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of **ALASKA**
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Final Report to the Local Boundary Commission

Concerning the Legislative Review for the
City of Soldotna's petition to annex 2.63 square miles of territory.

July 20, 2020





This report was written by Jedediah Smith, staff to the Local Boundary Commission (LBC or Commission). The staff (LBC staff or staff) is part of the Division of Community and Regional Affairs (DCRA) of the Alaska Department of Commerce, Community, and Economic Development (Commerce or Department). Readers can also find the report at <https://www.commerce.alaska.gov/web/dcra/LocalBoundaryCommission/CurrentPetitions/>.

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Contents

Executive Summary.....	1
General Background on Annexation	3
Legislative Review	3
Analysis	4
City Profile.....	4
Taxation.....	11
Standards for Annexation to Cities	11
Need (3 AAC 110.090).....	12
Character (3 AAC 110.100).....	15
Resources (3 AAC 110.110).....	17
Population (3 AAC 110.120).....	20
Boundaries (3 AAC 110.130)	21
Best Interests of the State (3 AAC 110.135; AS 29.06.040(a))	23
Legislative Review (3 AAC 110.140).....	24
Transition Plan (3 AAC 110.900)	25
Statement of Nondiscrimination (3 AAC 110.910)	27
Determination of Community (3 AAC 110.920).....	27
Essential Municipal Services (3 AAC 110.970)	27
Conclusion.....	27
References	29
Appendix A: Petition Schedule.....	31
Appendix B: Notice of Hearing and Final Report.....	32

Executive Summary

The Department of Commerce, Community and Economic Development (DCCED), in its role as staff to the independent Local Boundary Commission (LBC or the Commission), has issued this report on the petition by the City of Soldotna to annex 2.63 square miles through the legislative review process. LBC staff is required by law to prepare both a preliminary report and a final report on the annexation proposal, prior to a public hearing on the matter before the Commission. LBC staff has carefully reviewed the annexation petition and presents its analysis with a recommendation to the Commission.

This final report provides a summary of the information contained in the petition, as well as public comments received on the preliminary report, and the petitioner's response to the preliminary report. Also contained in this report are department staff's analysis, findings, and conclusion.

Soldotna is an urban community on the western edge of the Kenai Peninsula, built out to nearly every corner of its current municipal boundary. In the last 30 years, the surrounding area has seen tremendous growth that exceeds the state average. Additionally, state spending cuts to all communities across Alaska has dramatically impacted municipal government spending. Soldotna has traditionally looked to legislative grants as a reliable source for large capital projects to accommodate and encourage growth, but has scaled back in recent years to focus on maintenance of existing facilities.¹

The standards for annexation to a city within an organized borough are described in 3 AAC 110.090 - 3 AAC 110.150. The City of Soldotna (the City) has submitted a petition to annex a modest area contiguous to the community. The proposal captures sales and property tax revenue within this area while adding to the residential population and expanding essential services for that population. LBC staff received and reviewed a total of six comments, including a response from the Kenai Peninsula Borough mayor, as well as the City's response to the preliminary report. LBC staff has addressed the comments received throughout this report where appropriate. The comments do not fundamentally change the conclusions contained in the preliminary report. LBC staff finds the petition adequately addresses the standards for annexation. Specifically, the petition:

- Reasonably argues that annexation to the City would be in the best interests of the state, because it will assume responsibility for some services currently being provided by the State of Alaska;
- Contains land that complements the geographic and socioeconomic profile and character of the current city boundary; and
- Provides evidence of existing resources to reasonably deliver services to the population and expand them to residents of the annexed territory in an effective and efficient manner.

LBC staff reviews petitions on a case-by-case basis, and interprets the standards with objectivity and flexibility. LBC staff recognizes that each community is unique in circumstances, but that some similarities exist among all local governments. The Division of Community and Regional Affairs advises and assists communities in accordance with the Alaska Constitution and Title 29 of Alaska Statute.

¹ (City of Soldotna, 2019) p. 37

This report is non-binding. It is presented to fulfill the legal requirement found in 3 AAC 110.530 for LBC staff to investigate and analyze all petitions for boundary change.

Acknowledgement of comments regarding the preliminary report.

LBC staff received 6 comments in the 30-day comment period following the release of the preliminary report. Two of the comments were filed late, but still accepted.

None of the comments received were explicitly in favor of the annexation petition. Of the comments received, many challenged the assertion that the city would provide water or wastewater utility service to the territory. LBC staff has revised the final report to ensure no such promises are made by LBC staff, and only supported where the City has made this commitment.

COVID-19

During the drafting of the preliminary report, Alaska and the world were realizing the threat of a global coronavirus pandemic, which created widespread economic and public health impacts that continue to emerge. The City of Soldotna, during the comment period, submitted new information regarding its response, and much of that information has been added to the resources section of this report.

Status of respondents

During the initial public comment period on the petition, which ran from the time the petition was accepted in early December 2019, through late February 2020, LBC staff received numerous comments from business owners, residents, and interested individuals. Those comments were reviewed and posted to the LBC website. The LBC did not receive any official communication from the City of Kenai or the Kenai Peninsula Borough, or any other stakeholder entity, nor did it receive a legal brief described in 3 AAC 110.480. LBC staff acknowledges the City of Soldotna’s claim that it maintains intergovernmental communication and collaboration.

On September 4, 2018, the Kenai Peninsula Borough Assembly adopted a resolution opposing the Soldotna annexation efforts specifically because the City was pursuing the legislative review method and “respectfully encourages the City Council to seek voter approval on this issue.” The resolution was submitted to the Local Boundary Commission staff more than a year before the Soldotna petition was submitted for technical review and accepted. LBC staff received no other official communication from the Kenai Peninsula Borough regarding the substance of the petition.

Territory v. Area

The City of Soldotna notes that in the preliminary report, LBC staff describe the proposed annexation territory by the various study areas. The City asserts that the entirety of the proposed annexation be considered as a single territory. LBC staff agree with this assessment, and 3 AAC 110.990(32) defines “territory” as “the geographical lands and submerged lands forming the boundaries in a petition regarding a city government or forming the boundaries of an incorporated city. LBC staff consider the whole of the proposed annexation to be a singular “territory.” However, in evaluating the petition, LBC staff felt it would be useful and necessary to independently evaluate each study area to determine whether it meets the annexation standards. In presenting this methodology, LBC staff received a comment from the Kenai Peninsula Borough mayor that the borough does not oppose annexation of the

Kenai Spur portion of the territory (Area 7) if the K-Beach North (Area 5) is annexed as well.² LBC staff is inclined to agree with this statement. However, the City of Soldotna explicitly eliminated three K-Beach study areas from the proposed territory after receiving numerous public comments prior to submitting the petition. The Local Boundary Commission has the authority to amend the petition to include the study area in the territory. LBC staff is neither recommending nor opposing amendment to the territory to include Area 5.

General Background on Annexation

In Alaska, as in other states, the corporate boundaries of cities are flexible. That is, cities may expand or retract their boundaries to adapt to changing conditions. Annexation permits a city to enlarge its boundaries to accommodate growth and development or to address other needs.

Alaska law provides for objective analysis of annexation proposals by an independent body. Further, the law promotes consideration of interests beyond those of the local government and the territory involved. Alaska's Constitution created the Local Boundary Commission to review annexation proposals and other municipal boundary issues.

The LBC consists of five members, one from each of the four judicial districts of the state, plus one member who serves at-large. Commission members serve without compensation and at the pleasure of the governor.

The present members of the Local Boundary Commission are:

- Larry Wood, chair, serving at-large
- John Harrington, serving from the First Judicial District
- Kenneth Gallahorn, serving from the Second Judicial District
- Richard "Clayton" Trotter, serving from the Third Judicial District
- Lance Roberts, serving from the Fourth Judicial District

While the Division of Community and Regional Affairs (DCRA), part of the Department of Commerce, Community, and Economic Development (DCCED), provides technical and administrative support to the LBC, the commission is completely independent of DCRA, DCCED, and all other state agencies. The LBC is not bound in any fashion to conform to the recommendation made by DCCED in this report.

Staff investigates annexation proposals and prepares reports to the LBC conveying the DCCED's recommendation. To ensure that the interested parties' rights to due process and equal protection are maintained, laws strictly limit contact with the LBC on all pending municipal boundary proposals. All communications must be submitted to the LBC through DCRA staff.

Legislative Review

Article X, Section 12 of the Constitution of the State of Alaska provides that:

The [Local Boundary Commission] may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the

² (Pierce, 2020).

end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

The Alaska Supreme Court has ruled that the intention of Article X, Section 12 of Alaska's constitution, and its implementing statute, AS 44.47.567, was to provide an objective administrative body to make state-level decisions regarding local boundary changes. The court concluded further that this was intended to avoid the chance that a small, self-interested group could stand in the way of boundary changes which were in the public interest.³ The Alaska Supreme Court has further held in several cases that the legislative review method of annexation stems from the conviction among those who wrote Alaska's Constitution that "local political decisions do not usually create proper boundaries and that boundaries should be established at the state level."⁴

The court has also ruled that expansion of municipal boundaries is a matter of statewide concern. Those who reside or own property in the area to be annexed have no vested right to insist that annexation take place only with their consent. The subject of expansion of municipal boundaries is legitimately the concern of the state, and not just that of the local community.

Analysis

City Profile

The City of Soldotna is located on traditional Dena'ina Athabascan lands at the junction of the Sterling Highway and the Kenai Spur Highway and serves as a major urban retail hub and cultural center for the upper Kenai Peninsula Borough (See Map Page 4). The City's estimated population in 2019 was 4,233.⁵ The area immediately surrounding the City is a sprawling outgrowth and has similar urban characteristics, though fewer amenities. Many residents of this area use or benefit from existing services inside the city boundary.

