



Kenai City Council - Regular Meeting

September 20, 2023 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

****Telephonic/Virtual Information on Page 3****

Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Approval of the Agenda and Consent Agenda (*Public comments on Consent Agenda Items limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

B. SCHEDULED ADMINISTRATIVE REPORTS

C. SCHEDULED PUBLIC COMMENTS (*Public comments limited to ten (10) minutes per speaker*)

D. UNSCHEDULED PUBLIC COMMENTS (*Public comments limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

E. PUBLIC HEARINGS

1. **Ordinance No. 3370-2023** - Accepting and Appropriating Fiscal Year 2023 Funds from the Sign Research Foundation for the Sign Research Foundation Scholarship Program. (Administration)
2. **Resolution No. 2023-56** - Authorizing the Application to the State of Alaska, Department of Environmental Conservation for a State Revolving Fund Loan from the Alaska Drinking Water Fund and Execution of a Loan Agreement for the Water Treatment Plant Pumphouse Project. (Administration)
3. **Resolution No. 2023-57** - Awarding Non-Exclusive On-Airport Car Rental Concessions to Copper River Rentals, LLC D/B/A Budget Rent A Car and Alaska Rent A Car, Inc. D/B/A Avis for the Period of January 1, 2024 to December 31, 2028. (Administration)
4. **Resolution No. 2023-58** - Authorizing a Twelve-Month Extension of Time for Good Cause for the Completion of Permanent Improvements for a Lease Between the City of Kenai and Alaska Air Fuel, Inc., for Airport Reserve Lands Described as Lot 5A, FBO Subdivision No. 10. (Administration)
5. **Resolution No. 2023-59** - Authorizing the City Manager to Enter a Project Partnership Agreement with the Department of The Army for the Administration and Construction of the Kenai Bluff Stabilization Project with an Estimated Project Cost of \$41,604,000 Including a Federal Cost Share of \$37,443,600 and City Share of \$4,160,400. (Administration)

F. MINUTES

1. *Regular Meeting of September 6, 2023. (City Clerk)

G. UNFINISHED BUSINESS

1. **Resolution No. 2023-49** - Declaring the Rights-of-Way of Char Circle as Dedicated on Park View Subdivision (Plat No. KN 79-156) and City Park Subdivision No. 2 (Plat No. KN 2007-149) and a Portion of S. Spruce Street as Dedication on Park View Subdivision (Plat No. KN 79-156) are No Longer Needed for a Public Purpose and Consenting to Vacation of the Rights-of-Way. (Administration) *[At the 08/02/23 meeting, this item was postponed to 09/06/23; at the 09/06/23 meeting, this item was postponed to 09/20/23.]*

H. NEW BUSINESS

1. ***Action/Approval** - Bills to be Ratified. (Administration)
2. ***Action/Approval** - Purchase Orders and Purchase Order Amendments Requiring Council Approval in Accordance with KMC 7.15.020. (Administration)
3. ***Action/Approval** - Confirming the Appointment of the October 3, 2023 Election Precinct Boards for the October 3, 2023 Regular City Election. (City Clerk)
4. ***Action/Approval** - Confirming the Appointment of Xinlan Tanner as Student Representative to City Council. (Mayor)
5. ***Ordinance No. 3371-2023** - Accepting and Appropriating Funds from the Institute of Museum and Library Services, Passed through the State of Alaska, Department of Education and Early Development, Division of Library, Archives & Museums, for Library Employee Training. (Administration)
6. ***Ordinance No. 3372-2023** - Accepting and Appropriating a Grant from the State of Alaska for the Purchase of Library Materials. (Administration)
7. ***Ordinance No. 3373-2023** - Amending Kenai Municipal Code 14.20.330 - Standard for Commercial Marijuana Establishments to Prohibit Licensed Retail Marijuana Establishments from Serving Customers through a Walk-Up or Drive-Through Window. (Baisden, Winger, Douthit)

I. COMMISSION / COMMITTEE REPORTS

1. Council on Aging
2. Airport Commission
3. Harbor Commission
4. Parks and Recreation Commission
5. Planning and Zoning Commission
6. Beautification Committee

J. REPORT OF THE MAYOR

K. ADMINISTRATION REPORTS

1. City Manager
2. City Attorney
3. City Clerk

L. ADDITIONAL PUBLIC COMMENTS

1. Citizens Comments (*Public comments limited to five (5) minutes per speaker*)
2. Council Comments

M. EXECUTIVE SESSION**N. PENDING ITEMS****O. ADJOURNMENT****P. INFORMATION ITEMS**

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Join Zoom Meeting

<https://us02web.zoom.us/j/85421659496>

Meeting ID: 854 2165 9496 **Passcode:** 329706

OR

Dial In: (253) 215-8782 or (301) 715-8592

Meeting ID: 854 2165 9496 **Passcode:** 329706



Sponsored by: Administration

**CITY OF KENAI
ORDINANCE NO. 3370-2023**

AN ORDINANCE ACCEPTING AND APPROPRIATING FISCAL YEAR 2023 FUNDS FROM THE SIGN RESEARCH FOUNDATION FOR THE SIGN RESEARCH FOUNDATION SCHOLARSHIP PROGRAM.

WHEREAS, the Planning and Zoning Department received a Sign Research Foundation Scholarship, which included a free entry to the International Sign Association (ISA) Sign Expo 2023, guided tours of the tradeshow, full-day Planning for Sign Code Success™ workshop, a two-night hotel stay, and a \$250.00 stipend toward travel costs upon completion of the scholarship program; and,

WHEREAS, the funds will be used to reimburse travel costs related to the Planning Director's attendance at the Sign Research Foundation Scholarship Program during the ISA Sign Expo 2023; and,

WHEREAS, it is in the best interest of the City of Kenai to appropriate the scholarship stipend for the purpose intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. That the City Manager is authorized to accept the scholarship stipend to fulfill the purpose and intent of this ordinance.

Section 2. That estimated revenues and appropriations be increased in the FY2023 Budget as follows:

General Fund:

Increase Estimated Revenues –	
Miscellaneous Revenue – Planning & Zoning	\$ <u>250.00</u>
Increase Appropriations –	
Planning & Zoning – Transportation	\$ <u>250.00</u>

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

Ordinance No. 3370-2023
Page 2 of 2

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 20TH DAY OF SEPTEMBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: _____



Introduced: September 6, 2023
Enacted: September 20, 2023
Effective: September 20, 2023



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Terry Eubank, City Manager

FROM: Linda Mitchell, Planning Director

DATE: August 29, 2023

SUBJECT: **Ordinance No. 3370-2023 – Sign Research Foundation Scholarship Stipend**

The Planning and Zoning Department received a Sign Research Foundation Scholarship, which included a free entry to the International Sign Association (ISA) Sign Expo 2023, guided tours of the tradeshow, full-day Planning for Sign Code Success™ workshop, a two-night hotel stay, and a \$250.00 stipend toward travel costs upon completion of the scholarship program. The program provided the opportunity for high-level collaboration between top tier academics and diverse practitioners with an interest in the regulation, conspicuity, design, placement, and effectiveness of sign systems and visual communication elements in an urban environment. The \$250 scholarship stipend can be spent on travel and lodging expenses for attendance of the program.

The purpose of this ordinance is to accept and appropriate a scholarship stipend of \$250 for travel reimbursement on completion of the scholarship program.

Thank you for your consideration.



Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2023-56**

A RESOLUTION AUTHORIZING THE APPLICATION TO THE STATE OF ALASKA, DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR A STATE REVOLVING FUND LOAN FROM THE ALASKA DRINKING WATER FUND AND EXECUTION OF A LOAN AGREEMENT FOR THE WATER TREATMENT PLANT PUMPHOUSE PROJECT.

WHEREAS, the Water Treatment Plant Pumphouse Project will construct a new pumphouse including new water distribution system pumps and appurtenances at the 420 Shotgun Dr. location to replace outdated equipment and improve overall system resiliency as detailed within the City's FY2024 Capital Improvement Plan; and,

WHEREAS, the City of Kenai seeks to obtain the necessary financial assistance for the project; and,

WHEREAS, the State of Alaska, Department of Environmental Conservation has offered funding through the Alaska Drinking Water Fund; and,

WHEREAS, the project currently is included on an Alaska Drinking Water Fund project priority list for the current fiscal year; and,

WHEREAS, a project loan of up to \$1,200,000 has been offered and is eligible for 100% loan forgiveness according to the notification received on August 1, 2023 from the Alaska Department of Environmental Conservation; and,

WHEREAS, the City's debt covenant established in Article 6 of Kenai Municipal Charter is not applicable to this agreement consistent with the City's plan to appropriate and fund the project through completion then seek reimbursement by loan proceeds that will simultaneously provide debt forgive thus the City will not be incurring debt; and,

WHEREAS, as a result no debt is anticipated to be incurred with this work.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the City Manager is authorized to apply for and execute a loan agreement with the Alaska Department of Environmental Conservation in the amount of \$1,200,000 in support of the Water Treatment Plant Pumphouse Project, and that the City Manager is authorized to represent the City of Kenai in carrying out the City of Kenai's responsibilities under the loan agreement, and that the City Manager is authorized to delegate responsibility to appropriate City of Kenai staff to carry out technical, financial, and administrative activities associated with the loan agreement.

Section 2. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 20TH DAY OF SEPTEMBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Terry Eubank, City Manager
FROM: Scott Curtin, Public Works Director
DATE: September 13, 2023
SUBJECT: **Resolution 2023-56**

This Resolution will authorize application for and execution of the City's requirements of receiving funding through the State's Revolving Loan Fund in support of the Water Treatment Plant Pumphouse project. This project is identified as Project No. 1 in the City's FY2024-2028 Capital Improvement Plan for the Water Sewer Fund. The project will include construction of a new pumphouse building, distribution pumps, controls, piping and other appurtenances.

The Public Works Department applied for this funding opportunity on February 28, 2023 and received word of the programs offer on August 1, 2023 per the letter included with this Resolution.

The City's debt covenant established in Article 6 of Kenai Municipal Charter is not applicable to this agreement consistent with the City's plan to appropriate and fund the project through completion then seek reimbursement by loan proceeds that will simultaneously provide debt forgive thus the City will not be incurring debt. The administration received concurrence from Bond Counsel that this methodology would not trigger the requirements of the City's debt covenant.

I will be available for questions. Council's support is respectfully requested.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Environmental
Conservation

DIVISION OF WATER
Technical Assistance and Financing

555 Cordova Street
Anchorage, Alaska 99501
Main: 907.269.7502
Fax 907.269.7509
dec.alaska.gov

August 1, 2023

Scott Curtin, Director of Public Works
City of Kenai
210 Fidalgo Ave
Kenai, AK 99611

Dear Mr. Curtin:

The Alaska State Revolving Fund Program's State Fiscal Year 2024 (SFY24) Project Priority List for the Alaska Drinking Water Fund (ADWF) has been updated and includes the project listed below based on the questionnaire submitted in February 2023. The complete Project Priority List and the Intended Use Plan can be found online at: <https://dec.alaska.gov/water/technical-assistance-and-financing/state-revolving-fund/intended-use-plans/>.

Alaska Drinking Water Fund

Score	Project Name	Requested Loan Amount	Loan Forgiveness	Estimated Project Start Date
120	Water Treatment Plant Pumphouse	\$1,200,000	\$1,200,000	5/1/2024

This project has been allocated 100% loan forgiveness. If a loan application is not submitted by February 29, 2024, the offer of loan forgiveness may be rescinded and re-allocated to another project that is ready to move forward.

As mentioned in the Intended Use Plan, projects may remain on the Project Priority List for a maximum of two years. These projects will retain the same score originally assigned unless a revised questionnaire is submitted and reviewed. If applications have not been submitted for these projects within two years from the date that the project questionnaires were submitted, the projects will be removed from the list and new questionnaires will be required to relist the project.

The next step in the financing process is to submit a loan application. If you have questions about the next steps you need to take to complete the loan application process, please contact the SRF Program.

Sincerely,

Peggy Ulman
SRF Program Coordinator
907-334-2681
peggy.ulman@alaska.gov

MEMORANDUM

TO: Members of the City Council
City of Kenai, Alaska

THRU: City Attorney
Scott Bloom

FROM: Jermain, Dunnagan & Owens, P.C.
Bond Counsel

DATE: August 10, 2023

RE: Loan Subsidy from the Department of Environmental Conservation,
Division of Water

The State of Alaska, Department of Environmental Conservation, through the Division of Water (“Department”), by letter dated August 1, 2023 (“Letter”), extended financing to the City of Kenai (“City”), through the Alaska State Revolving Fund Program, Alaska Drinking Water Fund, to finance costs associated with the City’s Water Treatment Plant Pumphouse (“Project”). The Letter includes a requested loan amount of \$1.2 million, with loan forgiveness in the amount of \$1.2 million. In addition, the Department provided the City with a draft loan agreement to be entered into in connection with the financing which characterizes the 100% loan forgiveness as a “Subsidy.”

City officials contacted us to determine whether the proposed funding triggered City debt limitations thereby requiring voter authorization. We understand the City proposes to forward fund Project costs and request (one disbursement) the full “Subsidy” in the amount of \$1.2 million within the required timeframe.

The Department has represented that it does not expect or require repayment of the “Subsidy” and has, in fact, agreed to include language in the final loan agreement which states: *“Nothing contained in this [loan] Agreement shall be construed as an obligation or pledge of the Borrower to appropriate or expend general funds or revenues of the Borrower to repay the Subsidy, or operate or maintain the Project Facility.”* Further, the Department provided the City with a form letter to be attached to the proposed loan agreement which states, in part, *“this project is 100% subsidized in the form of loan forgiveness. ... When the project has been completed and the last disbursement request*

has been received, the closeout process will be initiated. ... Repayment will not be required under this agreement since this project is 100% subsidized."

Based on the above, neither party anticipates the City will incur debt to fund the Project. Rather, both parties anticipate final costs of the Project will be paid with the "Subsidy" as described herein. There will be no loan or accrual of interest on the "Subsidy."

Subject to the above, we do not believe voter authorization is necessary for the City to enter into the above described financing arrangement with the Department.



Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2023-57**

A RESOLUTION AWARDING NON-EXCLUSIVE ON-AIRPORT CAR RENTAL CONCESSIONS TO COPPER RIVER RENTALS, LLC D/B/A BUDGET RENT A CAR AND ALASKA RENT A CAR, INC. D/B/A AVIS FOR THE PERIOD OF JANUARY 1, 2024 TO DECEMBER 31, 2028.

WHEREAS, two responsive bids were received on September 1, 2023 for the contract years January 1, 2024 through December 31, 2028; and,

WHEREAS, the bidders agree to pay to the City of Kenai *the greater* of either ten percent (10%) of its monthly Gross Receipts or the following minimum annual guarantee for each twelve-month period of the five (5) year term of the concession; and,

<u>Bidder</u>	<u>Per Year</u>
Alaska Rent A Car, Inc.	\$61,624
Copper River Rentals LLC	\$42,000

WHEREAS, the Council of the City of Kenai has determined awards to these bidders will be in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the City Manager is authorized to execute non-exclusive on-airport care rental concessions to agreements with Copper River Rentals, LLC and Alaska Rent a Car, Inc. for the period of January 1, 2024 to December 31, 2028.

Section 2. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 20th DAY OF SEPTEMBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Terry Eubank, City Manager

FROM: Mary Bondurant, Interim Airport Manager

DATE: August 28, 2023

SUBJECT: Resolution 2023-57 to Award Non-exclusive On-Airport Car Rental Concessions

Bids were solicited in the Anchorage Daily News, Peninsula Clarion, and the Airport website from July 5, 2023 to August 31, 2023 for the right to operate a non-exclusive on-airport car rental concession in the airport terminal building. Two bid packets were received on Friday, September 1, 2023 at 2:00pm.

The bid submittals were reviewed by Administration and found to be complete.

The concessionaires agree to pay to the City of Kenai *the greater* of either ten percent (10%) of its monthly Gross Receipts or the following minimum annual guarantee for each twelve-month period of the five (5) year term of the concession.

<u>Bidder</u>	<u>Bid Amount Per Year</u>	<u>5 Year Bid Total</u>
Alaska Rent A Car, Inc., d/b/a Avis	\$61,624	\$308,120
Copper River Rentals, LLC d/b/a Budget Rent A Car of Alaska	\$42,000	\$210,000

In addition, the concessionaires shall pay the current signatory rate per square foot (as set by City Council) multiplied by the square footage of the terminal counter/office space and \$20 per space per month for any vehicle parking spots over ten (10), plus applicable sales tax.

The new agreements are effective January 1, 2024.

Airport Commission recommended approval of the new concession agreements at the September 14, 2023 meeting.

Thank you for your consideration.

CITY OF KENAI
KENAI MUNICIPAL AIRPORT
NON-EXCLUSIVE ON-AIRPORT AUTOMOBILE RENTAL CONCESSION
AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2023, between the City of Kenai (City), whose address is 210 Fidalgo, Kenai, AK 99611, and _____ d/b/a _____ (Concessionaire), whose address is _____.

INTRODUCTION

- A. The City owns and operates the Kenai Municipal Airport and Airport Terminal Building (collectively "Airport"), located in Kenai, Alaska.
- B. The City has space available at the Airport for non-exclusive on-airport automobile rental concessions, and it has determined that the provision of on-airport automobile rentals at airports serves a public purpose.
- C. The City desires to offer on-airport automobile rental services at the Airport for the accommodation and enjoyment of the traveling public.
The Concessionaire desires to operate an on-airport automobile rental business in the City's Airport Terminal Building.
- D. On _____, the Kenai City Council adopted a resolution authorizing the City Manager to enter into an agreement with the Concessionaire based upon certain terms and conditions covering operation of on-airport automobile rental concession at the Airport.

ARTICLE I – DEFINITIONS

The following definitions apply for this Agreement:

- A. Agreement: The Agreement consists of this On-Airport Automobile Rental Concession Agreement, together with the exhibits and all future amendments or supplements executed by the parties to this Agreement.
- B. Airport Manager: The City's designated manager at the Kenai Municipal Airport acting directly or through a duly authorized representative.
- C. Certified Activity Report (CAR): A report that lists Gross Receipts generated by the On-Airport Automobile Rental Concession during the calendar months for which Concessionaire makes payment. The required form for the Certified Activity Report is attached as Exhibit 1.

D. Concessionaire: The successful bidder for the City's non-exclusive On-Airport Automobile Rental Concession who provides car rental services under this Agreement.

E. Disadvantaged Business Enterprise (DBE): A business certified by the State of Alaska as a disadvantaged business enterprise as further defined in 49 CFR, part 23.

F. Gross Receipts: The aggregate amount of all transactions made on, in, from, or through the Premises for cash, or credit, or otherwise, of every kind, name and nature, regardless of when or whether or not paid, whether made by the Concessionaire or any other occupant or occupants of the Premises, or some part or parts thereof excepting from the determination of said amount (1) any and all taxes or fees collected by Concessionaire on behalf of any governmental body or taxing agency and excepting tips income paid and received by service staff of Concessionaire; (2) any sums received from the sale of capital assets; (other than "rent to own program vehicle sales rental amounts); (3) any sums received from insurance or other settlements for damage to automobiles or other property of the Concessionaire, or for the loss, conversion, or abandonment of such automobiles; and, (4) all non-revenue rentals to employees of Concessionaire; (5) payment and administration of parking tickets, tolls, towing and impound fees, traffic and red-light tickets; (6) net corporate discounts applied at the time the rental contract is close but only to the extent the Concessionaire provides auditable proof to Airport that discount or rebate is specifically attributable to rental agreement with Airport customer; and , (7) any fees collected from a customer for damages to automobile rented.

G. Premises: The area approved by the City for the operation of an on-airport automobile rental business at the Airport as shown on Exhibit 2 and also as described in Article III, below.

ARTICLE II – TERM

A. Term: The term of this Agreement is effective as of January 1, 2024, through midnight of December 31, 2028, unless terminated earlier as provided herein.

B. Holding Over: If the Concessionaire holds over, provides services, and remains in possession of the Premises without a written renewal or extension of this Agreement, the City's allowance of continued operations by Concessionaire does not operate as a renewal or extension of the rights granted under this Agreement, and, instead the parties agree that this creates only a month-to-month extension, regardless of any payment the City accepts. The Concessionaire's obligations to perform under this Agreement will continue until either it or the City terminates the services under this Agreement by giving the other party at least 10 days' written notice. The payment due for any extended period during which services are provided without a written extension of this Agreement is the monthly rent as it would have been due for the preceding year and plus the applicable concession fee due for that period of additional operation and such payments shall be payable in the same manner.

ARTICLE III – PREMISES

A. For the term of this Agreement, the City provides to the Concessionaire and the Concessionaire accepts from the City, the following described property, the Premises, located at the Kenai Municipal Airport:

- a. Counter space #_____, first floor, Terminal Building, Kenai Municipal Airport, within the NW1/4, SE1/4, Section 32, T6N, R11W, S.M., AK, consisting of _____ square feet, and more specifically shown on Exhibit 2,

such Premises to be used, kept, and maintained for the operation of an on-airport automobile rental business for the traveling and general public as further described herein and for no other purpose.

B. In addition to the Premises, Concessionaire shall have the right to use up to ten (10) parking spaces at no additional monthly fee. The Airport shall allocate the location of Concessionaire's parking spaces in order of bid from its public bidding process, with the highest bidder having first choice of row. The current location of parking spaces is depicted in Exhibit 3, "Parking Area Layout." The City reserves the right to designate other locations for parking spaces as it deems necessary for the efficient operation of the Airport. The charge for any additional spaces over and above the ten (10) allocated at no charge shall be twenty-dollars (\$20.00) per space per month, or any portion of the month without pro-ration, plus applicable sales tax. Additional spaces shall be allocated to all on-site car rental concessionaires equally, at the discretion of the Airport Manager, and depending on availability. Concessionaire shall, at its own expense, provide and install signage (subject to approval by the City) for each of its parking spaces.

