

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

366 SCOMM10: LOCAL GOVERNMENT STUDY 1979

Chairman. The Secretary/Treasurer shall have charge and custody of all funds of the commission, receive and give receipts for monies due and paid to the commission, deposit all monies in the name of the commission, and perform all the duties incident to the office of Treasurer. In addition, he/she shall cause to be made and certify minutes of each commission meeting, certify actions taken by the commission, maintain records of the commission's actions, make available for public inspection such records, and in general, perform all duties incident to the office of Secretary.

SECTION VI. REMOVAL

The grounds for removal of a Commissioner shall be conflict of interest; three (3) consecutive, unexcused absences; or conduct injurious to the best interests of the commission. The commission may remove a Commissioner upon findings of such grounds and a two-thirds (2/3) vote of the commission. A Commissioner may be recalled by village or city election.

ARTICLE TWO COMMISSION MEETINGS

SECTION I. REGULAR MEETINGS

The commission shall meet quarterly. The place and times of the regular meetings shall be determined by motion of the commission at the prior meeting.

SECTION II. SPECIAL MEETINGS

The Chairman of the commission, in conjunction with a majority of other Commissioners, may call special meetings, PROVIDED that notice of the special meeting be sent by the Chairman to all existing Commissioners by certified mail, telegraph, or telephone at least 10 days prior to such meeting. In the case of telephone notice, such notice must be given personally.

SECTION III. QUORUM

A majority of the commission present at any meeting shall constitute a quorum for the purpose of transacting business of the commission. A majority of any committee of the commission present at any meeting shall constitute a quorum for the purpose of transacting the business of the committee of the commission.

SECTION IV. AGENDA

The chairman shall provide to each Commissioner an agenda for each

commission meeting at least 10 days prior to each commission meeting. In the case of a special meeting, such agenda must be provided at such time as notice is given for the meeting. Any Commissioner may request items be placed on the agenda. The Chairman will honor such requests if the requesting Commissioner gives reasonable notice prior to publication of the agenda.

ARTICLE THREE RULE MAKING PROCEDURES

SECTION I. RULE MAKING PROCESSES

The rule making processes of the commission shall be those processes in which the commission provides for adoption of operation procedures, staff policies, plans, zoning ordinances, implementation policies and procedures, and any other processes which promulgate regulations, rules, or procedures of general application with regards to the district or any city or village therein.

SECTION II. VOTES & VETO POWERS

The commission shall adopt all regulations, rules and procedures by majority vote of the Commissioners present at any meeting, provided that the Commissioners present at such a meeting who represent the same village or city, shall together have the right to veto any such regulation, rule or procedure which deals exclusively with the village or city that they respectively represent. Any veto may be invalidated by three-quarters (3/4) vote of the Commissioners.

SECTION III. LOCAL FILE

The Commissioners who represent each village or city, either jointly, severally, or by their joint appointment of a governmental body or clerk, shall maintain a file of all commission regulations, rules and procedures. A file of all commission documents shall be reasonably available for public inspection at a central locality which the Commissioners designate.

ARTICLE FOUR ADJUDICATIVE PROCEDURE

SECTION I. ADJUDICATIVE PROCESSES

The adjudicative processes of the commission shall be those processes which provide for a hearing and decision on matters of special application to an individual or group of individuals.

SECTION II. HEARINGS

The commission shall provide a hearing to such individuals or groups who make applications under Article VI or appeals from prior determinations. The commission shall have the power to establish and refer to a committee of the commission, or an examiner, any such applications for hearings and decisions. All such hearings are subject to the same procedural requirements as a hearing conducted by the whole commission. All hearing determinations must be supported by findings of fact.

SECTION III. NOTICE & RIGHT OF REPRESENTATION

All hearings under this article must afford reasonable notice and the opportunity for representation to parties whose interests are affected by the hearing determination.

SECTION IV. RECORDS

The commission shall maintain a record of all hearings and determinations under this Article. Copies of such records shall be made available to those parties referred to in Section III of this Article, PROVIDED that such parties bear the cost of reproduction and reasonable clerical expenses incurred by the commission.

SECTION V. EFFECT OF DETERMINATIONS

Determinations under this Article shall have the full effect as authorized under local, state or federal authorization.

ARTICLE FIVE ADOPTION AND MAINTENANCE OF COMPREHENSIVE PLAN

The commission shall prepare and maintain a comprehensive plan for the district.

ARTICLE SIX APPLICATION PROCEDURES

The commission shall accept from individuals or groups of individuals, applications for use, variance, or adjustment permits as required by regulations adopted by the commission.

ARTICLE SEVEN BOUNDARIES

The boundary for the region shall be determined by the following reference: All territory within the Doyon region (as defined by the Alaska Native Claims Settlement Act), and East of a line running North to South which passes through Noghalindin (on the Koyukuk River) and the Boneyard (on the Yukon River), and North of a line running East to West through Eagle Island (on the Yukon River) and Poorman (south of Ruby). Withstanding the above, such district shall include all land selected under the Alaska Native Claims Settlement Act for Native village corporations within the district and all Native allotment land attributable to such district.

ARTICLE EIGHT DEFINITIONS

For the purposes of this document, the following definitions shall apply:

1) District shall mean the area including the cities and villages of:

Galena	Nulato
Hughes	Kaltag
Huslia	Ruby
Koyukuk	

- 2) City or village shall mean those communities which ratify and adopt the Charter for the Kuyukon Central Planning Commission.
- 3) Qualified Native shall mean a person of at least $\frac{1}{4}$ Native blood, who has demonstrated his/her ability to represent Native interests by having been elected as a village or city delegate to a non-profit, regional Native association within one year prior to his election as Commissioner.
- 4) Expenses shall be defined as the usual per diem and travel allowances incurred in the course of the regular meeting of the Commission. For speical meetings of the Commission or the sub-committees thereof, expenses shall be defined as equitable compensation for lost salary or wages incurred by attendance at such meetings.
- 5) All Commissioners means the total number of Commissioners holding office at the time of the respective action.

We, the undersigned, as representatives of our respective villages and cities, do hereby adopt these bylaws this 23rd day of February, 1979:

Patrick M. Carty - Ruby
Josie R. Jones - Koyukuk
Andrew Demacki - Minto
Franklin Madrac - Kattay
Fred W. Allice - Kattay
Bass Grove - Galena
David Rayton - Koyukuk
Al Yutkin - Huslia
Ivan B. Spang - Thule
Kenneth Sam - Huslia
Ella D. Sam - Hughes
Lillian M. Aldman - Hughes

I, Josie R. Jones, as Secretary/Treasurer, do hereby witness and certify these presents as the duly adopted bylaws for the Koyukon Central Planning Commission this 23rd day of February, 1979.

We, the undersigned, as representatives of our respective villages and cities, do hereby adopt these bylaws this 23rd day of February, 1979:

Patrick M. Carty - Ruby
Josie R. Jones - Koyukuk
Andrew Demaschi - Minto
Franklin Madroski - Kattay
Fred W. Allee - Kattay
Bass C. Jones - Gwich'in
David Hayton - Koyukuk
Al Yatchia - Huslia
Ivan B. Jones - Thulete
Kenneth Sam - Huslia
Ella D. Sam - Hughes
Lillian M. Aldman - Hughes

I, Josie R. Jones, as Secretary/Treasurer, do hereby witness and certify these presents as the duly adopted bylaws for the Koyukon Central Planning Commission this 23rd day of February, 1979.

HUGHES VILLAGE COUNCIL

RESOLUTION NO. 79-2

WHEREAS, The Village of Hughes recognizes the Koyukon Central Planning Commission.

AND WHEREAS, The Hughes Village Council shall want to be an active participant of the Koyukon Central Planning Commission.

THEREFORE BE IT RESOLVED, That the Hughes Village Council approves and adopt the Koyukon Central Planning Commission on this day of February 26, 1979.

Ella D. Sam
Ella Sam-secretary

Henry Beatus
Henry Beatus-President

HUGHES VILLAGE COUNCIL

RESOLUTION NO. 79-2

WHEREAS, The Village of Hughes recognizes the Koyukon Central Planning Commission.

AND WHEREAS, The Hughes Village Council shall want to be an active participant of the Koyukon Central Planning Commission.

THEREFORE BE IT RESOLVED, That the Hughes Village Council approves and adopt the Koyukon Central Planning Commission on this day of February 26, 1979.

Ella D. Sam
Ella Sam-secretary

Henry Beatus
Henry Beatus-President

decisions for the city and subregion;

- d. establish all easements or profits, which the city might validly establish, by entering into contracts on behalf of the city and district or exercising the city's rights of condemnation, Provided the Commission seek and obtain prior to such actions specific authorization by the city;
- e. adopt and maintain a building code;
- f. require the issuance of a permit for construction of any building of _____ square feet or more, if such construction fails to comply with an adopted building code, or if such construction is not subject to the requirements of the adopted building code;
- g. provide procedures for application of such permits, and hear and decide all appeals from the denial of such applications;
- h. authorize a Committee of the Commission, or an appeals examiner to hear and decide all applications and appeals authorized under subsections (b), (c) and (g) of this section;
- i. provide for funding of the Commission; and
- j. exercise all other powers that the city might validly exercise pursuant to A.S. 29.43.040.

PROVIDED, that the city, by ordinance, may invalidate any action taken by the Commission pursuant to this section, which relates to land within the city's boundary.

Section 4. DUTIES OF THE COMMISSION

The Commission shall:

decisions for the city and subregion;

- d. establish all easements or profits, which the city might validly establish, by entering into contracts on behalf of the city and district or exercising the city's rights of condemnation, Provided the Commission seek and obtain prior to such actions specific authorization by the city;
- e. adopt and maintain a building code;
- f. require the issuance of a permit for construction of any building of _____ square feet or more, if such construction fails to comply with an adopted building code, or if such construction is not subject to the requirements of the adopted building code;
- g. provide procedures for application of such permits, and hear and decide all appeals from the denial of such applications;
- h. authorize a Committee of the Commission, or an appeals examiner to hear and decide all applications and appeals authorized under subsections (b), (c) and (g) of this section;
- i. provide for funding of the Commission; and
- j. exercise all other powers that the city might validly exercise pursuant to A.S. 29.43.040.

PROVIDED, that the city, by ordinance, may invalidate any action taken by the Commission pursuant to this section, which relates to land within the city's boundary.

Section 4. DUTIES OF THE COMMISSION

The Commission shall:

PACKET F

UPPER KUSKOKWIM REGIONAL PLANNING COMMISSION

CHARTER FOR THE UPPER
KUSKOKWIM REGIONAL PLANNING COMMISSION

PREAMBLE - BE IT DECLARED,

The purposes of the Upper Kuskokwim Regional Planning Commission herein created shall be:

- 1) to provide comprehensive planning, as authorized under Alaska State law, for the district.
- 2) to implement such planning to the full extent state and/or federal law allows;
- 3) to advise state and federal agencies concerned with comprehensive planning of local concerns, desires and needs;
- 4) to coordinate planning activities between villages and cities located within the district, state agencies and any other governmental body concerned with planning which might affect the district;
- 5) to exercise any and all powers, and duties which the commission may be entitled to exercise under state and federal law.

ARTICLE I. NAME

The name of this commission shall be the Upper Kuskokwim Regional Planning Commission.

ARTICLE II. BOUNDARY

The boundary of the district shall be established in the by-laws. Such boundary shall define the territorial jurisdiction which the commission may exercise.

ARTICLE III. BOARD

- 1) COMMISSIONERS. The commission shall be comprised of two members elected from each village or city in the district according to the provisions set forth below.
- 2) QUALIFICATIONS OF COMMISSION MEMBERS. The qualifications of the Commissioners shall be specified in the by-laws.
- 3) ELECTION AND TENURE OF COMMISSIONERS. Beginning with November, 1979, each village or city shall elect two Commissioners. At the first meeting, the Commissioners shall draw lots so that one-third (1/3) of the Commission will serve for one (1) year, one-third (1/3) for two (2) years, and one-third (1/3) for three (3) years. As the terms of the respective Commissioners end, and thereafter, each village and city within the district shall elect a qualified Commissioner in order to replace the prior Commissioner, HOWEVER, if any village shall fail to duly elect such Commissioners to succeed existing Commissioners, the respective existing Commissioner shall hold over in office until the village duly elects a succeeding Commissioner who

- 4) shall immediately take office.
- 4) PROCEDURE AND ORGANIZATION. All procedures of the commission, including notice of meetings, quorum, rule making procedures, etc., shall be established by the commission's by-laws.
- 5) COMPENSATION. The Commissioners shall not receive compensation above their expenses as defined in the by-laws.
- 6) REMOVAL. Procedures for removal of Commissioners shall be set forth in the by-laws.

