



**NOTICE OF SPECIAL MEETING  
OF  
SHAREHOLDERS  
AND  
PROXY STATEMENT**

Mailed On Approximately September 3, 2019

By promptly returning the enclosed proxy in the envelope provided you can help your corporation avoid the necessity and expense of sending follow-up letters to ensure a quorum.



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**NOTICE OF  
SPECIAL MEETING OF BAAN O YEEL KON CORPORATION  
SHAREHOLDERS  
November 2, 2019**

The Special Meeting of Shareholders of BAAN O YEEL KON CORPORATION (“BOYK”), will be held on Saturday, November 2, 2019, at the Doyon Industrial Facility, 615 Bidwill, Fairbanks, Alaska at 12:00 noon local time, with registration from 10:30 a.m. to 11:30 a.m. (herein the "Meeting"), for the following purposes:

1. To vote upon Shareholder Resolution 2019-01, as follows: “Resolved, that the BAAN O YEEL KON Settlement Trust shall be established as an ANCSA Settlement Trust effective November 2, 2019.”
2. To transact such other related business as may properly be brought before the Meeting or any adjournment thereof.

The record date for the Meeting is September 3, 2019, and only shareholders holding BOYK voting stock as of that date are eligible to vote at the Meeting or any adjournment thereof. Shareholders with non-voting stock may attend the Meeting, but will not be able to vote.

Shareholders owning voting stock attending the Meeting will be able to receive ballots following registration.

**ALL SHAREHOLDERS WITH VOTING STOCK ARE URGED TO PROMPTLY DATE, SIGN AND RETURN THEIR PAPER PROXY IN THE POSTAGE-PAID ENVELOPE SO THEIR SHARES WILL BE VOTED IF THEY CANNOT ATTEND THE MEETING IN PERSON.**

BY RESOLUTION OF THE BOARD OF DIRECTORS.

Dated: September 3, 2019

By:   
Marjorie Merry, Secretary



## BOARD OF DIRECTORS' PROXY STATEMENT

This Proxy Statement solicits proxies for the Special Meeting of Shareholders of **BAAN O YEEL KON CORPORATION** (“BOYK”), to be held on November 2, 2019 at the Doyon Industrial Facility, 615 Bidwill, Fairbanks, Alaska at 12:00 noon local time, with registration from 10:30 a.m. to 11:30 a.m. (herein the “Meeting”). There are TWO sections in this Proxy Statement.

I. **IN GENERAL.** This section begins at page 3 and describes Proxies, the Meeting, and certain financial matters.

II. **VOTE ON SETTLEMENT TRUST.** This section begins at page 5, describes the **BAAN O YEEL KON Settlement Trust** (the “Trust”), and requests your proxy to vote **YES** on the Shareholder Resolution 2019-01: *Resolved, that the BAAN O YEEL KON Settlement Trust shall be established as an ANCSA Settlement Trust effective November 2, 2019.*

### I. IN GENERAL

The enclosed Proxy is solicited by the Board of Directors for voting at the Meeting. Your vote on Shareholder Resolution 2019-01 concerning the establishment of the **BAAN O YEEL KON Settlement Trust** as a settlement trust under ANCSA may be made on this proxy. The persons named as “Proxyholders” in the Proxy are all of the incumbent directors of BOYK, Janine Marie Avner, Lori Michelle Bishop, Glenn Angelo Carlo, Sharon Kay Cummings, Anna Huntington-Kriska, Antoinette Mallott, Benjamin Mallott, Edward Charles Mayo, Jr., and Marjorie Ann Merry. The Proxyholders will vote as described in this Proxy Statement. By completing your proxy you revoke all prior proxies.

#### A. PURPOSE OF PROXY STATEMENT

The purpose of this Proxy Statement is to explain how your shares will be voted at the Meeting, or at any adjournments thereof, if you give your proxy to the Proxyholders named above. The Board requests that you sign and return the proxy even if you plan on attending the Meeting.

