

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

CORNELL COMPANIES INC.

AND

KENAI PENINSULA BOROUGH

THIS CONTRACT is entered into between **KENAI PENINSULA BOROUGH** (hereinafter "Borough") and **CORNELL COMPANIES INC.** (hereinafter "Cornell").

WITNESSETH:

WHEREAS, the State of Alaska, Department of Corrections currently houses 800 inmates at a facility in Arizona because adequate facilities to properly house these inmates are not presently available in Alaska; and

WHEREAS, the Department of Corrections Master Plan proposes that by 2003 an 800-bed facility will be available in Alaska to allow the return of prisoners from Arizona; and

WHEREAS, confinement of prisoners thousands of miles from family and support systems is not a preferred correctional practice nor sound public policy. Confinement thousands of miles from villages, family and cultural support systems is of particular hardship to Native Alaskan prisoners; and

WHEREAS, the chief executive officers of all of the ANCSA regional corporations have passed a resolution calling for the return of Native Alaskan prisoners to their homeland. 7% of the State general population are Native males; but 37% of the State prison population are Native males, including over 300 Native prisoners currently confined in Arizona; and

WHEREAS, the Kenai Peninsula Borough in Ordinance 2000-59 authorized the mayor to solicit competitive bids or proposals for the lease or purchase of land, the design, construction and operation of an 800- to 1,000-bed prison facility, effective upon passage of enabling legislation, reaching all necessary agreements, and issuance of the necessary bonds; and

WHEREAS, in accordance with applicable law and the terms and conditions of the Request for Qualifications dated December 15, 2000, and associated addenda, following a competitive selection process, Cornell was chosen to assist the Borough with planning and promoting an 800- to 1000- bed medium security correctional facility to be located within the Kenai Peninsula Borough; and

WHEREAS, in Resolution 2001-016 the Borough Assembly authorized the borough administration to negotiate a contract with Cornell to assist the Borough with the planning and promotion of the Project and potentially to enter one or more contracts for the design, construction and operation of an 800- to 1,000-bed medium security correctional facility, if the Project is approved by the state legislature and other conditions are met; and

WHEREAS, the Borough wishes to obtain the benefits of Cornell's expertise in the field of corrections management by retaining Cornell to assist in activities related to the legislative approval of the project subject to the terms and provisions of this Contract; and

WHEREAS, Cornell, through an agreement with the Kenai Native Association, can provide property that may be suitable for construction of this prison facility in the vicinity of the Wildwood Correctional Complex; and

WHEREAS, the private operation of prison facilities has been shown to save money while maintaining quality of services in other states and can allow governments the opportunity to transfer associated financial risks to private contractors; and

WHEREAS, such a prison facility would enhance long term employment for the citizens of the borough, and would promote construction jobs during the construction of the facility;

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, and subject to the conditions herein set forth, the parties hereby agree as follows:

ARTICLE ONE DEFINITIONS

ASL - means the Alaska State Legislature.

Assembly - means the Kenai Peninsula Borough Assembly.

Commissioner - means the Commissioner of the Alaska Department of Corrections.

Contract - means this document.

Department or ADC - means the Alaska Department of Corrections.

Facility - means the 800- to 1000-bed medium security prison to be designed, constructed and operated within the Borough and which shall include appropriate housing units, administrative offices and all other structures and improvements of a related nature, including but not limited to

all support buildings, roads, fences, utility systems, etc., for the incarceration of adults assigned by the Department.

IGA - means the Inter-Governmental Agreement between the ADC and the Borough for the purchase of a guaranteed minimum of 800 prison beds in the Facility.

Mayor - means the Mayor of Kenai Peninsula Borough.

Phase Two Contracts - means the contract or contracts for the design, construction and operation of the Facility.

Project - means passage of legislation in support of the development of the Facility.

Project Manager - means the Mayor or his designee.

RFQ - means the Request for Qualifications issued by the Borough on December 15, 2000, together with all addenda thereto.