ARTICLE IV. POWERS

The commission shall have the power to:

- 1) formulate comprehensive planning for the district;
- 2) advise and coordinate local, state and federal planning agencies;
- 3) employ planners and necessary staff;
- 4) perform all other duties and powers which the commission may be authorized to perform by local, state and/or federal government(s).

ARTICLE V. BY-LAWS

The commission shall establish by-laws to govern the operation and procedures of the commission by two-thirds (2/3) vote.

ARTICLE VI. DISSOLUTION & AMENDMENT

- 1) The commission shall have the power to dissolve itself upon three-fourths (3/4) majority vote of all the Commissioners.
- 2) The commission shall have the power to amend this charter upon two-thirds (2/3) majority vote of all the Commissioners except for the dissolution clause.

ARTICLE VII. ADOPTION AND CERTIFICATION

The charter shall be adopted and certified by two-thirds (2/3) vote of all Commissioners.

We, the undersigned, having been elected to temporarily represent our respective villages and cities on this commission, do hereby adopt and certify this charter this 2 day of March, 1979.

Pauline L. Penland *McGrath, Alaska*

Berry Edwards *Tukovuk, AK*

Bill Wooland *Medfra* *St. George, Alaska*

Leonard J. Andrews *Talida*

Bobby W. Tsai *Nikolai* *99691*

Junior Grey *Nikolai*

BY-LAWS FOR THE UPPER KUSKOKWIM REGIONAL
PLANNING COMMISSION

ARTICLE ONE
COMMISSIONERS

SECTION I. NUMBER

The Commissioners shall be elected in accordance with the charter. If for any reason the office of a Commissioner becomes vacant, the respective city or village shall elect a new Commissioner to fill the vacancy for the prior Commissioner's remaining term. Such elections shall be held on the first Tuesday of November. Each respective village or city shall conduct and certify such elections.

SECTION II. QUALIFICATIONS

Only persons resident in the city or village, or persons having existing significant personal contacts within the village or city, are eligible for election to the commission. To insure apportioned representation which complies with the federal policy of self-determination for Indian communities and to provide equal protection and representation to formerly disenfranchised Native groups, at least one (1) of the two (2) Commissioners from every village or city shall be a qualified Native.

SECTION III. CHAIRMAN

The commission shall elect, by majority vote, a Chairman from their number at the first commission meeting after the election of the Commissioners. The Chairman shall serve as such for an annual term. The Chairman shall serve as principal executive officer of the commission and preside at all commission meetings. If for any reason the office of Chairman shall become vacant, the Vice-Chairman shall succeed to the position of Chairman for the remaining term of the prior Chairman. The Chairman may be removed from office in the same manner and upon the same grounds as provided for removal of Commissioners.

SECTION IV. VICE-CHAIRMAN

The commission shall elect a Vice-Chairman from their number at the same time and in the same manner as prescribed for election of Chairman.

SECTION V. SECRETARY/TREASURER

The commission shall elect a Secretary/Treasurer from their number at the same time and in the same manner as prescribed for election of Chairman. The Secretary/Treasurer shall have charge and custody of all funds of the commission, receive and give receipts for monies due and paid to the commission, deposit all monies in the name of the commission, and perform all the duties incident to the office of Treasurer. In addition, he/she shall cause to be made and certify minutes of each commission meeting, certify actions taken by the commission, maintain records of the commission's actions, make available for public inspection such records, and in general, perform all duties incident to the office of Secretary.

SECTION VI. REMOVAL

The grounds for removal of a Commissioner shall be conflict of interest; three (3) consecutive, unexcused absences; or conduct injurious to the best interests of the commission. The commission may remove a Commissioner upon findings of such grounds and a two-thirds (2/3) vote of the commission. A Commissioner may be recalled by village or city election.

ARTICLE TWO COMMISSION MEETINGS

SECTION I. REGULAR MEETINGS

The commission shall meet quarterly. The place and times of the regular meetings shall be determined by motion of the commission at the prior meeting.

SECTION II. SPECIAL MEETINGS

The Chairman of the commission, in conjunction with a majority of other Commissioners, may call special meetings, PROVIDED that notice of the special meeting be sent by the Chairman to all existing Commissioners by certified mail, telegraph, or telephone at least 10 days prior to such meeting. In the case of telephone notice, such notice must be given personally.

SECTION III. QUORUM

A majority of the commission present at any meeting shall constitute a quorum for the purpose of transacting business of the commission. A majority of any committee of the commission present at any meeting shall constitute a quorum for the purpose of transacting the business of the committee of the commission.

SECTION IV. AGENDA

The chairman shall provide to each Commissioner an agenda for each commission meeting at least 10 days prior to each commission meeting. In the case of a special meeting, such agenda must be provided at such time as notice is given for the meeting. Any Commissioner may request items be placed on the agenda. The Chairman will honor such requests if the requesting Commissioner gives reasonable notice prior to publication of the agenda.

ARTICLE THREE RULE MAKING PROCEDURES

SECTION I. RULE MAKING PROCESSES

The rule making processes of the commission shall be those processes in which the commission provides for adoption of operation procedures, staff policies, plans, zoning ordinances, implementation policies and procedures, and any other processes which promulgate regulations, rules, or procedures of general application with regards to the district or any city or village therein.

SECTION II. VOTES & VETO POWERS

The commission shall adopt all regulations, rules and procedures by majority vote of the Commissioners present at any meeting, provided that the Commissioners present at such a meeting who represent the same village or city, shall together have the right to veto any such regulation, rule or procedure which deals exclusively with the village or city that they respectively represent. Any veto may be invalidated by three-quarters (3/4) vote of the Commissioners.

SECTION III. LOCAL FILE

The Commissioners who represent each village or city, either jointly, severally, or by their joint appointment of a governmental body or clerk, shall maintain a file of all commission regulations, rules and procedures. A file of all commission documents shall be reasonably available for public inspection at a central locality which the Commissioners designate.

ARTICLE FOUR ADJUDICATIVE PROCEDURE

SECTION I. ADJUDICATIVE PROCESSES

The adjudicative processes of the commission shall be those processes

which provide for a hearing and decision on matters of special application to an individual or group of individuals.

SECTION II. HEARINGS

The commission shall provide a hearing to such individuals or groups who make applications under Article VI or appeals from prior determinations. The commission shall have the power to establish and refer to a committee of the commission, or an examiner, any such applications for hearings and decisions. All such hearings are subject to the same procedural requirements as a hearing conducted by the whole commission. All hearing determinations must be supported by findings of fact.

SECTION III. NOTICE & RIGHT OF REPRESENTATION

All hearings under this article must afford reasonable notice and the opportunity for representation to parties whose interests are affected by the hearing determination.

SECTION IV. RECORDS

The commission shall maintain a record of all hearings and determinations under this Article. Copies of such records shall be made available to those parties referred to in Section III of this Article, PROVIDED that such parties bear the cost of reproduction and reasonable clerical expenses incurred by the commission.

SECTION V. EFFECT OF DETERMINATIONS

Determinations under this Article shall have the full effect as authorized under local, state or federal authorization.

ARTICLE FIVE ADOPTION AND MAINTENANCE OF COMPREHENSIVE PLAN

The commission shall prepare and maintain a comprehensive plan for the district.

ARTICLE SIX APPLICATION PROCEDURES

The commission shall accept from individuals or groups of individuals, applications for use, variance, or adjustment permits as required

by regulations adopted by the commission.

ARTICLE SEVEN BOUNDARIES

The boundary for the region shall be determined by the following reference: All territory within the Doyon region (as defined by the Alaska Native Claims Settlement Act), and West of the Matanuska-Susitna Borough, Mount McKinley National Park and 153 degrees W. longitude; East of a line passing between Flat, Alaska and the intersection of the Innoko River and the North Fork of the Innoko River; and South of 64 degrees N. latitude. Withstanding the above, such district shall include all land selected under the Alaska Native Claims Settlement Act for Native village corporations within the district and all Native allotment land attributable to such district.

ARTICLE EIGHT DEFINITIONS

For the purposes of this document, the following definitions shall apply:

- 1) District shall mean the area including the cities and villages of McGrath, Telida, Medfra, Takotna and Nickolai.
- 2) City or village shall mean those communities which ratify and adopt the Charter for the Upper Kuskokwin Regional Planning Commission.
- 3) Qualified Native shall mean a person of at least $\frac{1}{2}$ Native blood, who has demonstrated his/her ability to represent Native interests by having been elected as a village or city delegate to a non-profit, regional Native association within one year prior to his election as Commissioner.
- 4) Expenses shall be defined as the usual per diem and travel allowances incurred in the course of the regular meeting of the commission. For special meetings of the commission, or the sub-committees thereof, expenses shall be defined as equitable compensation for lost salary or wages incurred by

attendance at such meetings.

- 5) All Commissioners means the total number of Commissioners presently holding office at the time of the respective action.

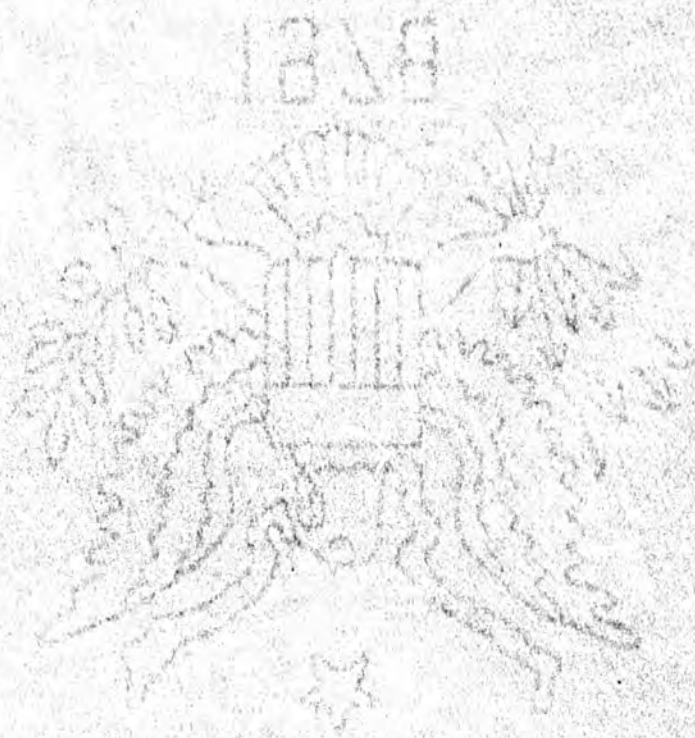
We, the undersigned, as representatives of our respective villages and cities, do hereby adopt these by-laws this 2ed day of March, 1979:

Bobby W. Esai & Nikolai AK. 99691
Junior Gregory Nikolai AK
Leonard & Afereus Medfra F/H 99629
Steve Eluska Zelich, AK. 99627
Pauline & Lenland McMath, AK 99627
Benny Edwards Takotna AK 99675
Bill Woolard Medfra
Rose Marie Edwards Takotna, AK
Robert & Patricia McMath, AK

I, Robert & Patricia McMath, as Secretary/Treasurer, do hereby witness and certify these presents as the duly adopted by-laws for the Upper Kuskokwim Regional Plan-
ning Commission this 2ed day of March, 1979.

PACKET G

BONASILA REGIONAL PLANNING COMMISSION



CHARTER FOR THE

BONASILA REGIONAL PLANNING COMMISSION

PREAMBLE - BE IT DECLARED,

The purposes of the Bonasila Regional Planning Commission herein created shall be:

- 1) to provide comprehensive planning, as authorized under Alaska State law, for the district.
- 2) to implement such planning to the full extent state and/or federal law allows;
- 3) to advise state and federal agencies concerned with comprehensive planning of local concerns, desires and needs;
- 4) to coordinate planning activities between villages and cities located within the district, state agencies and any other governmental body concerned with planning which might affect the district;
- 5) to exercise any and all powers, and duties which the commission may be entitled to exercise under state and federal law.

ARTICLE I. NAME

The name of this commission shall be the Bonasila Regional Planning Commission.

ARTICLE II. BOUNDARY

The boundary of the district shall be established in the by-laws. Such boundary shall define the territorial jurisdiction which the commission may exercise.