#### B. HOW TO COMPLETE YOUR PROXY

Please mark your proxy “YES” or “NO” and then date and sign your proxy and file your proxy as described below. **THE BOARD REQUESTS THAT YOU MARK YOUR PROXY “YES” TO ADOPT SHAREHOLDER RESOLUTION 2019-01 TO ESTABLISH THE**

**BAAN O YEEL KON SETTLEMENT TRUST AS A SETTLEMENT TRUST UNDER ANCSA.**

If you have any questions, please contact Judy Evans, BOYK Administrator at (907) 456-6259. You may also contact the Inspector of Elections (the "Inspector"), Kohler, Schmitt & Hutchison, attention Garry Hutchinson at (907) 456-6676 if you have questions concerning submission of a proxy.

**C. FILING OF PROXIES**

All proxies must be timely filed with the Inspector or at the BOYK corporate office in Fairbanks, Alaska. You can:

- Mail your paper proxy to the Inspector at P.O. Box 70607, Fairbanks, Alaska 99707-0607, using the postage prepaid return envelope enclosed in your proxy packet. Be sure to allow sufficient time for your proxy to be received before 5:00 p.m. on Friday, November 1, 2019. After this date and time, the Inspector will no longer accept mailed proxies.
- Or hand deliver your paper proxy to the Inspector at 714 4<sup>th</sup> Avenue, Suite 303, Fairbanks, Alaska. Be sure to allow sufficient time for your proxy to be received before 5:00 p.m. on Friday, November 1, 2019. After this date and time, the Inspector will no longer accept hand delivered proxies.
- Or hand deliver your paper proxy in a sealed envelope to BOYK's corporate office at 529 6<sup>th</sup> Avenue, Suite 202, Fairbanks, Alaska marked to the attention of Ms. Judy Evans, Administrator. Be sure to allow sufficient time for your proxy to be received before 5:00 p.m. on Friday, November 1, 2019. After this date and time, the BOYK office will no longer accept proxies.

**D. REGISTRATION AT THE MEETING**

Registration at the Meeting will be from 10:30 a.m. to 11:30 a.m. on November 2, 2019 at the Doyon Industrial Facility, 615 Bidwill, Fairbanks, Alaska. You may request a ballot for voting at the Meeting when you register. If you do, this will revoke any proxies you have given previously. The Meeting is scheduled to start at 12:00 noon. Lunch will be provided at 11:30 a.m.

**E. VOTING SHARES**

Only the record holders of the voting stock of BOYK at 5:00 p.m., Alaska time, on September 3, 2019 (the "Record Date"), may vote at the Meeting. On the Record Date, BOYK had outstanding 16560.4775 shares of voting stock.

**F. SOLICITATION COSTS**

The expense of preparing and mailing this Notice of Meeting and Proxy Statement, proxy and accompanying materials will be borne solely by BOYK. Mail solicitation of proxies may be

supplemented with telephone, electronic, internet, email, or personal solicitation of proxies, along with paid radio, television and newspaper advertisements.

**G. CERTAIN FINANCIAL TRANSACTIONS OF BOYK**

BOYK has proposed the establishment of the Trust as a "Settlement Trust" pursuant to the Alaska Native Claims Settlement Act ("ANCSA"). Members of the BOYK Board of Directors are automatically Trustees of the Trust. The holders of BOYK's common stock are the beneficiaries ("Beneficiaries") of the Trust. Subject to the requirements of ANCSA, contributions to the Trust may be made at any time at the discretion of BOYK's Board of Directors. BOYK's Directors will be Beneficiaries of the Trust as are the other shareholders of BOYK. BOYK itself has no beneficial interest in Trust. The Trustees will be compensated for their services as Trustees apart from the fees and stipends they receive as Directors of BOYK.

**H. REVOCAION OF PROXY**

If you return a proxy (whether paper or electronic), it is automatically revoked (i) if you thereafter submit a timely, valid proxy bearing a later date, or (ii) if you deliver an instrument of revocation to BOYK before 5:00 p.m. on Friday, November 1, 2019; or (iii) if you register at the Meeting and receive a ballot for voting. After registration closes at the Meeting, your proxy cannot be revoked.

