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Attorneys for Defendant  
LEGISLATIVE AFFAIRS AGENCY

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA BUILDING, INC., an Alaskan  
corporation,  
  
Plaintiff,

Case No.: 3AN-15-05969CI

v.

716 WEST FOURTH AVENUE, LLC, and  
LEGISLATIVE AFFAIRS AGENCY,  
  
Defendants.

**DEFENDANT'S FIRST DISCOVERY  
REQUESTS TO PLAINTIFF ALASKA BUILDING, INC.**

Pursuant to Alaska Civil Rules 26, 33 (interrogatories), and 36 (request for admission), Defendant Legislative Affairs Agency (LAA) submits the following interrogatories, requests for production, and requests for admission to be answered by Plaintiff Alaska Building Inc. within thirty (30) days after the date of service. The original responses should be returned to the offices of Stoel Rives LLP, 510 L Street, Suite 500, Anchorage, Alaska, 99501. Please note that in responding to these discovery

DEFENDANT LEGISLATIVE AFFAIRS AGENCY'S FIRST DISCOVERY REQUESTS TO PLAINTIFF ALASKA BUILDING, INC.

*ABI, Inc. v 716 West Fourth Avenue, LLC, et. al.*, Case No. 3AN-15-05969CI

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requests, you are required to furnish all responsive information available to you, including not only information in your possession, custody, or control, but also in the possession, custody, or control of your attorneys, agents, and other representatives, or anyone acting in cooperation or in concert with them, and in accordance with the instructions and definitions set forth below and the Alaska Civil Rules.

### **DEFINITIONS**

For purposes of these discovery requests, the following terms shall have the meanings set forth below. Please review these definitions carefully as some terms may have different or broader meanings than when used in common parlance.

1. "And" as well as "or" should be construed either disjunctively or conjunctively. "Each" should be construed to include the word "every," and "every" should be construed to include the word "each." "Any" should be construed to mean the word "all," and "all" should be construed to include the word "any."

2. As used herein, the singular should include the plural, and the plural should include the singular.

3. As used herein, "DOCUMENT" or "DOCUMENTS" refers to any matter of any kind on any medium, whether printed, typed, handwritten, drawn, recorded, filmed, punched, transcribed, taped, stored in a computer memory or on disk, or produced or reproduced by any other means, and all reproductions thereof, including without limitation all records, reports, ledgers, books of account, invoices, receipts, letters, telegrams, electronic mail, handwritten notes, diaries, calendars, appointment schedules,

agendas, minutes, pamphlets, envelopes, telephone messages, contracts, agreements, brochures, maps, diagrams, graphs, illustrations, publications, and transcriptions whether by mechanical, electronic, photographic, or other means such as tapes, microfilms, photographs, bit-map images, and all other recordings, and the information necessary to understand and use such materials. If copies of documents are not identical, for whatever reason, including handwritten notations, date stamps, initials, or identification marks, each non-identical copy is a separate document within the meaning of the definition.

4. As used herein, a DOCUMENT or other item “RELATING TO” a given subject matter includes any DOCUMENT or other item that constitutes, embodies, comprises, reflects, identifies, states, refers to, deals with, comments on, responds to, describes, analyzes, contains information pertaining to, or is in any other way relevant to that subject matter.

5. As used herein, “PERSON” or “PERSONS” refers to natural persons and all other entities including, without limiting the generality of the foregoing, corporations, associations, companies, partnerships, joint ventures, trusts and estates, subsidiaries, parents, firms, organizations, governmental entities or bodies, or any person employed or retained by any of the foregoing.

6. As used herein, “COMMUNICATION” includes every manner or means of disclosure or transfer or exchange of information, whether orally, by DOCUMENT, or in any other manner, and whether face-to-face, by telephone, mail, electronic transmission, personal delivery, or otherwise.

7. As used herein, the phrase “WITH PARTICULARITY” means every aspect of every fact, circumstance, act, omission, or course of conduct known to YOU and relating in any way to the matter inquired about, including, without limitation, the date and place thereof, the identity of each person thereat, connected therewith, or who has knowledge thereof, the identity of all writings relevant thereto, and if anything was said by any person, the identity of each such person and each such oral statement, and, if the oral statement in whole or in part constituted or was contained or reported, summarized, or referred to in any writing, the identity of each such writing.

8. As used herein, “PLAINTIFF,” “YOU,” and “YOUR,” refer to each PERSON acting or purporting to act on behalf of or in the interest of Alaska Building, Inc., including without limitation any employees, officers, directors, agents, attorneys, investigators, clerical staff, consultants, or any PERSON employed or retained by any of the foregoing.

9. As used herein, “COMPLAINT” refers to the Second Amended Complaint filed by YOU in Case No. 3AN-15-05969CI dated August 26, 2015.