C. Concessionaire accepts the Premises and parking area AS IS and acknowledges that it has had an opportunity to inspect the Premises and parking area. The City makes no specific warranties, expressed or implied, concerning the condition, title, access, or suitability of the Premises for any use, including those uses authorized by this Agreement. Concessionaire accepts the Premises subject to any covenant, term, or condition affecting the City's title to the Premises.

D. Permanent parking relocation – the Airport reserves the right during the term of this Agreement to permanently relocate Concessionaire parking. The Airport will make all attempts to ensure permanent parking relocation is within a reasonable distance and at the terminal.

E. Construction or Temporary Disruption – the Airport reserves the right during the term of this Agreement to temporarily relocate Concessionaire parking; the Airport will attempt to minimize, but has no responsibility for disruption of the Concessionaire's operation or temporary interruption of Concessionaire's use of any part of its Operating Area due to construction activities or temporary disruption by the Airport or City contractors.

ARTICLE IV – RENT, FEES, TAXES, AND PAYMENTS

A. For the rights and privileges granted under this Agreement, Concessionaire shall pay the City a monthly fixed Terminal Building Rent - Exclusive Space ("base rent"). Base rent shall be computed at the current signatory rate per square foot (as set by the City Council) multiplied by the square footage of the Premises (_____ square feet), plus applicable sales tax.

Base rent shall be payable in twelve (12) equal installments in advance of the first day of each and every calendar month. For any fractional calendar month, the base rent shall be the same as for a full month. Concessionaire agrees to pay rent payable to the City at Kenai City Hall in United States currency either by check, cash, bank draft, or money order. Concessionaire will submit payments free from any claim, demand, setoff, or counterclaim of any kind against the City.

B. Concession Fee: For the rights and privileges granted under this Agreement, Concessionaire shall also pay the City, in addition to the base rent, a sum of money as additional rent known as "concession fee." The monthly concession fee due shall be the GREATER of (1) one-twelfth (1/12) of the applicable Annual Guarantee, or (2) ten percent (10%) of Concessionaire's monthly Gross Receipts. Concession fee is subject to applicable sales tax. The annual guarantee for each year of this Agreement is as follows:

Year One	\$ _____	(plus tax)
Year Two	\$ _____	(plus tax)
Year Three	\$ _____	(plus tax)
Year Four	\$ _____	(plus tax)
Year Five	\$ _____	(plus tax)
Total	\$ _____	(plus tax)

The concession fee required shall be paid for each calendar month during the term of this Agreement. Concession fee shall be payable in twelve (12) installments on the fifteenth day of each and every calendar month after the preceding month for which the concession fee installment is applicable. Concessionaire agrees to pay concession fee payable to the City at Kenai City Hall in United States currency either by check, cash, bank draft, or money order. Concessionaire will submit payments free from any claim, demand, setoff, or counterclaim of any kind against the City.

During any Agreement year Concessionaire shall pay the base rent for each month. Concessionaire must also pay concession fee. The minimum concession fee that Concessionaire must pay each month is 1/12 of the annual guarantee set out above. But, if the alternate measure of concession fees—10% of Gross Receipts—would be greater than 1/12 of the promised annual guarantee, Concessionaire shall pay 10% of Gross Receipts as concession fee.

Concessionaire shall provide a Certified Activity Report (CAR) for each month for the City's audit purposes to determine compliance with the concession fee requirement.

Concessionaire shall submit each CAR in the format shown in Exhibit 1. The CAR shall be submitted to Kenai City Hall on or before the same date that concession fee is due.

Concession fee payable to the City by the Concessionaire under this Agreement shall be owned by the City at the time of each customer transaction and will be held in trust by the Concessionaire while the funds are in Concessionaire's custody and control. The Concessionaire is responsible for these fees until delivered to the City. If any fees payable to the City are lost, stolen, or otherwise unlawfully removed from the custody and control of the Concessionaire, the Concessionaire remains responsible to the City for the revenue.

C. Parking Spaces: Concessionaire shall pay an additional fee of twenty-dollars (\$20.00) per space per month (without pro-ration), plus sales tax, as additional rent for any spaces over the ten (10) parking spaces allocated (as further identified in Article III, paragraph B, above.) Parking space fees, if any, shall be payable on or before the same date that concession fee is due. Concessionaire agrees to pay rent payable to the City at Kenai City Hall in United States currency either by check, cash, bank draft, or money order. Concessionaire will submit payments free from any claim, demand, setoff, or counterclaim of any kind against the City.

D. Penalty/Interest: Time is of the essence in meeting the base rent and concession fee payment requirements. In the event of delinquency, interest at the rate of ten percent (10%) per annum, and penalty of ten percent (10%) of any amount of money owed under the Agreement, shall accrue on any unpaid balance. Interest shall accrue from the date due until the date paid in full. (KMC 1.75.010)

E. Unpaid Fees: Any rent, charge, fee, liquidated damage/penalty, interest, or other consideration due but unpaid at the expiration or cancellation of this Agreement is a charge against the Concessionaire and its property, real or personal, at the Airport or where otherwise located. The City has any lien rights allowed by law. Either the City or its authorized agent may provide enforcement.

F. Taxes: Concessionaire shall pay any borough, city, or other sales and property taxes due on base rent, concession fee, and any other fee due under this Agreement.

G. Other Fees: The City reserves the right to impose and collect charges and fees from Concessionaire for the following:

1. the use of specified equipment, facilities, or services when such use is requested by Concessionaire; and/or,
2. the privilege of accessing the Airport to conduct any business other than an on-airport automobile rental business.

H. Audit: In addition to the Audit rights specified elsewhere herein, the City (itself or through and/or its designated representatives) reserves the right to audit Concessionaire's books and records at any time for the purpose of verifying the Gross Receipts. If, as a result of such an audit, it is established by the City that Concessionaire has understated the Gross Receipts received by three percent (3%) or more (after the deductions and exclusions provided for herein), the entire expense of said audit shall be

borne by Concessionaire Any amount found to be underpaid will be assessed to Concessionaire along with penalty, audit costs, if applicable, and interest.

I. Revenue Diversion: Concessionaire shall not cause or allow to be diverted from the Airport any of its automobile rental business in any manner to avoid or reduce its Gross Receipts upon which its financial obligations owed the City is computed. In the event Concessionaire establishes, owns, operates, or manages during the term hereof any automobile rental business within five (5) miles of the Airport, it agrees to make all books, records, and other pertinent documents of such automobile rental business available for audit by the City and/or its designated representative to ensure compliance with this provision. If, as a result of such an audit, it is established by the City that Concessionaire has understated the Gross Receipts received by three percent (3%) or more (after the deductions and exclusions provided for herein), the entire expense of said audit shall be borne by Concessionaire. Any amount found to be underpaid will be assessed to Concessionaire along with penalty, audit costs, if applicable and interest.

J. Concession Recovery Fee: Concessionaire acknowledges that Concession Fee payments by Concessionaire to the Airport under this Concession Agreement are for Concessionaire's privilege to use the Airport facilities and access the Airport market and are not fees imposed by the Airport upon Concessionaire's customers. The Airport does not require, but will not prohibit, a separate statement of and charge for the Percentage Fee on customer invoices or rental agreements ("Recovery Fee"), provided that such Recovery Fee meets all of the following conditions:

- (a) such Recovery Fee must be titled "Concession Recovery Fee," "Concession Recoupment Fee" or such other name first approved by the Airport in writing;
- (b) the Recovery Fee must be shown on the customer rental car agreement and invoiced with other Concessionaire charges (i.e., "above the line");
- (c) the Recovery Fee as stated on the invoice and charged to the customer shall be no more than eleven and eleven-hundredths percent (11.11%) of Gross Revenues, specifically excluding from Gross Revenues for purposes of this calculation the Recovery Fee;
- (d) Concessionaire shall neither identify treat, or refer to the Recovery Fee as a tax, nor imply that the Airport is requiring the pas-through of such fee.

ARTICLE V – RIGHTS, OBLIGATIONS, AND RESERVATIONS

A. Rights and Obligations: Subject to the obligations under this Agreement, the City grants Concessionaire the authority to exercise and the obligation to perform the following at its own expense:

1. The non-exclusive privilege and obligation to operate an on-airport automobile rental business area at the Airport, which Concessionaire may operate on and upon the Premises, the non-exclusive privilege and obligation to conduct an on-airport automobile rental concession at the Airport from the terminal for the convenience of passengers utilizing the Airport, and for patrons and tenants of the

Airport. Such right includes the right to rent automobiles to the general public at or on the Airport; provided, however, that such rentals of automobiles are consistent with the standards of the City and the industry. During the term of this Agreement the City will authorize no more than three (3) Automobile Rental Concessions to operate from the Terminal at any one time. The City reserves the rights to authorize, regulate, and charge a fee for Off-Airport Concessions to operate on the Airport. The Concessionaire shall have the right to rent counter space to conduct an automobile rental business, subject to the terms of this agreement. Concessionaire shall engage in no other business activity on or at the Airport.

2. Concessionaire, its officers, contractors, suppliers, service personnel, guests, patrons, and invitees shall have the right to ingress and egress of and to occupy the Premises, subject to the security rules of the Airport.

3. Concessionaire may, after consent by the Airport Manager, install signs at the Premises identifying its business. Concessionaire shall request and obtain the City's advance written approval.

4. Concessionaire shall obtain all permits and licenses required by any laws of any federal, state, city, borough or other governmental entity in order to operate the on-airport automobile rental concession and shall pay all related fees for said permits and licenses.

5. Subject to more specific instructions in Article VII, below, Concessionaire shall keep accurate books and records in accordance with recognized accounting practices concerning all gross receipts from sales as defined here and to keep and preserve in the city of Kenai for a period of five (5) years following the end of each year of this Agreement, complete and true records. All books and records maintained by Concessionaire relating to gross receipts from sales shall be available at all reasonable hours to the inspection of the City and its agents.

B. Reservations and Prohibitions

1. City reserves the right to grant others any right or privilege specifically granted Concessionaire at locations other than at the Premises.

2. City shall have the right to inspect the Premises and to impose reasonable regulations to insure proper care, maintenance, and upkeep of the Premises.

3. Improvements, facilities, fixtures, equipment and things on, in or appurtenant to the Premises and parking area are available to Concessionaire AS IS and without any warranties or representations whatsoever, including warranties of fitness for a particular purpose or warranties of merchantability.

4. City reserves the right to address and resolve any problems arising out of Concessionaire's operations. City will forward to Concessionaire for response any complaints, questions, or concerns it receives regarding Concessionaire's operations.

5. The rights and privileges granted Concessionaire under this Agreement are

the only rights and privileges granted the Concessionaire. The Concessionaire has no easements, rights or privileges, express, or implied, other than those expressly granted under this Agreement.

6. Concessionaire will not sell any service or product unless described in this Agreement without the advance written approval of the City. If a question or dispute arises concerning the sale of any service or product, the Concessionaire may submit a written request to the City asking for a review and decision. The City will deliver a written decision to the Concessionaire and the decision of the City is final.

7. The Kenai Municipal Airport Terminal is a smoke-free facility. Neither Concessionaire nor its employees, nor its customers may smoke on the Premises or in the Airport Terminal.

ARTICLE VI – GENERAL CONDITIONS OF OPERATION

Concessionaire will comply with the following:

A. General:

1. Concessionaire shall provide for the operation and maintenance of the Premises as an on-airport automobile rental business. During the term of this Agreement, Concessionaire shall have sole possession of, and responsibility for, maintenance of the Premises, including, but not limited to, all improvements constructed thereon and fixtures and equipment existing on the Premises at the commencement of the Agreement and thereafter installed by either Concessionaire or City.

2. Hours of Operation: Concessionaire agrees to continuously operate the facility during the term of this Agreement. For purposes of this Agreement, "continuously operate" means that the facility shall open for business on a daily basis, and for such hours as would be reasonable for similar facilities existing on the Kenai Peninsula. Hours of operation shall be attached to public exterior doors of the Premises.

3. Concessionaire shall not permit any defacing of walls, floors, and fixtures, shall keep all the Premises free from trash and debris, and shall maintain and service all equipment at a high level of efficiency, reliability and appearance.

4. Concessionaire shall not permit smoking on the Premises.

5. Driving Practices: Concessionaire shall closely control and supervise the driving practices of its employees with respect to the rental car business. Concessionaire shall not permit fast, reckless, or unsafe driving by its employees. Concessionaire will take all steps necessary to correct specific instances of misconduct.

Further, Concessionaire is aware that its customers and/or employees may park rental cars improperly on the Airport. Concessionaire shall make reasonable efforts to inform its patrons of the proper location for parking rental cars and to

identify improperly-parked vehicles and quickly remedy the situation. Concessionaire hereby acknowledges that the City has the right to cite and/or to impound improperly parked rental cars to protect and preserve the orderly flow of traffic at the Airport. The Concessionaire shall promptly remove any of its improperly-parked rental cars and be subject to paying the charge for impound or any citation given.

6. Concessionaire shall neither commit nor allow any nuisance, noise, or waste on the Airport property, nor shall Concessionaire annoy, disturb or be offensive to other users.

7. Concessionaire shall maintain the Premises in good repair, appearance, and in a safe condition at all times. At its own expense, the Concessionaire shall paint, repair, or replace its equipment as their condition may require. The Concessionaire shall take any action the City determines necessary for safety or to maintain the Premises in good repair and appearance.

8. Concessionaire shall pay for any lighting fixtures, extraordinary power use, or cleaning services required or caused by the Concessionaire which, in the City's reasonable determination, are beyond the scope of normal services provided by the City.

9. If Concessionaire causes damage to the City or to an Airport user due to inadequate maintenance by the Concessionaire or any of its equipment, fixtures, or systems, the Concessionaire shall repair the damage at its own expense. If the Concessionaire does not repair the damage, the City, may, but is not obligated to, repair the damage and bill the Concessionaire for the City's costs. The Concessionaire shall pay the City within thirty (30) days of the billing date.

10. Concessionaire will maintain the Premises in a clean, neat, and sanitary condition. The Concessionaire will provide day-to-day janitorial and cleaning services and supplies necessary to maintain the Premises.

11. Concessionaire shall provide for the adequate sanitary handling and removal of all trash, garbage, and other refuse caused as a result of Concessionaire's operations. Concessionaire shall coordinate a schedule and procedure of trash removal with the Airport. Concessionaire shall provide and use suitably covered or sealed receptacles for all garbage, trash, and other refuse from its operations inside the terminal. Refuse and waste materials shall be handled as required by applicable state and local laws, ordinances, and regulations.

12. Employee Parking: Employees of Concessionaire may use non-exclusive employee vehicle parking facilities at the Airport at no charge. All employees must register their vehicle(s) at the Airport Administration office to receive a vehicle parking permit to park while on the job. Concessionaire shall not permit its employees to park their personal vehicles in the parking spaces (except as may be approved by the Airport Manager on a case-by-case basis for emergencies or special circumstances). Concessionaire shall be held accountable for

13. Concessionaire's employees' use of designated vehicle parking facilities and shall assure that employees comply with all applicable Airport Directives.

14. Except as allowed for employee parking, the Concessionaire shall not use any Airport space outside of the Premises for any purpose unless specifically leased from the City or subleased from a third party with the consent of the City.

15. Concessionaire shall, at its own expense, provide and install signage for each of its Parking Spaces described in Article III, above. Signage and installation plan shall conform to airport standards and shall be submitted in writing and approved by the Airport Manager or their designee prior to installation.

16. **No Discrimination:** The Concessionaire agrees that the facilities and the other improvements provided for herein shall be equally available to all members of the public without discrimination. Any discrimination by the Concessionaire in the use of any facility hereinabove described on grounds of race, color, religion, national origin, ancestry, age, or sex shall be deemed to be a material breach of this Agreement and grounds for cancellation of this Agreement.

Concessionaire agrees that Concessionaire will not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement with respect to the hire, tenure, terms conditions or privileges of employment or any matter directly or indirectly related to employment because of age, except when based on a bona fide occupational qualification, or because of race, color, religion, national origin, ancestry, age, or sex.

Concessionaire understands that any such discrimination shall be deemed to be a material breach of this Agreement.

Concessionaire shall comply with all laws, ordinances, regulations and rules of the City, the State of Alaska and the United States as same may be amended from time to time.

B. **Reasonable Pricing:** Concessionaire shall provide the on-airport automobile rental business under this Agreement to its customers on a fair, nondiscriminatory basis, with reasonable prices to customers. All services provided by Concessionaire shall be competitive in price to those services at off-Airport locations within the Kenai Peninsula area.

C. **Signs:** Concessionaire shall not, without the prior written approval of the City, construct, erect, or place any signs in or on the Airport other than an Airport-approved sign providing information identifying Concessionaire and concerning the services provided by that Concessionaire. The terms "sign" and "signs" as used herein shall mean advertising or promotional materials, billboards, notices, identification symbols, posters, electronic or static displays, information racks, decals, logos, or any similar device.

D. **Service Quality:** Concessionaire's operation under this Agreement is a service to airline passengers and to other users of the Airport. The City desires to provide airline passengers and other users of the Airport with on-airport automobile rental services that are of the highest quality. Concessionaire shall actively operate the concession to best

serve the needs of airline passengers, Airport employees, and other users of the Airport. Concessionaire shall maintain professional personnel who will provide a high standard of service to the public. While on duty, the personnel will present a neat and clean appearance, remain courteous at all times, and wear any and all badges or other identification cards that are mandated by the management of the Airport.

Concessionaire acknowledges that the ability of the City to effectively compete with airports outside the State of Alaska and to promote tourism to the State of Alaska depends, in part, on the performance of the Concessionaire. Accordingly, Concessionaire shall conduct its operation in a first-class, businesslike, efficient, courteous, accommodating manner.

E. Business Development: Concessionaire shall take all reasonable measures to maintain, develop, and increase its business without diversion of any business to any entity or location not subject to this Agreement.

F. Security: Concessionaire shall adhere to all applicable responsibilities of the federal airport security program set out in the Transportation Security Regulations Title 49 CFR Part 1542 and the Airport Security Program. Concessionaire will procure any required identification badges necessary to access the premises or the Concessionaire's operations authorized under this Agreement. Any fine that results from a violation of the federal airport security program by the Concessionaire, its agents, officers, suppliers, sub Concessionaires, vendors, guests, customers, or employees, whether on or off the premises, that is found by the Transportation Security Administration or the City to be the fault of the Concessionaire will be the sole responsibility of the Concessionaire. If the City pays any such fine to meet the Transportation Security Administration deadlines, the Concessionaire will reimburse the City within 30 days after written notice by the City. The Concessionaire will coordinate any Airport security matter with the City.

G. In the event that any contract granted by the Airport to any other Rental Car Company shall contain any terms and conditions more favorable to such company than the terms and conditions herein described (other than the minimum annual guarantee, number of allocated parking spaces, and the location of the concession area, etc.) then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other company. The intent of this provision is to ensure that no individual rental car company or companies shall enjoy any rights or privileges more favorable to any such individual company or companies than those enjoyed by all rental car companies.

ARTICLE VII – AUDITS, REPORTS, BOOKS, AND RECORDS

To provide a satisfactory basis to confirm the accuracy of the Concessionaire's CARs, the Concessionaire shall establish and maintain books and records that concern the business authorized under this Agreement in accordance with generally accepted accounting principles. The Concessionaire's books and records must, in the determination of the City, enable the Concessionaire to report accurately, and the City to check easily, payments due the City under this Agreement.

The Concessionaire shall preserve all books and records of business conducted under this Agreement for the longer of six (6) months after completion of an audit by the City or five (5) years after the end of the Agreement year to which the books and records pertain. However, if the City objects to any report or statement, the Concessionaire will preserve all books and records containing information relevant to that report or statement until resolution of the objection is confirmed in writing by the City.

The City, or its designee(s), shall have access to accounting and other records necessary to confirm the accuracy of the Concessionaire's CARs at all times regardless of the media in which the information is stored.

ARTICLE VIII – DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION, NON-DISCRIMINATION, AND AFFIRMATIVE ACTION

A. City Policy: The City of Kenai's policy is to ensure that Disadvantaged Business Enterprises (DBEs) have the maximum opportunity to participate in the performance of airport concession contracts.

B. Concessionaire's Obligation: Concessionaire will comply with all applicable laws and regulations regarding the fair and equitable treatment of DBEs. Concessionaire will ensure that DBEs have the maximum opportunity to participate in the performance of this Agreement, including the provision of supplies and services and any subcontracting opportunities.

C. Non-discrimination: Concessionaire shall ensure that Concessionaire and Concessionaire's agents and personnel, including any officer or employee, and anyone else acting by, on behalf of, or under the authority of Concessionaire on the Airport and, on the Premises, any of Concessionaire contractors, sublessees, and guests, including any vendor or customer do not discriminate on the grounds of race, creed, color, national origin, age, sex, handicap, marital status, change in marital status, pregnancy, or parenthood against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or state law. Concessionaire recognizes the right of state to take any action necessary to enforce this provision, including actions required pursuant to any federal or state law.

D. Affirmative Action: Concessionaire shall undertake an affirmative action program as required by 14 CFR Part 152 (Airport Aid Program), subpart E (Nondiscrimination in Airport Aid Program), and the American Disabilities Act of 1990 to ensure that no person shall, on the grounds of race, creed, color, national origin, age, sex, handicap, marital status, change in marital status, pregnancy, or parenthood be excluded from participating in any employment, contracting, or leasing activities covered by 14 CFR Part 152, subpart E or the American Disabilities Act of 1990. Concessionaire assures that no person shall be excluded, on these grounds, from participating in or receiving the services or benefits of any program or activity covered by said subpart or act. Concessionaire assures that it will require its covered organizations provide assurances to State that they similarly will undertake affirmative action programs and that they will require assurances from their

suborganizations as required by 14 CFR Part 152, subpart E or the American Disabilities Act of 1990, to the same effect.