State - means the State of Alaska

ARTICLE TWO ENGAGEMENT

Section 2.1 Appointment. The Borough hereby contracts with Cornell to provide planning and promotion assistance as set forth in Article Three of this Contract. As further set forth below, and subject to those limitations, it is also the Borough's and Cornell's intent to negotiate in good faith the Phase Two Contracts.

Section 2.2 Term. Subject to the terms and conditions set forth herein this Contract shall take effect upon the date set forth at the end of this contract and shall continue in force until sixty (60) days after adjournment of the first session of the Twenty-Second Alaska State Legislature. The parties agree that upon completion of this period, if no legislation has been adopted authorizing the Project, the parties shall meet to determine whether the Contract shall be continued. The Borough retains the right to terminate this Contract at that point without the obligation to compensate Cornell for expenses incurred. Alternatively, upon written agreement of the parties, the Contract may be extended for two additional one-year terms on the same terms and conditions as this Contract. In the event authorizing legislation is adopted, the term of this Contract shall continue for so long as necessary to enter the Phase Two Contracts, or until negotiations are concluded without entering any such contracts in accordance with the terms of this Contract.

Section 2.3 Relationship Between the Parties. Cornell and the Borough shall cooperate with each other in good faith to carry out the purposes of this Contract. The parties shall meet as required by the Project Manager to facilitate successful completion of the Project.

Section 2.4 Compensation.

- a) Cornell's compensation shall be limited to having the first opportunity, under certain circumstances, to negotiate Phase Two Contracts in accordance with the provisions of this Contract, and the opportunity to work in collaboration with the Borough for the passage of enabling legislation that may be beneficial to the Project, which the parties agree is good and valuable consideration for this Contract. The parties agree that this Contract in no way guarantees that Cornell shall receive such Phase Two Contracts.
- b) In the event that the ASL approves legislation authorizing the Facility and the ASL, ADC, or the Governor require that Phase Two Contracts be let through a subsequent competitive process (e.g. request for proposals, bids) or Cornell and the Borough are unable to negotiate Phase Two Contracts satisfactory to the Borough, Cornell shall be reimbursed its actual costs, up to a total maximum amount of \$100,000. Actual costs shall consist of coach airfare within the State of Alaska, hotel, rental car, and meal expenses while traveling, and other fees at actual cost up to \$100 per hour. Cornell agrees to provide copies of support documentation along with any request for reimbursement under this section and shall make available upon request by the Borough all records, reports, worksheets or other material related to this Contract for audit purposes. The Borough will have the exclusive authority to determine what qualifies as a legitimate Project expense. Any such payment is subject to the availability and appropriation of funds. Under no other circumstances shall Cornell be reimbursed for its expenses. Nothing in this Contract shall be construed to create any right whatsoever of reimbursement from the Borough for any of Cornell's subcontractors or agents.
- c) Under the following circumstances, Cornell agrees that it is not entitled to any reimbursement as it took this project on at its own risk:
 - Failure to obtain legislative or executive branch approval for the Project during the term of this contract.
 - Failure of the Borough to negotiate all necessary contracts with the ADC for construction and long-term utilization of the Facility.
 - The Borough's good faith determination that Cornell has materially breached this Contract as further defined in Article Six.

ARTICLE THREE CORNELL SERVICES

Section 3.1 Scope of Work and Cornell's Responsibilities. Cornell shall assist and cooperate with the Borough in the planning and promotion of the Project as directed by the Borough's Project Manager, to act in good faith, and to do all reasonable things necessary to aid and affect the Borough's performance under the terms of this Contract, subject to the limitations, terms and conditions in this Contract. The planning and promotion functions of the Project are the responsibility of the Borough. It is expected that Cornell shall incur costs as necessary to accomplish what this Contract requires, and agreed that such expectation does not create any right to compensation or reimbursement except as expressly provided in this Contract. Cornell shall, to the extent directed by the Borough:

- a) Assist and cooperate with the Borough in the development of legislation and/or amendments thereto;
- b) Appear before legislative committees for the purpose of addressing the benefits of privatization, e.g., speed and cost of construction, cost of operation as related to locating a prison in the Borough, and other purposes the parties agree is conducive to the passage of authorizing legislation;
- c) In conjunction with the Department of Corrections and the Borough, provide concept design drawings, construction cost estimates, and operating budgets to calculate reimbursement rates.
- d) Advise the Borough on methods of obtaining support for the legislation and provide such support as authorized by the Project Manager;
- e) Assist the Borough in developing strategies for addressing the concerns of communities and others affected by or opposed to the Facility;
- f) Assist and cooperate with the Borough in developing a positive working relationship with the ADC and the ASL;
- g) Assist and advise the Borough with the development of specific terms and conditions to be included in the negotiated IGA reasonably required for the Phase Two Contracts, as further described below in Article Four;
- h) Assist the Borough in the development of a bond offering to finance the design and construction of the Facility;
- i) Assist the Borough in the initial phases of planning and promotion of a site for location of the Facility;
- j) Take such other actions as are mutually agreed to by the parties.

Section 3.2 Limitations. Under no circumstances shall Cornell engage in any activity contrary to the Borough's interest, including but not limited to:

- a) Seeking to change, through lobbying or otherwise, any provision of any legislation affecting the Project without the approval of the Borough's Project Manager;
- b) Having contact with legislative members, the Governor, the Commissioner, members of the Borough Assembly, or their staffs regarding the Project without advising the Project Manager within twenty-four (24) hours following such contact. Cornell may advise the Borough's legislative lobbyist of such state level contacts, and such communication shall be deemed acceptable by the Borough.
- c) Failing to cooperate with the Borough in performing Cornell's responsibilities under this Contract.

ARTICLE FOUR DUTIES OF PARTIES

Section 4.1 Cooperation with Cornell. The Borough hereby agrees to cooperate with Cornell in the performance of Cornell's duties and responsibilities under this Contract, to act in good faith, and to do all reasonable things necessary to aid and affect Cornell's performance as an independent contractor under the terms of this Contract. The Borough shall not unreasonably withhold any approval requested by Cornell, and shall be readily available within reason for the purpose of discussing legislative strategies and receiving communications.

Section 4.2 Project Development. The Borough agrees to work toward the successful passage of legislation supporting the Project, and, if received, to enter into negotiations for an IGA with the State of Alaska as expeditiously as reasonably possible, and to seek input from Cornell concerning negotiations with the State of Alaska regarding the terms of the IGA as those terms relate to design, construction, financing, or operation of the Facility, or compensation for operation of the Facility. The Borough shall retain final approval and signature authority for the IGA.

Section 4.3 Negotiation of Phase Two Contracts. Upon passage of legislation supporting the project and successful negotiation of the IGA, unless restricted by such legislation or as otherwise provided in this Contract, the Borough and Cornell agree to participate in negotiating in good faith subsequent Phase Two Contracts. Both parties recognize and agree that actions of the ASL, ADC, the governor's office, and Cornell in their performance of this Contract may impact the ability of the Borough to successfully negotiate Phase Two Contracts. The following items (a) through (i) shall collectively be referred to as the Material Terms. The parties agree that if the following items (a) through (f) are all accomplished by Cornell and the Borough, the parties will proceed with negotiating Phase Two Contracts. Execution of Phase Two Contracts shall also be conditioned upon accomplishment of items (e) through (h) below, and performance of Phase Two Contracts shall further be conditioned upon successful completion of item (I) below:

- a) The passage of authorizing legislation by the ASL with terms acceptable to the Borough;
- b) The negotiation of an IGA with the ADC on terms consistent with the authorizing legislation;
- c) The entry of an agreement for the acquisition of the land necessary for the Project on terms economically compatible with the IGA and acceptable to the Borough;
- d) The approval by the Borough Assembly of the desire to proceed with a privately operated prison project through an IGA with the ADC and authorization to negotiate and enter Phase Two Contracts with Cornell. This approval and authorization will be made after conducting a feasibility study completed by an independent third party, selected and paid for by the borough;
- e) Cornell does not materially breach this Contract; and
- f) Cornell does not persistently or repeatedly fail or refuse to cooperate with the Borough, or to substantially fulfill any of its obligations under this Contract, including without limitation the scope of work and responsibilities listed in Section 3.1, unless excused by Force Majeure.
- g) An operating agreement that provides for full defense and indemnification of the Borough, its assembly members, board members, officers, agents and employees by Cornell, from and against any and all liability, claims, damages, losses, expenses, actions, attorneys' fees, costs and suits whatsoever caused by or arising out of the performance, acts or omissions under any Phase Two Contract by Cornell or any of its officers, agents, representatives, employees or subcontractors, or arising from or related to a failure to comply with any state or federal statute, law, regulation or rule by Cornell or any of its officers, agents, representatives, employees or subcontractors, except in the case of the sole negligence or willful misconduct by the Borough;
- h) An operating agreement that recognizes that the administration of this contract justifies the imposition of a payment in lieu of property taxes (PILT), and also that the economic development value of the project, and its extensive capital value justifies a recognition of a

credit against such PILT; a good faith estimate of such a PILT based upon current information is that it would be approximately \$1.00 per bed per day for an 800-bed facility and \$1.50 per bed per day for a 1,000-bed facility, which estimate is subject to change based upon the determination of the actual costs incurred by the borough related to the prison, as determined and approved by the Borough Assembly.

- i) The issuance of tax exempt revenue bonds funded by the IGA that are non-recourse to the Borough, that provide that IGA revenues are first dedicated to the retirement of bonded indebtedness, then to the payment of land costs, if any, then to payments in lieu of taxes or other acceptable payment to the Borough, then to any other costs mandated by the state or other government, and then all remaining monies to the operator. All operating expenses shall be incurred by Cornell, and the Borough shall not be liable for any operating expenses.

Failure to achieve any Material Term shall be a basis for termination of this Contract, and Cornell's rights to compensation shall be limited to the provisions of Section 2.4.

In the event the Borough and Cornell cannot in good faith agree upon the terms and conditions of Phase Two Contracts, then either party may give notice to the other of its last best and final offer. The party receiving such an offer shall have 10 days to accept or reject such offer. In the event the last best and final offer is not accepted this Contract shall be terminated. If the Contract is terminated pursuant to this provision, then the Borough shall reimburse Cornell for approved costs to the extent provided in Section 2.4.

Section 4.4 Permits and Licenses. In the event it may be necessary for the proper performance of this Contract, or any rights hereunder, on the part of the Borough or Cornell, that any application or applications for any permit or license or authorization to do or to perform certain things be made to any governmental or other agency by either party, the parties agree to execute promptly, upon the request of the other, such application or applications.

ARTICLE FIVE INSURANCE AND INDEMNIFICATION

Section 5.1. Indemnification.

- a) Except in the case of the sole negligence or willful misconduct by the Borough, Cornell shall indemnify, defend and hold harmless the Borough and its officers, agents and employees from and against any and all liability, claims, damages, losses, expenses, actions, attorneys' fees, costs and suits whatsoever caused by or arising out of the performance, acts or omissions under this Contract by Cornell or any of its officers, agents, representatives, employees or subcontractors or arising from or related to a failure to comply with any state or federal statute, law, regulation or rule by Cornell or any of its officers, agents, representatives, employees or subcontractors.
- b) Cornell and the Borough shall cooperate in defending claims filed against either of them. Any claim in which both Cornell and the Borough are named may not be settled by one party on behalf of the other party without the written consent of that other party, which shall not be unreasonably withheld. No such settlement shall be effective without this consent.

- c) The right to indemnification will be in addition to, and not in lieu of, any remedy otherwise available to the Borough. Cornell's indemnification obligation is not diminished or limited in any way by the total limits of insurance required to be held by Cornell.
- d) In the event that Cornell does not provide full indemnification, the Borough may, in addition to any other remedies available to it, set off against any monies owed to Cornell an amount equal to the amount not indemnified by Cornell.

