

CITY OF BETHEL

City Council Meeting Agenda, April 23, 2019 – 6:30 PM

Website: <https://www.cityofbethel.org/council>

Location: Council Chambers, City Hall, 300 Chief Eddie Hoffman Highway, Bethel

Council Members: Fred Watson, Mayor; Thor Williams, Vice-Mayor; Leif Albertson;
Mitchell Forbes; Perry Barr; Carole Jung-Jordan; Fritz Charles



1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PEOPLE TO BE HEARD – FIVE MINUTES PER PERSON

5. APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA

6. APPROVAL OF MEETING MINUTES

- 6.1. *4-9-2019 Regular Meeting Minutes
- 6.2. *4-11-2019 Special City Council Budget Meeting

7. REPORTS OF STANDING COMMITTEES

- 7.1. Committees and Commissions Agendas and Draft Meeting Minutes

8. SPECIAL ORDER OF BUSINESS

9. UNFINISHED BUSINESS

- 9.1. Public Hearing Of Ordinance 19-04: Authorizing The Disposal Of Lot 4, Block 15, United States Survey 3230 A & B, Bethel Recording District 4TH Judicial District (781 Third Ave.) Via Lease Pursuant To BMC 4.08.030(A) (City Manager Williams)
- 9.2. Public Hearing Of Ordinance 18-22: Authorizing The Disposal Of Property (Vacant Building Formerly Known As The Police Annex And/Or The Bojangles Building) Pursuant To BMC 4.08.030(A) (City Manager Williams)

10. NEW BUSINESS

- 10.1. *Introduction Of Ordinance 19-05: Amending Title 2.04 To Provide For Compensation And Benefits For Bethel City Council Members (Council Member Charles)
- 10.2. *Introduction Of Ordinance 19-06: Authorizing The Disposal Via Lease Of Lot 5A Block 9, United States Survey 3230, Plat 98-6 (280 third Ave.) (City Manager Williams)
- 10.3. *Introduction Of Ordinance 19-07: Authorizing The Disposal Of Lot 2, Commercial Center Subdivision, Plat 96-15 (831 River Street) Via Lease (City Manager Williams)
- 10.4. *Introduction Of Ordinance 19-08: Approving A Subdivision Agreement Between Orutsarmuit Native Council And The City Of Bethel (Planning Commission)

Posted April 17, 2019. at City Hall, AC Co., Swanson's, and the Post Office.

Kevin Morgan, Asst. City Clerk

City Clerk's Office Contact Information: Email cityclerk@cityofbethel.net Phone 907-543-1384

Items noted with an asterisk (*) are consent agenda items, unless removed from the consent agenda they are approved upon the approval of the agenda. Ordinances introduced at this meeting may be set for public hearing at the next regular meeting.

The Council may by unanimous consent, after 12:00 AM Fix the Time to Which To Adjourn until the following day at 6:30 PM

11. REPORTS

- 11.1. Mayor's Report
- 11.2. City Manager's Report
- 11.3. Clerk's Report

12. COUNCIL MEMBER COMMENTS

13. EXECUTIVE SESSION

- 13.1. In Accordance With AS 44.62.310(c)2: Subjects That Tend To Prejudice The Reputation And Character Of Any Person, Provided The Person May Request A Public Discussion – Quarterly Evaluation, City Attorney (Mayor Watson)
- 13.2. In Accordance With AS 44.62.310(c)(1): Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity And AS 44.62.310(c)(4): Matters Involving Consideration Of Government Records That By Law Are Not Subject To Public Disclosure -Maczynski v. City of Bethel (4BE-18-165-CI) and City of Bethel v. Faulkner-Walsh Contractors, et al (4BE-16-034CI); and potential litigation against LKSD (City Manager Williams)
- 13.3. In Accordance With AS 44.62.310(c)2: Subjects That Tend To Prejudice The Reputation And Character Of Any Person, Provided The Person May Request A Public Discussion – Quarterly Evaluation, City Manager (Vice-Mayor Williams)

14. ADJOURNMENT

Posted April 17, 2019. at City Hall, AC Co., Swanson's, and the Post Office.

Kevin Morgan, Asst. City Clerk

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The Council may by unanimous consent, after 12:00 AM Fix the Time to Which To Adjourn until the following day at 6:30 PM

1. CALL TO ORDER

A Regular Meeting of the Bethel City Council was held on April 9, 2019 at 6:30 p.m., in the Council chambers, Bethel, Alaska.

With the Mayor and Vice-Mayor participating telephonically, the City Clerk called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Comprising a quorum of the Council, the following members were present:
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Council Member Carole Jung-Jordan (telephonically) Council Member Leif Albertson Council Member Perry Barr Council Member Fritz Charles Council Member Mitchell Forbes Mayor Fred Watson (telephonically) Vice-Mayor Thor Williams (telephonically)

Members Absent:

Also in attendance were the following:

City Manager Pete Williams, City Attorney Patty Burley, City Clerk Lori Strickler

Main Motion: Nominate Council Member Mitchell Forbes as Mayor Pro Tempore.

Moved by: | Albertson
Seconded by: | Barr

In favor: | Carole Jung-Jordan, Leif Albertson, Perry Barr,
Fritz Charles, Mitchell Forbes, Fred Watson, Thor Williams
Opposed: | None
Results: | Motion Carries

4. PEOPLE TO BE HEARD – Five minutes per person

Hugh Short-

Spoke in favor of the Blue Sky Subdivision. Provided summary information on the housing market for the community of Bethel. Stated that overcrowding is an issue for the community.

Lyman Hoffman

Spoke in favor of the Blue Sky Subdivision. Stated Bethel has the highest unmet need for housing. Even if the subdivision was developed the community would still need 400 houses to meet the need of the people in this community.

Beverly Hoffman-

There is an early spring which means an unsightly mess; encouraged the City to get information out on clean up green up. Cama-i just wrapped up this weekend and brought concerns that the event will be charged tax this year. Hopes the Council will consider reversing the taxes owed by the Bethel Council on the Arts. Encouraged the Council to be diligent for healthy infrastructure and how important it is for the community.

Sunny Venes-

Spoke in favor of the Blue Sky Subdivision. Bethel is growing and the community needs space for home development.

Dan Winkelman, CEO Yukon Kuskokwim Health Corporation-

Spoke in favor of the Blue Sky Subdivision. Stated that the organization, currently, is in desperate need of housing. With the development of the new hospital, this need will grow. With affordable housing, there will be more economic development in the community.

Jeffery Venes-

Spoke in favor of the Blue Sky Subdivision. With the schools in the community, the development of the land would be a great opportunity for people to go to work. It is important to have a place for development and will help recruit people to Bethel. Stated his love for this community and all of the positive things that happen here.

5. APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA

Motion to approve the consent and regular agenda.

Moved by: | Leif Albertson
Seconded by: | Perry Barr

In favor: | Carole Jung-Jordan, Leif Albertson, Perry Barr,
Fritz Charles, Mitchell Forbes, Fred Watson, Thor Williams
Opposed: | None
Results: | Motion Carries

Albertson - Remove New Business Item 10.1 from the consent agenda.

Postpone Executive Session Items 13.1 and 13.2.

Moved by: | Thor Williams
Seconded by: | Fred Watson
In favor: | Carole Jung-Jordan, Fritz Charles, Fred Watson,
Thor Williams
Opposed: | Leif Albertson, Perry Barr, Mitchell Forbes
Results: | Motion Carries

6. APPROVAL OF MEETING MINUTES

Item 6.1. - *3-26-2019 Regular City Council Meeting Minutes
Passed on the consent agenda.

7. REPORTS OF STANDING COMMITTEES

Port Commission- No report.

Planning Commission, Kathy Hanson-A meeting will be held on Thursday.

Community Action Grant Technical Review Board, Council Member Albertson-
A meeting has not been held since the last City Council Meeting.

Parks, Recreation, Aquatic Health and Safety Center Committee, Council Member Forbes-
Hoping Council will continue to allocate funds for infrastructure and recreation. Started
the 4th of July planning. Working on items for the land and water conservation grant.

Finance Committee, Council Member Barr-
A meeting has not been held since the last City Council meeting.

Public Works Committee, Council Member Jung-Jordan-
A meeting will be held next Wednesday.

Public Safety and Transportation Commission, Council Member Charles-
A quorum of the body wasn't established, a meeting was not held.

Item 7.1. - Agendas And Draft Meeting Minutes Of Committees And Commissions

8. SPECIAL ORDER OF BUSINESS

**Item 8.1. - City Of Bethel Proclamation: Establishing March 13th As Pete Kaiser Day
(Mayor Watson)**

9. UNFINISHED BUSINESS

Item 9.1. - Public Hearing Of Ordinance 19-02: Approving A Subdivision Agreement Between Blue Sky Mke, LLC And The City Of Bethel (Planning Commission)

Mayor Pro Tempore Forbes opened the Public Hearing.

No one present to be heard.

Mayor Pro Tempore Closed the Public Hearing.

Main Motion: Motion to Adopt was made by Barr and Seconded by Albertson at the February 12, Regular City Council Meeting.

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Primary Amendment

Amend to strike the 11th bullet under the subdivision agreement on Page 3 of the agreement and insert Developer to pay for rate study to be requested by the City to determine specific water and sewer rates for residents of Blue Sky Subdivision.

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Secondary Amendment

Insert language to require the developer to purchase two water trucks and two sewer trucks.

Moved by:	Thor Williams
Seconded by:	

Motion does not carry due to a lack of a second.

Secondary Amendment

To insert Larsen Subdivision as part of the rate study.

Moved by:	Thor Williams
Seconded by:	

Motion does not carry due to a lack of a second.

Suspend the rules to hear from Hugh Short, representative of the developer.

Moved by:	Perry Barr
Seconded by:	Leif Albertson

Item 9.2. - Public Hearing Of Ordinance 19-03: Amending Chapter 13.04.180 Of The Bethel Municipal Code, Holding Tank Service (Public Works Committee)

Mayor Pro Tempore Forbes Opened the Public Hearing.

Eric Middlebrook spoke in favor of the proposed changes.

Mayor Pro Tempore Forbes Closed the Public Hearing.

Motion to Adopt was made by Forbes and Seconded by Jung-Jordan on the March 26, 2019 Regular City Council Meeting.

In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Item 9.3. - Public Hearing Of Budget Ordinance 18-12(I): Amending The Adopted FY 2019 Budget-Public Safety-PTO Cash Out (City Manager Williams)

Mayor Pro Tempore Forbes opened the Public Hearing.

No one present to be heard.

Mayor Pro Tempore Forbes closed the Public Hearing.

Main Motion: Adopt Budget Ordinance 18-12(I).

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

10. NEW BUSINESS

Item 10.1. - *Introduction Of Ordinance 19-04: Authorizing The Disposal Of Lot 4, Block 15, United States Survey 3230 A & B, Bethel Recording District 4TH Judicial District (781 Third Ave.) Via Lease Pursuant To BMC 4.08.030(A) (City Manager Williams)

Main Motion: Introduce Ordinance 19-04.

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Item 10.2. - *AM 19-26: Appointment Of Committee Member Joni Beckham-Finance Committee (Mayor Watson)

Passed on the consent agenda.

Item 10.3. - AM 19-27: Authorizing Administration To Prepare Ordinances For Property Disposal Through Lease Renewal For BTP, 831 River Street And General Communication Corp. 280 Third Ave pursuant To BMC 4.08.050C (City Manager Williams)

Main Motion: Approve AM 19-27.

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Item 10.4. - AM 19-28: Direct Administration To Complete And Submit A Community Transportation Program Project Nomination By The May 15, 2019 Deadline With The Requisite Cash Match Approved By City Council That Will Be Reviewed, Scored, And Hopefully Selected For Inclusion In The Statewide Transportation Improvement Program (STIP) 2020-2023 (City Manager Williams)

Main Motion: Approve AM 19-28.

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Primary Amendment

Amend to strike 9.03% and insert 14% in the amount of \$175,004.

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Item 10.5. - *IM 19-04: Presentation Of The City's Water & Sewer Services Expenditures Compared To Budget From July 1, 2018 To March 31, 2019
– Utilities Maintenance – Water & Wastewater Activity Report
(City Manager Williams)

Passed on the consent agenda.

Item 10.6. - *City Attorney Leave - June 6 & 7 and June 17-28 (Mayor Watson)
Passed on the consent agenda.

11. REPORTS

Item 11.1. - Mayor's Report

Item 11.2. - City Manager's Report

Item 11.3. - Clerk's Report

12. COUNCIL MEMBER COMMENTS

Council Member Albertson-
Thanked the Council for a very productive meeting. Additionally provided concern that the E Session was postponed. Explained the Council could make a motion to reconsider if the Council Members who voted in favor of the motion to postpone asked for reconsideration.

Council Member Forbes-
Echoed Council Member Albertson's concerns with the Executive Session items from the agenda.

Council Member Barr-
As a reminder, stay off the river, it isn't safe. Happy Spring.

Council Member Jung-Jordan-
Happy Birthday to Perry Barr.

Council Member Charles-
Wished his: Mom, Nancy Charles; Wife, Sharon Charles; Father-in-law, Charles Allen; Niece, Andrea Allen; and Niece, Miss Weissman; a Happy birthday.

13. EXECUTIVE SESSION

Item 13.1. - In Accordance With AS 44.62.310(c)2: Subjects That Tend To Prejudice The Reputation And Character Of Any Person, Provided The Person May Request A Public Discussion – Quarterly Evaluation, City Attorney (Mayor Watson)

Item postponed.

Item 13.2. - In Accordance With AS 44.62.310(c)(1): Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity And AS 44.62.310(c)(4): Matters Involving Consideration Of Government Records That By Law Are Not Subject To Public Disclosure -Maczynski v. City of Bethel (4BE-18-165-CI) and City of Bethel v. Faulkner-Walsh Contractors, et al (4BE-16-034CI); and potential litigation against LKSD (City Manager Williams)

Item postponed.

14. ADJOURNMENT

Main Motion: Adjournment.

Moved by:	Fritz Charles
Seconded by:	Carole Jung-Jordan
In favor:	Carole Jung-Jordan, Leif Albertson, Fritz Charles
Opposed:	Perry Barr, Mitchell Forbes
Results:	Motion does not carry

Moved by:	Leif Albertson
Seconded by:	Perry Barr
In favor:	Carole Jung-Jordan, Leif Albertson, Perry Barr, Fritz Charles, Mitchell Forbes
Opposed:	None
Results:	Motion Carries

Meeting ended at 8:59 p.m.

ATTEST:

Mitchell Forbes,
Mayor Pro Tempore

Lori Strickler, City Clerk

1. CALL TO ORDER

A Special Meeting of the Bethel City Council was held on April 11, 2019 at 6:00 p.m., in the Council chambers, Bethel, Alaska.

A quorum of the Council could not be established, the following members were present:
Council Member Leif Albertson Council Member Fritz Charles Council Member Mitchell Forbes
Members Absent:
Council Member Carole Jung-Jordan Council Member Perry Barr Mayor Fred Watson Vice-Mayor Thor Williams
Also in attendance were the following:
Assistant City Clerk Kevin Morgan, Finance Director Christine Blake, Assistant Finance Director Cindy Sharp, Grant Manager John Sargent

With no quorum the meeting ended at 6:10 p.m.

ATTEST:

Fred Watson, Mayor

Kevin Morgan,
Assistant City Clerk



Planning Commission Meeting Agenda
Regular Scheduled Meeting Thursday, January 10, 2019– 6:30PM
CITY HALL COUNCIL CHAMBERS 300 CHIEF EDDIE HOFFMAN HIGHWAY

MEMBERS

Kathy Hanson
Chair
Term Expires 12/2021

Lorin Bradbury
Vice-Chair
Term Expires 12/2020

John Guinn
Commission Member
Term Expires 12/2019

Alex Wasierski
Commission Member
Term Expires 12/2018

Shadi Rabi
Commission Member
Term Expires 12/2019

Scott Campbell
Commission Member
Term Expires 1/2020

Thor Williams
Council Representative
Term Expires 10/2019

Betsy Jumper
Ex-Officio Member

Pauline Boratko
Recorder

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PEOPLE TO BE HEARD – (5 Minute Limit)
- IV. APPROVAL OF THE AGENDA:
- V. APPROVAL OF THE MINUTES:
 - A. No meeting due to lack of quorum- November 8, 2018
 - B. Regular Scheduled Meeting- December 13, 2018
- VI. NEW BUSINESS:
 - A. PUBLIC HEARING FOR CONDITIONAL USE PERMIT: Notice is hereby given that on October 4, 2018, the City of Bethel Planning Office received an application for a Conditional Use Permit to open a retail marijuana store. The legal description is United States Survey 3230, lots 10 and 11, block 11. The physical address is 660 3rd Avenue Suite B. (ACTION ITEM)
 - B. George Young- Appeal to Firearms and Ammunition Sales at 9130 Ptarmigan-Tundra Ridge Subdivision.
- VII. PLANNER'S REPORT
- VIII. SPECIAL ORDER OF BUSINESS
- IX. COMMISSIONER'S COMMENTS
- X. ADJOURNMENT

By: Planning Commission
Public Hearing: March 8, 2018
Public Hearing: April 11, 2019
Adopted:

**CITY OF BETHEL PLANNING COMMISSION
SUPPLEMENTAL RESOLUTION SERIAL NO. 2019-03**

**A RESOLUTION OF THE BETHEL PLANNING COMMISSION CONDITIONALLY APPROVING THE
PRELIMINARY PLAT REQUEST FROM THE ORUTSARARMIUT NATIVE COUNCIL FOR THE
CIULKULEK SUBDIVISION, BETHEL, ALASKA**

WHEREAS, the Orutsararmiut Native Council, owner of Orutsararmiut Subdivision, requested a review of a Preliminary Plat; and

WHEREAS, notice of the application was mailed to all property owners within 600 feet of the exterior boundary of the proposed Subdivision on February 27, 2018; and

WHEREAS, a notice of the Planning Commission public hearing and review of the Preliminary Plat was published in the Delta Discovery on February 28, 2018 and March 7, 2018; and

WHEREAS, the Planning Commission held a public hearing on the Preliminary Plat request on March 8, 2018; and

WHEREAS, at the March 8, 2018 meeting the Planning Commission approved the Preliminary Plat request with conditions; and

WHEREAS, one of the Preliminary Plat conditions requires the Developer to enter into a Subdivision Agreement; and

WHEREAS, between the time the Preliminary Plat was applied for as Orutsaramiut Subdivision and the time it was approved, the Developer began to refer to the development as the Ciulkulek Subdivision; and

WHEREAS, the Bethel Planning Commission deliberated on the Orutsaramiut Subdivision (Ciulkulek Subdivision) Application for a Preliminary Plat, taking into account the information submitted by the Applicant, the evaluation and recommendation by Staff contained in the Planner's Report, Public Testimony, the applicable provisions of the Bethel Municipal Code and Comprehensive Plan, and other pertinent information brought before them; and

WHEREAS, the Bethel Planning Commission adopted the following Findings of Fact; and

NOW THEREFORE BE IT RESOLVED, the Bethel Planning Commission hereby initially approved the Orutsararmiut Native Council application on March 8, 2018 as restated herein:

1. All platting, permitting, and construction processes must conform to the City of Bethel Municipal Code.
2. The Subdivider is responsible for obtaining and conforming to all required local, state and federal permits.
3. Site Plan Permits must be obtained from the Bethel Planning Department for all components of Subdivision Development.
4. The subdivision must show and provide dedicated areas/easements for locations of neighborhood dumpsters.
5. Subdivision Development Agreement. The Subdivider shall enter into a Subdivision Development Agreement with the City of Bethel which meets, at a minimum, the requirements set out in this report. All of the conditions and expectations necessary for Final Plat approval to be listed by both the City and the Subdivider in the Subdivision Agreement. Both the City and the Subdivider to work cooperatively to complete the Subdivision Agreement within no more than sixty (60) days from the date of the Preliminary Plat approval. No work is to commence until the Subdivision Development Agreement is completed.

The Subdivision Development Agreement shall include, but not be limited to, the following:

- a. A designation of the public improvements required to be constructed.
- b. The construction and inspection requirements of the City or utility for which the improvements are constructed.
- c. The time schedule for completing the improvements.
- d. A performance guarantee.
- e. The allocation of costs between the City and the subdivider for required public improvements.
- f. A reasonable warranty on public improvements.
- g. The consent of the subdivider for the ownership of specified public improvements to vest with the City upon final acceptance by the City.
- h. A warranty that the Subdivider has title to the Subdivision property and the authority to execute the Subdivision Development Agreement.
- i. A provision requiring the Subdivider to submit plans, specifications, descriptions of work, the limits of the work area, the methods to be employed, a traffic control plan, and any other pertinent data and information necessary for City officials to evaluate the proposed installation.
- j. A provision that work shall not commence until plans have been approved by the Planning Department and the Public Works Department and the notice to proceed is given.
- k. Final Plat not to be approved until the City accepts all improvements.

NOW THEREFORE BE IT FURTHER RESOLVED the Planning Commission hereby adopts the following additional findings and conditions:

BMC § 17.12 *Before a Preliminary Plat can be approved, with or without conditions, the following BMC platting requirements must be met:*

17.12.030(A) **An original reproducible copy of the Preliminary Plat and all information, certifications and material required under this section shall be submitted to the Platting officer at least thirty (30) calendar days prior to the Planning Commission meeting at which consideration of the Preliminary Plat is desired.**

Finding: The Preliminary Plat was timely filed having been filed on February 23, 2017. More than thirty (30) calendar days passed from the time of the filing of the Preliminary Plat request to the time of the Planning Commission meeting on March 8, 2018.

17.12.030(A)(1) **The Preliminary Plat submission shall include the Preliminary Plat Fee:**

Finding: The Preliminary Plat fee of Three Hundred (\$300) Dollars was paid on February 23, 2017.

17.12.030(A)(2) **A certificate of ownership indicating the date the land proposed to be subdivide was acquired, together with the book and page of each conveyance to the present owner or owners as recorded in the Bethel District Recorder's Office.**

Finding: Proof of ownership was filed with the Bethel Recorder's Office on April 4, 2012, document number: 2012-000358-0 indicating the land was conveyed to the Orutsararmiut Native Council on February 21, 2012 containing 17.24 acres located at Lot 13, U.S. Survey No. 4117 Alaska, located approximately 1 mile west of Bethel, Alaska, on the north side of the Bethel-airport road, as shown on the plat of survey filed on May 9, 1966.

17.12.030(A)(3) **A statement that all taxes and special assessments pertaining to the property have been paid or that a payment schedule satisfactory to the City has been arranged.**

Finding: The Finance Department has certified that no taxes or other bills are currently due and/or owing by the Developer.

17.12.030(A)(4) **A list of the names and addresses of the owners of record of all property contiguous to and across a public right-of-way from the proposed subdivision**

Finding: This list was provided by the subdivider and verified by the City of Bethel's Planning Department pursuant to BMC 17.04.025(D) with notices being sent by the City's Planning Department on February 27, 2018.

17.12.030(A)(5) **Completed applications for all waivers, variances or other special permissions required under the BMC.**

Finding: The property sits on wetlands and requires an Army Corp. of Engineers Wetland Permit. The Corp. Wetland Permit was applied for on January 10, 2018. Orutsararmiut Tribal Council returned the appropriate documents to the Corp. on April 1, 2019 for signatures. Before any site plan permits are issued, the Subdivider must file copies of the Wetland Permits with the City of Bethel.

17.12.030(B) **The Preliminary Plat shall show the land to be subdivided and the entire tract, plat, parcel or survey in which the land proposed to be subdivided is located, including all subdivided land within the tract, plat, parcel or survey.**

Finding: A review of the Preliminary Plat confirms it does show the land to be subdivided and the entire tract, plat, parcel or survey in which the land proposed to be subdivided is located, including all subdivided land within the tract, plat, parcel or survey.

17.12.030(B)(1) **The plat shall contain a notation that the Plat is Preliminary**

Finding: A review of the Plat shows the notation is contained as required.

17.12.030(B)(2) **The Plat shall contain information regarding the date, scale and Northpoint.**

Finding: A review of the Plat shows the required information is provided as required.

17.12.030(B)(3) **The Plat shall contain the name of the proposed subdivision.**

Finding: The Preliminary Plat contains the name Ciullkulek Subdivision.

- 17.12.030(B)(4)** **The Plat shall show the location of the property by U.S. Survey, section, township and range.**
 Finding: This information is shown on the Preliminary Plat.
- 17.12.030(B)(5)** **The Plat shall contain the names and addresses of the subdivider(s) and the surveyor preparing the plat.**
 Finding: This information is shown on the Preliminary Plat.
- 17.12.030(B)(6)** **The Plat shall contain a citation of existing covenants, reservations, deed restrictions, trails and easements on the property, if any.**
 Finding: This requirement is not applicable – the proposed subdivision contains no covenants, reservations or deed restrictions.
- 17.12.030(B)(7)** **The Plat shall indicate zoning on and adjacent to the proposed subdivision and any other land use designation of this area as established under BMC Title 18.**
 Finding: This section was not complied with. Zoning for the subdivision was indicated as General Use, however zoning for the adjacent lands was not indicated. Before the Final Plat can be authorized, zoning shall be clearly shown on the subdivision itself as well as on all adjacent lands.
- 17.12.030(B)(8)** **The Plat shall indicate the approximate acreage, dimensions and size of each lot of the proposed subdivision, including rights-of-way and easements, and the number of lots contained therein;**
 Finding: This requirement was fully complied with on the Preliminary Plat.
- 17.12.030(B)(9)** **The Plat shall indicate the location and size of existing and proposed utility systems or other improvements including, but not limited to, water, sewer, telephone, cable and electrical in and within two hundred (200) feet of the proposed subdivision.**
 Finding: A review of the Preliminary Plat indicates this was complied with.
- 17.12.030(B)(10)** **The Plat shall indicate the general location of streams, lakes, other bodies of water, and waterways, swamps, muskeg or marshy areas, drainage and erosion patterns including culverts and other drainage facilities in and within two hundred (200) feet of the proposed subdivision including proposed drainage ways and drainage way modifications both within and outside the subdivision.**

Finding: A review of the Preliminary Plat indicates this was complied with. However, drainage arrows were not clearly identified on the legend for the Plat. The Final Plat shall correct this deficiency.

17.12.030(B)(11) The Plat shall indicate if any portion of the proposed subdivision is located in an area identified as a flood hazard area, a delineation of the one-hundred (100) year floodplain, every floodway and drainage way that is delineated within the floodplain, and the information required under BMC 15.08.170.

Finding: A review of the Preliminary Plat indicates this was complied with. No portion of the Subdivision is within a floodplain.

17.12.030(B)(12) The Plat shall include a statement concerning responsibility for construction, operation and maintenance of water supply and sewage collection, treatment and disposal facilities in the proposed subdivision.

Finding: This section is not applicable as Subdivider intends to rely on the City's hauled water and sewer system.

17.12.030(B)(13) The Plat shall include recommended or proposed type and location of water sources and sewage treatment or disposal systems on a typical lot diagram in relation to water sources and sewage collection, treatment and disposal systems on adjacent lots or in relation to present or future City and community systems.

Finding: This section is not applicable as the Subdivider intends to rely on the City's hauled water and sewer system.

17.12.030(B)(14) The Plat shall include a statement concerning future community water and sewage systems derived from the Bethel Water and Sewer Master Plan including an appropriate timetable for their development and the proposed layout of service lines.

Finding: The Subdivider addressed future community water and sewer systems in its Mater Plan.

17.12.030(B)(15) The Plat application shall include representative soil testing, logs and borings prepared by a professional engineer registered in the State of Alaska.

Finding: This section of the BMC is not applicable for this Development.

17.12.030(B)(16) **The Plat shall indicate contours sufficient to show topography in no greater than five foot intervals.**

Finding: This section of the BMC was complied with.

17.12.030(B)(17) **The Plat shall include a surveyor's certificate.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(C) **The Plat shall indicate the names of proposed and existing streets in and adjacent to the proposed subdivision.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(D) **The Plat shall include a vicinity map showing streets and other general development of the surrounding area at a scale of no less than one (1") inch equals one thousand five hundred (1,500') feet.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(E) **The Applicant shall include a copy of the current plat or U.S. Survey that creates the parcels subject to the proposed subdivision.**

Finding: A Title Report was provided by the Subdivider showing chain of title and indicating compliance with this section of the BMC.

17.12.030(F) **The Applicant shall submit a copy of the current plats and U.S. Surveys of the land that abuts the boundaries of the proposed subdivision.**

Finding: A review of the documents provided with the Preliminary Plat application indicates this section was complied with.

BMC §17.24 *Subdivisions shall comply with the requirements of BMC 17.24. Prior to construction, the Planning Commission shall review the following:*

17.24.010 **The Subdivision shall be designed to accommodate the type of land use designated by the zoning code for the area of the proposed subdivision.**

Finding: A review of the Preliminary Plat indicates this was complied with.

17.24.030 **The public streets within the Subdivision are considered: (arterial, collector, local).**

Finding: Based on the information provided to date, it appears the streets would be classified as local streets. If future development occurs to the north, then Iteryaraq could become a collector. Subdivider shall construct this road as a collector street.

17.24.040 **The Subdivision complies with 17.24.040 by providing access via dedicated right-of-way to all lots, tracts and parcels within the subdivision.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.24.050 **The circulation system within the Subdivision is designed in accordance with BMC 17.24.050.**

Finding: A review by the City's Engineers of the circulation system within the Subdivision indicates compliance with the intent of this section of the BMC.

17.24.210 **Utility Easements are provided and dedicated.**

Finding: Utility easements are proposed for dedication which the City in its discretion may accept.

17.24.220 **Adequate provisions for Storm water and Floodwater drainage have been made by the Subdivider.**

Finding: Drainage reports were provided as well as roadway improvement drawings. Based on the information in those reports, this requirement was met.

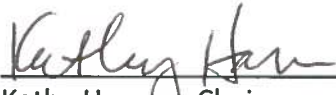
17.24.290 **Open Space Dedications have been provided by the Subdivider.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum
on this 11th day of April, 2019.

City of Bethel Planning Commission Action: _____ 4 _____ In Favor _____ 0 _____ Opposed _____
_____ 0 _____ Abstained

ATTEST:



Kathy Hanson, Chairwoman
City of Bethel Planning Commission



Pauline Boratko, Recorder
City of Bethel Planning Commission

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By: Planning Commission
Public Hearing: April 11, 2019
Adopted: April 11, 2019

**CITY OF BETHEL PLANNING COMMISSION
RESOLUTION SERIAL NO. 2019-04**

**A RESOLUTION OF THE BETHEL PLANNING COMMISSION RECOMMENDING
THE SUBDIVISION AGREEMENT BETWEEN THE CITY OF BETHEL AND
THE ORUTSARAMIUT NATIVE COUNCIL FOR THE CIULKULEK SUBDIVISION
BE APPROVED BY THE CITY COUNCIL**

WHEREAS, on March 8, 2018, the Planning Commission approved a Preliminary Plat for the Ciulkulek Subdivision with conditions; and

WHEREAS, one of the Preliminary Plat conditions was for the Developer to enter into a Subdivision Agreement; and

WHEREAS, a proposed Subdivision Agreement was presented to the Planning Commission on April 11, 2019 along with a report by the Planner; and

WHEREAS, the Bethel Planning Commission deliberated on the proposed Orutsaramiut Subdivision (Ciulkulek Subdivision) Agreement, taking into account the information submitted by the Applicant, the evaluation and recommendation by Staff contained in the Planner's Report, Public Testimony, the applicable provisions of the Bethel Municipal Code and Comprehensive Plan, and other pertinent information brought before them; and

WHEREAS, the Bethel Planning Commission adopts the following Findings of Fact:

BMC §17.04.067 Subdivision Agreements

In order to assure a subdivider that the subdivider may proceed with the subdivision of a parcel in accordance with existing standards and requirements under this title and not be subject to changes in such standards and requirements before the subdivider receives unconditional approval of the Final Plat of the parcel, the subdivider and the City may enter into a subdivision agreement pursuant to the provisions of this section.

Finding: Having reviewed the Subdivision Agreement, as well as re-reviewed all of the findings for the Preliminary Plat which extensively looked at the Lots, streets, wetlands, flood hazards, utilities and other pertinent issues that would affect the City and the developer, the proposed Subdivision Agreement complies with this section of the BMC.

Finding: Developer addresses the dedication of streets, roads, easements and dedications in its Master Plan. Acceptance of the Subdivision Agreement and its supporting documents, such as the Master Plan, does not supersede any of the provisions of the Bethel Municipal Code or Alaska State Law. At all times the BMC, Alaska State law and any applicable federal laws shall control.

Conditions:

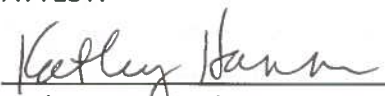
1. Developer shall not sell any lots until a Final Plat has been approved.
2. The Open Space dedicated to the City must be useable space for the purpose dedicated.

NOW THEREFORE BE IT RESOLVED, the Bethel Planning Commission hereby recommends the City Council approve the Subdivision Agreement as presented and as adopted by reference herein.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 11th day of April, 2019.

City of Bethel Planning Commission Action: 4 In Favor 0 Opposed 0 Abstained.

ATTEST:


Kathy Hanson, Chairwoman
City of Bethel Planning Commission


Pauline Boratko, Recorder
City of Bethel Planning Commission

By: Planning Commission
Public Hearing: April 11, 2019
Adopted: April 11, 2019

**CITY OF BETHEL PLANNING COMMISSION
RESOLUTION SERIAL NO. 2019-05**

**A RESOLUTION OF THE BETHEL PLANNING COMMISSION RECOMMENDING
THE CITY COUNCIL DISPOSE OF LAND LOCATED AT 280 THIRD AVENUE
VIA LEASE RENEWAL**

WHEREAS, on April 11, 2019, the Planning Commission held a public meeting after ensuring that a quorum of the Planning Commissioners had been established; and

WHEREAS, one of the items for the Planning Commission's review was the proposed Lease Agreement between the City of Bethel and GCI Communication Corp. and

WHEREAS, the Commission was provided copies of section 4.08 of the Bethel Municipal Code regarding disposal of City lands; and

WHEREAS, the Bethel Planning Commission had an opportunity to review the different options available for the disposal of this option, namely: Property No Longer Necessary for Municipal Purposes (4.08.030A); Disposal in Furtherance of Local Trade or Industry (4.08.030C) and Renewal (4.08.050C); and

WHEREAS, after learning of the difficulties and attempts which the tenant had made over the years to renew its expired Lease, the Bethel Planning Commission adopts the following Findings of Fact:

4.08.030A Property No Longer Necessary for Municipal Purposes. The city council may, by ordinance, provide for the disposal of an interest in any real property which is no longer necessary for municipal purposes. All such disposals shall be by sealed bid to the highest bidder and shall be made at least at current assessed value or at current appraised value unless otherwise determined by ordinance.

Finding: While this section could be applicable, given the amount of time the current tenant has been on the current Premises and the lengths the Tenant has gone through to remain on the Premises, the Planning Commission does not recommend utilizing this method of disposal.

4.08.030C Disposal in Furtherance of Development of Local Trade or Industry. The city council may, by ordinance, provide for the disposal of an interest in real property to any person or entity in furtherance of the development of local trade or industry without seeking competitive bids but not for less than the current

assessed value or current appraised value, whichever is higher, of that interest in real property. All disposals made pursuant to this subsection shall include a condition requiring that the interest of the city being disposed of revert to the city in the event that the real property disposed of is not being used in furtherance of the development of local trade or industry justifying the original disposal.

Finding: Because this term is not defined in the Bethel Municipal Code, it is difficult to determine whether the use of land to support the operation of a business would qualify under this section of the Code. Therefore the Commission does not recommend utilizing this section of the Code.

4.08.050C Renewal. If the lessee wishes to renew the lease, the lessee shall make written application to the city clerk for renewal of the lease at least one hundred eighty (180) days prior to the expiration of the lease. The written renewal application shall contain terms of the proposed renewal. The city manager shall, upon majority vote of the city council after a public hearing, and after the recommendation of the planning commission, if deemed appropriate by city manager, issue a renewal of the lease to the lessee.

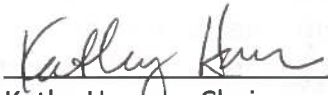
Finding: While the previous Lease did not contain specific renewal language, the Tenant has been on a month-to-month lease since their previous Lease expired. In all that time, per the City's records, the Tenant has not missed a payment and has not been late on any one payment. Additionally, the Tenant has been diligent in its request for a new or updated Lease. As a result, the Planning Commission recommends the City proceed under this section of the BMC.

NOW THEREFORE BE IT RESOLVED, the Bethel Planning Commission hereby recommends the City Council approve the Lease as a renewal pursuant to BMC 4.08.050C without the need for a public bid provided the rent is at or above Fair Market Rent as determined by an appraisal.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 11th day of April, 2019.

City of Bethel Planning Commission Action: 4 In Favor 0 Opposed 0 Abstained

ATTEST:


Kathy Hanson, Chairwoman
City of Bethel Planning Commission


Pauline Boratko, Recorder
City of Bethel Planning Commission

By: Planning Commission
Public Hearing: April 11, 2019
Adopted: April 11, 2019

**CITY OF BETHEL PLANNING COMMISSION
RESOLUTION SERIAL NO. 2019-06**

**A RESOLUTION OF THE BETHEL PLANNING COMMISSION RECOMMENDING
THE CITY COUNCIL DISPOSE OF LAND LOCATED AT 831 RIVER STREET
VIA LEASE RENEWAL**

WHEREAS, on April 11, 2019, the Planning Commission held a public meeting after ensuring that a quorum of the Planning Commissioners had been established; and

WHEREAS, one of the items for the Planning Commission's review was the proposed Lease Agreement between the City of Bethel and BTP, LLC; and

WHEREAS, the Commission was provided copies of section 4.08 of the Bethel Municipal Code regarding disposal of City lands; and

WHEREAS, the Bethel Planning Commission had an opportunity to review the different options available for the disposal of this option, namely: Property No Longer Necessary for Municipal Purposes (4.08.030A); Disposal in Furtherance of Local Trade or Industry (4.08.030C) and Renewal (4.08.050C); and

WHEREAS, after learning of the difficulties and attempts which the tenant had made over the years to renew its expired Lease, the Bethel Planning Commission adopts the following Findings of Fact:

4.08.030A Property No Longer Necessary for Municipal Purposes. The city council may, by ordinance, provide for the disposal of an interest in any real property which is no longer necessary for municipal purposes. All such disposals shall be by sealed bid to the highest bidder and shall be made at least at current assessed value or at current appraised value unless otherwise determined by ordinance.

Finding: While this section could be applicable, given the amount of time the current tenant has been on the current Premises and the lengths the Tenant has gone through to remain on the Premises, the Planning Commission does not recommend utilizing this method of disposal.

4.08.030C Disposal in Furtherance of Development of Local Trade or Industry. The city council may, by ordinance, provide for the disposal of an interest in real property to any person or entity in furtherance of the development of local trade or industry without seeking competitive bids but not for less than the current

assessed value or current appraised value, whichever is higher, of that interest in real property. All disposals made pursuant to this subsection shall include a condition requiring that the interest of the city being disposed of revert to the city in the event that the real property disposed of is not being used in furtherance of the development of local trade or industry justifying the original disposal.

Finding: Because this term is not defined in the Bethel Municipal Code, it is difficult to determine whether the use of land to support the operation of a business would qualify under this section of the Code. Therefore the Commission does not recommend utilizing this section of the Code.