Concessionaire shall comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR Part 152, subpart E, the American Disabilities Act of 1990, a part of the affirmative action program, and by any federal, state, or local agency or court, including those resulting from a conciliation agreement, consent decree, court order, or similar mechanism. Concessionaire shall use state or local affirmative action plan in lieu of any affirmative action plan or steps required by 14 CFR Part 152, subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. Concessionaire shall obtain a similar assurance from its covered organizations, and to cause them to require a similar assurance of their covered suborganizations, as required by 14 CFR Part 152, subpart E. Copies of 14 CFR Part 152, subpart E, and the American Disabilities Act of 1990 are available from State.

ARTICLE IX – CONSTRUCTION

The Concessionaire shall obtain the written approval of the City in the form of a City Building Permit (including all attachments and detailed drawings of the proposed construction) before beginning any alteration, construction, or improvement of the Premises. Any construction must be approved of in advance by the Airport Manager.

The City will own all improvements made by Concessionaire at the expiration or earlier termination of this Agreement.

ARTICLE X – CITY'S RIGHTS OF INSPECTION AND ACCESS

A. Inspection: The City may at all reasonable times enter and inspect the Premises or observe the Concessionaire's performance of its obligations under this Agreement or take any action that the City is obligated to take under this Agreement, or otherwise. Concessionaire shall not claim, nor shall the City allow, any abatement of fees due to the City under this Agreement if the City exercises this right. Except for an emergency, the City will take all reasonable steps to minimize interference with Concessionaire's activity on the Premises.

B. Access: The City reserves the right to enter the Premises and parking areas to repair, replace, alter, install or maintain any mechanical, electrical, plumbing, heating, cooling, ventilation, fire protection, telecommunication, or other system necessary to the proper functioning of the Airport without liability to the Concessionaire for any damage to the Premises. As a result of any entry under section, the City is liable only for its own negligence and for returning the Premises to its former condition using standard materials. Any City repair, replacement, alteration, installation, or maintenance will not unreasonably interfere with the Concessionaire's use of the Premises. Nothing in this section in any way relieves the Concessionaire of any obligation to maintain the Premises.

ARTICLE XI – CITY SERVICES

A. City Services: The City will perform the following:

1. maintain the structure of the Airport and its terminal, the roof, and exterior walls; and,
2. provide standard lighting and replacement bulbs for those fixtures outside the Premises; space heating and cooling; electricity; and air ventilation; and,
3. wash all exterior windows as well as clean and maintain the public areas at the Airport;
4. maintain the Airport's electrical, public address, plumbing, and heating systems in good condition and repair; however, the City may refuse to maintain any system installed by the Concessionaire and may charge the Concessionaire for any repair resulting from the Concessionaire's negligence (the Concessionaire shall pay the City within 30 days of the billing date for any such repair charge) and,
5. clean and maintain the parking area surface the Concessionaire is approved to use for its vehicle rental business, which work shall include snow plowing/sanding as determined by the City. At the request of the City, Concessionaire shall move all rental automobiles from the rental car parking area for the purposes of City snow plowing/sanding operations. City shall attempt to provide reasonable notice to Concessionaire of such requests. Concessionaire recognizes, however, that these requests are necessarily contingent upon weather and reasonable notice shall be understood under the conditions present.

B. Hold Harmless: Concessionaire waives any claim and holds the City harmless for damages that may arise out of or result from any failure or interruption of utility services furnished by or through the City that includes, but not limited to, stoppage in electrical energy, space heating, or the failure or interruption of any public or passenger convenience.

ARTICLE XII- LAWS AND TAXES

A. Laws: This Agreement is subject to all regulations, including those relating to the leasing of facilities and the granting of privileges, at the Kenai Municipal Airport. At no expense to the City, Concessionaire shall comply with all federal, State of Alaska, and local laws, ordinances, regulations, and Airport rules, that are either now, or in the future, in force that may apply to the business authorized under this Agreement, for the use, care, operation, maintenance, and protection of the Airport, including matters of health, safety, sanitation, and pollution.

B. Taxes: Concessionaire shall obtain all necessary licenses and permits, pay all taxes lawfully imposed on its business, and pay any other fee or charge assessed under any applicable public statute, regulation, or ordinance.

C. Disputes: In any dispute between the parties, the laws of the State of Alaska will govern. If any such dispute results in a lawsuit, the parties will bring the lawsuit before the courts of the State of Alaska in the Third Judicial District in Kenai.

D. Claims: Concessionaire shall promptly notify the City of any claim, demand, or lawsuit arising out of Concessionaire's rights granted or the operations authorized under

this Agreement. At the City's request, Concessionaire shall cooperate and assist in the investigation and litigation of any claim, demand, or lawsuit that affects the rights granted Concessionaire under this Agreement.

ARTICLE XIII –INSURANCE

A. Permittee shall secure and keep in force adequate insurance, as stated below, to protect City and Permittee. Where specific limits are stated, the limits are the minimum acceptable limits. If Permittee's insurance policy contains higher limits, City is entitled to coverage to the extent of the higher limits.

B. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit.

C. Worker's compensation insurance with coverage for all employees engaged in work under this Agreement or at the Premises as required by AS 23.30.045. Permittee is further responsible to provide worker's compensation insurance for any subcontractor who directly or indirectly provides services to Permittee under this Agreement.

D. Commercial Automobile Coverage with not less than \$1,000,000 combined single limit per occurrence. This insurance must cover all owned, hired, and non-owned motor vehicles the Permittee uses on the Airport. The policy must name the City as an additional insured.

E. All insurance required must meet the following additional requirements:

1. All policies will be by a company/corporation currently rated "A- "or better by A.M. Best.
2. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.
3. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
4. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
5. Evidence of insurance coverage must be submitted to City by January 1, 2024. The effective date of insurance shall be no later than January 1, 2024.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Agreement. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee

shall submit to City evidence of insurance coverage that meets the requirements of the City.

ARTICLE XIV – CANCELLATION BY CITY

A. Breach of Agreement: The City may cancel this Agreement and recover possession of the Premises by giving the Concessionaire 30 days' advance written notice if any of the following events occur, unless the breach is cured within the 30 days after notice:

1. The Concessionaire does not pay any rent, fee, penalty, or other charge or does not file a CAR when due.
2. A check for any payment is returned for insufficient funds.
3. The Concessionaire uses the Premises for purposes not authorized under this Agreement.
4. A petition in bankruptcy is filed by or against the Concessionaire or by any partner, member, or shareholder holding a majority interest in Concessionaire.
5. A court enters a judgment of insolvency against the Concessionaire or against any partner, member, or shareholder holding a majority interest in Concessionaire.
6. A trustee or receiver is appointed for the Concessionaire's assets in a proceeding brought by or against the Concessionaire.
7. A lien is filed against the Premises because of any act or omission of the Concessionaire and the lien is not removed, enjoined, or a bond of satisfaction of the lien is not posted within 60 days.
8. The Concessionaire does not operate the business authorized under this Agreement on a continuous basis without the City's advance written approval.
9. The cessation or deterioration of any service that, in the City's determination, materially and adversely affects the service the Concessionaire is required to perform under this Agreement.
10. The Concessionaire does not perform any provision or covenant under this Agreement.

The City may, but is not required to, advise the Concessionaire in writing of any deficiency in maintenance of the Premises. A cancellation notice issued by the City under this Article is stayed if, within the 30-day notice period, the Concessionaire begins and continues expeditious action to cure the breach in the case of a breach, which is not reasonably curable within 30 days. The determination of "expeditious action" and "not reasonably curable" is in the Airport's sole discretion.

The Concessionaire will not construe any waiver by the City of any default on the part of the Concessionaire in the performance of any provision, covenant, or condition to be performed, kept, or observed by the Concessionaire as a waiver by the City at any time thereafter of any other default or subsequent default in performance of any provision, covenant, or condition of this Agreement. After a City waiver of default in one or more instances, the City is not required to provide notice to the Concessionaire to restore or revive that time is of the essence under this Agreement. The waiver of any right or obligation under this Agreement is not effective nor binding on the Concessionaire unless it is in writing and signed on behalf of the City.

B. Additional Rights of the City: On termination or cancellation of this Agreement or on re-entry, the City may regain or resume possession of the Premises, may occupy the Premises, and may permit any person, firm, or corporation to enter on and use the Premises. The City may also repair or make any structural or other change in the Premises that are necessary, in the City's sole determination, to maintain the suitability of the Premises for uses similar to those granted under this Agreement without affecting, altering, or diminishing the obligations of the Concessionaire under this Agreement. The City will charge the Concessionaire the cost of these repairs and the Concessionaire will pay these charges within 30 days of the billing date.

C. Ownership of Equipment and Improvements: If the City cancels or terminates this Agreement due to a Concessionaire default, excepting personal property, all of the Concessionaire's title and interest in furnishings, fixtures, equipment, and improvements installed in or adjacent to the terminal under this Agreement vest in the City. The City may use and/or dispose of these items as it sees fit. The Concessionaire will reimburse the City within 30 days of the billing date for any cost the City incurs in removing and disposing of these items.

D. Survival of Concessionaire's Obligations: If the City cancels or terminates this Agreement, all of the Concessionaire's obligations under this Agreement will survive in full force for the entire period of this Agreement. Subject to the City's obligation to mitigate damages, the fees and charges become due and payable to the City to the same extent, at the same time, and in the same manner as if no termination or cancellation had occurred. The City may maintain separate actions to recover any monies then due, or at its option and at any time, may sue to recover the full deficiency.

E. Surrender of Possession: The Concessionaire will yield possession of the Premises to the City on the date of the termination, cancellation, or normal expiration of this Agreement promptly, peaceably, quietly, and in as good order and condition as the same now or later improved by the Concessionaire or the City, reasonable use and wear-and-tear accepted.

So long as there is no uncured default of Concessionaire, the City will allow the Concessionaire a maximum of five (5) calendar days after the effective date of the expiration of this Agreement to remove all of its personal property, equipment, furniture, and fixtures from the Premises. The Concessionaire acknowledges that as part of the consideration for this Agreement, all property remaining on the Premises after these five

(5) calendar days becomes the sole property of the City. The City may remove, modify, sell, or destroy the property as it sees fit. The Concessionaire will pay the City within 30 days of the billing date for any cost the City incurs in property removal and disposal.

ARTICLE XV - CANCELLATION BY CONCESSIONAIRE

The Concessionaire may cancel this Agreement by giving the City 30 days' advance written notice if any of the following events occur:

- A. the permanent abandonment of the Airport by all passenger airlines or the removal of all passenger airline service from the Airport for a period of at least 90 consecutive days; or,
- B. the lawful assumption by the United States government or its authorized agent, of the operation, control, or use of the Airport, or any substantial part of the Airport, that restricts the Concessionaire from operating its business under this Agreement for a period of at least 90 consecutive days; or,
- C. a court of competent jurisdiction issues an injunction that prevents or restrains the use of the Airport by all airlines provided the injunction remains in force for at least 90 consecutive days.

ARTICLE XVI – SUBSEQUENT CONTRACT

A. Subsequent Contract Award: Concessionaire acknowledges that on the expiration, cancellation, or termination of this Agreement, the City may award any subsequent concession contract by any legal means then available to the City.

B. Transition Schedule at Normal Expiration: Concessionaire understands that it is neither practical nor possible for the City to predict the exact transition schedule and procedure to best serve the needs of the traveling public and the City at the normal expiration of this Agreement.

The City will provide the Concessionaire a written notice of the transition plan determined by the City to best serve the needs of the traveling public and the City at least 30 days before turning the business over to a succeeding Concessionaire.

Concessionaire will diligently execute the transition plan determined by the City, abide by its time schedule, and cooperate with the City and the succeeding concessionaire in carrying out the transition plan. In any dispute between Concessionaire and the succeeding concessionaire during the transition period, Concessionaire will abide by the decision of the City.

At the normal expiration of this Agreement, Concessionaire will either remove its furniture, fixtures, equipment, and improvements or sell them to the succeeding Concessionaire. If Concessionaire neither sells nor removes these items within five (5) calendar days after expiration, the City may remove, sell, modify, or destroy these items as it sees fit. The Concessionaire will reimburse the City for any cost the City incurs in removal and disposal within 30 days after the billing date.

ARTICLE XVII – ASSIGNMENT OR SUBCONTRACT

A. Prohibition: The Concessionaire will not mortgage, hypothecate, nor otherwise encumber or assign the concession and/or lease rights created under this Agreement, in whole or in part, without the advance written consent of the City. Any attempted assignment, mortgage, hypothecation, or encumbrance of the concession rights, or other violation of this article is void and will confer no right, title, or interest neither in nor to this Agreement, on any assignee, mortgagee, encumbrancer, pledgee, lien holder, subtenant, successor, or purchaser.

B. Approval by City: The Concessionaire will submit three (3) copies of any proposed assignment or subcontract to the City for advance written approval. Each copy must bear the original notarized signature of all parties. All covenants and provisions of this Agreement extend to and bind the legal representatives, successors, and assignees of the parties.

C. Merger, Consolidation, or Reorganization: The City will not unreasonably withhold its consent to an assignment of this Agreement by the Concessionaire to a corporation, limited liability company, or other legally-formed entity that results from a merger, consolidation, or reorganization of the Concessionaire to a legal entity that purchases all or substantially all of the assets of the Concessionaire or to any entity that controls or is controlled by or is under common control with the Concessionaire. For purposes of this section, "control" of any entity is deemed vested in the person or persons owning more than 50 percent of the voting power for the election of the board of directors or management of the entity.

ARTICLE XVIII – GENERAL COVENANTS

A. Execution by City: This Agreement is not effective until approved by the Kenai City Council and signed by the City Manager of City of Kenai, or a designated representative.

B. Approval by City: The City will not unreasonably withhold any approval required under this Agreement.

C. Notices: Any notice required under this Agreement must be either hand-delivered or sent by registered or certified mail, or delivered by a reliable overnight delivery service to the appropriate party at the address set forth on page one of this Agreement or to any other address that the parties subsequently designate in writing. All notice periods begin on the date the notice is hand-delivered at the address or mailed.

In addition, Concessionaire shall deliver all notices permitted or required to be provided to the City under this Agreement by hand-delivered or sent by registered or certified mail to the Airport Manager, Kenai Municipal Airport, 305 N. Willow, Suite 200, Kenai, AK 99611-7792.

D. Modification: The Concessionaire acknowledges that the City may modify this Agreement to meet any requirements of federal or State grants obtained by the City in order to operate and/or maintain the Airport, or in order to conform to the requirements of any revenue bond covenant to which the City of Kenai is bound, and the City may do so

without formal amendment of this Agreement. However, a modification may neither reduce the rights or privileges granted the Concessionaire under this Agreement nor cause the Concessionaire financial loss.

E. Validity of Parts: The remaining parts continue in full force if a court of competent jurisdiction declares any part of this Agreement invalid.

F. Radio Interference: At the City's request, the Concessionaire will discontinue the use of any device that interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

G. National Emergency: If the federal government declares a national emergency, the Concessionaire will not hold the City liable for the inability to perform any part of this Agreement resulting from the national emergency.

H. No Waiver: If the City does not insist in any one or more instances on the strict performance by the Concessionaire of any provision or article under this Agreement, it is not a waiver or relinquishment for the future, but the provision or article will continue in full force. A City waiver of any provision or article in this Agreement cannot be enforced nor relied on unless the waiver is in writing and signed on behalf of the City.

I. Disasters: If, in the determination of the City, fire, flood, earthquake or other casualty damages the Kenai Municipal Airport so extensively as to render the Airport or the Premises untenable, either party may elect to terminate this Agreement with respect to the damaged facility only on 30 days' written notice to the other party. If this Agreement is terminated because of a disaster, or is reduced due to disaster at one facility, the City will prorate the fees payable under this Agreement up to the time the Airport or the Premises becomes untenable.

J. Condemnation: If any proper authority condemns the Airport, this Agreement ends on the date the Concessionaire is required to leave the Premises. The City is entitled to all condemnation proceeds; however, the City will pay the Concessionaire the portion of proceeds attributable to the fair market value of any improvements placed on the Premises by the Concessionaire, offset by any sums due to the City by Concessionaire.

K. Quiet Enjoyment: The City covenants that it has full, unencumbered title to the Kenai Municipal Airport; that it has the right and lawful authority to execute this Agreement; and that the Concessionaire will have, hold, and enjoy peaceful and uninterrupted use of the Premises.

L. Entire Agreement: This Agreement, including any amendment, constitutes the entire agreement between the parties. No modification or amendment of this Agreement is effective unless in writing and signed by both parties, except as stipulated in section D of this article XVIII.

M. Time: Time is of the essence in the performance of all rights and obligations of the parties to this Agreement.

WITNESS WHEREOF, the parties have set their hands and day and year as stated in the acknowledgments below:

CITY OF KENAI:

By: _____

Terry Eubank

Its: City Manager

CONCESSIONAIRE:

By: _____

Name: _____

Its: _____

Approved as to form:

Scott Bloom
City Attorney

Approved as to form:

David Swarner
Finance Director

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by Terry Eubank, City Manager of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

NOTARY PUBLIC for State of Alaska
My Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____, _____ of _____ an Alaska corporation, on behalf of the corporation.

NOTARY PUBLIC for State of Alaska
My Commission Expires: _____



IN-TERMINAL RENTAL CAR CONCESSION
CERTIFIED ACTIVITY REPORT

Exhibit 1

Business Name: _____

For the Month of: _____, 2024 Date prepared: _____

The Concessionaire will pay the City of Kenai the *greater* of the minimum guarantee or the percentage fee (10%):

Minimum Guarantee* (per month): \$ _____

OR

Monthly Gross Sales: \$ _____ x 10% = \$ _____

Monthly Concession Due (Enter the greater of the two amounts above): \$ _____

Additional Parking Spaces (\$20.00 per space per month): No. of Spaces _____ x \$20.00 = \$ _____

Subtotal: \$ _____

Sales Tax (6% or \$30, whichever is less): \$ _____

Total Amount Due (Must be paid by the 20th of the month): \$ _____

Remit to: City of Kenai
 210 Fidalgo Ave.
 Kenai, AK 99611

Additional Information:

Gross Sales Attributed to a DBE: \$ _____

Certification:

I hereby certify that the above is a true statement from the records of the business named above:

Name

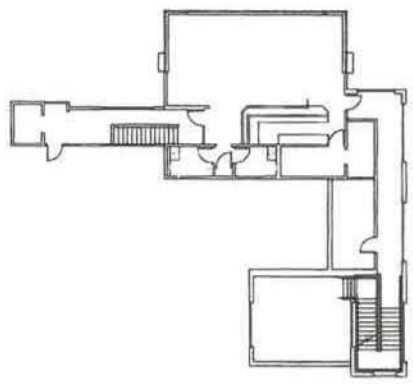
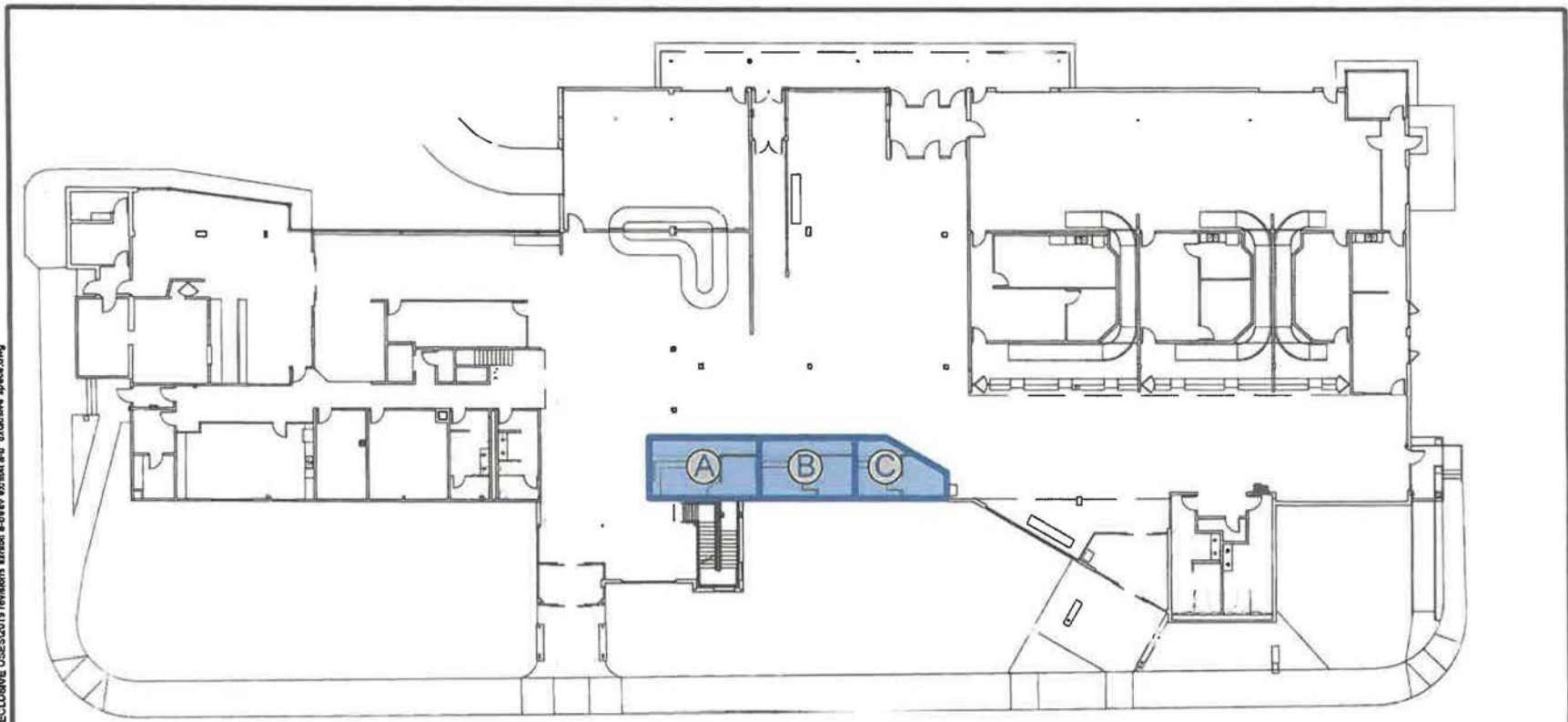
Signature

Date

Phone Number

*When the annual guarantee is reached only the percentage fee applies

V:\KOR\KENAI CGRT MANUAL\EXHIBIT 2 - B EXCLUSIVE USE\2019 revisions exhibit a-brev exhibit a-b. exclusive space.dwg



AREA	
(A)	326 S.F.
(B)	284 S.F.
(C)	220 S.F.

