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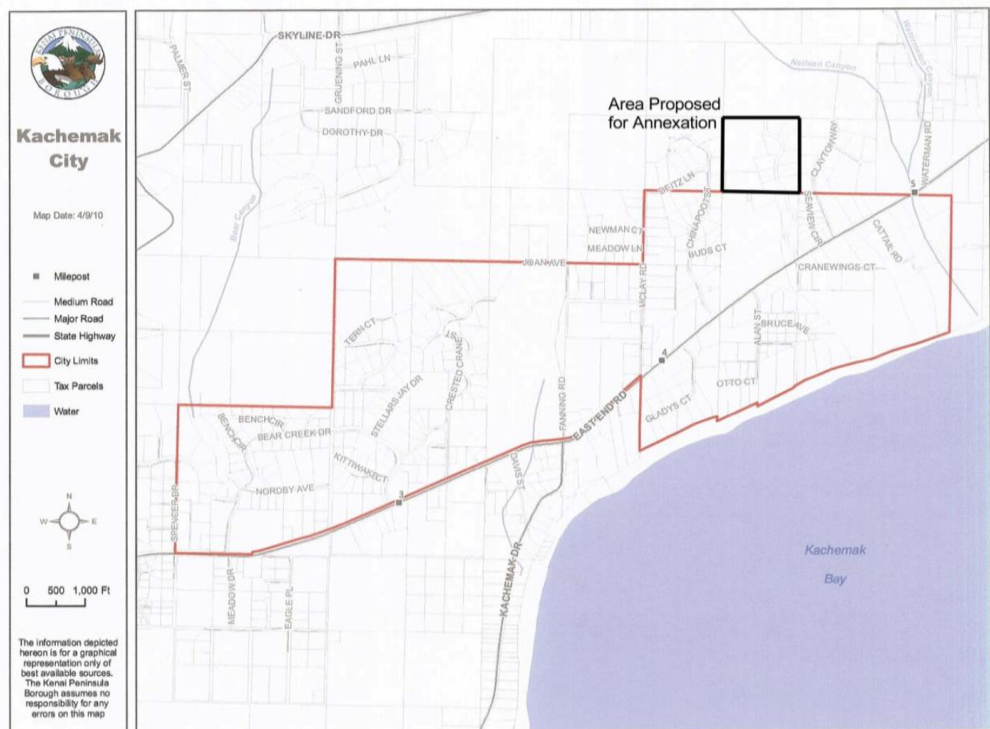
# Local Boundary Commission Decision

In the Matter of the March 18, 2011, Petition by the City of Kachemak to annex approximately 39.966 acres of land.

## Section I Introduction

On March 18, 2011, the City of Kachemak petitioned the Local Boundary Commission (also referred to as "LBC" or "commission") to annex approximately 39.966 acres of land. The territory proposed for annexation is described as follows and is shown on the map below:

The area to be annexed is an aliquot part (NE1/4 SW1/4) of section 1, Township 6 S, Range 13 W, Seward Meridian) encompassing 39.966 acres. There are currently five families (approximately 10 individuals) living within the area to be annexed. The current and projected use of this area is residential.



## SECTION II PROCEEDINGS

- **Submission and Review of Petition**

The petition was submitted to LBC staff (also referred to as “Commerce”) on March 18, 2011, and accepted for filing on April 18, 2011.

- **Deposit of Petition**

On May 3, 2011, the City of Kachemak provided a copy of the City’s prospective petition at the following location:

- Kachemak City Hall, Kachemak;

- **Posting of Notice**

On May 3, 2011, notice was posted at the following locations within and surrounding the territory proposed for annexation:

Fritz Creek Post Office

Bulletin Board at Kachemak City Hall

Bulletin Board at Redden Marine Supply

Bulletin Board at Glacier Building

- **Public Notice**

On May 3, 2011, a public service announcement was sent to the following radio stations to broadcast for 14 days:

KBBI am 890

Notice of the petition was published in the *Homer News* on May 5, 2011.

- **Service of Petition**

On May 3, 2011, the City of Seldovia, the City of Homer, and the Kenai Peninsula Borough (KPB) were served, via United States Postal Service, complete copies of the petition and the Public Notice.