Section 5.2 Insurance. Cornell shall continuously maintain and pay for such insurance as will protect Cornell and the Borough and their officers, agents and employees from all claims, including but not limited to actions by a third party against Cornell or the Borough for personal injury, death, damage to property, whether tangible or intangible, or other damage arising from the performance or nonperformance of the Contract by Cornell. The Borough shall be named as an additional insured on all policies, which coverage shall be primary and exclusive of any other coverage available to the Borough. The Borough shall be provided thirty days' written notice prior to the termination of any such coverage.

Section 5.3 Types of Insurance. Prior to execution of this Contract, Cornell shall provide insurance policies and endorsements, in a form and for terms satisfactory to the Borough, evidencing occurrence based coverage of the following types, for the following purposes, and in the following amounts:

- a) Standard Worker's Compensation in the statutory amount;
- b) Employers' Liability Insurance – \$100,000 each occurrence;
- c) Comprehensive General Liability Insurance, in an amount not less than one million dollars (\$1,000,000) for each occurrence with an aggregate of at least five million dollars (\$5,000,000). Coverage shall also include defense coverage in an amount not less than maximum attorney fees recoverable under Alaska Rule of Civil Procedure 82 in addition to the limits of liability; and
- d) Automobile and other vehicle liability insurance in an amount not less than \$1,000,000 combined single limit.

Section 5.4 Subcontractors. Cornell shall require all subcontractors to obtain, maintain, and keep in force insurance coverage in accordance with Section 5.3; however, general liability coverage shall not be required to exceed a combined single limit of one million dollars (\$1,000,000) for each subcontractor.

Section 5.5 Defense/Immunity. By entering into this Contract, neither party waives any immunity defense which may be available to it by operation of law, including any limitation on the amount of damages which may be awarded.

ARTICLE SIX CONTRACT COMPLIANCE

Section 6.1 Borough Breach.

- a) The persistent or repeated failure or refusal by the Borough to substantially fulfill any of its material obligations under this Contract, unless justified by Force Majeure or unless excused by Cornell's default, shall constitute a Breach of the Contract on the part of the Borough.
- b) In the event of a Breach of Contract by the Borough, Cornell shall notify the Borough in writing within ten (10) days after Cornell becomes aware of the Breach. Said notice shall contain a description of the Breach. The Borough shall be afforded a thirty (30) day period in which to effect a cure or in which to take reasonable steps to effect a cure.
- c) Failure by Cornell to provide the written notice described in subsection (b) above shall constitute an absolute waiver by Cornell of the Borough's Breach.
- d) Unless otherwise provided by remedies obtained pursuant to subsection (e) herein, Breach on the part of the Borough shall not excuse Cornell from full performance under this Contract.
- e) In the event of Breach by the Borough, Cornell may avail itself of the following remedies; provided, however, failure by Cornell to give the Borough written notice and opportunity to cure as described in this section operates as a waiver of the Borough's Breach:
 - i) Termination of the Contract; or
 - ii) Specific performance of the Contract.
 Cornell agrees that it is not entitled, and specifically waives any right whatsoever, to seek any damages or expenses as a result of a Breach by the Borough, beyond those expressly provided for in Section 2.4.
- f) Failure by Cornell to give notice of arbitration as provided by Section 7.1 within thirty (30) days of the thirty-day cure period described in subsection 6.1(b) shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by Cornell.

Section 6.2 Cornell Breach.

- a) The following shall constitute a Material Breach of this Contract by Cornell. For purposes of this Article, the items below shall hereinafter be referred to as "Material Breach":
 - a) failure to perform, or partial performance of, Cornell's duties to effect, accomplish, or perform, as applicable, any of the Material Terms set forth in section 4.3;
 - b) failure to maintain insurance at all times as required by this Contract;
 - c) failure to comply with any applicable laws; or
 - d) violation of its obligation to cooperate in good faith with the Borough, including but not limited to those terms set forth in section 3.2.
- b) In the event of a Material Breach by Cornell, which is not timely cured as provided below, the Borough shall have available any or all of the following remedies as described further herein:
 - a) actual damages and any other remedy available at law or equity;
 - b) specific performance;
 - c) partial default;
 - d) termination of the Contract;
 - e) relief from any obligation to compensate Cornell for expenses incurred; and

- f) relief from any obligation to negotiate other contracts with Cornell, including Phase Two Contracts.

