By NAREI giving MOA 90 days written notice of such termination.

Additionally, if either party shall assign, terminate, sell, or divest its interest in the Licensed Area, then that party will, from and after the date of such assignment, termination, sale, or divestment, be released from any and all obligations set forth hereunder with respect to the Licensed Area.

8. Snow Storage Operations. NAREI shall, prior to the start-up of any snow storage and/or disposal operations at the Licensed Area, notify MOA's Street Maintenance Manager or Supervisor currently within the Department of Maintenance and Operations ("M&O"), by facsimile or electronic mail, of the scope and timing of such operations to coordinate with M&O the scope and timing of its snow disposal operations at its storage site adjacent to the Licensed Area. NAREI shall use commercially reasonable efforts to give such notice forty-eight (48) hours prior to start-up. NAREI will, upon execution of this License, identify the NAREI representative ("NAREI Representative") that will be responsible for (i) giving M&O prior start-up notice and (ii) coordinating with M&O the scope and timing of NAREI's snow storage operations conducted at the Licensed Area. NAREI will, within a reasonable time, notify M&O of any change in personnel assigned such responsibility. After any such start-up during the snow season, NAREI shall manage (or cause to be managed) its snow storage operations to limit the accumulation of trash within the Licensed Area.

Contact:

MOA Streets & Maintenance

ATTN: Gaylon P. VanLandingham, Street Maintenance Manager  
4700 Elmore Rd.  
Anchorage, AK 99507  
(907) 343-8372

9. Restoration of the Licensed Area. At the end of each yearly snow season, NAREI shall:
- a. perform, at its sole cost, an annual Storm Water Pollution Prevention Planning and reporting and inspection ("SWPPP") for the Licensed Area.
  - b. participate in cleanup in the spring and contribute 50% of the reasonable cost of trash cleanup of the Licensed Area within 30 days after receipt of MOA's invoice detailing the reasonable costs incurred therefore, provided, that NAREI shall have received and approved a budget of such trash cleanup costs for the then applicable upcoming snow season.
10. Notices. All other notices and other communications required or permitted to be given hereunder shall be in writing and delivered by: (i) certified or registered mail, postage prepaid, return receipt requested, (ii) personal delivery, or (iii) a recognized overnight carrier that provides proof of delivery, and shall be addressed as follows:

If to NAREI:

North Anchorage Real Estate Investors, LLC  
1556 Parkside Drive  
Walnut Creek, CA 94596  
Attention: Darryl Browman, President

With a copy to:

North Anchorage Real Estate Investors, LLC  
1556 Parkside Drive  
Walnut Creek, CA 94596  
Attention: Mario Albert, General Counsel

And a copy to:

NAREI Representative  
Browman Development Company, Inc.  
1556 Parkside Dr.  
Walnut Creek, CA 94596  
Attention: Jenny Scarlett

If to the MOA:

Municipality of Anchorage

Municipal Attorney  
PO Box 196650  
Anchorage, AK 99519-6650

With a Copy to:

Municipality of Anchorage  
Real Estate Department  
PO Box 196650  
Anchorage, AK 99519-6650

Notices and payments required hereunder shall be considered given when deposited in the United States mail, when personally delivered, or when deposited with an overnight carrier that provides proof of delivery.

11. Assignment. NAREI shall not assign or sublet this License without the prior written consent of MOA, which consent may not be unreasonably withheld. Any assignment or sublease shall be in writing and duly executed by both parties. Notwithstanding the foregoing, NAREI may assign or sublet this License to an affiliate of NAREI, Browman Development Company, and/or CIRI without the prior written consent of MOA.
12. Amendment. This License can be changed only by written agreement signed by all parties.
13. Governing Law. This License shall be governed by and construed in accordance with the laws of Alaska without giving effect to the choice of law provisions thereof.
14. Attorneys' Fees. In the event either party hereto initiates or defends any legal action or proceeding against the other party in any way connected with this License, the prevailing party in any such action or proceeding shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorneys' fees (including reasonable costs and attorneys' fees on appeal).
15. Severability. If for any reason, any provision of this License shall be held to be unenforceable, it shall not affect the validity or enforceability of any other provision of this License and to the extent any provision of this License is not determined to be unenforceable, such provision, or portion thereof, shall be, and remain, in full force and effect.
16. Integration. This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein and this License shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