4.08.050C Renewal. If the lessee wishes to renew the lease, the lessee shall make written application to the city clerk for renewal of the lease at least one hundred eighty (180) days prior to the expiration of the lease. The written renewal application shall contain terms of the proposed renewal. The city manager shall, upon majority vote of the city council after a public hearing, and after the recommendation of the planning commission, if deemed appropriate by city manager, issue a renewal of the lease to the lessee.

Finding: While the previous Lease did not contain specific renewal language, the Tenant has been on a month-to-month lease since their previous Lease expired. In all that time, per the City's records, the Tenant has not missed a payment and has not been late on any one payment. Additionally, the Tenant has been diligent in its request for a new or updated Lease. As a result, the Planning Commission recommends the City proceed under this section of the BMC.

NOW THEREFORE BE IT RESOLVED, the Bethel Planning Commission hereby recommends the City Council approve the Lease as a renewal pursuant to BMC 4.08.050C without the need for a public bid provided the rent is at or above Fair Market Rent as determined by an appraisal.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 11th day of April, 2019.

City of Bethel Planning Commission Action: 4 In Favor 0 Opposed 0 Abstained

ATTEST:


Kathy Hanson, Chairwoman
City of Bethel Planning Commission


Pauline Boratko, Recorder
City of Bethel Planning Commission



City of Bethel

Committees and Commissions

Recommendation to City Council

Committees and Commissions that wish to make a recommendation to City Council should turn this form in to the City Clerk or to the City Council representative on the committee or commission.

Committee/Commission: Parks, Recreation, Aquatic Health & Safety Center Committee	Chairman: Brian Lefferts
Date Submitted: 04/08/2019	Council Rep: Mitchell Forbes
Issue: Recreational Services	
Recommendation: that City Council direct Administration to create an RFP to hire a company to provide Recreational Services Scope of Work services described in handout (recreational services) or amend an existing contract for the scope of work to be applied. Reason: Committee reviewed the Parks/Rec budget from 2012-2018, and it is currently at an all-time low. Given the reduction in dedicated staffing for parks/rec through the last several years, the committee believes that filling the recreational needs of the community are not achievable with existing staff. The committee conducted research, and for an estimated \$135,450 in the form of a contract, that contractor could provide a special event on a monthly basis (Fourth of July, Bike Rodeo, Festivals, etc.), provide field and open gym management equipment checkout services (the City already owns substantial equipment) and volunteer coordination and support (coaches, etc.). Even with this investment, the Parks/Rec budget would be at a historical low (through the combination of Parks/Rec budget line items with Public Works line items makes this now difficult to track).	

Passed unanimously by the PRAHSC Committee on (April 8, 2019).

Received by: _____
Date: _____

Recreational Services Contract

Scope of Work:

1. One special event each month.
2. General Field Scheduling and Equipment Check-Out duties on a daily basis.
3. Administrative assistance/coordination with volunteer parents, coaches and community members for: Adult Softball, Little League, Basketball, Ultimate Frisbee and Soccer Open Gym, Archery, Broomball, City League Basketball, Volleyball and other activities.

Suggested Special Events

1. 5K and/or 10K
2. Fourth of July events
3. Ice Skating
4. Festival of outdoor groups and games for youth led by fun adults- 4-5 hours a day for 2-3 days when school gets out.
5. Family Olympics
6. Bike Ride and/or Bike Rodeo
7. Triathlon (outside biking/running; separate from YKFC inside-facility programs)
8. Summer Festival
9. Safety Classes- Boating and Snow Machine
10. Outdoor volleyball
11. Cross Country Skiing
12. TBD

General Activities

Field/Open Gym Management
Equipment Checkout
Volunteer Coordination/ Support

Budget Estimate

I FT Program Coordinator (salary and fringe)	\$70,950
1 PT Volunteer Coordinator (hourly + fringe @avg. 15-20 hrs/week)	\$19,500
Log Cabin office and storage (incl. water/sewer, elec.)	\$25,000
Event and start up supplies, computer and cell phone	\$20,000
Total	\$135,450

Received by: _____
Date: _____

City of Bethel, Alaska

Public Safety & Transportation Commission

April 03, 2019

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Public Safety and Transportation Commission was held on April 3rd, 2019 in the Bethel City Hall Council Chambers.

This meeting was called to order at 6:41pm.

II. ROLL CALL

Present: Fritz Charles *Council Representative*
Joan Dewey

Absent: Monroe Tyler *Chair*
Richard Garcia

Ex-Officio Present: Burke Waldron *Police Chief*
William Howell III *Fire Chief*

Others Present: Pete Williams

A quorum was not established of the Commission.

III. ADJOURNMENT

Meeting adjourned at 6:42 pm.

APPROVED THIS _____ DAY OF _____, 2019.

Jesslyn McGowan, Recorder

Monroe Tyler, Chair



City of Bethel
Public Works Committee
Regular Meeting - Wednesday, April 17, 2019 5:30 pm City Hall
Council Chambers, 300 Chief Eddie Hoffman Highway

Courtney Trammell
Committee Chair
Term Expires 12/2020

Alyssa Gustafson
Committee Vice-Chair
Term Expires 12/2019

Carol Jung-Jordan
Council Representative
Term Expires 10/2020

Jeff Sanders
Committee Member
Term Expires 12/2020

Ryan Butte
Committee Member
Term Expires 12/2020

Juan Delgado
Committee Member
Term Expires 12/2021

Bill Arnold
Ex- Officio Member

Charlie Dan
Committee Recorder

- I. CALL TO ORDER
- II. ROLL CALL
- III. PEOPLE TO BE HEARD – 5 minute limit
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
 - a) 05-16-2018 Regular Meeting
 - b) 06-20-2018 Regular Meeting
 - c) 07-18-2018 Regular Meeting
 - d) 08-13-2018 Regular Meeting
 - e) 03-20-2019 Regular Meeting
- VI. UNFINISHED BUSINESS
 - a) We are Still in - Paris Agreement Standing/Support (Sanders)
 - b) Feasibility Study for Gasification Incinerator (Municipal Solid Waste)
 - c) Review Memorandum of Understanding (MOU) between City of Bethel and Lower Kuskokwim School District draft
- VII. NEW BUSINESS:
 - a) Reconciliation of Hauled Water/Sewer Services
 - b) Institutional Corridor Water Truck Fill Point
- VIII. DIRECTOR'S REPORT
- IX. COMMITTEE MEMBER COMMENTS
- X. ADJOURNMENT

Posted April 11, 2019 at City Hall, AC Co., Swanson's, and the Post Office.

Charlie Dan, Public Works Assistant

CITY OF BETHEL, ALASKA

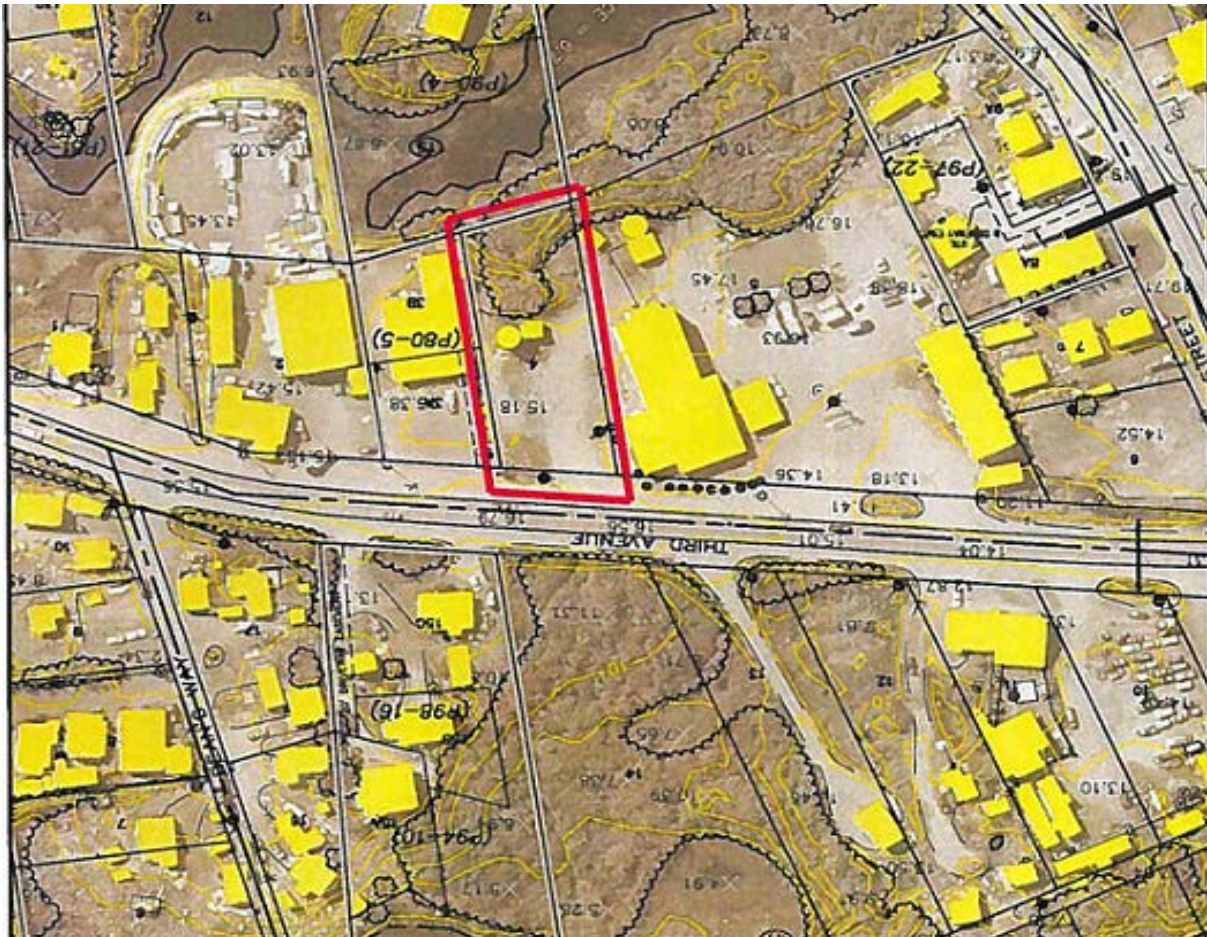
Ordinance #19-04

**AN ORDINANCE AUTHORIZING THE DISPOSAL OF LOT 4, BLOCK 15,
UNITED STATES SURVEY 3230 A & B, BETHEL RECORDING DISTRICT 4TH
JUDICIAL DISTRICT (781 THIRD AVE.) VIA LEASE
PURSUANT TO BMC 4.08.030(A)**

WHEREAS, the City of Bethel owns a parcel of land situated at 781 Third Avenue;

WHEREAS, the legal description for the land is Lot 4, Block 15, United States Survey 3230 A & B, Bethel Recording District, Fourth Judicial District, State of Alaska;

WHEREAS, the property is pictorially depicted as:



- WHEREAS,** the land contains a well which the City has had tested at least twice since 2014 and which the City finds unsuitable for its needs;
- WHEREAS,** the land also contains a building which is in significant disrepair;
- WHEREAS,** currently there are some connexes on the land which belong to a neighboring landowner;
- WHEREAS,** there is also a stairwell and parking lot on the land which belongs to a different neighboring landowner;
- WHEREAS,** the neighboring landowners were notified of the need to vacate should they not be successful in renting the land from the City via Request for Bid;
- WHEREAS,** on January 28, 2019 the City of Bethel issued a Request for Bids (RFB) for the vacant land pursuant to BMC 04.08.040;
- WHEREAS,** the RFB closed on March 5 with two (2) bids being received;
- WHEREAS,** pursuant to BMC 04.08.030(A) the land is being disposed of via lease to the highest responsive bidder;
- WHEREAS,** the one landowner with the connex containers has made arrangements to remove the connexes;
- WHEREAS,** the other landlord is working with the highest bidder and if the proposed lease is approved, will not have to vacate;
- WHEREAS,** the lot has not been used by the City in over a decade and the City has no foreseeable use for the lot so leasing it makes the most economic sense at this time;
- WHEREAS,** the lease term would be for fifteen (15) years commencing on May 1, 2019 and ending on April 30, 2034 with no automatic right of renewal;
- WHEREAS,** the rent is fixed at \$2,001 per month based upon the highest bid;
- WHEREAS,** the Lease Agreement allows the Tenant to sublet but only under certain conditions, including written authorization from the City;
- WHEREAS,** the Lease Agreement allows the Tenant to improve the land but only after obtaining the written authorization of the City;

WHEREAS, under the Lease Agreement the Tenant would be responsible for all of their own utility costs as well as snow removal costs;

WHEREAS, pursuant to the Lease Agreement, the Tenant is required to keep the City's land insured with the City named as an additional insured during the entire term of the Lease Agreement;

WHEREAS, pursuant to the Lease Agreement, the Tenant is required to indemnify the City;

WHEREAS, the Lease Agreement includes language for liquidated damages in case the Tenant terminates the Lease early;

NOW, BE IT ORDAINED, the City Council authorizes the disposal of Lot 4, Block 15, United States Survey 3230 A & B, Bethel Recording District via lease of land no longer necessary for municipal purposes.

SECTION 1. Classification. This ordinance is of a general nature and shall not become a part of the Bethel Municipal Code.

SECTION 2. Authorization. Pursuant to Bethel Municipal Code 04.08.030(B) Disposal of Property No Longer Necessary for Municipal Purposes.

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon passage.

ENACTED THIS _____ DAY OF APRIL 2019, BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Fred Watson, Mayor

ATTEST:

Lori Strickler, City Clerk

**COMMERCIAL LEASE BETWEEN
CITY OF BETHEL and
ESSENKAY, LLC**

This LEASE is made on April 23, 2019 by and between the City of Bethel, a municipal corporation ("Landlord") and Essenkay, LLC ("Tenant").

**ARTICLE 1
LEASED PREMISES AND TERM**

1.01 Leased Land. Landlord, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by Tenant, hereby leases to Tenant and Tenant hereby leases from Landlord, a parcel of land situated in the Bethel Recording District, Fourth Judicial District, State of Alaska, more particularly described as:

Lot 4, Block 15, United States Survey 3230 A & B, Bethel
Recording District, Fourth Judicial District, State of Alaska.

Latitude/Longitude: 67° 47' 41" North / 164° 45' 27" West,
NAD 83 Datum

together with all rights, easements, privileges, both subterranean and vertical, and appurtenances attaching or belonging to the described land, but subject to the reservation contained in paragraph 1.02 and the Covenants contained in Article 4 hereof (herein called the "Leased Premises").

1.02 Reservation of Minerals. All oil, gas, coal, geothermal resources and minerals whatever nature in or under the above-described land are excluded from the Leased Premises and are reserved to Landlord; provided, however, that during the term of this Lease, Landlord shall not have the right to enter on the surface of the Leased Premises for the purpose of mining and/or excavating such oil, gas, coal, geothermal resources or minerals.

1.03 Improvements Owned by Landlord. The following described improvements ("Landlord's Improvements") are situated on and are part of the Leased Premises and are and shall remain throughout the term of this Lease the property of the Landlord:

All fill, retaining walls, berms, earth contours, wells, utility pipes and lines and all other at-surface or below-surface improvements situated on the Leased Premises on the date of this Lease. Tenant may improve the Leased Premises by removing Landlord's improvements but only after the written consent of the Landlord has been obtained. Such consent shall not be unreasonably withheld.

- 1.04 **Lease Term.** This Lease shall be and continue in full force and effect for a term of fifteen (15) years commencing on May 1, 2019 and terminating on April 30, 2034 unless earlier terminated in accordance with the terms of this Lease.
- 1.04 **Holdover (with Consent).** If Tenant continues occupying the Premises after the Term ends (Holdover) and if the Holdover is with Landlord's written consent, it shall be a month-to-month tenancy, terminable on thirty (30) days advance notice by either party. During the holdover period, rent shall automatically be increased by ten (10%) percent and will remain due and owing on the first day of each month.
- A. **Holdover (without consent).** If the Holdover is without Landlord's written consent, then Tenant shall be a tenant-at-sufferance and shall be liable for any damages suffered by Landlord because of Tenant's Holdover. Landlord shall retain all remedies against Tenant who holds over without written consent.
- B. **Holdover Terms.** The Holdover shall be on the same terms and conditions of the Lease except: (i) the Term; (ii) Rent; (iii) any extension Term is deleted; (iv) the Quiet Possession provision is deleted; (v) consent to a sublease may be unreasonably withheld and delayed; (vi) the provision on Landlord's Default is deleted; and (vii) the Defaulting Party may be Tenant only.

ARTICLE 2 RENT

2.01 **Rent.** Effective May 1, 2019, Tenant shall pay to Landlord, without deduction and without notice or demand, net of all real property taxes, assessments, rates and other charges required to be paid by Tenant under this Lease with respect to the Leased Premises, Two Thousand and One Dollars (\$2,001) per month on or before the 1st day of each month during the Lease Term.

ARTICLE 3 QUIET ENJOYMENT

Upon timely payment by Tenant of all rent and other payments required to be paid by Tenant under this Lease, and upon full and faithful observance and performance by Tenant of all of its covenants contained in this Lease, and so long as such observance and performance continues, Tenant shall peaceably hold and enjoy the Leased Premises during the Lease Term without hindrance or interruption by Landlord or anyone lawfully claiming by, through, or under it.

ARTICLE 4 TENANT'S COVENANTS

4.01 **Improvements Required by Law.** Tenant, at Tenant's own expense, during the Lease Term and subject to the requirements of this Lease, shall make, build, maintain and repair all fences, sewers, drains, roads, road widening, driveways, sidewalks, water, underground electric and telecommunications lines, curbs, gutters and other installations which may be required by law to be made, built, maintained, or repaired upon, and in connection with, or for use of the Leased Premises or any part of it, and regardless of whether the same were erected by Landlord or in existence at the inception of this Lease. In case any such installations required by law shall be made, built, maintained or repaired by Landlord after giving the required notice provided for in paragraph 4.08, and if Tenant does not complete the required work within the timeframe provided for in the notice, Tenant shall reimburse Landlord for the actual reasonable costs to cover Landlord's overhead, upon presentation of a bill therefore, as additional rent.

4.02 **Landlord's Improvements on the Premises.** Landlord currently has a number of improvements on the Premises such as, but not limited to, a well and a small Shack. Tenant is not responsible for maintaining any of Landlord's improvements. However, Landlord currently has no plans to utilize the improvements, especially the well. Tenant agrees that Landlord has no responsibility for maintaining the improvements or making them useable for Tenant.

Should Tenant wish to remove any of Landlord's improvements currently situated on the Premises, Tenant shall file a written request to the Landlord. Consent by the Landlord shall not be unreasonably withheld.

4.03 **Additions and Alterations to Leased Premises.** "Significant Work" as used in this section, means all work which (1) involves the excavation, filling, or other alteration of the grade or drainage of the leased Premises, or (2) involves the construction, demolition, or removal on or from the Leased Premises of any improvement.

Tenant shall not make alterations to the grade or drainage of the Leased Premises without the written approval of the Landlord. Landlord shall not alter the grade or drainage of the adjacent properties such that drainage will flow over or through the Leased Premises of the Tenant.

4.04 **Repair and Maintenance.** Tenant shall, at Tenant's expense and without notice from Landlord, at all times during the Lease Term, keep all improvements now or hereafter built, purchased, installed or owned by Tenant on the Leased Premises, especially those improvements constructed thereon which are exposed to the view of the public (including but not limited

to exterior building walls, windows, doors, fences, signs, landscaping, and yard areas) in good order, condition, maintenance, operability, and repair and of a neat, clean and pleasing appearance to Landlord.

- 4.05 **Snow Removal.** Tenant shall be responsible for snow removal on the Leased land.
- 4.06 **Observance of Laws.** Tenant, at all times during the Lease Term, at its own expense, and with all due diligence shall observe and comply with all state and federal laws, municipal ordinances, rules and regulations which are now in effect or may later be adopted by any governmental agency, and which may be applicable to the Leased Premises or any improvement on it or any use of it, and shall promptly furnish such evidence of compliance with such laws, ordinances, rules and regulations as Landlord may request from time to time.

In furtherance, and not in limitation, Tenant must, at its own expense, comply with all laws, ordinances, regulations and administrative agency or court orders relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality. In the event any discharge, leakage, spillage, emission or pollution of any type occurs upon or from the Leased Premises during the Lease Term or any holdover thereafter, Tenant, at its own expense, must clean and restore the Leased Premises to the satisfaction of the Landlord and any governmental body or court having jurisdiction over the matter. However, Tenant shall not be responsible for the clean-up or restoration of the Leased Premises resulting from any discharge, leakage, spillage, emission or pollution to the Leased Premises from surrounding or adjacent premises unless Tenant's actions caused in whole or in part such discharge, leakage, spillage, emission, or pollution, in which case Tenant shall be responsible for the portion of such discharge, leakage, spillage, emission or pollution which was caused by Tenant.

Landlord warrants that at the time this Lease between the parties, Landlord is not aware of any hazardous or toxic materials on the land.

- 4.07 Tenant agrees to hold harmless Landlord against all liability, cost and expense (including without limitation, any fines, clean-up costs, judgments, litigation costs, and attorneys' fees) incurred by or levied against Landlord as a result of Tenant's breach of this Lease.
- 4.08 **Inspection and Repair by Landlord.** Tenant shall repair, maintain, and make good, all conditions required under the provisions of this Lease to be repaired or maintained within five (5) working days from the date of written notice from Landlord with regard to removal of trash or debris, landscape or yard maintenance, snow removal or cleaning, or parking lot lighting

replacement and repair, and within thirty (30) days from the date of written notice from Landlord with regard to all other matters. If Tenant refuses or neglects to repair or maintain the Leased Premises as required under the terms of this Lease to the reasonable satisfaction of the Landlord after written demand, then Landlord, without prejudice to any other right or remedy it has under this Lease or otherwise, may perform such maintenance work or make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's property or Tenant's business by reason of the work or repairs. Upon completion of any such repair or maintenance, and no later than ten (10) days after presentation of a bill therefore, Tenant shall pay, as additional rent, Landlord's actual costs for making such repairs or performing such maintenance. However, Tenant shall not be responsible for the replacement or repair of any street lights that may illuminate the Premises.

- 4.09 **Waste and Wrongful Use.** Tenant shall not commit or suffer any waste of the Leased Premises or any unlawful, unsafe, improper, or offensive use thereof or any public or private nuisance thereon.
- 4.10 **Setback.** Tenant shall observe all setback lines applicable to the Leased Premises and shall not construct or maintain any building or other structure between any street boundary of the Leased Premises and any setback along such boundary, except for fences or walls approved by Landlord.
- 4.11 **Liens.** Tenant shall not commit or suffer any act or neglect whereby the Leased Premises or the interest of Landlord or Tenant therein at any time during the Lease Term may become subject to any attachment, execution lien, charge, or other encumbrance, and shall defend, indemnify and hold Landlord harmless against all losses, costs, and expenses, including reasonable attorney's fees, paid or incurred by Landlord in connection therewith.
- 4.12 **Indemnification.** Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims arising from (1) Tenant's use of the Leased Premises, or from the conduct of Tenant's business, or from any activity, work or things done, permitted or suffered by Tenant in or about the Leased Premises; (2) any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; (3) any negligence of Tenant, or any of Tenant's agents, contractors, customers or employees, or any person claiming by, through or under Tenant; and (4) any accident on or in connection with the Leased Premises, or any fire thereon, or any nuisance made or suffered thereon when and to the extent such claim arises from the negligence of Tenant.

Tenant, upon notice from Landlord, shall defend any of the above described claims at Tenant's expense. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons,

in, upon or about the Leased Premises. However, this section does not require Tenant to indemnify, defend and hold harmless Landlord from and against any portion of a claim to the extent that portion of the claim is caused by Landlord's negligence, or the negligence of Landlord's agents, contractors or employees arising from Landlord's activities on the Leased Premises. To the extent permitted by law, Landlord shall indemnify, defend, and hold harmless Tenant from and against any portion of a claim to the extent that portion of the claim is caused by Landlord's negligence, or the negligence of Landlord's agents, contractors or employees arising from Landlord's activities on the Leased Premises.

Tenant acknowledges that before entering into this Lease it has fully inspected or been provided with an opportunity to fully inspect the Leased Premises and all documents in the possession of Landlord relating to the condition of the Leased Premises, and to test or examine all conditions of or on the Leased Premises. Tenant further acknowledges that, at the time this Lease is entered into and on the basis of the foregoing inspection or opportunity to inspect, Tenant is as knowledgeable about the physical condition of the Leased Premises as Landlord, and on that basis, assumes all risks relating to the condition of the Leased Premises, except risks relating to environmental pollution not caused by Tenant.

4.13 Costs and Expenses of Landlord. Tenant shall forthwith pay to Landlord all costs and expenses, including reasonable attorney's fees, which are (1) paid or incurred by Landlord but are required to be paid by Tenant under any provision of this Lease; (2) paid or incurred by Landlord in enforcing any covenant of Tenant contained in this Lease, in protecting itself against or remedying any breach thereof, in recovering possession of the Leased Premises or any part thereof, or in collecting or causing to be paid any delinquent rents, taxes, assessments, or rates; (3) incurred by Landlord in reviewing any matter for which Landlord's approval is sought and in processing such approval under this Lease; or (4) incurred by Landlord in connection with any other action in any respect related to this Lease, the Leased Premises, or Tenant's actions or omissions and the Leased Premises, other than a condemnation action filed by or against Tenant, to and in which Landlord is made a party but not adjudicated to be at fault. The term "costs and expenses" as used in this Lease shall include but not be limited to all of Landlord's out-of-pocket expenditures attributable to the matter involved. Except as otherwise expressly provided herein, all costs and expenses of Landlord shall be payable by Tenant to Landlord forthwith after mailing or personal delivery of statements therefore to Tenant. Such obligations and interest shall constitute additional rents.

4.14 Surrender of Leased Premises and Improvements. Upon the expiration or termination (including termination resulting from Tenant's breach) of this Lease, Tenant, without further notice, shall deliver to Landlord, possession of

the Leased Premises. Tenant's improvements shall remain the property of Tenant. At the expiration or termination of the Lease, or any extended term thereof, Tenant shall remove, demolish, or otherwise dispose of all Tenant's improvements within one hundred twenty (120) days of expiration or termination, unless Landlord agrees otherwise, in writing, and shall leave Leased Premises in a clean and cleared condition. In the event of failure or refusal of Tenant to surrender possession of the Leased Premises or to remove Tenant's improvements from the Leased Premises in accordance with this paragraph, Landlord shall have the right to re-enter the Leased Premises and remove therefrom Tenant or any other person, firm or corporation claiming by, through or under Tenant, and to declare abandoned and/or remove Tenant's improvements therefrom, and to obtain damages for trespass from Tenant, including but not limited to the actual costs of removal.

- 4.15 **Utility Services.** Tenant shall arrange for its own utility services and bear all costs for utilities.
- 4.16 **Discrimination Prohibited.** Tenant will not unlawfully discriminate in allowing access to and use of the Leased Premises on the grounds of race, color, religion, national origin, ancestry, marital status, disability, gender, sex, sexual orientation, gender identification, or other legally protected status.
- 4.17 **Underground Conditions and Water Drainage.** Tenant has made, or prior to the construction of any improvements on the Leased Premises will make, its own soil tests of the Leased Premises. This Lease is made subject to and without any liability on the part of the Landlord, its agents or employees because of or resulting from any fill or any subsurface or soil condition on the Leased Premises. Tenant shall not drain or discharge water from the Leased Premises onto adjoining land. The Leased Premises shall be graded and drained to cause the discharge of all water on the Leased Premises at a location or locations approved by Landlord, or into an established drainage easement, if any, on the Leased Premises.

ARTICLE 5 INSURANCE

- 5.01 **Liability Insurance.** During the entire Lease Term, and during any holdover thereafter, whether or not authorized by Landlord, Tenant shall keep in full force and effect, a policy or policies of general liability and property damage insurance which satisfies the coverage requirements set by Landlord with respect to the Leased Premises and the business operated by Tenant in which the limit of bodily injury, death, and property damage liability shall be not less than ONE MILLION DOLLARS per occurrence and not less than TWO MILLION DOLLARS in the aggregate, or such higher limits as Landlord may specify; provided, however, that no such limit shall in any way limit Tenant's liability or be construed as a representation of sufficiency to fully protect Tenant or Landlord. The policy or policies purchased pursuant to this paragraph shall name the Tenant as an

insured and the Landlord as an additional insured with respect to the Leased Premises and the business operated by Tenant on the Leased Premises. A copy of each policy shall be provided to Landlord within three (3) days of the date this Lease is entered into.

- 5.02 **Policy Provisions.** Each policy of comprehensive general liability described above shall:

Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim, any right of setoff; counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for Landlord, for any person claiming by, through or under Landlord.

Contain no provision relieving the insurer from liability for loss occurring while the hazard to buildings and/or other improvements is increased, whether or not within the knowledge of control of; or because of any breach of warranty or condition or any other act or neglect by Landlord, or any person claiming by, through or under Landlord.

Provide that such policy may not be canceled, whether or not requested by Tenant, unless the insurer first gives not less than thirty (30) days prior written notice thereof to Landlord.

Contain a waiver by the insurer of any right to subrogation to any right of Landlord or Tenant against either of them or against any person claiming by either of them.

ARTICLE 6 EMINENT DOMAIN

- 6.01 **Permanent Taking.** In the event of a taking by an entity of competent jurisdiction of all or materially all of the Leased Premises, or the determination of the Landlord that all or materially all of the Leased Premises is necessary for a public purpose, this Lease shall terminate on the earlier of vesting of title in, or the taking of possession by the condemner, or the written determination of the Landlord.

If less than materially all of the Leased Premises are taken or if the Landlord determines that it needs less than materially all of the Leased Premises for a public purpose (herein called a "partial taking"), this Lease shall continue in effect except as to the portion so taken or condemned, but the rent to be paid by Tenant shall thereafter be reduced by a percentage equal to the proportion that the number of square feet in the Leased Premises so taken bears to the number of square feet of Leased Premises before the partial taking.

- 6.02 **Disposition of Proceeds.** Landlord is entitled to all proceeds of condemnation except those proceeds specifically allocated for Tenant's improvements.

- 6.03 Temporary Taking.** If the whole or any part of the Leased Premises or of Tenant's interest under this Lease is taken by any competent authority for its temporary use or occupancy, this Lease shall not terminate by reason thereof and Tenant shall continue to pay all rental payments and other charges payable by Tenant hereunder and to perform all other terms, covenants, and conditions contained herein, except to the extent Tenant is prevented from so doing by the terms of the order of the taking authority. In the event of a temporary taking, Tenant shall be entitled to receive the entire amount of the award and shall be obligated, at its sole expense, to restore the Leased Premises as nearly as may be reasonably possible to the condition in which they existed immediately prior to such taking; provided, however, that if the period of temporary use or occupancy extends beyond the expiration of the Lease Term, the award shall be apportioned between Landlord and Tenant as of said date of expiration, after Landlord shall have received the entire portion of the award attributable to physical damage to the Leased Premises and any improvements thereon and to the restoration thereof to the condition existing immediately prior to the taking or condemnation.
- 6.04 Casualty.** If the improvements on the Leased Premises shall be damaged or rendered wholly or partially unusable for Tenant's business purposes by fire or other casualty during the Term of this Lease, Tenant may terminate this Lease by giving notice to Landlord within ninety (90) days of the date of the fire or other casualty. If Tenant does not terminate this Lease, no rent shall abate after the date of the casualty, whether the Leased Premises is usable or not, and Tenant shall promptly rebuild or repair the improvements to substantially their former condition.

ARTICLE 7 ASSIGNMENTS AND MORTGAGES

Landlord's Consent Required. Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Leased Premises without Landlord's prior written consent. Because Landlord's Premises are publicly owned, such consent may not be easily granted and will require significant City Council involvement. Any attempted assignment, transfer, mortgage, or encumbrance without such consent shall be void and shall constitute a breach of this Lease.

ARTICLE 8 SUBLETTING OF PREMISES

- 8.01** Tenant intends to sublease all or a portion of the Premises. Landlord acknowledges and accepts Tenant's intent to sublease and hereby consents to any subleases subject to the provisions set forth herein.

Tenant acknowledges that any subleases of the Premises shall be in compliance with (a) all applicable covenants, conditions and restrictions of record; and (b) all laws, ordinances and government regulations in effect during the Term of this Lease.

- 8.02 **Landlord's Consent.** Tenant shall make written application to Landlord for any and all subleases. Consent to Tenant's request to sublease shall not be unreasonably withheld. Tenant acknowledges that Landlord's refusal to consent to a sublease for a subtenant who is in arrears with the City of Bethel shall not be unreasonable. Tenant further acknowledges that Landlord's consent to a Sublease shall not in any way reduce, modify or absolve the Tenant from its obligations under this Lease Agreement.
- 8.03 **Conditions.** Subleases by Tenant are also subject to the terms of this Lease and the Term shall not extend beyond the Lease Term.
- 8.04 **Subtenants.** Subtenants shall not assign the Sublease nor sublet the subleased Premises in whole or in part and shall not permit the subtenant's interest in the sublease or the subleased Premises to be vested in a third party by operation of law or otherwise.
- 8.05 The execution of consent by Landlord shall not be deemed to be a consent to any subsequent assignment or subletting by either sublandlord or subtenant.

ARTICLE 9 TERMINATION, DEFAULT AND DEFEASANCE

9.01 **Event of Default:** Each of the following events shall be a default by Tenant and a breach of this Lease:

- A. **Failure to Continuously Operate a Facility for the General Public.**
If the land is used for commercial or retail purposes, to be available to the general public does not require that all members of the general public be admitted, only that there be no discrimination in admission based on race, gender, sexual orientation, gender identify age, sex or other protected category. Additionally, continuously operate shall be defined as open and operating regularly scheduled days and hours with no more than ninety (90) calendar days closure during any calendar year.
- B. **Failure to Perform Covenants.** Abandonment or surrender of the Leased Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by Tenant or to perform as required or conditioned by any other covenant or condition of this Lease.
- C. **Appointment of Receiver.** The appointment of a receiver or trustee to take possession of the Leased Premises or improvements or of the Tenant's interest

in the leasehold estate or of Tenant's operation on the Leased Premises for any reason, including but not limited to, assignment of benefit of creditors, but not including receivership pursuant to administration of the estate of any deceased or incompetent Tenant.

9.02 **Notice and Right to Cure**

- A. **Notices.** As a precondition to pursuing any remedy for an alleged default by Tenant, Landlord shall, before pursuing any remedy, give notice of default to Tenant.
- B. **Method of Giving Notice.** Landlord shall give notice of default by either personal service or by first class mail.
- C. **Tenant's Right to Cure Default(s).** If the alleged default is nonpayment of rent, Tenant shall have five (5) days after the notice is given to cure the default. For the cure of any other default, Tenant shall promptly and diligently cure the default and shall have thirty (30) days after notice is given to complete the cure.
- D. **Non-Waiver.** Acceptance by Landlord of any rents shall not be deemed to be a waiver by it of any breach by Tenant of any of its covenants contained in this Lease or of the right of Landlord to re-enter the Leased Premises or to declare forfeiture for any such breach. Waiver by Landlord of any breach by Tenant shall not be deemed to be a waiver of the right of Landlord to declare forfeiture for any other breach or of any other covenant.

9.03 **Right of Landlord to Protect Against Default**

If Tenant fails to observe or perform any of its covenants contained herein, Landlord, at any time thereafter and with seven (7) days' notice, or in the case of a situation deemed by Landlord to constitute an emergency, without notice, shall have the right but not the obligation to observe or perform such covenant for the account and at the expense of Tenant, and shall not be liable to Tenant or anyone claiming by, through, or under it for any loss or damage by reason thereof to the occupancy, business, or property of any of them. All costs and expenses paid or incurred by Landlord in observing or performing such covenant shall constitute additional rents, which Tenant shall forthwith pay to Landlord upon statements therefore.

9.04 **Landlord's Remedies**

If any default by Tenant shall continue uncured, following notice of default as required by this Lease, for the period applicable to the default, Landlord has the following remedies in addition to all other rights and remedies provided by law or equity or other provisions of this Lease, to which Landlord may resort cumulatively or in the alternative. The election of one remedy for any one default shall not foreclose an election of any other remedy for another default or for the same default at a later time.

- A. **Termination in the Event of Default.** Landlord may, at Landlord's election, terminate this Lease in the event of default by giving Tenant notice of termination. On the giving of the notice, all Tenants' rights in the Leased Premises shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Leased Premises and all Improvements not required to be removed, and Landlord may re-enter and take possession of the Leased Premises and all remaining improvements. Termination under this paragraph shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or accruing against Tenant, or any other relief available to Landlord.
- B. **Recovery of Rent.** Landlord shall be entitled, at Landlord's election, to each installment of rent or to any combination of installments for any period before termination, plus interest at the rate of twelve and a half (12.5%) percent from the due date of each installment.
- C. **Tenant's Personal Property.** Landlord may, if Tenant fails to remove personal property or Tenant's improvements within the time allowed above, use Tenant's personal property, Tenant's improvements and trade fixtures on the Leased Premises, or any of such property without liability for use or damage, or store them at the sole risk and cost to Tenant.
- D. **Damages.** Landlord shall also be entitled, at Landlord's election, to damages in the following sums: (1) all amounts that would have fallen due as rent between the time of termination and the time the Leased premises are relet; (2) the amount, if any, by which the rent under this Lease exceeds the rent under any subsequent Lease upon reletting calculated over the Lease Term; and (3) all administrative, marketing, maintenance, repair, cleaning and similar costs incurred by Landlord.
- E. **Application of Sums Collected by Landlord.** Landlord shall apply all proceeds of reletting as follows: First, to the payment of reasonable expenses (including attorney's fees and broker's commissions or both) paid or incurred by or on behalf of Landlord. Second, in recovering possession, placing the Leased Premises and improvements in good condition, and preparing or altering the Leased Premises or improvements for reletting. Third, to the reasonable expenses of securing new Tenants. Fourth, to the fulfillment of Tenant's covenants to the end of the Lease term; and finally, to Landlord's uses and purposes.
- F. **Costs.** In the event Tenant shall be in default in the performance of any of its obligations under this Lease, and Landlord takes any action to enforce this Lease, including, but not limited to, court action, Tenant shall pay Landlord all the expenses incurred by Landlord in taking such action including full and reasonable attorney's fees.

9.05 Early Termination by Tenant. In the event Tenant desires to terminate the Lease Agreement before the natural expiration date, Tenant may so cancel provided that the following conditions are fully met. Failure to fulfill all of the conditions will be a breach of this Lease Agreement.

- A. Written notice of early termination must be received by Landlord not later than one hundred twenty (120) calendar days prior to the proposed termination date.
- B. Rent must be paid through the termination date.
- C. The termination date must be the end of the month. No mid-month termination dates will be accepted.
- D. If Tenant terminates the Lease prior to the completion of the Lease as contemplated by this Agreement, Tenant shall pay a penalty equal to twelve (12) months' rent, payable within no more than thirty (30) days upon termination of the Lease. Such payment will be considered liquidated damages as penalty for early termination.
- E. Upon payment by Tenant to Landlord of liquidated damages, Landlord formally waives its rights to any additional remedies it may have under paragraphs 9.04(B), (D) and (E) above.