In the event of Material Breach by Cornell, the Borough shall provide Cornell written notice of the Breach and a ten-day time period to cure said Breach. In the event Cornell fails to cure the Breach within the time period provided, then the Borough shall have available any and all remedies described herein. However, if the Material Breach cannot reasonably be cured within ten days and Cornell undertakes significant steps reasonably calculated to cure the Material Breach within the ten day period, then Cornell shall have up to 30 days to cure the Material Breach, before the Borough avails itself of its remedies. This 30-day period may only be extended if additional time is agreed to in writing signed by the borough, which agreement will not be unreasonably withheld.

- c) All other breaches by Cornell of the Contract shall be governed by the notice and cure provisions of Section 6.2; however, the Borough's remedies shall be limited to the remedies set forth in section 6.2(b)(i-ii).

Section 6.3 Termination.

- a) In the event of a Material Breach by Cornell, not timely cured, or the failure to successfully negotiate any Phase Two Contract as provided herein, the Borough may terminate the Contract immediately or in stages. If the Contract is terminated pursuant to this provision, notwithstanding the requirement to perform in section 7.1, the borough shall not be required to continue performance of its obligations under the Contract during the period the issue is under arbitration if a meeting and arbitration are pursued, and may require Cornell to immediately discontinue its performance during the period of arbitration.
- b) Cornell shall be notified of the termination in writing signed by the Mayor.
- c) The notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that Cornell shall cease operations under this Contract in stages.
- d) Cornell agrees to reasonably cooperate with the Borough in the event of a termination.
- e) In the event of a termination caused by a Material Breach by Cornell, Cornell shall be liable to the Borough for any and all damages incurred by the Borough. To compensate the Borough for its costs, the Borough may withhold any amounts which may be due Cornell without waiver of any other remedy or damages available to the Borough at law or at equity. Nothing in this provision, or any other part of this Contract shall be construed to obligate the Borough to compensate Cornell for any expenses or damages incurred under this Contract except as expressly provided in Section 2.4 above.

Section 6.4 Termination Due to Unavailability of Funds. The payment of money by the Borough under any provision hereto is contingent upon the appropriation and availability of funds to pay the sums pursuant to this Contract. In the event funds become due under this Contract and then become unavailable due to non-appropriation, the Borough shall have the right to terminate this Contract without penalty on the date funds are no longer available. The Borough shall notify Cornell of the possibility of non-appropriation at the earliest possible time. The Borough

shall do all things lawfully within its power to obtain and maintain funding for this Contract during its term.

Section 6.5 Other Termination. The parties agree that upon completion of the current legislative session, if no legislation has been adopted authorizing the project, the parties shall meet to determine whether the contract shall be continued. The Borough retains the right to terminate this contract at that point without the obligation to compensate Cornell for expenses as provided in Section 2.4. Should the Borough terminate this Contract pursuant to this provision, and if Cornell is not in default or breach of the agreement at such time, then Cornell shall not be obligated to compensate the Borough for its expenses.

ARTICLE SEVEN DISPUTE RESOLUTION

Section 7.1 To the extent permitted by law and unless otherwise specified herein, any controversy arising out of this Contract, which the parties are unable to resolve by mutual agreement, shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. Unless otherwise provided, the parties shall continue performance of their respective obligations hereunder notwithstanding the existence of a dispute.