10. As used herein, “IDENTIFY” means in addition to stating specific and particular information defining the subject:

a. With respect to a DOCUMENT, please state the names of the author, addressee, and recipient of any copies, describe the subject matter or title, the date of the DOCUMENT, the type of DOCUMENT (e.g., letter, memorandum, notes, etc.), and all other means of identifying it WITH PARTICULARITY and its present location or

custodian. If any such DOCUMENT was, but no longer is, in YOUR possession or subject to YOUR control, state what disposition was made of it.

b. With respect to a PERSON, please state his, her, or its full name, present address and telephone number (if unknown, last known address and telephone number and date thereof), and his, her, or its connection to this case.

c. With respect to an act, please state its nature and contents, the time and place where it was performed, and IDENTIFY the PERSON performing it.

### INSTRUCTIONS

1. These discovery requests are continuing in nature and require supplemental answers and production of DOCUMENTS to the extent required by Civil Rule 26(e).

2. In YOUR responses, include all information and knowledge within YOUR custody, possession, or control, and information available upon the exercise of reasonable diligence, including, without limitation, knowledge and DOCUMENTS in YOUR custody, possession, or control or that of YOUR consultants, experts, attorneys, or any other agent.

3. In YOUR responses, include all information known to YOU, YOUR agents, and attorneys, whether learned through hearsay or not.

4. If YOU cannot answer any interrogatory in full, answer to the extent possible, explain why the remainder cannot be answered, state the nature of the information and knowledge that can be furnished, and provide a supplemental response when more information is obtained.

5. If a request has subparts, answer each subpart in full by amplifying, and not limiting, the answer as a whole.

6. If YOU contend that any DOCUMENT or COMMUNICATION that is responsive to any request propounded herein is privileged for any reason whatsoever, state separately for each such DOCUMENT: (1) the legal basis on which YOU claim protection against production; (2) the date of the DOCUMENT; (3) the nature of the DOCUMENT (*e.g.*, letter); (4) the full name, job title, and employer for each author of the DOCUMENT; (5) the full name, job title, and employer of each addressee and named recipient of the DOCUMENT; (6) the full name, job title, and employer of each PERSON who to YOUR knowledge has seen or received the DOCUMENT; and (7) describe the substance and subject of the DOCUMENT. If YOU claim that only a portion of any requested DOCUMENT is privileged for any reason whatsoever, please produce the entire DOCUMENT with the allegedly protected portion redacted and a legend indicating that the withheld portion is subject to a specified privilege or protection.

For each of YOUR responses, please state whether the information furnished is within the personal knowledge of the PERSON answering, and if not, the name of each PERSON, if known, to whom the information is a matter of personal knowledge.

**REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Please admit that YOU were aware as of June 9, 2013 that the Legislative Council was negotiating a deal with Mark Pfeffer to revamp and expand the Legislative Information Office building, as publicly reported.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 2:** Please admit that on September 19, 2013, 716 West Fourth Avenue, LLC entered into an agreement with the Legislative Affairs Agency to renovate and expand the Legislative Information Office (the “LIO Project”).

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 3:** Please admit that YOU were aware on or about September 19, 2013, that 716 West Fourth Avenue, LLC had signed an agreement with the Legislative Affairs Agency to renovate and expand its leased office building.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 4:** Please admit that YOU were aware by October 3, 2013, that the Legislative Affairs Agency had signed a deal for the LIO Project, as publicly reported by the Alaska Dispatch News.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 5:** Please admit that YOU were aware by October 3, 2013, that the construction and renovations for the LIO Project would cost tens of millions of dollars, as publicly reported by the Alaska Dispatch News.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 6:** Please admit that YOU entered into a License to Enter Indemnity and Insurance Agreement with Criterion General, Inc., on or about October 30, 2013, to allow Criterion to re-locate gas service in connection with the construction for the LIO Project.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 7:** Please admit that YOU entered into an Access, Indemnity, and Insurance Agreement with 716 West Fourth Avenue, LLC, on December 6, 2013 (the "Access Agreement").

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 8:** Please admit that YOU became aware no later than December 6, 2013, that 716 West Fourth Avenue, LLC, would be demolishing the Empress Theater in connection with the LIO Project.

**RESPONSE:**



**REQUEST FOR ADMISSION NO. 9:** Please admit that YOU accepted payment of \$15,000 from 716 West Fourth Avenue, LLC in December 2013 for professional fees that YOU incurred to address preparation for the LIO Project.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 10:** Please admit that YOU were aware of the construction no later than December 10, 2013, as you were quoted in a news article describing the construction. <http://www.ktva.com/legislative-building-construction-causes-the-closure-of-downtown-boutique/>

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 11:** Please admit that YOU required the contractor for the LIO Project to provide you with a certificate of insurance prior to commencement of construction for the LIO Project.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 12:** Please admit that YOU entered into a space lease with Criterion General, Inc. (“Criterion”), the contractor for the LIO Project, on or about December 5, 2013 (the “Space Lease”).