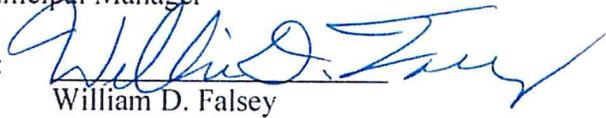
*[Remainder of this page left blank intentionally. Signature pages follow.]*

**IN WITNESS WHEREOF**, the parties have caused this License to be executed as of the day and year first above written.

Municipality of Anchorage:

By: Municipal Manager

By:

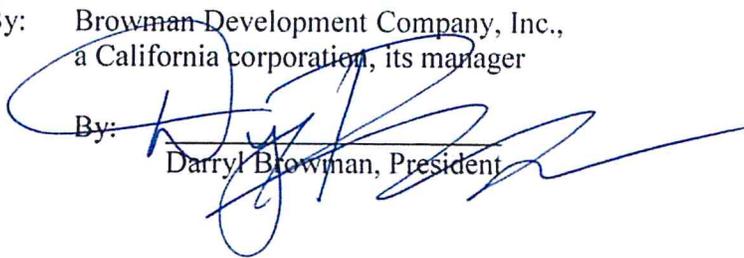


William D. Falsey

North Anchorage Real Estate Investors, LLC,  
A Delaware limited liability company:

By: ~~Browman Development Company, Inc.,~~  
a California corporation, its manager

By:



Darryl Brownan, President

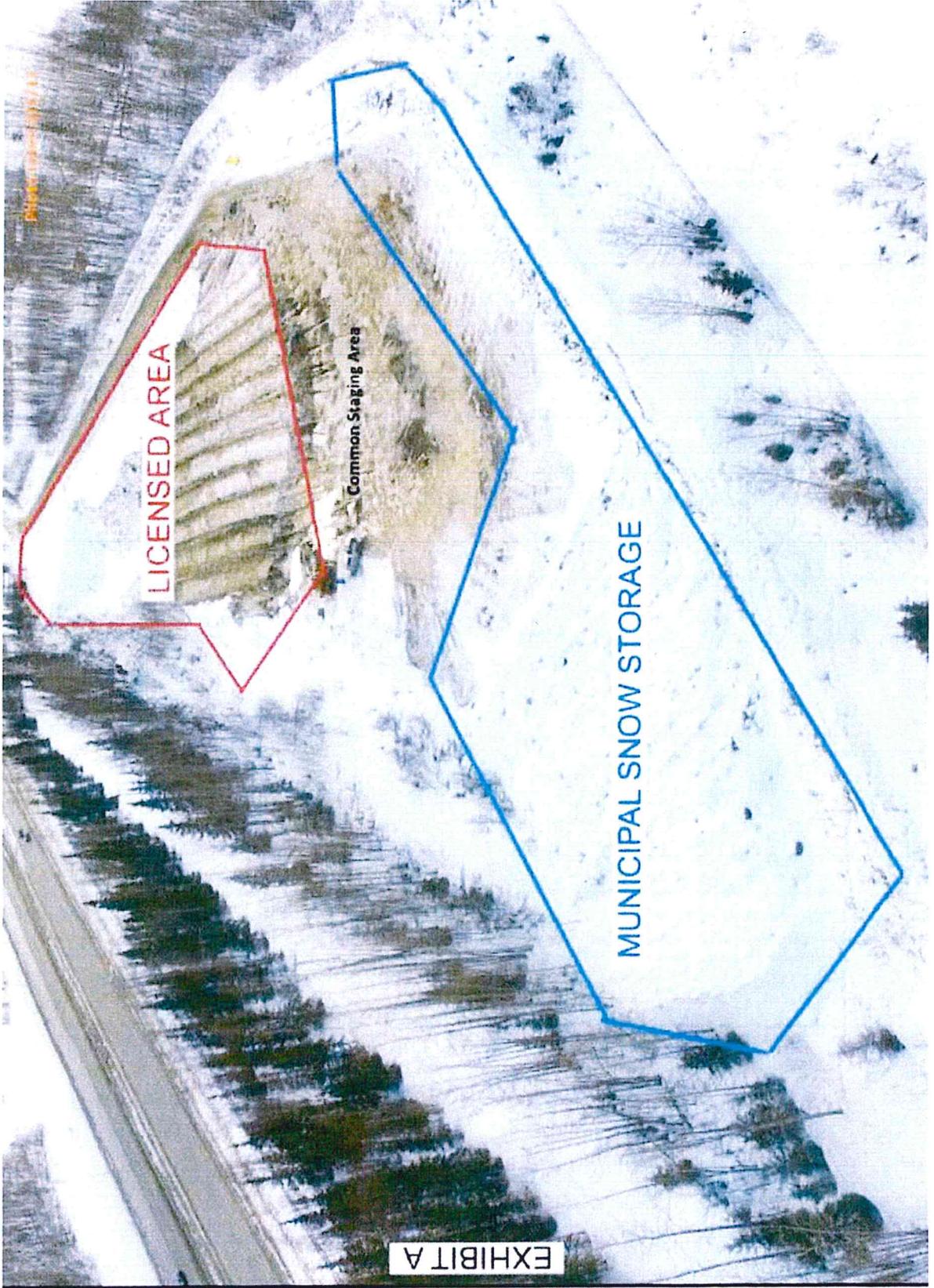


EXHIBIT A

## McLaughlin, Francis D.

---

**From:** LaQuita Chmielowski <lchmielowski@dowl.com>  
**Sent:** Thursday, November 10, 2022 1:00 PM  
**To:** McLaughlin, Francis D.  
**Subject:** Costco Business Center - Parking Calculations

[EXTERNAL EMAIL]

Hello, Francis.

The purpose of this email is to provide you with parking calculations for Tikahtnu Commons as it relates to the Cost Business Center.

The parking is as follows:

<b>Total Requires Parking</b>	3,667
<b>Total Provided Parking (w/Costco Business Center)</b>	4,458

The following is a summary of the parking provided on each fragment lot that equals the total provided parking:

		Number of Parking Stalls (Current & Projected)
Major 1	Target	684
Major 2	Best Buy	187
Major 3	Burlington & ULTA	207
Major 4	Kohls	338
Major 5	PetSmart	173
Major 6	Old Navy / Vacant Suite	126
Major 7	Lowe's	600
Major 8	Costco Business Center	537
Major 10	Vacant (former ULTA)	92
Major 11	Vacant (Undeveloped)	92
Major 13	Regal IMAX Theaters	459
Pad E	Red Robin	99
Pad A	Panda Express	75
Pad B	McDonalds	41
Pad C	Vacant (Undeveloped)	33
Pad F	Multi-Tenant Shops	80
Pad D	Multi-Tenant Shops	83
Pad H	Multi-Tenant Shops	61
Pad I	Olive Garden	133
Pad J	Raising Canes	50
Pad K	Texas Road House	77

Pad L	Fire Tap	51
Pad N	Multi-Tenant Shops	33
Pad M	Multi-Tenant Shops	25
Pad O	Vacant (Former )Pier One	17
Pad P	Multi-Tenant Shops	105
Pad N	Costco Fuel (Future)	
		<b>4,458</b>

Please contact me if you have any other questions or concerns.

Thank you,  
LaQuita

LaQuita Chmielowski, PE, LEED AP  
Senior Land Use Planning Manager

**DOWL**

(907) 562-2000 | office  
(907) 865-1266 | direct  
(907) 232-1720 | cell

*dowl.com*