- a) Meeting. Before arbitration any party may from time to time call a special meeting for the resolution of disputes that would have a material impact on the cost or progress of the Project. Any request for such meeting must be filed within thirty (30) days that the dispute occurs. Such meeting shall be held at a location determined by the Borough within five (5) working days of written request therefor, which request shall specify in reasonable detail the nature of the dispute. The meeting shall be attended by the Borough's Authorized Representative, Cornell's Authorized Representative and any other person who may be affected in any material respect by the resolution of such dispute. Such Authorized Representative shall have authority to settle the dispute and shall attempt in good faith to resolve the dispute.
- b) Arbitration. Any controversy or dispute not resolved shall be submitted to binding arbitration. Either party may initiate arbitration by giving written notice to the other party within ten (10) days after the meeting discussed in Section 7.1(a) above. The notice shall state the nature of the claim or dispute, the amount involved, if any, and the remedy sought. The dispute shall be submitted to an independent arbitrator mutually selected by the parties. If the parties do not mutually agree on an arbitrator who is willing and able to serve, the parties shall then utilize the American Arbitration Association (or another entity acceptable to the parties) to provide the required independent arbitrator(s). The decision of the appointed independent arbitrator(s) shall be final and binding on the parties. In rendering a decision, the arbitrator(s) shall comply with the Arbitration Rules of the American Arbitration Association in effect as of the date of this Contract. The arbitrator(s) shall have no direct or indirect social, political or business relationship of any sort with any of the parties, their respective legal counsel, or any other person or entity materially involved in the Project.

**ARTICLE EIGHT
MISCELLANEOUS**

Section 8.1 Confidentiality. Any information provided to Cornell in performance of this Contract shall be kept in confidence and will not be made available to any individual or organization by Cornell without the written approval of the Borough. However, nothing herein shall prevent Cornell from using information available through public records, or which Cornell possessed prior to entering into the Contract.

Section 8.2 Notices. All notices shall be sent certified mail, return receipt requested to:

Borough: Borough Mayor
144 N. Binkley Street
Soldotna, Alaska 99669

with a copy to:

Colette G. Thompson, Borough Attorney
144 N. Binkley Street
Soldotna, Alaska 99669

Cornell: Steve Logan
President
Cornell Companies
1700 West Loop South, Suite 1500
Houston, Texas 77027

with a copy to:

Don McClintock
Ashburn and Mason, PC
1130 W.6th Ave.
Suite 100
Anchorage, Alaska 99516

Section 8.3 Subcontracting and Assignment. It is agreed and understood that Cornell represents a team including all parties as proposed in the response to the RFQ. Cornell may, upon notice to the Borough, assign the proceeds of this Contract. Except as set forth in its response to the RFQ, Cornell shall not subcontract or assign any of the services to be performed under this Contract without the consent, guidance and prior express written approval of the Borough, which approval shall not be unreasonably withheld. In the event that approval is granted, Cornell shall ensure that the subcontractor or assignee complies with all the provisions of this Contract, and such assignment shall not release Cornell from the obligations of this Contract.

Section 8.4 Amendment. This Contract shall not be altered, changed or amended except by instruments in writing executed by the parties hereto.

Section 8.5 Scope of Contract. The RFQ and Cornell's proposal and amendments thereto, are specifically incorporated herein by reference except for provisions in the RFQ that are clearly inapplicable. This Contract and the documents incorporated by reference incorporate all covenants and understandings between the parties concerning the subject matter hereto. Other than such documents which are incorporated herein by reference, no prior writings, agreements or understandings, verbal or otherwise, of the parties or their agents concerning the subject matter hereof shall be valid or enforceable unless embodied in this Contract.

Section 8.6 Applicable Law. This Contract shall be governed by the laws of the State of Alaska.

Section 8.7 Headings. The parties agree that the headings used in this Contract are for convenience or reference only.

Section 8.8 Severability. If any clause, provision, or section of the Contract be held illegal, invalid, or unenforceable by any court, the illegality, invalidity, or unenforceability of each clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof, and this Contract shall be construed and enforced in a manner consistent with the intent of the parties as if such illegal, invalid, or unenforceable clause, provision or section had not been contained herein.

Section 8.9 Release. Cornell, upon final payment of any amount due under this Contract, releases the Borough, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract.

IN WITNESS WHEREOF, intending to be legally bound, the parties have caused their authorized representative to execute this Contract as of the _____ day of _____, 2001.

BY: _____

Date: _____

BY: _____

Date: _____