**II.**

**VOTE ON SHAREHOLDER RESOLUTION 2019-01 TO APPROVE THE BAAN O YEEL KON SETTLEMENT TRUST AS AN ANCSA SETTLEMENT TRUST**

A. **IN GENERAL.** On March 9, 2019 the Board of Directors of BOYK adopted a Director Resolution which requests BOYK's shareholders to vote on whether the BAAN O YEEL KON Settlement Trust should be established as an irrevocable Settlement Trust pursuant to ANCSA. BOYK's shareholders are being asked to vote on the following Shareholder Resolution 2019-01 to establish Trust as a Settlement Trust under ANCSA:

***"Resolved, that the BAAN O YEEL KON Settlement Trust shall be established as an ANCSA Settlement Trust effective November 2, 2019."***

The shareholders' vote on the Shareholder Resolution 2019-01 constitutes only a vote to establish the Trust as a Settlement Trust, and is not a vote to convey any specific assets of BOYK to the Trust. The Board of Directors of BOYK has the sole authority to transfer assets to the Trust, except if the assets being transferred are all or substantially all of the assets of BOYK. Only in this very limited circumstance will BOYK's shareholders vote in the future whether specific transfers to the Trust should be made. Shareholder Resolution 2019-01 will be adopted if a majority of those voting on the Shareholder Resolution 2019-01 vote "YES." Each share of BOYK voting stock will have one vote. Cumulative voting will not apply to the vote on the Shareholder Resolution 2019-01.

## **B. WHAT IS A SETTLEMENT TRUST?**

A settlement trust is an entity organized under ANCSA to promote the health, education, and welfare of its beneficiaries and to preserve the heritage and culture of Natives. In December, 2017, Congress passed new tax laws that made significant changes to the law to encourage the use of Settlement Trusts to preserve and increase benefits for Alaska Natives. A Settlement Trust is a separate and independent entity from the Native Corporation that establishes it and is controlled by the provisions of the Trust Agreement of the Settlement Trust. The Native Corporation which establishes the Settlement Trust does not control Trust; instead the Settlement Trust is managed by a board of the Trustees. These Trustees are in charge of investing the assets of the Settlement Trust and providing benefits to the Beneficiaries of the Settlement Trust. Their decisions are controlled by the provisions of the Trust Agreement, and also, by state and federal law. Federal law imposes various requirements on a Settlement Trust, and specifically prohibits a Settlement Trust from operating as a business.

## **C. DESCRIPTION OF THE TRUST**

1. **Overview.** This section summarizes the provisions of the Trust Agreement that governs the Trust. To obtain a copy of the Trust Agreement you can either contact Judy Evans, BOYK Administrator at (907) 456-6259 or you can download one from our corporate website at [baanoyeelkon.com](http://baanoyeelkon.com). Please realize that the following paragraphs are only summaries of what the actual Trust Agreement says, and in case there is any difference between this summary and the Trust Agreement, the Trust Agreement will control over this summary.

BOYK's Board has determined that establishing a "Settlement Trust" under ANCSA is the best method to provide benefits to BOYK's shareholders and therefore asks BOYK's shareholders to vote "YES" on Shareholder Resolution 2019-01. Because it is not known as of the date of this Proxy Statement how many shares of BOYK voting stock will vote upon Shareholder Resolution 2019-01 or will even be present at the Meeting, it is not possible to say how many shares will have to vote in favor of Shareholder Resolution 2019-01 to approve the BOYK Shareholder Trust as a Settlement Trust.

### **2. Specific Provisions of the Trust Agreement.**

(i) **Beneficiaries/Transfers.** The Beneficiaries of the Trust are the holders of BOYK's common stock. The Beneficiaries will hold the same number of the Trust "Units" in Trust and in the same Class as they hold shares of BOYK's common stock. Valid transfers of BOYK's common stock such as by gift or upon death result in an automatic transfer of the corresponding Trust Units, except as noted below. Beneficiaries are not able to sell or pledge their Trust Units, nor can the Beneficiaries create a security interest in Trust Units, in any underlying asset of the Trust or in any distribution (present or future) by the Trust. A Trust Unit can be transferred only at the same time as the related common stock of BOYK is transferred, and then only to the same person who receives the common stock. Because Trust Units are transferable only by transferring BOYK's common stock, Trust Units are said to be "stapled" to the common stock of BOYK.