ARTICLE III. BOARD

- 1) COMMISSIONERS. The commission shall be comprised of two members elected from each village or city in the district according to the provisions set forth below.
- 2) QUALIFICATIONS OF COMMISSION MEMBERS. The qualifications of the Commissioners shall be specified in the by-laws.
- 3) ELECTION AND TENURE OF COMMISSIONERS. Beginning with November, 1979, each village or city shall elect two Commissioners. At the first meeting, the Commissioners shall draw lots so that one-third (1/3) of the Commission will serve for one (1) year, one-third (1/3) for two (2) years, and one-third (1/3) for three (3) years. As the terms of the respective Commissioners end, and thereafter, each village and city within the district shall elect a qualified Commissioner in order to replace the prior Commissioner, HOWEVER, if any village shall fail to duly elect such Commissioners to succeed existing Commissioners, the respective existing Commissioner shall hold over in office until the village duly elects a succeeding Commissioner who

- shall immediately take office.
- 4) PROCEDURE AND ORGANIZATION. All procedures of the commission, including notice of meetings, quorum, rule making procedures, etc., shall be established by the commission's by-laws.
 - 5) COMPENSATION. The Commissioners shall not receive compensation above their expenses as defined in the by-laws.
 - 6) REMOVAL. Procedures for removal of Commissioners shall be set forth in the by-laws.

ARTICLE IV. POWERS

The commission shall have the power to:

- 1) formulate comprehensive planning for the district;
- 2) advise and coordinate local, state and federal planning agencies;
- 3) employ planners and necessary staff;
- 4) perform all other duties and powers which the commission may be authorized to perform by local, state and/or federal government(s).

ARTICLE V. BY-LAWS

The commission shall establish by-laws to govern the operation and procedures of the commission by two-thirds (2/3) vote.

ARTICLE VI. DISSOLUTION & AMENDMENT

- 1) The commission shall have the power to dissolve itself upon three-fourths (3/4) majority vote of all the Commissioners.
- 2) The commission shall have the power to amend this charter upon two-thirds (2/3) majority vote of all the Commissioners except for the dissolution clause.

ARTICLE VII. ADOPTION AND CERTIFICATION

The charter shall be adopted and certified by two-thirds (2/3) vote of all Commissioners.

We, the undersigned, having been elected to temporarily represent our respective villages and cities on this commission, do hereby adopt and certify this charter this 27 day of February, 1979.

A.V. Diane Jones - Anvik, AK.

Cheryl Turner - Holy Cross AK.

Carl A. Walker - Grayling AK.

William D. Tutihi - Grayling AK.

Hamilton E. Hamilton Sr. - Shageluk AK.

Mark H. Turner - Holy Cross, AK.

Carl J. Jensen sr - Anvik AK.

BY-LAWS FOR THE BONASILA REGIONAL

PLANNING COMMISSION

ARTICLE ONE
COMMISSIONERS

SECTION I. NUMBER

The Commissioners shall be elected in accordance with the charter. If for any reason the office of a Commissioner becomes vacant, the respective city or village shall elect a new Commissioner to fill the vacancy for the prior Commissioner's remaining term. Such elections shall be held on the first Tuesday of November. Each respective village or city shall conduct and certify such elections.

SECTION II. QUALIFICATIONS

Only persons resident in the city or village, or persons having existing significant personal contacts within the village or city, are eligible for election to the commission. To insure apportioned representation which complies with the federal policy of self-determination for Indian communities and to provide equal protection and representation to formerly disenfranchised Native groups, at least one (1) of the two (2) Commissioners from every village or city shall be a qualified Native.

SECTION III. CHAIRMAN

The commission shall elect, by majority vote, a Chairman from their number at the first commission meeting after the election of the Commissioners. The Chairman shall serve as such for an annual term. The Chairman shall serve as principal executive officer of the commission and preside at all commission meetings. If for any reason the office of Chairman shall become vacant, the Vice-Chairman shall succeed to the position of Chairman for the remaining term of the prior Chairman. The Chairman may be removed from office in the same manner and upon the same grounds as provided for removal of Commissioners.

SECTION IV. VICE-CHAIRMAN

The commission shall elect a Vice-Chairman from their number at the same time and in the same manner as prescribed for election of Chairman.

SECTION V. SECRETARY/TREASURER

The commission shall elect a Secretary/Treasurer from their number at the same time and in the same manner as prescribed for election of Chairman. The Secretary/Treasurer shall have charge and custody of all funds of the commission, receive and give receipts for monies due and paid to the commission, deposit all monies in the name of the commission, and perform all the duties incident to the office of Treasurer. In addition, he/she shall cause to be made and certify minutes of each commission meeting, certify actions taken by the commission, maintain records of the commission's actions, make available for public inspection such records, and in general, perform all duties incident to the office of Secretary.

SECTION VI. REMOVAL

The grounds for removal of a Commissioner shall be conflict of interest; three (3) consecutive, unexcused absences; or conduct injurious to the best interests of the commission. The commission may remove a Commissioner upon findings of such grounds and a two-thirds (2/3) vote of the commission. A Commissioner may be recalled by village or city election.

ARTICLE TWO COMMISSION MEETINGS

SECTION I. REGULAR MEETINGS

The commission shall meet quarterly. The place and times of the regular meetings shall be determined by motion of the commission at the prior meeting.

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The Chairman of the commission, in conjunction with a majority of other Commissioners, may call special meetings, PROVIDED that notice of the special meeting be sent by the Chairman to all existing Commissioners by certified mail, telegraph, or telephone at least 10 days prior to such meeting. In the case of telephone notice, such notice must be given personally.

SECTION III. QUORUM

A majority of the commission present at any meeting shall constitute a quorum for the purpose of transacting business of the commission. A majority of any committee of the commission present at any meeting shall constitute a quorum for the purpose of transacting the business of the committee of the commission.

SECTION IV. AGENDA

The chairman shall provide to each Commissioner an agenda for each commission meeting at least 10 days prior to each commission meeting. In the case of a special meeting, such agenda must be provided at such time as notice is given for the meeting. Any Commissioner may request items be placed on the agenda. The Chairman will honor such requests if the requesting Commissioner gives reasonable notice prior to publication of the agenda.

ARTICLE THREE RULE MAKING PROCEDURES

SECTION I. RULE MAKING PROCESSES

The rule making processes of the commission shall be those processes in which the commission provides for adoption of operation procedures, staff policies, plans, zoning ordinances, implementation policies and procedures, and any other processes which promulgate regulations, rules, or procedures of general application with regards to the district or any city or village therein.

SECTION II. VOTES & VETO POWERS

The commission shall adopt all regulations, rules and procedures by majority vote of the Commissioners present at any meeting, provided that the Commissioners present at such a meeting who represent the same village or city, shall together have the right to veto any such regulation, rule or procedure which deals exclusively with the village or city that they respectively represent. Any veto may be invalidated by three-quarters (3/4) vote of the Commissioners.

SECTION III. LOCAL FILE

The Commissioners who represent each village or city, either jointly, severally, or by their joint appointment of a governmental body or clerk, shall maintain a file of all commission regulations, rules and procedures. A file of all commission documents shall be reasonably available for public inspection at a central locality which the Commissioners designate.

ARTICLE FOUR ADJUDICATIVE PROCEDURE

SECTION I. ADJUDICATIVE PROCESSES

The adjudicative processes of the commission shall be those processes

which provide for a hearing and decision on matters of special application to an individual or group of individuals.

SECTION II. HEARINGS

The commission shall provide a hearing to such individuals or groups who make applications under Article VI or appeals from prior determinations. The commission shall have the power to establish and refer to a committee of the commission, or an examiner, any such applications for hearings and decisions. All such hearings are subject to the same procedural requirements as a hearing conducted by the whole commission. All hearing determinations must be supported by findings of fact.

SECTION III. NOTICE & RIGHT OF REPRESENTATION

All hearings under this article must afford reasonable notice and the opportunity for representation to parties whose interests are affected by the hearing determination.

SECTION IV. RECORDS

The commission shall maintain a record of all hearings and determinations under this Article. Copies of such records shall be made available to those parties referred to in Section III of this Article, PROVIDED that such parties bear the cost of reproduction and reasonable clerical expenses incurred by the commission.

SECTION V. EFFECT OF DETERMINATIONS

Determinations under this Article shall have the full effect as authorized under local, state or federal authorization.

ARTICLE FIVE ADOPTION AND MAINTENANCE OF COMPREHENSIVE PLAN

The commission shall prepare and maintain a comprehensive plan for the district.

ARTICLE SIX APPLICATION PROCEDURES

The commission shall accept from individuals or groups of individuals, applications for use, variance, or adjustment permits as required

by regulations adopted by the commission.

ARTICLE SEVEN BOUNDARIES

The boundary for the region shall be determined by the following reference: All territory within the Doyon region (as defined by the Alaska Native Claims Settlement Act), and West of a line passing between Flat, Alaska and the intersections of the Innoko River and the North Fork of the Innoko River; South of line running East to West which passes through Noghalindin (on the Koyukuk River) and the Boneyard (on the Yukon River).

ARTICLE EIGHT DEFINITIONS

For the purposes of this document, the following definitions shall apply:

- 1) District shall mean the area including the cities and villages of Anvik, Grayling, Shageluk, and Holy Cross.
- 2) City or village shall mean those communities which ratify and adopt the Charter for the Bonasila Regional Planning Commission.
- 3) Qualified Native shall mean a person of at least $\frac{1}{2}$ Native blood, who has demonstrated his/her ability to represent Native interests by having been elected as a village or city delegate to a non-profit, regional Native association within one year prior to his election as Commissioner.
- 4) Expenses shall be defined as the usual per diem and travel allowances incurred in the course of the regular meeting of the commission. For special meetings of the commission, or the sub-committees thereof, expenses shall be defined as equitable compensation for lost salary or wages incurred by

- attendance at such meetings.
- 5) All Commissioners means the total number of Commissioners presently holding office at the time of the respective action.

We, the undersigned, as representatives of our respective villages and cities, do hereby adopt these by-laws this 27 day of February, 1979:

A.V. Diane Jones - Anvik, AK.
Cheryl Turner - Holy Cross AK
Carl A. Halder - Grayling AK 98580
William D. Nichol - Grayling AK.
Hamilton E. Hamilton - Etahelut AK
Frank H. Turner - Holy Cross, AK.
Carl J. Jensen - Anvik AK

I, Cheryl Turner, as Secretary/Treasurer, do hereby witness and certify these presents as the duly adopted by-laws for the Borsila Regional Planning Commission this 27 day of February, 1979.. Plan-

Resolution No. - 1-79

WHEREAS: the city of Holy Cross reviewed the charter and by-laws of the Kenai Peninsula Regional Planning Commission.

WHEREAS: the city of Holy Cross approved of the concept.

NOW THEREFORE BE IT RESOLVED that the city of Holy Cross authorize the commission to do area wide planning.

CITY COUNCIL OF HOLY CROSS, ALASKA

Holy Cross City Council
introduced by 8

Frank H. Turner
Frank Turner - Mayor

March 6, 1977
introduction and adoption date

Beverly Turner - city clerk
attested by

Pete Turner (member)
Linda Frank (member)
Elizabeth M. Johnson (member)
Joyce Demeritoff (member)
Cheryl Turner (Secretary/Treasurer)

Governor Jay S. Hammond
Page 2
March 21, 1979

delegate this authority to these Commissions. These Commissions are also seeking recognition through the state legislature to clarify their planning authority.

These Commissions' activities and staff are currently funded by a federal H.U.D. grant (State I.D. #78062102) through the Ruby Village Council and administered by Tanana Chiefs Conference, Inc. (see Packet A). Each participating village is supplying local planners/surveyors for the initial data gathering phase. A variety of sources are utilized, including B.I.A. 104 and C.E.T.A. grants. The current project of these Commissions is outlined in the grant project narrative enclosed in Packet A.

Original copies of the various Commissions' Charters and By-laws are enclosed (see Packets B-G). All but six (6) villages in the area (who have not yet formally considered the matter) have approved the concept of the planning commissions by formal resolution. These communities are now acting on specific ratification of the Commissions' formation. You will find enclosed evidence of such ratification by those communities who have already acted.

At each of the Commission's organizational meetings, Tanana Chiefs Conference, Inc. was requested by resolution to act as agent for the commission with respect to this petition. Therefore, on behalf of these Commissions, we respectfully petition for appointment by the Governor as regional coordinating and advisory planning groups for the respective Commissions' regions pursuant to A.S. §14.19.880(c).

Respectfully,

TANANA CHIEFS CONFERENCE, INC.

Mike Walleri
Village Government Specialist

MW/7433d

cc: Frances A. Ulmer, Director
Division of Policy Development & Planning
John C. Sackett, State Senator

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT,

TO: Frances A. Ulmer, Director
Division of Policy, Dev., & Planning

DATE: September 19, 1979
FILE NO: J-66-071-80

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Proposal on regional
planning from Tanana
Chiefs' Conference

By:
Rodger W. Pegues
Assistant Attorney General

The following responds to your request for advice on the proposal for regional planning from the Tanana Chiefs' Conference. Because of the many variables involved, we have not responded to some of your specific questions. We believe, however, that our more general answers cover them by implication.