THIS DRAWING IS NOT TO SCALE

LESSOR _____
 LESSEE _____

WINCE-CORTHELL-BRYSON

JOB NO: _____ REVISED: _____ Plotted: 11/04/19

KENAI MUNICIPAL AIRPORT
EXHIBIT 2 EXCLUSIVE SPACE
KENAI, ALASKA

EXHIBIT 3

Kenai Municipal Airport Car Rental Parking Layout





Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2023-58**

A RESOLUTION AUTHORIZING A TWELVE-MONTH EXTENSION OF TIME FOR GOOD CAUSE FOR THE COMPLETION OF PERMANENT IMPROVEMENTS FOR A LEASE BETWEEN THE CITY OF KENAI AND ALASKA AIR FUEL, INC., FOR AIRPORT RESERVE LANDS DESCRIBED AS LOT 5A, FBO SUBDIVISION NO. 10.

WHEREAS, Resolution No. 2020-72 approved a lease between the City of Kenai and Alaska Air Fuel, Inc. for Lot 5, FBO Subdivision No. 7, which was subdivided to Lot 5A, FBO Subdivision No. 10 for lease execution; and,

WHEREAS, the lease requires the lessee to prepare site for construction and construct tarmac, and hangar facility with offices, no later than September 30, 2023 with an aggregate cost of at least \$1,000,000, excluding financing costs; and,

WHEREAS, the lessee has requested a 12-month extension to complete the improvements due to the extenuating circumstances of years of COVID-19 related slowdowns, which have limited their capability to do "business as usual" during that time frame; and,

WHEREAS, KMC 21.10.080(g)(5) allows the Council to extend the time for completion of permanent improvements required in a lease for up to twelve months for good cause; and,

WHEREAS, COVID-19 related impacts on the business operation and personnel constitute good cause justifying a twelve-month lease extension.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the City Council agrees to amend the lease with Alaska Air Fuel, Inc. for Lot 5A, FBO Subdivision No. 10 to extend the date that improvements are required to be completed to September 30, 2024 for good cause as described above. The Council further authorizes the City Manager to execute a lease amendment with Alaska Air Fuel, Inc. to effectuate the extension.

Section 2. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 20TH DAY OF SEPTEMBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Terry Eubank, City Manager
FROM: Linda Mitchell, Planning Director
DATE: September 12, 2023
SUBJECT: Resolution No. 2023-58 – Alaska Air Fuel, Inc. Lease Extension

Due to the extenuating circumstances of years of COVID-19 related slowdowns, which have limited their capability to do “business as usual” during that time frame, Alaska Air Fuel, Inc. has not begun the physical construction process in the preceding two years since lease inception. Alaska Air Fuel, Inc. has requested a 12-month extension to complete their required improvements on Lot 5A, FBO Subdivision No. 10 under Resolution No. 2020-72 (see request letter).

The request for a 12-month extension is consistent with KMC 21.10.080(g)(5). Similarly, to the recent requests by Schilling Rentals, LLC and SOAR International Ministries, Inc., if a building is ordered in a reasonable timeframe but cannot reasonably be delivered or erected in the additional one-year period, Administration would be supportive of a future non-code ordinance allowing additional time to complete the project if justified.

Thank you for your consideration.

Attachment

Request Letter
Resolution No. 2020-72

From: ALASKA AIR FUEL, INC. <alaskaairfuel@protonmail.com>
Sent: Friday, September 8, 2023 1:54 PM
To: Linda Mitchell
Cc: Mary Bondurant; Kellyn Sliwinski; Nancy Sliwinski; secoyhrs@gmail.com
Subject: Lease of Lot 5A, FBO Subd. No. 10 - Alaska Air Fuel, Inc.

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Linda,

We apologize for not readily catching your phone call, as we have been flying fuel to our villages here in Alaska. Regarding our leased lot. Due to the extenuating circumstances of years of COVID19 related slowdowns we are requesting acknowledgement of the incapability to do “business as usual” during that time frame. Therefore, we are hereby requesting an extension to our leased lot: 5A, FBO Subd. No. 10: located on the Kenai Airport.

With the governmental regulations of COVID19 recently being rescinded a few months back in May of 2023 we are now able to move towards improvements. We can provide any additional information to substantiate the request of an extension due to the extended time frame of COVID19 constraints placed upon businesses if deemed necessary beyond general knowledge thereof.

Our business that is deemed an “Essential Business” by the State of Alaska, as we are a vital part of sustaining the infrastructure keeping homes in Alaska warm. Our company was no less impacted during the COVID19 timeframe of 2020-2023; in fact, we sadly & very unfortunately lost one of our experienced captains to COVID19. This loss had a profound impact on our business that relies on high time, specialty aviators with both Alaskan and round, multi-engine experience to crew our aircraft(s). Please consider the unprecedented, unpredictable times with coinciding circumstances well beyond our control as acceptable reasoning for our request of extension here within.

Thank you in advance,

John Sliwinski
907-317-5368
(Owner)

Alaska Air Fuel, Inc.
3700 W. Aviation Ave.
Wasilla, AK 99654



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2020-72

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA APPROVING THE EXECUTION OF A LEASE OF AIRPORT RESERVE LANDS USING THE STANDARD LEASE FORM BETWEEN THE CITY OF KENAI AND ALASKA AIR FUEL, INCORPORATED, FOR A PORTION OF LOT 5, FBO SUBDIVISION NO. 8.

WHEREAS, Alaska Air Fuel, Incorporated, submitted a complete lease application to the City and paid the required application fee; and,

WHEREAS, Alaska Air Fuel, Incorporated, is eligible for a lease for a term of 45 years based upon an investment amount of \$1,000,000 and pursuant to KMC 21.10.080 –Length of Lease Term; and,

WHEREAS, Alaska Air Fuel, Incorporated, is current on obligations to the City of Kenai for its existing special use permits; and,

WHEREAS, a subdivision is necessary to create the parcel Alaska Air Fuel desires to lease; and,

WHEREAS, other Airport purposes are served by the subdivision because an additional lease lot will be created and the right-of-way will extended for North Willow Street in alignment with the Airport Layout Plan and; and,

WHEREAS, City Council may choose that the City will share in the subdivision costs with an applicant under Kenai Municipal Code 21.10.040(c) if other airport purposes are served by the subdivision; and,

WHEREAS, the lease use will be a fixed based operator (FBO) with hangar and office; and,

WHEREAS, the lease use is compatible with Kenai Municipal Zoning Code for allowed uses within the Airport Light Industrial (ALI) Zone; and

WHEREAS, the lease use conforms to the 2016 Comprehensive Plan and supports Goal 5 – Transportation: provide transportation systems that are efficient and adequate to serve the regional needs of the community; and,

WHEREAS, the use proposed is compatible and conforms with the Airport Land Use Plan, Airport Layout Plan, Federal Aviation Administration regulations, Airport Master Plan, Airport Improvement Program grant assurances, and Airport operations; and,

WHEREAS, the City of Kenai did not receive a competing lease application within 30 days of publishing a public notice of the lease application, pursuant to KMC 21.10.075 – Competing Applications; and,

WHEREAS, at its regular meeting on August 13, 2020, the Airport Commission reviewed the lease renewal application submitted by Alaska Air Fuel, Incorporated and recommended approval by the City Council; and,

WHEREAS, at its regular meeting on August 12, 2020, the Planning and Zoning Commission reviewed the lease renewal application submitted by Alaska Air Fuel, Incorporated and recommended approval by the City Council as long as the lessee's subdivision of the lot would leave the City with a useful and leasable remaining parcel.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That a Lease of Airport Reserve Lands is approved contingent on a completed subdivision and the City Manager is authorized to execute a lease between the City of Kenai, Lessor, and Alaska Air Fuel, Incorporated, Lessee, after completion of a subdivision, with the following conditions:

Lot improvements as outlined in lease application a hangar with office space to be completed within two (2) years of signing the lease;

The lease term will be 45 years;

Lot developments will prevent unauthorized access to the airfield;

Structures will be built behind the 100 foot building restriction line;

Parking spaces will be provided as required by Kenai Municipal Code 14.20.250 – Off-street parking and loading requirements;

Alaska Air Fuel, Incorporated is responsible for all snow removal, and snow may not touch the perimeter security fence or be piled to a height that would allow access to the airport; and

Section 2. That a subdivision of the property must occur prior to the lease to create a parcel with the 280 foot width and 392 foot depth as Alaska Air Fuel requested to lease, create a new parcel to be retained by the City covering the remaining adjacent treed area, and dedicate the right-of-way for North Willow Street that continues northwest through parcel 04318044, described as All of Section 32 excluding Subdivisions & Leased Areas & Kenai Municipal Airport Float Plane Basin Replat as shown on Attachment A, with the cost of the subdivision being shared equally by the City of Kenai and Alaska Air Fuel, Incorporated.

Section 3. That this resolution takes effect immediately upon adoption.

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 2nd day of September, 2020.


BRIAN GABRIEL, SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk





Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2023-59**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER A PROJECT PARTNERSHIP AGREEMENT WITH THE DEPARTMENT OF THE ARMY FOR THE ADMINISTRATION AND CONSTRUCTION OF THE KENAI BLUFF STABILIZATION PROJECT WITH AN ESTIMATED PROJECT COST OF \$41,604,000 INCLUDING A FEDERAL COST SHARE OF \$37,443,600 AND CITY SHARE OF \$4,160,400.

WHEREAS, the Kenai City Council and Administration have been working with State and Federal agencies since the early 1980's to address the erosion of the Kenai Bluff; and,

WHEREAS, the City has designated the Kenai Bluff Erosion Project its number one State and Federal funding priority for a number of years; and,

WHEREAS, on September 14, 2020, the City entered into an agreement with the Department of the Army for Design for the Kenai Bluff Bank Stabilization; and,

WHEREAS, design is complete and the City and Department of the Army propose to enter into an agreement, the Project Partnership Agreement (PPA), for the administration and construction of the project; and,

WHEREAS, the PPA details the roles and responsibilities of the City and the Department of Army in completion of the project and defines the cost share for the project as 90% Department of Army and 10% City; and,

WHEREAS, utilizing appropriated grants provided by the State of Alaska, the City has certified the availability of its cost share, \$4,160,400; and,

WHEREAS, signing of the PPA is the culmination of the work of many over many years, including residents, the Mayor and City Council members and former Mayor and City Council members, U.S. Senator Lisa Murkowski and U.S. Senator Dan Sullivan, U.S. Representative Mary Peltola, and former Alaska Congressional Delegations, Governor Mike Dunleavy and former governors of Alaska, current and former Kenai Peninsula Legislators, and current and former City Managers and City staff and countless others; and,

WHEREAS, signing of the PPA and construction of erosion control measures along the bluff at the mouth of the Kenai River is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the City Manager is authorized to enter a Project Partnership Agreement with the Department of the Army for the Administration and Construction of the Kenai Bluff Stabilization Project with an estimated project cost of \$41,604,000 including a Federal cost share of \$37,443,600 and City share of \$4,160,400.

Section 2. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 20TH DAY OF SEPTEMBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance:





MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Terry Eubank, City Manager

DATE: September 13, 2023

SUBJECT: **Resolution No. 2023-59 - Authorizing the City Manager to Enter a Project Partnership Agreement with the Department of the Army for the Administration and Construction of the Kenai Bluff Stabilization Project**

The purpose of this memo is to request your support for Resolution 2023-59, which provides authorization for the City Manager to execute the Project Partnership Agreement (PPA) between the City and the Department of the Army for the administration and construction of the Kenai Bluffs Bank Stabilization Project.

Discussion of erosion of the bluff at the mouth of the Kenai River can be found in City Council Meeting Minutes dating back to 1963, and the Project has been recognized as the City's number one capital priority for over 30 years. The approved project design includes the construction of an estimated 5,000 linear feet of rock revetment consisting of a 12-foot tall armored stone berm along the receding north bank of the Kenai River. Construction of this berm will create a condition that allows the bluff to stabilize over time.

The total estimated cost of the Project is \$41,604,000, with the City's share of costs projected to be 10%, or \$4,160,400, which includes real property interests and in-kind contributions, including \$850,000 in design costs already paid by the City. The Federal Government's share of costs is projected to be 90% or \$37,443,600. The project was allocated \$37,450,000 under the Bipartisan Infrastructure Law of 2022. The City has received and appropriated a total of \$9.7 million in State funding, comprised of \$6.5 million included in the State's fiscal year 2023 Capital Budget and \$3.2 million from State grants from 2012 and 2015. The City may utilize appropriated and unobligated State of Alaska grant funds to meet the 10% cost share.

Execution of the PPA will allow the project to be released for bid by qualified contractors and construction to take place. Construction will likely occur in 2024 and 2025. Execution of the PPA is a significant milestone and represents decades of work and commitment by residents, the Mayor and City Council members and former Mayor and City Council members, U.S. Senator Lisa Murkowski and U.S. Senator Dan Sullivan, U.S. Representative Mary Peltola, and former Alaska Congressional Delegations, Governor Mike Dunleavy and former governors of Alaska, current and former Kenai Peninsula Legislators, and current and former City Managers and City staff.

Your support is respectfully requested and will allow the City to move forward with the signing of the Project Partnership Agreement tentatively scheduled for September 25, 2023.



DRAFT AS OF MAY 6, 2023
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CITY OF KENAI, ALASKA
FOR
THE KENAI BLUFFS, KENAI, ALASKA
BANK STABILIZATION PROJECT

THIS AGREEMENT is entered into this ___ day of _____, _____, by and between the Department of the Army (hereinafter the “Government”), represented by the **[TITLE OF THE GOVERNMENT REPRESENTATIVE SIGNING THE AGREEMENT, e.g., District Commander for Alaska District]** and the City of Kenai, Alaska (hereinafter the “Non-Federal Sponsor”), represented by the City Manager.

WITNESSETH, THAT:

WHEREAS, construction of the Kenai Bluffs, Kenai, Alaska project for bank stabilization (hereinafter the “Project”, as defined in Article I.A. of this Agreement) was authorized by Section 8315 of the Water Resources Development Act of 2022 (hereinafter “Section 8315”);

WHEREAS, in accordance with Section 160 of WRDA 2020 (33 U.S.C. 2201 note), the Project benefits an economically disadvantaged community as defined by the Assistant Secretary of the Army (Civil Works), and as such, Section 8315(b)(2) specifies the cost-sharing requirements applicable to the Project;

WHEREAS, appropriations provided under the Construction heading, Division J, Title III, of the Bipartisan Infrastructure Law, Public Law 117-58, enacted November 15, 2021 (hereinafter “BIL”), are available to undertake construction of the Project;

WHEREAS, 33 U.S.C. 701h authorizes the Government to undertake, at the Non-Federal Sponsors’ full expense, additional work while the Government is carrying out the Project; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement and acknowledge that Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), provides that this Agreement shall be enforceable in the appropriate district court of the United States.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term “Project” means constructing an approximately 12 feet tall and 5,000 feet long armor-stoned berm revetment as a line of protection along the receding coastal bluff, as generally described in the Kenai Bluffs Bank Stabilization Section 116 Feasibility Study, Final Integrated Feasibility Report and Environmental Assessment and Finding of No Significant Impact, dated March 2019 and approved by the Director of Civil Works in his report dated April 10, 2019.

B. The term “HTRW” means hazardous, toxic, and radioactive wastes, which includes any material listed as a “hazardous substance” (42 U.S.C. 9601(14)) regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter “CERCLA”) (42 U.S.C. 9601-9675) and any other regulated material in accordance with applicable laws and regulations.

C. The term “construction costs” means all costs incurred by the Government and Non-Federal Sponsor in accordance with the terms of this Agreement that are directly related to design and construction of the Project and cost shared. The term includes the Government’s costs and the Non-Federal Sponsor’s creditable contributions pursuant to the terms of the Design Agreement executed on September 14, 2020; the Government’s engineering, design, and construction, including monitoring, costs; the Government’s supervision and administration costs; the Non-Federal Sponsor’s creditable costs for providing real property interests, placement area improvements, and relocations and for providing in-kind contributions, if any; costs for mitigation, including monitoring and adaptive management, if applicable; and the costs of historic preservation activities except for data recovery for historic properties. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement; HTRW cleanup and response; dispute resolution; participation by the Government and the Non-Federal Sponsor in the Project Coordination Team to discuss significant issues and actions; audits; betterments; additional work; or the Non-Federal Sponsor’s cost to negotiate this Agreement.

D. The term “real property interests” means lands, easements, and rights-of-way, including those required for relocations and borrow and dredged material placement areas. Acquisition of real property interests may require the performance of relocations.

E. The term “relocation” means the provision of a functionally equivalent facility to the owner of a utility, cemetery, highway, railroad, or public facility when such action is required by applicable legal principles of just compensation. Providing a functionally equivalent facility may include the alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

F. The term “placement area improvements” means the improvements required on real property interests to enable the ancillary placement of material that has been dredged or excavated during construction, operation, and maintenance of the Project, including, but not limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and dewatering pumps and pipes.

G. The term “functional portion thereof” means a portion of the Project that has been completed and that can function independently, as determined in writing by the District Commander for Alaska District (hereinafter the “District Commander”), although the remainder of the Project is not yet complete.

H. The term “in-kind contributions” means those materials or services provided by the Non-Federal Sponsor that are identified as being integral to the Project by the Division Commander for Pacific Ocean Division (hereinafter the “Division Commander”). To be integral to the Project, the material or service must be part of the work that the Government would otherwise have undertaken for design and construction of the Project. The in-kind contributions also include any initial investigations performed by the Non-Federal Sponsor to identify the existence and extent of any HTRW that may exist in, on, or under real property interests required for the Project; however, it does not include HTRW cleanup and response.

I. The term “betterment” means a difference in construction of an element of the Project that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to construction of that element.

J. The term “fiscal year” means one year beginning on October 1st and ending on September 30th of the following year.

K. The term “additional work” means items of work related to, but not cost shared as a part of, the Project that the Government will undertake on the Non-Federal Sponsor’s behalf while the Government is carrying out the Project, with the Non-Federal Sponsor responsible for all costs and any liabilities associated with such work.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall undertake construction of the Project using funds appropriated by the Congress and funds provided by the Non-Federal Sponsor. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all requirements of applicable Federal laws and implementing regulations, including but not limited to, if applicable, Section 601 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

B. The Non-Federal Sponsor shall contribute 10 percent of construction costs, as follows:

1. In accordance with Article III, the Non-Federal Sponsor shall provide the real property interests, placement area improvements, and relocations required for construction, operation, and maintenance of the Project. If the Government determines that the Non-Federal Sponsor’s estimated credits for real property interests, placement area improvements, and relocations will exceed 10 percent of construction costs, the Government, in its sole discretion,

may acquire any of the remaining real property interests, construct any of the remaining placement area improvements, or perform any of the remaining relocations with the cost of such work included as a part of the Government's cost of construction. Nothing in this provision affects the Non-Federal Sponsor's responsibility under Article IV for the performance and costs of any HTRW cleanup and response related thereto.

2. If providing in-kind contributions as a part of its 10 percent cost share, the Non-Federal Sponsor shall obtain all applicable licenses and permits necessary for such work. As functional portions of the work are completed, the Non-Federal Sponsor shall begin operation and maintenance of such work. Upon completion of the work, the Non-Federal Sponsor shall so notify the Government within 30 calendar days and provide the Government with a copy of as-built drawings for the work.

3. After considering the contributions provided pursuant to the Design Agreement and the estimated amount of credit that will be afforded to the Non-Federal Sponsor pursuant to paragraphs B.1. and B.2., above, the Government shall determine the estimated amount of funds required from the Non-Federal Sponsor to meet its 10 percent cost share. The Government shall notify the Non-Federal Sponsor of funds required to meet its cost share for the then-current fiscal year.

a. No later than 60 calendar days after receipt of notification from the Government, the Non-Federal Sponsor shall provide the full amount of such funds to the Government in accordance with Article VI.C.

b. No later than August 1st prior to each subsequent fiscal year, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government in accordance with Article VI.C.

C. To the extent practicable and in accordance with Federal law, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on contract solicitations, including relevant plans and specifications, prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

D. The Government, as it determines necessary, shall undertake actions associated with historic preservation, including the identification and treatment of historic properties as those properties are defined in the National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101-307108). All costs incurred by the Government for such work (including the mitigation of adverse effects other than data recovery) shall be included in construction costs and shared in accordance with the provisions of this Agreement. If historic properties are discovered during construction and the effect(s) of construction are determined to be adverse, strategies shall be developed to avoid, minimize, or mitigate these adverse effects. In accordance with 54 U.S.C.