ARTICLE 10 GENERAL PROVISIONS

10.01 Landlord's Right to Entry, Inspection and Repair

Landlord may enter and inspect the Premises, at any time during regular business hours, with or without the presence of Tenant or its authorized representative, after giving twenty-four (24) hours advance notice to Tenant of such inspection. To protect the confidentiality of Tenant's clients, Landlord shall take every step possible to not enter without the presence and consent of Tenant except in an emergency or upon agreement by Tenant, such agreement not to be unreasonably withheld or refused. In the event of an emergency, Landlord may enter and inspect the Leased Premises on reasonable notice to Tenant (including no notice if the circumstances warrant) and make such repairs or institute such measures, on the account and at the expense of Tenant, as may be necessary to avert or terminate the emergency. An emergency is any action, event or condition, either extant or imminent, that threatens significant damage to property or injury to persons on or near the Leased Premises, and includes, but is not limited to, flood, fire, explosion, uncontrolled dangerous discharge or release of water or fluids, or the unauthorized or illegal placement of hazardous or toxic materials on Leased Premises). The provisions of this paragraph apply to Landlord solely in its capacity as Landlord hereunder and not in any other capacity.

10.02 Notices

All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender and delivered by facsimile, email (with a hard copy mailed first class) or mailed and addressed to the respective parties as follows:

To Landlord:
City Manager
City of Bethel
P.O. Box 1388
Bethel, Alaska 99559

With Required Copy to:

City of Bethel Legal Department
PO Box 1388
Bethel, Alaska 99559-1388

To Tenant:
Essenkay, LLC
PO Box 2343
Bethel AK 99559-2343

10.03 Covenants and Conditions

Every provision in this Lease which imposes an obligation upon Tenant or invests an option, power, or right in Landlord shall be deemed to be a covenant of Tenant in favor of Landlord, and the time of observance and performance by Tenant of each such covenant shall be of the essence. Full and faithful observance and performance by Tenant of each of its covenants contained in this Lease shall be a condition of this Lease.

10.04 Integration and Amendment

Except as otherwise expressly provided in this Lease, this Lease is a complete integration of every agreement and representation made by or on behalf of Landlord and Tenant with respect to the Leased Premises, and no implied covenant or prior oral or written agreement shall be held to vary the provisions of this Lease, any law or custom to the contrary notwithstanding. No amendment or other modification of the provisions of this Lease shall be effective unless incorporated in a written instrument duly executed and acknowledged by Landlord and Tenant.

10.05 Survival and Severability

If any provision of this Lease shall be deemed to be void or otherwise unenforceable by any court or other tribunal of competent jurisdiction, other than at the initiative or with the support of Landlord, within thirty (30) days of receipt of written notice of such holding, Landlord shall have the right and option, exercisable by written notice thereof to Tenant, to terminate this Lease effective as of the date of such written notice of exercise. It is understood and agreed that otherwise this Lease, except for such provision so held to be void or otherwise unenforceable, shall remain in full force and effect.

10.06 Binding Effect

This Lease shall be binding upon and shall inure to the benefit of Landlord and Tenant and their respective successors and assigns. The designations "Landlord" and "Tenant" include their respective successors and assigns and shall be so construed that the use of the singular includes the plural number, and vice versa, and the use of any gender include the other genders. If at any time during the Lease Term Tenant is more than one person or entity, including persons who are partners and operate Tenancy as a partnership, their liability thereunder shall be joint and several.

10.07 Landlord's Authority to Convey Fee Title

Landlord retains the absolute and unconditional right to convey fee title in the Leased Premises or an interest or estate therein, subject to this Lease and the interest of any Qualified Mortgagee.

10.08 Tenant's Authority to Execute Lease

The Tenant represents that the person signing this Lease on its behalf has been duly authorized to sign this Lease and has the authority to bind the Tenant.

10.09 Captions

The captions of the paragraphs are for convenience only, are not operative, and neither limit nor amplify in any way the provisions hereof.

10.10 Execution and Counterparts

This Lease may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

10.11 Governing Law/Construction

This Lease shall be construed and governed by the laws of the State of Alaska. This Lease was negotiated between the parties and shall not be strictly construed against either party. In the event that a question, dispute, or requirements for interpretation or construction shall arise with respect to this Lease, jurisdiction and venue shall lie exclusively with the Bethel Court in the Fourth Judicial District at Bethel, Alaska.

IN WITNESS WHEREOF. Landlord and Tenant have duly executed and acknowledged this Lease.

CITY OF BETHEL

ESSENKAY, LLC

Peter A. Williams
City Manager

Naim Shabani
Member

Jared Karr
Member

Introduced by: City Manager Williams
Introduction Date August 28, 2018
September 11, 2018
October 9, 2018
November 27, 2018
January 22, 2019
February 26, 2019
March 12, 2019
Public Hearing: March 26, 2019
April 23, 2019
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #18-22

AN ORDINANCE AUTHORIZING THE DISPOSAL OF PROPERTY (VACANT BUILDING FORMERLY KNOWN AS THE POLICE ANNEX AND/OR THE BOJANGLES BUILDING) PURSUANT TO BMC 4.08.030(A)

WHEREAS, the City of Bethel owns a parcel of land situated on Lot 1A, Block 5 of Plat 97-21, City of Bethel, State of Alaska;

WHEREAS, the land contains a building which is currently known as the 'Old Police Annex' and at one point may have been known as the 'Old Bojangles Building';

WHEREAS, the building has not been used for years after the Fire Marshall required it be shut down due to safety issues;

WHEREAS, the building suffers from significant structural issues and poses a significant safety hazard;

WHEREAS, each day which the building sits empty creates the potential for someone to break into the building and get injured, resulting in a lawsuit against the City;

WHEREAS, given the significant structural damage to the building, the fact the building is estimated to be more than 30 years old, and it would cost more to repair the building than to put up a new one, the wisest thing the City can do at this point is demolish the building;

WHEREAS, City staff have the equipment, training and ability to do the demolition work themselves, saving the City the cost of hiring a contractor;

NOW, BE IT ORDAINED, the City Council authorizes the disposal of the above property via demolition.

SECTION 1. Classification. This ordinance is of a general nature and shall not become a part of the Bethel Municipal Code.

Introduced by: City Manager Williams
Introduction Date: August 28, 2018
September 11, 2018
October 9, 2018
November 27, 2018
January 22, 2019
February 26, 2019
March 12, 2019
Public Hearing: March 26, 2019
April 23, 2019
Action:
Vote:

SECTION 2. Authorization. Pursuant to Bethel Municipal Code 04.08.030(A) Property No Longer Necessary for Municipal Purposes.

SECTION 3. Effective Date. This Ordinance shall become effective upon the passage by the Bethel City Council.

ENACTED THIS _____ DAY OF NOVEMBER 2018, BY A VOTE OF _ IN FAVOR AND _____ OPPOSED.

Fred Watson, Mayor

ATTEST:

Lori Strickler, City Clerk

Hazardous Building Materials Survey
(Asbestos, Lead and ORM)
City of Bethel – Former Police Barracks
Bethel, Alaska

Prepared for:

CITY OF BETHEL DEPARTMENT OF PUBLIC WORKS
1155 RIDGECREST DRIVE
BETHEL, ALASKA 99559

Prepared by:

ENVIRONMENTAL MANAGEMENT, INC.
206 EAST FIREWEED LANE, SUITE 201
ANCHORAGE, ALASKA 99503

April 2, 2019



TABLE OF CONTENTS

1.0	PROJECT OVERVIEW	4
2.0	PROJECT APPROACH AND PROCEDURES	4
2.1	Asbestos Inspection Methods	5
2.2	Lead Inspection Methods	5
2.3	Other Regulated Materials Inventory	5
2.4	Project Laboratory	5
3.0	SURVEY RESULTS	5
3.1	Asbestos	5
3.2	Lead Based Paint	6
3.3	Other Regulated Materials	6
4.0	CONCLUSION AND RECOMMENDATIONS	6
4.1	Asbestos:	6
4.2	Lead Based Paint	6
4.3	Other Regulated Materials	6
5.0	SIGNATURE AND QUALIFICATIONS	6

Tables: Table 1 – Asbestos Bulk Sample Results

Table 2 – XRF Results

Figures: Sample Locations Maps

APPENDICES

Appendix A – Photo Log

Appendix B – Asbestos Laboratory Results: IATL Report #586560

Appendix C – Inspector Certifications

ACRONYMS AND ABBREVIATIONS

ACBM	Asbestos-Containing Building Materials
ABMS	Asbestos Building Material Survey
ACM	Asbestos Containing Materials
AHERA	Asbestos Hazard Emergency Response Act
Cat. I	Category I: Asbestos containing packings, gaskets, resilient floor covering and asphalt roofing products containing more than 1% asbestos.
Cat. II	Category II: Other materials containing more than 1% asbestos that when dry cannot be crumbled, pulverized, or reduced to a powder by hand pressure.
CFR	Code of Federal Regulations
EMI	Environmental Management Inc.
EPA	Environmental Protection Agency
IATL	International Asbestos Testing Laboratories
NESHAP	National Emission Standard for Hazardous Air Pollutants
OSHA	Occupational Safety and Health Administration
PLM	Polarized Light Microscopy
RACM	Regulated Asbestos-Containing Material
XRF	X-ray Fluorescence Instrument

**Hazardous Building Materials Survey
(Asbestos, Lead and ORM)
City of Bethel – Former Police Barracks
Bethel, Alaska**

1.0 PROJECT OVERVIEW

On March 19, 2019, Environmental Management, Inc. (EMI) conducted a Hazardous Building Materials Survey (HBMS) on the former Bethel Police Barracks which is located off Chief Eddie Hoffman Highway, Bethel, Alaska.

The survey included inspection and data collection for asbestos-containing materials (ACM), lead based paint (LBP) and other regulated materials (ORM). EMI conducted this survey under contract with the City of Wasilla, Department of Public Works.

This survey was conducted for the purpose of identifying hazardous and regulated materials prior to demolition. This survey was conducted in a manner that satisfies applicable regulations related demolition, including National Emissions Standard for Hazardous Air Pollutants (NESHAP) 40 Code of Federal Regulation (CFR) 61 Subpart M.

This survey was performed by Glenn Hasburgh, EMI, who is qualified and experienced with current Asbestos Hazard Emergency Response Act (AHERA) Inspector certification and Lead Risk Assessor in accordance with U.S. Environmental Protection Agency (EPA). The following parties and points of contact are also associated with the project:

Client Representative:

Bill Arnold, City of Bethel Department of Public Works
Office: 907-543-2047

Project Manager / Inspector:

Glenn Hasburgh, EMI
Office: 907-272-9336

2.0 PROJECT APPROACH AND PROCEDURES

The asbestos survey was performed in compliance with Occupational Safety and Health Administration's (OSHA) requirements presented 29 CFR 1926.1101.

2.1 Asbestos Inspection Methods

On March 19, 2019, EMI performed the pre-demolition survey on the former police barracks. Representative samples of building materials considered suspect for their potential contain asbestos were collected. The location of each sample and a brief description of the material were recorded in the field notes. Once all samples were collected, they were recorded on a chain-of-custody and submitted to an approved laboratory for analysis.

2.2 Lead Inspection Methods

The lead inspection was conducted using an x-ray fluorescence (XRF) instrument to collect representative readings of both interior and exterior painted surfaces including walls, doors, windows and associated trims. Additional readings were also collected from exterior building components. All data was data logged on the instrument and downloaded following the inspection. Table 2 presents the XRF data.

2.3 Other Regulated Materials Inventory

The inventorying of ORM consisted of performing a walkthrough of the building and noting building components that may contain regulated components such as, radioactive sources, polychlorinated biphenyl containing light ballasts, mercury containing switches and bulbs, or other similar materials.

2.4 Project Laboratory

The project laboratory used for asbestos analysis was International Asbestos Testing Laboratories (IATL), located at 9000 Commerce Parkway, Suite B in Mt. Laurel, New Jersey 08054. Collected samples were analyzed via polarized light microscopy (PLM) in accordance with EPA guidance. IATL is accredited by the National Voluntary Laboratory Accreditation Program (NVLAP).

3.0 SURVEY RESULTS

The following sections present information related to the asbestos and lead results. Supplemental information including laboratory reports, XRF data and photographs are included in the appendices of this report.

3.1 Asbestos

A total of 22 samples asbestos samples (30 layers) were collected from the former police barracks. None of the samples had detections for asbestos. Based on these findings all materials associated with the building are considered non-ACM.

3.2 Lead Based Paint

A total of 20 XRF readings were collected from interior and exterior painted surfaces, in addition to three calibration readings. LBP was not detected in any of the readings collected from the building.

3.3 Other Regulated Materials

Various types of lighting that utilize bulbs that may contain mercury vapor were observed. Additionally, radioactive exit signs and ionizing smoke detectors are also present. No other ORM was observed. It is estimated there are up to 100 light bulbs, 4 exit signs, and 10 smoke detectors. The actual number may vary slightly.

4.0 CONCLUSION AND RECOMMENDATIONS

This report provides a list of materials sampled during this limited survey. Results and documentation are included in Appendices A through D. Asbestos sample locations are illustrated on the attached figures. Based on survey findings and in accordance with regulatory requirements the following conclusions are made.

4.1 Asbestos:

Asbestos was not detected in any of the samples collected. Based on this information all building materials are considered non-ACM.

4.2 Lead Based Paint

Lead based paint was not detected in any of the readings collected from painted surfaces. Based on this information the building is considered free of LBP and additional characterization of the waste stream is not warranted.

4.3 Other Regulated Materials

ORM discussed in section 3.3 should be handled and disposed of in accordance with applicable regulations.

5.0 SIGNATURE AND QUALIFICATIONS

EMI is a professional environmental consulting firm, duly qualified and experienced in performing Hazardous Building Material Surveys, Phase I Environmental Site Assessments, Baseline Surveys, and other types of environmental investigations and assessments. References, resumes, and certifications are available upon request. EMI is located at 206 East Fireweed Lane Suite 201, Anchorage, Alaska, 99503. EMI can be reached by the following means:

Phone -- (907) 272-9336 or Fax -- (907) 272-4159

This survey is limited to the scope as defined in the contract documents, and to information collected by EMI from the on-site assessment, as well as from drawings and interviews with personnel familiar with the buildings. EMI has performed these tasks in a manner consistent with the level of skill ordinarily exercised by members of the profession currently practicing under similar conditions. No warranty, express or implied, beyond exercise of reasonable care and professional diligence, is herein offered.

Sincerely,
Environmental Management, Inc.



Glenn Hasburgh
Environmental Scientist

Table 1 - Asbestos Bulk Sample Results

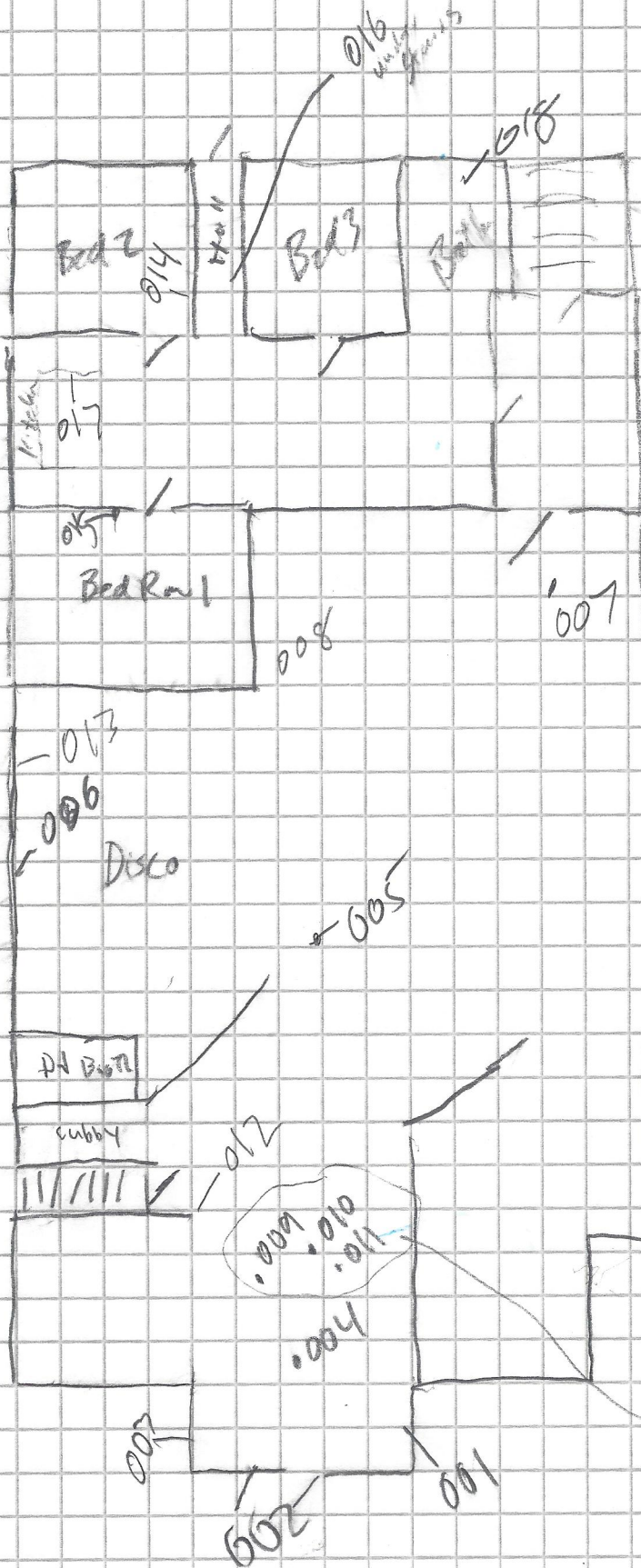
Building	EMI Sample ID	Laboratory Sample ID	EMI Description	Customer Description	Asbestos Type
Bethel PB	PB-001	6751486	White Texture	Wall Text	None Detected
Bethel PB	PB-001	6751486 (L2)	White Drywall	Wall Text	None Detected
Bethel PB	PB-002	6751487	White Drywall	JC	None Detected
Bethel PB	PB-002	6751487 (L2)	White Joint Compound	JC	None Detected
Bethel PB	PB-002	6751487 (L3)	Composite	JC	None Detected
Bethel PB	PB-003	6751488	Brown/Black Tar Paper	Roof Paper	None Detected
Bethel PB	PB-004	6751489	White Texture	Ceiling Text	None Detected
Bethel PB	PB-005	6751490	White Texture	Ceiling Text	None Detected
Bethel PB	PB-006	6751491	White Texture	Ceiling Text	None Detected
Bethel PB	PB-007	6751492	White Texture	Ceiling Text	None Detected
Bethel PB	PB-008	6751493	White Texture	Ceiling Text	None Detected
Bethel PB	PB-009	6751494	Brown Insulation	Attic Ins	None Detected
Bethel PB	PB-010	6751495	Brown Insulation	Attic Ins	None Detected
Bethel PB	PB-011	6751496	Brown Insulation	Attic Ins	None Detected
Bethel PB	PB-012	6751497	White Joint Compound	JC	None Detected
Bethel PB	PB-013	6751498	White Drywall	GWS	None Detected
Bethel PB	PB-013	6751498 (L2)	White Texture	GWS	None Detected
Bethel PB	PB-014	6751499	White Texture	Wall Text	None Detected
Bethel PB	PB-015	6751500	White Drywall	GWS	None Detected
Bethel PB	PB-015	6751500 (L2)	White Texture	GWS	None Detected
Bethel PB	PB-016	6751501	White Texture	Wall Text	None Detected
Bethel PB	PB-016	6751501 (L2)	White Drywall	Wall Text	None Detected
Bethel PB	PB-017	6751502	Off-White Sink Undercoating	Sink Undercoat	None Detected
Bethel PB	PB-018	6751503	White Panel	Shower Adhesive	None Detected
Bethel PB	PB-018	6751503 (L2)	Tan Mastic	Shower Adhesive	None Detected
Bethel PB	PB-018	6751503 (L3)	White Joint Compound	Shower Adhesive	None Detected
Bethel PB	PB-019	6751504	White Texture	Wall Text	None Detected
Bethel PB	PB-020	6751505	White Texture	Wall Text	None Detected
Bethel PB	PB-021	6751506	White Texture	Wall Text	None Detected
Bethel PB	PB-022	6751507	White Texture	Wall Text And JC	None Detected

Table 2 - XRF Results - Police Barracks

Building	Reading No.	Time	Type	Duration	Units	Sequence	Results
NA	631	3/19/2019 4:04	Shutter Cal	398.28	cps	Final	
NA	632	3/19/2019 4:05	Calibration	8.75	mg / cm ^2	Final	Positive
NA	633	3/19/2019 4:07	Calibration	8.67	mg / cm ^2	Final	Positive
NA	634	3/19/2019 4:08	Calibration	9.45	mg / cm ^2	Final	Negative
Police Barracks	635	3/19/2019 4:18	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	636	3/19/2019 4:18	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	637	3/19/2019 4:18	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	638	3/19/2019 4:19	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	639	3/19/2019 4:20	PAINT	2.35	mg / cm ^2	Final	Negative
Police Barracks	640	3/19/2019 4:20	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	641	3/19/2019 4:20	PAINT	1.21	mg / cm ^2	Final	Negative
Police Barracks	642	3/19/2019 4:21	PAINT	0.87	mg / cm ^2	Final	Null
Police Barracks	643	3/19/2019 4:21	PAINT	2.16	mg / cm ^2	Final	Negative
Police Barracks	644	3/19/2019 4:22	PAINT	2.25	mg / cm ^2	Final	Negative
Police Barracks	645	3/19/2019 4:22	PAINT	1.48	mg / cm ^2	Final	Negative
Police Barracks	646	3/19/2019 4:22	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	647	3/19/2019 4:23	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	648	3/19/2019 4:23	PAINT	1.65	mg / cm ^2	Final	Negative
Police Barracks	649	3/19/2019 4:24	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	650	3/19/2019 4:24	PAINT	1.39	mg / cm ^2	Final	Negative
Police Barracks	651	3/19/2019 4:25	PAINT	1.04	mg / cm ^2	Final	Negative
Police Barracks	652	3/19/2019 4:25	PAINT	1.39	mg / cm ^2	Final	Negative
Police Barracks	653	3/19/2019 4:26	PAINT	2.69	mg / cm ^2	Final	Negative
Police Barracks	654	3/19/2019 4:26	PAINT	2.26	mg / cm ^2	Final	Negative

Bethel - Police Barracks - Quarters Unit
1st Floor

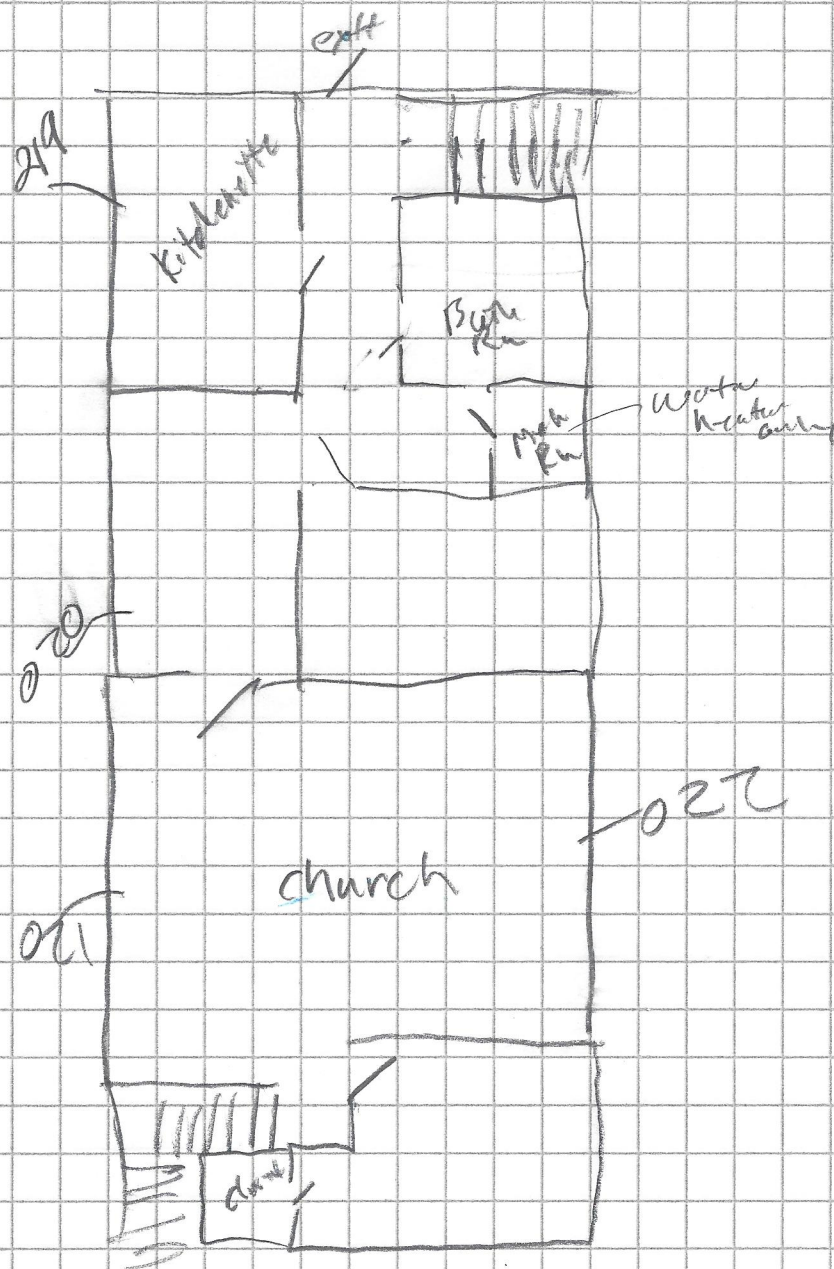
3/19/19



- 001 wall text
- 002 - JC
- 003 - Roof paper Rubble
- 004 - ceiling text
- 005 "
- 006 "
- 007 "
- 008 "
- 009 Attic ins
- 010 "
- 011 "
- 012 JC
- 013 GWS w text
- 014 wall text
- 015 GWS
- 016 wall text
- 017 sink undercount
- 018 showpout ad hane
- 019 wall text
- 020 "
- 021 "
- 022 " + JC

Only Area
with Glass
(Gallbladder)

Bethel police Barracks
2nd floor



Appendix A

Photo Log

Photo Log



Photo 1: This photo shows the former Bethel police barracks. None of the exterior materials tested positive for lead based paint or asbestos.

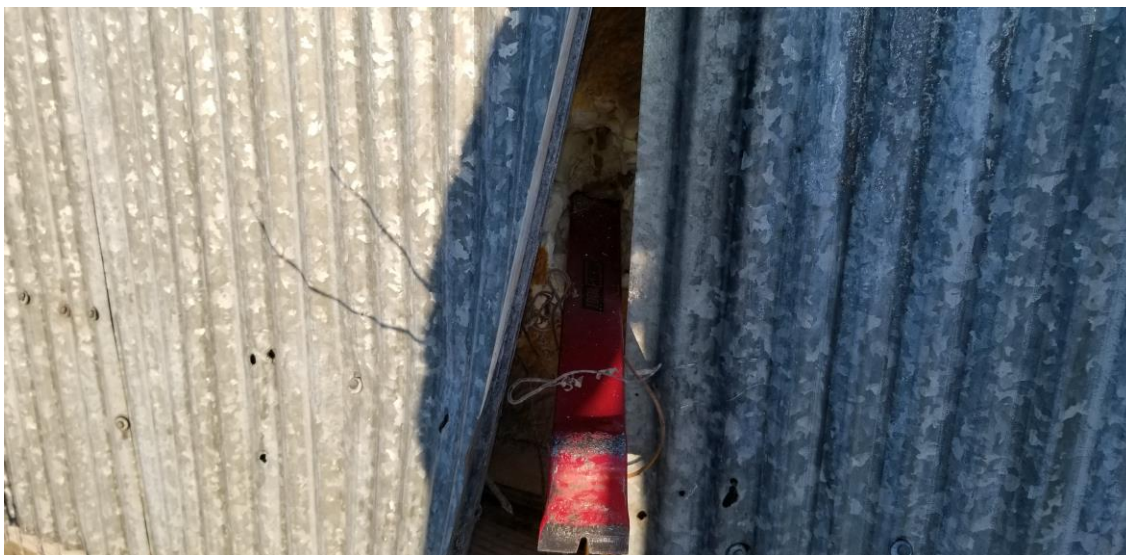


Photo 2: This photo shows the exterior construction of the building which consists of corrugated metal overtop foam board. There were no suspect materials associated with the exterior wall construction.

Photo Log



Photo 3: This photo shows the roof materials present above the entryway. All roof products tested were negative for asbestos.



Photo 4: This photo shows the attic insulation present in select areas of the building. This material was also negative for asbestos.

Photo Log



Photo 5: This photo shows the flooring within the building. The carpet was removed in multiple areas and in all instances only bare plywood was beneath.



Photo 6: This photo shows one of the many samples of wall textures collected. All wall textures were found to be non-ACM. This photo also shows where the wall was opened to look for hidden materials, such as pipe insulation.

Appendix B
Abestos Laboratory Results
IATL Report 586560

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Client: ENV164

Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

PLM BULK SAMPLE ANALYSIS SUMMARY

Lab No.: 6751486
Client No.: PB-001

Percent Asbestos:
None Detected

Analyst Observation: White Texture
Client Description: Wall Text

Percent Non-Asbestos Fibrous Material:
None Detected

Location:
Facility:

Percent Non-Fibrous Material:
100

Lab No.: 6751486(L2)
Client No.: PB-001

Percent Asbestos:
None Detected

Analyst Observation: White Drywall
Client Description: Wall Text

Percent Non-Asbestos Fibrous Material:
2 Fibrous Glass

Location:
Facility:

Percent Non-Fibrous Material:
98

Lab No.: 6751487
Client No.: PB-002

Percent Asbestos:
None Detected

Analyst Observation: White Drywall
Client Description: JC

Percent Non-Asbestos Fibrous Material:
2 Fibrous Glass

Location:
Facility:

Percent Non-Fibrous Material:
98

Lab No.: 6751487(L2)
Client No.: PB-002

Percent Asbestos:
None Detected

Analyst Observation: White Joint Compound
Client Description: JC

Percent Non-Asbestos Fibrous Material:
None Detected

Location:
Facility:

Percent Non-Fibrous Material:
100

Lab No.: 6751487(L3)
Client No.: PB-002

Percent Asbestos:
None Detected

Analyst Observation: Composite
Client Description: JC

Percent Non-Asbestos Fibrous Material:
1 Fibrous Glass

Location:
Facility:

Percent Non-Fibrous Material:
99

Lab No.: 6751488
Client No.: PB-003

Percent Asbestos:
None Detected

Analyst Observation: Brown/Black Tar Paper
Client Description: Roof Paper

Percent Non-Asbestos Fibrous Material:
60 Cellulose

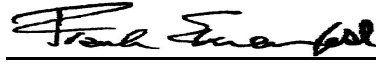
Location:
Facility:

Percent Non-Fibrous Material:
40

Please refer to the Appendix of this report for further information regarding your analysis.

Date Received: 3/27/2019
Date Analyzed: 03/29/2019

Signature: 
Analyst: Robert Betsch

Approved By: 
Frank E. Ehrenfeld, III
Laboratory Director

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Client: ENV164

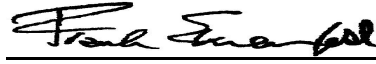
Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

PLM BULK SAMPLE ANALYSIS SUMMARY

Lab No.: 6751489 Client No.: PB-004 <u>Percent Asbestos:</u> <i>None Detected</i>	Analyst Observation: White Texture Client Description: Ceiling Text <u>Percent Non-Asbestos Fibrous Material:</u> 3 Cellulose	Location: Facility: <u>Percent Non-Fibrous Material:</u> 97
Lab No.: 6751490 Client No.: PB-005 <u>Percent Asbestos:</u> <i>None Detected</i>	Analyst Observation: White Texture Client Description: Ceiling Text <u>Percent Non-Asbestos Fibrous Material:</u> 3 Cellulose	Location: Facility: <u>Percent Non-Fibrous Material:</u> 97
Lab No.: 6751491 Client No.: PB-006 <u>Percent Asbestos:</u> <i>None Detected</i>	Analyst Observation: White Texture Client Description: Ceiling Text <u>Percent Non-Asbestos Fibrous Material:</u> 3 Cellulose	Location: Facility: <u>Percent Non-Fibrous Material:</u> 97
Lab No.: 6751492 Client No.: PB-007 <u>Percent Asbestos:</u> <i>None Detected</i>	Analyst Observation: White Texture Client Description: Ceiling Text <u>Percent Non-Asbestos Fibrous Material:</u> 2 Cellulose	Location: Facility: <u>Percent Non-Fibrous Material:</u> 98
Lab No.: 6751493 Client No.: PB-008 <u>Percent Asbestos:</u> <i>None Detected</i>	Analyst Observation: White Texture Client Description: Ceiling Text <u>Percent Non-Asbestos Fibrous Material:</u> 2 Cellulose	Location: Facility: <u>Percent Non-Fibrous Material:</u> 98
Lab No.: 6751494 Client No.: PB-009 <u>Percent Asbestos:</u> <i>None Detected</i>	Analyst Observation: Brown Insulation Client Description: Attic Ins <u>Percent Non-Asbestos Fibrous Material:</u> 60 Cellulose	Location: Facility: <u>Percent Non-Fibrous Material:</u> 40

Please refer to the Appendix of this report for further information regarding your analysis.

Date Received: 3/27/2019
Date Analyzed: 03/29/2019
Signature: 
Analyst: Robert Betsch

Approved By: 
Frank E. Ehrenfeld, III
Laboratory Director

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

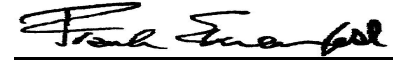
Client: ENV164

PLM BULK SAMPLE ANALYSIS SUMMARY

Lab No.: 6751495 Client No.: PB-010	Analyst Observation: Brown Insulation Client Description: Attic Ins	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> 60 Cellulose	<u>Percent Non-Fibrous Material:</u> 40
Lab No.: 6751496 Client No.: PB-011	Analyst Observation: Brown Insulation Client Description: Attic Ins	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> 60 Cellulose	<u>Percent Non-Fibrous Material:</u> 40
Lab No.: 6751497 Client No.: PB-012	Analyst Observation: White Joint Compound Client Description: JC	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> None Detected	<u>Percent Non-Fibrous Material:</u> 100
Lab No.: 6751498 Client No.: PB-013	Analyst Observation: White Drywall Client Description: GWS	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> 3 Fibrous Glass	<u>Percent Non-Fibrous Material:</u> 97
Lab No.: 6751498(L2) Client No.: PB-013	Analyst Observation: White Texture Client Description: GWS	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> None Detected	<u>Percent Non-Fibrous Material:</u> 100
Lab No.: 6751499 Client No.: PB-014	Analyst Observation: White Texture Client Description: Wall Text	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> None Detected	<u>Percent Non-Fibrous Material:</u> 100

Please refer to the Appendix of this report for further information regarding your analysis.

Date Received: 3/27/2019
Date Analyzed: 03/29/2019
Signature: 
Analyst: Robert Betsch

Approved By: 
Frank E. Ehrenfeld, III
Laboratory Director

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Client: ENV164

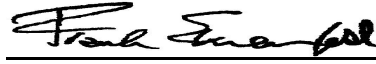
Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

PLM BULK SAMPLE ANALYSIS SUMMARY

Lab No.: 6751500 Client No.: PB-015	Analyst Observation: White Drywall Client Description: GWS	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> 2 Fibrous Glass	<u>Percent Non-Fibrous Material:</u> 98
Lab No.: 6751500(L2) Client No.: PB-015	Analyst Observation: White Texture Client Description: GWS	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> None Detected	<u>Percent Non-Fibrous Material:</u> 100
Lab No.: 6751501 Client No.: PB-016	Analyst Observation: White Texture Client Description: Wall Text	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> None Detected	<u>Percent Non-Fibrous Material:</u> 100
Lab No.: 6751501(L2) Client No.: PB-016	Analyst Observation: White Drywall Client Description: Wall Text	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> 2 Fibrous Glass	<u>Percent Non-Fibrous Material:</u> 98
Lab No.: 6751502 Client No.: PB-017	Analyst Observation: Off-White Sink Undercoating Client Description: Sink Undercoat	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> 5 Cellulose	<u>Percent Non-Fibrous Material:</u> 95
Lab No.: 6751503 Client No.: PB-018	Analyst Observation: White Panel Client Description: Shower Adhesive	Location: Facility:
<u>Percent Asbestos:</u> <i>None Detected</i>	<u>Percent Non-Asbestos Fibrous Material:</u> None Detected	<u>Percent Non-Fibrous Material:</u> 100

Please refer to the Appendix of this report for further information regarding your analysis.

Date Received: 3/27/2019
Date Analyzed: 03/29/2019
Signature: 
Analyst: Robert Betsch

Approved By: 
Frank E. Ehrenfeld, III
Laboratory Director

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Client: ENV164

Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

PLM BULK SAMPLE ANALYSIS SUMMARY

Lab No.: 6751503(L2)	Analyst Observation: Tan Mastic	Location:
Client No.: PB-018	Client Description: Shower Adhesive	Facility:
<u>Percent Asbestos:</u>	<u>Percent Non-Asbestos Fibrous Material:</u>	<u>Percent Non-Fibrous Material:</u>
<i>None Detected</i>	None Detected	100

Lab No.: 6751503(L3)	Analyst Observation: White Joint Compound	Location:
Client No.: PB-018	Client Description: Shower Adhesive	Facility:
<u>Percent Asbestos:</u>	<u>Percent Non-Asbestos Fibrous Material:</u>	<u>Percent Non-Fibrous Material:</u>
<i>None Detected</i>	None Detected	100

Lab No.: 6751504	Analyst Observation: White Texture	Location:
Client No.: PB-019	Client Description: Wall Text	Facility:
<u>Percent Asbestos:</u>	<u>Percent Non-Asbestos Fibrous Material:</u>	<u>Percent Non-Fibrous Material:</u>
<i>None Detected</i>	None Detected	100

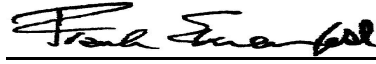
Lab No.: 6751505	Analyst Observation: White Texture	Location:
Client No.: PB-020	Client Description: Wall Text	Facility:
<u>Percent Asbestos:</u>	<u>Percent Non-Asbestos Fibrous Material:</u>	<u>Percent Non-Fibrous Material:</u>
<i>None Detected</i>	None Detected	100

Lab No.: 6751506	Analyst Observation: White Texture	Location:
Client No.: PB-021	Client Description: Wall Text	Facility:
<u>Percent Asbestos:</u>	<u>Percent Non-Asbestos Fibrous Material:</u>	<u>Percent Non-Fibrous Material:</u>
<i>None Detected</i>	None Detected	100

Lab No.: 6751507	Analyst Observation: White Texture	Location:
Client No.: PB-022	Client Description: Wall Text And JC	Facility:
<u>Percent Asbestos:</u>	<u>Percent Non-Asbestos Fibrous Material:</u>	<u>Percent Non-Fibrous Material:</u>
<i>None Detected</i>	None Detected	100

Please refer to the Appendix of this report for further information regarding your analysis.