The greater unincorporated area surrounding, but outside the city limits, has a population of 17,815. This population is split among four census designated places (CDP). CDPs are designations with boundaries determined by the state of Alaska and the US Census Bureau as an administrative tool for keeping statistics on population centers outside of corporate borders. Beginning with the 1980 Census, unincorporated places were defined as CDPs for closely settled population centers without corporate limits. In Alaska, CDPs are only required to have 25 people. The threshold in other states is higher. Though CDPs have no legal status, they are useful in comparing data of unincorporated places such as the urbanized and densely populated, but otherwise unorganized part of the borough. There are four CDPs immediately adjacent to the City of Soldotna's corporate boundaries: Kalifornsky, Ridgeway, Sterling, and Funny River. The entire Kenai Peninsula Borough has a total population of approximately 58,367.⁶

The Ridgeway CDP has a population of 2,194. Many of those residents live in the 10 miles between the cities of Soldotna and Kenai (population 7,778). Residential, commercial retail, and industrial

³ (Fairview Public Utility Dist. No. One v. City of Anchorage, 1962)

⁴ (Oesau v. City of Dillingham, 1968)

⁵ (Alaska Department of Labor and Workforce Development, 2020)

⁶ (Alaska Department of Labor and Workforce Development, 2020)

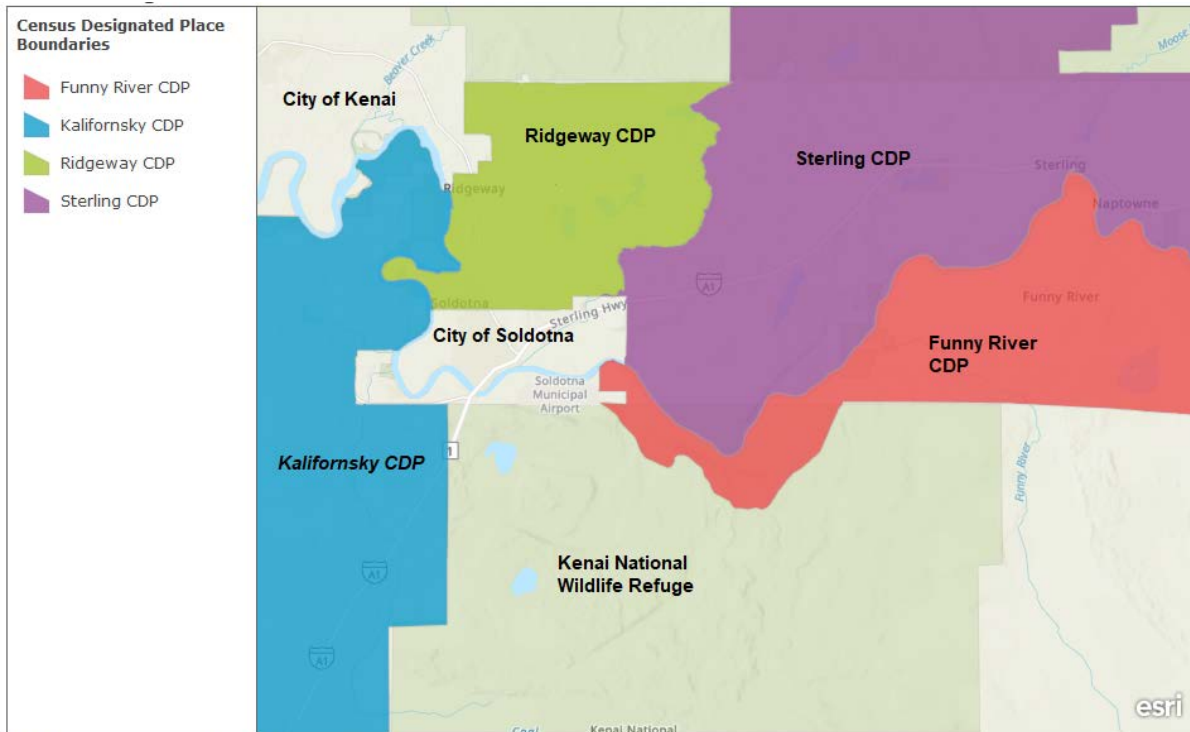
development along portions of the Kenai Spur Highway, which connects Soldotna and Kenai, continues to grow in density, and commercial and industrial development proffer to serve the population.

The Kalifornsky CDP has also experienced remarkable growth in the last 30 years. In 2010, the US Census reported the population of the entire CDP at 7,850. Ten years earlier, the population was 5,846. Kalifornsky Beach Road (K-Beach Road), which traverses west, then north outside the western boundary, contains numerous large lot residential developments buffered by a sprawling and eclectic business and industrial development along the main corridor.

The Sterling CDP borders Soldotna from the east. Most of the nearly 4,800 residents live scattered across the 80-square mile area. 30 percent of the population in the Sterling CDP is under the age of 18, and many attend Skyview Middle School, just outside of Soldotna.

Fewer than 1,000 people live in the Funny River CDP, a 29-square mile area to the south of Soldotna. There is no bridge access across the Kenai River from Sterling. Funny River is only accessible by road through the City of Soldotna.

Figure 1 Census Designated Place Boundaries



Alaska census-designated place boundaries.

Esri, USGS | State of Alaska, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA | SOA DCCED, SOA DCRA

Soldotna incorporated in 1960 as a fourth-class city with 7.4 square miles of land. In the 60 years since then, the City has successfully completed the annexation process four times. In 1984, 40.79 acres were annexed through the unanimous consent method of local action. In 1987, a 4.234-acre parcel was annexed under the same process. In 1993, 1.45 acres was annexed through unanimous consent when the City agreed to connect a nearby subdivision to water and sewer utilities. Most recently in 2007, the

City annexed a 1.72-acre parcel by unanimous consent, when the owner applied to combine two adjoining lots, one outside the City and one inside.

Efforts by the City to annex much of the territory proposed in the current petition dates to at least 2005. In 2008, the Soldotna City Council (the council) voted to move forward with an annexation petition. However, that effort was vetoed by then Mayor David Carey.⁷

Annexation was consistently included in long range planning documents, and the City continued to study the idea and employed a robust public outreach effort in an attempt to engage the public, though turnout remained low⁸. Soldotna included a report on its outreach efforts beginning on page 323 of the petition.

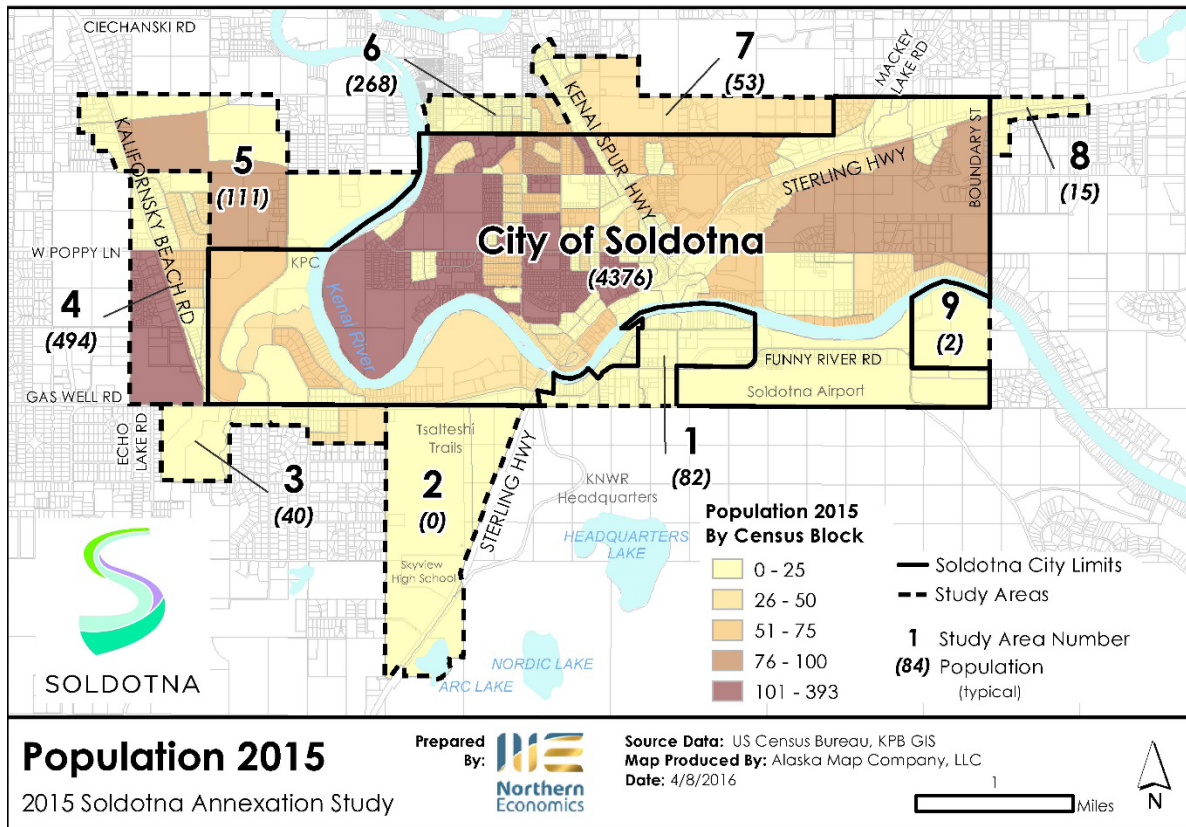
During the same timeframe, Soldotna was looking to expand its boundaries, the council asked voters to approve a charter commission to potentially become a home rule city, a process outlined in Title 29 of Alaska Statute and outside the purview of the LBC. Voters rejected that proposal in 2015. However, in 2016, a voter initiative asked the same question, and the measure was resoundingly approved. This reclassification granted the City more power to control its sales tax, notably the ability to repeal a seasonal sales tax that had cost the borough as much as \$2.8 million in revenue in recent years.⁹

⁷ <http://archives.ci.soldotna.ak.us/weblink8/DocView.aspx?id=25694>

⁸ (City of Soldotna, 2019) p. 347

⁹ <https://www.peninsulaclarion.com/news/soldotna-home-rule-charter-passes/>

Figure 2 Original Economic Study Areas¹⁰



In May 2016, under a contract with the City, consulting firm Northern Economics conducted an analysis of the fiscal effects of annexation that originally included nine study areas (see Figure 2). Each area was studied independently, and included projections for population, build-out, land use development potential, and tax revenue.

Despite numerous claims to the contrary both in public comments to the LBC and in the pre-submission hearing testimony, there has never been an official borough or city election related to this annexation effort, advisory or otherwise. On September 4, 2018, the Kenai Peninsula Borough adopted a resolution opposing Soldotna annexation and requesting voter approval for the annexation.¹¹

Currently, the City of Soldotna is petitioning for the annexation of Areas 1, 2, 3, 7 and 9. Area 6 and Area 8 were not included in late drafts of the petition. The final petition approved by the Soldotna City Council omitted two more areas (4 and 5), which were initially included in the petition draft but removed after public testimony (see figure 3).