- **Deadline for Initial Comments**

The notice of filing invited written public comment concerning the proposed annexation by May 19, 2011. Staff received seven public comments. Below is the full list of each public comments including date received and position regarding the annexation petition.

Name	Date Received	Position Regarding Annexation Petition
Dale & Wanda Conn	5/16/2011	Support
Nelson & Lilia Co	5/16/2011	Support
Sharon Froeschle	5/9/2011	Support
Sue & Paul Kewin	5/17/2011	Support
Ted & Barbara Heuer	5/13/2011	Support
Charlie Trowbridge*	6/13/2011	Support
Kenai Peninsula Borough*	5/28/2011	Non-Objection
Kenai Peninsula Borough (through the City of Kachemak)*	7/8/2011	Non-Objection**
*Received late with no communication prior to the deadline. The late filing request was submitted and accepted by LBC chair		
**Second KPB comment expressed non-objection to the Deitz Home Estates Subdivision's request to be added to the annexation petition		

Mr. Trowbridge's comment included a request to allow 15 residents and voters within the adjoining Dietz Homes Estates Subdivision to also be added to the petition, and to be annexed. These owners and voters unanimously consented to be added to the petition. This request came in the form of a comment, and was not part of the original petition. These additional residents/voters faced identical concerns regarding road maintenance, emergency responders, and duplicate taxation as the original properties proposed for annexation did. Staff found that the Deitz lots also met the annexation standards. Staff recommended in its report that the LBC amend the petition to add the Deitz lots to the petition, and that the LBC then approve the amended petition.

- **Kachemak Annexation Report Distribution**

On July 22, 2011 Commerce distributed copies of its 78 page *Preliminary Report Regarding the Proposal to Annex by local option, approximately 39.966 acres of land to the City of Kachemak* to interested parties including the petitioner, commenters, LBC members, and others.

- **Notice of Local Boundary Commission Public Hearing and Decisional Meeting**

The Local Boundary Commission chair scheduled a public hearing regarding the City of Kachemak's annexation petition. Formal notice of the hearing had been given by Commerce under 3 AAC 110.550.

Commerce published the full notice in the *Homer News* on June 16<sup>th</sup>, 23<sup>rd</sup>, and 30<sup>th</sup>, 2011. The notice was also posted on the state's *Online Public Notice System*, as well as on the Division of Community and Regional Affairs and LBC websites.

Additionally, notice of the hearing was provided to the Petitioner's representative (Mayor Philemon Morris). The city posted the notice.

- **LBC Public Hearing Regarding the City of Kachemak's Annexation Petition**

In accordance with 3 AAC 110.550 and 3 AAC 110.560, the commission held a duly noticed public hearing on Thursday, July 21, 2011, regarding the City of Kachemak's annexation petition. The hearing began at 10:00 a.m. in the Atwood Building, 18<sup>th</sup> floor conference room, in Anchorage, and was teleconferenced for the city, residents affected by this annexation petition, and commissioners. Under 3 AAC 110.660, the LBC had previously relaxed or suspended 3 AAC 110.690's requirement that at least two commissioners be present in person at a site near the boundaries affected by the proposed change. The commission heard sworn testimony from City of Kachemak witnesses, as well as public comments supporting the proposed annexation. The decisional meeting immediately followed the public hearing.

- **LBC Decisional Meeting Regarding the City of Kachemak's Annexation Petition**

In accordance with 3 AAC 110.570, the LBC held a duly noticed decisional meeting on Thursday, July 21, 2011, regarding the City of Kachemak's annexation petition. The commission voted 5 to 0 to amend the petition to allow the Deitz Home Estates Subdivision to be added to the petition, as allowed under 3 AAC 110.570(c)(1). The LBC approved the amended annexation petition 5 to 0.

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## SECTION III FINDINGS AND CONCLUSIONS

**The record in this proceeding includes** the City of Kachemak's annexation petition and supporting materials, written comments received on the petition, Commerce's report, and testimony received at the LBC's July 21<sup>st</sup> public hearing on the petition.

There are city annexation standards for the local action method informally known as “unanimous consent” that the LBC is required to apply. They are found at 3 AAC 110.590, 3 AAC 110.090 – 3 AAC 110.135 and 3 AAC 110.900 – 3 AAC 110.982.