312507, up to 1 percent of the total amount authorized to be appropriated for the Project may be applied toward data recovery of historic properties and such costs shall be borne entirely by the Government. In the event that costs associated with data recovery of historic properties exceed 1 percent of the total amount authorized to be appropriated for the Project, in accordance with 54 U.S.C. 312508, the Government will seek a waiver from the 1 percent limitation under 54 U.S.C. 312507 and upon receiving the waiver, will proceed with data recovery at full Federal expense. Nothing in this Agreement shall limit or otherwise prevent the Non-Federal Sponsor from voluntarily contributing costs associated with data recovery that exceed 1 percent.

E. When the District Commander determines that construction of the Project, or a functional portion thereof, is complete, the District Commander shall so notify the Non-Federal Sponsor in writing within 30 calendar days of such determination, and the Non-Federal Sponsor, at no cost to the Government, shall operate, maintain, repair, rehabilitate, and replace the Project, or such functional portion thereof. Such activities will generally consist of regular inspections and an estimated 4,000 cubic yards of rock to be repositioned or replaced approximately every 25 years. The Government shall furnish the Non-Federal Sponsor with an Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual") and copies of all as-built drawings for the completed work.

1. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner consistent with the Project's authorized purpose and in accordance with applicable Federal laws and regulations, and the Government's specific directions in the OMRR&R Manual. The Government and the Non-Federal Sponsor shall consult on any subsequent updates or amendments to the OMRR&R Manual.

2. The Government may enter, at reasonable times and in a reasonable manner, upon real property interests that the Non-Federal Sponsor now or hereafter owns or controls to inspect the Project, and, if necessary, to undertake any work necessary to the functioning of the Project for its authorized purpose. If the Government determines that the Non-Federal Sponsor is failing to perform its obligations under this Agreement and the Non-Federal Sponsor does not correct such failures within a reasonable time after notification by the Government, the Government, at its sole discretion, may undertake any operation, maintenance, repair, rehabilitation, or replacement of the Project. No operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of its obligations under this Agreement or preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance of this Agreement.

F. Not less than once each year, the Non-Federal Sponsor shall inform affected interests of the extent of risk reduction afforded by the Project.

G. The Non-Federal Sponsor shall ensure participation in and compliance with applicable Federal floodplain management and flood insurance programs. The Non-Federal Sponsor may execute agreements with other non-Federal entities to ensure such participation and compliance.

H. In accordance with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), the Non-Federal Sponsor shall prepare a floodplain management plan for the Project within one year after the effective date of this Agreement and shall implement such plan no later than one year after completion of initial construction of the Project. The Non-Federal Sponsor may execute agreements with other non-Federal entities to ensure such preparation and implementation. The plan shall be designed to reduce the impacts of future coastal events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of coastal storm risk reduction provided by such work. The Non-Federal Sponsor shall provide an information copy of the plan to the Government.

I. The Non-Federal Sponsor shall ensure publication of floodplain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with the Project. The Non-Federal Sponsor may execute agreements with other non-Federal entities to ensure such publication and provision.

J. The Non-Federal Sponsor shall prevent obstructions or encroachments on the Project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) that might reduce the level of coastal storm risk reduction the Project affords, hinder operation and maintenance of the Project, or interfere with the Project's proper function.

K. The Non-Federal Sponsor shall not use Federal program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Project. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

L. In addition to the ongoing, regular discussions between the parties regarding Project delivery, the Government and the Non-Federal Sponsor may establish a Project Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Project Coordination Team shall not be included in construction costs that are cost shared. The Non-Federal Sponsor's costs for participation on the Project Coordination Team shall not be included in construction costs that are cost shared and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

M. The Non-Federal Sponsor may request in writing that the Government perform betterments or additional work on the Non-Federal Sponsor's behalf. Each request shall be subject to review and written approval by the Division Commander. If the Government agrees to such request, the Non-Federal Sponsor, in accordance with Article VI.F., must provide funds sufficient to cover the costs of such work in advance of the Government performing the work. In addition, the Non-Federal Sponsor is responsible for providing, at no cost to the Government, any additional real property interests, relocations, and placement area improvements determined by the Government to be required for construction, operation, and maintenance of such work.

ARTICLE III - REAL PROPERTY INTERESTS, PLACEMENT AREA IMPROVEMENTS, AND RELOCATIONS

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the real property interests required for construction, operation, and maintenance of the Project. The Government shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the real property interests that the Government determines the Non-Federal Sponsor must provide for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition. Prior to the Non-Federal Sponsor initiating acquisition of such real property interests or the Government initiating construction on real property interests already owned or controlled by the Non-Federal Sponsor, the Non-Federal Sponsor, in accordance with Article IV.A., shall investigate to verify that HTRW does not exist in, on, or under the real property interests required for construction, operation, and maintenance of the Project. Subject to the requirements in Article IV.B., the Non-Federal Sponsor shall acquire the real property interests and shall provide the Government with authorization for entry thereto according to the Government's construction schedule for the Project. The Non-Federal Sponsor shall ensure that real property interests provided for the Project are retained in public ownership for uses compatible with the authorized purposes of the Project.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the placement area improvements required for construction, operation, and maintenance of the Project, provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such improvements, and provide the Non-Federal Sponsor with a written notice to proceed with such improvements. The Non-Federal Sponsor shall construct the improvements in accordance with the Government's construction schedule for the Project.

C. The Government, after consultation with the Non-Federal Sponsor, shall determine the relocations required for construction, operation, and maintenance of the Project, provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such relocations, and provide the Non-Federal Sponsor with a written notice to proceed with such relocations. The Non-Federal Sponsor shall perform or ensure the performance of these relocations in accordance with the Government's construction schedule for the Project.

D. To the maximum extent practicable, no later than 30 calendar days after the Government provides the Non-Federal Sponsor with written descriptions and maps of the real property interests, placement area improvements, and relocations required for construction, operation, and maintenance of the Project, the Non-Federal Sponsor may request in writing that the Government acquire all or specified portions of such real property interests, construct placement area improvements, or perform the necessary relocations. If the Government agrees to such a request, the Non-Federal Sponsor, in accordance with Article VI.F., must provide funds sufficient to cover the costs of the acquisitions, placement area improvements, or relocations in advance of the Government performing the work. The Government shall acquire the real property interests, construct the placement area improvements, and perform the relocations, applying Federal laws, policies, and procedures. The Government shall acquire real property interests in the name of the Non-Federal Sponsor except, if acquired by eminent domain, the

Government shall convey all of its right, title and interest to the Non-Federal Sponsor by quitclaim deed or deeds. The Non-Federal Sponsor shall accept delivery of such deed or deeds. The Government's provision of real property interests, placement area improvements, or performing relocations on the Non-Federal Sponsor's behalf does not alter the Non-Federal Sponsor's responsibility under Article IV for the performance and costs of any HTRW cleanup and response related thereto.

E. In acquiring the real property interests for the Project, the Non-Federal Sponsor assures the Government that it will comply with the following:

(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under 42 U.S.C. 4622, 4623 and 4624;

(2) relocation assistance programs offering the services described in 42 U.S.C. 4625 shall be provided to such displaced persons;

(3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with 42 U.S.C. 4625(c)(3);

(4) in acquiring real property, the Non-Federal Sponsor will be guided, to the greatest extent practicable under State law, by the land acquisition policies in 42 U.S.C. 4651 and the provisions of 42 U.S.C. 4652; and

(5) property owners will be paid or reimbursed for necessary expenses as specified in 42 U.S.C. 4653 and 4654.

ARTICLE IV - HTRW

A. The Non-Federal Sponsor shall be responsible for undertaking any investigations to identify the existence and extent of any HTRW regulated under applicable law that may exist in, on, or under real property interests required for construction, operation, and maintenance of the Project.

B. In the event it is discovered that HTRW exists in, on, or under any of the real property interests needed for construction, operation, and maintenance of the Project, the Non-Federal Sponsor and the Government shall provide written notice to each other within 15 calendar days of such discovery, in addition to providing any other notice required by applicable law. If HTRW is discovered prior to acquisition, the Non-Federal Sponsor shall not proceed with the acquisition of such real property interests until the parties agree that the Non-Federal Sponsor should proceed. If HTRW is discovered in, on, or under real property interests the Non-Federal Sponsor owns or controls or after acquisition of the real property interests, no further Project activities within the contaminated area shall proceed until the parties agree on an appropriate course of action.

C. If HTRW is found to exist in, on, or under any required real property interests, the parties shall consider any liability that might arise under applicable law and determine whether to initiate construction, or if already initiated, whether to continue, suspend, or terminate construction.

1. Should the parties initiate or continue construction, the Non-Federal Sponsor shall be solely responsible, as between the Government and the Non-Federal Sponsor, for the performance and costs of HTRW cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. The Non-Federal Sponsor shall pay such costs without reimbursement or credit by the Government. In no event will the Government proceed with that construction before the Non-Federal Sponsor has completed the required cleanup and response actions.

2. In the event the parties cannot reach agreement on how to proceed or the Non-Federal Sponsor fails to discharge its responsibilities under this Article upon direction by the Government, the Government may suspend or terminate construction. Additionally, the Government may undertake any actions it determines necessary to avoid a release of such HTRW with the Non-Federal Sponsor responsible for such costs without credit or reimbursement by the Government.

D. In the event of a HTRW discovery, the Non-Federal Sponsor and the Government shall initiate consultation with each other within 15 calendar days in an effort to ensure that responsible parties bear any necessary cleanup and response costs as required by applicable law. Any decision made pursuant to this Article shall not relieve any third party from any HTRW liability that may arise under applicable law.

E. To the maximum extent practicable, the Government and Non-Federal Sponsor shall perform their responsibilities under this Agreement in a manner that will not cause HTRW liability to arise under applicable law.

F. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the owner and operator of the Project for purposes of CERCLA liability or other applicable law.

ARTICLE V - CREDIT FOR REAL PROPERTY INTERESTS, PLACEMENT AREA IMPROVEMENTS, RELOCATIONS, AND IN-KIND CONTRIBUTIONS

A. The Government shall include in construction costs, and credit towards the Non-Federal Sponsor's share of such costs, the value of Non-Federal Sponsor provided real property interests, placement area improvements, and relocations, and the costs of in-kind contributions determined by the Government to be required for the Project.

B. To the maximum extent practicable, no later than 3 months after it provides the Government with authorization for entry onto a real property interest or pays compensation to

the owner, whichever occurs later, the Non-Federal Sponsor shall provide the Government with documents sufficient to determine the amount of credit to be provided for the real property interests in accordance with paragraph C.1. of this Article. To the maximum extent practicable, no less frequently than on a quarterly basis, the Non-Federal Sponsor shall provide the Government with documentation sufficient for the Government to determine the amount of credit to be provided for other creditable items in accordance with paragraph C. of this Article.

C. The Government and the Non-Federal Sponsor agree that the amount of costs eligible for credit that are allocated by the Government to construction costs shall be determined and credited in accordance with the following procedures, requirements, and conditions and subject to audit in accordance with Article X.B. to determine reasonableness, allocability, and allowability of costs.

1. Real Property Interests.

a. General Procedure. For each real property interest, the Non-Federal Sponsor shall obtain an appraisal of the fair market value of such interest that is prepared by a qualified appraiser who is acceptable to the parties. Subject to valid jurisdictional exceptions, the appraisal shall conform to the Uniform Standards of Professional Appraisal Practice. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government.

(1) Date of Valuation. For any real property interests owned by the Non-Federal Sponsor on the effective date of this Agreement and required for construction performed after the effective date of this Agreement, the date the Non-Federal Sponsor provides the Government with authorization for entry thereto shall be used to determine the fair market value. For any real property interests required for in-kind contributions covered by an In-Kind MOU between the Government and the Non-Federal Sponsor (hereinafter the “In-Kind MOU”), the date of initiation of construction shall be used to determine fair market value. The fair market value of real property interests acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

(2) Except for real property interests acquired through eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall submit an appraisal for each real property interest to the Government for review and approval no later than, to the maximum extent practicable, 60 calendar days after the Non-Federal Sponsor provides the Government with an authorization for entry for such interest or concludes the acquisition of the interest through negotiation or eminent domain proceedings, whichever occurs later. If, after coordination and consultation with the Government, the Non-Federal Sponsor is unable to provide an appraisal that is acceptable to the Government, the Government shall obtain an appraisal to determine the fair market value of the real property interest for crediting purposes.

(3) The Government shall credit the Non-Federal Sponsor the appraised amount approved by the Government. Where the amount paid or proposed to be paid

by the Non-Federal Sponsor exceeds the approved appraised amount, the Government, at the Non-Federal Sponsor's request, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the appraised amount for crediting purposes.

b. Eminent Domain Procedure. For real property interests acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall notify the Government in writing of its intent to institute such proceedings and submit the appraisals of the specific real property interests to be acquired for review and approval by the Government. If the Government provides written approval of the appraisals, the Non-Federal Sponsor shall use the amount set forth in such appraisals as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If the Government provides written disapproval of the appraisals, the Government and the Non-Federal Sponsor shall consult to promptly resolve the issues that are identified in the Government's written disapproval. In the event that the issues cannot be resolved, the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. The fair market value for crediting purposes shall be either the amount of the court award for the real property interests taken or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

c. Waiver of Appraisal. Except as required by paragraph C.1.b. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if, in accordance with 49 C.F.R. Section 24.102(c)(2):

(1) the owner is donating the real property interest to the Non-Federal Sponsor and releases the Non-Federal Sponsor in writing from its obligation to appraise the real property interest, and the Non-Federal Sponsor submits to the Government a copy of the owner's written release; or

(2) the Non-Federal Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the real property interest proposed for acquisition is estimated at \$25,000 or less, based on a review of available data. When the Non-Federal Sponsor determines that an appraisal is unnecessary, the Non-Federal Sponsor shall prepare the written waiver valuation required by 49 C.F.R. Section 24.102(c)(2) and submit a copy thereof to the Government for approval. When the anticipated value of the real property interest exceeds \$10,000, up to a maximum of \$25,000, the Non-Federal Sponsor must offer the owner the option of having the Non-Federal Sponsor appraise the real property interest.

d. Incidental Costs. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the incidental costs the Non-Federal Sponsor incurred in acquiring any real property interests required pursuant to Article III for the Project within a five-year period preceding the effective date of this Agreement, or at any time after the effective date of this Agreement, that are documented to the satisfaction of the Government. Such incidental costs shall include closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any

relocation assistance benefits provided in accordance with Article III.E., and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest pursuant to Article III.

2. Placement Area Improvements. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of placement area improvements required for the Project. Only placement area improvements constructed after the effective date of this Agreement are eligible for credit, unless such placement area improvements were required for in-kind contributions covered by an In-Kind MOU. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide any placement area improvements required for the Project. Such costs include actual costs of constructing the improvements; planning, engineering, and design costs; and supervision and administration costs, but shall not include any costs associated with betterments, as determined by the Government.

3. Relocations. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of any relocations performed by the Non-Federal Sponsor that are directly related to construction, operation, and maintenance of the Project. Only relocations performed after the effective date of this Agreement are eligible for credit, unless such relocations were required for in-kind contributions covered by an In-Kind MOU.

a. For a relocation other than a highway, the value shall be only that portion of relocation costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and the salvage value of any removed items.

b. For a relocation of a highway, which is any highway, roadway, or street, including any bridge thereof, that is owned by a public entity, the value shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of Alaska would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

c. Relocation costs, as determined by the Government, include actual costs of performing the relocation; planning, engineering, and design costs; and supervision and administration costs. Relocation costs do not include any costs associated with betterments, as determined by the Government, nor any additional cost of using new material when suitable used material is available.

4. In-Kind Contributions. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of in-kind contributions that are integral to the Project.

a. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide the in-kind

contributions, which may include engineering and design; construction; and supervision and administration, but shall not include any costs associated with betterments, as determined by the Government. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees.

b. No credit shall be afforded for the following: interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; any in-kind contributions performed prior to the effective date of this Agreement unless covered by an In-Kind MOU or provided pursuant to the Design Agreement; or costs that exceed the Government's estimate of the cost for such in-kind contributions.

5. Compliance with Federal Labor Laws. Any credit afforded under the terms of this Agreement is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act), and credit may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

D. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to credit or reimbursement for real property interests that were previously provided as an item of local cooperation for another Federal project.

ARTICLE VI - PROVISION OF NON-FEDERAL COST SHARE

A. As of the effective date of this Agreement, \$28,050,00 in BIL funds are currently available for construction of the Project. Construction costs are projected to be \$41,604,000, with the Government's share of such costs projected to be \$37,443,600 and the Non-Federal Sponsor's share of such costs projected to be \$4,160,400, which includes creditable real property interests, relocations, and placement area improvements projected to be \$977,000, creditable in-kind contributions projected to be \$850,000, and the amount of funds required to meet its cost share projected to be \$2,333,400. Average annual costs for operation, maintenance, repair, replacement, and rehabilitation of the Project are projected to be \$100,000. Costs for betterments are projected to be \$_____ and costs for additional work are projected to be \$_____. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. The Government shall provide the Non-Federal Sponsor with monthly reports setting forth the estimated construction costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable real property interests, placement area improvements, and relocations; the estimated amount of any creditable in-kind contributions; and

the estimated amount of funds required from the Non-Federal Sponsor during the upcoming fiscal year.

C. The Non-Federal Sponsor shall provide the funds required to meet its share of construction costs allocated to coastal storm risk management by delivering a check payable to “FAO, USAED, Alaska (J4)” to the District Commander, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of construction costs allocated to coastal storm risk management as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor’s required share of such construction costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds.

E. Upon completion of construction and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such additional required funds by delivering a check payable to “FAO, USAED, Alaska (J4)” to the District Commander, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of construction costs, including contract claims or any other liability that may become known after the final accounting. If the final accounting determines that funds provided by the Non-Federal Sponsor exceed the amount of funds required to meet its share of construction costs, the Government shall refund such excess amount, subject to the availability of funds for the refund.

F. If the Government agrees to acquire or perform, as applicable, real property interests, placement area improvements, relocations, betterments, or additional work on the Non-Federal Sponsor’s behalf, the Government shall provide written notice to the Non-Federal Sponsor of the amount of funds required to cover such costs. No later than 60 calendar days of receipt of such written notice, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through either payment method specified in Article VI.E. If at any time the Government determines that additional funds are required to cover such costs, the Non-Federal Sponsor shall provide those funds within 30 calendar days from receipt of written notice from the Government. If the Government determines that funds provided by the Non-Federal Sponsor exceed the amount that was required for the Government to complete such work, the Government shall refund any remaining unobligated amount.

ARTICLE VII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate construction of the Project unless the Assistant Secretary of the Army (Civil Works) determines that continuation of such work is in the interest of the United States or is necessary in order to satisfy agreements with other non-Federal interests.

B. If the Government determines at any time that the Federal funds made available for construction of the Project are not sufficient to complete such work, the Government shall so notify the Non-Federal Sponsor in writing within 30 calendar days, and upon exhaustion of such funds, the Government shall suspend construction until there are sufficient funds appropriated by the Congress and funds provided by the Non-Federal Sponsor to allow construction to resume.

C. If HTRW is found to exist in, on, or under any required real property interests, the parties shall follow the procedures set forth in Article IV.

D. In the event of termination, the parties shall conclude their activities relating to construction of the Project. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of real property acquisition, resolution of contract claims, and resolution of contract modifications.

E. Any suspension or termination shall not relieve the parties of liability for any obligation incurred. Any delinquent payment owed by the Non-Federal Sponsor pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE VIII - HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design, construction, operation, maintenance, repair, rehabilitation, and replacement of the Project, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE IX - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in

good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE X - MAINTENANCE OF RECORDS AND AUDITS

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Project. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits shall not be included in construction costs.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the Non-Federal Sponsor's request, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The Non-Federal Sponsor shall pay the costs of non-Federal audits without reimbursement or credit by the Government.

ARTICLE XI - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

ARTICLE XII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by registered or certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor:
 City Manager
 210 Fidalgo, Avenue
 Kenai, Alaska 99611-7794

If to the Government:

District Commander
U.S. Army Corps of Engineers, Alaska District
P.O. Box 6898
Joint Base Elmendorf-Richardson, Alaska 99506-6898

B. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

ARTICLE XIII - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XIV - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the **[TITLE OF THE GOVERNMENT REPRESENTATIVE SIGNING THE AGREEMENT]**.

DEPARTMENT OF THE ARMY

CITY OF KENAI, ALASKA

BY: _____
[TYPED NAME]
[FULL TITLE]

BY: _____
TERRY EUBANK
City Manager

DATE: _____

DATE: _____

**KENAI CITY COUNCIL – REGULAR MEETING
 SEPTEMBER 6, 2023 – 6:00 P.M.
 KENAI CITY COUNCIL CHAMBERS
 210 FIDALGO AVE., KENAI, AK 99611
 MAYOR BRIAN GABRIEL, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai City Council was held on September 6, 2023, in City Hall Council Chambers, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Mayor Gabriel led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

Brian Gabriel, Mayor
 Teea Winger
 Alex Douthit
 Henry Knackstedt

James Baisden, Vice Mayor
 Deborah Sounart
 Victoria Askin

A quorum was present.

Also in attendance were:

Dave Ross, Acting City Manager
 Scott Bloom, City Attorney
 Linda Mitchell, Planning Director
 David Swarner, Finance Director
 Mary Bondurant, Interim Airport Manager
 Scott Curtin, Public Works Director
 Shellie Saner, City Clerk

3. Agenda Approval

Mayor Gabriel noted the following additions to the Packet:

Add item G.1.