Upon approval of the Trust, every BOYK shareholder will automatically own the same

number of the Trust Units in the Trust as that shareholder owns BOYK shares. Thus, if you own 100 BOYK shares, you will own 100 Trust Units in the Trust. If the shareholder's BOYK shares are voting, the Trust Units of that shareholder will be voting, but to the extent the shareholder's BOYK shares are non-voting, the Trust Units of that shareholder will be non-voting. When BOYK shares are transferred, such as through a gift of shares or upon the death of a shareholder, the Trust Units associated with those BOYK shares will automatically be transferred to the same person who receives the BOYK shares. The Trust Units in Trust are either voting or non-voting depending on whether the corresponding shares of BOYK are voting or non-voting. In the event BOYK no longer has common stock outstanding, then rules similar to those presently used to determine whether BOYK's stock is voting or non-voting would apply to the Trust Units.

The Trust Agreement provides that if BOYK's shareholders vote to terminate the ANCSA transfer restrictions presently applicable to BOYK's common stock, then the results of such vote shall determine whether the Trust Units will also become transferable. If BOYK's shareholders vote in the future whether to issue additional common stock under ANCSA, such as to "left outs" or the "Elders," then the Beneficiaries shall vote as to whether additional Trust Units will be issued to those who would receive the additional common stock.

(ii) **Trustees.** The Directors of BOYK will be Trustees of the Trust. When a person is elected as a director of BOYK, beginning at the 2020 Annual Meeting, that person will also automatically be elected as a Trustee of the Trust. If a director of BOYK ceases to serve as a director (for example, if a director dies, resigns or is removed by shareholder action), then BOYK is automatically deemed to have removed that person as a Trustee of the Trust. However, (i) if BOYK is merged, dissolved or consolidated, or (ii) if BOYK's shareholders vote to terminate the ANCSA nontransferability restrictions presently applicable to BOYK's common stock, or (iii) if BOYK's common stock no longer elects a majority of BOYK's Board of Directors, then BOYK's directors will no longer be Trustees of the Trust and instead, the Beneficiaries will elect Trustees in the same manner as BOYK's shareholders presently elect Directors. The Trust will pay reasonable meeting fees to the Trustees and reimburse their expenses incurred in performing their duties as Trustees.

(iii) **Tax Benefits of the Trust.** There are significant tax advantages to the Trust. These are discussed below at Part II. D, "Tax Matters" at page 9 below.

(iv) **Cash Benefits.** Under the Trust Agreement, the Trustees may in their discretion provide four different types of discretionary cash benefits listed below. Whether these benefits are provided will be decided by the Trustees. These benefits are generally targeted to BOYK's shareholders, although there are specific eligibility rules for each of these four types of benefit:

- The Heritage Benefit is a cash distribution benefit that if the Trustees declare this distribution, will be based upon the number of the Trust Units each Beneficiary holds.
- The Education Benefit is a benefit that, to the extent the Trustees decide to provide such Benefit, is available to a Beneficiary or to a lineal descendant (including persons adopted before the age of majority) of a Beneficiary and who satisfies other eligibility requirements



established by the Trustees. The Education Benefit is not based upon the Trust Units a particular Beneficiary owns.

- The Elder Benefit is a benefit that, to the extent the Trustees decide to provide such Benefit, is available only to the Beneficiaries who are Natives or descendants of Natives and are at least 65 years of age and that satisfy the eligibility requirements established by the Trustees. The Elder Benefit is not based upon the Trust Units a particular Beneficiary owns.
- The Bereavement Benefit is a benefit that, to the extent the Trustees decide to provide such Benefit, is available upon the death of any Beneficiary and may be paid to any entity or person (whether or not such person is themselves a Beneficiary) in accordance with rules adopted by the Trustees and that satisfy the eligibility requirements established by the Trustees. The Bereavement Benefit is not based upon the Trust Units a particular Beneficiary owns.

These four categories of distributions are independent of each other, and a Beneficiary must satisfy the qualification requirements for a specific type of benefit to be eligible to receive that benefit. In addition, the Trust Agreement authorizes the Trustees in their discretion to use some, all or none, of the annual Net Cash Income of the Trust to directly and indirectly provide other types and forms of benefits that promote the health, education, and welfare of Alaska Natives or to preserve the heritage and culture of Natives. Such other benefits may be provided to (i) the Beneficiaries of the Trust, and/or (ii) to other Alaska Natives and descendants of Alaska Natives so long as such person is a lineal descendant (including persons adopted before the age of majority) of a Beneficiary or of a person whose name appears on the Alaska Native Roll prepared by the Bureau of Indian Affairs pursuant to ANCSA as an original enrollee to BOYK. This is a broad authorization intended to provide the Trustees with flexibility to provide additional benefits beyond those expressly listed in the Trust Agreement. The Trustees have complete discretion whether or not any of the benefits and distributions listed in this section should be provided at any time, including as to amount. Either income or principal of the Trust can be used to provide any of the benefits listed in this section.