Section III of this decisional statement recounts such application by the commission. Based on the evidence in the record, the LBC has reached the findings and conclusions set out in this section.

**A. 3 AAC 110.090. Need.**

Two standards relate to the need for city government in the territory proposed for annexation. First, 3 AAC 110.090(a) states that a territory may be annexed to a city provided the commission determines that there is a reasonable need for city government in the territory. Second, 3 AAC 110.090(b) states that territory may not be annexed to a city if the commission determines that essential municipal services can be provided more efficiently and more effectively by another existing city or by an organized borough, on an areawide basis or nonareawide basis, or through a borough service area.

By concurrence, the commission finds that 110.090 has been met. Both the original territory and the additional Deitz Home Estates Subdivision territory have a reasonable need for city government. Further, essential municipal services cannot be provided more efficiently and/or more effectively by another existing city or by an organized borough, on an areawide basis or nonareawide basis, or through a borough service area.

**B. 3 AAC 110.100. Character.**

Alaska law allows a territory to be annexed to a city provided, that the territory is compatible in character with the annexing city. (3 AAC 110.100).

The City of Kachemak is a predominantly residential in nature. The territory requesting annexation is also completely residential. This makes the land use and ownership patterns of both the city and the territory requesting annexation compatible. By concurrence, the commission finds that the territory proposed for annexation in the petition, and the additional Deitz Home Estates Subdivision territory both satisfy 3 AAC 110.100's requirements.

**C. 3 AAC 110.110. Resources.**

Alaska law allows a territory to be annexed to a city if the commission determines that the economy within the proposed expanded boundaries of the city has the human and

financial resources necessary to provide essential city services on an efficient, cost-effective level (3 AAC 110.110).

The petitioner's Comprehensive Community Plan indicates that Kachemak minimizes government, and has low taxes. The City of Kachemak would directly provide some essential municipal services (e.g. taxation), but indirectly provides other essential municipal services required by the territory proposed for annexation by creatively, efficiently, and effectively eliminating the duplication of services and outsourcing these services to the neighboring community of Homer. This enables the city to provide those direct services that it must provide, while minimizing the cost of government personnel, labor, etc.

The city provides few services. The cost of providing these services to the territory will be minimal and will be paid through the property tax. The city does not levy a sales tax on its residents, yet through the low mill rate it is able to subsidize its homeowners associations' road maintenance efficiently and cost-effectively. The petitioner has adequate resources to provide essential city services on an efficient, cost-effective level in both its current boundaries and the territories proposed for annexation for the above reasons, and because the territory proposed for annexation is physically small and has a low population.

By concurrence, the commission finds that the territory described in the petition and the additional Deitz Home Estates Subdivision territory meet 3 AAC 110.110. The economy within the proposed expanded boundaries of the city has the human and financial resources necessary to provide essential city services on an efficient, cost-effective level.

#### **D. 3 AAC 110.120. Population.**

3 AAC 110.120 states that "[t]he population within the proposed expanded boundaries of the city must be sufficiently large and stable to support the extension of city government."

The city's population is healthy, growing, and sustainable. Kachemak grew at a rate of nearly 10% in the past decade. If annexation is approved for both the territory named in the petition, and the individuals who later asked to be annexed, the population would increase by 32 residents to a total of 503 city residents. There is no indication that this proportionally large influx of new city residents will negatively affect the city's ability to extend city government in any way (see 3 AAC 110.110 Resources above). By concurrence, the commission finds that Kachemak's proposed post-annexation population is sufficiently large and stable to support extending city government.

### **3 AAC 110.130. Boundaries.**

There are five standards related to boundaries that the commission must consider.

#### **1. 3 AAC 110.130(a)**

3 AAC 110.130(a) states that the proposed expanded boundaries of the city must include all land and water necessary to provide for the development of essential municipal services in an efficient, cost-effective manner.

There has been no showing made that Kachemak has insufficient land or water to provide essential municipal services.

#### **2. 3 AAC 110.130(b)**

3 AAC 110.130(b) states that territory that is noncontiguous to the annexing city or that would create enclaves in the annexing city, does not include all land and water necessary to develop essential municipal services in an efficient, cost-effective manner (absent a specific and persuasive contrary showing).