Unfinished Business, Public Hearing - Resolution No. 2023-49

- Postponement Memo

MOTION:

Council Member Knackstedt **MOVED** to approve the agenda and consent agenda with the requested revisions. Council Member Askin **SECONDED** the motion.

The items on the Consent Agenda were read into the record.

Mayor Gabriel opened the floor for public comment on consent agenda items; there being no one wishing to be heard, the public comment period was closed.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council

member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

B. SCHEDULED ADMINISTRATIVE REPORTS - None.

C. SCHEDULED PUBLIC COMMENTS - None.

D. UNSCHEDULED PUBLIC COMMENTS

Tim Navarre addressed the Council regarding rules in place for people like himself varying from rules applicable to others; summarized a previous charge for domestic violence that was dropped twelve days later after the initial charge; stated he felt the recent charges against his son were due to his own previous actions; and requested the development of a citizens review board for actions of the police.

Marion Nelson, Kenai Fina Art Center Board President provided an update regarding the upcoming Harvest Auction and noted the recent article in the Peninsula Clarion regarding the auction.

Samantha Springer, Executive Director of the Kenai Chamber of Commerce and Visitor Center provided an update regarding the Silver Salmon Derby, noting the weigh-in station would be at Three Bears and on the final weekend weigh-ins would be at the Eagle Rock boat launch; she reported on the upcoming Kenai River Marathon and the debate forum for candidates for City Council.

E. PUBLIC HEARINGS

- 1. Ordinance No. 3368-2023** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and Airport Operations Facility Capital Funds to Provide Supplemental Funding for the Kenai Municipal Airport Operations Facility Boiler and HVAC Controls Replacement Project. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3368-2023. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that the costs of this project may be eligible for a future FAA Grant reimbursement.

VOTE:

YEA: Knackstedt, Douthit, Baisden, Askin, Gabriel, Winger, Sounart

NAY: None

MOTION PASSED.

- 2. Ordinance No. 3369-2023** - Increasing Estimated Revenues and Appropriations in the Airport Fund to Procure Consumables for Aircraft Rescue and Fire Training Operations at the Alaska Fire Training Facility. (Administration) [*KMC 1.15.070(d)*]

MOTION:

Council Member Knackstedt **MOVED** to introduce Ordinance 3369-2023. Council Member Wingert **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to introduce.

VOTE: Motion **APPROVED**; unanimously.

MOTION:

Council Member Knackstedt **MOVED** to conduct the second reading of Ordinance 3369-2023. Council Member Winger **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to conduct the second reading.

VOTE: Motion **APPROVED**; unanimously.

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3369-2023. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that the users would be invoiced for the costs of the consumables.

VOTE:

YEA: Douthit, Baisden, Askin, Gabriel, Winger, Sounart, Knackstedt

NAY: None

MOTION PASSED.

3. **Resolution No. 2023-53** - Authorizing a Budget Transfer in the Vintage Point Congregate Housing Improvement Capital Fund, and Authorizing a Construction Agreement and Corresponding Purchase Order for the Vintage Point Boiler and Controls Replacement Project. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2023-53. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

There was discussion regarding the benefits of this project to the occupants.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

4. **Resolution No. 2023-54** - Authorizing a Professional Services Agreement and Corresponding Purchase Order for the Lilac Lane Roadway Improvements Project. (Administration)

[Council Member Douthit declared a possible conflict with Resolution 2023-54 as he owned property on Lilac Lane. Mayor Gabriel ruled a conflict did not exist.]

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2023-54. Council Member Askin **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that the difference in bid amounts were related to the bidders from out of town including per diem costs in their bids.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

5. **Resolution No. 2023-55** - Denying the Requested Exceptions to Kenai Municipal Code Section 14.10.070, Subdivision Design Standards and Granting Exceptions to Kenai Municipal Code Section 14.10.080, Minimum Improvements Required for Strawberry Hill Estates 2023 Addition Preliminary Plat. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to adopt Resolution No. 2023-55. Council Member Askin **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment.

Dave Buntz addressed the Council regarding the development of the subdivision, noting that the surveyor recommended he apply for the variance to not dedicate Devray Street; however, after speaking with Planning Director Mitchell he was now in agreement with the right-of-way going through.

There being no one else wishing to be heard, the public comment period was closed.

Planning Director Mitchell provided a presentation identifying the exceptions requested by the applicants; current Kenai Municipal Code requirements; and the recommendation of the Planning Commission.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

F. MINUTES

1. *Special Meeting of August 11, 2023. (City Clerk)
2. *Regular Meeting of August 16, 2023. (City Clerk)

G. UNFINISHED BUSINESS

1. **Resolution No. 2023-49** - Declaring the Rights-of-Way of Char Circle as Dedicated on Park View Subdivision (Plat No. KN 79-156) and City Park Subdivision No. 2 (Plat No. KN 2007-149) and a Portion of S. Spruce Street as Dedication on Park View Subdivision (Plat No. KN 79-156) are No Longer Needed for a Public Purpose and Consenting to Vacation of the Rights-of-Way. (Administration) *[At the 08/02/23 meeting, this item was postponed to 09/06/23.]*

[Clerk's Note: The motion to adopt Resolution 2023-49 was on the floor from the August 2, 2023 Regular City Council Meeting.]

Mayor Gabriel opened the floor for public comment.

Ryan Tunseth addressed the Council stating the Boys & Girls Club had no objections to what was being suggested by Planning Director Mitchell; they were working with the neighboring property owners; and had no objection to additional postponement.

There being no one else wishing to be heard, the public comment period was closed.

MOTION:

Council Member Knackstedt **MOVED** to postpone Resolution 2023-49 to the September 20, 2023 Regular City Council Meeting. Council Member Winger **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to postpone.

VOTE: Motion **APPROVED**; without objection.

H. NEW BUSINESS

1. ***Action/Approval** - Bills to be Ratified. (Administration)

Approved by the consent agenda.

2. ***Action/Approval** - Non-Objection to the Renewal of a Beverage Dispensary Liquor License for Kenai Joe's Taphouse, LLC, DBA Kenai Joe's Taphouse, LLC – License No. 626. (City Clerk)

Approved by the consent agenda.

3. ***Action/Approval** - Non-Objection to the Transfer of Ownership of a Restaurant Eating Place Liquor License and Restaurant Designation Permit for Jersey Subs AK LLC., DBA: Jersey Subs AK - License No. 5900. (City Clerk)

Approved by the consent agenda.

4. ***Action/Approval** - Non-Objection to the Renewal of a Marijuana Product Manufacturing Facility License for Herban Extracts, LLC., DBA Herban Extracts LLC - License No. 14432. (City Clerk)

Approved by the consent agenda.

5. ***Action/Approval** - Special Use Permit for Corvus Airlines, Inc. DBA Ravn Alaska, LLC for Use of 1,200 Square Feet of Warm Storage of a De-Ice Vehicle. (Administration)

Approved by the consent agenda.

6. ***Action/Approval** - Consent to Assignment and Assumption of Lease Agreement, of Lot 3, Block 1, General Aviation Apron No. 1 Amended to Vickie L. Tyler. (Administration)

Approved by the consent agenda.

7. ***Ordinance No. 3370-2023** - Accepting and Appropriating Fiscal Year 2023 Funds from the Sign Research Foundation for the Sign Research Foundation Scholarship Program. (Administration)

Introduced by the consent agenda and Public Hearing set for September 20, 2023.

8. **Discussion** - Marijuana Walk/Drive Up Regulations. (Legal)

It was reported that this was brought forward to inform the Council regarding the change in State Law that will allow marijuana establishments to have walk up or drive through sales; currently no marijuana businesses in the City were providing walk up or drive through sales; if a business wanted to offer these services it would require an amendment to the conditional use permit. The Council could do nothing, which would allow it, prohibit it or regulate it differently from the state; and the Planning and Zoning Commission had recommended enacting a moratorium to give them more time to look into the issue.

There was discussion regarding allowing drive up services for liquor stores; the length of time for a moratorium; drive through regulations were initiated in response to COVID-19; the benefits of offering drive up services to the elderly or in really cold remote areas; and the law as written was difficult related to camera coverage; and requesting identification from everyone in the vehicle.

General consensus was given and provided direction to the Administration to bring forward legislation that would prohibit walk up and drive through marijuana sales.

I. **COMMISSION / COMMITTEE REPORTS**

1. Council on Aging

No report, next meeting September 14, 2023.

2. Airport Commission

No report, next meeting September 14, 2023.

3. Harbor Commission

No report, next meeting September 11, 2023.

4. Parks and Recreation Commission

No report, next meeting September 7, 2023.

5. Planning and Zoning Commission

Vice Mayor Baisden reported on the August 23, 2023 meeting, next meeting September 13, 2023.

6. Beautification Committee

Council Member Winger reported on the August 29, 2023 Work Session.

J. REPORT OF THE MAYOR

Mayor Gabriel thanked Council Member Knackstedt for serving as the President Pro-Tempore during the Special meeting on August 11, 2023 and Vice Mayor Baisden for presiding during the August 16, 2023 Regular meeting and reported on the following:

- Attending the Triumvirate Ground Breaking Ceremony; Industry Appreciation Day; Kenai Peninsula College Open House; and the Alaska Oil and Gas Board meeting.

K. ADMINISTRATION REPORTS

1. Acting City Manager - City Manager Ross reported on the following:

- The 2023 Silver Salmon Derby.
- The ongoing high number of employee recruitments.
- Publicity signing date with the Army Corps of Engineers for the Bluff Stabilization Project.

2. City Attorney - No report.

3. City Clerk – City Clerk Saner reported on the following:

- Absentee Voting Offices open on September 18, 2023.
- Cemetery Marker imaging project would begin on September 8, 2023 with a group of volunteers.

L. ADDITIONAL PUBLIC COMMENTS

1. Citizen Comments (*Public comments limited to (5) minutes per speaker*)

2. Council Comments

Council Member Douthit reported that he would be absent from the September 20, 2023 meeting and that he had been gathering data from the Wildwood Drive traffic counter.

Council Member Sounart reported attending Industry Appreciation Day, noting there was a great turn out and thanked all the businesses that participated.

Council Member Askin noted that September was Worker Health & Safety Month; reported attending the Triumvirate Ground Breaking Ceremony, Industry Appreciation Day and the Food Bank Fundraiser; and reminded everyone about the upcoming Geo-Challenge Fundraiser for the Challenger Learning Center.

Council Member Winger reported attending Industry Appreciation Day, noting the car collection was amazing; reminded everyone to Fire Wise their property; stated her recognition of all of the lives lost during the 911 attack in 2001; and that the Nikiski Wrestling club was looking at expanding to include a second location in the Kenai area.

Council Member Knackstedt reported attending the Triumvirate Ground Breaking Ceremony, Food Bank Fundraiser and Industry Appreciation Day, noting he helped with the bicycle give away.

M. EXECUTIVE SESSION - None.

N. PENDING ITEMS - None.

O. ADJOURNMENT

P. INFORMATIONAL ITEMS - None.

There being no further business before the Council, the meeting was adjourned at 8:05 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of September 6, 2023.

Michelle M. Saner, MMC
City Clerk

*** The student representative may cast advisory votes on all matters except those subject to executive session discussion. Advisory votes shall be cast in the rotation of the official council vote and shall not affect the outcome of the official council vote. Advisory votes shall be recorded in the minutes. A student representative may not move or second items during a council meeting.*



Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2023-49**

A RESOLUTION DECLARING THE RIGHTS-OF-WAY OF CHAR CIRCLE AS DEDICATED ON PARK VIEW SUBDIVISION (PLAT NO. KN 79-156) AND CITY PARK SUBDIVISION NO. 2 (PLAT NO. KN 2007-149) AND A PORTION OF S. SPRUCE STREET AS DEDICATION ON PARK VIEW SUBDIVISION (PLAT NO. KN 79-156) ARE NO LONGER NEEDED FOR A PUBLIC PURPOSE AND CONSENTING TO VACATION OF THE RIGHTS-OF-WAY.

WHEREAS, the City received a preliminary plat from McLane Consulting, Inc., on behalf of the Boys & Girls Club of the Kenai Peninsula for a parcel merger with rights-of-way vacations for Char Circle and a portion of S. Spruce Street; and,

WHEREAS, on July 26, 2023, the Planning and Zoning Commission passed Resolution PZ2023-13 recommending that Kenai Peninsula Borough Planning Commission approve the preliminary plat for City Park 2023 Replat with vacation of Char Circle and exclude the portion of S. Spruce Street; and,

WHEREAS, the total area of the right-of-way vacations is approximately 0.719-acre as shown in Exhibit A; and,

WHEREAS, Kenai Municipal Code Section 22.05.110, *Determination as to need for public purpose*, states City Council will determine whether rights-of way is needed for a public purpose by resolution; and,

WHEREAS, the Boys & Girls Club of the Kenai Peninsula has stated the request for the right-of-way vacations is to enable them to maximize development as presented in Ordinance 3287-2022 for facilities for youth sports, recreation, education, after school care and other youth activities; and,

WHEREAS, the right-of-way vacations of Char Circle and a portion of S. Spruce Street will not negatively affect public access; and,

WHEREAS, it is determined that Char Circle and a portion of S. Spruce Street as identified in Exhibit A are no longer needed for a public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That Char Circle as dedicated on Park View Subdivision (Plat No. KN 79-156) and City Park Subdivision No. 2 (Plat No. KN 2007-149) and a portion of S. Spruce Street as dedicated on Park View Subdivision (Plat No. KN 79-156) are no longer needed for a public purpose and consenting to vacation of the rights-of-way as identified in Exhibit A.

Section 2. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 6TH DAY OF SEPTEMBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Terry Eubank, City Manager

FROM: Linda Mitchell, Planning Director

DATE: July 25, 2023

SUBJECT: **Resolution 2023-49 – Consenting to the Right-of-Way Vacations of Char Circle as Dedicated on Park View Subdivision (Plat No. KN 79-156) and City Park Subdivision No. 2 (Plat No. KN 2007-149) and a Portion of S. Spruce Street as Dedication on Park View Subdivision (Plat No. KN 79-156).**

On July 26, 2023, the Planning and Zoning Commission passed Resolution PZ2023-13 recommending the approval of the City Park 2023 Replat subject to the following condition: 1. Kenai City Council must consent to the right-of-way (ROW) vacations of Char Circle and a portion of S. Spruce Street are not needed for a public purpose and approve the ROW vacations as shown on the proposed preliminary plat. The total area of the ROW vacations is approximately 0.719 acre.

As noted in the applicant's letter of intent, the ROW vacations will not impact the public travel and will accommodate private access to an adjacent parcel to the south. In addition, the pending improvements include a new commercial kitchen, multi-purpose field, a 10,000 square foot clubhouse, and a building expansion for early education center to be opened in 2024.

In accordance with Alaska Statutes § 29.40.140(b), no vacation of a City right-of-way and/or easement may be made without consent of the City Council. Furthermore, Kenai Municipal Code Section 22.05.110 states City Council will determined the reason of the land to include but not limited to rights-of way or easement is no longer needed for a public purpose by resolution. This resolution will consent to the right-of-way vacations of Char Circle and a portion of S. Spruce Street.

Thank you for your consideration.

Attachments

- Exhibit A – Preliminary Plat, City Park 2023 Replat
- Aerial Map
- Applicant's Letter of Intent
- Resolution PZ2023-13
- Park View Subdivision (Plat No. KN 79-156)
- City Park Subdivision No. 2 (Plat No. KN 2007-149)

MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Terry Eubank, City Manager
FROM: Linda Mitchell, Planning Director
DATE: July 28, 2023
SUBJECT: Resolution 2023-49 Planning and Zoning Commission Recommended Amendment

At the regularly scheduled Planning and Zoning Commission meeting of July 26, 2023, the Commission unanimously voted to recommend that the City Council approved the right-of-way vacation of Char Circle and exclude the portion of S. Spruce Street.

If the City Council agrees with the recommendation of the Planning and Zoning Commission the following amendment to Resolution 2023-49 is in order.

Motion

- Amend the Title to read:

“A RESOLUTION DECLARING THE RIGHTS-OF-WAY OF CHAR CIRCLE AS DEDICATED ON PARK VIEW SUBDIVISION (PLAT NO. KN 79-156) AND CITY PARK SUBDIVISION NO. 2 (PLAT NO. KN 2007-149) ~~[AND A PORTION OF S. SPRUCE STREET AS DEDICATION ON PARK VIEW SUBDIVISION (PLAT NO. KN 79-156) ARE]~~ IS NO LONGER NEEDED FOR A PUBLIC PURPOSE AND CONSENTING TO VACATION OF THE RIGHT~~[S]~~-OF-WAY.”

- Amend the third Whereas clause to read:

“WHEREAS, the total area of the right of way vacation~~[s]~~ is approximately ~~[0.719]~~0.39-acre of Char Circle as shown in Exhibit A; and,”

- Amend the sixth Whereas clause to read:

“WHEREAS, the right-of-way vacation~~[s]~~ of Char Circle ~~[AND A PORTION OF S. SPRUCE STREET]~~ will not negatively affect public access; and,”

- Amend the seventh Whereas clause to read:

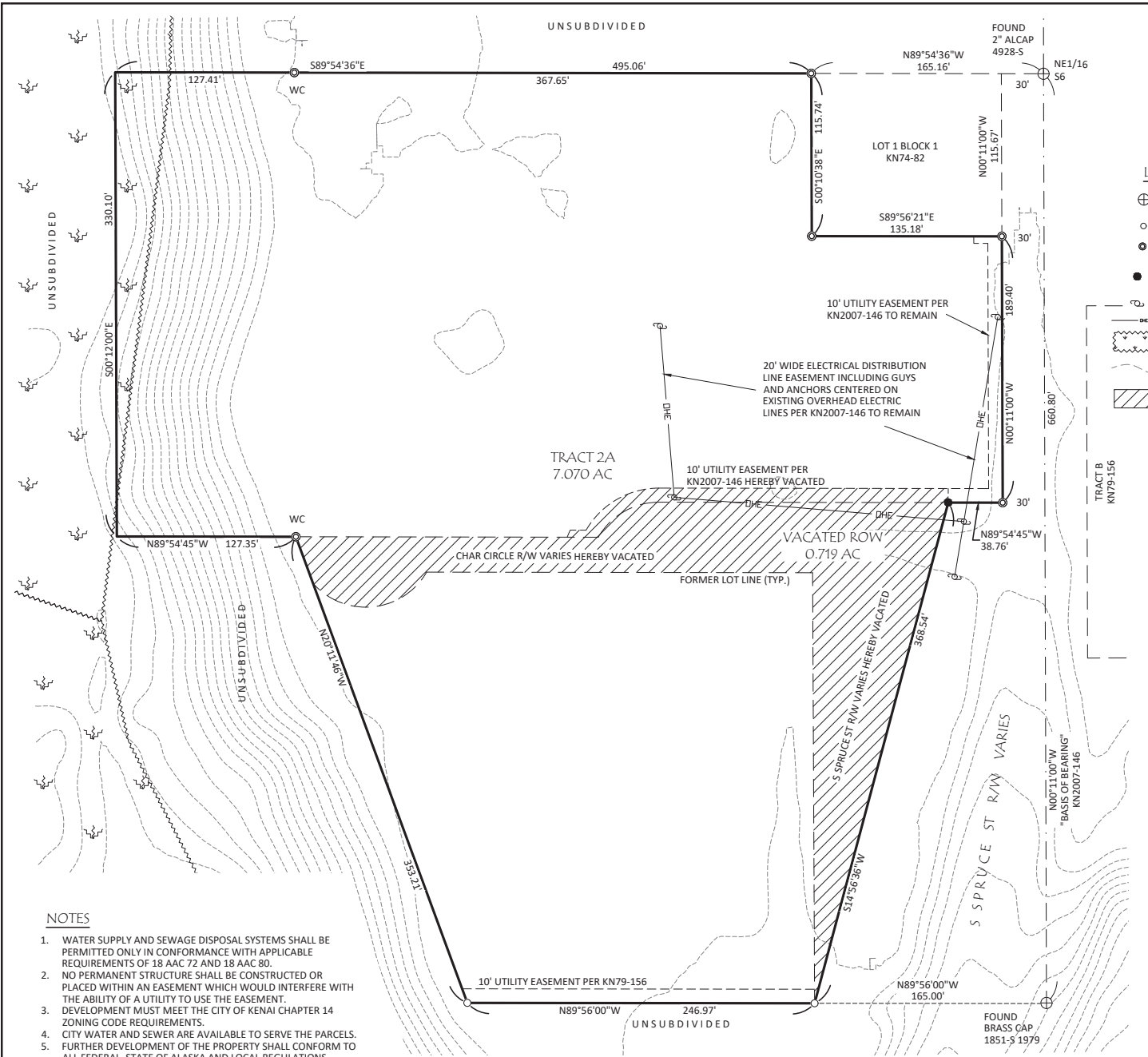
“WHEREAS, it is determined that Char Circle ~~[AND A PORTION OF S. SPRUCE STREET]~~ as identified in Exhibit A ~~[ARE]~~ is no longer needed for a public purpose.”

- Amend Section 1, to read:

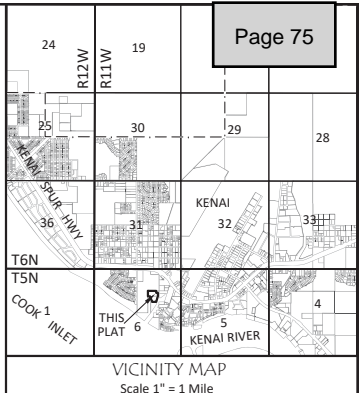
“That Char Circle as dedicated on Park View Subdivision (Plat No. KN 79-156) and City Park Subdivision No. 2 (Plat No. KN 2007-149) ~~[AND A PORTION OF S. SPRUCE STREET AS DEDICATION DEDICATED ON PARK VIEW SUBDIVISION (PLAT NO. KN 79-156) ARE]~~ is no longer needed for a public purpose and consenting to vacation of the right~~[s]~~-of-way as identified in Exhibit A.”