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 13:** Please admit that YOU were aware that Criterion was leasing space from YOU under the Space Lease in connection with the construction for the LIO Project.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 14:** Please admit that YOU accepted in excess of \$10,000 in rent from Criterion under the Space Lease.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 15:** Please admit that you were aware no later than December 21, 2013, that the LIO Project arose from what the Alaska Dispatch News called a “no-bid deal,” consistent with the article you quoted in your “open letter” to Governor Walker.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 16:** Please admit that you were aware no later than December 21, 2013, that the Alaska Dispatch News stated that the renovated Legislative Information Office building would allegedly require the State to pay more than the going rate for downtown office space, consistent with the article you quoted in your “open letter” to Governor Walker.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 17:** Please admit that the renovated Anchorage Legislative Information Office building opened for business on or about January 9, 2015.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 18:** Please admit that millions of construction costs were spent on the LIO Project between October 2013 and January 9, 2015.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 19:** Please admit that YOU first brought this legal action challenging the legality of the Extension of Lease and Third Amendment of Lease (the "Lease Extension") on March 31, 2015.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 20:** Please admit that YOU first brought this legal action challenging the legality of the Lease Extension more than 18 months after the Lease Extension was signed.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 21:** Please admit that YOU first brought this legal action challenging the legality of the Lease Extension after you had already received tens of thousands of dollars in rent and other payments relating to the LIO Project from Criterion and 716 West Fourth Avenue, LLC.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 22:** Please admit that YOU first brought this legal action challenging the legality of the Lease Extension more than 18 months after you contend that the Legislative Affairs Agency violated the State Procurement Code.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 23:** Please admit that YOU first brought this legal action challenging the legality of the Lease Extension more than 15 months after construction began on the LIO Project.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 24:** Please admit that YOU first brought this legal action challenging the legality of the Lease Extension after the LIO Project was completed in all material respects.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 25:** Please admit that there was no indication, once construction began in late 2013, that the Legislative Affairs Agency had any intention to voluntarily declare the Lease Extension void due to an alleged irregularity in the procurement process.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 26:** Please admit that the LIO Project did not demolish the entirety of the Legislative Information Office Building, but rather left certain key structural elements in place for a renovation project.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 27:** Please admit that the subject of the Lease Extension is a real property lease.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 28:** Please admit that the landlord both prior to and after the Lease Extension was executed remained the same.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 29:** Please admit that the address of the Legislative Information Office remained the same both prior to and after the Lease Extension was executed.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 30:** Please admit that, consistent with AS 36.30.083, a lessee may extend a real property lease with different terms and conditions than the original lease.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 31:** Please admit that the Lease Extension complied with AS 36.30.020 and the Alaska Legislative Procurement Procedures.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 32:** Please admit that, consistent with AS 36.30.083, a lessee may extend a real property lease with different pricing terms than the original lease, provided that a minimum cost savings of at least 10 percent below the market rental value of the real property at the time of the extension is achieved.

**RESPONSE:**

## INTERROGATORIES

**INTERROGATORY NO. 1:** Please describe WITH PARTICULARITY how and when YOU first became aware that the Lease Extension (1) was not the subject of a competitive procurement process, (2) was allegedly not an extension of the existing lease, and (3) did not allegedly yield cost savings of at least 10 percent below the market value of the rental property at the time of the extension.

**RESPONSE:**

**INTERROGATORY NO. 2:** Please describe WITH PARTICULARITY any and all actions you took in an effort to stop, question, dispute, or in any way challenge the Lease Extension or the procurement process that led to the execution of the Lease Extension – aside from filing this lawsuit on March 31, 2015.

**RESPONSE:**

**INTERROGATORY NO. 3:** Please describe WITH PARTICULARITY any impediment that you claim prevented you from challenging the legality of the Lease Extension prior to March 31, 2015.

**RESPONSE:**

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**INTERROGATORY NO. 4:** Please identify the “drastically different terms” contained in the Lease Extension, as alleged in page 6 of YOUR Memorandum in Support of Motion for Partial Summary Judgment: Not Extension, including but not limited to which of those “drastically different terms” causes the Lease Extension to not be an extension.


**RESPONSE:**

**INTERROGATORY NO. 5:** If you contend that the Lease Extension did not comply with either AS 36.30.020 or the Alaska Legislative Procurement Procedures, please describe WITH PARTICULARITY all facts supporting your contention.

**RESPONSE:**

DATED: September 1, 2015

STOEL RIVES LLP

By:   
\_\_\_\_\_  
KEVIN CUDDY  
(Alaska Bar #0810062)  
Attorneys for Defendant  
LEGISLATIVE AFFAIRS AGENCY





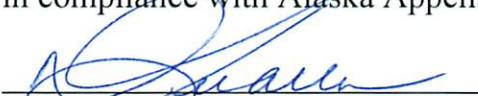
CERTIFICATE OF SERVICE AND OF FONT

This certifies that on September 1, 2015, a true and correct copy of the foregoing was served via first class mail on:

James B. Gottstein, Esq.  
Law Offices of James B. Gottstein  
406 G Street, Suite 206  
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I further certify that this document was substantively produced in Times New Roman 13, in compliance with Alaska Appellate Rule 513.5(c)(1) and Civil Rule 76(a)(3).

  
\_\_\_\_\_  
Debby Allen, Practice Assistant

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