(v) **Amendments of the Trust and Trust Termination.** The Trust will continue forever unless action is taken to modify or terminate Trust. The Trust Agreement permits Trust to be amended in several ways. First Trustees have a power to make technical amendments to the Trust, such as to clarify or better reflect intent or to correct errors within the Trust Agreement. Second, Trustees have the power in conjunction with the Superior Court for the Fourth Judicial District, State of Alaska, to make amendments to the Trust or to terminate the Trust in the event that an event occurs that has a Material Adverse Effect on Trust. An example would be a change in ANCSA that makes it unlikely that the purposes of the Trust can be carried out. Third, the Trustees have the power in conjunction with the Beneficiaries to make any change to the Trust Agreement or to terminate the Trust. This power can be exercised annually during the period of January 1 – June 30, beginning in 2020. In addition, this power can be exercised at any time if the Trustees determine that an emergency exists. To amend or terminate Trust under this provision, two-thirds of the Trustees and a majority of the Trust Units with voting rights must approve the amendment. No change could be made to cause the assets of the Trust to return to BOYK and if the Trust is terminated, the assets of the Trust are distributed pro rata to the Beneficiaries.

(vi) **Trust is Irrevocable.** The Trust is irrevocable. That is, once the Trust is established, BOYK cannot change its mind and terminate the Trust and receive the assets back. However, as discussed above there are circumstances in which the Trust may be terminated or modified. If the Trust is terminated, its assets would be distributed upon termination to the Beneficiaries. No modification of the Trust can cause Trust assets to be returned to BOYK.

(vii) **Creditors.** The assets of the Trust are generally not available to BOYK's creditors or to the creditors of the Beneficiaries. In certain limited circumstances set forth in ANCSA, the assets of the Trust would be available to the creditors of BOYK who are creditors at the time the assets are transferred to the Trust if adequate assets are not left in BOYK to satisfy those debts. Those who may become creditors of BOYK after assets are transferred to the Trust will not be able to reach those assets in Trust.

(viii) **Transfers to the Trust.** The law requires a shareholder vote regarding Settlement Trusts in only two circumstances: (i) to establish the Settlement Trust and (ii) to transfer all or substantially all of BOYK's assets to the Settlement Trusts. Thus, the actual decision to transfer assets to the Trust will be made by a majority vote of the BOYK Board without a further shareholder vote, provided that such transfer is not of all or substantially all of BOYK's assets. The BOYK Board has the flexibility to make future contributions of cash or other property to the Trust in years after the initial contribution. The amount of the actual contributions to the Trust is in the sole discretion of the Board, as is the timing of any such contributions. The BOYK Board presently intends to transfer sufficient assets to the Trust from time to time so that the purposes of the Trust can be achieved. The exact contributions that will be made to the Trust are not certain at this time, as BOYK's future financial status (including its future profits) is unknown and will depend on a wide variety of factors such as the actual cash flow from BOYK's business operations. The present Board intends to retain sufficient assets in BOYK so that BOYK can conduct its operations and pay all its debts and obligations following any and all Trust contributions. Once assets are placed in the Trust, the assets cannot go back to BOYK.

(ix) **Investment Policy and Fiduciary Duties.** The investment policy and allocation of the Trust assets would be set by the Trustees, and is changeable by them upon the affirmative vote of a majority of the Trustees. The Trust Agreement allows the funds and assets within Trust to be invested in common with any other funds for which Trustees are also fiduciaries, so long as adequate records are maintained as to the different fiduciary funds. The Trustees will have the discretion to hire such administrators, employees, investment consultants, financial advisors, or money managers to advise Trustees and/or to act in such capacities as Trustees shall designate. The Trustees also will have the broad power to engage such financial institutions as they deem necessary to perform their duties, including to act as custodians for funds, as brokers, etc. The Trust Agreement allows Trustees to rely without liability upon what these professionals advise Trustees. The officers of the Trust are required to act in good faith regarding Trust.