Both territories are contiguous to the city. Annexing them would not create enclaves.

#### **3. 3 AAC 110.130(c)(1)**

The expanded boundaries of the City of Kachemak must be on a scale suitable for city government, and may include only that territory comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the ten years following the effective date of annexation.

The proposed expanded boundaries of the city are on a scale suitable for city government because the present city is 1.6 square miles, and the territories proposed for annexation include less than twenty parcels of land (approximately 50 acres). This is a size suitable for a city.

The proposed expanded boundaries of the city include the existing local community of the city of Kachemak. As indicated above, the city is growing. The proposed annexation does not include any territory that is not currently part of the community, or cannot reasonably be expected to be within the next 10 years. The proposed expanded

boundaries of the city include reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.

#### **4. 3 AAC 110.130(c)(2)**

The proposed expanded boundaries of the City of Kachemak may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of standards in 3 AAC 110.090 – 3 AAC 110.135 and are otherwise suitable for city government.

The proposed expanded boundaries of the city do not include entire geographical regions or large unpopulated areas. If, arguendo they did, these boundaries are justified by the applying the standards in 3 AAC 110.090 – 3 AAC 110.135, and are otherwise suitable for city government. They are otherwise suitable for city government because Kachemak is a sustainable city economically, and in terms of population. Further, Kachemak is an existing city, and so has met city incorporation standards. The annexations will not increase the city's size beyond what is appropriate for a city.

#### **5. 3 AAC 110.130(d)**

3 AAC 110.130(d) states that “if a petition for annexation to a city describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough or detachment of the enlarged city from the existing organized borough. If a petition for annexation to a city describes boundaries overlapping the boundaries of another existing city, the petition for annexation must also address and comply with the standards and procedures for detachment of territory from a city, merger of cities, or consolidation of cities.”

The proposed expanded boundaries of the City of Kachemak do not include entire geographical regions or large unpopulated areas, and so 3 AAC 110.130(d) is not applicable to the petition.

By concurrence, the commission finds that the petition has met 3 AAC 110.130(a), 3 AAC 110.130(b), 3 AAC 110.130(c), and 3 AAC 110.130(d) collectively.

#### **E. 3 AAC 110.135. Best Interests of the State.**

3 AAC 110.135 examines AS 29.06.040(a)'s best interests of the state requirement. Alaska's constitution promotes maximum local government with a minimum of local



government units and prevention of duplication of tax levying jurisdictions. (Article X, §1).

The commission finds that the proposed annexation would have no effect upon the number of local government units. The annexation meets the best interests of the state requirement because the city is the appropriate government for the territory.

We find that the petition satisfies 3 AAC 110.135's requirement for annexation because the territories proposed for annexation would receive the benefits of better fire, EMS, and other essential municipal services on a more efficient, cost effective level as indicated previously in 3 AAC 110.090(a) and (b). Kachemak has shown its ability to provide these services adequately.

Annexation would reduce the cost of the services paid for, but not currently provided to the territories' residents, because Kachemak assesses a lower mill rate to its residents than does the borough. The city assesses property taxes at a one mill rate.

The annexation would promote minimum local self government because the residents in the territories proposed for annexation would be enfranchised by being part of Kachemak. They could fully participate in city affairs, including holding city office. They would enjoy improved essential municipal services. At the same time, they would still be in the KPB, and enjoy the benefits of that as well.

The annexation would promote a minimum number local of local government units because no additional units would be formed. Instead, the existing second class city of Kachemak would expand.

The annexation is in the best interests of the state. 3 AAC 110.135 is met.

#### **F. 3 AAC 110.900. Transition.**

3 AAC 110.900 concerns whether the transition plan contains all the required information, and that all required actions were undertaken to prepare for a smooth transition. There are six parts to 3 AAC 110.900 that the commission reviewed.

The commission considers the prospective transition of extending essential city services into the territories proposed for annexing to be elementary and uncomplicated. In particular, the commission notes that annexation would not involve the transfer of assets or liabilities from one local government to another.

The commission finds that 3 AAC 110.900's requirements have been satisfied with respect to the current annexation proposal based on the rationale below.