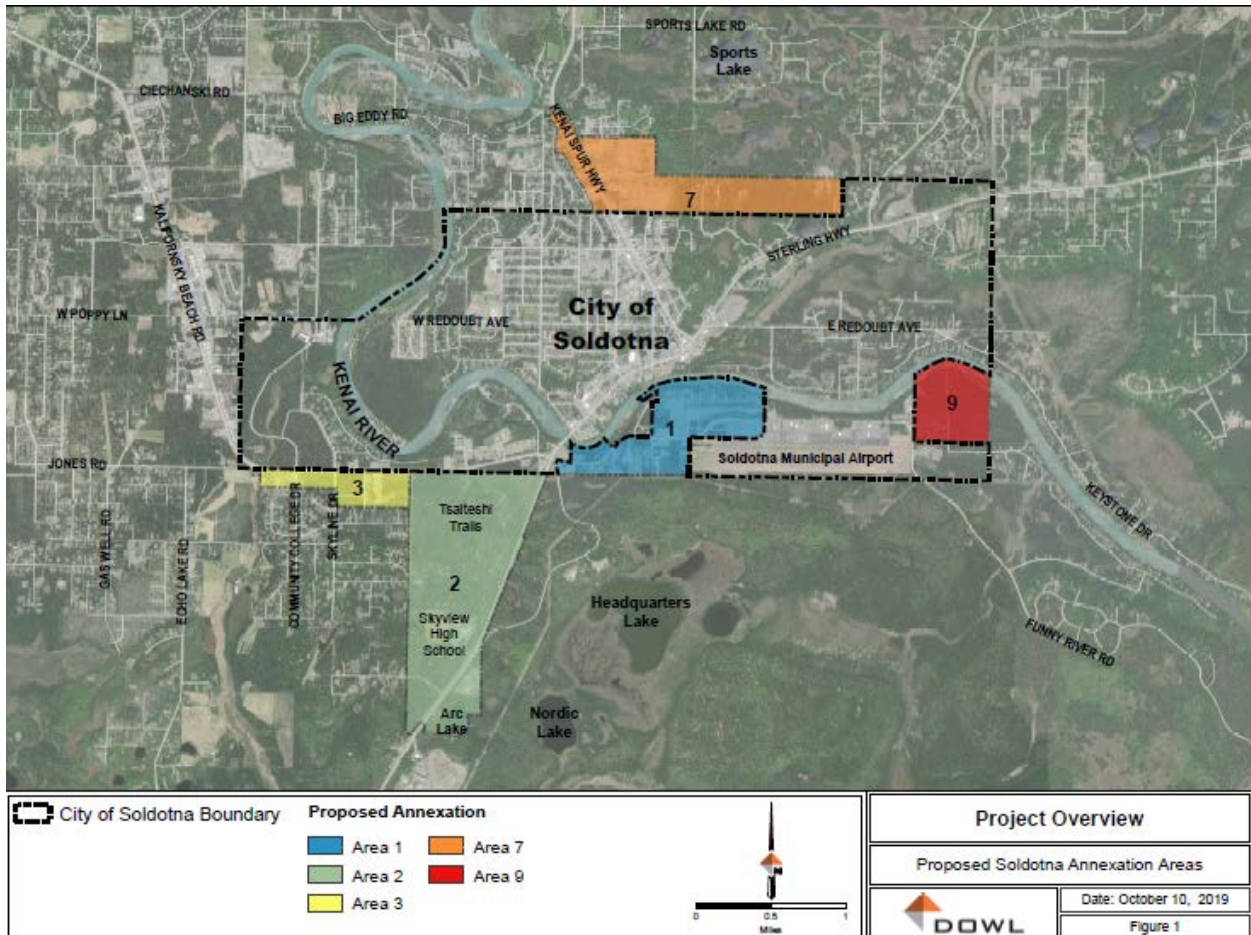
The entire sum of all five study areas submitted in the final petition are to be considered a singular territory to be annexed, including Areas 1, 2, 3, 7 and 9. The following section summarizes the areas proposed in the annexation territory. It also includes the economic study areas omitted from the final petition. Descriptions of all study areas are meant to provide a basis of comparison and context for the

¹⁰ (Northern Economics, 2016) p. 10

¹¹ (Pierce, 2020)

territory proposed for annexation in the petition. The commission may adopt the territory proposed in the petition, amend the territory, or reject the territory and the petition. A more complete economic analysis is included with the petition beginning on page 242.

Figure 3 Soldotna proposed annexation territory.¹²



Area 1: Area 1 (Funny River West) is nested along the southern boundary of the city limits and adjacent west of the municipal airport. This 250-acre study area conforms to the character of the existing city boundaries and represents an opportunity to connect a non-contiguous boundary. Area 1 contains the second highest taxable area in the territory proposed for annexation.¹³ Most of the water and sewer utility customers serviced outside of the city limits are in Funny River West.¹⁴ Law enforcement and city maintenance must traverse the area to reach other areas within the City’s jurisdiction, and conversely, KPB road maintenance must cross into Soldotna to reach areas just outside of the current city boundary. Funny River West contains valuable riverfront property. The study area would have a net positive fiscal effect on the City, primarily through sales tax revenue, and the territory is expected to reach maximum

¹² (City of Soldotna, 2019) p. 73

¹³ (Northern Economics, 2016) p. 18

¹⁴ (McQueen, Stephanie and Brooks Chandler, 2020) p. 9

buildout by 2028, with an increase in population from 82 to 116 and an increase in sales tax revenue commensurate with population growth.

Area 2: Area 2 (Skyview) is a 635-acre uninhabited territory that contains Skyview Middle School, which is operated by the Kenai Peninsula Borough, and attended by approximately 400 students who live along a 75-mile stretch of the Sterling Highway, in Kasilof, Sterling, Cooper Landing, and parts of the Kalifornsky CDP. Skyview also contains recreational trail infrastructure, and a one million gallon drinking water reservoir and pump house that serves the city's water utility system. Approximately 21 percent of the territory is owned by the Salamatof Native Association. There is no projected population growth for this portion of the territory.

Area 3: Area 3 (K-Beach South) contains the highest projected population growth, estimated at 300 percent through 2030.¹⁵ 40 percent of the area is undeveloped and privately owned, though the petition eliminates close to 135 acres of agricultural and undeveloped land to the west, scaling back the area from the original Northern Economics study.

City equipment skirts this area to provide road maintenance, utility maintenance, and public safety, to other areas within the city limits. Water and sewer are installed in the north side of Kalifornsky Beach Road, which serves as the northern border of the area proposed for annexation.¹⁶ While the City does not serve the residential areas already developed in proximity of this territory, services such as law enforcement and animal control could reasonably be extended to new development in the territory.

The City anticipates substantial commercial development in relation to the expected population growth. This would result in an increase in sales tax revenue that would largely overshadow the increase in property tax revenue. The largest expense anticipated by the City for the area is road maintenance.

Area 4: The City initially planned to include Area 4 (K-Beach Central) in the petition, but it was removed by the council at the final meeting prior to submittal of the annexation petition to the LBC. The parcel on the western edge of the current city boundary has the highest taxable value, despite exemptions totaling nearly 15 percent of the area's assessed value.¹⁷ This area has the highest current population of all the study areas (494, or nearly half of all other study areas combined), as well as 121 acres of commercially developed land. The City does not currently provide water and sewer to the area, which it notes has a history of water quality problems. An Alaska Department of Environmental Conservation map of contaminated sites and groundwater plumes confirms an active site within this study area.¹⁸

K-Beach Central contains expansive commercial property along a 1.4 mile northward stretch of Kalifornsky Beach Road, including several restaurants, churches, businesses, and offices for the Division of Motor Vehicles and Department of Fish and Game.

Area 5: Area 5 (K-Beach North) is geographically the largest of the study areas, and, like Area 4, was to be included in the petition until it was removed by the council. The area is situated outside the northwestern corner of the current municipal boundary along Kalifornsky Beach Road, with the Kenai

¹⁵ (Northern Economics, 2016) p. 17

¹⁶ (City of Soldotna, 2019) p. 41

¹⁷ (Northern Economics, 2016) p. 17

¹⁸ (Alaska Department of Environmental Conservation, 2020)

River as its eastern boundary. K-Beach North extends north to Murwood Avenue, and cradling K-Beach Central to the west. K-Beach North is largely undeveloped, but holds potential for both residential and commercial growth and development. Two thirds of the area is privately owned. The remaining third is owned by the Kenai Peninsula Borough.¹⁹

The City does not predict that the increase in residential population would result in a net fiscal benefit by 2030. The anticipated cost of services would be higher than the amount collected in property tax, unless commercial development unexpectedly outpaces residential development. The proximity of the study area to the Kenai River would allow the City to control future development along the riverfront to the benefit of the health and safety of the watershed and its users.

Area 6: Area 6 (Knight Drive) is one of two study areas along the City's northern boundary. Knight Drive contains the second largest residential population (268) across the relatively small footprint (less than 40 acres).²⁰ Water and sewer are primary among the services that could be offered in an efficient and effective manner, and infrastructure already serves one customer in the area.

Knight Drive was not included in the final petition. Because the area does not currently contain any commercial development, and provision of city services would be reliant on property taxes, Knight Drive would have had a negative revenue-to-expense ratio for the City.²¹ Notably, some members of the public testifying in opposition of annexation of other areas conceded that this area should be annexed because the transition between residential neighborhoods within the Knight Drive area to those inside the city limits is imperceptible.

Area 7: Area 7 (Kenai Spur) hosts commercial development along both sides of a one-mile stretch of the Kenai Spur Highway north of the current boundary. The Kenai Spur Highway connects the cities of Soldotna and Kenai. The area has been erratically developed in the transition zone into Soldotna. The area does contain high taxable sales from tires, appliance and vehicle sales, as well as motels, restaurants and small retail. The potential for new development is rich, and would benefit from higher building standards.²² The City could provide public safety along the highway corridor. Use and development of this corridor is expected to continue to grow over the next 10 years.

Area 7 also extends in a narrow expanse to the east and fits in the municipal boundary's northeast panhandle. Much of the area beyond the Kenai Spur Highway is uninhabited and is predicted to remain vacant due to difficult access and wetlands restrictions.

Area 8: Area 8 (Sterling Hwy) includes 0.6 miles of the Sterling Highway on the northeastern corner of the city boundary, containing mostly commercial development, including a handful of restaurants and churches, the Soldotna Power Plant, and a motorcycle dealership. Area 8 has a low population that is not expected to increase in residents by 2030. The City's main argument for annexation is to control the appearance and safety along the highway corridor as residents and visitors first enter Soldotna from the east.

