

LEASE AMENDMENT
SUSPENSION OF LEASE
OPTION TO REINSTATE LEASE
AND
ASSIGNMENT OF INTERESTS

WHEREAS, the Kenai Peninsula Borough, as Lessor and Aardvark Pumping, Inc, as Lessee, entered into a lease of certain real property in 2005 for the purpose of development and operation of a septic waste disposal site; and

WHEREAS, Aardvark Pumping, Inc. has made a substantial investment into proprietary systems investigation, site specific environmental investigations, and permitting; and

WHEREAS, investigations conducted by Aardvark Pumping support a reconfiguration of the lease boundaries to incorporate lands better suited for septic disposal operations; and

WHEREAS, Aardvark Pumping, Inc. and its associates have recently made changes to its business structure which prevent it from developing the leasehold for a period of time and have necessitated the assignment of the leasehold; and

WHEREAS, the Kenai Peninsula Borough and Aardvark Pumping have negotiated terms to enable suspension of the lease for a time period in which the septic waste disposal project proponent can determine whether it desires to proceed or forfeit its investment into the property; and

WHEREAS, Aardvark Pumping, Inc. is in good standing with the lease and has made good faith efforts to proceed judiciously with due consideration to the public interests; and

WHEREAS, Aardvark Pumping, Inc. desires to assign its interests to Aardvark Services, Inc;

NOW THEREFORE, pursuant to Kenai Peninsula Borough Assembly Ordinance 2010-___ that certain 30-year lease commencing on August 1, 2005 to AARDVARK PUMPING, INC. (LESSEE or OPTIONEE) whose address of record is P.O. Box 2289, Soldotna, AK 99669, by the Kenai Peninsula Borough, (LESSOR or OPTIONOR) an Alaska municipal corporation, whose address is 144 N. Binkley, Soldotna, Alaska 99611 pursuant to KPB Assembly Ordinance 2003-06 is hereby amended as to the legally described boundaries and associated rental rates and suspended so to be made to be an option to lease under the following terms and conditions and assigned to Aardvark Services, Inc. for the duration of the agreement as follows:

1. Property Boundary Modification. The description of the property affected is hereby amended to delete the SE1/4NE1/4NE1/4 Section 14, T4N, R11W, S.M. and further amended to add the N1/2NW1/4NW1/4 Section 13, T4N, R11W, S.M.
2. Rental Modification. The rental schedule referred to in Section 2 of the lease and outlined in Attachment A "Lease Rental Rate, Rent Schedule Per Year at 3% Annual Increases" is hereby adjusted to be multiplied by 4/3 in consideration of the amended leasehold boundaries.
3. Option Period. The Lease is suspended in favor of an option to lease from which OPTIONEE may at any time, at its sole option, reinstate the Lease upon no less than 60 days written notice to OPTIONOR during the 10 year option period commencing _____, _____ 2010 and expiring _____, _____ 2020.
4. Option Fee. OPTIONEE shall, in consideration of the Option, pay OPTIONOR an option fee of \$900.00 per annum, due on the first day of each year of the option period for each year of the option period.
5. Reinstatement of Lease. At such date during the option period as prescribed by the OPTIONEE in its written notice to OPTIONOR, the lease shall be reinstated in force and effect and the term of the lease shall be fully reinstated as though it were a new 30-year lease commencing at the date of reinstatement. The lease rental shall commence at the rate for the calendar year in which the reinstatement occurs as shown on Attachment A "Lease Rental Rate, Rent Schedule Per Year at 3% Annual Increases" as amended by Section 2 above.
6. Permit to Inspect Property. During the Option period, OPTIONEE shall be permitted to enter subject property for the purposes of non-intrusive inspections and data collection activities related to the proposed uses under the contemplated lease.
7. Rights of KPBP. During the Option period, OPTIONOR shall have the right to make use of the subject property in any way, except that uses or improvements requiring greater than 60 days to remove or vacate shall require a written non-objection from the Optionee.
8. Cancellation. OPTIONEE shall have the right to cancel the option at any time with 60 days written notice to OPTIONOR.
9. Expiration. If the option to reinstate the lease is not exercised during the option period, then the option shall expire on the date specified in Section 3 above and OPTIONEE shall forfeit all right, title and interest in the Lease.
10. Removal of Improvements. OPTIONEE shall remove all of its improvements within 60 days of cancellation or prior to expiration of the Option period, unless otherwise agreed to by OPTIONOR in writing.
11. Assignment to Interests. LESSEE/OPTIONEE, Aardvark Pumping, Inc. does hereby irrevocably assign, for good and valuable consideration, all right, title and interest, and

subject to all rents, covenants and conditions, in that certain 30-year lease commencing on August 1, 2005 by and between the Kenai Peninsula Borough and Aardvark Pumping, Inc. to Aardvark Services, Inc., whose mailing address is 37446 Dutch Landing Loop, Sterling, AK 99672 for the unexpired term thereof.

12. Assumption of Obligations. The ASSIGNEE, Aardvark Services, Inc. does hereby expressly assume and agree to pay all of the obligations of lessee under the above-described lease, including without limitation all prior or delinquent taxes, liens of any nature, penalties, fees, interest, or rents, or any other obligations charged against the lands described hereinabove as of the date of this assignment.

13. Consent to Assignment. LESSOR / OPTIONOR, KP.B, does hereby consent to the aforementioned assignment.

All other terms and conditions remain in full force and effect.

Dated this _____ day of _____ 2010.

KENAI PENINSULA BOROUGH:

David R. Carey, Mayor

AARDVARK PUMPING, INC:

Jerry K. Holland, President

AARDVARK SERVICES, INC:

Bryan K. Holland, President

ATTEST:

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY:

Johni Blankenship, Borough Clerk

Holly B. Montague
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by David R. Carey, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by Jerry K. Holland , President of Aardvark Pumping, Inc., for and on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by Bryan K. Holland, President of Aardvark Services, Inc., for and on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____