**1. 3 AAC 110.900(a)**

3 AAC 110.900(a) requires the petition to include a practical plan demonstrating the capacity of the annexing city to extend essential city services into the territories proposed for annexation in the shortest practical time after the effective date of the proposed annexation. The LBC deems that 3 AAC 110.900(a) has been satisfied because the petition includes such a transition plan.

**2. 3 AAC 110.900(b)**

3 AAC 110.900(b) requires that the petition include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, or other appropriate entity located within the boundaries proposed for change.

The commission finds that there is a transition plan and that the city indicates in its transition plan when the transition would occur. The commission finds that there is very little external transition to be done, but that the transition plan was prepared in consultation with the officials of each existing borough, city, and organized borough service area. We find that the plan was designed to affect an orderly, efficient, and economical transfer within the shortest practical time, not to exceed two years after the effective date of the proposed change. While some times are not specifically determined, we find no reason that the transition would not take effect in under two years. We find that 3 AAC 110.900(b) has been satisfied.

**3. 3 AAC 110.900(c)**

3 AAC 110.900(c) requires that the petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located within the boundaries proposed for annexation. Here, a plan to transfer assets and liabilities is a moot subject because there are no assets or liabilities that would be affected.

**4. 3 AAC 110.900(d)**

3 AAC 110.900(d) is not a requirement, but it's an option that the LBC may exercise to require an agreement for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities. We do not exercise that option here.

### **5. 3 AAC 110.900(e)**

The transition plan must state the names and titles of all officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The dates on which that consultation occurred and the subject addressed during that consultation must also be listed. The transition plan did state the names, titles, subjects, and dates as required by 3 AAC 110.900(e). The commission finds that 3 AAC 110.900(e)'s requirements have been met.

### **6. 3 AAC 110.900(f)**

If a petitioner has requested consultation, and borough officials have declined to consult or were unavailable during reasonable times, the petitioner may ask the LBC to waive that requirement. As no such request was received, no such waiver was granted.

### **G. 3 AAC 110.910. Statement of Nondiscrimination**

As provided by 3 AAC 110.910, an annexation proposal may not be approved by the commission if the effect of the annexation would deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

We find no evidence that the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

### **H. 3 AAC 110.970. Determination of Essential Municipal Services.**

Essential municipal services were discussed under 3 AAC 110.090. The essential municipal services must be reasonably necessary to the community, promote maximum, local self-government, and cannot be provided more efficiently and more effectively by the creation or modification of some other political subdivision of the state.

The essential municipal services most related to this petition are road maintenance and emergency/EMS services. These services are considered essential municipal services and are reasonably necessary for the community. These services, as well as the petitioner's ability to levy and collect taxes to provide the services required for the territory, are necessary, promote maximum local self government, and cannot be

provided more efficiently or cost effectively by the creation or modification of any other political subdivision of the state.

For those reasons, we find that the petition has met 3 AAC 110.970's requirements.

**I. 3 AAC 110.981. Determination of Maximum Local Self-Government.**

The approval of this petition extends city government to the territory proposed for annexation where borough government currently exists. The question is whether the local governmental needs of the people who asked to be annexed are being met by the borough or by its service areas. The Kachemak City petition would extend local government to territory of the KPB where local government need for fire/EMS cannot be met as well by the borough's Kachemak Emergency Service Area. Further, the local government need for road service is not met by the KPB. As Kachemak can provide these local governments needs more effectively, this proposal meets the maximum local self government determination.

Further, the citizens who asked to be annexed would be able to participate in governmental affairs of both Kachemak and the KPB. This includes holding office, voting, and increased participating in local government.

For those reasons, the commission finds that the proposed boundary change promotes maximum local self government under art. X, sec. 1, Constitution of the State of Alaska.

**J. 3 AAC 110.982. Minimum Number of Local Government Units.**

The commission finds that Alaska's constitution promotes minimizing the number of local government units unless creating additional units is found to serve the best interests of the state. Annexing the territory would not increase the number of local government units. Annexation would just change the size of the city. By annexing this territory, the city would not enlarge its boundaries to the degree that would better promote incorporating a new city. The 50 acres of land proposed for annexation would be highly unlikely to be self sustainable if it were to incorporate as its own local government unit.