Date Received: 3/27/2019
Date Analyzed: 03/29/2019
Signature: 
Analyst: Robert Betsch

Approved By: 
Frank E. Ehrenfeld, III
Laboratory Director

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Client: ENV164

Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

Appendix to Analytical Report

Customer Contact: Matt Cox
Method: US EPA 600, R93-116

This appendix seeks to promote greater understanding of any observations, exceptions, special instructions, or circumstances that the laboratory needs to communicate to the client concerning the above samples. The information below is used to help promote your ability to make the most informed decisions for you and your customers. Please note the following points of contact for any questions you may have.

iATL Customer Service: customerservice@iatl.com
iATL Office Manager: wchampion@iatl.com
iATL Account Representative: Kelly Klippel
Sample Login Notes: See Batch Sheet Attached
Sample Matrix: Bulk Building Materials
Exceptions Noted: See Following Pages

General Terms, Warrants, Limits, Qualifiers:

General information about iATL capabilities and client/laboratory relationships and responsibilities are spelled out in iATL policies that are listed at www.iATL.com and in our Quality Assurance Manual per ISO 17025 standard requirements. The information therein is a representation of iATL definitions and policies for turnaround times, sample submittal, collection media, blank definitions, quantification issues and limit of detection, analytical methods and procedures, sub-contracting policies, results reporting options, fees, terms, and discounts, confidentiality, sample archival and disposal, and data interpretation.

iATL warrants the test results to be of a precision normal for the type and methodology employed for each sample submitted. iATL disclaims any other warrants, expressed or implied, including warranty of fitness for a particular purpose and warranty of merchantability. iATL accepts no legal responsibility for the purpose for which the client uses test results. Any analytical work performed must be governed by our Standard Terms and Conditions. Prices, methods and detection limits may be changed without notification. Please contact your Customer Service Representative for the most current information.

This confidential report relates only to those item(s) tested and does not represent an endorsement by NIST-NVLAP, AIHA LAP LLC, or any agency of local, state or province governments nor of any agency of the U.S. government.

This report shall not be reproduced except in full, without written approval of the laboratory.

Information Pertinent to this Report:

Analysis by US EPA 600 93-116: Determination of Asbestos in Bulk Building Materials by Polarized Light Microscopy (PLM).

Certifications:

- NIST-NVLAP No. 101165-0
- NYSDOH-ELAP No. 11021
- AIHA-LAP, LLC No. 100188

Quantification at <0.25% by volume is possible with this method. (PC) Indicates Stratified Point Count Method performed. (PC-Trace) means that asbestos was detected but is not quantifiable under the Point Counting regimen. PC Trace represents a <0.25% amount. Analysis includes all distinct separable layers in accordance with EPA 600 Method. If not reported or otherwise noted, layer is either not present or the client has specifically requested that it not be analyzed (ex. analyze until positive instructions). Small asbestos fibers may be missed by PLM due to resolution limitations of the optical microscope. Therefore, PLM is not consistently reliable in detecting asbestos in non-friable organically bound (NOB) materials. Quantitative transmission electron microscopy (TEM) is currently the only method that can pronounce materials as non-asbestos containing.

Analytical Methodology Alternatives: Your initial request for analysis may not have accounted for recent advances in regulatory requirements or advances in technology that are routinely used in similar situations for other qualified projects. You may have the option to explore additional analysis for further information. Below are a few options, listed as the matrix followed by the appropriate methodology. Also included are links to more information on our website.

Bulk Building Materials that are Non-Friable Organically Bound (NOB) by Gravimetric Reduction techniques employing PLM and TEM: ELAP 198.6 (PLM-NOB), ELAP 198.4 (TEM-NOB)

Loose Fill Vermiculite Insulation, Attic Insulation, Zonolite (copyright), etc.: US EPA 600 R-4/004 (multi-tiered analytical process)

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

Client: ENV164

Sprayed On Insulation/Fireproofing with Vermiculite (SOF-V): ELAP 198.8 (PLM-SOF-V)

Soil, sludge, sediment, aggregate, and like materials analyzed for asbestos or other elongated mineral particles (ex. erionite, etc.): ASTM D7521, CARB 435, and other options available

Asbestos in Surface Dust according to one of ASTM's Methods (very dependent on sampling collection technique – by TEM): ASTM D 5755, D5756, or D6480

Various other asbestos matrices (air, water, etc.) and analytical methods are available.

Disclaimers / Qualifiers:

There may be some samples in this project that have a "NOTE:" associated with a sample result. We use added disclaimers or qualifiers to inform the client about something that requires further explanation. Here is a list with highlighted disclaimers that may be pertinent to this project. For a full explanation of these and other disclaimers, please inquire at customerservice@iatl.com.

- 1) Note: No mastic provided for analysis.
- 2) Note: Insufficient mastic provided for analysis.
- 3) Note: Insufficient material provided for analysis.
- 4) Note: Insufficient sample provided for QC reanalysis.
- 5) Note: Different material than indicated on Sample Log / Description.
- 6) Note: Sample not submitted.
- 7) Note: Attached to asbestos containing material.
- 8) Note: Received wet.
- 9) Note: Possible surface contamination.
- 10) Note: Not building material. 1% threshold may not apply.
- 11) Note: Recommend TEM-NOB analysis as per EPA recommendations.
- 12) Note: Asbestos detected but not quantifiable.
- 13) Note: Multiple identical samples submitted, only one analyzed.
- 14) Note: Analyzed by EPA 600/R-93/116. Point Counting detection limit at 0.080%.
- 15) Note: Analyzed by EPA 600/R-93/116. Point Counting detection limit at 0.125%.
- 16) Note: This sample contains >10% vermiculite mineral. See Appendix for Recommendations for Vermiculite Analysis.

Recommendations for Vermiculite Analysis:

Several analytical protocols exist for the analysis of asbestos in vermiculite. These analytical approaches vary depending upon the nature of the vermiculite mineral being tested (e.g. un-processed gänge, homogeneous exfoliated books of mica, or mixed mineral composites). Please contact your client representative for pricing and turnaround time options available.

iATL recommends initial testing using the EPA 600/R-93/116 method. This method is specifically designed for the analysis of asbestos in bulk building materials. It provides an acceptable starting point for primary screening of vermiculite for possible asbestos.

Results from this testing may be inconclusive. EPA suggests proceeding to a multi-tiered analysis involving wet separation techniques in conjunction with PLM and TEM gravimetric analysis (EPA 600/R-04/004).

For New York State customers, NYSDOH requires disclaimers and qualifiers for various vermiculite containing samples that direct analysis via ELAP198.6 and ELAP198.8 for samples that contain >10% vermiculite mineral where ELAP198.6 may be used to evaluate the asbestos content of the material. However, any test result using ELAP198.6 will be reported with the following disclaimer: "ELAP198.6 method does not remove vermiculite and may underestimate the level of asbestos present in a sample containing >10% vermiculite."

Further information on this method and other vermiculite and asbestos issues can be found at the following: Agency for Toxic Substances and Disease Registry (ATSDR) www.atsdr.cdc.gov, United States Geological Survey (USGS) www.minerals.usgs.gov/minerals/, US EPA www.epa.gov/asbestos. The USEPA also has an informative brochure "Current Best Practices for Vermiculite Attic Insulation" EPA 747F03001 May 2003, that may assist the health and remediation professional.

The following is a summary of the analytical process outlines in the EPA 600/R-04/004 Method:

1) **Analytical Step/Method:** Initial Screening by PLM, EPA 600R-93/116
Requirements/Comments: Minimum of 0.1 g of sample. ~0.25% LOQ for most samples.

2) **Analytical Step/Method:** Wet Separation by PLM Gravimetric Technique, EPA R-04/004
Requirements/Comments: Minimum 50g** of dry sample. Analysis of "Sinks" only.

CERTIFICATE OF ANALYSIS

Client: Environmental Management Inc.
206 E. Fireweed Lane Suite 201
Anchorage AK 99503

Report Date: 3/29/2019
Report No.: 586560 - PLM
Project: Bethel PB
Project No.: 17969

Client: ENV164

3)**Analytical Step/Method:** Wet Separation by PLM Gravimetric Technique, EPA R-04/004
Requirements/Comments: Minimum 50g** of dry sample. Analysis of "Floats" only.

4)**Analytical Step/Method:** Wet Separation by TEM Gravimetric Technique, EPA R-04/004
Requirements/Comments: Minimum 50g** of dry sample. Analysis of "Sinks" only.

5)**Analytical Step/Method:** Wet Separation by TEM Gravimetric Technique, EPA R-04/004
Requirements/Comments: Minimum 50g** of dry sample. Analysis of "Suspension" only.

LOQ, Limit of Quantitation estimates for mass and volume analyses.

*With advance notice and confirmation by the laboratory.

**Approximately 1 Liter of sample in double-bagged container (~9x6 inch bag of sample).

Chain of Custody

—Bulk Asbestos—

Contact Information

Client Company: Environmental Management Inc Project Number: 17969
Office Address: 206 E. Forward In, Suite 201 Project Name: Bethel PB
City, State, Zip: Anchorage, AK 99503 Primary Contact: Glenn Hasbungh
Fax Number: 907-272-4159 Office Phone: 907-662-272-9336
Email Address: ghasbungh@emi-ak.com Cell Phone: 907-662-5848

PLM Instructions:

- ☒ PLM: Bulk Asbestos Building Materials EPA 600 R-93/116, 1993
☐ PLM: Bulk Asbestos Building Materials EPA 600 M-4/82-020, 1982
☐ PLM: Bulk Asbestos Building Materials NIOSH 9002, 1985
☐ PLM: Bulk Asbestos Building Materials NYSDOH-ELAP 198.1, 2002
☐ PLM: Bulk Asbestos Building Materials NYSDOH-ELAP 198.6, 2010
☐ TEM: Bulk Asbestos Building Materials NYSDOH-ELAP 198.4, 2009
- ☒ PLM: Point Counting
☐ PC: via ELAP 198.1
☒ PC: 400 Points
☐ PC: 800 Points *
☐ PC: 1600 Points *
- ☒ PLM: Instructions for Multi-Layered Samples
☐ Analyze and Report All Separable Layers per EPA 600
☐ Report Composite for Drywall Systems per NESHAP
☒ Report All Layers and Composite Where Applicable
☐ Only Analyze and Report Specifically Noted Layer
- ☐ PLM: Analyze Until Positive (Positive Stop)
☐ AUP: by Homogenous Area as Noted
☐ AUP: by Material Type as Noted
☐ PLM: NOB via 198.6
☐ PLM: Friable via EPA 600 2.3
☐ If <1% by PLM, to TEM via 198.4 *
☐ If <1% by PLM, Hold for Instructions
- ☐ PLM: Non-Building Material*** (Dust, Wipe, Tape)
☐ Soil or Vermiculite Analysis*
☐ CARB 435

Special Instructions:

* Additional charge and turnaround may be required ** Alternative Method (ex: EPA 600/R-04/004) may be recommended by Laboratory

Turnaround Time

Preliminary Results Requested Date: COB 3/27/19 ☐ Verbal ☐ Email ☐ Fax
Specific date / time
☐ 10 Day ☐ 5 Day ☐ 3 Day ☒ 2 Day ☐ 1 Day* ☐ 12 Hour** ☐ 6 Hour** ☐ RUSH**

* End of next business day unless otherwise specified. ** Matrix Dependent. ***Please notify the lab before shipping***

Chain of Custody

Relinquished (Name/Organization): SPMA Date: 3/25/19 Time: 1700
Received (Name / iATL): _____ Date: _____ Time: _____
Sample Login (Name / iATL): _____ Date: _____ Time: _____
Analysis(Name(s) / iATL): Penelope Date: 3/29/19 Time: 16
QA/QC Review (Name / iATL): Kenny Date: 3/29/19 Time: 11
Archived / Released: _____ QA/QC InterLAB Use: _____ Date: _____ Time: MAR 27 2019

Sample Log

—Bulk Asbestos—

Client: EMT Project: 17969 - Bethel AP

Sampling Date/Time: 3/19/19

Bulk Asbestos Sample Log			
Client Sample #	iATL #	Location/Description	Notes
PB-001	6751486	Wall text	
PB-002	6751487	Jc	
PB-003	6751488	Roof paper	
PB-004	6751489	Ceiling text	
PB-005	6751490	"	
PB-006	6751491	"	
PB-007	6751492	"	
PB-008	6751493	"	
PB-009	6751494	Attic Ins	
PB-010	6751495	"	
PB-011	6751496	"	
PB-012	6751497	Jc	
PB-013	6751498	GWS	
PB-014	6751499	Wall text	
PB-015	6751500	GWS	
PB-016	6751501	Wall text	

Sample Log

–Bulk Asbestos–

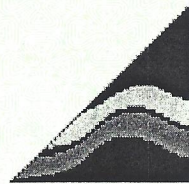
Client: EMI Project: 17969 - Better 1 PB

Sampling Date/Time: 3/27/19

[illegible]

Appendix C

Inspector Certifications



ENVIRONMENTAL
MANAGEMENT
INCORPORATED

Certificate of Training

T - 27287 - 16276

Certificate Number

This is to certify that

Glenn C. Hasburgh

has satisfactorily completed 4 hours

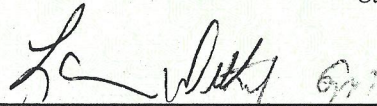
of

EPA/AHERA Inspector Refresher

In Accordance With 40 CFR Part 763 Subpart E

Class Start Date: 8/9/2018

Class End Date: 8/9/2018


Glenn Hasburgh, IH

8/9/2018
Exam Date

8/9/2019
Cert. Exp. Date

Stuart M. Jacques
Director

Environmental Management Inc. 206 E. Fireweed Lane Suite 201, Anchorage Alaska 99503 907-272-8852

United States Environmental Protection Agency

This is to certify that



Glenn C Hasburgh

has fulfilled the requirements of the Toxic Substances Control Act (TSCA) Section 402, and has received certification to conduct lead-based paint activities pursuant to 40 CFR Part 745.226 as:

Risk Assessor

In the Jurisdiction of:

All EPA Administered Lead-based Paint Activities Program States, Tribes and Territories

This certification is valid from the date of issuance and expires March 07, 2022

LBP-R-1199333-1

Certification #

February 21, 2019

Issued On



A handwritten signature in dark ink, appearing to read 'Adrienne Prisela'.

Adrienne Prisela, Manager, Toxics Office
Land Division

Introduced by: Council Member Charles
Introduction Date: April 23, 2018
Public Hearing May 14, 2019
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #19-05

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING TITLE 2.04 TO PROVIDE FOR COMPENSATION AND BENEFITS FOR BETHEL CITY COUNCIL MEMBERS

WHEREAS, Bethel City Council members are all currently volunteers;

WHEREAS, being a City Council member requires a commitment of a significant amount of personal time;

WHEREAS, most months the City Council meets twice in the month with meetings lasting an average of 4 hours each;

WHEREAS, in order to prepare for a City Council meeting, each City Council member must spend between 5-8 hours per week reviewing the extensive council packets;

WHEREAS, even when not at City Hall, City Council members are always working since citizens have the right and privilege to contact them with concerns, questions, suggestions, criticisms, etc.;

WHEREAS, in addition to their duty to attend City Council meetings, each City Council member is a member of at least one Committee or Commission for the City;

WHEREAS, these members add additional volunteer time for the City Council members;

WHEREAS, City Council members are also expected to attend special meeting and to attend budget meetings which can last for several weeks;

WHEREAS, all of this time is uncompensated and takes the City Council member away from their paying jobs and from their families;

WHEREAS, a review of 37 communities throughout Alaska, shows that 31 of the 37 (or 84%) of the communities in Alaska provide the City Council members with some sort of compensation;

Introduced by: Council Member Charles
Introduction Date: April 23, 2018
Public Hearing May 14, 2019
Action:
Vote:

WHEREAS, Alaska Statute 29.20.620 allows for compensation of City Council members by ordinance;

THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, as follows:

SECTION 1. Classification. This is a codified Ordinance and shall become part of the Bethel Municipal Code.

Section 2. Amendment: Section 2.04 of the Bethel Municipal Code is hereby amended, new language is underlined and old language is stricken.

2.04.95 Compensation of Council Members.

- A. Council member compensation shall be fixed by Ordinance and may be amended at any time except during the 60-day period immediately preceding the City's Regular Election.
- B. Compensation changes become effective on the first Monday immediately following the certification of the next Regular City election subsequent to the adoption of the salary change.
- C. For each calendar month served as an elected official, each council member shall receive compensation of Three Hundred (\$300) Dollars to be paid the month following the month of service. Partial months of service will not be compensated.
- D. Councilmembers shall be provided with water and sewer utility benefits on the same level and basis as provided for City Department Heads. Taxes associated with this benefit shall be deducted from the monthly compensation.
- E. A Councilmember may decline compensation and/or water-sewer benefits by completing the appropriate form and submitting it to the City Clerk for Payroll Processing. A decision to decline or accept compensation and/or utility benefits cannot be amended more than twice in a Fiscal Year.

SECTION 3. Effective Date. This ordinance shall become upon passage.

ENACTED THIS _____ DAY OF MARCH 2019 BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Fred Watson, Mayor

ATTEST:

City of Bethel, Alaska

Ordinance #19-05
2 of 3

Introduced by: Council Member Charles
Introduction Date: April 23, 2018
Public Hearing May 14, 2019
Action:
Vote:

Lori Strickler, City Clerk

Introduced by: C. Manager Williams
Introduction Date: April 23, 2019
Public Hearing: May 14, 2019
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #19-06

AN ORDINANCE AUTHORIZING THE DISPOSAL VIA LEASE OF LOT 5A BLOCK 9, UNITED STATES SURVEY 3230, PLAT 98-6 (280 THIRD AVE.)

PURSUANT TO BMC 4.08.030(C) & 4.08.050(C)

WHEREAS the City of Bethel owns a parcel of land situated 831 River Street;

WHEREAS the legal description for the land is Lot 5A, Block 9, United States Survey 3230, Plat 98-6, Bethel Recording District, Fourth Judicial District, State of Alaska;

WHEREAS the land is situated on Watson's corner next to GCI's large satellite dishes;

WHEREAS the property is pictorially depicted as:



WHEREAS the land has been occupied by General Communication Corp. (GCI) since at least 1998;

WHEREAS GCI had a lease with the City of Bethel for that lot from July 1, 1998 to July 1, 2003;

WHEREAS there is no City record indicating even one late or missed payment by GCI since it began leasing the land in 1998;

WHEREAS for many years GCI has been reaching out to the City in an attempt to renew the Lease, all to no avail;

WHEREAS while the Bethel Municipal Code (BMC) states that the property is to go to public auction, it also allows for a renewal of a lease, a process which does not go to public auction;

WHEREAS if approved, the lease term would be for five (5) years commencing on June 1, 2019 and ending on May 31, 2024 with two (2) rights of renewal for five (5) years per renewal;

WHEREAS the rent would be \$850 per month as per the appraised fair market value with a CPI increase to occur annually after year two;

WHEREAS under the Lease Agreement the Tenant would be responsible for all of their own utility costs as well as snow removal costs;

WHEREAS pursuant to the Lease Agreement, the Tenant is required to keep the City's land insured with the City named as an additional insured during the entire term of the Lease Agreement;

WHEREAS pursuant to the Lease Agreement, the Tenant is required to indemnify the City;

NOW, BE IT ORDAINED, the City Council authorizes the disposal of the above property via lease of land in Furtherance of Development of Local Trade or Industry.

SECTION 1. Classification. This ordinance is of a general nature and shall not become a part of the Bethel Municipal Code.

Introduced by: C. Manager Williams
Introduction Date: April 23, 2019
Public Hearing May 14, 2019
Action:
Vote:

SECTION 2. Authorization. Pursuant to Bethel Municipal Code 04.08.050(C) Lease Procedures (Renewal).

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon passage.

ENACTED THIS _____ DAY OF MAY 2019, BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Fred Watson, Mayor

ATTEST:

Lori Strickler, City Clerk

**COMMERCIAL LEASE BETWEEN
CITY OF BETHEL and
GCI COMMUNICATION CORP.**

This LEASE is made on May 15, 2019 by and between the City of Bethel, a Municipal Corporation ("Landlord") and GCI Communication Corp., an Alaska Corporation, ("Tenant").

**ARTICLE 1
LEASED PREMISES AND TERM**

1.01 Leased Land. Landlord, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by Tenant, hereby leases to Tenant and Tenant hereby leases from Landlord, a parcel of land situated at in the Bethel Recording District, Fourth Judicial District, State of Alaska, more particularly described as:

Lot 5A, Block 9, United States Survey 3230, Plat 98-6,
Bethel Recording District, Fourth Judicial District, State of
Alaska.

together with all rights, easements, privileges, both subterranean and vertical, and appurtenances attaching or belonging to the described land, but subject to the reservation contained in Paragraph 1.02 and the Covenants contained in Article 4 hereof (herein called the "Leased Premises").

1.02 Reservation of Minerals. All oil, gas, coal, geothermal resources and minerals whatever nature in or under the above-described land are excluded from the Leased Premises and are reserved to Landlord; provided, however, that during the term of this Lease, Landlord shall not have the right to enter on the surface of the Leased Premises for the purpose of mining and/or excavating such oil, gas, coal, geothermal resources or minerals.

1.03 Improvements Owned by Landlord. The following described improvements ("Landlord's Improvements") are situated on and are part of the Leased Premises and are and shall remain throughout the term of this Lease the property of the Landlord:

All fill, retaining walls, berms, earth contours, wells, utility pipes and lines and all other at-surface or below-surface improvements situated on the Leased Premises on the date of this Lease.

1.04 Lease Term. This Lease shall be and continue in full force and effect for a term of Five (5) years commencing on June 1, 2019 and terminating on May 31, 2024 unless earlier terminated in accordance with the terms of this Lease. Tenant shall have two (2) options for renewal of five (5) year's per renewal.

- 1.05 **Renewal.** The Tenant shall have the option to renew the Lease for two (2) additional periods of five (5) years by giving the Landlord notice in writing not less than One Hundred and Eighty (180) days prior to the expiration of the initial Lease term or renewal term. The monthly rent rate shall not be increased except as outlined in Section 2 of this Lease Agreement.
- 1.06 **Holdover. With Consent.** If Tenant continues occupying the Leased Premises after a Term ends (Holdover) and if the Holdover is with Landlord's written consent, it shall be a month-to-month tenancy, terminable on thirty (30) days advance written notice by either party. During the holdover period, rent shall automatically be increased by ten (10%) percent and will remain due and owing on the first day of each month. If the Holdover is without Landlord's written consent, then Tenant shall be a tenant-at-sufferance and shall be liable for any damages suffered by Landlord because of Tenant's Holdover. Landlord shall retain all remedies against Tenant who holds over without written consent.
- A. **Terms.** The Holdover shall be on the same terms and conditions of the Lease except: (i) the Term; (ii) Rent; (iii) the extension Term is deleted; (iv) consent to a sublease may be unreasonably withheld and delayed; (v) the provision on Landlord's Default is deleted; and (vi) the Defaulting Party may be Tenant only.

ARTICLE 2 RENT

- 2.01 **Rent.** Effective May 1, 2019, Tenant shall pay to Landlord, without deduction and without notice or demand, net of all real property taxes, assessments, rates and other charges required to be paid by Tenant under this Lease with respect to the Leased Premises, Eight Hundred Fifty Dollars (\$850) per month on or before the 1st day of each month during the Lease Term.

Rent shall be adjusted annually on the anniversary date of the Lease by adjusting the then-current rent to reflect any percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), published by the U.S. Department of Labor, Bureau of Labor Statistics for Anchorage, Alaska from its level at the beginning to its level at the end of the then-current year. In the event that the Consumer Price Index for the Municipality of Anchorage has decreased during such period, the rent shall remain and hold from the previous year.

ARTICLE 3 QUIET ENJOYMENT

Upon timely payment by Tenant of all rent and other payments required to be paid by Tenant under this Lease, and upon full and faithful observance and performance by Tenant of all of its covenants contained in this Lease, and so long as such observance and performance continues, Tenant shall peaceably hold and enjoy the Leased

Premises during the Lease Term without hindrance or interruption by Landlord or anyone lawfully claiming by, through, or under it.

ARTICLE 4 TENANT'S COVENANTS

4.01 Improvements Required by Law. Tenant, at Tenant's own expense, during the Lease Term and subject to the requirements of this Lease, shall make, build, maintain and repair all fences, sewers, drains, roads, road widening, driveways, sidewalks, water, underground electric and telecommunications lines, curbs, gutters and other installations which may be required by law to be made, built, maintained, or repaired upon, and in connection with, or for use of the Leased Premises or any part of it, and regardless of whether the same were erected by Landlord or in existence at the inception of this Lease. In case any such installations required by law shall be made, built, maintained or repaired by Landlord after giving the required notice provided for in paragraph 4.06, and if Tenant does not complete the required work within the timeframe provided for in the notice, Tenant shall reimburse Landlord for the actual reasonable costs to cover Landlord's overhead, upon presentation of a bill therefore, as additional rent.

4.02 Construction or Removal of Improvements, Additions and Alterations. "Significant Work" as used in this section, means all work which (1) involves the excavation, filling, or other alteration of the grade or drainage of the Leased Premises, or (2) involves the construction, demolition, or removal on or from the Leased Premises of any improvement.

Tenant shall not make alterations to the grade or drainage of the Leased Premises without the written approval of the Landlord. Landlord shall not alter the grade or drainage of the adjacent properties such that drainage will flow over or through the Leased Premises of the Tenant.

4.03 Repair and Maintenance. Tenant shall, at Tenant's expense and without notice from Landlord, at all times during the Lease Term, keep all improvements now or hereafter built on the Leased Premises, especially those improvements constructed thereon which are exposed to the view of the public (including but not limited to exterior building walls, windows, doors, fences, signs, landscaping, and yard areas) in good order, condition, maintenance, operability, and repair and of a neat, clean and pleasing appearance to Landlord.

4.04 Snow Removal. Tenant shall be responsible for snow removal on the Leased land.

4.05 Observance of Laws. Tenant, at all times during the Lease Term, at its own expense, and with all due diligence shall observe and comply with all state and federal laws, municipal ordinances, rules and regulations which are now in effect or may later be adopted by any governmental agency, and which may be

applicable to the Leased Premises or any improvement on it or any use of it, and shall promptly furnish such evidence of compliance with such laws, ordinances, rules and regulations as Landlord may request from time to time.

In furtherance, and not in limitation, Tenant must, at its own expense, comply with all laws, ordinances, regulations and administrative agency or court orders relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality. In the event any discharge, leakage, spillage, emission or pollution of any type occurs upon or from the Leased Premises during the Lease Term or any holdover thereafter, Tenant, at its own expense, must clean and restore the Leased Premises to the satisfaction of the Landlord and any governmental body or court having jurisdiction over the matter. However, Tenant shall not be responsible for the clean-up or restoration of the Leased Premises resulting from any discharge, leakage, spillage, emission or pollution to the Leased Premises from surrounding or adjacent premises unless Tenant's actions caused in whole or in part such discharge, leakage, spillage, emission, or pollution, in which case Tenant shall be responsible for the portion of such discharge, leakage, spillage, emission or pollution which was caused by Tenant.

Landlord warrants that at the time this Lease between the parties, Landlord is not aware of any hazardous or toxic materials on the Leased Premises.

- 4.06 Tenant agrees to hold harmless Landlord against all liability, cost and expense (including without limitation, any fines, clean-up costs, judgments, litigation costs, and attorneys' fees) incurred by or levied against Landlord as a result of Tenant's breach of this Lease.
- 4.07 **Inspection and Repair by Landlord.** Tenant shall repair, maintain, and make good, all conditions required under the provisions of this Lease to be repaired or maintained within five (5) working days from the date of written notice from Landlord with regard to removal of trash or debris, landscape or yard maintenance, snow removal or cleaning, or parking lot lighting replacement and repair, and thirty (30) days from the date of written notice from Landlord with regard to all other matters. If Tenant refuses or neglects to repair or maintain the Leased Premises as required under the terms of this Lease to the reasonable satisfaction of the Landlord after written demand, then Landlord, without prejudice to any other right or remedy it has under this Lease or otherwise, may perform such maintenance work or make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's property or Tenant's business by reason of the work or repairs. Upon completion of any such repair or maintenance, and no later than ten (10) days after presentation of a bill therefore, Tenant shall pay as additional rent, Landlord's actual costs for making such repairs or performing such maintenance. However, Tenant shall not be responsible for the replacement or repair of any street lights that may illuminate the Premises.

- 4.08 **Waste and Wrongful Use.** Tenant shall not commit or suffer any waste of the Leased Premises or any unlawful, unsafe, improper, or offensive use thereof or any public or private nuisance thereon.
- 4.09 **Setback.** Tenant shall observe all setback lines applicable to the Leased Premises and shall not construct or maintain any building or other structure between any street boundary of the Leased Premises and any setback along such boundary, except for fences or walls approved by Landlord.
- 4.10 **Liens.** Tenant shall not commit or suffer any act or neglect whereby the Leased Premises or the interest of Landlord or Tenant therein at any time during the Lease Term may become subject to any attachment, execution lien, charge, or other encumbrance, and shall defend, indemnify and hold Landlord harmless against all losses, costs, and expenses, including reasonable attorney's fees, paid or incurred by Landlord in connection therewith.
- 4.11 **Indemnification.** Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims arising from (1) Tenant's use of the Leased Premises, or from the conduct of Tenant's business, or from any activity, work or things done, permitted or suffered by Tenant in or about the Leased Premises; (2) any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; (3) any negligence of Tenant, or any of Tenant's agents, contractors, customers or employees, or any person claiming by, through or under Tenant; and (4) any accident on or in connection with the Leased Premises, or any fire thereon, or any nuisance made or suffered thereon when and to the extent such claim arises from the negligence of Tenant.

Tenant, upon notice from Landlord, shall defend any of the above described claims at Tenant's expense. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Leased Premises. However, this section does not require Tenant to indemnify, defend and hold harmless Landlord from and against any portion of a claim to the extent that portion of the claim is caused by Landlord's negligence, or the negligence of Landlord's agents, contractors or employees arising from Landlord's activities on the Leased Premises. Landlord shall indemnify, defend, and hold harmless Tenant from and against any portion of a claim to the extent that portion of the claim is caused by Landlord's negligence, or the negligence of Landlord's agents, contractors or employees arising from Landlord's activities on the Leased Premises.

Tenant acknowledges that before entering into this Lease it has fully inspected or been provided with an opportunity to fully inspect the Leased Premises and all documents in the possession of Landlord relating to the condition of the Leased Premises, and to test or examine all conditions of or on the Leased Premises. Tenant further acknowledges that, at the time this Lease is entered into and on the basis of the foregoing inspection or opportunity to inspect, Tenant is as

knowledgeable about the physical condition of the Leased Premises as Landlord, and on that basis, assumes all risks relating to the condition of the Leased Premises, except risks relating to environmental pollution not caused by Tenant.

- 4.12 **Costs and Expenses of Landlord.** Tenant shall forthwith pay to Landlord all costs and expenses, including reasonable attorney's fees, which are (1) paid or incurred by Landlord but are required to be paid by Tenant under any provision of this Lease; (2) paid or incurred by Landlord in enforcing any covenant of Tenant contained in this Lease, in protecting itself against or remedying any breach thereof, in recovering possession of the Leased Premises or any part thereof, or in collecting or causing to be paid any delinquent rents, taxes, assessments, or rates; (3) incurred by Landlord in reviewing any matter for which Landlord's approval is sought and in processing such approval under this Lease; or (4) incurred by Landlord in connection with any other action in any respect related to this Lease, the Leased Premises, or Tenant's actions or omissions and the Leased Premises, other than a condemnation action filed by or against Tenant, to and in which Landlord is made a party but not adjudicated to be at fault. The term "costs and expenses" as used in this Lease shall include but not be limited to all of Landlord's out-of-pocket expenditures attributable to the matter involved. Except as otherwise expressly provided herein, all costs and expenses of Landlord shall be payable by Tenant to Landlord forthwith after mailing or personal delivery of statements therefore to Tenant. Such obligations and interest shall constitute additional rents.
- 4.13 **Surrender of Leased Premises and Improvements.** Upon the expiration or termination (including termination resulting from Tenant's breach) of this Lease, Tenant, without further notice, shall deliver to Landlord, possession of the Leased Premises. Tenant's improvements shall remain the property of Tenant. At the expiration or termination of the Lease, or any extended term thereof, Tenant shall remove, demolish, or otherwise dispose of all Tenant's improvements within one hundred twenty (120) days of expiration or termination, unless Landlord agrees otherwise, in writing, and shall leave Leased Premises in a clean and cleared condition. In the event of failure or refusal of Tenant to surrender possession of the Leased Premises or to remove Tenant's improvements from the Leased Premises in accordance with this paragraph, Landlord shall have the right to re-enter the Leased Premises and remove therefrom Tenant or any other person, firm or corporation claiming by, through or under Tenant, and to declare abandoned and/or remove Tenant's improvements therefrom, and to obtain damages for trespass from Tenant, including but not limited to the actual costs of removal.
- 4.14 **Utility Services.** Tenant shall arrange for its own utility services and bear all costs for utilities.

- 4.15 **Discrimination Prohibited.** Tenant will not discriminate in allowing access to and use of the Leased Premises on the grounds of race, color, religion, national origin, ancestry, marital status, disability, gender, sex, sexual orientation, gender identification, or other legally protected status.
- 4.16 **Underground Conditions and Water Drainage.** Tenant has made, or prior to the construction of any improvements on the Leased Premises will make, its own soil tests of the Leased Premises. This Lease is made subject to and without any liability on the part of the Landlord, its agents or employees because of or resulting from any fill or any subsurface or soil condition on the Leased Premises. Tenant shall not drain or discharge water from the Leased Premises onto adjoining land. The Leased Premises shall be graded and drained to cause the discharge of all water on the Leased Premises at a location or locations approved by Landlord, or into an established drainage easement, if any, on the Leased Premises.

ARTICLE 5 INSURANCE

- 5.01 **Liability Insurance.** During the entire Lease Term, and during any holdover thereafter, whether or not authorized by Landlord, Tenant shall keep in full force and effect, a policy or policies of general liability and property damage insurance which satisfies the coverage requirements set by Landlord with respect to the Leased Premises and the business operated by Tenant in which the limit of bodily injury, death, and property damage liability shall be not less than ONE MILLION DOLLARS per occurrence and not less than TWO MILLION DOLLARS in the aggregate, or such higher limits as Landlord may specify; provided, however, that no such limit shall in any way limit Tenant's liability or be construed as a representation of sufficiency to fully protect Tenant or Landlord. The policy or policies purchased pursuant to this paragraph shall name the Tenant as an insured and the Landlord as an additional insured with respect to the Leased Premises and the business operated by Tenant on the Leased Premises.
- 5.02 **Tenant's Insurance:** Tenant shall purchase and/or maintain such insurance or self-insurance as will protect the Tenant and Landlord from claims which may arise out of or as a result of this Lease Agreement.
- 5.03 **Waiver of Subrogation:** Tenant waives all rights of recovery against Landlord. This waiver shall be binding upon any insurance carried by Tenant.
- 5.04 **Evidence of Insurance.** Tenant agrees to deliver to Landlord, prior to any occupancy or use of Leased Premises, a certificate of insurance or self-insurance evidencing all required insurance provisions of this Lease. If the Tenant insurance or self-insurance is canceled for any reason during the duration of the Lease, the Tenant will notify the Landlord immediately of the cancelation and will provide the Landlord with evidence of a reinstatement notice or replacement coverage, either to be in effect prior to the cancelation date. If

reinstatement or replacement are not secured, Tenant agrees to vacate any occupied Premises of the Landlord prior to the cancelation date. Failure to remedy the cancelation will result in a material breach of this Lease Agreement. Immediate notice as used in this section means "within five (5) business days of receipt of the cancelation notice by Tenant."

ARTICLE 6 EMINENT DOMAIN

- 6.01 **Permanent Taking.** In the event of a taking by an entity of competent jurisdiction of all or materially all of the Leased Premises, or the determination of the Landlord that all or materially all of the Leased Premises is necessary for a public purpose, this Lease shall terminate on the earlier of vesting of title in, or the taking of possession by the condemner, or the written determination of the Landlord.

If less than materially all of the Leased Premises are taken or if the Landlord determines that it needs less than materially all of the Leased Premises for a public purpose (herein called a "partial taking"), this Lease shall continue in effect except as to the portion so taken or condemned, but the rent to be paid by Tenant shall thereafter be reduced by a percentage equal to the proportion that the number of square feet in the Leased Premises so taken bears to the number of square feet of Leased Premises before the partial taking.

- 6.02 **Disposition of Proceeds.** Landlord is entitled to all proceeds of condemnation except those proceeds specifically allocated for Tenant's improvements.

- 6.03 **Temporary Taking.** If the whole or any part of the Leased Premises or of Tenant's interest under this Lease is taken by any competent authority for its temporary use or occupancy, this Lease shall not terminate by reason thereof and Tenant shall continue to pay all rental payments and other charges payable by Tenant hereunder and to perform all other terms, covenants, and conditions contained herein, except to the extent Tenant is prevented from so doing by the terms of the order of the taking authority. In the event of a temporary taking, Tenant shall be entitled to receive the entire amount of the award and shall be obligated, at its sole expense, to restore the Leased Premises as nearly as may be reasonably possible to the condition in which they existed immediately prior to such taking; provided, however, that if the period of temporary use or occupancy extends beyond the expiration of the Lease Term, the award shall be apportioned between Landlord and Tenant as of said date of expiration, after Landlord shall have received the entire portion of the award attributable to physical damage to the Leased Premises and any improvements thereon and to the restoration thereof to the condition existing immediately prior to the taking or condemnation.

ARTICLE 7 ASSIGNMENTS AND MORTGAGES

Landlord's Consent Required. Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Leased Premises without Landlord's prior written consent. Landlord's consent shall not be unreasonably withheld. Any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void and shall constitute a breach of this Lease.

ARTICLE 8 TERMINATION, DEFAULT AND DEFEASANCE

8.01 Event of Default: Each of the following events shall be a default by Tenant and a breach of this Lease:

- A. Failure to Continuously Operate a Facility for the General Public.
If the land is used for commercial or retail purposes, to be available to the general public does not require that all members of the general public be admitted, only that there be no discrimination in admission based on race, gender, sexual orientation, gender identity, age, sex or other protected category. Additionally, continuously operate shall be defined as open and operating regularly scheduled days and hours with no more than ninety (90) calendar days closure during any calendar year.
- B. Failure to Perform Covenants. Abandonment or surrender of the Leased Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by Tenant or to perform as required or conditioned by any other covenant or condition of this Lease.
- C. Appointment of Receiver. The appointment of a receiver or trustee to take possession of the Leased Premises or improvements or of the Tenant's interest in the leasehold estate or of Tenant's operation on the Leased Premises for any reason, including but not limited to, assignment of benefit of creditors, but not including receivership pursuant to administration of the estate of any deceased or incompetent Tenant.

8.02 Notice and Right to Cure

- A. Notices. As a precondition to pursuing any remedy for an alleged default by Tenant, Landlord shall, before pursuing any remedy, give notice of default to Tenant.
- B. Method of Giving Notice. Landlord shall give notice of default by either personal service, by certified first class mail or email.