¹⁹ (Northern Economics, 2016) p. 43

²⁰ (Northern Economics, 2016) p. 44

²¹ (Northern Economics, 2016) p. 45

²² (City of Soldotna, 2019) p. 41

Area 8 has the highest potential ratio of revenue to expenditure, projecting to collect more than \$129,000 in annual tax revenue and fees, while expending \$15,000 on services annually by 2030. Annexing this territory would create a stable revenue source for the City. Likewise, the Sterling Highway area would benefit from city planning, stricter building requirements, and infrastructure improvements.

Area 9: A pentagon-shaped carveout from the current city boundary in the southeastern corner, Area 9 (Funny River West) presents an opportunity for the City to connect a starkly non-contiguous boundary. Funny River West contains the second lowest current population density.²³ Land ownership is split evenly between private owners and the State of Alaska, and includes a half-mile of Kenai River waterfront. Non-state lands have been designated for residential use and the City would like to ensure development that occurs is safe and sustainable to the Kenai River.

Taxation

The Kenai Peninsula Borough (KPB) administers and collects all municipal and borough taxes within its boundary. KPB has a base property tax rate of 4.7 mills, and an additional 1.4 mills is assessed to property within the single Road Service Area (RSA) which is divided into more than two dozen regions. The RSA regions are scattered throughout the borough and exclude the five incorporated municipalities of Homer, Kenai, Seldovia, Seward and Soldotna. The borough has an areawide sales tax of three percent, including a nine month per year exemption on non-prepared food items, (*i.e.*, groceries). The borough also collects and remits municipal sales taxes.

The annexation petition would affect parts of four road services area regions in the central part of the borough surrounding the City. Because KPB RSA regions are not included within the City's municipal boundary, property inside the city limits is not subject to the RSA levy. Properties that are annexed by the City would see a net reduction in property tax of approximately 0.9 mills.

Property exemptions are numerous in KPB and the City, including veteran and senior housing exemptions. Within the City, these exemptions account for half of the overall assessed property tax value.

The City levies a three percent tax on all sales, plus an additional 1.5 percent on marijuana and marijuana products. In 2015, the year of the Northern Economics study, the City collected one dollar in property tax for every \$24 in sales tax. In fiscal year 2020, Soldotna estimates it will collect \$7.9 million in sales tax revenue, compared with \$315,000 in property tax.²⁴

Standards for Annexation to Cities

The LBC is required by law to take into consideration the application of several standards for annexation to cities. These standards were developed after the Alaska Supreme Court ruled that the LBC is required

²³ (Northern Economics, 2016) p. 52

²⁴ (City of Soldotna, 2019)

to adopt regulations to guide its decision-making.²⁵ It is the responsibility of the LBC to formally determine whether the standards have been met, and to render a decision regarding annexation.

Soldotna is seeking to annex 2.63 square miles from five surrounding areas (collectively called the “territory”), via the legislative review method (See *Figure 2* on Page 6 of this report).

The standards for annexation to cities that the LBC must take into consideration are: need, character, population, resources, boundaries, and the best interest of the state. The LBC is empowered with the ability to approve the petition as presented, amend the petition to include more territory or less territory, or deny the petition altogether.

LBC staff finds the petition’s annexation proposal meets the standards for annexation to a city. The Commission may also consider amending the petition to add the study areas (Areas 4, 5, 6 and 8) not currently to the petition to increasing the population serviced by the City, and reducing the burden of services on the State of Alaska. Regardless, staff’s recommendation comes after holding the petition, and the other study areas, to the standards found in the Alaska constitution, statutes, and administrative code.

Need (3 AAC 110.090)

The standard of need for city government asks whether the conditions in the territory warrant annexation. In addition to describing these conditions, a petition must indicate how annexation would alleviate or improve these conditions relating the health, safety, and general welfare of the territory. In considering the petition, the commission may consider any existing or reasonably anticipated health, safety, and general welfare conditions; economic development; adequacy of existing services; extraterritorial powers of nearby municipalities; and whether residents or property owners will benefit from services provided by the annexing city. A territory may not be annexed to a city if essential municipal services can be provided more efficiently and more effectively by another existing city or organized borough, on an areawide or non-areawide basis.

The petitioner states that development in areas adjacent to the City, particularly along the four major transportation corridors into the city limits, often resemble suburban or urban development patterns that are subject only to the KPB’s less restrictive zoning requirements. Additionally, territory along the waterfront on the Kenai River, whether designated for commercial or residential use, is subject to the KPB’s 50-foot riparian restriction. However, removal of vegetation is permissible and threatens both the health and the aesthetic of the vibrant salmon stream. The U.S. Census Bureau (Census) and Alaska Department of Labor and Workforce Development statistics show growth and development in the areas immediately surrounding the City has outpaced the statewide average, stressing the services currently offered by the City, while arguably undermining its tax base.

The petition cites the current boundaries of approximately seven square miles as limiting growth within the City. In the last 40 years, development near, but outside the boundaries, has exceeded growth inside the City. Census figures show a 38.5 percent growth in new homes built from 2000-2009 in the Kalifornsky CDP, compared to the statewide average of 16.6 percent. During the same timeframe, the Sterling CDP showed a 27.2 percent growth in new housing, and the Funny River CDP showed a 31.5

²⁵ (US Smelting, Refining & Min. Co. v. Local Boundary Commission, 1971)

percent increase. The Ridgeway CDP tracks closer to the statewide average from 2000-2009, and an uptick in population of around 10 percent over the last 10 years.²⁶

Increased urbanization since the original formation of the City provides a logical case for extending the city boundaries. It can be argued that the City continues to benefit from residential development outside its boundaries when those residents pay sales tax while shopping in the City; however, those residents are also placing an increasing burden on existing services, such as animal control, road maintenance, city maintained parks and programming, and library services, to name a few. Approximately 78 percent of active library users are not Soldotna residents, and 50 percent of the animals returned by animal control went to homes or businesses outside of the city limits.²⁷

The strongest arguments for annexation come in the provision of two important and necessary services: water and wastewater utility service, and public safety. The City would be able to provide essential services to most of the territory. For water and sewer utility service (See figure 2), main lines run into or very near each of the proposed areas, except for the southern tip of Area 2, which contains Skyview Middle School.²⁸ The City considers requests for service on a case by case basis, and more than 20 private residences and businesses outside the city limits already receive these services. Several members of the public stated during public hearings that they were perfectly happy with their private well and septic systems, but high-density areas are not suited for numerous septic and well systems.²⁹ As the margins alongside the City become more developed, pressure will increase for many services inside the city limits as well as the surrounding areas.

The City is not currently able to plan future utility services around the anticipated growth, but is only able to respond to requests from individual customers. Such piecemeal planning is expensive, inefficient, and serves as a disincentive to customers who may otherwise have chosen to replace aging or failing septic systems. While the City can choose to serve individual water and sewer customers outside of the municipal boundary, this is an inefficient method, particularly considering increasing density.³⁰ Further, unfettered development could reach a threshold for individual well and septic systems soon. Planning and infrastructure investment are both necessary to protect new and existing development.

²⁶ (U. S. Census Bureau, 2020)

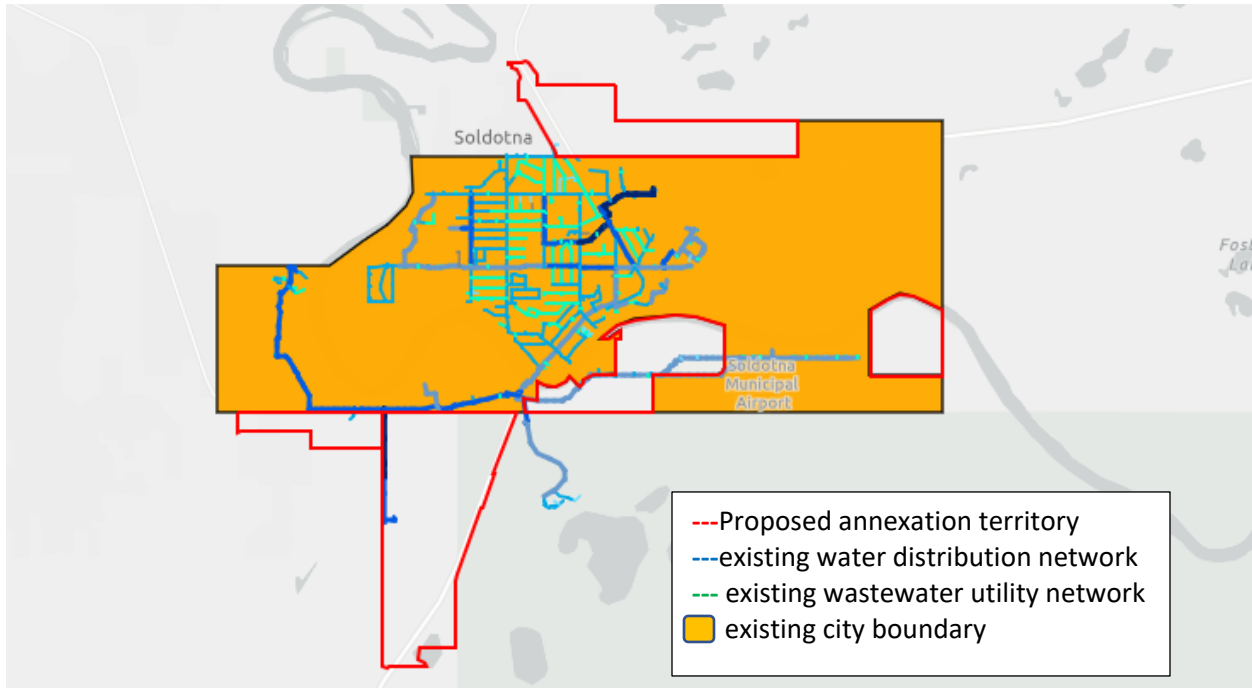
²⁷ (City of Soldotna, 2019) p. 106

²⁸ (City of Soldotna, 2019) p. 35

²⁹ (Hollander, 2017)

³⁰ (City of Soldotna, 2019) p. 29

Figure 4 Soldotna water distribution network



The Kenai Peninsula Borough does not provide law enforcement. Public safety and law enforcement in the territory outside of the city limits typically falls under the responsibility of the Alaska State Troopers, though the City acknowledges a cooperative working relationship with the Department of Public Safety and occasionally provides backup on calls outside the City.³¹ The petitioner states that the Soldotna Police Department would regularly patrol the territory proposed for annexation. Given the modest overall size and connections to the existing city limits, this is a reasonable claim. In some cases, Soldotna police officers currently respond by traveling outside of city limits to calls that are back within the City. Areas One, Two and Three illustrate these circumstances. Annexation of all original study areas could add as many as 1,000 new residents to the Soldotna population, placing an increased burden on Soldotna public safety. The territory proposed in the petition is less ambitious, and would add fewer than 200 new residents. The City stated it will monitor public safety data, and has the resources to hire an additional officer if necessary.³² This will be analyzed more in-depth in the resources standard section.