Thank you for your consideration.

EXHIBIT A



- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 5/8" REBAR
 - FOUND 2" ALCAP 4928-S
 - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S
 - POWER POLE
 - OVERHEAD ELECTRIC
 - ▨ AREA SUBJECT TO INUNDATION
 - - - CONTOUR INTERVAL = 4'
 - ▨ R/W HEREBY VACATED



CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT BOYS AND GIRLS CLUB OF THE KENAI PENINSULA IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF BOYS AND GIRLS CLUB OF THE KENAI PENINSULA, I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

JEFF DOLIFKA - BOARD PRESIDENT
BOYS AND GIRLS CLUB OF THE KENAI PENINSULA, OWNER TRACT A KN2007-146
320 S SPRUCE ST, KENAI, AK 99611

NOTARY'S ACKNOWLEDGEMENT

FOR: JEFF DOLIFKA
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2023
MY COMMISSION EXPIRES: _____

NOTARY PUBLIC FOR THE STATE OF ALASKA



Plat #

Rec Dist _____

Date _____ 20__

Time _____ M

- NOTES**
1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
 2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
 3. DEVELOPMENT MUST MEET THE CITY OF KENAI CHAPTER 14 ZONING CODE REQUIREMENTS.
 4. CITY WATER AND SEWER ARE AVAILABLE TO SERVE THE PARCELS.
 5. FURTHER DEVELOPMENT OF THE PROPERTY SHALL CONFORM TO ALL FEDERAL, STATE OF ALASKA AND LOCAL REGULATIONS.

WASTEWATER DISPOSAL
PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

PLAT APPROVAL
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2023.

AUTHORIZED OFFICIAL _____

CITY PARK SUBDIVISION 2023 REPLAT
A RESUBDIVISION OF TRACT A PARK VIEW SUBDIVISION KN79-156 AND TRACT A CITY PARK SUBDIVISION No.2 KN2007-146 AND THE ASSOCIATED R/W VACATION OF CHAR CIRCLE AND S SPRUCE STREET

CITY OF KENAI
OWNER TRACT A KN79-156
210 FIDALGO AVE STE 200, KENAI, AK 99611

BOYS AND GIRLS CLUB OF THE KENAI PENINSULA
OWNER TRACT A KN2007-146
320 S SPRUCE ST, KENAI, AK 99611

7.070 AC - SITUATED IN THE NE1/4 SECTION 6, TOWNSHIP 5 NORTH, RANGE 11 WEST, SEWARD MERIDIAN, CITY OF KENAI, KENAI PENINSULA BOROUGH AND KENAI RECORDING DISTRICT, ALASKA.

ENGINEERING - TESTING SURVEYING - MAPPING
P.O. BOX 468
SOLDOTNA, AK 99669
VOICE: (907) 283-4218
FAX: (907) 283-3265
WWW.MCLANECG.COM

Project No. 232006

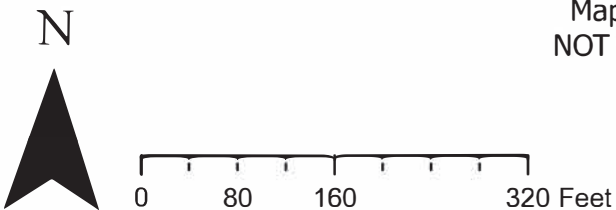
Scale: 1" = 50' Date: APR 2023 BOOK: XX-XX Drawn by: JAH

Resolution No. 2023-49 Right-of-Way Vacations of Char Circle and a Portion of S. Spruce Street



Date Printed: 7/25/2023

Map for Reference Only
NOT A LEGAL DOCUMENT



July 20th, 2023

City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611

Planning & Zoning


The Boys & Girls Clubs of the Kenai Peninsula is grateful to continue our partnership with the City of Kenai on our new headquarters campus. We are excited to implement the first phase of many capital projects to come.

The ROW vacation will enable the Club to maximize development as discussed during the City's land donation. The ROW vacation will not impact the public travel and will accommodate private access to an adjacent parcel.

Pending improvement include a new commercial kitchen, multi-purpose field, a 10,000 square foot Clubhouse, and a building expansion for early childcare education center (Opening in 2024!)

Thanks to your support, in 2022, our seven Clubs and athletic department served 2,500 youth in 5 communities. In, addition, we provided 62,000 meals after-school and during times schools were not in session, including winter, spring and summer camps; you have enabled us to provide essential resources and programs.

Sincerely,


Jeff Dolifka, Board President
Boys & Girls Clubs of the Kenai Peninsula



**BOYS & GIRLS CLUBS
OF THE KENAI PENINSULA**

Programs Office
320 S. Spruce Street
Kenai, Alaska 99611
907.283.2882
www.bgckp.com

Club Locations

Kasilof
Kenai
Kenai Teen Center
Nikiski
Nikiski Jr. /Sr. High
Seward
Soldotna

Board of Directors

Jeff Dolifka, President
Tim Redder, Vice President
Lela Rosin, Treasurer
Kyle Komelis, Secretary
Chris Hough, Past President
Mike Navarre
Sen. Peter Micciche
Kaarlo Wik
Ryan Tunseth
Kristen Lee
Shanda Richards
Melodie Allen
Katie Elsner

Honorary Board of Trustees

Rep, Mike Chenault

Executive Director

Shanette Wik

Cornerstone Sponsors



SOLDOTNA
City of Soldotna, Alaska



Ambassador of Youth



Champion of Youth





**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ2023-13**

A RESOLUTION **RECOMMENDING** THAT CITY PARK SUBDIVISION 2023 REPLAT PRELIMINARY PLAT ATTACHED HERETO BE APPROVED.

PROPERTY ADDRESSES: 320 and 330 S. Spruce Street

LEGAL DESCRIPTIONS: Tract A, Park View Subdivision (Plat No. KN 79-156) and Tract A, City Park Subdivision No. 2 (Plat No. KN 2007-149)

KPB PARCEL NUMBERS: 04701018, -28

WHEREAS, the City of Kenai received a preliminary plat from McLane Consulting, Inc. on behalf of the property owner, Boys & Girls Club of the Kenai Peninsula; and,

WHEREAS, the plat meets Kenai Municipal Code (KMC) preliminary plat requirements and development requirements for the Suburban Residential (RS) and Urban Residential (RU) zoning districts; and

WHEREAS, the street name is referenced correctly; and,

WHEREAS, the merged parcels will have access via S. Spruce Street, which is a City-maintained road; and

WHEREAS, City water and sewer lines are available to the proposed parcel; and,

WHEREAS, an installation agreement is not required; and,

WHEREAS, the Planning and Zoning Commission recommends City Council approve the vacation of Char Circle and exclude the portion of S. Spruce Street; and,

WHEREAS, the Planning and Zoning Commission finds:

1. Pursuant to KMC 14.10.070 *Subdivision design standards*, the plat conforms to the minimum street widths, easements are sufficiently provided for utilities, the proposed subdivision would provide satisfactory and desirable building site, and the on-site water and sewer system will be subject to the regulatory requirements of the Public Works Department.
 2. Pursuant to KMC 14.24.010 *Minimum lot area requirements*, the proposed parcel meet City standards for minimum lot sizes in the subject zoning districts.
-

- 3. Pursuant to KMC 14.24.020 *General Requirements*, the proposed parcel meet City standards for minimum lot width and utility easements. Compliance with the maximum lot coverage, maximum height, and setbacks will be reviewed during the building permit review.

NOW, THEREFORE, BE IT RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That the preliminary plat of City Park Subdivision 2023 Replat for a parcel merger of Tract A, City Park Subdivision No. 2 and Tract A, Park View Subdivision with right-of-way vacation of Char Circle be approved subject to the following condition.

- 1. Kenai City Council must consent to the vacation of a City right-of-way is not needed for a public purpose and approve the vacation of Char Circle and exclude the portion of S. Spruce Street.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 26th day of July, 2023.

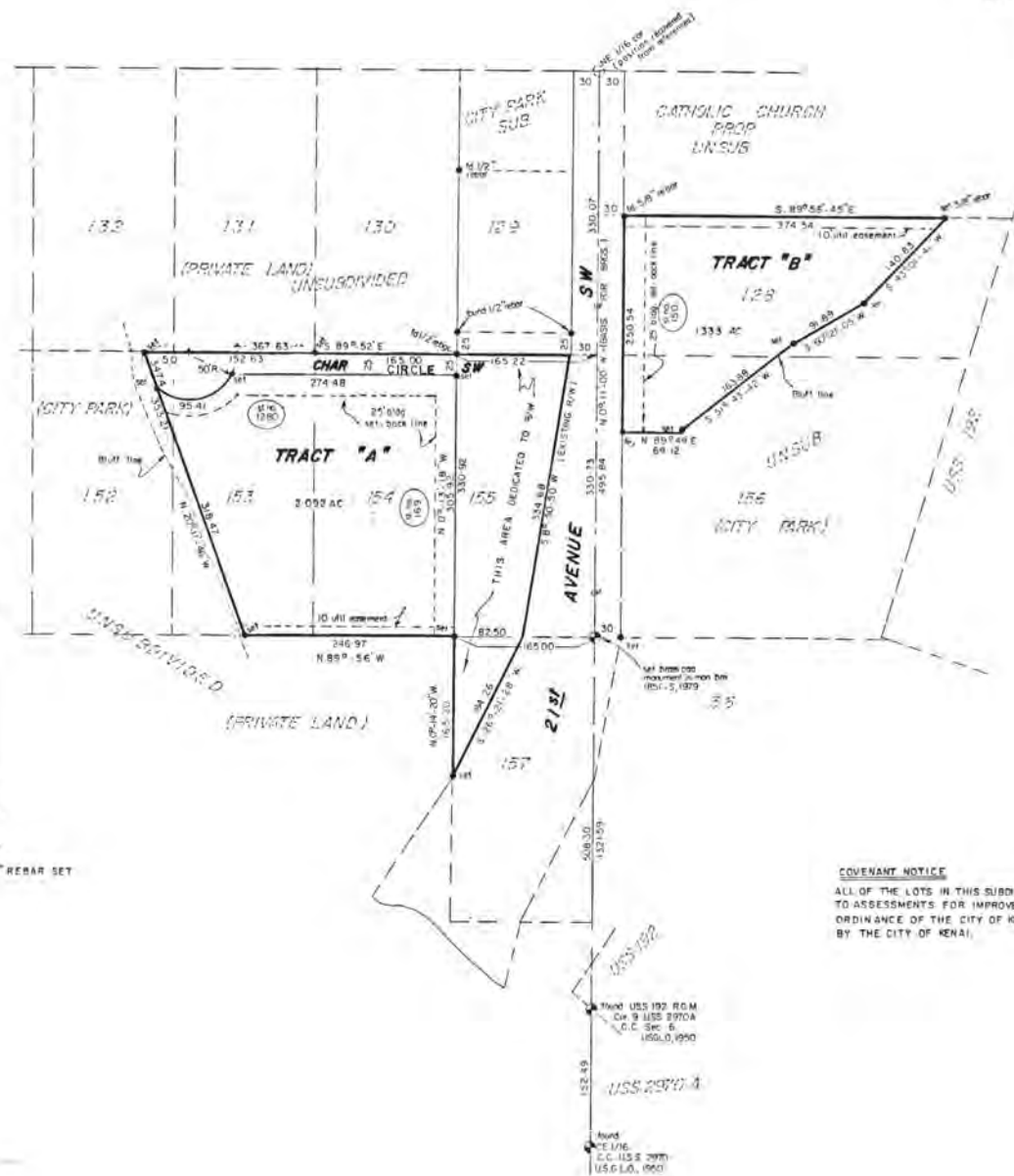
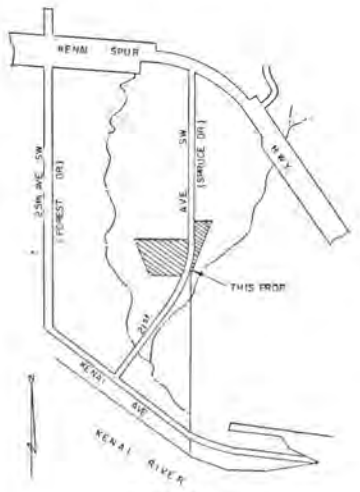
JEFF TWAIT, CHAIRPERSON

ATTEST:

Meghan Thibodeau, Deputy City Clerk

PARK VIEW SUBDIVISION

LOCATED WITHIN B.L.M. LOTS 128, 8
152-157, (ALL WITHIN THE NE 1/4)
SEC. 6, T.5 N., R.11 W., S.M., CITY OF KENAI, AK.
4652 AC. TOTAL AREA



CERTIFICATE OF OWNERSHIP & DEDICATION
I HEREBY CERTIFY THAT THE CITY OF KENAI IS THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, AND THAT THIS SUBDIVISION IS MADE WITH THE CONSENT OF THE CITY. I FURTHER CERTIFY THAT THE CITY OF KENAI DOES HEREBY DEDICATE TO PUBLIC USE AND THE USE OF PUBLIC UTILITIES, THE STREETS, AND EASEMENTS, AS SHOWN.

Eric Brown
CITY MANAGER

SWORN AND SUBSCRIBED TO BEFORE ME, A NOTARY PUBLIC, THIS 20th DAY OF September, 1979.

Janice P. Taylor
ROBERT PUBLIC
MY COMMISSION EXPIRES 2/20/83

PLAT APPROVAL
THIS PLAT, HAVING BEEN APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AS RECORDED IN THE OFFICIAL MINUTES OF THE MEETING OF June 12, 1979, IS HEREBY ACKNOWLEDGED AND ACCEPTED AS THE OFFICIAL PLAT, SUBJECT TO ANY AND ALL CONDITIONS AND REQUIREMENTS OF ORDINANCES AND LAW APPLICABLE THERE TO.

KENAI PENINSULA BOROUGH
By *Phyllis Waring*

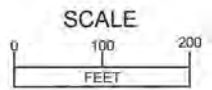
NOTE: ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAW AT TIME OF CONSTRUCTION.

COVENANT NOTICE
ALL OF THE LOTS IN THIS SUBDIVISION SHALL BE SUBJECT TO ASSESSMENTS FOR IMPROVEMENTS REQUIRED BY ORDINANCE OF THE CITY OF KENAI, WHEN INSTALLED BY THE CITY OF KENAI.

79-156
 APPROVED - [] 3"
 Kenai DIST.
 DATE 9-21 1979
 TIME 3:56 P.M.
 BY KPB



PARK VIEW SUBDIVISION	
CITY OF KENAI, BOX 560, KENAI, ALASKA 99511	
MALONE SURVEYING BOX 566 KENAI, ALASKA 99511	
DATE: 5-21-79	BY: [Signature] DRN: RJM CKD: HM



NOTES

- 1) Water supply and sewage disposal systems shall be permitted only in conformance with applicable requirements of 18 AAC 72 and 18 AAC 80.
- 2) No direct access to state maintained ROWs permitted unless approved by State of Alaska Department of Transportation and Public Facilities.
- 3) No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
- 4) The front ten (10) feet along street rights of ways and the front twenty (20) feet within five (5) of the side lot lines is also a utility easement unless shown otherwise.
- 5) Development is subject to the City of Kenai Title 14 Zoning Code.
- 6) The existing overhead electric line is the centerline of a twenty (20) foot wide electrical distribution line easement including guys and anchors.
- 7) Survey monumentation to be completed prior to June 1, 2008.

WASTEWATER DISPOSAL

Plans for wastewater disposal that meet regulatory requirements are on file at the Department of Environmental Conservation.

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BEARING
C1	52.36	50.00	80°00'00"	28.87	50.00	S60°05'15"W

NOTARY'S ACKNOWLEDGEMENT

FOR: ERIC DERLETH
 Subscribed and sworn before me this 19th day of DECEMBER, 2007.
 My commission expires 10/15/2011

Bethany Olson
 Notary Public for the State of Alaska
BETHANY OLSON
 NOTARY PUBLIC
 My Comm. Exp. 10/15/2011

NOTARY'S ACKNOWLEDGEMENT

FOR: Linda Hutchings
 Subscribed and sworn before me this 21st day of DECEMBER, 2007.
 My commission expires 11/09/2011
Linda Hutchings
 Notary Public for the State of Alaska

CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of the real property shown and described hereon and we hereby adopt this plan of subdivision and by our free consent dedicate all rights-of-way and public areas to public use and grant all easements to the use shown.

Eric Derleth
 Eric Derleth, President
 KPCCG Group, Inc., An Alaskan Non-Profit Corporation

Linda Hutchings
 Linda Hutchings, Treasurer
 KPCCG Group, Inc., An Alaskan Non-Profit Corporation

LEGEND

- BLM monument as described
 - Found 1/2" diam. rebar
 - Set 5/8" x 30" diam. rebar w/ 2" diam. alum. cap 4928-S
 - Primary survey monument as described
- () Record data BLM [] KN 79-15B [] KN 74-82

PLAT APPROVAL

This plat was approved by the KENAI PENINSULA BOROUGH PLANNING COMMISSION at the meeting of August 13, 2007.

KENAI PENINSULA BOROUGH by *M. M. Scott*
 Authorized Official



2007-146
 Kenai REC. DIST.
 Date 12-28-07
 Title 1:39 P
 Requested by McLANE
 Address _____

CITY PARK SUBDIVISION No. 2

A REPLAT OF THE REMAINDER OF LOT 129, AND LOTS 130, 131, AND 132

KPCCG Inc.
 320 S. Spruce St. Kenai AK 99511

LOCATION
 4.584 acres ML situated in the Lots 129, 130, 131, and 132, Section 6, T6N, R11W, S.M., AK, the City of Kenai, Kenai Peninsula Borough and the Kenai Recording District.

ENGINEERING - TESTING SURVEYING - MAPPING P.O. BOX 468 SOLDOTNA, AK 99589 VOICE (907) 383-2118 FAX: (907) 383-3265 WWW.MCLANECG.COM	KPB FILE NO. 2007-207
	PROJECT NO. 072029

SCALE: 1" = 100' DATE: OCT 07' BOOK NO.: 07-09 DRAWN BY: BAM



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Terry Eubank, City Manager

FROM: Linda Mitchell, Planning Director

DATE: September 14, 2023

SUBJECT: **Resolution No. 2023-49 Requested Amendment**

The purpose of this memo is to request an amendment to Resolution No. 2023-49 to reflect subsequent actions taken by City Council and Planning and Zoning Commission, and the change in the area of the right-of-way (ROW) vacations.

At the regular scheduled City Council meeting of August 2, 2023, Council postponed Resolution No. 2023-49 to September 6, 2023 at the request of an affected property owner to address concerns on access with the Boys & Girls Club of the Kenai Peninsula to their property.

At the regular scheduled City Council meeting of September 6, 2023, Council granted a postponement to bring the matter back to Planning and Zoning Commission at their September 13, 2023 meeting for their recommendation on the newly requested revision to the ROW vacations

At the regular scheduled Planning and Zoning Commission meeting of September 13, 2023, the Planning and Zoning Commission passed Resolution PZ2023-17 recommending that Kenai Peninsula Borough Planning Commission approve the preliminary plat for City Park 2023 Replat with vacations of Char Circle and a portion of S. Spruce Street.

The area of the ROW vacations has slightly increased from 0.719-acre to 0.96-acre and within the ROW vacation of S. Spruce Street, there will be a 50-foot in width, non-exclusive access and utility easement to provide suitable access for the adjacent/affected property to the south, 420 S. Spruce Street.

The amendments on the following page are respectfully requested.

Motion

- Amend the third Whereas clause to read:

WHEREAS, the total area of the right-of-way vacations is approximately [0.719] 0.96-acre as shown in Exhibit A; and,

- Add fourth Whereas clause to read:

WHEREAS, on August 2, 2023, City Council postponed Resolution No. 2023-49 to September 6, 2023 at the request of an affected property to address concerns on access with the Boys & Girls Club of the Kenai Peninsula; and,

- Add fifth Whereas clause to read:

WHEREAS, on September 6, 2023, a postponement was granted by Council to bring the matter back to Planning and Zoning Commission at their September 13, 2023 meeting for their recommendation on the revision to the ROW vacations; and,

- Add sixth Whereas clause to read:

WHEREAS, on September 13, 2023, the Planning and Zoning Commission passed Resolution PZ2023-17 recommending that Kenai Peninsula Borough Planning Commission approve the preliminary plat for City Park 2023 Replat with vacations of Char Circle and a portion of S. Spruce Street; and,

New Text Underlined; [DELETED TEXT BRACKETED]

Thank you for your consideration.