- C. Tenant's Right to Cure Default(s). If the alleged default is nonpayment of rent, Tenant shall have five (5) days after the notice is given to cure the default. For the cure of any other default, Tenant shall promptly and diligently cure the default and shall have thirty (30) days after notice is given to complete the cure.
- D. Non-Waiver. Acceptance by Landlord of any rents shall not be deemed to be a waiver by it of any breach by Tenant of any of its covenants contained in this Lease or of the right of Landlord to re-enter the Leased Premises or to declare forfeiture for any such breach. Waiver by Landlord of any breach by Tenant shall not be deemed to be a waiver of the right of Landlord to declare forfeiture for any other breach or of any other covenant.

8.03 **Right of Landlord to Protect Against Default**

If Tenant fails to observe or perform any of its covenants contained herein, Landlord, at any time thereafter and with seven (7) days' notice, or in the case of a situation deemed by Landlord to constitute an emergency, without notice, shall have the right but not the obligation to observe or perform such covenant for the account and at the expense of Tenant, and shall not be liable to Tenant or anyone claiming by, through, or under it for any loss or damage by reason thereof to the occupancy, business, or property of any of them. All costs and expenses paid or incurred by Landlord in observing or performing such covenant shall constitute additional rents, which Tenant shall forthwith pay to Landlord upon statements therefore.

8.04 **Landlord's Remedies**

If any default by Tenant shall continue uncured, following notice of default as required by this Lease, for the period applicable to the default, Landlord has the following remedies in addition to all other rights and remedies provided by law or equity or other provisions of this Lease, to which Landlord may resort cumulatively or in the alternative. The election of one remedy for any one default shall not foreclose an election of any other remedy for another default or for the same default at a later time.

- A. Termination in the Event of Default. Landlord may, at Landlord's election, terminate this Lease in the event of default by giving Tenant notice of termination. On the giving of the notice, all Tenants' rights in the Leased Premises shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Leased Premises and all Improvements not required to be removed, and Landlord may re-enter and take possession of the Leased Premises and all remaining improvements. Termination under this paragraph shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or accruing against Tenant, or any other relief available to Landlord.
- B. Recovery of Rent. Landlord shall be entitled, at Landlord's election, to each installment of rent or to any combination of installments for any period before

termination, plus interest at the rate of twelve and a half (12.5%) percent from the due date of each installment.

- C. Tenant's Personal Property. Landlord may, if Tenant fails to remove personal property or Tenant's improvements within the time allowed above, use Tenant's personal property, Tenant's improvements and trade fixtures on the Leased Premises, or any of such property without liability for use or damage, or store them at the sole risk and cost to Tenant.
- D. Damages. Landlord shall also be entitled, at Landlord's election, to damages in the following sums: (1) all amounts that would have fallen due as rent between the time of termination and the time the Leased premises are relet; (2) the amount, if any, by which the rent under this Lease exceeds the rent under any subsequent Lease upon reletting calculated over the Lease Term; and (3) all administrative, marketing, maintenance, repair, cleaning and similar costs incurred by Landlord.
- E. Application of Sums Collected by Landlord. Landlord shall apply all proceeds of reletting as follows: first, to the payment of reasonable expenses (including attorney's fees and broker's commissions or both) paid or incurred by or on behalf of Landlord. Second, in recovering possession, placing the Leased Premises and improvements in good condition, and preparing or altering the Leased Premises or improvements for reletting. Third, to the reasonable expenses of securing new Tenants. Fourth, to the fulfillment of Tenant's covenants to the end of the Lease term; and finally, to Landlord's uses and purposes.
- F. Costs. In the event Tenant shall be in default in the performance of any of its obligations under this Lease, and Landlord takes any action to enforce this Lease, including, but not limited to, court action, Tenant shall pay Landlord all the expenses incurred by Landlord in taking such action including full and reasonable attorney's fees.

ARTICLE 9 GENERAL PROVISIONS

9.01 Landlord's Right to Entry, Inspection and Repair

Landlord may enter and inspect the Premises, at any time during regular business hours, with or without the presence of Tenant or its authorized representative, after giving twenty-four (24) hours advance notice to Tenant of such inspection. To protect the confidentiality of Tenant's clients, Landlord shall take every step possible to not enter without the presence and consent of Tenant except in an emergency or upon agreement by Tenant, such agreement not to be unreasonably withheld or refused. In the event of an emergency, Landlord may enter and inspect the Leased Premises on reasonable notice to Tenant (including no notice if the circumstances warrant) and make such repairs or institute such

measures, on the account and at the expense of Tenant, as may be necessary to avert or terminate the emergency. An emergency is any action, event or condition, either extant or imminent, that threatens significant damage to property or injury to persons on or near the Leased Premises, and includes, but is not limited to, flood, fire, explosion, uncontrolled dangerous discharge or release of water or fluids, or the unauthorized or illegal placement of hazardous or toxic materials on Leased Premises). The provisions of this paragraph apply to Landlord solely in its capacity as Landlord hereunder and not in any other capacity.

9.02 Notices

All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender and delivered by facsimile, email (with a hard copy mailed first class) or mailed and addressed to the respective parties as follows:

To Landlord:

City Manager
City of Bethel
P.O. Box 1388
Bethel, Alaska 99559
Email: citymanager@cityofbethel.org

With Required Copy to:

City of Bethel Legal Department
PO Box 1388
Bethel, Alaska 99559-1388
Email: legal@cityofbethel.org

To Tenant:

GCI Communication Corp.
Attn: Lands and Leasing
20550 Denali Street, Suite 1000
Anchorage, AK 99503

With Required Copy to:

GCI Communication Corp.
Attn: Corporate Counsel
2550 Denali Street, Suite 1000
Anchorage, AK 99503

9.03 Covenants and Conditions

Every provision in this Lease which imposes an obligation upon Tenant or invests an option, power, or right in Landlord shall be deemed to be a covenant of

Tenant in favor of Landlord, and the time of observance and performance by Tenant of each such covenant shall be of the essence. Full and faithful observance and performance by Tenant of each of its covenants contained in this Lease shall be a condition of this Lease.

9.04 Integration and Amendment

Except as otherwise expressly provided in this Lease, this Lease is a complete integration of every agreement and representation made by or on behalf of Landlord and Tenant with respect to the Leased Premises, and no implied covenant or prior oral or written agreement shall be held to vary the provisions of this Lease, any law or custom to the contrary notwithstanding. No amendment or other modification of the provisions of this Lease shall be effective unless incorporated in a written instrument duly executed and acknowledged by Landlord and Tenant.

9.05 Survival and Severability

If any provision of this Lease shall be deemed to be void or otherwise unenforceable by any court or other tribunal of competent jurisdiction, other than at the initiative or with the support of Landlord, within thirty (30) days of receipt of written notice of such holding, Landlord shall have the right and option, exercisable by written notice thereof to Tenant, to terminate this Lease effective as of the date of such written notice of exercise. It is understood and agreed that otherwise this Lease, except for such provision so held to be void or otherwise unenforceable, shall remain in full force and effect.

9.06 Binding Effect

This Lease shall be binding upon and shall inure to the benefit of Landlord and Tenant and their respective successors and assigns. The designations "Landlord" and "Tenant" include their respective successors and assigns and shall be so construed that the use of the singular includes the plural number, and vice versa, and the use of any gender include the other genders. If at any time during the Lease Term Tenant is more than one person or entity, including persons who are partners and operate Tenancy as a partnership, their liability thereunder shall be joint and several.

9.07 Landlord's Authority to Convey Fee Title

Landlord retains the absolute and unconditional right to convey fee title in the Leased Premises or an interest or estate therein, subject to this Lease and the interest of any Qualified Mortgagee.

9.08 Tenant's Authority to Execute Lease

The Tenant represents that the person signing this Lease on its behalf has been duly authorized to sign this Lease and has the authority to bind the Tenant.

9.09 Captions

The captions of the paragraphs are for convenience only, are not operative, and neither limit nor amplify in any way the provisions hereof.

9.10 Execution and Counterparts

This Lease may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

9.11 Governing Law/Construction

This Lease shall be construed and governed by the laws of the State of Alaska. This Lease was negotiated between the parties and shall not be strictly construed against either party. In the event that a question, dispute, or requirements for interpretation or construction shall arise with respect to this Lease, jurisdiction and venue shall lie exclusively with the Bethel Court in the Fourth Judicial District at Bethel, Alaska.

IN WITNESS WHEREOF. Landlord and Tenant have duly executed and acknowledged this Lease.

CITY OF BETHEL

GCI COMMUNICATION CORP.

Peter A. Williams
City Manager

CITY OF BETHEL, ALASKA

Ordinance #19-07

AN ORDINANCE AUTHORIZING THE DISPOSAL OF LOT 2, COMMERCIAL CENTER SUBDIVISION, PLAT 96-15 (831 RIVER STREET) VIA LEASE

PURSUANT TO BMC 4.08.030(C) & 4.08.050(C)

WHEREAS the City of Bethel owns a parcel of land situated 831 River Street;

WHEREAS the legal description for the land is Lot 2, Commercial Center Subdivision, Plat 96-15, Bethel Recording District, Fourth Judicial District, State of Alaska;

WHEREAS the land is traditionally known as the land underneath Swanson's Hardware;

WHEREAS the property is pictorially depicted as:



WHEREAS the land was occupied by Omni Enterprises for a number of years under a lease agreement with the City of Bethel;

WHEREAS Omni Enterprises filed for Bankruptcy in 2015 during which time Omni owed the City monies, which included rent for the land;

WHEREAS while the bankruptcy matter was still pending, BTP, LLC took over the hardware store;

WHEREAS as the new occupant of the land, BTP, LLC, promptly contacted the City and agreed to pay the back-rents owed by Omni and agreed to continue paying rents while the bankruptcy matter was pending;

WHEREAS because this was a much older lease, one that was done in 1996, it had no legal provisions for the Tenant (Omni) going into bankruptcy;

WHEREAS the lack of a bankruptcy clause tied the City's hands and prevented the City from terminating the Lease with Omni until the bankruptcy matter was over;

WHEREAS BTP, LLC expressed interest, in writing, more than 180 days prior to expiration of the term of the lease, in taking over the remainder of Omni's lease and all renewal options of that lease, and continuing to lease the property from the City;

WHEREAS as a result, the City had the land appraised for fair market value;

WHEREAS upon completion of the Omni Enterprise bankruptcy matter, BTP, LLC again approached the City and requested to take over the Lease agreement, including the renewal of the lease;

WHEREAS BMC 4.08.050 allows for Lease Renewal;

WHEREAS if approved, the lease term would be for fifteen (15) years commencing on June 1, 2019 and ending on May 31, 2034 with no automatic right of renewal;

WHEREAS the rent is variable starting at \$1,760 per month for the first three (3) years and increasing every three (3) years thereafter;

WHEREAS the Lease Agreement allows the Tenant to improve the land but only after obtaining the written authorization of the City;

WHEREAS under the Lease Agreement the Tenant would be responsible for all of their own utility costs as well as snow removal costs;

Introduced by: C. Manager Williams
Introduction Date: April 23, 2019
Public Hearing May 14, 2019
Action:
Vote:

WHEREAS pursuant to the Lease Agreement, the Tenant is required to keep the City's land insured with the City named as an additional insured during the entire term of the Lease Agreement;

WHEREAS pursuant to the Lease Agreement, the Tenant is required to indemnify the City;

NOW, BE IT ORDAINED, the City Council authorizes the disposal of the above property via lease renewal.

SECTION 1. Classification. This ordinance is of a general nature and shall not become a part of the Bethel Municipal Code.

SECTION 2. Authorization. Pursuant to Bethel Municipal Code 04.08.050(C) Lease Procedures [Renewal].

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon passage.

ENACTED THIS _____ DAY OF MAY 2019, BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Fred Watson, Mayor

ATTEST:

Lori Strickler, City Clerk

**COMMERCIAL LEASE BETWEEN
CITY OF BETHEL and
BTP, LLC**

This LEASE is made on May 15, 2019 by and between the City of Bethel, a municipal corporation ("Landlord") and BTP, LLC ("Tenant").

**ARTICLE 1
LEASED PREMISES AND TERM**

1.01 Leased Land. Landlord, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by Tenant, hereby leases to Tenant and Tenant hereby leases from Landlord, a parcel of land situated in the Bethel Recording District, Fourth Judicial District, State of Alaska, more particularly described as:

Lot 2, Commercial Center Subdivision, Plat 96-15, Bethel
Recording District, Fourth Judicial District, State of Alaska.

together with all rights, easements, privileges, both subterranean and vertical, and appurtenances attaching or belonging to the described land, but subject to the reservation contained in paragraph 1.02 and the Covenants contained in Article 4 hereof (herein called the "Leased Premises").

1.02 Reservation of Minerals. All oil, gas, coal, geothermal resources and minerals whatever nature in or under the above-described land are excluded from the Leased Premises and are reserved to Landlord; provided, however, that during the term of this Lease, Landlord shall not have the right to enter on the surface of the Leased Premises for the purpose of mining and/or excavating such oil, gas, coal, geothermal resources or minerals.

1.03 Improvements Owned by Landlord. The following described improvements ("Landlord's Improvements") are situated on and are part of the Leased Premises and are and shall remain throughout the term of this Lease the property of the Landlord:

All fill, retaining walls, berms, earth contours, wells, utility pipes and lines and all other at-surface or below-surface improvements situated on the Leased Premises on the date of this Lease.

1.04 Lease Term. This Lease shall be and continue in full force and effect for a term of fifteen (15) years commencing on June 1, 2019 and terminating on May 31, 2034 unless earlier terminated in accordance with the terms of this Lease.

1.04 **Holdover.**

- A. **With Consent.** If Tenant continues occupying the Premises after the Term ends (Holdover) and if the Holdover is with the Landlord's written consent, it shall be a month-to-month tenancy, terminable on thirty (30) days advance written notice by either party. During the holdover period, rent shall automatically be increased by ten (10%) percent and will remain due and owing on the first day of each month.
- B. **Holdover (without consent).** If the Holdover is without Landlord's written consent, then Tenant shall be a tenant-at-sufferance and shall be liable for any damages suffered by Landlord because of Tenant's Holdover. Landlord shall retain all remedies against Tenant who holds over without written consent.
- C. **Holdover Terms.** The Holdover shall be on the same terms and conditions of the Lease except: (i) the Term; (ii) Rent; (iii) the extension Term is deleted; (iv) the Quiet Possession provision is deleted if the Holdover is without consent; (v) consent to a sublease may be unreasonably withheld and delayed; (vi) the provision on Landlord's Default is deleted if the Holdover is without consent; and (vii) the Defaulting Party may be Tenant only.

ARTICLE 2 RENT

2.01 **Rent.** Effective May 1, 2019, Tenant shall pay to Landlord, without deduction and without notice or demand, net of all real property taxes, assessments, rates and other charges required to be paid by Tenant under this Lease with respect to the Leased Premises rent payments as set forth herein:

Lease Years	Monthly Rent	Annual Rent
1-3	\$1,760	\$21,120
4-6	\$1,880	\$22,560
7-9	\$2,007	\$24,084
10-12	\$2,144	\$25,728
13-15	\$2,289	\$27,468

Rent shall be due and payable on the first day of each month without demand for payment by Landlord. Increases shall occur on July 1st and shall be automatic with the first increase occurring on June 1, 2023.

ARTICLE 3 QUIET ENJOYMENT

Upon timely payment by Tenant of all rent and other payments required to be paid by Tenant under this Lease, and upon full and faithful observance and performance by

Tenant of all of its covenants contained in this Lease, and so long as such observance and performance continues, Tenant shall peaceably hold and enjoy the Leased Premises during the Lease Term without hindrance or interruption by Landlord or anyone lawfully claiming by, through, or under it.

ARTICLE 4 TENANT'S COVENANTS

- 4.01 **Development of Local Trade or Industry.** Tenant shall use the Leased Premises in furtherance of the development of local trade or industry. Should use of the Land cease, for a period of ninety (90) or more continuous days or should the use of the land no longer be in furtherance of the development of local trade or industry, the Landlord's interest in this Agreement shall automatically be triggered as outlined in Section 8.01 of this Agreement.
- 4.02 **Improvements Required by Law.** Tenant, at Tenant's own expense, during the Lease Term and subject to the requirements of this Lease, shall make, build, maintain and repair any fences, sewers, drains, roads, road widening, driveways, sidewalks, water, underground electric and telecommunications lines, curbs, gutters and other installations which may be required by law to be made, built, maintained, or repaired upon, and in connection with, or for use of the Leased Premises or any part of it, and regardless of whether the same were erected by Landlord or in existence at the inception of this Lease. In case any such installations required by law shall be made, built, maintained or repaired by Landlord after giving the required notice provided for in paragraph 4.06, and if Tenant does not complete the required work within the timeframe provided for in the notice, Tenant shall reimburse Landlord for the actual reasonable costs to cover Landlord's overhead, upon presentation of a bill therefore, as additional rent.
- 4.03 **Construction or Removal of Improvements, Additions and Alterations.** "Significant Work" as used in this section, means all work which (1) involves the excavation, filling, or other alteration of the grade or drainage of the Leased Premises, or (2) involves the construction, demolition, or removal on or from the Leased Premises of any improvement.
- Tenant shall not make alterations to the grade or drainage of the Leased Premises without the written approval of the Landlord. Landlord shall not alter the grade or drainage of the adjacent properties such that drainage will flow over or through the Leased Premises of the Tenant.
- 4.04 **Repair and Maintenance.** Tenant shall, at Tenant's expense and without notice from Landlord, at all times during the Lease Term, keep all improvements now or hereafter built on the Leased Premises, especially those improvements constructed thereon which are exposed to the view of the public (including but not limited to exterior building walls, windows, doors, fences, signs, landscaping,

and yard areas) in good order, condition, maintenance, operability, and repair and of a neat, clean and pleasing appearance to Landlord.

- 4.05 **Snow Removal.** Tenant shall be responsible for snow removal on the Leased land.
- 4.06 **Observance of Laws.** Tenant, at all times during the Lease Term, at its own expense, and with all due diligence shall observe and comply with all state and federal laws, municipal ordinances, rules and regulations which are now in effect or may later be adopted by any governmental agency, and which may be applicable to the Leased Premises or any improvement on it or any use of it, and shall promptly furnish such evidence of compliance with such laws, ordinances, rules and regulations as Landlord may request from time to time.

In furtherance, and not in limitation, Tenant must, at its own expense, comply with all laws, ordinances, regulations and administrative agency or court orders relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality. In the event any discharge, leakage, spillage, emission or pollution of any type occurs upon or from the Leased Premises during the Lease Term or any holdover thereafter, Tenant, at its own expense, must clean and restore the Leased Premises to the satisfaction of the Landlord and any governmental body or court having jurisdiction over the matter. However, Tenant shall not be responsible for the clean-up or restoration of the Leased Premises resulting from any discharge, leakage, spillage, emission or pollution to the Leased Premises from surrounding or adjacent premises unless Tenant's actions caused in whole or in part such discharge, leakage, spillage, emission, or pollution, in which case Tenant shall be responsible for the portion of such discharge, leakage, spillage, emission or pollution which was caused by Tenant.

Landlord warrants that at the time this Lease between the parties, Landlord is not aware of any hazardous or toxic materials on the land.

- 4.07 Tenant agrees to hold harmless Landlord against all liability, cost and expense (including without limitation, any fines, clean-up costs, judgments, litigation costs, and attorneys' fees) incurred by or levied against Landlord as a result of Tenant's breach of this Lease.
- 4.08 **Inspection and Repair by Landlord.** Tenant shall repair, maintain, and make good, all conditions required under the provisions of this Lease to be repaired or maintained within five (5) working days from the date of written notice from Landlord with regard to removal of trash or debris, landscape or yard maintenance, snow removal or cleaning, or parking lot lighting replacement and repair, and thirty (30) days from the date of written notice from Landlord with regard to all other matters. If Tenant refuses or neglects to repair or maintain the Leased Premises as required under the terms of this Lease to the reasonable

satisfaction of the Landlord after written demand, then Landlord, without prejudice to any other right or remedy it has under this Lease or otherwise, may perform such maintenance work or make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's property or Tenant's business by reason of the work or repairs. Upon completion of any such repair or maintenance, and no later than ten (10) days after presentation of a bill therefore, Tenant shall pay as additional rent, Landlord's actual costs for making such repairs or performing such maintenance. However, Tenant shall not be responsible for the replacement or repair of any street lights that may illuminate the Premises.

- 4.09 **Waste and Wrongful Use.** Tenant shall not commit or suffer any waste of the Leased Premises or any unlawful, unsafe, improper, or offensive use thereof or any public or private nuisance thereon.
- 4.10 **Setback.** Tenant shall observe all setback lines applicable to the Leased Premises and shall not construct or maintain any building or other structure between any street boundary of the Leased Premises and any setback along such boundary, except for fences or walls approved by Landlord.
- 4.11 **Liens.** Tenant shall not commit or suffer any act or neglect whereby the Leased Premises or the interest of Landlord or Tenant therein at any time during the Lease Term may become subject to any attachment, execution lien, charge, or other encumbrance, and shall defend, indemnify and hold Landlord harmless against all losses, costs, and expenses, including reasonable attorney's fees, paid or incurred by Landlord in connection therewith.
- 4.12 **Indemnification.** Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims arising from (1) Tenant's use of the Leased Premises, or from the conduct of Tenant's business, or from any activity, work or things done, permitted or suffered by Tenant in or about the Leased Premises; (2) any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; (3) any negligence of Tenant, or any of Tenant's agents, contractors, customers or employees, or any person claiming by, through or under Tenant; and (4) any accident on or in connection with the Leased Premises, or any fire thereon, or any nuisance made or suffered thereon when and to the extent such claim arises from the negligence of Tenant.

Tenant, upon notice from Landlord, shall defend any of the above described claims at Tenant's expense. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Leased Premises. However, this section does not require Tenant to indemnify, defend and hold harmless Landlord from and against any portion of a claim to the extent that portion of the claim is caused by Landlord's negligence, or the negligence of Landlord's agents, contractors or employees arising from Landlord's activities on the Leased Premises. Landlord shall

indemnify, defend, and hold harmless Tenant from and against any portion of a claim to the extent that portion of the claim is caused by Landlord's negligence, or the negligence of Landlord's agents, contractors or employees arising from Landlord's activities on the Leased Premises.

Tenant acknowledges that before entering into this Lease it has fully inspected or been provided with an opportunity to fully inspect the Leased Premises and all documents in the possession of Landlord relating to the condition of the Leased Premises, and to test or examine all conditions of or on the Leased Premises. Tenant further acknowledges that, at the time this Lease is entered into and on the basis of the foregoing inspection or opportunity to inspect, Tenant is as knowledgeable about the physical condition of the Leased Premises as Landlord, and on that basis, assumes all risks relating to the condition of the Leased Premises, except risks relating to environmental pollution not caused by Tenant.

- 4.13 **Costs and Expenses of Landlord.** Tenant shall forthwith pay to Landlord all costs and expenses, including reasonable attorney's fees, which are (1) paid or incurred by Landlord but are required to be paid by Tenant under any provision of this Lease; (2) paid or incurred by Landlord in enforcing any covenant of Tenant contained in this Lease, in protecting itself against or remedying any breach thereof, in recovering possession of the Leased Premises or any part thereof, or in collecting or causing to be paid any delinquent rents, taxes, assessments, or rates; (3) incurred by Landlord in reviewing any matter for which Landlord's approval is sought and in processing such approval under this Lease; or (4) incurred by Landlord in connection with any other action in any respect related to this Lease, the Leased Premises, or Tenant's actions or omissions and the Leased Premises, other than a condemnation action filed by or against Tenant, to and in which Landlord is made a party but not adjudicated to be at fault. The term "costs and expenses" as used in this Lease shall include but not be limited to all of Landlord's out-of-pocket expenditures attributable to the matter involved. Except as otherwise expressly provided herein, all costs and expenses of Landlord shall be payable by Tenant to Landlord forthwith after mailing or personal delivery of statements therefore to Tenant. Such obligations and interest shall constitute additional rents.
- 4.14 **Surrender of Leased Premises and Improvements.** Upon the expiration or termination (including termination resulting from Tenant's breach) of this Lease, Tenant, without further notice, shall deliver to Landlord, possession of the Leased Premises. Tenant's improvements shall remain the property of Tenant. At the expiration or termination of the Lease, or any extended term thereof, Tenant shall remove, demolish, or otherwise dispose of all Tenant's improvements within one hundred twenty (120) days of expiration or termination, unless Landlord agrees otherwise, in writing, and shall leave Leased Premises in a clean and cleared condition. In the event of failure or refusal of Tenant to surrender possession of the Leased Premises or to remove Tenant's improvements from the Leased Premises in accordance with this paragraph, Landlord shall have the right to re-

enter the Leased Premises and remove therefrom Tenant or any other person, form or corporation claiming by, through or under Tenant, and to declare abandoned and/or remove Tenant's improvements therefrom, and to obtain damages for trespass from Tenant, including but not limited to the actual costs of removal.

- 4.15 **Utility Services.** Tenant shall arrange for its own utility services and bear all costs for utilities.
- 4.16 **Discrimination Prohibited.** Tenant will not discriminate in allowing access to and use of the Leased Premises on the grounds of race, color, religion, national origin, ancestry, marital status, disability, gender, sex, sexual orientation, gender identification, or other legally protected status.
- 4.17 **Underground Conditions and Water Drainage.** Tenant has made, or had the opportunity to make, prior to the construction of any improvements on the Leased Premises will make, its own soil tests of the Leased Premises. This Lease is made subject to and without any liability on the part of the Landlord, its agents or employees because of or resulting from any fill or any subsurface or soil condition on the Leased Premises. Tenant shall not drain or discharge water from the Leased Premises onto adjoining land. The Leased Premises shall be graded and drained to cause the discharge of all water on the Leased Premises at a location or locations approved by Landlord, or into an established drainage easement, if any, on the Leased Premises.

ARTICLE 5 INSURANCE

- 1.01 **Liability Insurance.** During the entire Lease Term, and during any holdover thereafter, whether or not authorized by Landlord, Tenant shall keep in full force and effect, a policy or policies of general liability and property damage insurance which satisfies the coverage requirements set by Landlord with respect to the Leased Premises and the business operated by Tenant in which the limit of bodily injury, death, and property damage liability shall be not less than ONE MILLION DOLLARS per occurrence and not less than TWO MILLION DOLLARS in the aggregate, or such higher limits as Landlord may specify; provided, however, that no such limit shall in any way limit Tenant's liability or be construed as a representation of sufficiency to fully protect Tenant or Landlord. The policy or policies purchased pursuant to this paragraph shall name the Tenant as an insured and the Landlord as an additional insured with respect to the Leased Premises and the business operated by Tenant on the Leased Premises. A copy of each policy shall be provided to Landlord within three (3) days of the date this Lease is entered into.
- 1.02 **Policy Provisions.** Each policy of comprehensive general liability described above shall:

Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim, any right of setoff; counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for Landlord, for any person claiming by, through or under Landlord.

Contain no provision relieving the insurer from liability for loss occurring while the hazard to buildings and/or other improvements is increased, whether or not within the knowledge of control of; or because of any breach of warranty or condition or any other act or neglect by Landlord, or any person claiming by, through or under Landlord.

Provide that such policy may not be canceled, whether or not requested by Tenant, unless the insurer first gives not less than thirty (30) days prior written notice thereof to Landlord.

Contain a waiver by the insurer of any right to subrogation to any right of Landlord or Tenant against either of them or against any person claiming by either of them.

ARTICLE 6 EMINENT DOMAIN; CASUALTY

6.01 Permanent Taking. In the event of a taking by an entity of competent jurisdiction of all or materially all of the Leased Premises, or a taking of a portion of the Leased Premises that is material to Tenant's use and occupancy of the Leased Premises, or the determination of the Landlord that all or materially all of the Leased Premises is necessary for a public purpose, this Lease shall terminate on the earlier of vesting of title in, or the taking of possession by the condemner, or the written determination of the Landlord.

If less than materially all of the Leased Premises are taken, or the a taking of a portion of the Leased Premises is not material to Tenant's use and occupancy of the Leased Premises, or if the Landlord determines that it needs less than materially all of the Leased Premises for a public purpose (herein called a "partial taking"), this Lease shall continue in effect except as to the portion so taken or condemned, but the rent to be paid by Tenant shall thereafter be reduced by a percentage equal to the proportion that the number of square feet in the Leased Premises so taken bears to the number of square feet of Leased Premises before the partial taking.

6.02 Disposition of Proceeds. Landlord is entitled to all proceeds of condemnation except those proceeds specifically allocated for Tenant's improvements.

6.03 Temporary Taking. If the whole or any part of the Leased Premises or of Tenant's interest under this Lease is taken by any competent authority for its temporary use or occupancy, this Lease shall not terminate by reason thereof and Tenant shall continue to pay all rental payments and other charges payable by Tenant hereunder and to perform all other terms, covenants, and conditions contained herein, except to

the extent Tenant is prevented from so doing by the terms of the order of the taking authority. In the event of a temporary taking, Tenant shall be entitled to receive the entire amount of the award and shall be obligated, at its sole expense, to restore the Leased Premises as nearly as may be reasonably possible to the condition in which they existed immediately prior to such taking; provided, however, that if the period of temporary use or occupancy extends beyond the expiration of the Lease Term, the award shall be apportioned between Landlord and Tenant as of said date of expiration, after Landlord shall have received the entire portion of the award attributable to physical damage to the Leased Premises and any improvements thereon and to the restoration thereof to the condition existing immediately prior to the taking or condemnation.

6.04 Casualty. If the improvements on the Leased Premises shall be damaged or rendered wholly or partially unusable for Tenant's business purposes by fire or other casualty during the Term of this Lease, Tenant may terminate this Lease by giving notice to Landlord within ninety (90) days of the date of the fire or other casualty. If Tenant does not terminate this Lease, no rent shall abate after the date of the casualty, whether the Leased Premises is usable or not, and Tenant shall promptly rebuild or repair the improvements to substantially their former condition.

ARTICLE 7 ASSIGNMENTS AND MORTGAGES

Landlord's Consent Required. Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Leased Premises without Landlord's prior written consent. Landlord's consent shall not be unreasonably withheld. Any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void and shall constitute a breach of this Lease.

ARTICLE 8 TERMINATION, DEFAULT AND DEFEASANCE

8.01 Event of Default: Each of the following events shall be a default by Tenant and a breach of this Lease:

- A. Failure to Continuously Operate a Facility for the General Public.
If the land is used for commercial or retail purposes, to be available to the general public does not require that all members of the general public be admitted, only that there be no discrimination in admission based on race, gender, sexual orientation, gender identify age, sex or other protected category. Additionally, continuously operate shall be defined as open and operating regularly scheduled days and hours with no more than ninety (90) calendar days closure during any calendar year.
- B. Failure to Perform Covenants. Abandonment or surrender of the Leased Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by Tenant

or to perform as required or conditioned by any other covenant or condition of this Lease.

- C. Appointment of Receiver. The appointment of a receiver or trustee to take possession of the Leased Premises or improvements or of the Tenant's interest in the leasehold estate or of Tenant's operation on the Leased Premises for any reason, including but not limited to, assignment of benefit of creditors, but not including receivership pursuant to administration of the estate of any deceased or incompetent Tenant.
- D. Failure to Utilize the land in Furtherance of the Development of Local Trade or Industry. The use by the Tenant of the Land for a private enterprise or for a retail establishment other than a retail Hardware Store.

8.02 **Notice and Right to Cure**

- A. Notices. As a precondition to pursuing any remedy for an alleged default by Tenant, Landlord shall, before pursuing any remedy, give notice of default to Tenant.
- B. Method of Giving Notice. Landlord shall give notice of default by either personal service or by first class mail.
- C. Tenant's Right to Cure Default(s). If the alleged default is nonpayment of rent, Tenant shall have five (5) days after the notice is given to cure the default. For the cure of any other default, Tenant shall promptly and diligently cure the default and shall have thirty (30) days after notice is given to complete the cure.
- D. Non-Waiver. Acceptance by Landlord of any rents shall not be deemed to be a waiver by it of any breach by Tenant of any of its covenants contained in this Lease or of the right of Landlord to re-enter the Leased Premises or to declare forfeiture for any such breach. Waiver by Landlord of any breach by Tenant shall not be deemed to be a waiver of the right of Landlord to declare forfeiture for any other breach or of any other covenant.

8.03 **Right of Landlord to Protect Against Default**

If Tenant fails to observe or perform any of its covenants contained herein, Landlord, at any time thereafter and with seven (7) days' notice, or in the case of a situation deemed by Landlord to constitute an emergency, without notice, shall have the right but not the obligation to observe or perform such covenant for the account and at the expense of Tenant, and shall not be liable to Tenant or anyone claiming by, through, or under it for any loss or damage by reason thereof to the occupancy, business, or property of any of them. All costs and expenses paid or incurred by Landlord in observing or performing such covenant shall constitute additional rents, which Tenant shall forthwith pay to Landlord upon statements therefore.

8.04 Landlord's Remedies

If any default by Tenant shall continue uncured, following notice of default as required by this Lease, for the period applicable to the default, Landlord has the following remedies in addition to all other rights and remedies provided by law or equity or other provisions of this Lease, to which Landlord may resort cumulatively or in the alternative. The election of one remedy for any one default shall not foreclose an election of any other remedy for another default or for the same default at a later time.

- A. Termination in the Event of Default. Landlord may, at Landlord's election, terminate this Lease in the event of default by giving Tenant notice of termination. On the giving of the notice, all Tenants' rights in the Leased Premises shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Leased Premises and all Improvements not required to be removed, and Landlord may re-enter and take possession of the Leased Premises and all remaining improvements. Termination under this paragraph shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or accruing against Tenant, or any other relief available to Landlord.
- B. Recovery of Rent. Landlord shall be entitled, at Landlord's election, to each installment of rent or to any combination of installments for any period before termination, plus interest at the rate of twelve and a half (12.5%) percent from the due date of each installment.
- C. Tenant's Personal Property. Landlord may, if Tenant fails to remove personal property or Tenant's improvements within the time allowed above, use Tenant's personal property, Tenant's improvements and trade fixtures on the Leased Premises, or any of such property without liability for use or damage, or store them at the sole risk and cost to Tenant.
- D. Damages. Landlord shall also be entitled, at Landlord's election, to damages in the following sums: (1) all amounts that would have fallen due as rent between the time of termination and the time the Leased premises are relet; (2) the amount, if any, by which the rent under this Lease exceeds the rent under any subsequent Lease upon reletting calculated over the Lease Term; and (3) all administrative, marketing, maintenance, repair, cleaning and similar costs incurred by Landlord.
- E. Application of Sums Collected by Landlord. Landlord shall apply all proceeds of reletting as follows: first, to the payment of reasonable expenses (including attorney's fees and broker's commissions or both) paid or incurred by or on behalf of Landlord; second, in recovering possession, placing the Leased Premises and improvements in good condition, and preparing or altering the Leased Premises or improvements for reletting; third, to the reasonable expenses of securing new Tenants; fourth, to the fulfillment of Tenant's

covenants to the end of the Lease term; and finally, to Landlord's uses and purposes.

- F. Costs. In the event Tenant shall be in default in the performance of any of its obligations under this Lease, and Landlord takes any action to enforce this Lease, including, but not limited to, court action, Tenant shall pay Landlord all the expenses incurred by Landlord in taking such action including full and reasonable attorney's fees.

ARTICLE 9 GENERAL PROVISIONS

9.01 Landlord's Right to Entry, Inspection and Repair

Landlord may enter and inspect the Premises, at any time during regular business hours, with or without the presence of Tenant or its authorized representative, after giving twenty-four (24) hours advance notice to Tenant of such inspection. To protect the confidentiality of Tenant's clients, Landlord shall take every step possible to not enter without the presence and consent of Tenant except in an emergency or upon agreement by Tenant, such agreement not to be unreasonably withheld or refused. In the event of an emergency, Landlord may enter and inspect the Leased Premises on reasonable notice to Tenant (including no notice if the circumstances warrant) and make such repairs or institute such measures, on the account and at the expense of Tenant, as may be necessary to avert or terminate the emergency. An emergency is any action, event or condition, either extant or imminent, that threatens significant damage to property or injury to persons on or near the Leased Premises, and includes, but is not limited to, flood, fire, explosion, uncontrolled dangerous discharge or release of water or fluids, or the unauthorized or illegal placement of hazardous or toxic materials on Leased Premises). The provisions of this paragraph apply to Landlord solely in its capacity as Landlord hereunder and not in any other capacity.

9.02 Notices

All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender and delivered by facsimile, email (with a hard copy mailed first class) or mailed and addressed to the respective parties as follows:

To Landlord:
City Manager
City of Bethel
P.O. Box 1388
Bethel, Alaska 99559

With Required Copy to:

City of Bethel Legal Department
PO Box 1388
Bethel, Alaska 99559-1388

To Tenant:
BTP, LLC
c/o UCI, LLC
3351 Arctic Blvd.
Anchorage AK 99503

9.03 Covenants and Conditions

Every provision in this Lease which imposes an obligation upon Tenant or invests an option, power, or right in Landlord shall be deemed to be a covenant of Tenant in favor of Landlord, and the time of observance and performance by Tenant of each such covenant shall be of the essence. Full and faithful observance and performance by Tenant of each of its covenants contained in this Lease shall be a condition of this Lease.

9.04 Integration and Amendment

Except as otherwise expressly provided in this Lease, this Lease is a complete integration of every agreement and representation made by or on behalf of Landlord and Tenant with respect to the Leased Premises, and no implied covenant or prior oral or written agreement shall be held to vary the provisions of this Lease, any law or custom to the contrary notwithstanding. No amendment or other modification of the provisions of this Lease shall be effective unless incorporated in a written instrument duly executed and acknowledged by Landlord and Tenant.

9.05 Survival and Severability

If any provision of this Lease shall be deemed to be void or otherwise unenforceable by any court or other tribunal of competent jurisdiction, other than at the initiative or with the support of Landlord, within thirty (30) days of receipt of written notice of such holding, Landlord shall have the right and option, exercisable by written notice thereof to Tenant, to terminate this Lease effective as of the date of such written notice of exercise. It is understood and agreed that otherwise this Lease, except for such provision so held to be void or otherwise unenforceable, shall remain in full force and effect.

9.06 Binding Effect

This Lease shall be binding upon and shall inure to the benefit of Landlord and Tenant and their respective successors and assigns. The designations "Landlord" and "Tenant" include their respective successors and assigns and shall be so construed that the use of the singular includes the plural number, and vice versa, and the use of any gender include the other genders. If at any time

during the Lease Term Tenant is more than one person or entity, including persons who are partners and operate Tenancy as a partnership, their liability thereunder shall be joint and several.

9.07 Landlord's Authority to Convey Fee Title

Landlord retains the absolute and unconditional right to convey fee title in the Leased Premises or an interest or estate therein, subject to this Lease and the interest of any qualified mortgagee.

9.08 Tenant's Authority to Execute Lease

The Tenant represents that the person signing this Lease on its behalf has been duly authorized to sign this Lease and has the authority to bind the Tenant.

9.09 Captions

The captions of the paragraphs are for convenience only, are not operative, and neither limit nor amplify in any way the provisions hereof.

9.10 Execution and Counterparts

This Lease may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

9.11 Governing Law/Construction

This Lease shall be construed and governed by the laws of the State of Alaska. This Lease was negotiated between the parties and shall not be strictly construed against either party. In the event that a question, dispute, or requirements for interpretation or construction shall arise with respect to this Lease, jurisdiction and venue shall lie exclusively with the Bethel Court in the Fourth Judicial District at Bethel, Alaska.

IN WITNESS WHEREOF. Landlord and Tenant have duly executed and acknowledged this Lease.