Finally, the City provides services that are not currently provided by the KPB. These include water and sewer, land use planning, building inspection, fire safety, and law enforcement. The City also provides street and road maintenance within its corporate boundary at a level of service that is comparable to, or perhaps in some cases exceeds that which is provided by the KPB.

The City of Kenai's corporate boundary is approximately two miles from the northernmost reach of Area 7, the Kenai Spur Highway territory. The City of Kenai did not file a respondent brief to the petition, nor

³¹ (City of Soldotna, 2019) p. 32

³² (City of Soldotna, 2019) p. 105

did the Kenai Peninsula Borough. LBC staff presume this to mean that neither municipal entity has interest in providing the services proposed by the City of Soldotna. Therefore, 3 AAC 110.090(b) is met.

Most of the territory proposed for annexation has shown moderate to robust population and economic growth over the last 15 years and continue to hold the potential for more growth in the next 10 years. As these surrounding areas expand, residents and visitors place additional strain on existing city services and resources like animal control, additional traffic and wear and tear on city streets, parks, libraries, and other cultural resources and programming. Regional population growth also places additional burdens on the State of Alaska in terms of public safety. Residents currently inside the city limits would see the benefits of an expanded tax base. Residents outside of the city limits, but in the area proposed for annexation would see a net decrease in their property tax, while receiving additional services and the rights and privileges that come from voting in citywide elections. The territory proposed for annexation, as well as the additional study areas meet the standards of need in 3 AAC 110.090.

Character (3 AAC 110.100)

The territory must be compatible in character with the annexing city. In this regard the commission may consider relevant factors, including land use; ownership patterns; salability of land for residential, commercial or industrial purposes; population density; and suitability for reasonably anticipated community purposes.

The petitioner states the proposed territory is fully compatible with other parts of the City, and are natural extensions of existing boundaries, complete with integrated transportation networks, natural boundaries, land ownership patterns and socioeconomic indicators.

The original corporate boundaries were drawn to specifically carve out residents opposed to incorporation.³³ The greater urbanized area has seen significant growth, particularly in the last 20 years. Density inside the city limits has led to a scarcity of developable land, and residents and businesses have been forced to look beyond the corporate boundary. Some have done so by choice and others by necessity.

During the final Soldotna city council meeting prior to submission of the petition, one member of the community said he lives inside the City, but owns several businesses in the nearby CDP of Ridgeway (ostensibly proposed Area 7) and said the decision to annex is coming from “people who do not represent the area.” One council member, when proposing to eliminate Areas 4 and 5 from the current petition, said “K-Beach has a different feel,” and another council member said development along Kalifornsky Beach Road “doesn’t exactly feel like Soldotna.”³⁴

In the same public meeting, an area resident opposed to annexation said that there were areas not included in the petition that meet the character and should have been included, referring to Area 6 and the development north of Knight Drive on the northern border of the city limits. It is unclear the decision-making process the council used in deciding which areas to include in the territory for the petition. On-record discussion among council members during the September 27 meeting revealed little about the intentions or motivations of the council members, though many stated on the record that the annexation issue has arisen due to the “extensive amount of growth on the (City’s) border area.” The

³³ (City of Soldotna, 2019) p. 4

³⁴ (Soldotna City Council Meeting, 2019)

question of which areas “feel like Soldotna” is less important than whether the territory (and perhaps the additional study areas) meet the standard of character set forth in 3 AAC 110.100.

The areas along Kalifornsky Beach Road which were eliminated from the petition and Area 7 along the Kenai Spur Highway have similar character to one another. Sporadic, but rapid and aggressive development along both corridors represents a hodgepodge of uses (churches, automotive repair, fast food, state offices, and small retail coffee stands, gas stations, etc.) and aesthetically resembles much of the development that has occurred along the Parks Highway north of Wasilla. This could be characterized as lax building standards, clear cut lots with minimal landscaping, and little attention to traffic patterns, pedestrian or non-motorized uses characteristic of a more urban setting. Many opposed to annexation characterize the efforts as a “money grab” or “land grab” in an attempt to capture tax revenue.³⁵ The City has stated its desire to protect its tax base as more businesses locate just outside of the municipal boundary. The City has also stated its desire to influence development, particularly in the transition zone as one enters the city limits to ease the transition into Soldotna by creating or improving infrastructure and implementing planning and building code standards more conducive to an urban environment. This may be unrealistic given the advanced stage of development that has already taken place, though property owners could benefit from public safety, sanitation or other infrastructure improvements by the City.

The City’s goal of shaping development on the margins of the boundary should be considered in the context of economic development incentives it has provided to existing businesses within the city, including a matching grant program that has encouraged exterior remodeling and has leveraged nearly a half-million dollars in private investment to storefronts in recent years.³⁶ Similar incentives might be successfully applied to Area 3, which is closer to the core than Areas 4 and 5 further north. Area 3 is the smallest in the territory proposed for annexation, but it holds potential for additional residential and new commercial growth exceeding that of the other proposed areas. Approximately 70 residents currently live in single-family homes in a neatly developed subdivision that is in proximity to Soldotna utility mains. Similar residential growth is anticipated in the undeveloped portions of the territory. The half-mile stretch of Kalifornsky Beach Road likely also does not “feel like Soldotna” because it has not been fully built out. This affects the comparison of “character” to other more developed retail districts in downtown Soldotna, but also presents an opportunity for the City to incentivize and promote positive development that would meet the character in the future and could influence re-development further north on Kalifornsky Beach road. Because of moderately dense existing residential development, the potential for growth of similar development, the small land area, and the City’s willingness and ability to provide services, Area 3 meets the standard of character.

Borough code 21.18, titled Anadromous Water Habitat Protection, regulates waterfront along the Kenai River both inside and outside the city limits. The City also has a Kenai River Overlay District, with additional protections within 100 feet of the river for certain projects. Two of the proposed areas in the territory, Area 1 and Area 9, contain substantial waterfront along the Kenai River. The City said it is committed to ensuring responsible and sustainable development in the territory as it would with any waterfront in its jurisdiction. Areas 1 and 9 also are uniquely carved from the otherwise contiguous municipal boundary, and are geographically logical annexations that meet the standard for character.

³⁵ (City of Soldotna Annexation Pre-Submission Public Hearing, 2019)

³⁶ (City of Soldotna, 2020)

Area 1 has more population density, and development. Area 9 only has two residents, and growth is not anticipated to be aggressive in the next 10 years.

Area 2 contains several community purposed assets that make it suitable for city annexation. While nearly 600 acres in size, Area 2 has no population and virtually no assets subject to sales or property tax. Most of the land is designated for institutional use. Area 2 includes Skyview Middle School, as well as a network of recreational trails maintained by a nonprofit organization in partnership with the KPB and the City. Area 2 also contains a one-million-gallon drinking water reservoir and pump house that serves Soldotna's water utility.³⁷ The Salamatof Native Association owns 21 percent of undeveloped land in the area, but has not discussed any development plans with the City, nor filed a respondent brief.

All of the proposed areas display reasonable characteristics for annexation. The territory is modest in size. Individual areas, such as Funny River West and Funny River East (Area 1 and Area 9) contain Kenai River waterfront that are appropriate for additional municipal development approval. K-Beach South (Area 3) and Funny River West (Area 1) support transportation patterns and facilities suitable for annexation. Skyview (Area 2) contains public assets and infrastructure critical to the City. K-Beach South (Area 3) and Kenai Spur (Area 7) display land uses and development consistent with uses inside the city limits, and are poised for additional growth. Ownership patterns are diverse, as are uses among all the areas in the territory, so as not to target a single sector of taxpayer. The standard of character listed in 3 AAC 110.100 is supported by rapid population growth on the margins of the city limits, partially fueled by limited land availability within the city limits, coupled with the City's interest and ability to accommodate future growth.

Resources (3 AAC 110.110)

The resources standard requires that the proposed expanded city—that is, the territory to be annexed plus the existing city limits—must have the financial and human resources to provide essential municipal services. The Commission may consider relevant factors including reasonably anticipated functions of the city in the territory being annexed; reasonably anticipated new expenses and income the city would incur as a result of annexation; feasibility and plausibility of those aspects of the city's anticipated budgets that would be affected by the annexation for a full year after the transition; the economic base of the territory after annexation; valuations of taxable property after annexation; land use; income of residents; and availability of employable skilled or unskilled persons to serve the city as a result of annexation.

During the drafting of the preliminary report, the world was undergoing a global coronavirus pandemic that disrupted supply chains, halted economies, and left local government officials scrambling to address public health concerns and the fiscal impacts that accompanied the disruption. As of the writing of this report, there is no clear consensus on when the pandemic will subside and how communities, states, and countries should move forward with opening their economies up safely.

In spite of anticipating a 20 percent drop in general fund revenue for FY21 due to the pandemic, the petitioner maintains it has the resources necessary to provide services within the proposed annexed territory with no near-term intention of increasing sales or property tax rates³⁸. These services primarily

³⁷ (City of Soldotna, 2019) p. 281

³⁸ (City of Soldotna, 2020) p. 5

include street maintenance, emergency response, public safety, city planning, building standards, fire inspection, and planning for utility expansion to accommodate need and growth. The City also provides animal control to its residents, as well as non-residents in areas on its margins. To fund these services, Soldotna relies on a few sources of revenue. Like many communities across Alaska, the City has had to contend with a decline in community revenue sharing (unrestricted grants from the state legislature). In 2016, the legislature enacted SB 210, which changed the program from Community Revenue Sharing to community assistance. In 2014, the City received just over \$300,000 in revenue sharing. In FY20, that payment was reduced to \$136,276. Mandatory state property tax exemptions, KPB exemptions, and city exemptions account for nearly as much exempt property as taxable property in the city limits. Because of these two factors, the City relies heavily on a three percent sales tax, which accounts for nearly half of its overall revenue.