1. The authority possessed by "coordinating or advisory planning groups" established by the governor under AS 44.19.880(c) depends entirely upon the circumstances in each instance. Under no circumstances would they possess the authority to plan and zone geographic areas or to oversee and control planning and zoning of geographic areas by others. Their authority under AS 44.19.880(c) relates solely to the functions of the Division of Policy Development and Planning. With respect to land-use planning and zoning, the division's only functions are to provide assistance, to serve as a clearinghouse, and to consult. To possess authority for regional land-use planning, new legislation would be required. While an organized borough may delegate some aspects of planning and zoning to a city within it, delegation of municipal planning and zoning power is not otherwise authorized by law. AS 29.33.070.

2. Without new enabling legislation, the plans or zoning regulations of the regional commissions can have no legal force or effect. A municipality could contract with a commission to develop a plan and zoning ordinance, and the municipality could adopt a zoning ordinance to carry out the plans. As a general rule, the state must comply with local land-use regulations with respect to the construction of public works. AS 35.10.020, 025, and with respect to the subdivision and sale of land. AS 40.15.200.

3. Any enabling legislation would have to specify the relationship between regional and local zoning ordinances and other forms of land-use regulation, building codes, and so forth. Conflicts would otherwise be intolerable.

4. Ordinarily, the governor has no control over local government functions. The regional commissions could constitute service areas, as do REAA's, in the unorganized borough, and the governor would not have control over them. If on the other hand, they were made instrumentalities of the state, the governor would have to have control over their appointment and tenure. That is the gist of the rulings in DeArmond v. Alaska State Dev. Corp., 376 P.2d 717 (Alaska 1962), and Walker v. Alaska State Mtg. Assn., 416 P.2d 245 (Alaska 1966).

5. The commission's by-laws probably are not proper for them either as state or local instrumentalities of government. Enabling legislation should prescribe the details of their organization. With an exception not relevant here, racial criteria for public office are unconstitutional.

6. As must be apparent by now, designation under AS 44.19.080(c) is not the proper method by which to establish regional planning commissions.

7. So long as there is an appeal to the courts, due process does not forbid the conjunction of the rule-making power with the authority to hear an appeal from the rules.

As a legal proposition, we would recommend that the proposal not be accepted. It would only create confusion and false expectations. If regional planning is to be achieved, legislation must be enacted. Interested groups, such as the Tanana Chiefs' Conference, local governments, the municipal league, the Department of Community and Regional Affairs, your office, and the two local government committees of the legislature should all be involved.

We enclose your original document on this.

RWP/pjg

Enc.

SCOMM

#10:49

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

April 27, 1979

JAY S. HAMMOND, GOVERNOR

POUCH B

JUNEAU, ALASKA 99811

RECEIVED
MAY 4 1979
DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

Mr. Ralph R. Darbyshire
Darbyshire and Associates
639 "O" Street, No. 201
Anchorage, Alaska 99501

Dear Mr. *Darbyshire*:

As provided for under Section 10 of the December 1, 1978 contract between Darbyshire and Associates and the Department of Community and Regional Affairs, this letter by mutual agreement will incorporate the following amendment:

The maximum sum of total compensation shown in the last sentence of Section 7 is changed from "\$40,000, plus authorized travel expenses" to "\$44,160, plus authorized travel expenses".

This change is required to pay for additional time spent by the contractor to perform a new project/budget element entitled "Community Information Services". This new element is considered to be absolutely essential by the local borough Study Committee and the Department.

The original contract, apart from this change, remains in full force and effect. Please sign two copies of this letter and return them to me. A copy of the fully executed contract amendment will be conveyed to you when it is signed by our Commissioner. Thank you.

Sincerely,

Palmer
Palmer McCarter
Director

DARBYSHIRE AND ASSOCIATES, CONTRACTOR

BY: *Ralph R. Darbyshire*

DATE: *April 30, 1979*

STATE OF ALASKA

BY: *Lee McQuinn*
Commissioner, Department of
Community & Regional Affairs

DATE: *4 May 79*

BY: *William W. Ludwig*
Department of Administration

DATE: *5-10-79*

AUTHORITY TO ENTER CONTRACT NEGOTIATIONS

This form must be executed prior to entering negotiations regarding PROFESSIONAL SERVICE CONTRACTS when the contract amount is in excess of \$2,000 in an annual period. This includes the PROFESSIONAL SERVICES CONTRACTUAL RELATIONSHIP QUESTIONNAIRE on the back side of this form. Refer to Purchasing Regulations Manual, Chapter 5, for further instructions.

DEPARTMENT: Community & Regional Affairs DATE: September 28, 1978
 DIVISION: Local Government Assistance AMOUNT OF CONTRACT: \$45,000
 PREPARED BY: Pat Poland PERIOD COVERED FROM: October 15, 1978
 TELEPHONE: 276-1721 TO: June 30, 1979

Purpose(s) of contract:

To conduct a study of the feasibility of establishing a borough in the Yukon Flats region. (pursuant to Legislative appropriation of FY 79)

We intend to negotiate with the following persons or firms. Agencies SHOULD list at least three choices or explain why it is not possible.

NAME	ADDRESS	ALASKA BUSINESS LICENSE	
Dupere and Associates		YES ☒	NO ☐
R. Darbyshire and Associates		YES ☒	NO ☐
CH ² M Hill		YES ☒	NO ☐

Request for letters of interest being published throughout the State.
 Budgetary Data:

BRU NAME Local Government Assistance

COMPONENT Organization Grants

8 DIGIT CODE

The concurrence of the Department of Administration is sought so that we may proceed to negotiate the above contract.

FOR THE DEPARTMENT:

CONCUR:

X
 DEPARTMENT HEAD OR AUTHORIZED REPRESENTATIVE

William W. Ludwig
 DEPARTMENT OF ADMINISTRATION

DATE

DATE

The proposed contract must be forwarded to the Department of Administration after contractor and Departmental signatures have been affixed but prior to execution or effective date, for final approval.

PROFESSIONAL SERVICES CONTRACTUAL RELATIONSHIP QUESTIONNAIRE

PROPOSED CONTRACTOR: Unknown

WILL THE CONTRACTOR BE SUBJECT TO SUPERVISION BY AGENTS, OFFICIALS, OR EMPLOYEES OF THE STATE?

WILL THE STATE BE INVOLVED IN TRAINING THE CONTRACTOR AS TO THE METHODS AND/OR TECHNIQUES THAT ARE TO BE USED TO ACCOMPLISH THE WORK THAT IS TO BE DONE?

WILL IT BE NECESSARY FOR THE CONTRACTOR TO RENDER THE SERVICES PERSONALLY?

WILL THE CONTRACTOR BE HIRING/FIRING, SUPERVISING AND FINANCING PAYMENT OF NON-STATE EMPLOYEES IN CONNECTION WITH THE FULFILLMENT OF THE PROPOSED CONTRACT?

WILL THE STATE RETAIN THE RIGHT TO SPECIFY THE HOURS (E.G., START/STOP TIMES, MINIMUM OR MAXIMUM HOURS, DAYS OF WEEK, ETC.) DURING WHICH THE CONTRACTOR IS TO ACCOMPLISH THE WORK REQUIRED BY THE AGREEMENT?

IF NO, WHAT WILL BE THE NATURE OF THE SPECIFICATION?

WILL THE STATE RETAIN THE RIGHT TO SPECIFY THE LOCATION AT WHICH THE CONTRACTOR WILL PERFORM THE REQUIRED SERVICES?

WILL THE STATE RETAIN THE RIGHT TO SPECIFY THE ORDER OR SEQUENCE IN WHICH THE TASKS INVOLVED WILL BE ACCOMPLISHED?

WILL THE CONTRACTOR BE PAID BASED UPON TIME WORKED (E.G., HOURS, DAYS, MONTHS) (IN CONTRAST TO PAYMENT FOR COMPLETION OF A PRODUCT OR, IN THE CASE OF PROGRESS PAYMENTS, A SPECIFIED PORTION OF THE TOTAL PRODUCT)?

WILL THE CONTRACTOR BE REIMBURSED FOR MISCELLANEOUS EXPENSES, SUCH AS TRAVEL, OVER AND ABOVE THE COMPENSATION AGREED UPON FOR THE SERVICES TO BE RENDERED? (CHECK "NOT APPLICABLE" IF NO MISCELLANEOUS EXPENSES, SUCH AS TRAVEL, WILL BE INVOLVED IN ACCOMPLISHING THE WORK TO BE DONE).

WILL THE STATE SUPPLY TOOLS AND MATERIALS NECESSARY FOR THE CONTRACTOR TO ACCOMPLISH THE WORK TO BE DONE? (CHECK "NOT APPLICABLE" COLUMN IF NO TOOLS AND/OR MATERIALS ARE INVOLVED IN THE WORK TO BE DONE).

WILL THE CONTRACTOR BE EXPOSED TO THE RISK OF A FINANCIAL LOSS UNDER THE TERMS OF THE PROPOSED AGREEMENT?

WILL THE CONTRACTOR BE AFFORDED LIABILITY PROTECTION UNDER STATE PURCHASED INSURANCE POLICIES? IF YES, WHAT TYPE OF COVERAGE?

IS THE CONTRACTOR CURRENTLY A PARTY TO AGREEMENTS FOR THE PROVISION OF SIMILAR SERVICES TO NON-STATE ENTITIES?

WILL THE CONTRACTOR MAKE HIS/HER SERVICES AVAILABLE TO THE GENERAL PUBLIC (I.E., MAINTAIN AN OFFICE IN A PUBLIC PLACE, ADVERTISE IN YELLOW PAGES, TRADE JOURNALS, ETC.)?

WILL THE STATE BE SUPPLYING OFFICE OR OTHER WORK SPACE FOR THE USE OF THE CONTRACTOR? (CHECK "NOT APPLICABLE" IF WORK SPACE IS ONLY INCIDENTAL IN PROVIDING THE REQUIRED SERVICES).

WILL THE STATE BE ABLE TO DISCHARGE THE CONTRACTOR PRIOR TO COMPLETION OF CONTRACT FOR REASONS OTHER THAN FAILURE TO PERFORM AS SPECIFIED BY THE AGREEMENT OR THE UNAVAILABILITY OF APPROPRIATED FUNDS?

WILL THE AGREEMENT MAKE THE DEFAULTING PARTY LIABLE FOR PAYMENT OF DAMAGES ARISING OUT OF THE FAILURE TO PERFORM?

WILL THE STATE HAVE THE RIGHT OF FIRST CALL ON THE SERVICES OF THE CONTRACTOR?

WILL THE CONTRACTOR BE BOUND TO COMPLY WITH THE GENERAL POLICIES AND PROCEDURES GOVERNING THE BEHAVIOR OF STATE EMPLOYEES BY THE PROPOSED AGREEMENT?

WHY IS IT DEEMED PREFERABLE TO CONTRACT FOR THE REQUIRED SERVICES INSTEAD OF HIRING AN EMPLOYEE TO PROVIDE THEM?

Necessary range of expertise is not available in any one employee and proposed period of contract is less than 9 months.

THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

[Signature]
SIGNATURE

Director
TITLE

9/28/78
DATE

NOTES ON ANY OF THE ABOVE ANSWERS MAY BE APPENDED.

YES	NO	N/A
	X	
	X	
X		
X		
		X
	X	
X		
	X	
	X	
X		
	X	
?		
X		
	X	
	X	
X		
	X	
	X	

CONTRACT FOR SERVICES
REGIONAL GOVERNMENT FEASIBILITY STUDY

THIS AGREEMENT, entered into as of this 1st day of December, 1978, by and between the firm of Darbyshire and Associates (herein called the "Contractor"), and the DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS (herein called the "Department"),

WITNESSETH THAT:

WHEREAS the Department desires to engage the Contractor to render certain technical or professional services hereafter described in connection with an undertaking which will be financed through an appropriation of the Alaska State legislature:

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Employment of Contractor. The Department hereby agrees to engage the Contractor and the Contractor hereby agrees to perform the services hereinafter set forth.
2. Area Covered. The Contractor shall perform all the necessary services provided under this contract in connection with and respecting the area or areas, herein called the "planning area." The planning area includes the area within the boundaries of REAA No. 13 and immediately adjacent areas.
3. Scope of Services. The Contractor shall do, perform, and carry out, in a satisfactory and proper manner, as determined by the Department, the following services:

The services to be performed by the Contractor are set forth in Appendix A, attached hereto and made a part hereof.