CITY OF BETHEL

BTP, LLC
By, UCI, LLC
Its: Member

Peter A. Williams
City Manager

By: David Cottrell
Its: Manager

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance 19-08

AN ORDINANCE BY THE BETHEL CITY COUNCIL APPROVING A SUBDIVISION AGREEMENT BETWEEN THE ORUTSARMIUT NATIVE COUNCIL AND THE CITY OF BETHEL

WHEREAS, Bethel Municipal Code Section 17.04.067 authorizes the City of Bethel to enter into a Subdivision Agreement with a potential developer;

WHEREAS, Subdivision Agreements are beneficial to both the City and the subdivider;

WHEREAS; for a subdivider, a Subdivision Agreement provides assurances that so long as the subdivider follows existing standards and requirements of both the Code and the Agreement, the subdivider will be able to proceed without being subject to change orders by the City and with the assurance of a final plat;

WHEREAS, for the City, a Subdivision Agreement, provides a clear roadmap of the expectations for the subdivider, giving the City time to prepare and focus its resources during the development process;

WHEREAS, the Planning Commission reviewed the proposed Subdivision Agreement on April 11, 2019 along with all supporting documentation;

WHEREAS, after careful deliberation, the Planning Commission voted unanimously in favor of recommending that the City Council approve the Ciullkulek Subdivision Agreement provided that (1) developer not sell any lots until the Final Plat is approved, and (2) the Open Space dedicated to the City must be useable space for the purpose dedicated be added to the Subdivision Agreement; and

WHEREAS, the conditions have been added;

THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, as follows:

SECTION 1. Classification. This is a non-codified Ordinance and shall not become part of the Bethel Municipal Code.

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

SECTION 2. Authorization. Pursuant to Bethel Municipal Code 17.04.067, the City Council approves the terms of the Subdivision Agreement contained within between the City of Bethel and the Orutsaramiut Native Council for the development of the Ciullkulek Subdivision.

SUBDIVISION AGREEMENT

Subdivision: CIULLKULEK SUBDIVISION

The City of Bethel (hereinafter the City) a municipal corporation, and Orutsaramiut Native Council (ONC) (hereinafter Developer) enter into the following agreement this ____ day of May, 2019.

ONC owner of Ciullkulek Subdivision, executes this Agreement. It is understood that the person who executes the Agreement does so in the capacity of an authorized member and warrants that he has the authority to execute this Agreement on behalf of the ONC. The parties to this Agreement shall accept notices at the following addresses:

ONC
Orutsaramiut Native Council
Attn:
PO Box 927
Bethel AK 99559-0927

City of Bethel
City of Bethel
Legal Department
PO Box 1388
Bethel AK 99559

The real property which is the subject of this Agreement (hereinafter the Subdivision) is located in the City of Bethel and is described as follows:

A Replat of US Survey 4117, Lot 13,T8N, R71W, Sections 17, 18 containing 17.23 acres more or less in the Bethel Recording District.

Per the Preliminary Plat, having a new description of:

Ciullkulek Subdivision

Creating Block 1, Lots 1-9; Block 2, Lots 1-6; Block 3, Lots 1-17; Block 4, Lots 1-6; and Tract A.

Total area of lots is 11.165 acres. Area of Tract A is 1.567 acres. Total area of public rights of way is 4.498 acres.

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

** The legal description was taken from the preliminary plat for the Subdivision and may be subject to change after the recording of the final plat. Developer agrees that no change shall be detrimental to the City in enforcing the terms of this Agreement.

Under the terms of an existing ordinance to regulate and ensure the orderly subdivision and development of land in the City of Bethel, Alaska, known as the Bethel Subdivision Ordinance (Chapter 17 of the Bethel Municipal Code (BMC)), it is provided that before the final plat of a subdivision is approved for recordation, all physical improvements required by said ordinance for the land so subdivided shall have been installed therein.

The Developer seeks the City's non-objection to a final plat for the subdivision pursuant to BMC, section 17.04.067. In consideration of the City of Bethel's non objection to a final plat for the subdivision, the Developer agrees to construct and install the improvements described below in accordance with all the terms, covenants and conditions of this Agreement and to the specifications outlined by the City.

- ☒ Circulation System (Roads). All cul-de-sacs, corners and dead ends to have sufficient turning radius, turnarounds and hammerheads to meet Fire Department requirements for larger apparatus.
- ☒ Complete Streets – Compliance
- ☒ Drainage (in conformance with Army Corp and City requirements)
- ☒ Dedicated dumpster easements with fill (dumpsters provided by City)
- ☒ Electrical Power Lines and telecommunication lines & Easements (as approved by AVEC, United Utilities and/or GCI)
- ☒ Graveled and compacted Streets
- ☒ LED Street Lighting
- ☒ Property Numbering and Street Names
- ☒ Recreation and Open Space Dedications. The open space must be usable space within the subdivision.
- ☒ Street Signs
- ☒ Water (hauled)
- ☒ Sewer (hauled)
- ☒ Zoning
- ☒ Other: All construction shall be in accordance with the plan set, which, in addition to having to meet all requirements of the BMC, must be reviewed and approved by the City of Bethel Public Works Department and the City's Engineer.
- ☒ Other: The Developer agrees to use metal pipes instead of polyethylene pipes.
- ☒ Other: Developer agrees to install sufficient LED lighting at the entrance to the Subdivision to allow for pedestrian safety.
- ☒ Other: Developer to cooperate with DOT on safety for ingress and egress to the Subdivision.

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

- ☒ Other: Developer shall not sell any lots until a Final Plat is approved.
- ☒ Other: The Open Space dedicated to the City of Bethel must be useable space for the purpose dedicated.

The Developer estimates the cost of the improvements to be Two Million, Three Hundred Eighty Two Thousand Nine Hundred Thirty Two (\$2,382,932) Dollars.

The Developer agrees to attach an up to date Work Schedule for timely completion of the Subdivision as Exhibit B prior to issuance of a Site Plan Permit.

Required: additional estimate for Cost of Improvements

Estimate For Date Attached

Roads : (Exhibit D)

Power: AVEC (Exhibit E)

Developer acknowledges that although the City requires construction and installation of these items, that the Developer is solely liable for the cost thereof, except that in lieu of actual installation of said physical improvements, the subdivider shall enter into an agreement with bond or other security in an amount equal to the amount of the performance guaranty contained in section 2.2(B).

Installation of said improvements has not been completed and the Developer desires to enter into said Agreement and furnish bond or other security so that the aforesaid plat may be approved for recordation.

ARTICLE I

GENERAL PROVISIONS

1.1 Application of Article.

Unless this Agreement expressly provides otherwise, all provisions of these articles apply to every part of this Agreement.

1.2 Permits, Laws and Taxes

The Developer shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to its performance under this Agreement. All actions taken by the Developer under this Agreement shall comply with all

applicable statutes, ordinances, rules and regulations. The Developer shall pay all taxes pertaining to its performance under this Agreement.

1.3 Relationship of Parties

Neither by entering into this Agreement, nor by doing any act hereunder, may the Developer or any contractor or subcontractor or other agent of the Developer be deemed an agent, employee or partner of the City, or otherwise than, in the case of the Developer, an independent contractor. The Developer and its contractors and subcontractors shall not represent themselves to be agents, employees or partners of the City, or otherwise associated with the City. The Developer shall notify all of its contractors and subcontractors of the provisions of this section.

1.4 Engineer's Relationship to City

Notwithstanding section 2.6 or any agreement whereby the City reimburses the Developer's engineering costs, an engineer retained by the Developer or the City to perform work under this Agreement shall not be deemed an agent, partner or contractor of the City, or otherwise associated with the City.

1.5 Developer's Responsibility

The Developer shall be solely responsible for the faithful performance of all terms, covenants and conditions of this Agreement notwithstanding the Developer's delegation to another of the actual performance of any term, covenant or condition thereof.

1.6 Allocation of Liability

The Developer shall indemnify (to include paying all costs of defense, including without limitation, actual attorney's fees) and hold the City harmless from any claim, action or demand arising from any act or omission related to this Agreement in whole or in part, of the Developer, its agents, employees or contractors. The liability assumed by the Developer pursuant to this section includes, but is not limited to, claims for labor and materials furnished for the construction of the improvements.

1.7 Disclaimer of Warranty

Notwithstanding this Agreement or any action taken by any person hereunder, neither the City nor any City officer, agent or employee warrants or represents the fitness, suitability, or merchantability of any property, plan, design, material, workmanship, or structure for any purpose.

1.8 Non-Discrimination

A. In performing its obligations under this Agreement, the Developer shall not discriminate against any person on the basis of race, creed, color, national

origin, sex, sexual orientation, gender identification, marital status, age or on any other basis prohibited by law or ordinance.

- B. In selling or leasing property or improvements in the subdivisions, the Developer shall not discriminate against any person on the basis of race, creed, color, national origin, sex, sexual orientation, gender identification, marital status, age or on any other basis prohibited by law or ordinance.

1.9 Cost of Documents

All plans, reports, drawings, electronic data and other documents that this Agreement requires the Developer to provide the City shall be furnished at the Developer's expense.

1.10 Time of the Essence

Unless otherwise expressly provided herein, time is of the essence of each and every term, covenant and condition of this Agreement.

1.11 Assignment

- A. Except insofar as subsection B of this section specifically permits assignments, any assignment by the Developer of its interest in any part of this Agreement or any delegation of duties under this Agreement shall be void, and any attempt by the Developer to assign any part of its interest or delegate any duty under this Agreement shall constitute a default entitling the City to invoke any remedy available to it under Section 1.12 or at law or in equity.
- B. The Developer may assign its interest or delegate its duties under this Contract as expressly permitted in writing by the City.

1.12 Default: City's Remedies

- A. The City may declare the Developer to be in default:
 - 1. If the Developer is adjudged bankrupt, makes a general assignment for the benefit of creditors, suffers a receiver to be appointed on account of insolvency, takes advantage of any law for the benefit of insolvent debtors;
Or
 - 2. If the Developer has failed in any measurable way to perform its obligations under this Agreement provided the City gives the Developer notice of the failure to perform and the Developer fails to correct the failure within thirty (30) days of receiving the notice; or if the failure requires more than thirty (30) days to cure, the Developer fails within thirty (30) days of receiving the notice to commence and proceed with diligence to cure the failure.
- B. Upon a declaration of default, the City may do any one or more of the following:

1. Terminate the Agreement without liability for any obligation maturing subsequent to the date of termination;
2. Perform any act required of the Developer under this Agreement, including constructing all or any part of the improvements, after giving seven (7) days' notice in writing to the Developer. The Developer shall be liable to the City for any costs thus incurred. The City may deduct any costs thus incurred from any payment then or thereafter due the Developer from the City, whether under this Agreement or otherwise.
3. Exercise its rights under any performance or warranty guaranty securing the Developer's obligations under this Agreement.
4. Pursue any appropriate judicial remedy including, but not limited to, an action for injunction and civil penalties.

1.13 Non-Waiver

The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of the City thereafter to enforce each and every provision hereof.

1.14 Interpretation

- A. Each document incorporated by reference herein is an essential part of this Agreement and any requirement, duty or obligation stated in one document is as binding as if in all. All documents shall be construed to operate in a complementary manner and to provide for a complete project.
- B. If the terms of any of the documents and amendments thereto comprising this Agreement conflict, the conflict shall be resolved by giving the conflicting documents and amendments thereto the following order of preference:
 1. Documents
 2. Article II of this Agreement titled "Improvement Construction Standards and Procedure", and Article III of this Agreement "Acceptance of Improvements."
 3. Article I of this Agreement "General Provisions."
 4. Any other document incorporated herein by reference.

1.15 Effect of Standard Specifications

The standard specifications of the City of Bethel Municipal Code in effect at the time this Agreement is executed are incorporated by reference as minimum construction standards for performance under this Agreement. All performance by Developer shall be done in a good and workmanlike manner with the warranty

that all work and improvements (to include the engineering thereon) are fit for the ordinary purpose for which such work and improvements are used.

1.16 Amendment

The parties may amend this Agreement, only by written agreement, signed by both parties and appended hereto.

1.17 Jurisdiction – Choice of Law

Any civil action arising from this Agreement shall be brought and tried in the Superior Court for the Fourth Judicial District of the State of Alaska at Bethel. The laws of the State of Alaska and the City of Bethel shall govern the rights and duties of the parties under this Agreement.

1.18 Severability

Any provision of this Agreement that may be declared invalid or otherwise unenforceable by a court of competent jurisdiction shall be ineffective to the extent of such invalidity without invalidating the remaining provisions of the Agreement.

1.19 Integration

This instrument and any writings incorporated by reference herein embody the entire agreement of the parties. This Agreement shall supersede all previous communications, representations or agreements, whether oral or written, between the parties hereto concerning the subject matter of this Agreement.

1.20 Responsibility for Claims

In addition to Developer's duties contained in §1.5 above, Developer shall indemnify (to include paying all costs of defense, including without limitation, actual attorney's fees) and save harmless the City, its officers and employees, from all suits, actions, or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of or in consequence of any neglect in safeguarding the work; or through the use of unacceptable materials in constructing the work; or because of any act of omission, neglect or misconduct of said Developer; or from any claims or amounts arising or recovered under the "Worker's Compensation Act," or any other law, order, or decree; and in the event of suit or suits, action or actions, claim or claims for injuries or damages, Developer's surety shall be held until the aforesaid shall have been settled and suitable evidence to that effect furnished to the City.

1.21 No Contract Rights in Third Parties

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof a third-party beneficiary hereunder or to authorize

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

1.22 Definitions

Unless this Agreement expressly provides otherwise, the following definitions shall apply herein:

- A. "Acceptance" – by the City means a determination that an improvement meets municipal or state standards, and does not refer to accepting a dedication of the improvement by the Developer.
- B. "City" – for the purposes of administering this Agreement, means the City Manager or his designee.
- C. "Improvements" – means all work the Developer is required to perform under this Agreement.
- D. "Municipal Improvements" – means improvements to be dedicated to and accepted by the City or to the public, or improvements operated and controlled by the City.

1.23 Developer's Duties Run with the Land; Memorandum of Agreement

The duties of the Developer run with the land for the benefit of the City. Upon executing this Agreement, the parties shall execute and the City may record the Memorandum of Subdivision Agreement.

1.25 Waiver of Sovereign Immunity.

By execution of this Subdivision Agreement, the Orutsararmiut Native Council (ONC) irrevocably waives any sovereign immunity which it may possess, and consents to suit against itself or its officials, under the laws of the State of Alaska, in the courts of the State of Alaska as to all causes of action by the authority arising out of or on in connection with this Subdivision Agreement. ONC, as an entity that possesses sovereign immunity, shall provide the City with a resolution by ONC's governing Board waiving sovereign immunity, and such resolution shall be incorporated into this Subdivision Agreement as Exhibit F.

ARTICLE II

IMPROVEMENT CONSTRUCTION STANDARDS AND PROCEDURE

2.1 Recording of Final Plat.

The City will not render its non-objection to the Final Plat for the subdivision until the Developer has submitted and the City has approved the performance guaranty required by Section 2.2 and the Developer has complied fully with Sections 2.8 through 2.18.

2.2 Performance Guaranty

A. The Developer shall guaranty for the sole benefit of the City that the Developer will perform its obligations under this Agreement. The guaranty shall be in the form of a Performance Bond as specified by Section 2.3.

B. Amount of Guaranty:

1. The guaranty shall be in an amount equal to the estimated cost of all improvements, which shall be computed as follows. The Developer shall submit for the City's approval a cost estimate for each improvement required by this Agreement. The Cost Estimate shall be completed as outlined in Section 2.8 Cost Estimate. The estimated cost of all improvements shall be the sum of the approved estimated cost of constructing each improvement, plus an overrun allowance upon that sum as follows:

Total Estimated Cost of

<u>Constructing Improvements</u>	<u>Overrun Allowance</u>
\$0 to \$500,000	20%
\$500,001 to \$1,000,000	15%
\$1,000,001 +	10%

2. If the City finds that increases in construction costs between the time the City approves the estimated improvement costs under 1 of this subsection and the time the improvements are completed, have rendered the approved estimated improvement costs unreasonably low; or if said costs are unreasonably low for other substantial cause, the City may require the Developer to increase the performance guaranty to an amount equal to an approved estimated cost of all improvements based upon current construction costs.
- C. If the Developer is not in default under this Agreement, the City may allow a reduction in the amount of the performance guaranty, or the amount secured thereby, not exceeding the difference between the estimated cost of all improvements and the current estimated cost of the work remaining to be performed under this Agreement; provided, however, that amount of the performance guaranty, or the amount secured thereby, always shall be greater than or equal to the amount of the warranty guaranty required by Section 3.11.
- D. As soon as one of the following occurs, the City shall release any performance guaranty that has not been used or encumbered under Section 1.12:

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

1. The final acceptance of all improvements and the posting of a warranty guaranty as provided in Section 3.11; or
2. The expiration of the warranty period as provided in Section 3.10.

2.3 Bonds

The Developer may provide a performance bond and a labor and material bond from a company qualified by law to act as a surety in the State of Alaska. The bond shall be in a form approved by the City. The bond shall name the City as the sole obligee and the Developer as the principal. The surety must be rated by A.M. Best as an A or B surety.

2.4 Escrow

The Developer may deposit cash in an escrow with a bank qualified by law to do business in the State of Alaska. The disbursement of the escrowed funds shall be governed by an escrow agreement in a form approved by the City.

2.5 Prerequisites to Construction

The Developer shall not obtain permits for the construction of improvements or commence the construction of improvements until the requirements of Section 2.3 through 2.13 have been met and the City has delivered to the Developer the Notice to Proceed.

2.6 Engineer

A. The Developer shall retain an engineer registered as a professional engineer under the laws of the State of Alaska, to design and administer the construction of the improvements, including preparing plans and specifications, inspecting and controlling the quality of the work, and preparing as-built data. The Engineer shall perform the work described herein in accordance with the City's recommended procedures for consulting engineers. The Engineer shall provide a true and correct copy of his certificate of registration to the City of Bethel Engineer. If the City requires work unrelated to the Developer's subdivision improvements, the City will reimburse the Developer for any portion of the engineering costs based on the professional fee schedule that will be provided to the City Engineer.

B. The Engineer shall have the following insurance:

1. E&O insurance of at least One Million (\$1,000,000) Dollars

The Engineer will maintain the E&O insurance for a period ending no later than two years after the completion of the work set out in the Subdivision Agreement. The Engineer will provide a true and correct copy of the E&O policy to the City Engineer.

2. The Developer shall inform the City of the name and mailing address of the Engineer he has retained to perform the duties described in subsection A of this section, and agrees that notice to the engineer at the address so specified regarding the performance of such duties shall constitute notice to the Developer. The Developer shall promptly inform the City of any change in the information required under this section.

2.7 Plans and Specifications

- A. The Developer shall submit to the City, in such form as the City may specify all plans and specifications pertaining to the construction of the improvements.
- B. The Developer shall submit to the City proof that he has retained an engineer to perform the duties described in §2.6.
- C. If the City Engineer requires soil tests or other tests pertaining to the design of improvements, the Developer shall submit reports of the test results with the plans and specifications to the City Engineer.
- D. The City, either in-house or through retained professionals, shall approve the plans and specifications as submitted or indicate to the Developer how it may modify them to secure approval within eight (8) weeks from [1] the submission of all plans and specification for the improvements, and [2] the payment of the performance guarantee required under Section 2.2.

2.8 Cost Estimate

- A. The Developer shall submit for the City's approval a cost estimate for each improvement required by this Agreement. The cost estimate shall be provided by the Developer's Engineer and shall be based on final stamped and sealed plans and specifications.

2.9 Reserved

2.10 Quality Control Program

- A. The Developer shall submit to the City, in such form as the City may specify, a quality control program for the construction of the improvements.
- B. The quality control program shall provide sufficient inspection and test procedures to determine compliance with all applicable plans, specifications, and safety requirements. The program shall include at least the following:
 1. The frequency and type of all tests to be performed.
 2. A list of all persons who will perform tests and inspections.
 3. Procedures for coordinating testing and inspection with the City Engineer, and for providing advance notice to the City Engineer of all inspections and tests which the City Engineer shall witness.

C. Procedures for reporting quality control activities including discoveries of deficiencies in the work.

1. Quality Control Program to be attached as Exhibit A.

2.11 Work Schedule

- A. The Developer shall submit to the City Engineer, in such a form as the City may specify, a work schedule.
- B. The work schedule shall include a progress chart of a suitable scale indicating the approximate percentage of work scheduled for completion at any given time. For each improvement the schedule shall indicate starting and completion dates for the following:
 - 1. Clearing, grubbing, removing overburden.
 - 2. Excavation, installation and backfill and 95% compaction for each utility to be installed by the Developer.
 - 3. Excavation, backfill and 95% compaction for street facilities.

C. Work Schedule to be attached as Exhibit B.

2.12 Materials

- A. The Developer shall submit, in such form as the City may specify, detailed information concerning all materials and equipment it proposes to incorporate into an improvement.
- B. Upon the City's request, the Developer shall submit samples of materials or equipment it proposes to incorporate into an improvement.

2.13 Liability Insurance

The Developer shall provide adequate proof that they have acquired the insurance required as outlined in Exhibit C.

2.14 General Standard of Workmanship

- A. The Developer shall construct all improvements in accordance with plans, specifications and contracts approved by the City and with the terms, covenants and conditions of this Agreement. The Developer shall not incorporate any material or equipment into an improvement unless the City has approved its use. Unless the City specifically agrees otherwise in writing, all materials, supplies and equipment incorporated into an improvement shall be new.
- B. If, in the course of construction, conditions appear that in the exercise of reasonable engineering judgment require a modification of or substitution for approved materials, equipment, plans, specifications or contracts to meet a

higher standard of performance, the Developer shall give written notice thereof to the City and, subject to the City's prior approval, make the modification or substitution.

- C. The Developer shall construct all facilities in the subdivision not otherwise subject to this agreement in accordance with applicable statutes, ordinances and specifications.
- D. Developer will build the roads to the standards presently accepted by the City of Bethel Public Works department Director or his designee.

2.15 Work in Proposed Right-of-Way

The Developer shall comply with all ordinances and secure all necessary permits and authorizations pertaining to work in public rights-of-way. The Developer shall coordinate and supervise the installation and construction of all utility improvements, including those not otherwise covered by this Agreement, in a manner that will prevent delays in City construction or other damage to the City, and that will permit the City properly to schedule work that it will perform.

2.16 Surveyor

All surveys required for the completion of improvements under this Agreement shall be made by a person registered as a professional land surveyor under the laws of the State of Alaska.

2.17 Required Reporting

A. Quality control.

1. The Developer shall submit to the City, regularly and promptly, written reports describing the results of all tests and inspections required by the quality control program, and all other tests and inspections which the Developer may make.
2. The Developer or Developer's Engineer shall coordinate testing and inspections with the City and provide reasonable advance notice to the City of all tests and inspections which the City shall witness, as required by the approved quality control program.

B. Construction progress.

1. At such intervals as the City may require, the Developer shall enter on the approved work schedule progress chart the actual work progress to date, and immediately forward two (2) copies of the marked progress chart to the City.
2. If actual progress indicates that the Developer will not perform the work as scheduled, the Developer shall prepare and submit a revised schedule for the City's approval.

3. In addition to any other notice that this Agreement may require, the Developer shall give the City reasonable notice prior to commencing each of the following:

- a. Clearing and grubbing
- b. Completion of any excavation;
- c. Installation of each utility;
- d. Placement of backfill, or classified backfill;
- e. First placement of leveling course;
- f. First placement of gravel;
- g. Compaction – streets (roads);

2.18 Progress Payments

The Developer shall pay his contractors all contract progress payments when due.

2.19 Surveillance

- A. The City may monitor the progress of the work and the Developer's compliance with this Agreement and perform any inspection or test which it deems necessary to determine whether the work conforms to this Agreement.
- B. If the Developer fails to notify the City of inspections, tests and construction progress as required by Section 2.17, the City may require, at the Developer's expense, retesting, exposure of previous stages of construction, or any other steps which the City deems necessary to determine whether the work conforms to this Agreement.
- C. Any monitoring, tests or inspections that the City orders or performs pursuant to this section are solely for the benefit of the City. The City does not undertake to test or inspect the work for the benefit of the Developer or any other person.

2.20 Stop Work Orders

- A. If the City determines there is a substantial likelihood that the Developer will fail to comply, or if the Developer does fail to comply, with this Agreement, the City may stop all further construction of all or some of the improvements by posting a stop work order at the site of the nonconforming construction and notifying the Developer or its Engineer of the order. In this section, "nonconforming construction" includes, by way of example and not by way of limitation, construction work for which the Developer failed to strictly comply with the requirements contained in §2.07 or 2.10, even though the constructed work passes the tests.

- B. A stop work order shall remain in effect until the City approves:

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

1. Arrangements made by the Developer to remedy the nonconformity; and
 2. Assurances by the Developer that future nonconformities will not occur.
- C. The issuance of stop work order under this section is solely for the benefit of the City. The City does not undertake to supervise the work for the benefit of the Developer or any other person. No suspension of work under this section shall be grounds for an action or claim against the City, except for an extension of time to perform the work.
- D. The Developer shall include in all contracts for work to be performed or materials to be used under this Agreement the following provision:

The City of Bethel, pursuant to a Subdivision Agreement on file with the City Clerk and incorporated herein by reference, has the authority to inspect all work or materials under this contract, and to stop work in the event that the work performed under this contract fails to comply with any provision of the Subdivision Development Agreement. In the event that a stop work order is issued by the City of Bethel, the contractor shall immediately cease all work or all affected work at the City's discretion and await further instructions from the Developer.

2.21 Access

The City shall have access to all parts of the subdivision necessary or convenient for monitoring the Developer's performance, inspecting, surveying, testing or performing any of the work.

2.22 Maintenance

The Developer shall repair or pay the cost of repairing damage to any improvement that occurs prior to the City's acceptance of the improvements, except for damage caused solely by the City, its agents, employees or contractors. The Developer shall give reasonable notice to the City before undertaking the repair of the damaged improvement.

2.23 Operation of Improvements Prior to Acceptance

- A. Before the City accepts the improvements, the City may enter upon, inspect, control and operate any improvement if the City determines that such is necessary to protect the public health, safety and welfare.
- B. The action described in subsection A of this section shall not constitute the acceptance of any improvement by the City, nor shall the action affect in any way the Developer's warranty under this Agreement.

2.24 Time

- A. All improvements required by this Agreement shall be completed within two (2) years of the date of execution hereof.
- B. The Developer shall begin actual construction of improvements required under this Agreement in accord with the Developer's work schedule (Exhibit B) as approved by the City.
- C. If the Developer is delayed by an action or omission of the City not otherwise authorized under this Agreement, or by changes ordered in the work, labor disputes, fire, delays in transportation, casualties, or other cause which the City in its discretion determines to be adequate to justify the delay, the time of completion of construction under this Agreement may be extended for a reasonable time which shall be determined by the City. No extension shall be granted unless the Developer gives notice in writing to the City within ten (10) days after the occurrence of the cause for delay. In the case of a continuing delay, only one notice is required.

ARTICLE III

ACCEPTANCE OF IMPROVEMENTS

3.1 Prerequisites to Acceptance

The City shall not accept the improvements until all the requirements of Sections 3.2 through 3.6 and 3.8 have been met.

3.2 As-Built Drawings

Prior to the final inspection and certification under Section 3.6.E, the Developer shall provide to the City two (2) acceptable sets of reproducible Mylar as-built drawings for each improvement and two (2) acceptable electronic data copies of each improvement drawing in an AutoCAD .DWG or .DWF or other format and on media as specified by the City. The as-built drawings and electronic information shall be certified by a professional engineer registered under the laws of the State of Alaska to represent accurately the improvements as actually constructed.

3.3 Monuments

By signing the final Subdivision Mylar Plat for recording with the State Recorder's Office, the Professional Land Surveyor of record acknowledges that all lot corners and boundary corners are set.

3.4 Certificate of Compliance

The Developer shall furnish the City with a certificate of compliance for the work performed under this Agreement, in the form prescribed by the standard specifications of the City in effect at the time of this Agreement.

3.5 Conveyance of Easements and Rights-of-Way to City

The Developer shall convey to the City or the public, any easement, right-of-way or other property interest necessary to allow the City reasonable access to the municipal improvements and to operate, maintain, or repair the municipal improvements. The Developer may condition the conveyance upon the City's acceptance of the improvements.

3.6 Inspection

- A. Upon receiving notice that the Developer has completed the improvements, the City shall schedule inspections of the improvements. The City may inspect all improvements, and any other work in dedicated easements or rights-of-way.
- B. The City shall inform the Developer, in writing, of any deficiencies in the work found in the course of its inspection.
- C. At its own expense, the Developer shall correct all deficiencies found by inspections under this section. Upon receiving notice that the deficiencies have been corrected, the City shall re-inspect the improvements.
- D. The City may continue to re-inspect an improvement(s) until the City is satisfied that the Developer has corrected all deficiencies in the improvement(s).
- E. Only after a final inspection has revealed that all improvements and other work in dedicated easements and rights-of-way meet City standards, and the Developer has furnished the as-built drawings and electronic data required by Section 3.2, and the Developer has submitted the Warranty Guaranty required by Section 3.8, may the City notify the Developer that all improvements have been accepted.

3.7 Consequences of Acceptance of Improvements

- A. The City's final acceptance of the municipal improvements constitutes a grant to the City of all the Developer's right, title and interest in and to the municipal improvements.
- B. By accepting the municipal improvements under this Agreement, the City does not undertake to maintain any such improvement.

3.8 Developer's Warranty

- A. The Developer shall warrant the design, construction materials and workmanship of the improvements against any failure or defect in design, construction, material or workmanship discovered no more than two (2) years from the date the City notifies the Developer of the acceptance of the improvements. This warranty shall cover all direct and indirect costs of repair or replacement, and damage to the property, improvements or facilities of the

City, or other person, caused by such failure or defect or in the course of the repairs thereof, and any increase in cost to the City of operating and maintaining a municipal improvement resulting from such failures, defects or damage.

- B. That the City takes any action, or omits to take any action authorized by this Agreement, including but not limited to operation or routine maintenance of the improvements prior to acceptance, or surveillance, inspections, review or approval of plans, tests or reports, shall in no way limit the scope of the Developer's warranty.

3.9 Warranty Guaranty

- A. To secure the Developer's performance of the warranty under §3.8, the performance guaranty provided by the Developer under §2.2 shall remain in effect until the end of the warranty period, or the Developer shall provide a warranty guaranty by one or more of the methods described in Sections 2.3 through 2.4.
- B. The amount of the warranty guaranty shall be the percentage of the estimated cost of all improvements calculated pursuant to §2.2B, determined by the following table:

Estimated Cost of All Improvements	Percent to Secure Warranty
\$0 - \$500,000	10%
\$500,001 to \$1,000,000	7.5%
\$1,000,001 and over	5.0%

3.10 City's Remedies Under Warranty

- A. The City shall notify the Developer in writing upon its discovery of any failure or defect covered by the warranty in §3.8. Except in case of emergency, the City shall notify the Developer before conducting any tests or inspections to determine the cause of the failure or defect and shall notify the Developer of the results of all such tests and inspections.
- B. The Developer shall correct any failure or defect covered by the warranty within thirty (30) days of receiving notice of the failure or defect from the City. The Developer shall correct the failure or defect at its own expense and to the satisfaction of the City.
- C. If the Developer fails to correct the failure or defect within the time allowed by subsection B of this section, the City may correct the failure or defect at the Developer's expense. If the Developer fails to pay the City for the corrective

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

work within thirty (30) days of receiving the City's bill therefore, the City may pursue any remedy provided by law or this Agreement to recover the cost of the corrective work, together with interest, costs and reasonable attorney's fees.

3.11 Conditions of Reimbursement

- A. If this Agreement requires the City to reimburse the Developer for all or part of the cost of an improvement, the reimbursement shall be conditioned upon the Developer's performance of all its obligations under this Agreement.
- B. Any reimbursement shall be subject to the approval of bonds and the appropriation of funds as required by law. If funds are not available at the time any reimbursement is due under this Agreement, the City shall reimburse the Developer when funds become available. The City shall not be liable for any delay in reimbursing the Developer due to the unavailability of funds except for payment of interest, nor shall such delay constitute a breach of this Agreement.
- C. The City may reimburse the Developer in installments, and in such event any unpaid balance shall bear interest at the rate paid on bonds sold to finance the reimbursement, or otherwise at three (3%) percent per annum simple interest.

3.12 Completion of Performance: Release of Warranty.

- A. The City shall inspect the improvements at or before the end of the warranty period, and before releasing any performance guaranty or warranty guaranty then in effect. The Developer shall correct any failure or defect in the work revealed by the inspection as required by §3.6.
- B. On the Developer's apparent satisfactory performance of all its obligations under this Agreement, the City shall execute a written statement acknowledging such performance and shall release any remaining security posted by the Developer under this Agreement. Such release of warranty shall not waive the City's rights against Developer for contract claims or tort claims.

The Developer is required to post a performance guaranty under this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date first set forth above.

CITY OF BETHEL

DEVELOPER – ONC

Peter A. Williams
City Manager

City of Bethel, Alaska

Ordinance 19-08
20 of 29

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

ACKNOWLEDGMENT FOR DEVELOPMENT AGREEMENT

City's Acknowledgment

STATE OF ALASKA)
) ss:
FOURTH JUDICIAL DISTRICT)

The foregoing Subdivision Agreement was acknowledged before me this _____ day of May, 2019 by Peter A. Williams, City Manager for the City of Bethel, Alaska, a municipal corporation organized and existing by virtue of the laws of the State of Alaska.

WITNESS my hand and official seal the day and year last above written.

Notary Public in and for Alaska
My Commission Expires: _____

Developer's Acknowledgment

STATE OF ALASKA)
) ss:
FOURTH JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of May, 2019, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared _____, who is known to be the _____ of Orutsararmiut Native Council, a federally recognized tribe, which is named in the foregoing Subdivision Agreement and he acknowledged to me the execution thereof to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated he was fully authorized to execute said instrument.

WITNESS my hand and official seal the day and year last above written.

Notary Public in and for Alaska
My Commission Expires: _____

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

OWNER'S AFFIDAVIT

STATE OF ALASKA)
) ss
FOURTH JUDICIAL DISTRICT)

The undersigned, _____, on behalf of the Developer, Orutsararmiut Native Council, and warrants to the City, under penalty of perjury, that the Orutsararmiut Native Council has title to the subdivision property; permission from the BIA to subdivide and sell the lots, and the authority to execute this Subdivision Agreement.

Dated

Notary Public in and for Alaska

My Commission Expires: _____

Exhibit A: Quality Control Plan

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit B: Work Schedule

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit C: Insurance Requirements

I. Indemnification

Except for the sole negligence of the City and to the fullest extent permitted by law, Developer shall defend, indemnify, and hold harmless the City and any applicable City contractor's from any and all claims, demands, losses, and liabilities to or by any third party, including, but not limited to, costs, attorney's fees, expenses, and claims for any damages, contributions, or indemnifications arising from, resulting from, or connected to the Developer, its agents, sub-contractors, suppliers, and employees, even though such claims may prove to be false, groundless, or fraudulent. The indemnification obligation under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party, or any employee under Entitlement to recovery of costs, attorney's fees and expenses under any worker's compensation act, disability benefit act, or other employee benefit act. Entitlement to recovery of costs, attorney's fees and expenses under the indemnification obligation shall include all fees, costs, and expenses incurred in good faith by the City.

II. Insurance

The Developer shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Alaska as admitted insurers or surplus lines insurers approved by the City, such insurance as will protect the City from claims set forth below and others, which may arise out of or as a result of the Developer's operations under this Agreement, whether such operations are by the Developer or by a sub-contractor or by anyone directly or indirectly employed by them, or by anyone whose acts any of them may be liable. Restrictions, conditions or exclusions contained in the insurance policies shall not reduce the obligations of the Developer under this Agreement.

- A. Claims under worker's compensation, employer's liability, disability benefits, and other similar employee benefit acts which are applicable to the work to be performed under this Agreement.

Claims for damages because of bodily injury, mental anguish, sickness, disease or death of any person other than the Developer's employees.

Claims for damages insured by usual personal injury liability insurance coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to the employment of such person by the Developer, or (2) by any other person or entity.

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

Claims for damages, other than to the product supplied, or to the services performed, itself because of damage to or destruction of tangible property, including loss of use resulting therefrom.

Claims for damages because of bodily injury, including mental anguish, death of a person, or damage to property arising out of the ownership, maintenance or use of any motor vehicle.

Claims involving the Developer's contractual obligations and assumption of liability under this Agreement.

Liability insurance shall include, at a minimum, all major divisions of coverage and be on a commercial general liability form including:

- Premises/Operations Liability
- Products/Completed Operations Liability
- Personal/Advertising Injury Liability
- Fire Damage Liability
- Medical Payments
- Per Project Aggregate Provision

B. The insurance required in this Agreement shall be written for not less than the limits listed in subsection (C), below, or those limits required by law, whichever limit is higher. Insurance, whether written on an occurrence or a claims-made basis, shall be maintained without interruption from the date of commencement of the work to the date of completion, or termination of any insurance required to be maintained after Final Plat Approval by the City.

C. The insurance required in this Agreement, shall be written for not less than the following limits:

1. Worker's Compensation Insurance:
Statutory Requirements of the State of Alaska, and
Employer Liability Insurance limits of:
\$500,000 each accident
\$500,000 disease each employee
\$500,000 disease policy limit
2. Commercial General Liability Insurance: Form CG0001 04/13 or equivalent
\$1,000,000 Combined Single Limit of Liability per Occurrence
\$1,000,000 Personal/Advertising Injury Limit of Liability, per Occurrence
\$2,000,000 Annual General Aggregate Limit of Liability

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

\$2,000,000 Annual Products/Completed Operations Aggregate Limit of Liability
\$ 100,000 Fire Damage Limit of Liability Any One Fire
\$ 5,000 Medical Payment Limit on Any One Person

3. Commercial Automobile Liability Insurance: Form CA 0001 03/10 or equivalent
\$1,000,000 Combined Single Limit of Liability per Accident
For all Owned, Hired, and Non-Owned Vehicles
4. Commercial Excess Liability Insurance
\$4,000,000 Combined Single Limit of Liability per Occurrence
\$4,000,000 Annual Aggregate Limit of Liability
Excess of underlying Commercial General Liability Insurance, Commercial
Automobile Liability Insurance, and employer Liability Insurance
5. Builder's Risk – Property Insurance
Special Form Coverage including the perils of Earthquake and Flood on a
Builder's Risk Completed Value Form.

Deductible expense should be incurred by the Developer only, and shall not exceed two (2%) percent of the Subdivision Agreement Deposit.

Limit of insurance equal to the completed value of the building structure, including all additions, and alterations to the new or existing facilities.

The policy shall list the Developer, Contractor, Subcontractors, Engineers and Architects (if applicable) as a named insured, as their interest appears. This policy shall be secured at the expense of the Developer only. A copy of the policy will be delivered to the City, and any other insured entities at their request. This policy will remain in effect during the entire term of the Subdivision Agreement.

- D. Worker's Compensation insurance and employers liability insurance shall be in compliance with the statutory requirements of the State of Alaska, and any other statutory obligation, whether federal or state pertaining to compensation of injured employees. The worker's compensation insurance and employers liability insurance shall contain a waiver of subrogation provision in favor of the City of Bethel.
- E. The commercial general liability insurance shall name the City of Bethel as an additional insured and contain a waiver of subrogation provision in favor of the City of Bethel.