The City operates a comparatively efficient city government and provides general services to residents at a cost that outperforms many cities with larger populations, including Homer, Palmer, Bethel, Kenai, Wasilla, Ketchikan and Sitka. Public safety expenditures also indicate the City runs an efficient department, keeping costs low to residents.³⁹ In fiscal year 2020, the City's operating revenue is projected to total just over \$10 million, nearly 75 percent of which will come from sales tax. In the same period, the City's budget includes \$10.6 million in expenses, and relies primarily on a fund balance from the previous year's unspent general funds to fill the gap. An audit for fiscal year 2019 cites a fund balance of more than \$300,000 from the previous year, adding to the City's overall fund balance of \$17.9 million, including an unassigned fund balance of \$11.8 million.⁴⁰

The functions the City proposes to provide with annexation include public safety, road maintenance, sales tax assessment, application of building standards and planning code, and the potential to expand existing sanitation utilities. In return, the City could recoup the cost of providing service through sales tax, property tax, user fees and fines, and customer charges. The City argues it could do this effectively at a reasonable cost without undermining its own efficiency.⁴¹

In 2015, the City contracted with Northern Economics to commission an analysis of the fiscal impacts of annexation for nine separate study areas. The results varied, widely in some cases, but the overall result was that annexation of all areas in the study would be "substantially positive" from a fiscal perspective.⁴² The areas in the territory that contained primarily residential development cost the City more to provide services, since in many cases (but not all, considering exemptions) the City relies on property tax. The areas with more commercial business development and fewer residents are presumed to cost the City less to provide services, and to contribute a healthy amount in sales tax.

The petitioner's strongest case for annexation meeting the resources standard is the protection of the City's tax base. Area 1 and Area 7 present an opportunity to increase revenue from sales tax more than the other areas in the territory. While this argument could be made to extend the city boundary well beyond what is justified, the territory proposed for annexation is modest. Area 1, represents an opportunity for an existing and strong mix of residential and commercial uses that would provide a consistent revenue stream to the City while providing residents and businesses with many benefits of

³⁹ (Northern Economics, 2016) p. 20

⁴⁰ (City of Soldotna Comprehensive Annual Financial Report, 2019)

⁴¹ (City of Soldotna, 2019)p. 123

⁴² (City of Soldotna, 2019) p. 129

city services. Because the Soldotna Police Department must travel through Area 1 to reach other parts within the city limits, the argument for more equitability and fairness is a logical one. Area 7, which contains primarily commercial development, fewer residents, and little expected residential growth, supports the City's argument of protecting its tax base.

In the Northern Economics study of the nine different areas, three areas have a negative revenue-to-expense ratio, meaning it would cost the City more to provide services to these areas than would be collected in tax revenue and fees. Revenue net-positivity is likely not the only reason some areas were eliminated from the final petition. Several comments during the pre-submission hearing indicated vocal opposition to three discrete areas (Area 4 and Area 5 along Kalifornsky Beach Road, and Area 7, along the Kenai Spur Highway). Area 4 holds the highest potential for existing sales tax and growth through 2030. Area 5, assumes a diminishing fiscal impact through 2030. Area 6, which is almost exclusively residential development, holds a negative impact because of its exclusive reliance on property tax to fund services.

Area	Estimated Population 2020	Estimated Population 2030	Sales tax 2030 (in thousands)	Projected Property tax 2030	Total Revenue by 2030	Total Gov't Expenditure	Ratio
Funny River West (1)	92	116	209.2	17.4	247.6	191.9	1.29
Skyview (2)	0	0	0	0	0	5	0
K-Beach South* (3)	40	218	364.9	8.1	412.3	267.4	1.54
K-Beach Central (4)	494	607	953.3	41.9	1104.7	754.6	1.46
K-Beach North (5)	111	167	201.5	10.7	243.9	277	0.88
Knight Drive (6)	268	283	101	8.6	160.6	384	0.42
Kenai Spur (7)	53	59	601.3	9.6	621.5	138.2	4.5
Sterling Hwy (8)	15	15	124.3	2	129	15.5	8.3
Funny River East (9)	2	2	0	1	1.3	2.1	0.63
Total for all study areas	1075	1467	2555.5	99.3	2920.9	2035.7	1.43
Total for annexed territory	187	395	1175.4	36.1	1282.7	604.6	2.12

Source: Northern Economics, Inc. estimates 2016

* Proposed Area 3 was reduced in size for the petition by approximately 135 acres from the original Northern Economics study. Property tax revenue and population projections reflect the Northern Economics study area and not the territory proposed by the City.

If all areas studied by Northern Economics were included in the petition, they would contribute to a net positive fiscal position for the City equating to approximately \$1.43 in revenue for every \$1 spent on services. However, the aggregate economic data indicate annexation of only the territory included in the petition would result in an even greater positive fiscal effect on the City by 2030 at around \$2.12 in revenue for every \$1 in cost to provide service.

It is reasonable to believe that the City has the financial resources to provide necessary services to the proposed territory at a level equal to or better than what is currently being offered. The long-term financial effect of proposed annexation is merely an estimate. According to the Northern Economics study, the estimated revenue and expense figures are certainly not guaranteed, though current land-use designations provide for the ability for the annexation areas to grow. The economic base of the individual areas varies, but the aggregate for the territory proposed for annexation is compatible with the City, and has been found by staff to meet the character standard in 3 AAC 110.100. Land use is sufficiently heterogeneous to provide a diversified revenue stream, and projected revenues are more than adequate to maintain services, therefore, the annexation petition meets the standard for resources.

Population (3 AAC 110.120)

The standard for population requires the city to be sufficiently large and stable to support the extension of city government. The commission may consider census enumerations, residency, historical population patterns, seasonal population changes, age distributions, contemporary and historical school enrollment, and non-confidential data from the Department of Revenue regarding Permanent Fund Dividends.

Already a thriving community with a substantive property tax base and healthy retail sales tax base, the City's petition proposes to provide numerous services to support life and safety, quality of life, and recreational and cultural opportunities for residents and non-residents alike. The City's current population is 4,233, but an estimated 13,471 people live within a five-mile radius of the city boundaries.⁴³

Population inside the city limits has increased at an average rate of about one percent per year. Growth in the four CDPs surrounding the City has increased at a much higher rate. One indicator shows that traffic counts over the David Douthit Veterans Memorial Bridge has nearly doubled since 1990.⁴⁴ This bridge serves as a gateway on the city's southern boundary.

The total population for the territory proposed in the annexation is between 177 and 187, and estimated to grow to nearly 400 residents by 2030. The largest portion of that growth is expected to occur in Area 3.

39 percent of the Soldotna's population is over the age of 50, and 26 percent of residents are under the age of 19. The median age is 39.5.⁴⁵ Student population data was not included in the petition because the funding of public schools is a borough function wherever a borough government is present, student population would be unaffected by the outcome of the annexation.

Soldotna's population is considerably stable, though like many Alaska communities, it is subject to seasonal fluctuations. The Kenai River provides habitat for all five species of Pacific wild salmon and its fishery attracts heavy commercial, sport and subsistence users from around the state. More than half of all recreational fishing trips in the state are to Upper Cook Inlet, where the Kenai River drains. Upriver

⁴³ (City of Soldotna, 2019) p. 26

⁴⁴ (City of Soldotna, 2019) page 131

⁴⁵ (Alaska Department of Labor and Workforce Development, 2020)

from the City, dozens of lodges, guiding outfits and related businesses employ up to 3,400 people on a seasonal basis. At the mouth of the Kenai River, less than 10 miles from downtown Soldotna, a \$24 million commercial fishery competes with thousands of Alaskans who line the beach with dipnets each July.⁴⁶

Each area in the proposed annexed territory meets the standard for population. The City has a growing population, both inside the city limits and on the periphery. Aggressive growth over the previous 30 years has occurred in many parts of the KPB, but is most evident along major transportation corridors into and out of the City, such as along the Sterling Highway, Kenai Spur Highway, and along Kalifornsky Beach Road. The territory proposed for annexation contains modest populations that would not place an unreasonable demand on city services beyond what already exists. The population is not overly represented in a single age demographic, or heavily influenced by seasonal population fluctuations. The territory has modest but positive opportunity for residential and business growth, and is currently sufficient to extend city services. Therefore, the petition meets the standard for population in 3 AAC 110.120.

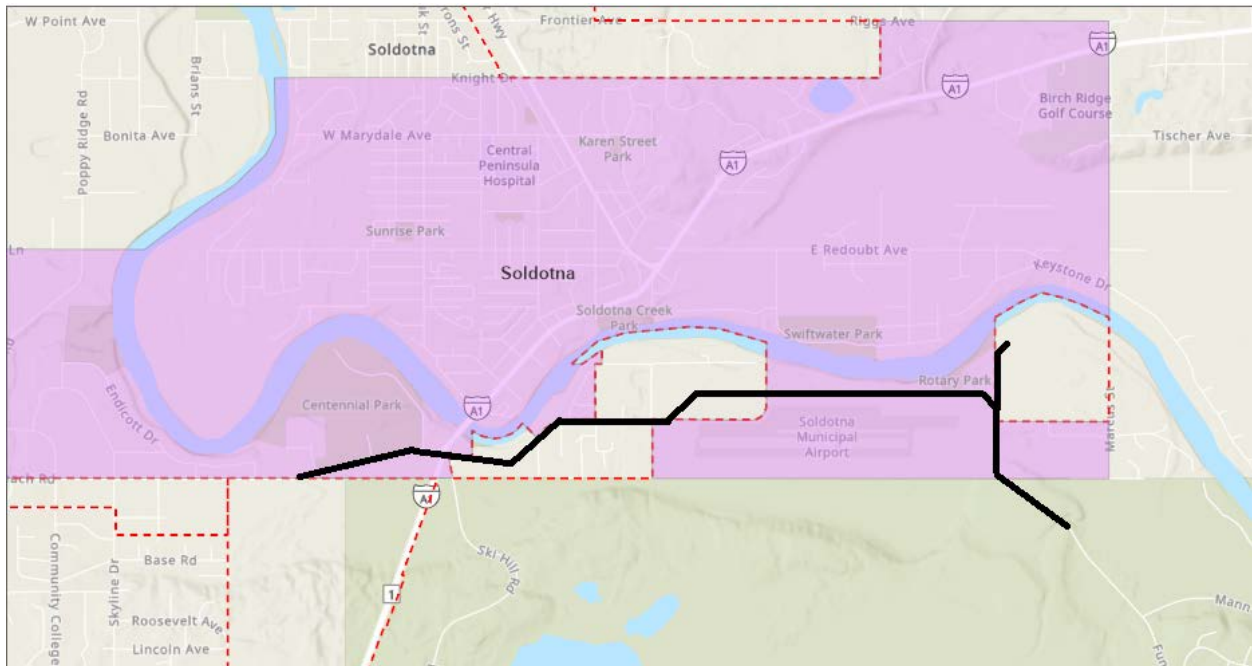
Boundaries (3 AAC 110.130)

Annexation to a city must include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level. To determine this, the LBC may consider land use and ownership patterns, population density, existing and reasonably anticipated transportation patterns, natural geographical features and environmental factors, and extraterritorial powers of cities. The LBC will also presume that territory that is not contiguous to the city does not include all land and water necessary to allow for the development of essential services on a cost-effective level on its own. To promote the limitation of community, the proposed expanded boundaries of the city 1) must be on a scale suitable for city government, and include only territory comprising an existing local community, plus reasonably anticipate growth, development, and public safety needs during the 10 years following annexation; and 2) may not include entire geographical regions or large unpopulated areas, unless justified under the previously mentioned standards.