(x) **Indemnification, etc.** In general, the Trust's Trustees and officers will have liability if they do not discharge their duties to the Trust with the respective standard of care. The Trust Agreement provides that the Trustees are conclusively presumed to have satisfied this standard in certain circumstances, including (a) relying in good faith on outside advisors (such as attorneys, accountants, financial advisors, and money managers), (b) making good faith estimates

of the Net Cash Income for distribution, and (c) relying in good faith on the genuineness of a document. These listed circumstances are not the only circumstances in which Trustees will be conclusively presumed to have met the standard of care. The Trust Agreement further provides that the Trust and BOYK would indemnify all Trustees and officers to the extent Trustees and officers meet the respective standard of care described above.

(xi) **Reports to Beneficiaries.** Annual tax returns and financial statements would be prepared for the Trust. Summaries of these financial statements would be provided annually to the Beneficiaries at the same time as BOYK's audited financial statements or summaries thereof are annually sent to the shareholders.

(xii) **Dissenters' Rights.** No dissenters' rights would be applicable to the Trust, except as may be required by Alaska state law in the event of a transfer of all or substantially all of BOYK's assets to the Trust. This means that at present, there would be no dissenters' rights on either the establishment of the Trust or the anticipated transfers to fund the Trust.

#### **D. TAX MATTERS**

1. **Tax Rules Applicable To Settlement Trusts.** The law permits a Settlement Trust to elect special tax treatment under a provision known as "section 646." Trust will make this election, which will cause the following tax rules to apply to the Trust and the Beneficiaries.

(a) **Contributions.** Contributions to the Trust are non-taxable to the Beneficiaries. BOYK can elect to deduct the amount of the contribution, which will cause the Settlement Trust to have income in the same amount. This will allow the Trust to be funded by BOYK on a pre-tax basis, which means that BOYK can transfer amounts to the Trust without first having to pay corporate tax on the amounts being contributed.

(b) **Distributions.** Distributions of current or accumulated taxable income of the Trust will be tax free to the Beneficiaries. Distributions of additional amounts (above the current or accumulated taxable income) in a given year could be taxable as corporate distributions if BOYK then has any current or accumulated earnings and profits, otherwise these distributions would also be tax free. The Trustees do not plan to make any distributions that are taxable to the Trust's Beneficiaries.

(c) **Trust Income.** The Trust will pay tax on its ordinary income (for example, the amount of any contributions for which BOYK has elected deductibility, as well as any interest, royalties and rentals received by the Trust) at 10%, and on its qualifying dividends and long-term capital gains at 0%. Most dividends paid by United States corporations are "Qualifying dividends."

(d) **Beneficiary Tax Reporting.** Beneficiaries are not required to report distributions of the Trust's current or accumulated taxable income on their own personal income tax returns. If any taxable distributions are made by the Trust (which is unlikely), Beneficiaries would have to report those amounts on their individual tax returns.

2. **Illustration of Tax Savings.** If one assumes that BOYK has one investment that generates \$1,000,000 of fully taxable income each year and that all of the income produced by the investment will be distributed as benefits to BOYK's shareholders after all taxes are paid, BOYK's shareholders as a group will keep \$666,000 after the shareholders pay their taxes. By contrast, if the Trust has that same income of \$1,000,000 and then distributes it to the Beneficiaries to provide the same benefits after trust level taxes are paid, Trust Beneficiaries as a group will keep \$900,000. This tax savings is attributable to the much lower tax rates applicable to the Trust as compared with BOYK, and also, the fact that Beneficiaries do not pay tax on distributions of the Trust's after-tax income.