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

- F. All liability insurance required of the Developer shall be primary. All liability insurance carried by the City of Bethel is declared to be excess and non-contributory of any insurance carried by the Developer, its contractors or subcontractors.
- G. Developer's required insurance is subject to review and adjustment by the City, who may require reasonable changes in the amounts and types of insurance based upon changes of risk. Developer shall be provided a written explanation for any such changes.
- H. Certificates of Insurance acceptable to the City shall be filed with the City prior to the commencement of any dirt work by the Developer. These certificates and the insurance policies shall contain a provision that the policy shall not be canceled until prior written notice has been sent to the Developer with a copy to the City.

If any of the insurance policies required above are canceled for any reason, the Developer shall provide immediate notice to the City of the cancelation and either provide: evidence of replacement or notice of reinstatement. Immediately in this section means within five (5) business days of receipt of cancelation by the Developer.

Failure to maintain these insurance provisions required of the Developer or failure to immediately notify the City of Bethel of cancelation shall be considered a material breach of the Subdivision Agreement by the Developer.

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

Exhibit D: Cost Estimate for Roads

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit E: Cost Estimate for Power
(AVEC)

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit F

WAIVER OF SOVEREIGN IMMUNITY

RESOLUTION NUMBER _____

A RESOLUTION OF THE ORUTSARARMIUT NATIVE COUNCIL (ONC) accepting the City of Bethel's Subdivision Agreement ("Agreement") and waiving sovereign immunity from suit for actions arising out of, or in connection with, the Agreement.

WHEREAS, the City requires as a condition of the Subdivision Agreement that ONC irrevocably waives any sovereign immunity which it may possess, and consent to suit against itself or its officials as to all causes of action arising out of or in connection with the Subdivision Agreement;

NOW THEREFORE BE IT RESOLVED THAT:

1. Orutsararmiut Native Council (ONC) hereby consents to suit by the City of Bethel against ONC and its officials in state court, federal court or in administrative proceedings with respect to any disputes, claims or causes of action (including without limitation enforcement or injunctive relief) arising out of or in connection with the Subdivision Agreement; the contractual duties assumed by ONC under the Agreement, and any other Agreement pertaining to the Ciulkulek Subdivision project or the maintenance of the subdivision improvements following construction.
2. ONC hereby consents to levy, execution, garnishment against ONC's real and personal property, however held and wherever located, for any judgment or order entered in any lawsuit or administrative proceeding related to or arising out of the Subdivision Agreement and the Ciulkulek Subdivision; the contractual duties assumed by ONC under that Agreement and the Bethel Municipal Code (BMC); or the operation of the Subdivision

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

and improvements following construction, including, but not limited to, awards of attorney's fees and costs entered by any court.

3. ONC consents to the assertion by the City of any defenses, cross-claims, or counterclaims in any civil action that is filed by ONC against the City.

4. With respect to a claim or action by a force account employee or other employee of ONC arising out of or in connection with the Subdivision Agreement, the contractual duties assumed by ONC under that Agreement, and any other agreement pertaining to the Ciullkulek Subdivision, or the operation of the subdivision following construction, ONC waives sovereign immunity to the extent of, and to the extent necessary to secure, insurance coverage including workers compensation insurance.

5. This waiver shall in no case be deemed a waiver or consent to suit, tax, or any other charge against ONC by any party other than the City of Bethel, except as specifically provided in (4) above.

6. _____ [person] _____ [title] is hereby appointed as the authorized representative of ONC throughout the Subdivision construction process. Said named individual may negotiate, execute, and administer any other documents, agreements, and contracts required under or related to the Subdivision Agreement including any subsequent amendments.

PASSED AND APPROVED BY ORUTSARARMUT NATIVE COUNCIL (ONC) ON

_____, 2019

IN WITNESS THERETO BY: SIGNATURE OF CHAIRMAN OF THE BOARD

Signature

Printed Name

ATTEST: SIGNATURE OF CLERK/SECRETARY

Signature

Printed Name

Introduced by: Planning Commission
Introduction Date: April 23, 2019
Public Hearing Date: May 14, 2019
Action:
Vote:

SECTION 3. Effective Date. This Ordinance shall become effective upon the passage by the Bethel City Council.

ENACTED THIS _____ DAY OF MAY, 2019 BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Fred Watson
Mayor

ATTEST:

Lori Strickler
City Clerk

By: Planning Commission
Public Hearing: March 8, 2018
Public Hearing: April 11, 2019
Adopted:

**CITY OF BETHEL PLANNING COMMISSION
SUPPLEMENTAL RESOLUTION SERIAL NO. 2019-03**

**A RESOLUTION OF THE BETHEL PLANNING COMMISSION CONDITIONALLY APPROVING THE
PRELIMINARY PLAT REQUEST FROM THE ORUTSARMIUT NATIVE COUNCIL FOR THE
CIULKULEK SUBDIVISION, BETHEL, ALASKA**

WHEREAS, the Orutsararmiut Native Council, owner of Orutsararmiut Subdivision, requested a review of a Preliminary Plat; and

WHEREAS, notice of the application was mailed to all property owners within 600 feet of the exterior boundary of the proposed Subdivision on February 27, 2018; and

WHEREAS, a notice of the Planning Commission public hearing and review of the Preliminary Plat was published in the Delta Discovery on February 28, 2018 and March 7, 2018; and

WHEREAS, the Planning Commission held a public hearing on the Preliminary Plat request on March 8, 2018; and

WHEREAS, at the March 8, 2018 meeting the Planning Commission approved the Preliminary Plat request with conditions; and

WHEREAS, one of the Preliminary Plat conditions requires the Developer to enter into a Subdivision Agreement; and

WHEREAS, between the time the Preliminary Plat was applied for as Orutsaramiut Subdivision and the time it was approved, the Developer began to refer to the development as the Ciullkulek Subdivision; and

WHEREAS, the Bethel Planning Commission deliberated on the Orutsaramiut Subdivision (Ciullkulek Subdivision) Application for a Preliminary Plat, taking into account the information submitted by the Applicant, the evaluation and recommendation by Staff contained in the Planner's Report, Public Testimony, the applicable provisions of the Bethel Municipal Code and Comprehensive Plan, and other pertinent information brought before them; and

WHEREAS, the Bethel Planning Commission adopted the following Findings of Fact; and

NOW THEREFORE BE IT RESOLVED, the Bethel Planning Commission hereby initially approved the Orutsararmiut Native Council application on March 8, 2018 as restated herein:

1. All platting, permitting, and construction processes must conform to the City of Bethel Municipal Code.
2. The Subdivider is responsible for obtaining and conforming to all required local, state and federal permits.
3. Site Plan Permits must be obtained from the Bethel Planning Department for all components of Subdivision Development.
4. The subdivision must show and provide dedicated areas/easements for locations of neighborhood dumpsters.
5. Subdivision Development Agreement. The Subdivider shall enter into a Subdivision Development Agreement with the City of Bethel which meets, at a minimum, the requirements set out in this report. All of the conditions and expectations necessary for Final Plat approval to be listed by both the City and the Subdivider in the Subdivision Agreement. Both the City and the Subdivider to work cooperatively to complete the Subdivision Agreement within no more than sixty (60) days from the date of the Preliminary Plat approval. No work is to commence until the Subdivision Development Agreement is completed.

The Subdivision Development Agreement shall include, but not be limited to, the following:

- a. A designation of the public improvements required to be constructed.
- b. The construction and inspection requirements of the City or utility for which the improvements are constructed.
- c. The time schedule for completing the improvements.
- d. A performance guarantee.
- e. The allocation of costs between the City and the subdivider for required public improvements.
- f. A reasonable warranty on public improvements.
- g. The consent of the subdivider for the ownership of specified public improvements to vest with the City upon final acceptance by the City.
- h. A warranty that the Subdivider has title to the Subdivision property and the authority to execute the Subdivision Development Agreement.
- i. A provision requiring the Subdivider to submit plans, specifications, descriptions of work, the limits of the work area, the methods to be employed, a traffic control plan, and any other pertinent data and information necessary for City officials to evaluate the proposed installation.
- j. A provision that work shall not commence until plans have been approved by the Planning Department and the Public Works Department and the notice to proceed is given.
- k. Final Plat not to be approved until the City accepts all improvements.

NOW THEREFORE BE IT FURTHER RESOLVED the Planning Commission hereby adopts the following additional findings and conditions:

BMC § 17.12 Before a Preliminary Plat can be approved, with or without conditions, the following BMC platting requirements must be met:

17.12.030(A) An original reproducible copy of the Preliminary Plat and all information, certifications and material required under this section shall be submitted to the Platting officer at least thirty (30) calendar days prior to the Planning Commission meeting at which consideration of the Preliminary Plat is desired.

Finding: The Preliminary Plat was timely filed having been filed on February 23, 2017. More than thirty (30) calendar days passed from the time of the filing of the Preliminary Plat request to the time of the Planning Commission meeting on March 8, 2018.

17.12.030(A)(1) The Preliminary Plat submission shall include the Preliminary Plat Fee:

Finding: The Preliminary Plat fee of Three Hundred (\$300) Dollars was paid on February 23, 2017.

17.12.030(A)(2) A certificate of ownership indicating the date the land proposed to be subdivide was acquired, together with the book and page of each conveyance to the present owner or owners as recorded in the Bethel District Recorder's Office.

Finding: Proof of ownership was filed with the Bethel Recorder's Office on April 4, 2012, document number: 2012-000358-0 indicating the land was conveyed to the Orutsararmiut Native Council on February 21, 2012 containing 17.24 acres located at Lot 13, U.S. Survey No. 4117 Alaska, located approximately 1 mile west of Bethel, Alaska, on the north side of the Bethel-airport road, as shown on the plat of survey filed on May 9, 1966.

17.12.030(A)(3) A statement that all taxes and special assessments pertaining to the property have been paid or that a payment schedule satisfactory to the City has been arranged.

Finding: The Finance Department has certified that no taxes or other bills are currently due and/or owing by the Developer.

17.12.030(A)(4) A list of the names and addresses of the owners of record of all property contiguous to and across a public right-of-way from the proposed subdivision

Finding: This list was provided by the subdivider and verified by the City of Bethel's Planning Department pursuant to BMC 17.04.025(D) with notices being sent by the City's Planning Department on February 27, 2018.

17.12.030(A)(5) Completed applications for all waivers, variances or other special permissions required under the BMC.

Finding: The property sits on wetlands and requires an Army Corp. of Engineers Wetland Permit. The Corp. Wetland Permit was applied for on January 10, 2018. Orutsararmiut Tribal Council returned the appropriate documents to the Corp. on April 1, 2019 for signatures. Before any site plan permits are issued, the Subdivider must file copies of the Wetland Permits with the City of Bethel.

17.12.030(B) The Preliminary Plat shall show the land to be subdivided and the entire tract, plat, parcel or survey in which the land proposed to be subdivided is located, including all subdivided land within the tract, plat, parcel or survey.

Finding: A review of the Preliminary Plat confirms it does show the land to be subdivided and the entire tract, plat, parcel or survey in which the land proposed to be subdivided is located, including all subdivided land within the tract, plat, parcel or survey.

17.12.030(B)(1) The plat shall contain a notation that the Plat is Preliminary

Finding: A review of the Plat shows the notation is contained as required.

17.12.030(B)(2) The Plat shall contain information regarding the date, scale and Northpoint.

Finding: A review of the Plat shows the required information is provided as required.

17.12.030(B)(3) The Plat shall contain the name of the proposed subdivision.

Finding: The Preliminary Plat contains the name Ciullkulek Subdivision.

- 17.12.030(B)(4)** **The Plat shall show the location of the property by U.S. Survey, section, township and range.**
Finding: This information is shown on the Preliminary Plat.
- 17.12.030(B)(5)** **The Plat shall contain the names and addresses of the subdivider(s) and the surveyor preparing the plat.**
Finding: This information is shown on the Preliminary Plat.
- 17.12.030(B)(6)** **The Plat shall contain a citation of existing covenants, reservations, deed restrictions, trails and easements on the property, if any.**
Finding: This requirement is not applicable – the proposed subdivision contains no covenants, reservations or deed restrictions.
- 17.12.030(B)(7)** **The Plat shall indicate zoning on and adjacent to the proposed subdivision and any other land use designation of this area as established under BMC Title 18.**
Finding: This section was not complied with. Zoning for the subdivision was indicated as General Use, however zoning for the adjacent lands was not indicated. Before the Final Plat can be authorized, zoning shall be clearly shown on the subdivision itself as well as on all adjacent lands.
- 17.12.030(B)(8)** **The Plat shall indicate the approximate acreage, dimensions and size of each lot of the proposed subdivision, including rights-of-way and easements, and the number of lots contained therein;**
Finding: This requirement was fully complied with on the Preliminary Plat.
- 17.12.030(B)(9)** **The Plat shall indicate the location and size of existing and proposed utility systems or other improvements including, but not limited to, water, sewer, telephone, cable and electrical in and within two hundred (200) feet of the proposed subdivision.**
Finding: A review of the Preliminary Plat indicates this was complied with.
- 17.12.030(B)(10)** **The Plat shall indicate the general location of streams, lakes, other bodies of water, and waterways, swamps, muskeg or marshy areas, drainage and erosion patterns including culverts and other drainage facilities in and within two hundred (200) feet of the proposed subdivision including proposed drainage ways and drainage way modifications both within and outside the subdivision.**

- Finding: A review of the Preliminary Plat indicates this was complied with. However, drainage arrows were not clearly identified on the legend for the Plat. The Final Plat shall correct this deficiency.
- 17.12.030(B)(11)** **The Plat shall indicate if any portion of the proposed subdivision is located in an area identified as a flood hazard area, a delineation of the one-hundred (100) year floodplain, every floodway and drainage way that is delineated within the floodplain, and the information required under BMC 15.08.170.**
- Finding: A review of the Preliminary Plat indicates this was complied with. No portion of the Subdivision is within a floodplain.
- 17.12.030(B)(12)** **The Plat shall include a statement concerning responsibility for construction, operation and maintenance of water supply and sewage collection, treatment and disposal facilities in the proposed subdivision.**
- Finding: This section is not applicable as Subdivider intends to rely on the City's hauled water and sewer system.
- 17.12.030(B)(13)** **The Plat shall include recommended or proposed type and location of water sources and sewage treatment or disposal systems on a typical lot diagram in relation to water sources and sewage collection, treatment and disposal systems on adjacent lots or in relation to present or future City and community systems.**
- Finding: This section is not applicable as the Subdivider intends to rely on the City's hauled water and sewer system.
- 17.12.030(B)(14)** **The Plat shall include a statement concerning future community water and sewage systems derived from the Bethel Water and Sewer Master Plan including an appropriate timetable for their development and the proposed layout of service lines.**
- Finding: The Subdivider addressed future community water and sewer systems in its Mater Plan.
- 17.12.030(B)(15)** **The Plat application shall include representative soil testing, logs and borings prepared by a professional engineer registered in the State of Alaska.**
- Finding: This section of the BMC is not applicable for this Development.

17.12.030(B)(16) The Plat shall indicate contours sufficient to show topography in no greater than five foot intervals.

Finding: This section of the BMC was complied with.

17.12.030(B)(17) The Plat shall include a surveyor's certificate.

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(C) The Plat shall indicate the names of proposed and existing streets in and adjacent to the proposed subdivision.

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(D) The Plat shall include a vicinity map showing streets and other general development of the surrounding area at a scale of no less than one (1") inch equals one thousand five hundred (1,500') feet.

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(E) The Applicant shall include a copy of the current plat or U.S. Survey that creates the parcels subject to the proposed subdivision.

Finding: A Title Report was provided by the Subdivider showing chain of title and indicating compliance with this section of the BMC.

17.12.030(F) The Applicant shall submit a copy of the current plats and U.S. Surveys of the land that abuts the boundaries of the proposed subdivision.

Finding: A review of the documents provided with the Preliminary Plat application indicates this section was complied with.

BMC §17.24 Subdivisions shall comply with the requirements of BMC 17.24. Prior to construction, the Planning Commission shall review the following:

17.24.010 The Subdivision shall be designed to accommodate the type of land use designated by the zoning code for the area of the proposed subdivision.

Finding: A review of the Preliminary Plat indicates this was complied with.

17.24.030 The public streets within the Subdivision are considered: (arterial, collector, local).

Finding: Based on the information provided to date, it appears the streets would be classified as local streets. If future development occurs to the north, then Iteryaraq could become a collector. Subdivider shall construct this road as a collector street.

17.24.040 The Subdivision complies with 17.24.040 by providing access via dedicated right-of-way to all lots, tracts and parcels within the subdivision.

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.24.050 The circulation system within the Subdivision is designed in accordance with BMC 17.24.050.

Finding: A review by the City's Engineers of the circulation system within the Subdivision indicates compliance with the intent of this section of the BMC.

17.24.210 Utility Easements are provided and dedicated.

Finding: Utility easements are proposed for dedication which the City in its discretion may accept.

17.24.220 Adequate provisions for Storm water and Floodwater drainage have been made by the Subdivider.

Finding: Drainage reports were provided as well as roadway improvement drawings. Based on the information in those reports, this requirement was met.

17.24.290 Open Space Dedications have been provided by the Subdivider.

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 11th day of April, 2019.

City of Bethel Planning Commission Action: 4 In Favor 0 Opposed 0 Abstained

ATTEST:

Kathy Hanson, Chairwoman
City of Bethel Planning Commission

Pauline Boratko, Recorder
City of Bethel Planning Commission

By: Planning Commission
Public Hearing: April 11, 2019
Adopted: April 11, 2019

**CITY OF BETHEL PLANNING COMMISSION
RESOLUTION SERIAL NO. 2019-04**

**A RESOLUTION OF THE BETHEL PLANNING COMMISSION RECOMMENDING
THE SUBDIVISION AGREEMENT BETWEEN THE CITY OF BETHEL AND
THE ORUTSARAMIUT NATIVE COUNCIL FOR THE CIULLKULEK SUBDIVISION
BE APPROVED BY THE CITY COUNCIL**

WHEREAS, on March 8, 2018, the Planning Commission approved a Preliminary Plat for the Ciullkulek Subdivision with conditions; and

WHEREAS, one of the Preliminary Plat conditions was for the Developer to enter into a Subdivision Agreement; and

WHEREAS, a proposed Subdivision Agreement was presented to the Planning Commission on April 11, 2019 along with a report by the Planner; and

WHEREAS, the Bethel Planning Commission deliberated on the proposed Orutsaramiut Subdivision (Ciullkulek Subdivision) Agreement, taking into account the information submitted by the Applicant, the evaluation and recommendation by Staff contained in the Planner's Report, Public Testimony, the applicable provisions of the Bethel Municipal Code and Comprehensive Plan, and other pertinent information brought before them; and

WHEREAS, the Bethel Planning Commission adopts the following Findings of Fact:

BMC §17.04.067 Subdivision Agreements

In order to assure a subdivider that the subdivider may proceed with the subdivision of a parcel in accordance with existing standards and requirements under this title and not be subject to changes in such standards and requirements before the subdivider receives unconditional approval of the Final Plat of the parcel, the subdivider and the City may enter into a subdivision agreement pursuant to the provisions of this section.

Finding: Having reviewed the Subdivision Agreement, as well as re-reviewed all of the findings for the Preliminary Plat which extensively looked at the Lots, streets, wetlands, flood hazards, utilities and other pertinent issues that would affect the City and the developer, the proposed Subdivision Agreement complies with this section of the BMC.

Finding: Developer addresses the dedication of streets, roads, easements and dedications in its Master Plan. Acceptance of the Subdivision Agreement and its supporting documents, such as the Master Plan, does not supersede any of the provisions of the Bethel Municipal Code or Alaska State Law. At all times the BMC, Alaska State law and any applicable federal laws shall control.

Conditions:

1. Developer shall not sell any lots until a Final Plat has been approved.
2. The Open Space dedicated to the City must be useable space for the purpose dedicated.

NOW THEREFORE BE IT RESOLVED, the Bethel Planning Commission hereby recommends the City Council approve the Subdivision Agreement as presented and as adopted by reference herein.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 11th day of April, 2019.

City of Bethel Planning Commission Action: 4 In Favor 0 Opposed 0 Abstained.

ATTEST:

Kathy Hanson, Chairwoman
City of Bethel Planning Commission

Pauline Boratko, Recorder
City of Bethel Planning Commission

4/11/19

ABC Board

550 W. 7th Ave, Suite 1600

Anchorage, AK. 99501

My name is Ingegene Samuelson and I am writing this letter to plead and respectfully request that you do not approve the the sale and transfer of the package liquor license to the North West Co, d/ba the Alaska Commercial Company liquor store in Bethel, Alaska.

Myself and other family live directly across from the proposed location that would be the future store and their second attempt at operating a liquor store, the first of which they completely failed at miserably! The two previous businesses that operated there have been good neighbors with no complaints, but the A.C. Co., no matter how much they promise to do better will not happen.

We will be forced to deal with the expected loiterers and riff raff that will no doubt drift right across the road to us. This will happen no matter what their proposed changes are to the City of Bethel citizens. They do not deserve another license. Their problems will be ours also. Our homes and maybe our lives will be endangered from the inevitable unpredictable behavior from the out of control drunks. Our homes will be trespassed into, our vehicles, boats and motors, sheds, snow machines, etc. will be tampered with and damaged. We will be innocent victims of crimes, personally and property. We will have to face the negative impacts. The liquor store is not welcome in our quiet neighborhood! We do not want nor should we have

to suffer from the inevitable trouble the liquor store will bring. I personally heard from a former A.C.Co. employee at the Atsag Street location that an A.C.Co. manager instructed a security guard to not make his security rounds around the property and being a subordinate employee, he complied so the employees are part of the problem. I guarantee there will be groups of loiterers around the store being nuisances and causing problems. A.C. will skimp on their employees allowing this to happen. Just remember at how they operated their failed liquor store. They moved in and the whole area changed for the worse.

The Alaska Commercial Company does not deserve another chance to operate a package liquor store. I respectfully request that you do not approve the Sale and transfer to them.

Thank you for giving me the opportunity to speak on this personal and important issue to me and my family members.

Inogene Samuels

P.O. Box 342

Bethel, AK. 99559 (907) 545-3306

cc: Walter Pickett, NorthWest Co, dba Alaska Commercial Company
via U.S. mail and email @wpickett@northwest.ca
Lori Strickter, City Clerk, City of Bethel



CITY OF BETHEL
P.O. Box 388
Bethel, Alaska 99559
Ph. (907) 543-4150
Fax (907) 543-3817

MEMORANDUM

DATE: April 2 – April 16

TO: City Council

FROM: Peter Williams, City Manager

RE: Managers' Report

Alaska Public Entity Insurance- supplied information to APEI regarding the renewal of our insurance policy.

LKSD- Discussions in progress and are to the volume of material to that will be disposed of in the landfill and the permit for them to do so. The last meeting was on April 2.

Friends of

Canine- New building is in place, working on water and sewage services.

PROJECTS

Institutional Corridor – Record of drawings submitted March 7, 2019. Waiting for DEC final approval, we have an interim permit to operate. Grant is closed out.

Jetty/Sewer Lagoon- The sewer trucks will be the last item to be completed for this project. They should arrive on the first barge in the springtime.

Long Range Transportation Plan 2020- The Tactical Advisory Committee will meet on May 22 or 23. This is a public meeting. The roads that are mentioned in the LRTP will be what the DOT refers to for road projects in Bethel. The DOT has extended the State Transportation Period (STIP) 2020-2023 application period till Sept 15th, 2019

The Avenues- We have picked first National Bank of Alaska to facilitate the loan needed for this project. I hope the loan documents is ready for council's approval at the end of

April. Looks like we will only receive one water truck next summer due to delays for parts, transportation of the vehicles from Seattle to California and then back to Seattle.

Bethel Heights Water and Sewer System- Received the revised draft of the Draft Preliminary Engineer Report. In this draft, Alternate 3A would be a phased approach and the administration's choice. This would provide services to twenty-five new homes by creating a Loop C, spot repair existing problem areas that freeze up with the sewer lines, repairing leaks, corrosion and freeze up issues with the water mains. The project can be done in one Phase or broken down into two phases. The grant allows is four million per project. Total costs are estimated to be \$12,181,000.

The DOT resolves tundra Ridge Road Realignment- No new information from the DOT. Assume it is still waiting for the AG's review.

PW Building Boilers- Contract signed. PW has been installing a beam under the boiler room at Public Works. One boiler has been removed, the floor reinforced. Inlet Mechanical will start work at the end of April.

Police Console- Pro-Com still needs to forward to us the Service Agreement for review and approval.

Lift Station Controls Project- 100% documents will be delivered to the City on April 19, 2019. The bid will go out in early May.

Geographic Information System (GIS) – This project is close to being wrapped up.

Asbestos Abatement- Written report forwarded to the City Council for the April 23 agenda.

Owl Park- The playground equipment is ready to go. Playcraft's schedule is to start installation May 27th and wrap up June 7th.

Landfill Closure Study-Draft will be ready at the end of April.

Peter Williams
Bethel City Manager

Schedule, Events and Programs

- ❖ Spring Swim Lessons and Instructional Classes Run March 11th – April 28th,
 - Registration closes the week of March 18th.
- ❖ Smart Fit Girls runs March 18th – May 16th, registration closes March 25th
- ❖ Kid's Don't Float will be at the Fitness Center in April for boating safety sessions, April 9th.
- ❖ GCI will be hosting a free swim night at the Fitness Center on April 11th, 5-7pm.
- ❖ Lifeguard Training will be offered April 19th – 27th, with Pre-Training practice sessions being held April 10 from 7-8pm and April 16th from 6-7pm.
- ❖ The Facility will be open 2pm-9pm on Easter, April 21st. Our Easter Eggstravaganza will be 5-8pm.
- ❖ Sponsored Discounts for pool admissions:
 - Free Teen Night: Every Wednesday from 4-8pm the Drew Foundation Sponsors Free pool admissions for teens age 13-17.
 - Half Price Saturdays: Every Saturday the Lifesavers Foundation sponsors half price pool admissions for all ages.
 - Free Saturdays: The last Saturday of every month Angstman Law Offices Sponsors free pool admissions from 12pm-8pm for youth under the age of 12.



Staffing

Operational Staff:

Now Hiring:

- Certified Lifeguards
 - visit ykfitness.org to view pre-requisites
- Operations Staff
 - Facility Attendant

Programming Staff: We are looking for programming staff to fill the below roles:

- Full Time Aquatic Coordinator
- Swim Instructors
- Instructors for youth classes, particularly dance and tumbling
- Fitness Instructors and Certified Personal Trainers
- Instructors for any activity, craft or music patrons might be interested in learning.

Anyone interested in working at the YK Fitness Center can call 543-0390 or visit ykfitness.org for information and links to our applications.

➕ Now Hiring Certified LIFEGUARDS! ➕

FREE Training At the YK Fitness Center

Fridays, April 19 & 26, 5:30-9p,
Saturdays, April 20 & 27, 12-8:30p

Pre Course Test (completed on first day of class):

- ✓ Swim 300 yards of Freestyle and Breast Stroke without stopping
- ✓ Tread Water 2 mins with legs only
- ✓ Swim 20 yards, Retrieve 10lb brick, swim with both hands on brick 20 yards in 1:40.

Visit ykfitness.org to view a video of the pretest

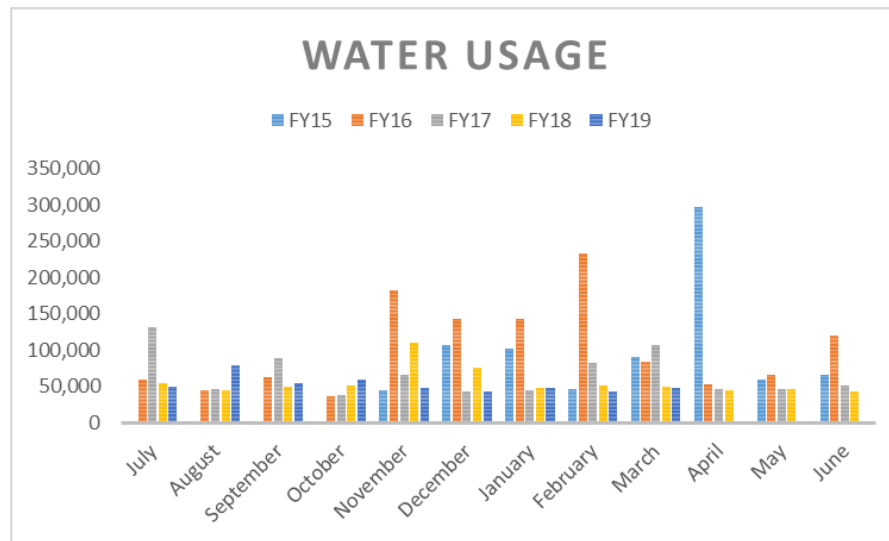
To be eligible Candidates must:

- Be at least 15 years old.
- Pass pre-course testing.
- Attend all classes.
- Complete Red Cross Registration (\$40)

Email questions to stacey.reardon@hfit.com or call 543-0390
Register online at ykfitness.org, at the YKFC desk or call 543-0390

Get certified and get a job!

Facility Maintenance



*Note: Facility opened in November of 2014 (FY15)

Facility Maintenance

Maintenance:

- Conducted internal clean of boilers
- Replaced handle on oven door
- Replaced straps on pool covers 5 & 6
- Put together last 5 bicycles
- Adjusted men's shower handles to assure water shut off
- Replaced backstroke flags
- Replaced wheel tubes on pool vacuum

Previously reported maintenance still pending:

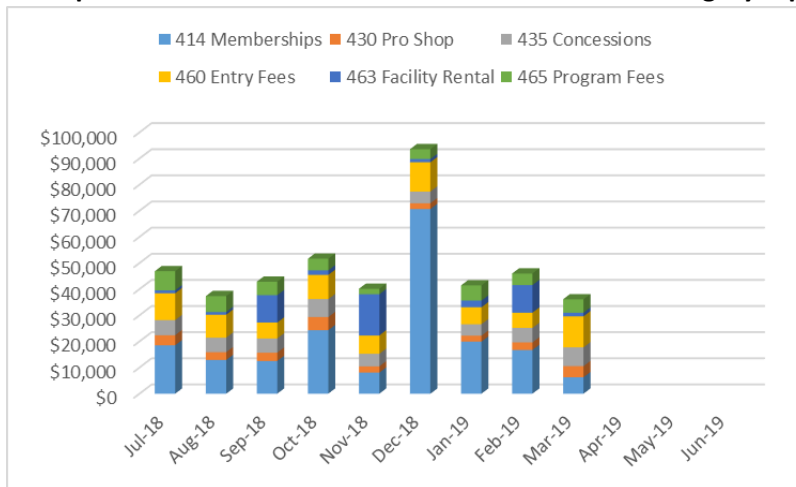
- Efforts were made to clean up a spill of Muriatic Acid in the facility connex. In the course of cleanup it was found that the spill was more extensive than initially thought and assistance was requested from the Fire Department. It was determined that additional protective equipment is needed to clean up the spill and the connex has been closed off pending procurement of the additional protective equipment.
- Main drain at bottom of pool – looking at replacement drain covers and processes for installation.
- Lamps for UV system are nearing the end of their use life and will need to be replaced. Due to the delicate and highly technical nature of the work it may be necessary to bring in a contractor. We are looking at options. Update August 2018: Two possible vendors for bulb replacement have been identified and quotes are being sought for parts and service.
- Overhead fans in pool area need maintenance. Working with City Facilities Department to develop a plan for safe access to trouble shoot the fans. Jan 2018: City of Bethel is looking into purchasing a lift that will allow access to the fans as well as other maintenance areas in the pool. Update 3/18/18 a scissor lift has been identified and purchasing is being reviewed. 5/15/18 scissor lift scheduled to arrive on first barge. 6/19/18 still waiting on lift. August 2018 Scissor lift has been received and we are scheduling with property maintenance to inspect the fans and determine next steps. September 2018 waiting for replacement fan. October 2018 Fan has been received, waiting on electrician to install.

Revenue

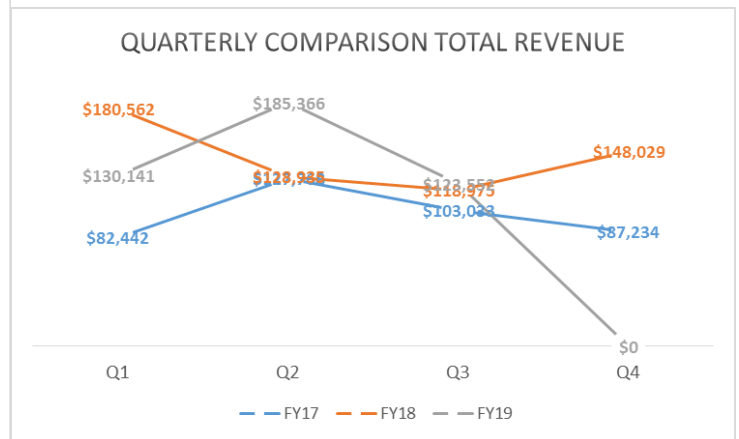
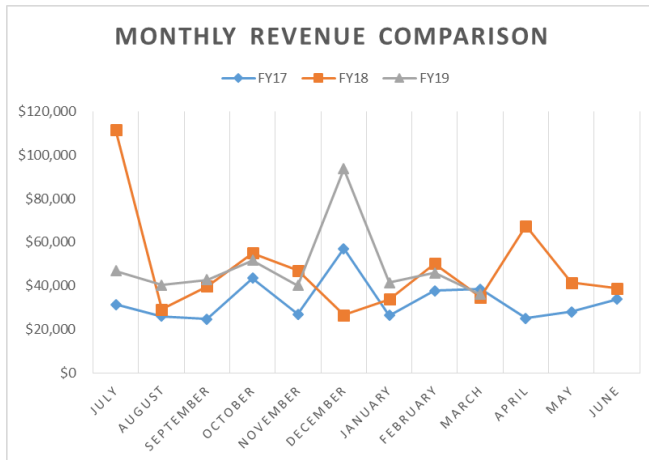
FY19 Revenue

Code	Facility Revenue	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Total	FY19 Budget	%attained
414	Memberships	\$18,548	\$12,929	\$12,522	\$24,316	\$8,088	\$70,674	\$19,940	\$16,731	\$6,331				\$190,079	\$383,160	49.61%
430	Pro Shop	\$3,850	\$2,960	\$3,166	\$5,011	\$2,384	\$2,224	\$2,265	\$2,918	\$4,215				\$28,992	\$42,000	69.03%
435	Concessions	\$5,759	\$5,585	\$5,444	\$6,878	\$4,812	\$4,470	\$4,387	\$5,547	\$7,196				\$50,078	\$55,000	91.05%
460	Entry Fees	\$10,272	\$8,751	\$6,111	\$9,252	\$7,011	\$11,195	\$6,495	\$5,822	\$11,868				\$76,776	\$81,500	94.20%
463	Facility Rental	\$1,130	\$1,040	\$10,476	\$1,743	\$15,772	\$1,252	\$2,558	\$10,547	\$1,392				\$45,909	\$12,750	360.07%
465	Program Fees	\$7,327	\$6,101	\$5,155	\$4,462	\$2,081	\$3,742	\$5,800	\$4,427	\$5,115				\$44,209	\$80,500	54.92%
Community Action Grant														\$0	\$767	0.00%
WomenInPhilanthropy Grant														\$3,016	\$4,681	64.42%
Facility Revenue Total		\$46,885	\$40,381	\$42,874	\$51,662	\$40,147	\$93,557	\$41,445	\$45,990	\$36,116	\$0	\$0	\$0	\$439,058	\$660,358	66.49%

The below chart represents the portion of the total revenue that each revenue category represents.