Each area in the proposed annexed territory meets the standard for boundaries. The petition contains abundant information on land ownership, and population density. All the areas are adjacent to the city limits and contain a mix of developed, undeveloped and vacant lands, suggesting reasonable opportunities to provide services to residents and businesses, while also providing an opportunity for growth near the current city limits. The total population for the proposed annexation is 177 residents and the entire territory totals 2.63 square miles.

⁴⁶ (Horton, 2008)

Figure 5 Example of roads traversing through city limits to access areas outside of the city, including Areas 1 and 9, and the Funny River CDP.



A portion of the territory, Area 1 and Area 9, appear on a map as carveouts from the original city boundary. From a geographical perspective, annexation of these areas is a logical opportunity to connect other city boundaries and law enforcement jurisdictions in a reasonable manner.

Each of the five proposed areas contain an insufficient population to develop many essential municipal services outside of the City. Of the five areas that make up the territory proposed for annexation, Area 2 is the only unpopulated area, though it would not be considered a “region” according to 3 AAC 110.990(28). Area 2 is mostly borough land, containing Skyview Middle School, an extensive network of recreational trails maintained through a public-private partnership, and a large city-used reservoir. The Salamatof Native Association owns the remaining portion of land in Area 2, and has expressed no plan to the City for development.⁴⁷

The territory falls within the City’s water and sewer service area boundary, and many of the areas are either already connected to sewer and water, or are in proximity to main lines. The City has a cooperative agreement with the Alaska State Troopers and local law enforcement sometimes respond as backup to emergency calls in the territory. The proposed territory is entirely within the KPB boundary, and does not overlap with an existing city.

The geography of the proposed boundaries meets the criteria and characteristics consistent with the limitation of community doctrine.⁴⁸ None of the areas making up the territory proposed for annexation are within an existing city, and therefore would not require detachment from another municipality. The areas proposed for annexation conform to reasonable boundary standards and fall within the City’s water and sewer utility service area. Most contain significant population density and diverse land use

⁴⁷ (Northern Economics, 2016) p. 34

⁴⁸ (Mobil Oil Corporation v Local Boundary Commission, 1974)

and ownership patterns so as not to isolate any single property owner, land use, or existing resource. The petition meets the standard for boundaries described in 3 AAC 110.130.

Best Interests of the State (3 AAC 110.135; AS 29.06.040(a))

In determining whether annexation to a city is in the best interests of the state, the commission may consider relevant factors, including whether annexation promotes maximum local self-government; promotes a minimum number of local government units; and will relieve the state government of the responsibility of providing local services. The petition satisfies all three of the requirements.

First, the petition promotes maximum local self-government under 3 AAC 110.981(8), which states that for a city annexation in an organized borough, the proposal would extend local government to the territory and population of the borough where local government needs cannot be met by the borough on an areawide or non-areawide basis. The City is proposing to provide several essential services that are not currently provided by the borough. KPB does not provide law enforcement. Instead, residents inside the Borough but outside of cities rely on Alaska State Troopers. Annexation of the territory would alleviate the State of Alaska of this responsibility, somewhat. Similarly, animal control, which is neither a core borough or state function, would be expanded to the territory.

All the proposed territory lies within the City's water and sewer service area. Many residents in the areas outside of the city limits say they are satisfied with their private well and septic system. The City is not proposing to mandate newly-annexed residents to connect to water and sewer. Adding the territory would allow the City to plan for expansions of the current system, and could provide strong incentives for homebuilders, as a municipal water system adds value to property and places less strain on groundwater resources.

Building and fire code plan review are critical functions the City provides. Numerous commenters complained that onerous restrictions on building would add to their costs; however, state fire codes already apply. The City reported some projects outside the city boundary face a six to 10-week wait for inspections due to limited resources in the state fire marshal's office.⁴⁹ The City says it currently has the capacity to review plans, often in under two weeks.

Existing structures would not be impacted by new building codes unless the owner plans extensive remodeling or construction, at which point the City's building safety standards would apply, and development would be required to comply with the existing city.⁵⁰ Further, structures outside the City limits are inspected by the state fire marshal's office. Similarly, the City's land use and zoning powers would influence undeveloped land on the margins and in transition zones, notably on the western edge of the city limits, where development has already occurred in a haphazard fashion, complying only with general borough land use requirements but resembling no real cohesion.

The City has a demonstrated track record of local self-government, most recently noted in its reclassification as a home rule city. During the pre-submission hearing and Soldotna City Council meeting, members of the public (presumably residents of the territory proposed for annexation, but also residents that would be unaffected) complained they were not being represented on the city

⁴⁹ (McQueen, Stephanie and Brooks Chandler, 2020) p. 12

⁵⁰ (McQueen, Stephanie and Brooks Chandler, 2020) p. 13

council.⁵¹ As Soldotna residents, all voting rights and privileges would be extended within the annexed area.

Each area in the proposed annexed territory meets the standard of best interests of the state. Annexation will provide residents of the territory with a local voice in city government and allocation of city resources. It will provide residents and businesses with essential services such as law enforcement, animal control, zoning, and building safety requirements. It will provide the territory with the opportunity to expand services like sewer and water. Residents will also benefit by contributing to local parks and recreational facilities and programming. Finally, annexation will be in the best interests of the state, as the provision of law enforcement will alleviate that responsibility from the State of Alaska where troopers currently serve as the primary responder to emergencies outside of city limits. The petition meets the standard for best interests of the state as defined by *3 AAC 110.135* and *AS 29.06.040(a)*.

Legislative Review (*3 AAC 110.140*)

The petition has been submitted under the legislative review method, a process specifically envisioned by the authors of the Alaska Constitution. This is an additional standard, not applicable to petitions that undergo a vote by residents. Legislative review petitions must meet any one of the standards listed under *3 AAC 110.140*. Those standards include: whether the territory is wholly or substantially surrounded by the annexing city; whether the health, safety or general welfare of city residents will be endangered by conditions existing or potentially developing in the territory; whether the extension of services is necessary to enable the city to provide services to residents, and whether it is impossible or impractical to do so without annexation; whether residents or property owners can reasonably be expected to receive the benefits of city government without commensurate tax contributions and that there is no equitable alternative method to offset the cost of providing benefits; whether annexation will enable the City to plan and control reasonably anticipate growth or development in the territory; whether annexation promotes maximum local self-government in a minimum number of local government units; whether the annexation enhances the extent to which the existing city meets the standards for incorporation of cities set out in the Alaska Constitution, *AS 29.05*, and *3 AAC 110.1005-3 AAC 110.042* and is in the best interests of the state; and whether the commission determines that the specific policies set out in the state constitution and Title 29 are best served through annexation of the territory by the legislative review process. The City's petition addresses the requirements in *3 AAC 110.140*, specifically subsections (1), (4), (5), (7) and (8).

Two of the areas in the territory (Area 1 and Area 9) are substantially surrounded by the current municipal boundaries, as described in subsection (1) of the regulation. All other areas are adjacent to current city boundaries and no enclaves would be created if the petition is approved.

Residents of the territory proposed for annexation currently benefit from many of the services provided by the City, as addressed in subsection (4) of the regulation. These services include animal control, road maintenance, the library, and parks and recreation facilities and programming. Purchases made inside the City, whether by residents or non-residents, contribute to the local sales tax base; however,

⁵¹ (City of Soldotna Annexation Pre-Submission Public Hearing, 2019)

residents living on the periphery in the territory proposed for annexation have no voice in local elections because they are ineligible to vote on city matters.

According to the petitioner, as density along the riverfront increases, the ability of the City to provide water and sewer service becomes increasingly important, as do the City's requirements for landscape planning to prevent further damage to the riparian zone.⁵² The extension of water and sewer utility service to residents and businesses outside of the city limits has been done on a case-by-case basis at the request of customers. While effective, the inefficiency of this policy has added expense to the utility and the customer. Some residents that have requested connection to water and sewer have done so at their own cost, but have also benefitted from the extension of main lines to the proximity of their property.

Health, safety, and general welfare of city residents is a concern and one of the standards for the legislative review process. KPB has a 50-foot habitat protection buffer along the Kenai River in the areas outside of the Soldotna city limits. Within the city limits, the City has also adopted the Kenai River Overlay District, which requires additional review and approval of development within 100 feet of the ordinary high-water mark. The ordinance was first adopted in the 1990s and is designed to control erosion and protect against ground and surface water contamination. The petitioner has addressed subsection (5) of the standard.

Annexation of the territory proposed in the petition will promote maximum local self-government and a minimum number of units. This petition does not create a new governmental unit, but expands upon an existing one. Residents of the territory would not necessarily qualify under the incorporation standards to form a new city, nor would formation of a new city meet the minimum number of local government units standard described in the Alaska Constitution. The petitioner has addressed subsection (7) of the standard.

Annexation of the territory will add approximately 177 additional residents to the City's population, alleviating the state of responsibility to provide some services and promoting the constitutional goal of maximum local self-government, a standard described in subsection (8) and addressed by the City in the petition.

Additionally, under the legislative review method the City was required to conduct a public hearing on the annexation proposal, which it did on September 7, 2019. The City also submitted maps of the annexation territory, the petitioner's synopsis of views and applicability of standards, and summary of reasonably anticipated effects. The petitioner submitted affidavits stating it made copies publicly available, per 3 AAC 110.425(c), and all other required notices have been given, as required in 3 AAC 110.425, for annexation petitions filed under the legislative review method.