Environmental Requirements. The planning activities will include an assessment of the natural and manmade environments and a summary or abstract of the proposed plan's or policy's effect on the environment.

Historic Preservation. Planning activities, policies and recommendations shall attempt to avoid adverse impacts on any property or district eligible for inclusion in the National Historical Register of Historic Places. A summary or abstract of the proposed plans or policies and their potential impact on historical preservation and enhancement shall be made.

4. Personnel. (a) The Contractor represents that he has or will secure at his own expense all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Department.

(b) All of the services required hereunder will be performed by the Contractor or under his supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.

(c) None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the Department.

5. Time of Performance. The Services of the Contractor are to commence as soon as practicable after the execution of this Contract and shall be completed by June 20, 1979. The periods of performance may be extended for additional periods by the mutual written agreement of the parties herein.

6. Compensation. The Department agrees to compensate or reimburse the Contractor the sum of \$40,000.00 for the satisfactory performance of services in the completion of the work program described in this Contract.

Any travel or per diem required for the completion of the project will be reimbursed in accordance with established state policy, not to exceed the General Government Bargaining Unit State rate.

7. Method of Payment. The Department will pay to the Contractor the amount or amounts set forth in paragraph 6, which shall constitute full and complete compensation for the contractor's services hereunder. Such sum will be paid in the following manner, in every case, subject to receipt of a requisition for payment and a progress report from the Contractor specifying that he has performed the work under this Contract and that he is entitled to receive the amount requisitioned. All expenditures incurred against the Contract must have recorded documentation, and such documentation shall be made available to the Department upon request.

Payment will be made on the basis of work completed. Certified billings may be submitted to the Department monthly, or when major elements of the project have been satisfactorily completed. Final billings will be submitted on the project completion date, June 20, 1979. Such billings shall reflect the total cost incurred to date, less 10 percent of the amount eligible for payment by the Department. The billing shall be itemized by category of expense claimed, which itemization shall reflect total project costs incurred.

A sum of \$4,000.000, or approximately 10 percent of the amount of compensation set forth on the part of the Department in paragraph 6, shall be retained, in the manner described above, until the services have satisfactorily been completed, as determined by the Department.

It is expressly understood and agreed that in no event will the total compensation and reimbursement on the part of the Department, if any, to be paid hereunder exceed the maximum sum of \$40,000.00, plus authorized travel expenses.

8. Termination of Contract for Cause. If through any cause, the Contractor shall fail to fulfill in timely and proper manner his obligations under this Contract or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the Department shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this Contract shall, at the option of the Department, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and materials.

Notwithstanding the above, the Contractor shall not be relieved of any liability to the Department for damages sustained by the Department by virtue of any breach of the Contract by the Contractor, and the Department may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Department from the Contractor is determined.

9. Termination for Convenience of Department. The Department may terminate this Contract at any time by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in paragraph 8 above shall, at the option of the Department, become its property. If the Contract is terminated by the Department as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Contract, less payments of compensation previously made: provided, however, that if less than 60 percent of the services covered by this Contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Contractor during the Contract period which are directly attributable to the uncompleted portion of the services covered by this Contract. If this Contract is terminated due to the fault of the Contractor, paragraph 8 hereof relative to termination shall apply.

10. Changes. The Department may, from time to time, require changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Department and the Contractor, shall be incorporated in written amendments to the Contract.

11. Equal Employment Opportunity. (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotions or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training, including apprenticeship; and participation in recreational and educational activities. The Contractor agrees to post, in conspicuous places available for employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

(b) The Contractor shall keep such records and submit such reports concerning the racial and ethnic origin of applicants for employment and employees as the Secretary may require.

(c) The Contractor agrees to comply with such rules, regulations, or guidelines as the Secretary may issue to implement these requirements.

12. Interest of Members of Department and Others. No officer, member, or employee of the Department and no members of its governing body, and no other public official of the governing body of the locality or localities in which the Project is situated or being carried out who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this Project shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested or having any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

13. Assignability. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or notation) without the prior written consent of the Department thereto: provided, however, that claims for money due or to become due to the Contractor from the Department under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Department.

14. Interest of Contractor. The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

15. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the Department requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the Department.

16. Officials not to Benefit. No Members of or Delegates to the Congress of the United States of America and no Resident Commissioner shall be admitted to share any or part hereof or to any benefit to arise herefrom. No member of the Legislature or officer of the State of Alaska shall be admitted to any share or part hereof or to any benefit to arise herefrom.

17. Publication, Reproduction, and Use of Material. No material produced, in whole or in part, under this Contract shall be subject to copyright in the United States or in any other country. The Department shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Contract.

18. Audits and Inspections. At any time during normal business hours and as often as the Department may deem necessary, there shall be made available to the Department for examination all of its records with respect to all matters covered by this Contract and will permit the Department to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, conditions of employment, and other data relating to all matters covered by this Contract.

19. Project Monitoring and Reporting. The project will be monitored by the Department of Community and Regional Affairs. Progress reports shall be submitted to the Department as a prerequisite to reimbursement and will provide the following information:

- (a) activities completed to date;
- (b) activities planned for the next reporting period; and,
- (c) comparison of completed activities to total project work program.

IN WITNESS WHEREOF, the Department and the Contractor have executed this agreement as of the day first above written.

CONTRACTOR

STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL
AFFAIRS

By Ralph J. Dardashire
Owner
Title

BY Lee McAnaney
Commissioner

Date December 8, 1978

Date 9 December 1978

William W. Ludwig
Dept. of Administration

12-14-78

IRS # 92-0061198

AK. Bus. LIC # 68886

APPENDIX A

SCOPE OF SERVICES

Background

The Alaska State Legislature, acting on a request from the people of the Yukon Flats region, has directed that a study be carried out to explore the feasibility of establishing a regional government in that area. The Alaska Department of Community and Regional Affairs, in concert with an Advisory Committee from the region, have designed this scope of services to undertake the feasibility study.

With minor exception, the formation of borough governments in Alaska has proven to be a highly controversial matter subject to wide-ranging local opinion. The state legislature forced the incorporation of eight of Alaska's eleven boroughs after local initiative in support of the idea failed to materialize. Further, one of the remaining three boroughs was incorporated only after the legislature passed special legislation diluting borough mandatory responsibilities.

While many factors contributed to these circumstances, it has been generally agreed that opposition to the formation of borough governments resulted from a feeling that the addition of a new level of government would bring unwarranted new controls and taxes to areas that were already receiving basic educational and other public services - at no additional cost - from the state. In recent years this situation appears to have been further compounded by legislation creating regional education attendance areas (REAA's) outside of organized boroughs. Now residents of these REAA's have complete management authority in the control of their school districts with the state paying the cost of providing basic educational services.

Given this history and the current public sentiments regarding local government taxation, there can be little doubt that the question of a Yukon Flats Borough will be closely scrutinized by residents of the area. If such examination and a final decision are to be made in an intelligent manner, a comprehensive and concise explanation of the advantages and disadvantages of having a borough government must be set forth.

Products

The product will present findings with respect to: alternatives available in borough incorporation; advantages and disadvantages of borough incorporation; and the legal, political, social and financial ramifications of borough incorporation. The study will be presented in a fashion that will be useful to both residents of the study area and the Local Boundary Commission.

Each element described below will be published and released as a separate paper. Ultimately, the individual papers would be combined into a single report, but the purpose in producing a series of individual papers serves to:

- ° Lead to a clearer understanding of the subject matter as it is more likely people will give closer attention to the details of a series of small reports than they would to one large report;
- ° Provide a more rational basis for debate as it will be easier to keep the different issues separated for discussion purposes;
- ° Streamline the study process as the review and debate of one element can be taking place while another is being prepared;
- ° Have subsequent use to other areas of the state which may consider the formation of a borough.

The narrative will be supported by the production and use of a number of tables and charts. Such public education tools support the intention of simplifying the subject matter as much as possible.

Work Program

The scope of work to be completed in this project will be developed in seven phases - one phase for each of the individual reports, as explained in the following paragraphs:

1) Local Government Options: This phase of the work program will set forth a comparative analysis of the home rule and general law borough governments that can be incorporated in the state. Drawing principally from the State Constitution, the Alaska Municipal Code (Title 29) and related case law; home rule, first class, second class and third class borough governments will be compared with respect to:

- ° Classification differences;
- ° Methods and procedures for incorporation;
- ° Mandatory areawide powers and duties;
- ° Powers and duties outside of cities (non-areawide powers);
- ° The assumption of additional areawide and non-areawide powers;
- ° The provision of services on less than an areawide or non-areawide basis;

- ° The construction of powers; and
- ° Legislative and executive organizational alternatives, with special emphasis placed on the question of assembly composition as it would relate to individual village representation.

This segment of the study effort will also:

- ° Define those powers available to all municipal governments in the state;
- ° Examine the impact a borough government would have on the existing REAA.

Certain portions of this work will be developed in narrative form. However, the comparative analysis suggested in the first part of this study element will be developed in chart, tabular or graphic form, for purposes of simplifying the presentation of differences and comparisons.

Darbyshire & Associates and the firm of Gallagher, Cranston & Snow will be responsible for completing this work element. Estimated manpower requirements are 15 man-days.

(2) Standards for Incorporation: Both Alaska's Constitution and statutory laws speak of the definition of a borough's boundaries. While such limitations are brief and general, both the Local Boundary Commission and the courts look to these standards in determining the legitimacy of a borough.

• This segment of the study will therefore focus its attention on the provisions of Article X of the State Constitution (Local Government) and Alaska Statutes, Chapter 18 (Incorporation) as they apply to the subject area. More specifically:

- ° Findings in Mobil Oil v. North Slope Borough (the State Supreme Court decision sustaining the incorporation of the North Slope Borough) will be analyzed.
- ° REAA 13 -- with special attention to the area located between the Yukon River and the Fairbanks North Star Borough -- will be analyzed to see how it conforms to the required standards.
- ° REAA's 12 and 16 will be examined with respect to their compatibility to REAA 13 in the question of meeting required standards for incorporation and their ultimate place in the scheme of local government for Alaska.

Darbyshire & Associates and Gallagher, Cranston & Snow will be responsible for completing this work element.

Estimated manpower requirements for completing this work are 5 man-days.

3) Reconnaissance. This segment of the work program will be concerned with the collection and analysis of data affecting the operations, costing and financial aspects of the borough. In particular, this element of the study will be concerned with:

- ° Developing population and school enrollment estimates as they affect:
 - federal and state revenue sharing and education funding programs.
 - borough limitations in levying taxes per AS 43.56 and AS 29.53.
 - state financial assistance in organizing a new borough government ("organizational grants")
- ° The identification of local desired governmental service priorities;
- ° Inventorying land status of the area as it affects:
 - municipal land selection rights
 - federal in lieu of property tax grants to the new borough
- ° An inventory of existing governmental services as they would affect the borough's assumption, costing and financing of such powers;
- ° An inventory and analysis of existing and projected public facilities requirements;
- ° Developing estimates of existing and anticipated borough real and personal property tax bases that could be used to generate local tax revenues; and
- ° Assessing sales and use tax potentials.

Consultants can be very helpful in providing assistance in exploring issues and suggesting alternative policy choices and management options for the solution of problems. Consultants recommendations on public policy, however, should not replace the decisions of local residents. Accordingly, it is anticipated that the Borough Study Committee will set priorities with respect to the public services they might like to see. The consultant will delineate the options available, but the priority listing will be up to the Committee.

The completion of this work element is expected to require 23 man-days effort. Darbyshire & Associates will have responsibility for completing the population, school enrollment, land status, and governmental service facility inventories. Mr. James McHale will complete the borough real and personal property tax inventories and Mr. Jack Hayward will inventory the situation with regard to REAA 13 operations and facilities.

4) Borough Service Cost Estimates. This segment of the work program will be devoted to the calculation of estimated start up and continuing operational costs for the proposed borough. It is these costs which will ultimately affect local tax levies and, thus, the decision on which powers a new borough might exercise, if it is to be incorporated at all.

The first thing that will be accomplished is the costing of the following mandatory borough responsibilities and associated administrative requirements:

- ° Chief executive organizational and operational responsibilities and associated financial and legal assistance;
- ° Legislative organization and operations including the assembly and clerk;
- ° Elections;
- ° Tax assessment and collection requirements;
- ° Education;
- ° Planning, zoning and platting.