The commission finds that if no new local government units are created by an approved proposal, then the annexation would promote the principal of a minimum number of local government units. The commission finds that this annexation proposal will not create new local government units, and has met the requirements of 3 AAC 110.982.

## **SECTION IV ORDER OF THE COMMISSION**

The commission concludes that all of the relevant standards and requirements have been met for annexing the territory consisting of the original 39.966 acre territory described in the petition, plus the Deitz Home Estates Subdivision lots of approximately 10 acres of land. If approved, the city of Kachemak would encompass the existing 1.6 square miles of land and a combined additional 50 acres. The commission approves the 39.966 acre annexation petition of the City of Kachemak, and amends the petition to include and approve the annexing of the Deitz Home Estates Subdivision lots of approximately 10 acres of land.

### **CITY OF KACHEMAK CORPORATE BOUNDARIES**

The territory petitioned for annexation is generally described as a 39.966 acres aliquot part (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) within section 1, township 6 south, range 13 west, Seward Meridian, as depicted on the attached maps. This block is composed of: 1) 10 residential lots (averaging 1.73 acres in size) within the Kachemak Estates Subdivision 2004 (and 2007) additions; 2) a 14.86-acre undeveloped tract within the Kachemak Estates Subdivision 2004 addition; 3) a 4.82-acre portion of tract C2 (parcel number 17406078) north of the Kachemak City Limits; 4) a 0.18-acre portion of tract A1 (parcel number 17406079) lying outside of Kachemak City; and 5) the northern half of Morning Star Road, to the City.

It is an aliquot part, being the Northeast one-quarter (NE $\frac{1}{4}$ ) of the Southwest one-quarter (SW $\frac{1}{4}$ ) of Section One, within Township 6 South, Range 13 West, Seward Meridian, Alaska. Being more particularly described as:

Beginning at the center-south one sixteenth corner of Section 1; thence along the north-south centerline of section 1, N0°03' W 1321.2 feet to the center  $\frac{1}{4}$  corner of Section 1; thence along the east-west centerline of section 1, S89°46' W 1319.1 feet to the center west  $\frac{1}{16}$  corner of Section 1 ; thence S00°01' E 1317.6 feet to the south-west  $\frac{1}{16}$  corner of Section 1 ; thence N89°55' E 1321.6 feet to the center-south  $\frac{1}{16}$  corner of Sections 1, the True Point of Beginning;

The post-annexation boundaries of the city as described below are the effective city limits:

The boundaries of the city as described below are the effective city limits:

“Situated on the north shore of Kachemak Bay, within Township 6 South, Range 13 West, Seward Meridian, Alaska. Being more particularly described as beginning at Corner One, the corner of Sections 1 and 12 (SE corner Section 1), Township 6 South, Range 13 West, Seward Meridian, Alaska, and corner of Sections 6 and 7, Township 6 South, Range 12 West, S.M.;

thence north along Range line, between Sections 1 and 6, a distance 1319.8 feet to the south one sixteenth corner of Sections 6 and 1 being, Corner Two;

thence S89° 56' W along the south one sixteenth line of Section 1, a distance of 2641.1 feet to the center-south one sixteenth corner of Section 1, being Corner Three;

thence N0°03' W 1321.2 feet to the center <sup>1</sup>/<sub>4</sub> corner of Section 1, being Corner Four;

thence S89°46' W 1319.1 feet to the center west <sup>1</sup>/<sub>16</sub> corner of Section 1, being Corner Five;

thence S0°02'11" E 325.41 feet to the northeast corner of Tract A-1, DEITZ HOME ESTATES NO. 12, (filed as plat #2001-9 in the Homer Recording District), being Corner Six;

thence along the northerly boundary or said Tract A-1, S69°18' W 437.02 feet to the northwest corner of said Tract A-1, on the easterly edge of China Poot Street Right-of-Way being Corner Seven;

thence along said easterly edge of China Poot Street Right-of-Way, 74.14 feet along a nontangent curve to the right having a radius of 270 feet, a delta angle of 19°18'33" E, subtended by a chord bearing N52°24'16"W 73.79 feet to Corner Eight;

thence crossing said China Poot Street Right-of-Way on a radial bearing of S47°15' W 60 feet to the north corner of Lot 6-A (HM2001-9) on the southwesterly edge of China Poot Street Right-of-Way, being Corner Nine;