	IF BOYK PROVIDES BENEFITS (INCLUDING DIVIDENDS)	If the Trust PROVIDES BENEFITS (INCLUDING DISTRIBUTIONS)
Assumed Income	\$1,000,000	\$1,000,000
Tax At Entity Level (Corporation or Trust)	(\$280,000)	(\$100,000)
Available For Distribution to Shareholders or Beneficiaries	\$720,000	\$900,000
Shareholder/Beneficiary Level Tax (assumed to be a blended 7.5% tax rate on dividends, but could actually be higher depending on benefit type)	(\$54,000)	(\$0)
Net to Shareholders or Beneficiaries After All Tax	\$666,000	\$900,000

*As the above Table shows, the net amount of the entity's taxable income ultimately kept by BOYK's Shareholders after taxes can be significantly increased if the Trust is used to pay the same benefits (such as dividends) to the Trust's Beneficiaries.*

**E. DISCUSSION OF THE ADVANTAGES To the Trust**

1. **Protection From Corporate Creditors.** The assets of a Settlement Trust are not generally available to the creditors of the Native Corporation that creates the Settlement Trust. This is an important protection, because it means that the assets of the Trust should not be impacted by what may happen to BOYK.

2. **Tax Savings.** After the section 646 election has been made by the Trust, the distributed earnings of the Trust are generally subject to only one level of tax at Trust level. The Trust will pay tax on its income at 10% (0% with regard to long term capital gains), and shareholders/Beneficiaries will not pay any tax on Trust earnings that are distributed to them. Under present tax law, the tax regime applicable to the Trust should result in significant overall tax savings and should increase the net benefit amounts for the Beneficiaries. A more complete discussion of this is set forth above under “Tax Matters.”

3. **Permanence.** The Trust can be made to last for a long time, perhaps forever. Specifically, Trust will last as long as is set forth in the Trust Agreement. This is different from the so-called “permanent funds” that some Native Corporations have established. Those “permanent funds” were typically corporate funds that were set aside in a separate corporate account with a financial institution. Not only are those funds available to the corporate creditors, but also, if a future Board decides to eliminate the permanent fund and spend the amounts in the permanent fund, the Board can do so. Thus, a “corporate permanent fund” is usually not very permanent.

The Trust Agreement provides that the Trust is “perpetual” -- that is, it will last forever unless Trustees and the holders of the Trust Units with voting rights take certain steps to terminate Trust. This power is available to the Trustees acting in conjunction at periodic intervals with the holders of the Trust Units with voting rights. The first such point at which termination could be considered is during the period January 1, 2020 – June 30, 2020. Thereafter termination could be considered annually, or at any time if the Trustees determine that an emergency exists. To terminate the Trust, at least two-thirds of the Trustees and a majority of the holders of the Trust Units must vote to terminate the Trust during the specified periods.

4. **No Business Operations.** The Trust is prohibited by ANCSA from operating as a business. This should serve to reduce the possibility that the assets of the Trust will be lost through poor management. The Trust Agreement also contains this prohibition.

## **F. DISCUSSION OF DISADVANTAGES To the Trust**

There are potential disadvantages to Settlement Trusts which shareholders should consider.

1. **\$2,000 Per Year Safe Harbor.** Presently the first \$2,000 received from a Native Corporation may not be used in determining eligibility to receive certain need-based federal benefits, such as food stamps, educational assistance, Medicaid, and Aid to Dependent Children. ANCSA requires that an “interest in a Settlement Trust” is not to be considered in determining eligibility, but it is not clear whether either this provision or the \$2,000 provision protects the benefits provided by a Settlement Trust (including cash distributions). The Board believes that distributions from and benefits provided by the Trust should be protected by the same rules as are applicable to BOYK’s own distributions and benefits. That is, the first \$2,000 of benefits (including cash distributions) should be excluded from the recipient’s income when determining eligibility for needs based federal programs. This includes food stamps and educational assistance.

2. **Corporate Needs.** Once assets are placed into the Trust, those assets cannot be returned to BOYK. This is because Trust is irrevocable under the terms of the Trust Agreement. This is an advantage of the Trust, but may also be a disadvantage to BOYK to the extent that the assets in Trust will not be available to BOYK in the future. The decision on whether to contribute assets (and if so, what assets) to the Trust will be made by BOYK's Board in the future. The Board intends to retain sufficient assets in BOYK so that BOYK can conduct its operations following any contributions into the Trust and so that in all events BOYK will be solvent.

**G. RECOMMENDATION**

**BOYK'S BOARD REQUESTS THAT YOU VOTE YES ON SHAREHOLDER RESOLUTION 2019-01 TO ESTABLISH THE BAAN O YEEL KON SETTLEMENT TRUST AS AN ANCSA SETTLEMENT TRUST.**