Next cost estimates will be developed for the additional government services the Committee proposes. This should include, but not necessarily be limited to, such things as:

- ° Public safety;
- ° Utilities;
- ° Solid waste;
- ° Water and sewer;
- ° Roads;
- ° Airports;
- ° Public health

The calculation of the legislative and administrative functions of government will be premised on the team's experience in organizing and administering such programs for other local government units. Thus, the team members of Darbyshire and Associates will develop the cost estimates associated with the chief executive's responsibilities as well as those for legislative elections and planning functions. James McHale will develop the cost estimates for tax assessment and collection responsibilities and Jack Hayward will concern himself with the figures for anticipated legal activities and Main Lafrentz will develop cost estimates for the financial accounting activities of the proposed borough. The costing for the additional service functions proposed by the Study Committee will be premised upon the experiences of other local governments in Alaska and be developed by Darbyshire & Associates. This work element is expected to consume 25 man-days effort.

5) Potential Revenue Sources. This segment of the work program will examine the potential sources of revenue the proposed borough could use to finance its organization and operation. This will include:

- ° A description of the many different sources of revenue available;
- ° What, if any, restrictions exist with respect to the use of such sources;
- ° The potential amounts each source could generate;
- ° Projections as to amounts that might be available in the future; and
- ° The pros and cons of particular revenue sources (e.g. personal property taxes, sales and use taxes, etc.)

This section will also analyze tax limitations per AS 43.56 and AS 29.53 and relate these to the findings of the recent Supreme Court North Slope Borough v. Sohio, et al. case.

The sources of revenue to be considered will include, but not necessarily be limited to:

- ° State organization grants and transitional assistance;
- ° Real and personal property taxation;
- ° Sales and use taxes;
- ° Governmental charges for services;

- ° The use of money and property;
- ° Licenses and permits;
- ° Intergovernmental revenues such as:
 - Business licenses.
 - Tobacco tax
 - Federal land entitlement
 - Shared revenues (federal and state)
 - Local Service roads
 - School foundation support (regular and vocational)
 - Transportation (state)
 - School foundation (special education)
 - State tuition (mini 874)
 - Elementary and secondary education (federal)
 - Bilingual and Bicultural Education (title VII)
 - Federal aid (PL874)
 - Elementary/Secondary Education (title I - VI)
 - Indian education aid
 - School lunch program

It is estimated that approximately 16 man-days effort will go into the completion of this element. Main Lafrentz will have prime responsibility for the completion of this work although Darbyshire & Associates will assist in the legal case review.

6) Implications for Regional Self-Determination and Local Control Issues. In this phase, an analysis of a number of issues concerning local self-determination and the relationship of a borough or other levels of government will be presented. The issues to be examined will include, but not necessarily be limited, to:

- ° Municipal land selections under the municipal land entitlement act;

- ° The division of authority between a new borough, various state and federal agencies and the City of Fort Yukon;
- ° Control over land and resource use inside a new borough, fish and wildlife management, D-2 proposals, etc.;
- ° Provision of public services that are or may be provided by non-governmental organizations such as the Tanana Chiefs Conference, Interior Village Association, and so on; and
- ° The role of a borough as a direct or indirect source of employment in the region.

Special emphasis will be placed on the analysis of a borough's ability and limitations to further local influence over factors affecting the region.

This analysis will be completed by Darbyshire & Associates. Some of the issues may initially be treated in other sections of the report, but the major analysis of factors surrounding each issue will be presented in this section. Sources of information will include printed materials and discussions with representatives of both governmental and non-governmental agencies to augment the experience of Darbyshire & Associates staff.

This work element will require 7 man-days effort.

7) Feasibility and Viability of Regional Government Alternatives.

This concluding element of the study will combine the findings of the previous sections into an analysis of the feasibility and viability of specific alternative borough government structures. Each type of borough (first, second, and third class) will be examined with respect to its cost/revenue requirements for the support of the basic mandatory responsibilities. In turn, the cost/revenue implications of additional services will be calculated into the mix. This syntheses and calculation will thus provide a specific and detailed financial comparison of the numerous governmental choices available, including the alternative of not forming a borough at all.

The lump-sum costs of the different combinations and levels of services developed above will provide an indication of the funding required for each service, as well as total operating and debt service costs for a borough. This data can be considered as the basis of a very general "budget" for that specific type of borough. When final decisions are made with respect to revenue sources and a service mix, it would be a simple task to accumulate the necessary data into a detailed borough budget.

This segment of the work program will also identify and exemplify what "typical" resident homeowners might have to pay in taxes to support the alternative borough structures. It is, after all, these costs that will have the most significant impact on the final decision on incorporation.

While the entire team will participate in the completion of this element, Darbyshire & Associates and Main Lafrentz will assume the principal responsibilities. It is estimated approximately 34 man-days will be required to complete this element.

Field Work

A meeting will be scheduled in Fort Yukon or Fairbanks for the purpose of explaining the scope and nature of the entire project to the Study Committee. This will be attended by the consultant together with departmental representatives, and should occur following completion and review of the first two study papers.

Prior to the study's conclusion, the consultant should expect to travel to each village in the region to present and explain the reports. These visits also will be made with departmental representatives.

Additional travel to the region may be required.

Project Schedule.

The project will require approximately 125 man-days effort over a period of six months. As shown by the scheduling chart, project completion should occur well before the June 30, 1979, deadline.

All Written products will first be submitted by the contractor to the Department for review. The Department will respond to all draft materials within 10 working days. After amending draft materials, a clean proof copy shall be submitted.

The final phase will be submitted to the Department no later than June 1, 1979.

Budget.

The total consultant budget of \$40,000 includes the following estimated allocation by work element:

Local Options	\$ 4,800
Standards for Incorporation	1,920

Reconnaissance	7,360
Borough Service Cost Estimate	8,000
Potential Revenue Sources	4,800
Self-Determination and Local Control	2,240
Feasibility and Viability of Regional Alternatives	<u>10,880</u>
Total	\$40,000

Other budget elements not within the scope of this work program include:

Travel and Per Diem

to be covered by the
Department of Community
and Regional Affairs

Printing

Covers: To be printed by the contractor and shall contain title, date of publication and appropriate credits.

Cover credits shall consist of the following: "This document was produced by Darbyshire & Associates under contract by the Department of Community and Regional Affairs as mandated by the Alaska Legislature and at the request of residents of the Yukon Flats Region."

Text: To be printed by Department of Community and Regional Affairs

YUKON FLATS BOROUGH FEASIBILITY STUDY

PROJECT SCHEDULE

<u>Work Program</u>	<u>Dec.</u>	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>
Local Government Options	_____ *						
Standards for Incorporation	_____ *						
Reconnaissance		_____ *					
Borough Service Cost Estimates			_____ *				
Potential Revenue Surces				_____ *			
Self-Determination and							
Local control					_____ *		
Feasibility and Viability of Regional Alternatives						_____ *	
Field Work		_____					_____
Reports *							

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

Should see all
(House / Senate) committee
members receive completed
study. Good learning
material

YUKON FLATS

REGIONAL GOVERNMENT STUDY

TECHNICAL REPORT No.1
The Incorporation Procedure

Darbyshire & Associates

May 1979

GENERAL LOCATION MAP

PROPOSED YUKON
FLATS BOROUGH

Fairbanks North
Star Borough

Haines Borough

City and
Borough of Juneau

City and Borough
of Sitka

Kodiak

Bristol Bay
Borough

Kenai Peninsula
Borough

Matanuska Susitna
Borough

Anchorage Municipality

Fairbanks

FORT YUKON

KOTZEBUE

Arctic Circle

North Slope Borough

68°

66°

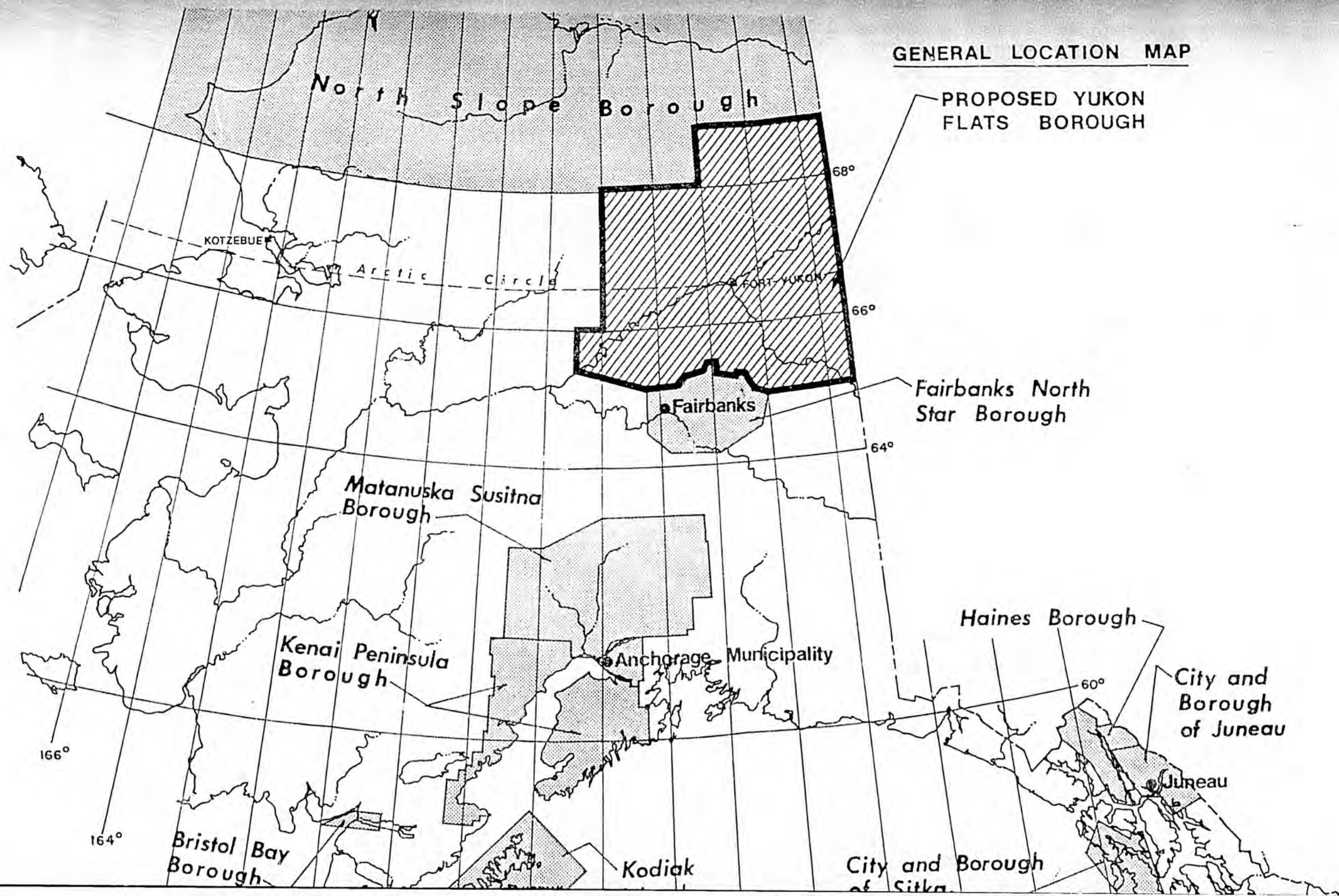
64°

60°

Juneau

164°

166°



DARBYSHIRE & ASSOCIATES

community planning and management services

April 26, 1979

Ms. Lee McAnerny, Commissioner
Department of Community and
Regional Affairs
State of Alaska
Pouch B
Juneau, Alaska 99811

Dear Commissioner McAnerny:

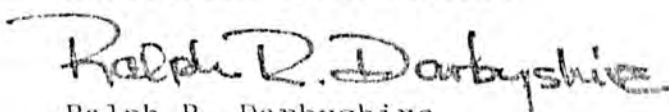
We are pleased to submit this Yukon Flats Regional Government Study - "The Incorporation Procedure". This is but the first of several papers that we are to prepare that will examine the requirements and potential for a regional government in the Yukon Flats area. Others to be produced include: "Local Government Options"; "Standards for Incorporation"; "Data Reconnaissance"; "Borough Service Cost Estimates"; "Potential Borough Revenue Sources"; "Implications for Regional Self-Determination and Local Control"; and "The Feasibility and Viability of Regional Government Alternatives".

When we complete the last of our report "chapters", they will be combined and bound into a single summary report. At that time we will then travel to each of the communities in the proposed borough area and discuss our findings. This should be taking place towards the first part of June.

Throughout this undertaking we have worked closely with Mr. Pat Poland of your Local Governmental Assistance Division in Anchorage. In all instances he has been extremely helpful and eager to assist. Mr. Jonathan Solomon, Ms. Nancy James, and Mr. Sam Peter were also of invaluable assistance and support when we traveled to each of the communities in the region to explain this undertaking. Finally, the Borough Study Committee members were most helpful in organizing and arranging individual community meetings. For all of this we are most grateful and wish to extend our sincere thanks.