thence leaving said right-of-way, along the line common to said Lot 6-A and Tract A-3 ("DEITZ HOME ESTATES NO. 13" filed as plat #2002-45 in the Homer Recording District) S33°30' W 160.58 feet to the northeast corner of Lot 5, DEITZ HOME ESTATES NO. 4 (HM84-42), in common with said Lot 6-A and Tract A-3, being Corner Ten;

thence S77°00' W along the southerly boundary of said Tract A-3 a distance of 355.0 feet to the northwest corner of Lot 4, DEITZ HOME ESTATES NO. 4, in common with Lot 3 and said Tract A-3, being Corner Eleven;

thence S35°07'56" E along the common boundary of said Lots 3 and 4, 494.61 feet to the north edge of the DEITZ LANE Right-of-Way, being Corner Twelve;

thence S52°30'W coincident with said north edge of DEITZ LANE Right-of-Way a distance of 280.00 feet to a point of curvature, being Corner Thirteen;

thence continuing along said north edge of DEITZ LANE Right-of-Way 173.14 feet along a curve to the right, having a radius of 264.25 feet, through a central angle of 37°32'25" to Corner Fourteen;

thence continuing along said north edge of DEITZ LANE Right-of-Way N89°57'34"W a distance of 276.38 feet to the South 1/16 corner of Sections 1 and 2, Township 6 South, Range 13 West, Seward Meridian, being Corner Fifteen;

thence S0°01' E between Sections 1 and 2, a distance of 1318.3 feet to the Corner of Sections 1, 2, 11, and 12, being Corner Sixteen;

thence S89°53' W between Sections 2 and 11, a distance of 5285.9 feet to the corner of Sections 2, 3, 10, and 11, being Corner Seventeen;

thence S0°03' E between Sections 10 and 11, a distance of 2635.5 feet to the quarter corner of Sections 10 and 11, being Corner Eighteen;

thence S89°04' W along centerline of Section 10, a distance of 2639.7 feet to the center of Section 10, being Corner Nineteen;

thence S0°07' E along centerline of Section 10, to the center of the East Road right of way to Corner Twenty;

thence northeasterly along the centerline of the East Road right of way to the intersection of East Road and the section line between Sections 11 and 12 to Corner Twenty-one;

thence south along section line between Sections 11 and 12 to the Mean High Water Meander Corner of Sections 11 and 12 on the line of Mean High Water of Kachemak Bay to Corner Twenty-two;

thence northeasterly along the line of Mean High Water of Kachemak Bay to the Meander Corner of Sections 12 and 7 on the Range line between Ranges 12 and 13 to Corner Twenty-three;

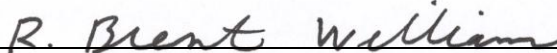
thence north along range line between Sections 12 and 7; a distance of 1,167.2 feet to the POINT OF BEGINNING".

Approved in writing this 15<sup>th</sup> day of September, 2011.

**LOCAL BOUNDARY COMMISSION**

By:  x  
Lynn Chrystal, Chair

**Attest:**

By:  x  
Brent Williams, Staff

## **RECONSIDERATION BY THE COMMISSION**

Per 3 AAC 110.580(a) “within 18 days after a written statement of decision is mailed under 3 AAC 110.570(f), a person may file an original and five copies of a request for reconsideration of all or part of the decision, describing in detail the facts and analyses that support the request for reconsideration.”

Per 3 AAC 110.580(e) “the commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision only if the commission determines that

- (1) a substantial procedural error occurred in the original proceeding;
- (2) the original vote was based on fraud or misrepresentation;
- (3) the commission failed to address a material issue of fact or a controlling principle of law; or
- (4) new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.”

Additionally, per 3 AAC 110.580(f) “if the commission does not act on a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the request is automatically denied.”

Also, per 3 AAC 110.580(f) “if the commission orders reconsideration or grants a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the commission will allow a petitioner or respondent 10 days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered.”

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## **JUDICIAL APPEAL**

A decision of the LBC may be appealed to the Superior Court under AS 44.62.560(a) and Rules of Appellate Procedure 602(a)(2).