Revenue Comparisons

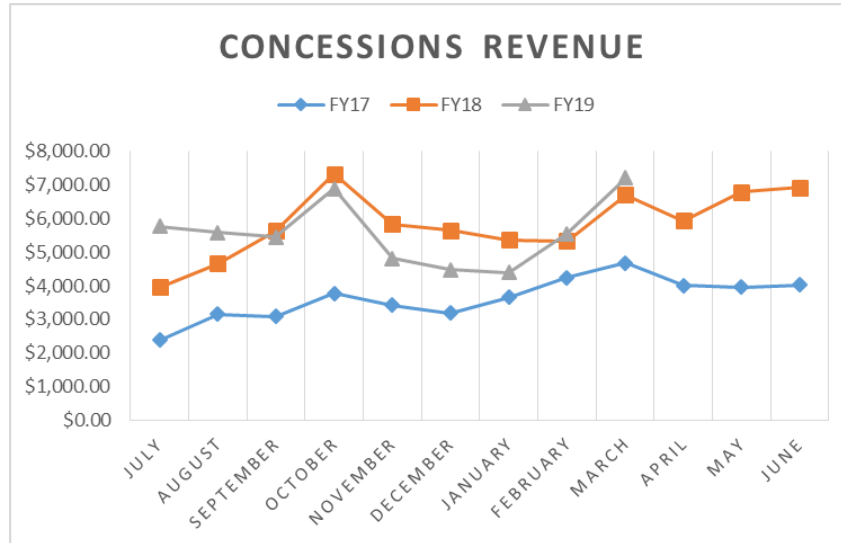


Monthly Revenue Totals	July	August	September	October	November	December	January	February	March	April	May	June	Total
FY17	\$31,433	\$26,142	\$24,867	\$43,503	\$27,134	\$57,131	\$26,567	\$37,829	\$38,636	\$25,144	\$28,177	\$33,913	\$400,478
FY18	\$111,356	\$29,355	\$39,850	\$55,131	\$47,120	\$26,685	\$33,914	\$50,253	\$34,808	\$67,517	\$41,521	\$38,990	\$576,500
FY19	\$46,885	\$40,381	\$42,874	\$51,662	\$40,147	\$93,557	\$41,445	\$45,990					\$402,942

Quarterly Revenue Totals	Q1	Q2	Q3
FY17	\$82,442	\$127,768	\$103,033
FY18	\$180,562	\$128,935	\$118,975
FY19	\$130,141	\$185,366	\$123,552

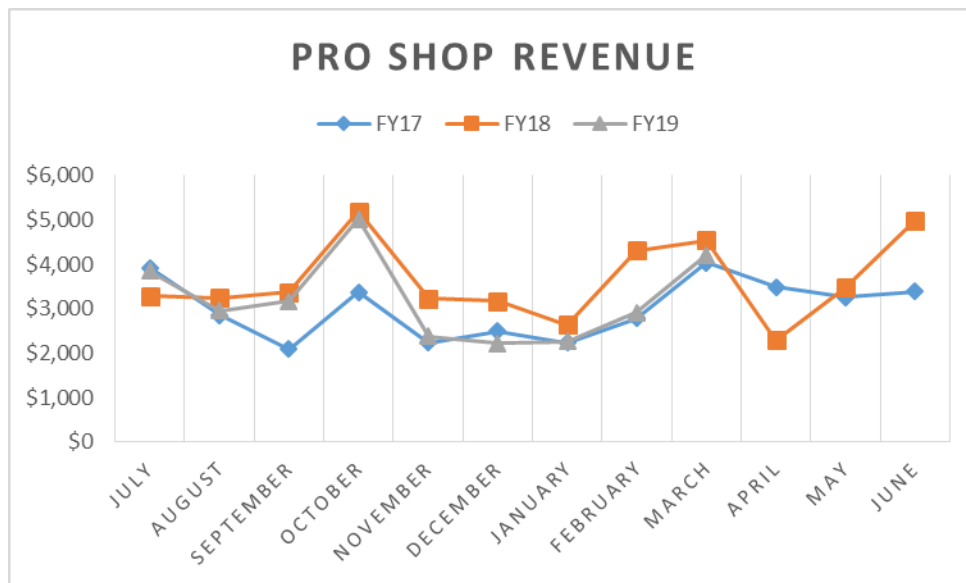
Revenue

Concessions Comprisons



Concessions Sales Totals	July	August	September	October	November	December	January	February	March	April	May	June	Total
FY17	\$2,384.89	\$3,157.11	\$3,092.41	\$3,769.41	\$3,426.47	\$3,185.55	\$3,648.41	\$4,247.30	\$4,669.61	\$4,009.62	\$3,958.30	\$4,024.27	\$43,573.35
FY18	\$3,954.28	\$4,650.93	\$5,633.56	\$7,320.72	\$5,834.03	\$5,642.99	\$5,366.89	\$5,321.23	\$6,690.87	\$5,921.68	\$6,781.51	\$6,906.37	\$70,025.06
FY19	\$5,759.05	\$5,585.25	\$5,443.53	\$6,878.43	\$4,811.83	\$4,470.20	\$4,386.93	\$5,546.69	\$7,195.91				\$50,077.82

Pro Shop Comprisons

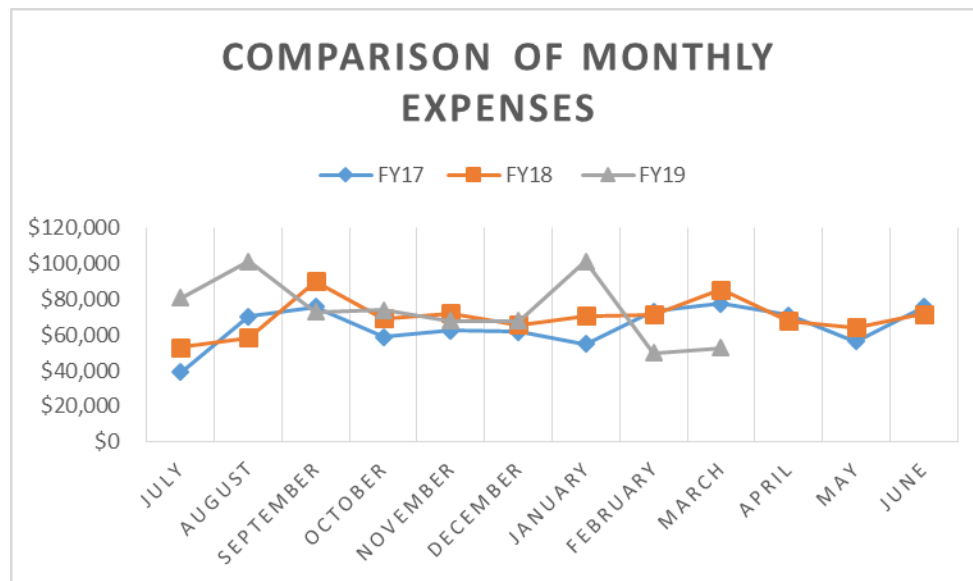


Pro Shop Sales Totals	July	August	September	October	November	December	January	February	March	April	May	June	Total
FY17	\$3,913	\$2,851	\$2,093	\$3,366	\$2,231	\$2,491	\$2,240	\$2,778	\$4,033	\$3,484	\$3,254	\$3,382	\$36,114
FY18	\$3,290	\$3,248	\$3,366	\$5,195	\$3,231	\$3,172	\$2,643	\$4,315	\$4,537	\$2,289	\$3,467	\$4,987	\$43,739
FY19	\$3,850	\$2,960	\$3,166	\$5,011	\$2,384	\$2,224	\$2,265	\$2,918	\$4,215				\$28,992

FY19 Expenses

	Expenses	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Total	Budgeted	% used
	Wages	\$36,428	\$55,950	\$35,994	\$36,176	\$34,862	\$35,698	\$55,053	\$34,157	\$34,792	\$359,110	\$581,604	61.74%
	Benefits	\$8,923	\$13,288	\$8,404	\$8,463	\$8,373	\$8,635	\$13,408	\$7,949	\$7,829	\$85,271	\$120,200	70.94%
520	Housing	\$3,090	\$3,090	\$3,090	\$3,090	\$3,090	\$3,090	\$3,090	\$3,090	\$3,090	\$27,810	\$37,080	75.00%
545	Travel/Training	\$0	\$82	\$0	\$0	\$821	\$0	\$239	\$0	\$1,440	\$2,583	\$5,731	45.07%
561	Supplies	\$12,789	\$3,747	\$3,431	\$8,657	\$4,992	\$4,967	\$5,709	\$2,986	\$4,330	\$51,607	\$99,176	52.04%
580	Boiler	\$0	\$0	\$0	\$0	\$0	\$0	\$5	\$0	\$0	\$5	\$5,250	0.10%
661	Vehicle Maintenance/Repair	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$500	0.00%
663	Janitorial Supplies/Services	\$316	\$151	\$7,560	\$274	\$701	\$898	\$81	\$10	\$1,178	\$11,169	\$18,000	62.05%
668	Software Licenses	\$899	\$427	\$447	\$547	\$418	\$966	\$434	\$477	\$0	\$4,614	\$6,869	67.18%
669	Other Purchased Services	\$0	\$0	\$0	\$0	\$0	\$0	\$9,706	\$0	\$0	\$9,706	\$25,160	38.58%
683	Minor Equipment	\$1,579	\$3,013	\$0	\$589	\$1,588	\$1,248	\$0	\$0	\$0	\$8,018	\$10,500	76.36%
684	Donations and Awards	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$500	0.00%
724	Dues/Subscriptions	\$169	\$179	\$179	\$179	\$369	\$369	\$379	\$179	\$179	\$2,181	\$2,000	109.04%
727	Advertising	\$186	\$0	\$0	\$1,820	\$0	\$211	\$0	\$0	\$0	\$2,217	\$9,000	24.63%
733	Postage	\$3	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3	\$400	0.63%
736	Bank Charges	\$1,134	\$947	\$884	\$1,374	\$783	\$774	\$951	\$1,011	\$0	\$7,858	\$14,500	54.19%
790	Allowance for Special Events	\$0	\$0	\$0	\$227	\$34	\$0	\$0	\$0	\$0	\$261	\$800	32.67%
799	Miscellaneous	\$0	\$7,643	\$0	\$817	\$0	\$0	\$0	\$0	\$0	\$8,460	\$5,500	153.82%
	Community Action Grant	\$160	\$184	\$0	\$0	\$0	\$0	\$0	\$0		\$344	\$767	44.85%
	Women In Philanthropy Grant	\$270	\$311	\$0	\$0	\$0	\$0	\$0	\$0		\$581	\$4,681	12.40%
	TOTAL	\$65,946	\$89,012	\$59,989	\$62,214	\$56,031	\$56,856	\$89,055	\$49,858	\$52,838	\$581,799	\$948,218	61.36%

Comparison of Monthly Expenses

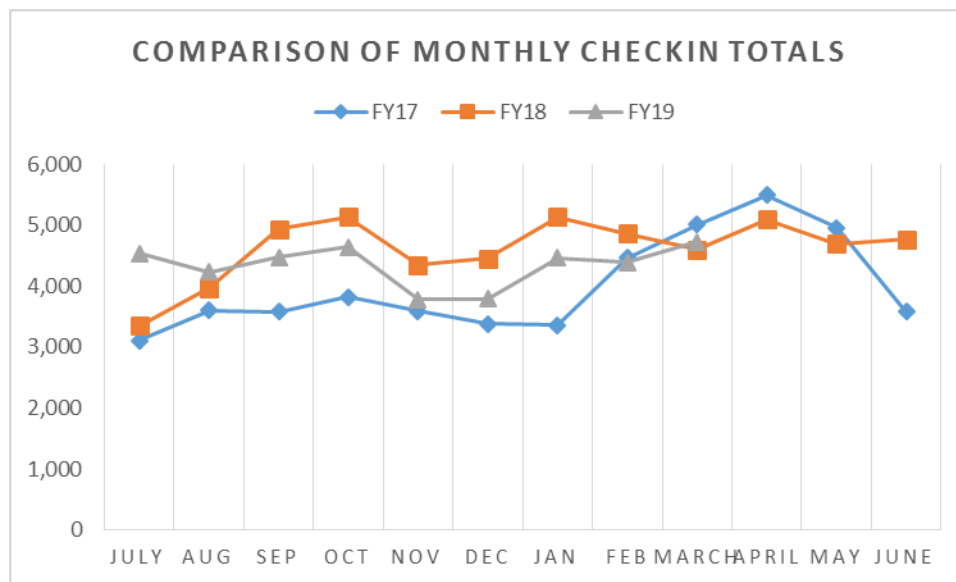


Monthly Expenses	July	August	September	October	November	December	January	February	March	April	May	June	Total
FY17	\$39,145	\$70,114	\$75,717	\$58,716	\$62,335	\$61,668	\$54,949	\$72,965	\$77,475	\$70,907	\$56,290	\$75,502	\$775,784
FY18	\$53,231	\$58,448	\$89,960	\$69,086	\$71,974	\$65,596	\$70,546	\$71,272	\$85,390	\$67,745	\$64,074	\$71,669	\$838,989
FY19	\$80,783	\$101,028	\$72,822	\$73,683	\$67,629	\$67,907	\$101,072	\$49,858	\$52,838				\$667,622

Facility Utilization

Facility Check-In: Facility Check-In numbers represent the total number of patrons who visited the facility and are based on a compilation of the number of members who checked-in, the number of daily passes sold and the number of participants in programs, activities, rentals and special events. These numbers represent facility visits, not individuals as most individuals visit the facility multiple times over the course of the month.

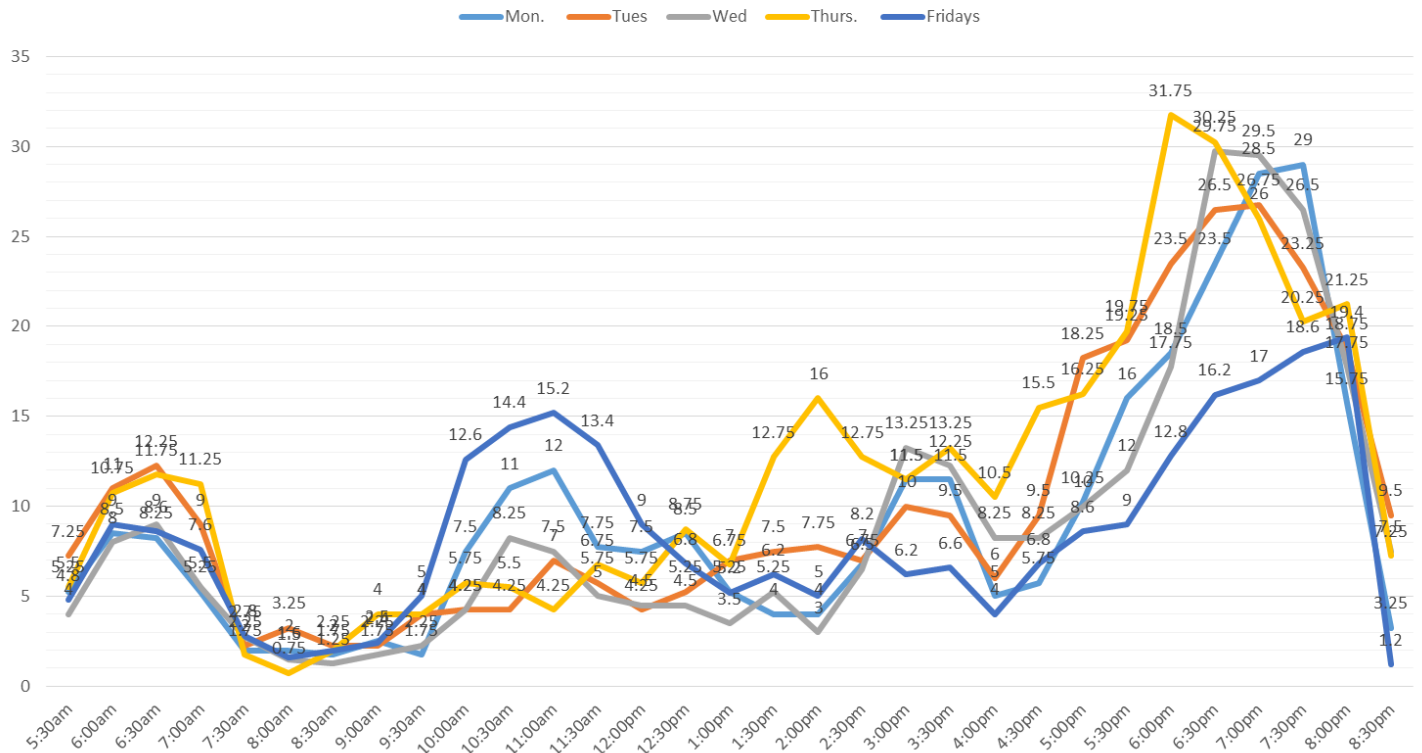
Facility Check-In	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Total
Member Checkins	2,771	2,563	1,712	1,962	1,901	1,620	2,195	2,003	1,942				18,669
Daily Admissions	1,482	1,533	1,734	1,448	1,238	1,557	1,648	1,672	2,128				14,440
Rentals	32	120	771	920	350	383	206	300	250				3,332
Fitness Programming	45	5	140	216	247	173	277	275	282				1,660
Aquatics Programming	34	88	97	90	44	43	103	132	82				713
Youth Programs	176	47	19	8	0	17	32	8	41				348
Monthly Totals	4,540	4,356	4,473	4,644	3,780	3,793	4,461	4,390	4,725	0	0	0	39,162



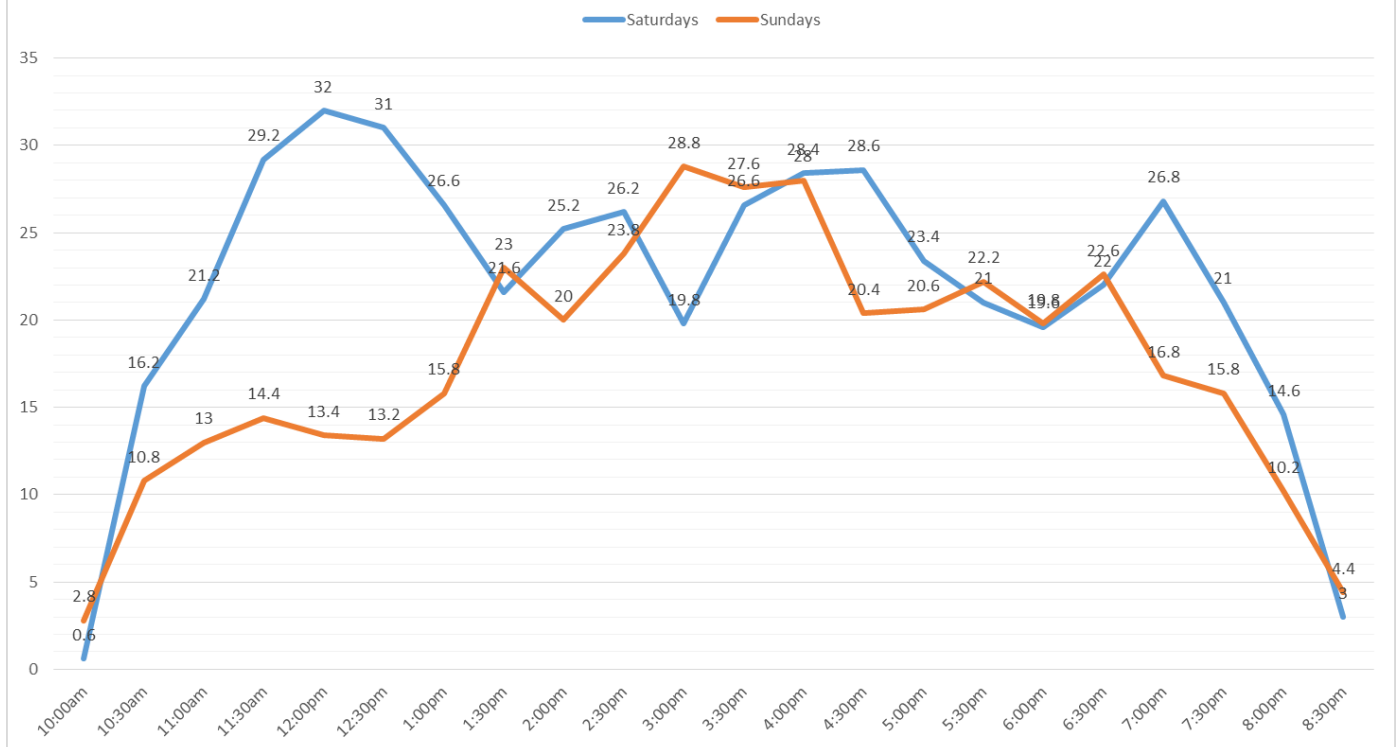
Facility Check-In	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Total
FY17	3,108	3,596	3,579	3,820	3,594	3,378	3,355	4,465	5,006	5,491	4,960	3,584	47,936
FY18	3,348	3,973	4,936	5,139	4,351	4,453	5,139	4,864	4,594	5,097	4,695	4,766	55,355
FY19	4,540	4,236	4,473	4,644	3,780	3,793	4,461	4,390	4,725				39,042

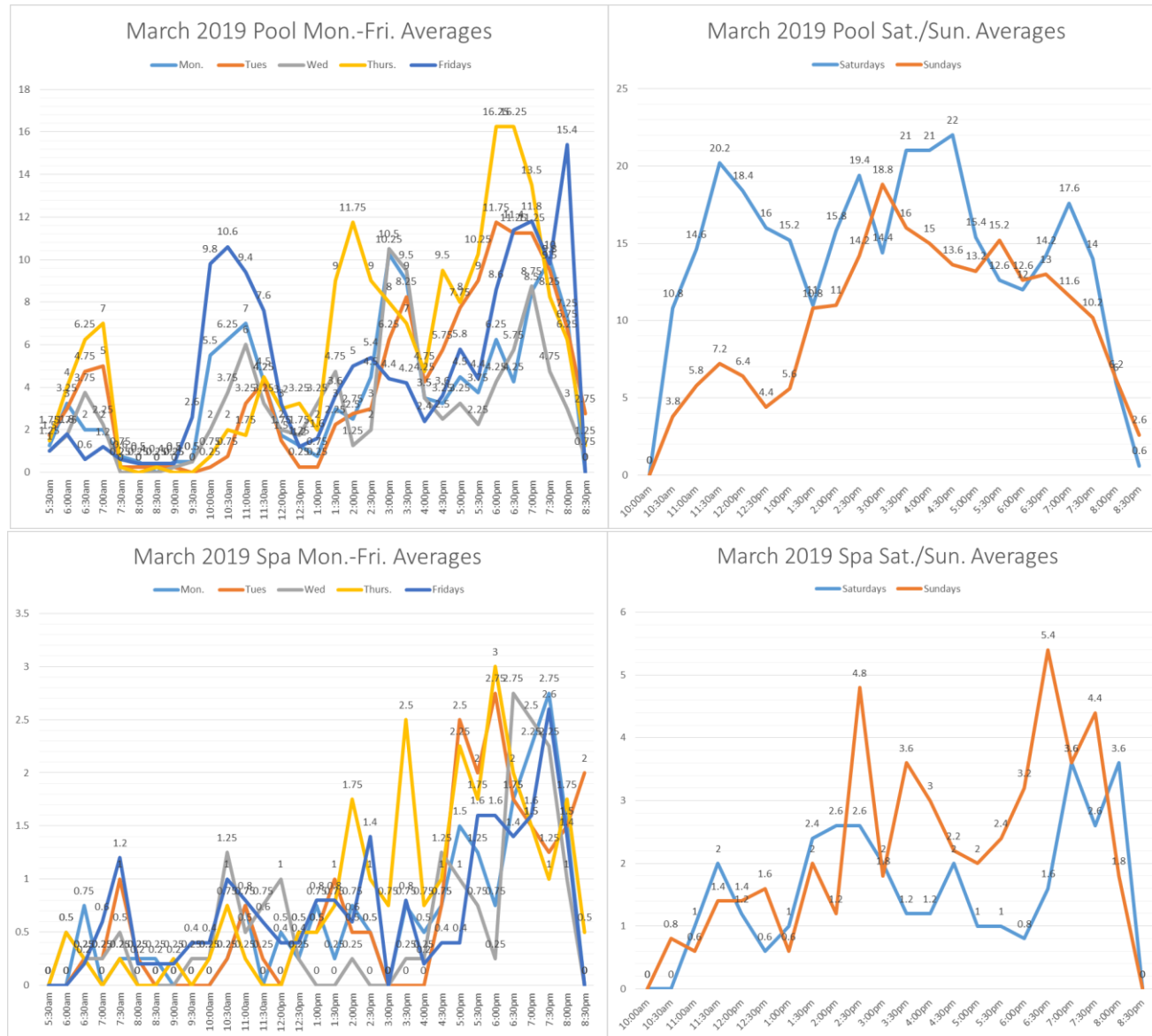
Area Usage: Count of the number of individuals in each area at the top and bottom of each hour. Showing trends and patterns of area usage, these numbers are not an accurate reporting of the overall number of patrons using the facility as patrons who remain in any area for more than 30 minutes are counted more than once. The below charts show average number of users for each area, by day of the week, per 30 minute period and are used from programming and operational hours planning.

March 2019 Total Mon.-Fri. Averages

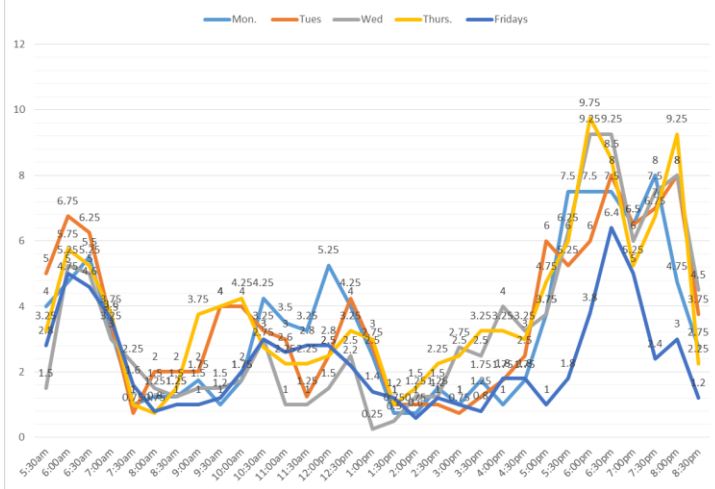


March 2019 Total Sat./Sun. Averages

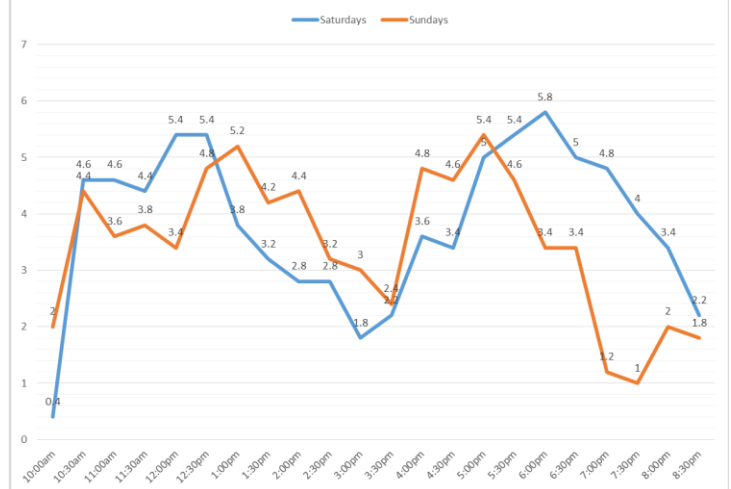




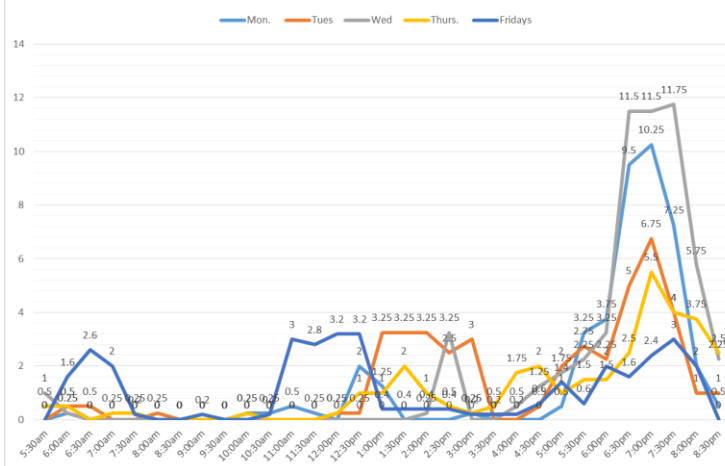
March 2019 Fitness Mon.-Fri. Averages



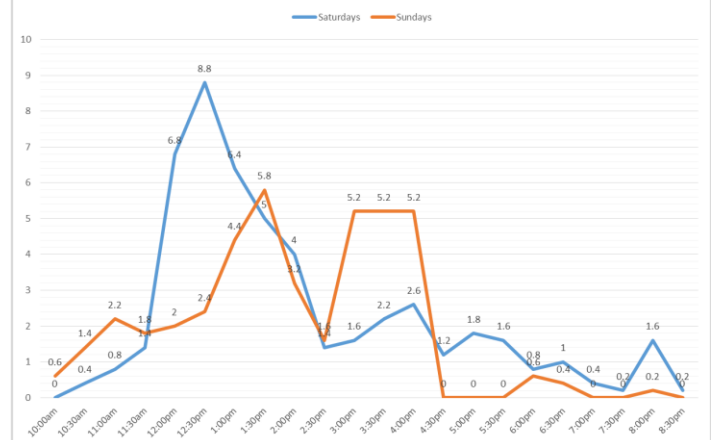
March 2019 Fitness Sat./Sun. Averages



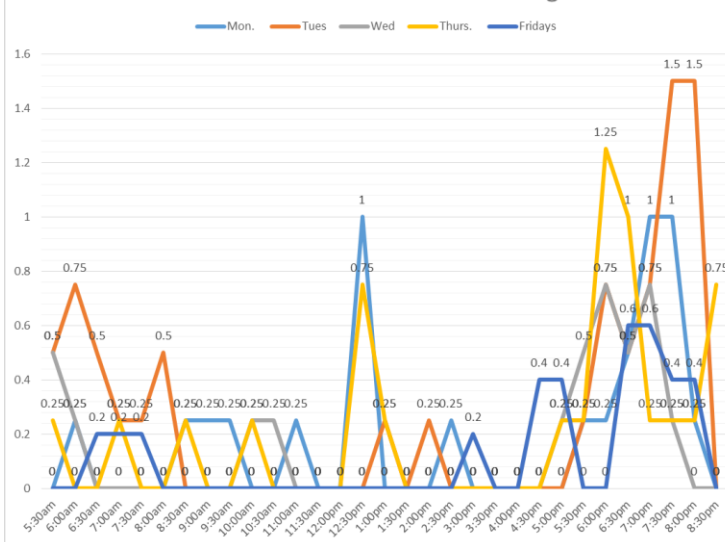
March 2019 Studio Mon.-Fri. Averages



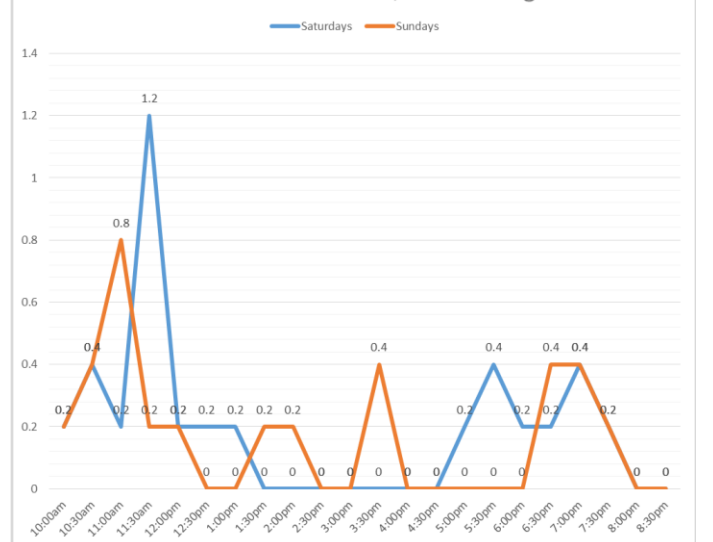
March 2019 Studio Sat./Sun. Averages



March 2019 Bikes Mon.-Fri. Averages



March 2019 Bikes Sat./Sun. Averages



City of Bethel, Alaska

City Clerk's Office

Council Regular Meetings

April 23, 2019 Regular City Council Meeting

May 14, 2019 Regular City Council Meeting

Council Special Budget Meetings

April 11, 16, 18, 25 Special Budget Meetings

May 2, 7, 9, 16, 21, 23, 30

June 4, 6

Committee/Commission Vacancy List

Community Action Grant Technical Review Board - 2 Vacancies

Port Commission - 5 Vacancies

Finance Committee - 4 Vacancies

Planning Commission - 1 Vacancies

Public Safety and Transportation Commission - 4 Vacancies

Public Works - 3 Vacancies

Alcohol and Marijuana Licenses

The City Council has not pending notifications for Alcohol Licensing

The City of Bethel received notice of Alaskabud's Application for a Retail marijuana Store located at 660 Third Ave, Suite B.

Date Notice Received by City Clerk's Office	4-4-2019
Date City Manager Sends Application Notice to Directors	4-5-2019
Deadline for Department Head Reports (14 days from Notice from City Manager)	4-19-2019
Date Written Report Sent to City Council from City Manager (20 days from Date Notice received by the City Clerk's Office)	4-25-2019
Date of Council Review (30-40 calendar days from Date Notice received by City Clerk)	5-14-2019
Deadline for Protest	6-3-2019

Other Misc.

The Office is busy with the tracking of meeting information with the regular and special budget meetings.

Researching short term rentals ie Air Bnbs and how other municipalities handle these types of businesses in residentially zoned areas.

Created a draft travel policy for City Council for the Mayor.

Travel Preparation for the Mayor – AML Board Meeting in May and Summer Conference in August.

Passport Processing is picking back up with summer travel.

We are getting back to the Ex Officio Guide.

Researched the COPS Grant Application status which is on hold due to pending litigation. Provided the cost breakdown for a school resource officer to Council Member Barr.

City of Bethel Election Calendar

Regular Election October 2, 2019

Contact Info

City Clerk's Office
300 State Highway
P.O. Box 1388, Bethel AK 99559
(907) 543-1384
cityclerk@cityofbethel.net

JANUARY 1 ABSENTEE BY-MAIL BALLOT APPLICATIONS ARE ACCEPTED

Forms are available online or at the City Clerk's Office.

JULY 31 DECLARATION OF CANDIDACY PACKETS ARE AVAILABLE

Printable from the City's website or pick up copies at the City Clerk's Office

AUGUST 5 DECLARATION OF CANDIDACY FILING PERIOD OPENS

Packet submissions shall be made in person or by mail to the City Clerk's Office Monday – Friday between 8:00 a.m. and 4:00 p.m. Fax and email submissions will not be accepted.

AUGUST 20 DECLARATION OF CANDIDACY FILING DEADLINE 4:00 p.m. CANDIDATE NAME CHANGE AND WITHDRAW DEADLINE

AUGUST 22 FILING PERIOD OPENS FOR WRITE IN CANDIDATES

Packet submission shall be made in person or by mail to the City Clerk's Office.

SEPTEMBER 1 DEADLINE TO REGISTER TO VOTE OR UPDATE VOTER INFO Forms are available online or at the City Clerk's Office

SEPTEMBER 16 ABSENTEE IN-PERSON AND SPECIAL NEEDS VOTING OPENS The City Clerk's Office will be open from 8:00 a.m. to 5:00 p.m. Monday through Friday ABSENTEE BY-MAIL BALLOTS ARE MAILED

SEPTEMBER 20 DEADLINE TO SUBMIT ABSENTEE BY-MAIL BALLOT APPLICATION

SEPTEMBER 30 LAST DAY TO VOTE ABSENTEE IN PERSON/SPECIAL NEEDS

OCTOBER 1 ELECTION DAY

Polls are open from 8:00 a.m. until 8:00 p.m.

Precinct 1: LKSD District Office, 1004 Ron Edwards Memorial Drive

Precinct 2: Cultural Center, 401 Chief Eddie Hoffman Highway

OCTOBER 3 CANVASS BOARD MEETING

The Canvass Board will review the precinct records, count absentee ballots, questioned ballots and special needs ballots.

OCTOBER 8 COUNCIL'S CERTIFICATION OF THE ELECTION

CITY OF BETHEL
CITY ATTORNEY QUARTERLY EVALUATION APRIL 23, 2019

City Attorney: Patty Burley

<i>Rating:</i> 5 = Excellent; 1 = Needs improvement

<i>Interaction with City Council</i>	5	4	3	2	1
Keeps Council informed on legal issues concerning the City					
Provides professional advice in a clear, concise manner to Council on items requiring Council action					
Provides sufficient information to enable Council to make well-informed decisions					
Successfully translates Council directives into ordinances, policies or actions					
Provides unbiased, objective advice to Council					
Provides timely, accurate advice to Council					
Successfully negotiates and drafts contracts that meet the City's needs					
Attendance at City Council Meetings					
Availability for committee and commission meetings					
Provides Grammatically correct and internally consistent language in Ordinances					
Comments:					

CITY OF BETHEL
CITY ATTORNEY QUARTERLY EVALUATION APRIL 23, 2019

<i>Interaction with City Staff</i>	5	4	3	2	1
Provides professional advice in a clear, concise manner on items that are otherwise confusing to City staff					
Provides sufficient information to enable staff to act accordingly and communicate with their customers (public)					
Responds to staff questions in a timely, accurate fashion					
Provides unbiased, objective advice					
Provides concise, relative legal advice to staff allowing the staff to make confident work decisions and policies					
Comments:					

<i>Legal skills</i>	5	4	3	2	1
Knowledge of State and Federal law					
Knowledge of City law					
Ability to interpret and relate legal concepts					
Ability to research the law and clearly present research					
Comments:					

CITY OF BETHEL
CITY ATTORNEY QUARTERLY EVALUATION APRIL 23, 2019

<i>Litigation and Prosecutorial skills</i>	5	4	3	2	1
Provides sound legal representation for the City					
Exercises prosecutorial and defense functions justly and effectively					
Willingness to exercise prosecutorial and defense functions to meet needs of the City					
Comments:					

<i>Ethics and Communication</i>	5	4	3	2	1
Defends principle and conviction in the face of partisan influence and pressure					
Maintains high standards of ethics, honesty and integrity in all matters					
Effectively communicates with staff, Council and the public					
Writes clearly and concisely					
Expresses ideas and opinions in a forthright, logical manner					
Remains poised and calm in difficult situations					
Represents the City to the public in a positive light					
Comments:					

CITY OF BETHEL
CITY ATTORNEY QUARTERLY EVALUATION APRIL 23, 2019

Total Score:	Excellent:	145	
	Very Good:	116	
	Good:	87	
	Satisfactory:	58	
	Needs Improvement:	29	

CITY OF BETHEL
CITY ATTORNEY QUARTERLY EVALUATION APRIL 23, 2019

Reviewer's Comments/recommendations:

City Attorney Comments:

Reviewer's Signature

Date

City Attorney's Signature

Date

CITY OF BETHEL
CITY MANAGER QUARTERLY EVALUATION —APRIL 23, 2019

City Manager: Pete Williams

<i>Rating:</i> 5 = Excellent; 1 = Needs improvement

<i>Enforcement of Laws and Implementation of Policy Directives</i>	5	4	3	2	1
Manage the City's administrative affairs according to state statutes and Bethel Municipal Code					
<i>Comments:</i>					
Analysis and development of policies and procedures					
<i>Comments:</i>					
Implement and monitor policies enacted by City Council					
<i>Comments:</i>					
Supervision of City administration and departments					
<i>Comments:</i>					
Problem solving and conflict resolution					
<i>Comments:</i>					
Management and valuation of cultural diversity					

CITY OF BETHEL
CITY MANAGER QUARTERLY EVALUATION —APRIL 23, 2019

<i>Comments:</i>					
Creativity, innovation and ability to change to meet needs					
<i>Comments:</i>					
Long range planning					
<i>Comments:</i>					
Development and management of real and personal property of the City					
<i>Comments:</i>					
<i>SUBTOTAL OF CATEGORY:</i>					

<i>Appointing Authority</i>	5	4	3	2	1
Serve as Personnel Officer (Director) of the City					
<i>Comments:</i>					
Manage Labor Relations/Employee Relations					
<i>Comments:</i>					

CITY OF BETHEL
CITY MANAGER QUARTERLY EVALUATION —APRIL 23, 2019

Monitor employee benefit program:					
<i>Comments:</i>					
Analyze human resources and technical needs and implement solutions					
<i>Comments:</i>					
<i>SUBTOTAL OF CATEGORY:</i>					

<i>Preparation, Submission and execution of annual budget and capital improvements</i>	5	4	3	2	1
Development and submission of recommended annual budget					
<i>Comments:</i>					
Development and submission of recommended capital improvement program budget					
<i>Comments:</i>					
Budget management, control and analysis					
<i>Comments:</i>					
<i>SUBTOTAL OF CATEGORY:</i>					

CITY OF BETHEL
CITY MANAGER QUARTERLY EVALUATION —APRIL 23, 2019

<i>Performance of other duties assigned by law or City Council</i>	5	4	3	2	1
Timeliness, quality and clarity of communications with city council					
<i>Comments:</i>					
Timeliness, quality and clarity of communications with the public and media					
<i>Comments:</i>					
Ethics, values, judgment and perceptiveness					
<i>Comments:</i>					
Communicates projects and project status with Council					
<i>Comments:</i>					
<i>SUBTOTAL OF CATEGORY:</i>					

<i>Ethics and Communication</i>	5	4	3	2	1
Defends principle and conviction in the face of partisan influence and pressure					
<i>Comments:</i>					
Maintains high standards of ethics, honesty and integrity in all matters					
<i>Comments:</i>					

CITY OF BETHEL
CITY MANAGER QUARTERLY EVALUATION —APRIL 23, 2019

Effectively communicates with staff, Council and the public					
<i>Comments:</i>					
Writes clearly and concisely					
<i>Comments:</i>					
Expresses ideas and opinions in a forthright, logical manner					
<i>Comments:</i>					
Remains poised and calm in difficult situations					
<i>Comments:</i>					
Represents the City to the public in a positive light					
<i>Comments:</i>					
<i>SUBTOTAL OF CATEGORY:</i>					

CITY OF BETHEL
CITY MANAGER QUARTERLY EVALUATION —APRIL 23, 2019

Total Score: _____

Excellent:	130	
Very Good:	104	
Good:	78	
Satisfactory:	52	
Needs Improvement:	26	

Additional City Council comments/recommendations:

City Manager Comments:

Reviewer's Signature

Date

City Manager's Signature

Date