Respectfully submitted,

DARBYSHIRE & ASSOCIATES


Ralph R. Darbyshire

RRD/eq
Enclosure

YUKON FLATS REGIONAL GOVERNMENT STUDY

THE INCORPORATION PROCEDURE

PREPARED FOR:

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
DIVISION OF LOCAL GOVERNMENT ASSISTANCE
225 Cordova Street, Building B
Anchorage, Alaska 99501

BY:

DARBYSHIRE & ASSOCIATES
629 "O" Street, Suite 201
Anchorage, Alaska 99501

IN ASSOCIATION WITH:

Charles Cranston, Attorney
Main Lafrentz & Co., Accountants
John Hayward, Educational Consultant
James McHale, Appraiser

YUKON FLATS REGIONAL GOVERNMENT STUDY

BOROUGH STUDY COMMITTEE

Jonathan Solomon, Chairman - Fort Yukon

Susan Baalam - Birch Creek
Leah Druck - Chalkyitsik
David Evans - Rampart
Nancy James - Fort Yukon
Edward John - Venetie
Steve Joseph - Beaver
Larry Nathaniel - Circle
Jim Reiter - Central
Don Stevens - Stevens Village
Lincoln Tritt - Arctic Village

YUKON FLATS REGIONAL GOVERNMENT STUDY

THE INCORPORATION PROCEDURE

CONTENTS

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STUDY AREA BOUNDARIES* — PROPOSED YUKON FLATS BOROUGH

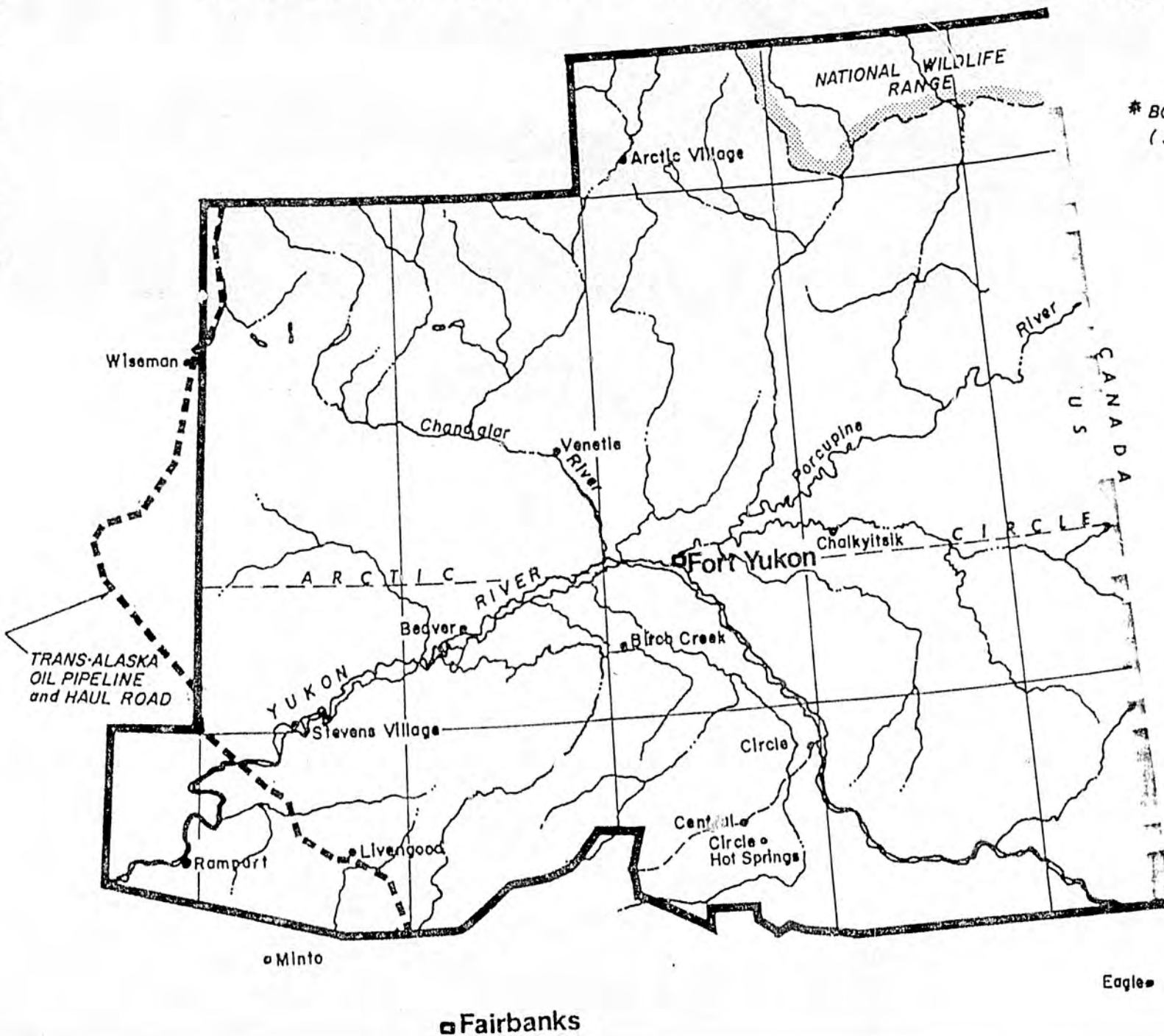


Figure 11

THE INCORPORATION PROCEDURE

INTRODUCTION

The body of law that controls the incorporation of a borough government in Alaska is found in Alaska Statutes Title 29, Article 2, Chapter 18, Sections .050 to .120 (attached as Appendix B). Briefly, the law:

- o Sets forth borough petition, review, investigation, and election procedures that must be observed;
- o Lists information that must be included in an incorporation petition;
- o Provides for the election of initial officers (mayor and assemblymen);
- o Provides for the integration of city powers which might be succeeded to by a new borough;
- o Sets forth time limits that the Department of Community and Regional Affairs, Local Boundary Commission, and the office of the Lieutenant Governor must adhere to in the incorporation process; and

- o Provides for assistance in defraying costs associated with transition to a borough government.

The Local Boundary Commission has the authority to adopt additional administrative regulations which implement the laws governing borough incorporation. No such regulations have, as yet, been adopted. We have been advised, however, that some draft regulations are presently being considered. Currently, the Department of Law is reviewing the proposed regulations. When they have completed their review, the draft regulations will be presented to the public for review and comment. According to recent information, this will occur somewhere towards the end of November, 1979.

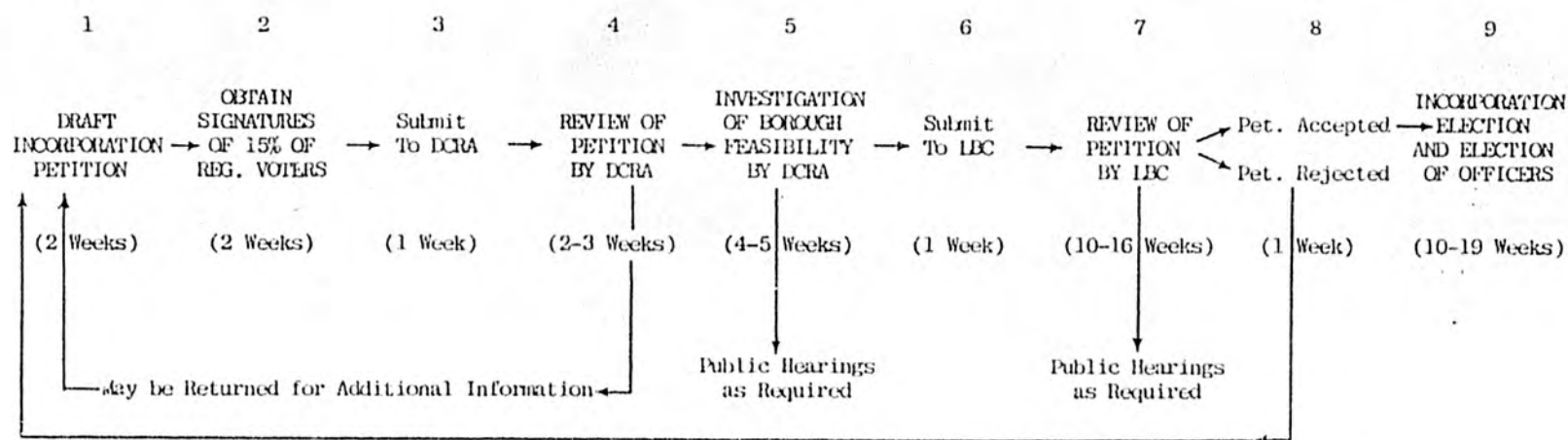
The details of the procedures that will have to be followed should residents of the study area decide to seek incorporation of a borough are described below. This includes estimated timing and scheduling requirements and a diagram which summarizes this process (see Figure III, page 3).

PETITION

Once residents of an area decide to seek the formation of a borough government, a petition requesting such must be drawn up. This petition should include the following information about the proposed borough:

FIGURE III.

THE INCORPORATION PROCESS



DCRA - Department of Community & Regional Affairs

LBC - Local Boundary Commission

- o The class (1st, 2nd, 3rd) of borough petitioners would like to see formed;
- o A name for the borough;
- o A description/map of the boundaries for the borough;
- o The composition and apportionment for the borough legislative body - the assembly;
- o A designation of the areawide powers* to be exercised (for 1st and 2nd class borough incorporation only);
- o A designation of the non-areawide powers** to be exercised (for 2nd class borough incorporation only);

* Powers that are exercised everywhere within the borough, including areas within city boundaries.

** Powers that are exercised only in the areas of the borough which are outside city boundaries.

- o A proposed operating budget for the borough projecting sources of income and items of expenditure through the first full fiscal year of operation; and
- o Maps, documents, and other information required by the Department of Community and Regional Affairs to show that the borough would meet the standards for incorporation described in AS 29.18.030.

The next step in the petition process requires the collection of resident voter signatures and addresses on the petition. At least 15% of the voters of the region who voted in the last general election must sign the petition before it will be accepted.*

In the case at hand, a minimum of 150 registered voters will be required to sign the petition. It is suggested, however, that as many signatures as possible be obtained. This will help make sure that the petition is not rejected because some

* If any 1st class cities were included in the area, 15% of the voters within each city would be required to sign the petition, in addition to the 15% of the voters who lived outside the cities.

apparent, "permanent resident voters" are discovered that have not registered to vote. Secondly, the Local Boundary Commission will look closely at the signatures on the petition to gauge its support. If a maximum number of signatures are obtained from each of the 11 communities in the region, there can be little doubt that the public overwhelmingly supports the proposal.

Once the required signatures have been gathered, the petition should then be submitted to:

Commissioner
Department of Community and
Regional Affairs
Pouch B
Juneau, Alaska 99811

REVIEW AND INVESTIGATION

After the Department of Community and Regional Affairs receives the petition, it is reviewed and checked for content and signatures. If the petition is found deficient, it will be returned for correction and resubmission. Once an approved petition is submitted, however, the Department investigates the proposal and must hold at least one public hearing in the area. This investigation focuses on how well the proposed borough meets the "standards for incorporation" outlined in AS 29.18.030. The Department also considers the relationship of surrounding areas and the overall system of

local government for Alaska. Finally, the Department reports its findings to the Local Boundary Commission with its recommendation on the matter.

The Local Boundary Commission is then required to hold at least one public hearing on the incorporation question in the affected area. The purpose of the hearing is to permit the Commission to receive testimony and evidence on the proposal. In point of fact, the Commission is likely to hold more than one hearing on the petition and schedule additional hearings in the area as well as in other parts of the state. For example, public and private parties showed so much interest on the question of North Slope Borough incorporation that hearings were held in Fairbanks and Anchorage, as well as Barrow.

The hearings are conducted in a formal manner. Commission members ask questions of those presenting their testimony and discuss the evidence that has been presented. Some participants have their testimony presented by attorneys. The Commission is not required to discover what testimony or evidence is "right" or "wrong" in a legal sense. Rather, they consider: will the proposed borough meet the incorporation standards of AS 29.18.030, and, is there enough local support for a borough to justify the expense of an election.