Transition Plan (3 AAC 110.900)

All petitions for incorporation, annexation, merger or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential municipal services into the proposed boundaries in the shortest practical time after the petition is approved. The City has described in detail how it intends to provide road and infrastructure maintenance, public safety, building and fire

⁵² (City of Soldotna, 2019) page 28

code safety, notify residents of voter eligibility, and general integration of new areas into its administrative processes in a timely and efficient manner.

Many of the areawide services the City provides are easily extended or would require no change. The City acknowledges that it would begin to update all relevant planning documents, from the library to parks and recreation facility plans, to reflect the annexation and identify changes in demand or use of services. The water and wastewater utility as a standalone entity, currently has no plan to extend services to individual customers or to plan buildouts for development in the territory. The utility currently serves 23 customers outside of the city boundary. If additional customers in the territory wish to be connected, they may still request and pay for service. Larger scale commercial or residential development could change demand for services, and Soldotna's utility is properly scaled to accommodate increased demand for the territory.⁵³ Annexation will empower the City to plan for expansion on a more appropriate scale.

KPB will maintain all assessment and collection of property and sales taxes, powers of platting, and the delivery of education. No public facilities or assets are being transferred if annexation is approved.

The territory for annexation will add an additional 177 residents to Soldotna's population. The petitioner maintains that eligible voters in the approved annexed territory will maintain their borough voter eligibility, in addition to having access to city ballots.⁵⁴

For roads maintained by the KPB, the City will coordinate with the borough to ensure a timely transfer of road maintenance responsibilities to the City. The City would assume maintenance of an additional five miles of gravel road and 0.8 miles of paved road in the annexed territory. KPB holds four staggered road maintenance contracts that would be impacted by annexation. The City intends to develop memoranda of agreement regarding the flexibility and timeline for the transfer of the road maintenance duties. The initial economic study of the nine proposed areas included the need for the City to purchase additional road maintenance equipment. The City said that will not be necessary under the reduced annexation proposal.

The petitioner included a list of 25 individuals directly consulted during the drafting of the petition proposal. Entity affiliation included the Kenai Peninsula Borough, Central Emergency Services, State of Alaska Department of Transportation and Public Facilities, the State of Alaska Alcohol and Marijuana Control Office, and Alaska State Troopers.

According to the City, Alaska State Troopers (AST) acknowledged that annexation would result in fewer AST responses within the annexation territory, and therefore afford the ability of the department to focus resources on other priority issues. The annexation proposal does not anticipate hiring additional officers, though the City stated it will monitor calls generated in the annexed territory, and has the resources to hire an additional police officer if necessary to maintain current levels of service. LBC staff believe the petitioner's transition plan addresses and meets the standard found in 3 AAC 110.900.

⁵³ (City of Soldotna, 2019) p. 107

⁵⁴ (City of Soldotna, 2019) p. 114

Statement of Nondiscrimination (3 AAC 110.910)

The petition contains a statement that annexation will not deny any persons the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex or national origin, as required by 3 AAC 110.910 and therefore the petition meets the standard.

Determination of Community (3 AAC 110.920)

This is an annexation petition for an existing city. Soldotna meets the population criteria for a “community” as defined under 3 AAC 110.920. The 177 residents affected by annexation do not represent a separate community or social unit that would justify special consideration. The territory proposed for annexation fits within the character of the existing city, per 3 AAC 110.100. Student enrollment would be unaffected by annexation.

Essential Municipal Services (3 AAC 110.970)

When the annexation standards call for the identification of essential municipal services of the city, the Commission is to determine whether those services are reasonably necessary to the community, promote maximum local self-government, and cannot be provided more efficiently or effectively by the creation or modification of some other political subdivision of the state.

The levying of taxes, provision of public safety, parks and recreation, and water and sewer utility service are all essential municipal services the City currently provides through the discretionary powers of the Soldotna charter. The City of Soldotna provides these services in a cost-efficient manner. Virtually all residents and businesses in the annexed territory are currently using or benefitting from at least some of the services the City provides. Annexation will likely go unnoticed by some residents in the territory, while affecting others greatly. The petitioner acknowledges annexation is, in part, about protecting the City’s sales tax base. The petition’s proposals are reasonable and do not resemble a “money grab,” but rather an equitable attempt at assessing and delivering services. The standard set by 3 AAC 110.970 is met.

Conclusion

The City of Soldotna’s annexation petition meets the Local Boundary Commission’s required standards in the Alaska Administrative Code, Alaska Statutes and the Alaska Constitution. The findings may be summarized as follows:

Need: As a community that has shown significant population and economic growth during the last 30 years, the City has nearly maximized development within its limits. Additionally, areas just outside the city limits have grown at an even faster rate than those inside the City. Residents outside the city limits are routinely using city resources.

Character: Residents from the surrounding territory are part of the same social unit as residents inside the City. Land use patterns in the territory proposed for annexation complement land uses inside the City, both for commercial and residential purposes. Population growth has been pushed to the margins of the City and just outside the boundary because developable land inside the current boundary is scarce.

Resources: The territory has the necessary financial and social capital to contribute to and receive services from the City. Anticipated revenue from each area ranges from a positive to a negative revenue impact, but the aggregate total would yield a financially sustainable result and enable the City to extend many services to the territory.

Population: More than 13,000 people live within a five-mile radius of the city limits and growth has exceeded the statewide average since 1990. This growth has placed increased pressure on city resources and services. Annexation would add approximately 177 residents to the City, far fewer than the more ambitious ideas floated during scoping, where more than 1,000 residents in nine study areas reside. Still, population in the territory will continue to grow and is anticipated to double to 400 by 2030.

Boundaries: Two of the areas are almost wholly surrounded by the current municipal boundary. The remaining three share substantial boundary. The Kenai River is a natural ecological boundary, and the City's Kenai River Overlay District aims to protect development of the watershed.

Best interests of the State: Essential services, most notably public safety and fire inspection, provide the primary argument that annexation is in the best interests of the state, relieving the State of Alaska from at least some responsibility to the territory to focus on other priority areas in the Kenai Peninsula Borough.

Legislative Review: Residents of the territory are already benefitting from essential services that the City provides. Annexation does not increase the number of local government units, and will empower residents with voting rights in Soldotna elections. Extension of services such as planning, building safety and the ability to plan for water and sewer expansion to accommodate growth will protect the life and safety of residents of the area.

Local Boundary Commission staff recommends approval of the petition as presented because the services currently provided by the City of Soldotna can be reasonably and efficiently extended to the annexed territory, an area where residents and businesses are already receiving the benefits of city services.

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APPENDIX A

City of Soldotna Annexation Petition Schedule

May 1, 2020

(DATES ARE SUBJECT TO CHANGE)

December 2, 2019

LBC accepts petition for filing.

December 5, 2019

Petition public comment period starts on this first date of publication of notice. Notice published again December 13 and 20th.

February 24, 2020

Deadline to file comments or responsive briefs concerning the petition.

March 9, 2020

Petitioner's reply brief due.

May 18, 2020

Staff issues a preliminary report.

Public comment period on the preliminary report begins.

June 19, 2020

Public comment period ends. Staff then considers the comments and writes a final report.

July 20, 2020

Staff mails the final report.

Staff issues a notice of public hearing.

(Week of) August 3, 2020

LBC holds a public hearing. A decisional meeting will be held no later than 90 days after the public hearing, but likely the following day, if possible.

(Week of) August 17, 2020

Staff drafts a written decision and sends it to the commissioners.

August 31, 2020

LBC meets to approve or amend a written decision.

Sept. 8, 2020

Staff issues the written decision.

An 18-day period for the public to request reconsideration of decision begins. LBC has 30 days, on its own motion, to reconsider. If reconsideration is granted, then petitioner or respondent has 10 days to file a brief.

APPENDIX B

**State of Alaska
Local Boundary Commission (LBC)
Notice of Final Report, Public Hearing, and Decisional Meeting
Regarding the Soldotna Annexation Petition**

The LBC staff final report concerning the legislative review annexation petition for the City of Soldotna will be released on July 20, 2020. The City of Soldotna proposes to annex approximately 2.63 square miles of land in the unincorporated portion of the Kenai Peninsula Borough. The report recommends that the LBC approve the annexation petition. The report and all petition materials will be available on the LBC website at:

<https://www.commerce.alaska.gov/web/dcra/LocalBoundaryCommission/CurrentandPastPetitions/2019CityofSoldotnaAnnexationPetition.aspx>

The commission will convene a public hearing under 3 AAC 110.560 regarding the petition. Interested persons may provide public comment not to exceed three minutes per person unless the Commission changes the times allotted for presentation. Members of the public wishing to testify in person are encouraged to notify the Local Boundary Commission in advance by sending an email to lbc@alaska.gov or calling (907) 269-4559. The public hearing will be held at the following date, time, and location:

Soldotna High School Auditorium
425 W. Marydale Ave., Soldotna, AK
Tuesday, August 4, 2020
Hearing begins at 2 p.m.

Public comment period starts at 3:30 p.m. and will close no earlier than 5:00 pm.

The Local Boundary Commission will be observing social distancing and COVID-19 safety protocols including, but not limited to maintaining 6-foot social distancing, use of facial masks, and limiting capacity in the auditorium to a maximum of 116 persons at a time. If the hearing must be rescheduled due to public health restrictions, the Local Boundary Commission will hold the hearing at the same date and time via teleconference, which may be accessed by calling 1-800-315-6338 and using access code 94587.

The commission will hold a decisional meeting under 3 AAC 110.570 regarding the petitions at:

Atwood Building
550 W. 7th Ave., Suite 1760; Anchorage, AK
Wednesday, August 5, 2020, at 2:00 p.m.

Both the hearing and decisional meeting will be available via teleconference by calling **1-800-315-6338** and using access code **94587**.

The LBC can approve, amend, or deny the petition. If the LBC approves the petition, it will submit its decision to the Legislature during the first 10 days of a regular session. If the Legislature does not disapprove the decision, the boundary change takes effect 45 days after submission.

Individuals with disabilities who need auxiliary aids, services, or special modifications to participate should contact LBC staff by July 27, 2020. Persons interested in receiving future LBC notices, updates, and materials by email may subscribe to the LBC notice list server by visiting <http://list.state.ak.us/mailman/listinfo/DCED-LocalBoundaryCommission> and following the instructions. Questions may be directed to the LBC staff at:

550 W. 7th Ave., Suite 1640 | Anchorage, AK 99501

Phone: 907-269-4559/4587 | Fax: 907-269-4563

Email: LBC@alaska.gov