Ultimately, of course, the Local Boundary Commission must reach a decision on the matter. If they determine the proposed borough fails to meet the standards for incorporation, they will reject the petition. If they determine the proposed borough meets the standards, they will accept the petition. Finally, if they determine the proposed borough boundaries can be altered to meet the standards, they will make the necessary adjustments and accept the petition. Adjustments, other than this boundary adjustment, are not permitted. In a strictly legal sense, the people who signed and submitted the petition agreed to support the petition request - only! Therefore, any change in the petition as to the class of borough, areawide or non-areawide powers to be exercised, or the composition and apportionment of the assembly would require the approval of all of the petitioners. Practically, this means that any such adjustments would require the submission of an entirely new petition.

If the Local Boundary Commission rejects the petition, the petitioners have two courses of action available. If borough supporters feel there was some error or shortcoming in the administrative procedure followed by the Commission, the Commission's decision may be appealed. The subject of this appeal, however, will be limited to the process of decision-making used by the Commission, rather than whether the decision was "right" or "wrong" (AS 29.18.090(b)).

The second action available is the submission of a second incorporation petition. Both the Department of Community and Regional Affairs' and the Local Boundary Commission's reviews will contain opinions on shortcomings and recommendations on how the proposed borough might be adjusted to meet incorporation standards. Borough supporters could thus draft a second petition which takes this information into account. As no waiting periods must be observed, the circulation of a second petition can begin as soon as the original petition has been returned by the Commission.

ELECTION

Once a petition has been "accepted" by the Local Boundary Commission, they must immediately notify the Lieutenant Governor of their action. Within 30 days of this notification, the Lieutenant Governor must then "order" an election in the area on the question. This election is to be held not less than 30 days nor more than 90 days after the Lieutenant Governor has issued his "order" for election. The question of incorporation, the powers to be exercised by the borough, and the first officers of the borough are all voted on in this election (AS 29.18.110).

The election is conducted in a manner similar to other local elections and under the supervision of the Lieutenant Governor. Any registered voter who has lived within the

proposed borough for at least 30 days before the date of the election is eligible to vote. All costs of this election are to be paid by the state.

The election ballot has two parts. First, the question of incorporation is presented to the voters. The areawide powers, composition of the assembly, borough boundaries, and borough name that were included in the "accepted" incorporation petition are included as part of the question on incorporation. Voting for incorporation, then, means approving the type of borough government that was described in the "accepted" incorporation petition. If the "accepted" petition provides for a 2nd class borough, any non-areawide powers that are proposed to be exercised are also listed and voted on separately. The question on the non-areawide powers, however, are only voted on by those residents who live outside of any cities that exist within the proposed borough.

The second part of the ballot presents the slate of candidates for borough mayor and borough assemblymen. Local residents are nominated for office by submitting a petition signed by 50 registered voters. If the proposed borough assembly has been districted as part of its apportionment plan, assembly nominees must obtain required signatures from registered voters who reside in that district of the proposed borough. These petitions are turned in to the Lieutenant Governor before a date which will be specified in his election

order. The Lieutenant Governor then places the qualifying names on the ballot.

If the question on incorporation of the borough passes, the successful candidates for borough office are elected. If the question of borough incorporation fails, no officers are elected.

Elected officials take office on the first Monday following certification of the election by the Lieutenant Governor. The term of office is normally three years. Initial borough assembly members, however, determine by lot the length of their initial terms of office so that a proportionate number of terms expire each year over the first three years.

At this point the borough has been officially incorporated. The legality of the incorporation, however, can still be tested. State law provides that legal challenges to the formation of a borough must occur within six months of the date of incorporation. After this period, no one can legally question the borough's existence. This does not mean, however, that a court test of a borough's existence would be resolved in six months. A court test could take much longer. In a test of the constitutionality of the incorporation of the North Slope Borough, the issue was not decided by the State Supreme Court until 1-1/2 years after incorporation was approved.

TIMING

The time it takes to go through the incorporation process varies. Some of the steps (e.g., the incorporation election) must be completed within time frames specified by law. Most of the steps, however, are completed within time spans related to individual work loads and actions of people who are involved in the process.

Figure III (The Incorporation Process, page 3) summarizes each of the steps in the incorporation process. It also provides estimates of what we believe to be realistic time frames for the completion of each element. This schedule estimates a total of between 33 and 50 weeks to accomplish incorporation should residents of the area be successful. Assuming such an effort got underway July 1, 1979 (immediately after we completed our final presentations to each of the villages), incorporation could be completed between the end of February and the middle of June, 1980. This scheduling is premised upon the following:

Draft Incorporation Petition (2 Weeks): By the time we complete our hearings on this project in the latter part of June, residents of the area should have a pretty good idea of what they desire. Further, most if not all of the information required in the incorporation petition will be found in the reports we are preparing. The actual drafting

of the petition thus becomes more of a production effort than decision process. Two weeks should therefore be more than adequate time to complete this element.

Obtain Signatures of 15% of the Registered Voters (2 Weeks):

For the same reasons as above, the residents should also have a pretty good idea of whether they intend to sign the required petition. This process likewise thus becomes more of a mechanical than philosophical effort. Further, with a Borough Study Committee member residing in each community, no more than two weeks should be required to complete this work.

Submit to the Department of Community and Regional Affairs (1 Week): Whether the petition is hand carried or mailed, no more than one week should be required.

Review of the Petition by the Department of Community and Regional Affairs (2 to 3 Weeks): The petition information required to be checked in this step of the process is pretty straight forward. The signatures, on the other hand, will take some time to cross reference and verify. According to the Department of Community and Regional Affairs, two to three weeks is ample to complete this work.

Department of Community and Regional Affairs' Investigation
of Borough Feasibility and Public Hearing (4-5 Weeks):

Normally, this segment of the process takes considerably longer. Since the "feasibility" of the proposed borough is the focus of this study, however, a great deal of the investigation will have been completed. It has also been suggested that the community hearings to be held at the conclusion of this study effort meet the Department's statutory obligations for such. Only four to five weeks should be therefore necessary to complete this work.

Submit to the Local Boundary Commission (1 Week): Presuming this requires a mail submittal to each member of the Commission, one week should suffice to complete this.

Review of the Petition by the Local Boundary Commission (10-16 Weeks): The length of time it will take the Local Boundary Commission to complete its work will depend in large part on the interest shown in the proposed borough. If public interest runs high, several public hearings will be necessary and a longer time will be required to complete this phase of the process. They may even decide to hold public hearings in Fairbanks and Anchorage, as was done in the case of the North Slope Borough. This would, of course, add further time to the process.

This is obviously the most open-ended of all of the elements. It is therefore the most speculative with respect to timing. As best as can be gauged, however, it would appear this stage of the process can be completed within 10 to 16 weeks.

Petition Accepted/Rejected (1 Week): When the Commission reaches their decision in the matter, it will have to be written up and submitted to the appropriate officials (Lieutenant Governor and/or petitioners). This should require no more than one week.

Incorporation Election (10-19 Weeks): The concluding element is by and large controlled by state law (AS 29.18.110). The Lieutenant Governor has 30 days within which to "order" an election after the Commission has notified him they have "accepted" the petition. The election itself must be held "not less than 30 nor more than 90 days after the date of the election order". On top of this, of course, the ballots must be counted and the election certified. This is estimated to take an additional two weeks. Finally, "initial elected municipal officials take office on the first Monday following certification of their election".

APPENDIX A

REAA #13 BOUNDARY DESCRIPTION

AREA

That area of the Unorganized Borough within Election District 15 drained by the Yukon River above its confluence with the Tanana River, and that area of Election District 16 drained by the Yukon River (to the southerly boundary of the North Slope Borough) and generally referred to as the Upper Yukon area, containing the following communities:

Arctic Village	Fort Yukon
Beaver	Rampart
Birch Creek	Stevens Village
Chalkyitsik	Venetie
Circle	

BOUNDARY

Beginning at the point of intersection of the southerly boundary of the North Slope Borough and the 150°W longitude; thence proceeding south along said longitude to the point of intersection with 66°N latitude; thence proceeding west along 66°N latitude to* the point of intersection with the Yukon River; thence proceeding in a southeasterly direction to the point of intersection with the northwest corner of the Fairbanks North Star Borough; thence proceeding in an easterly and northeasterly direction along the said borough's northern boundary to the point of intersection with 65°N latitude; thence proceeding along said latitude in an easterly direction to the point of intersection with the Canada-Alaska border; thence proceeding north along that border to the point of intersection with the southeastern corner of the North Slope Borough; thence proceeding west to the point of intersection with 146°W longitude; thence south to the point of intersection with the 68°N latitude; thence west along said latitude to the point of beginning.

* Editors Note: According to the map, it would appear that " 151°W longitude; thence south to" should be inserted at this point. This was not included in the description supplied by the State.

NUMBER OF SECTIONS (3) (7 SEATS)

Section I (2 Seats - A, B): Arctic Village, Chalkyitsik,
and Venetie.

This section includes all that territory north of latitude
60° 30' N and lies within the boundaries of Region #13.
This section does not include Fort Yukon.

Section II (3 Seats - C, D, E): Fort Yukon.

This section includes all that territory within the four
square miles defined as the City boundaries of Fort Yukon.
This location is defined as latitude 66° 34' N; longitude
145° 16' W.

Section III (2 Seats - F, G): Birch Creek, Beaver, Circle,
Stevens Village, and Rampart.

This section includes all that territory south of latitude
60° 30' N and lies within the boundaries of Region #13.
This section does not include Fort Yukon.

Chapter 18. Incorporation.

Article 1. Requirements.

Sec. 29.18.011. Incorporation of cities. (a) A community which meets the following standards may incorporate as a first class city:

- (1) the community has 400 or more permanent residents;
- (2) the boundaries of the proposed city include all areas necessary to provide municipal services on an efficient scale;
- (3) the economy of the community includes the human and financial resources necessary to provide local services; in considering the economy of the community, the Local Boundary Commission shall consider property valuations, economic base, personal income, resource and commercial development, anticipated functions, and the expenses and income of the proposed city, including the ability of the community to generate local revenue;
- (4) the population of the community is stable enough to support local government;
- (5) there is a demonstrated need for local government.

(b) A community which meets all the standards established in (a) of this section except (a)(1) may incorporate as a second class city. (§ 1 ch 212 SLA 1976)

Sec. 29.18.021. Limitations on incorporation of cities.

(a) A community within the unorganized borough may not incorporate as a city if the services may be provided by annexation to an existing city.

(b) A community within an organized borough may not incorporate as a city if the services could be provided on an areawide or non-areawide basis by the borough in which it is located or by annexation to an existing city. (§ 1 ch 212 SLA 1976)

Sec. 29.18.030. Organized boroughs. An area may incorporate as an organized borough if it conforms to the following standards:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support organized borough government;

(2) the boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of local services;

(3) the economy of the area includes the human and financial resources capable of providing local services; evaluation of an area's economy includes land use, property valuations, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated local government. (§ 2 ch 118 SLA 1972)

Article 2. Procedures.

Sec. 29.18.050. Petition. Municipal incorporation is proposed by filing a petition with the Department of Community and Regional Affairs. The petition shall include the following information about the proposed municipality:

- (1) class;
- (2) name;
- (3) boundaries;
- (4) composition and apportionment of the assembly or council;
- (5) for a first class borough, a designation of areawide powers to be exercised;
- (6) for a second class borough, a designation of areawide and nonareawide powers to be exercised;
- (7) maps, documents, and other information required by the Department of Community and Regional Affairs;
- (8) for first class city incorporation, the signatures and resident address of 50 permanent resident voters or of 15 per cent of the permanent resident voters within the proposed municipality, whichever is greater, based on the number who voted in the area in the last general election;
- (9) for second class city incorporation, the signature and resident address of 25 permanent resident voters or of 15 per cent of the permanent resident voters within the proposed municipality, whichever is greater, based on the number who voted in the area in the last general election;
- (10) for borough incorporation, the signature and resident address of 15 per cent of the permanent resident voters in each first class city and 15 per cent of voters in the area outside first class cities based on the number who voted in the respective areas in the last general election;
- (11) for a city, a designation of the powers proposed by the petitioners to be exercised;
- (12) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation. (§ 2 ch 118 SLA 1972; am § 9 ch 200 SLA 1972; am § 2 ch 212 SLA 1976)

Sec. 29.18.060. Review. The Department of Community and Regional Affairs shall review petitions for content and signatures and shall return deficient petitions for correction and completion. (§ 2 ch 118 SLA 1972; am § 9 ch 200 SLA 1972)

Sec. 29.18.070. Investigation. (a) If the petition contains the required information and signatures, the Department of Community and Regional Affairs shall investigate the proposal.

(b) The department may combine petitions for incorporation from the same general area.

(c) The department shall hold at least one public hearing in the area proposed for incorporation. (§ 2 ch 118 SLA 1972; am § 9 ch 200 SLA 1972; am §§ 3, 4 ch 212 SLA 1976)