Attachments

Exhibit A – Proposed Right-of-Way Vacations

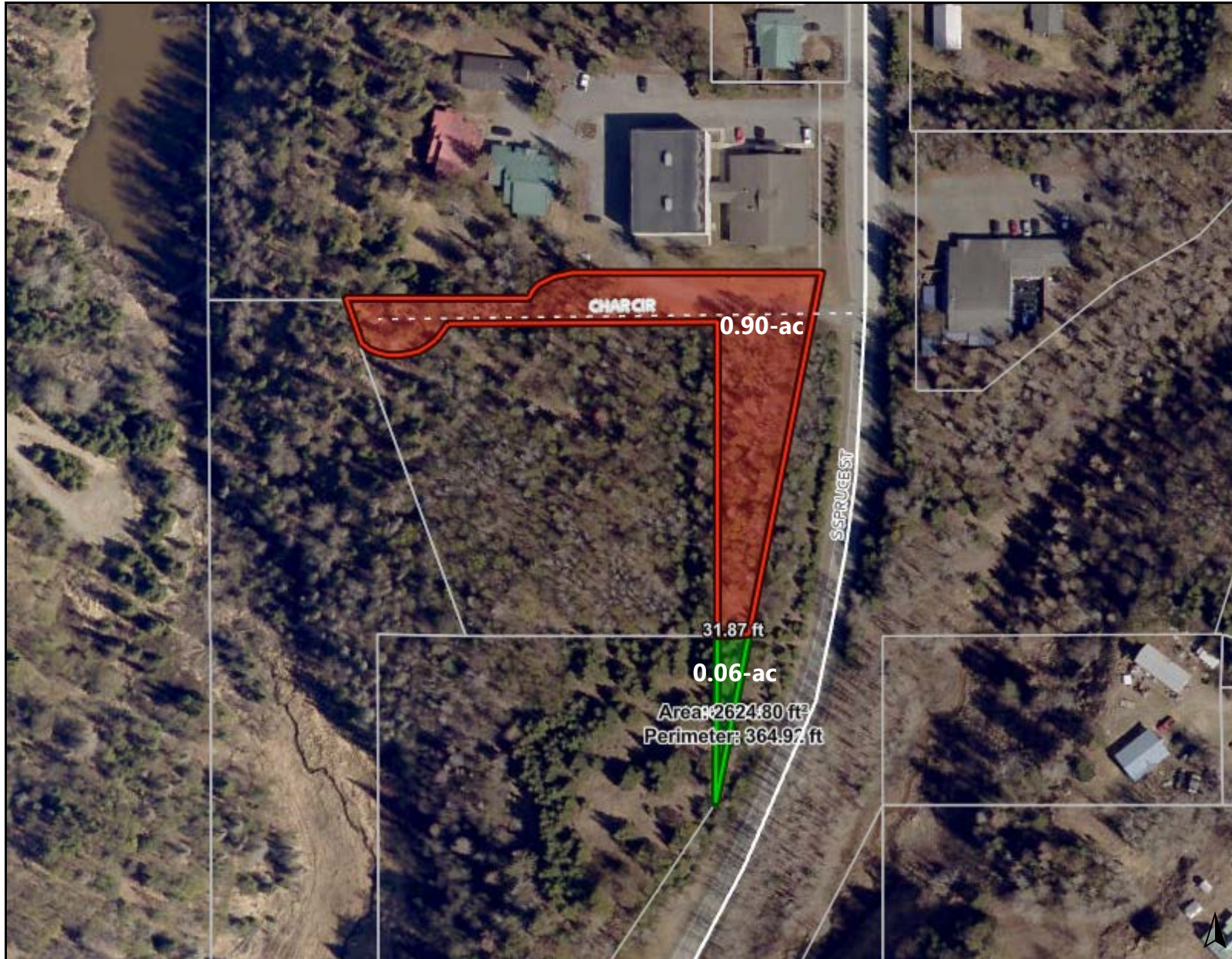
Aerial Map

Resolution PZ2023-17



EXHIBIT A

Resolution No. 2023-49 - ROW Vacations



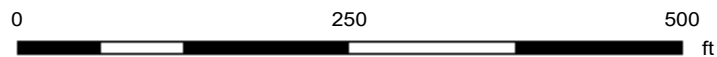
Legend

Mileposts



Parcels and PLSS

Tax Parcels

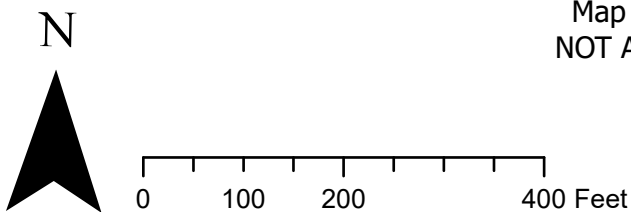
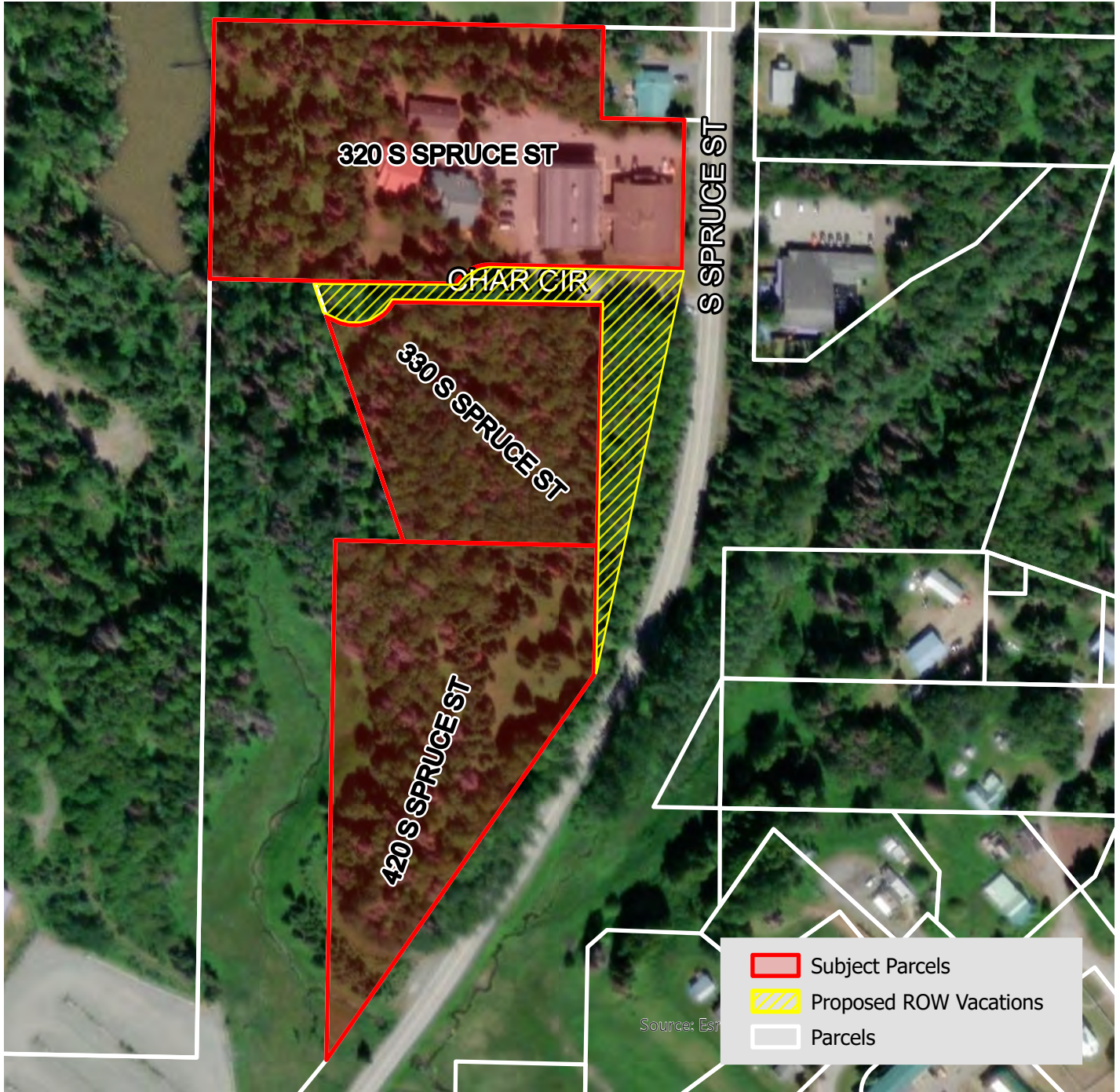


This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



Resolution No. 2023-49 Right-of-Way Vacations of Char Circle and a Portion of S. Spruce St.



Map for Reference Only
NOT A LEGAL DOCUMENT

Date Printed: 9/14/2023



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ2023-17**

A RESOLUTION RECOMMENDING THAT CITY PARK SUBDIVISION 2023 REPLAT PRELIMINARY PLAT ATTACHED HERETO BE APPROVED.

PROPERTY ADDRESSES: 320, 330, and 420 S. Spruce Street

LEGAL DESCRIPTIONS: Tract A, Park View Subdivision (Plat No. KN 79-156), Tract A, City Park Subdivision No. 2 (Plat No. KN 2007-149), and West Half of the East Half of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (W1/2 E1/2 SE1/4 SW1/4 NE1/4) and East Half of the West Half of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (E1/2 W1/2 SE1/4 SW1/4 NE1/4) of Section 6, Township 5 North, Range 11 West, Seward Meridian lying Northwesterly of S. Spruce Street.

KPB PARCEL NUMBERS: 04701005, -18, and -28

WHEREAS, the City of Kenai received a revised preliminary plat from McLane Consulting, Inc. on behalf of the property owner, Boys & Girls Club of the Kenai Peninsula for a parcel merger of Tract A, City Park Subdivision No. 2 and Tract A, Park View Subdivision with right-of-way vacations of Char Circle and a portion of S. Spruce Street, and execute a 50-foot in width, non-exclusive access and utility easement to benefit the adjacent property to the south, 420 S. Spruce Street; and,

WHEREAS, the preliminary plat, subject to the listed conditions, generally meets Kenai Municipal Code (KMC) preliminary plat requirements and development requirements for the Suburban Residential (RS) and Urban Residential (RU) zoning districts; and

WHEREAS, the street name is referenced correctly; and,

WHEREAS, the parcels will have access from the 50-foot non-exclusive easement to S. Spruce Street, which is a City-maintained road; and

WHEREAS, City water and sewer lines are available to the parcels; and,

WHEREAS, an installation agreement is not required; and,

WHEREAS, the Planning and Zoning Commission finds:

1. Pursuant to KMC 14.10.070 *Subdivision design standards*, the preliminary plat, subject to the listed conditions, conforms to the minimum street widths, provides utilities/access easements, provides satisfactory and desirable building sites, and the on-site water and

Resolution No. PZ2023-17
Page 2 of 3

sewer systems will be subject to the regulatory requirements of the Public Works Department.

2. Pursuant to KMC 14.24.010 *Minimum lot area requirements*, the preliminary plat meets City standards for minimum lot sizes in the subject zoning districts.
3. Pursuant to KMC 14.24.020 *General Requirements*, the preliminary plat meets City standards for minimum lot width and access/utility easements. Compliance with the maximum lot coverage, maximum height, and setbacks will be reviewed during the building permit review.
4. The execution of a 50-foot in width, non-exclusive access and utility easement between the affected parties provides adequate access for the future development/uses of the subject parcels.

NOW, THEREFORE, BE IT RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That the preliminary plat of City Park Subdivision 2023 Replat for a parcel merger of Tract A, City Park Subdivision No. 2 and Tract A, Park View Subdivision with right-of-way vacations of Char Circle and the portion of S. Spruce Street be approved subject to the following conditions.

1. The portion of S. Spruce Street to be vacated lies west of a straight line, starting at the southeast corner of Tract A, City Park Subdivision No. 2 and ending at the southernmost point of the dedicated S. Spruce Street in the Park View Subdivision.
2. Tract 2A will receive the vacation of S. Spruce Street on Government Lot 155.
3. Revised the preliminary plat to include the adjacent parcel located at 420 S. Spruce Street (KPB Parcel No. 04701005) and identified as "Tract 2B" to receive the vacation of S. Spruce Street on Government Lot 157.
4. Include a Certificate of Ownership and Dedication for the parcel located at 420 S. Spruce Street (KPB Parcel No. 04701005).
5. Update the ownership under the Certificate of Ownership and Dedication, Notary's Acknowledgement, and Title Block for Tract A KN79-156.
6. Kenai City Council must consent to the right-of-way (ROW) vacations of Char Circle and a portion of S. Spruce Street are not needed for a public purpose and approve the ROW vacations as delineated on Exhibit A.
7. Execute a 50-foot in width, non-exclusive access and utility easement from Tract 2B to S. Spruce Street.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,
THIS 13TH DAY OF SEPTEMBER, 2023.

Resolution No. PZ2023-17
Page 3 of 3

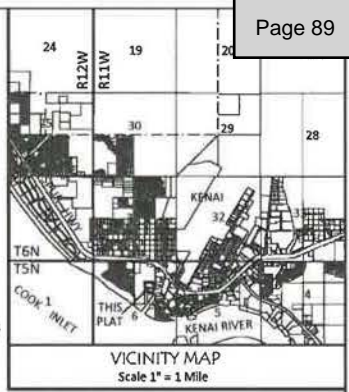
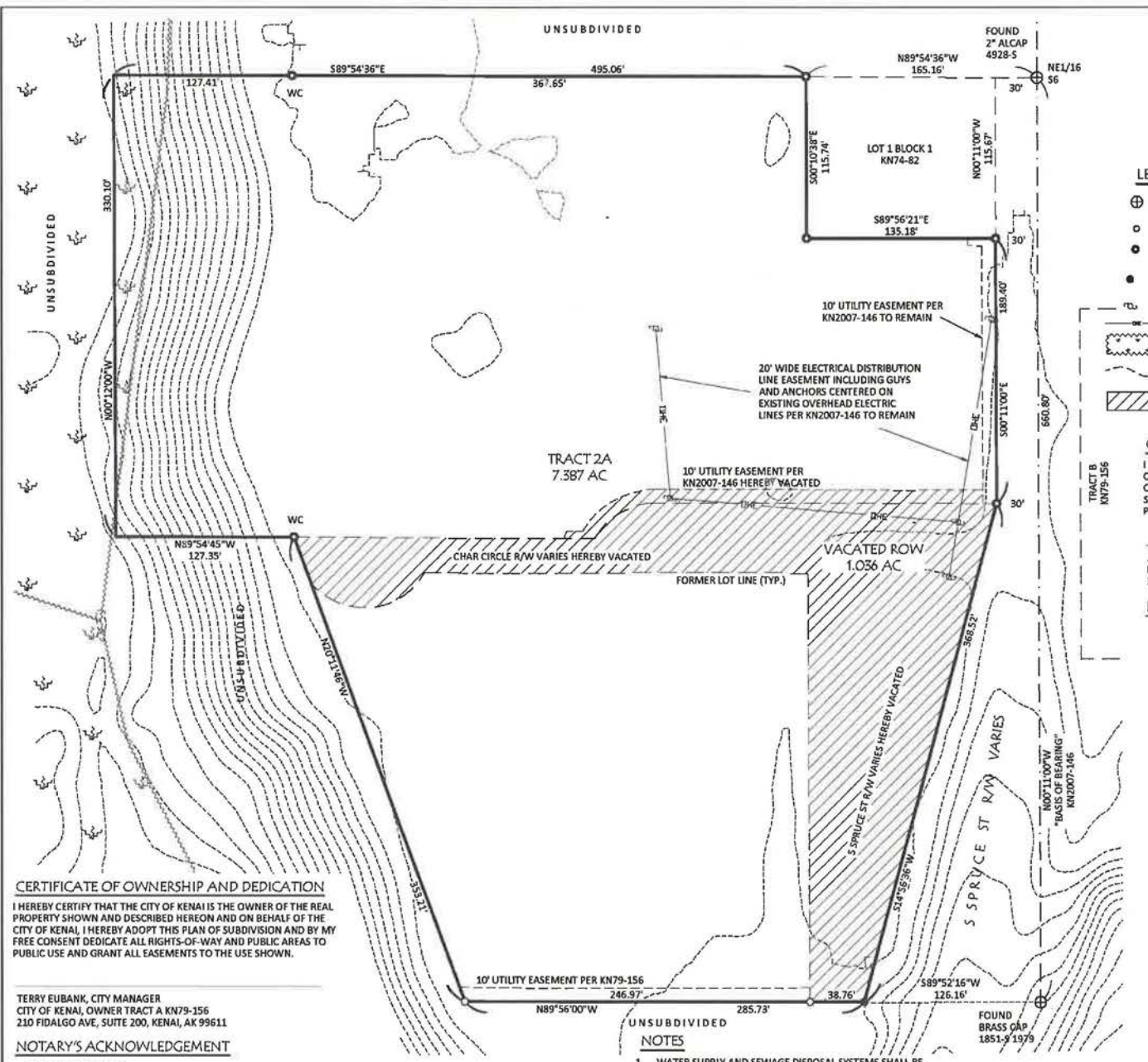


Jeff Twait, Chairperson

ATTEST:



Meghan Thibodeau, Deputy City Clerk



- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 5/8" REBAR
 - FOUND 2" ALCAP 4928-S
 - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP #5032-S
 - ⚡ POWER POLE
 - OVERHEAD ELECTRIC
 - ▨ AREA SUBJECT TO INUNDATION
 - CONTOUR INTERVAL = 4'
 - ▨ R/W HEREBY VACATED

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT BOYS AND GIRLS CLUB OF THE KENAI PENINSULA IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF BOYS AND GIRLS CLUB OF THE KENAI PENINSULA, I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

JEFF DOLIFKA - BOARD PRESIDENT
BOYS AND GIRLS CLUB OF THE KENAI PENINSULA, OWNER TRACT A KN2007-146
320 S SPRUCE ST, KENAI, AK 99611

NOTARY'S ACKNOWLEDGEMENT

FOR: JEFF DOLIFKA
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2023
MY COMMISSION EXPIRES: _____
NOTARY PUBLIC FOR THE STATE OF ALASKA



Plat #

Rec Dat _____

Date _____

Time _____

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT THE CITY OF KENAI IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF THE CITY OF KENAI, I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

TERRY EUBANK, CITY MANAGER
CITY OF KENAI, OWNER TRACT A KN79-156
210 FIDALGO AVE, SUITE 200, KENAI, AK 99611

NOTARY'S ACKNOWLEDGEMENT

FOR: TERRY EUBANK
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2023
MY COMMISSION EXPIRES: _____
NOTARY PUBLIC FOR THE STATE OF ALASKA

WASTEWATER DISPOSAL
PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

NOTES

1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. DEVELOPMENT MUST MEET THE CITY OF KENAI CHAPTER 14 ZONING CODE REQUIREMENTS.
4. CITY WATER AND SEWER ARE AVAILABLE TO SERVE THE PARCELS. FURTHER DEVELOPMENT OF THE PROPERTY SHALL CONFORM TO ALL FEDERAL, STATE OF ALASKA AND LOCAL REGULATIONS.

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2023.

AUTHORIZED OFFICIAL

CITY PARK SUBDIVISION 2023 REPLAT
A RESUBDIVISION OF TRACT A PARK VIEW SUBDIVISION KN79-156 AND TRACT A CITY PARK SUBDIVISION No. 2 KN2007-146 AND THE ASSOCIATED R/W VACATION OF CHAR CIRCLE AND S SPRUCE STREET
CITY OF KENAI
OWNER TRACT A KN79-156
210 FIDALGO AVE STE 200, KENAI, AK 99611
BOYS AND GIRLS CLUB OF THE KENAI PENINSULA
OWNER TRACT A KN2007-146
320 S SPRUCE ST, KENAI, AK 99611
7.387 AC - SITUATED IN THE NE1/4 SECTION 6, TOWNSHIP 5 NORTH, RANGE 11 WEST, SEWARD MERIDIAN, CITY OF KENAI, KENAI PENINSULA BOROUGH AND KENAI RECORDING DISTRICT, ALASKA.



Scale: 1" = 50'	Date: APR 2023	BOOK: XX-XX	Drawn by: JAH
Project No. 232006		KP# File No. 2023-xxxx	



EXHIBIT A

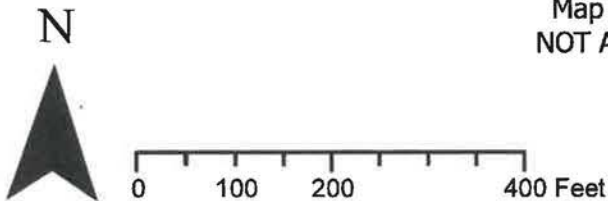
Resolution No. 2023-17

Right-of-Way Vacations of Char Circle and a Portion of S. Spruce Street



Date Printed: 9/9/2023

Map for Reference Only
NOT A LEGAL DOCUMENT



PAYMENTS OVER \$35,000.00 WHICH NEED COUNCIL RATIFICATION
COUNCIL MEETING OF: SEPTEMBER 20, 2023

VENDOR	DESCRIPTION	DEPARTMENT	ACCOUNT	AMOUNT
PERS	PERS	VARIOUS	LIABILITY	108,680.49
HOMER ELECTRIC	ELECTRIC USAGE	VARIOUS	UTILITIES	102,550.14

INVESTMENTS

VENDOR	DESCRIPTION	MATURITY DATE	AMOUNT	Effect. Int.
---------------	--------------------	----------------------	---------------	---------------------

PURCHASE ORDERS OVER \$35,000.00 WHICH NEED COUNCIL APPROVAL
 COUNCIL MEETING OF: SEPTEMBER 20, 2023

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
--------	-------------	-------	---------	--------

INCREASE OF EXISTING PURCHASE ORDER

VENDOR	DESCRIPTION	P.O. # - DEPT.	REASON	AMOUNT	TOTAL PO AMT
BLAZY CONSTRUCTION	FRONTAGE RD. SIDEWALK REPAIR	127371 - STREETS	C/O #1	12,443.10	47,385.10



MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Terry Eubank, City Manager
FROM: Scott Curtin, Public Works Director
DATE: September 13, 2023
SUBJECT: Purchase Order 127371

The purpose of this memo is to request an increase to Blazy Construction’s Purchase Order 127371 in the original amount of \$34,942 to now include costs associated with Change Order 1 of \$12,443.10 for a total purchase order amount of \$47,385.10.

This Purchase Order is for the work associated with the Frontage Rd. sidewalk repairs. The additional costs were associated with repair of a broken water service key box, repairs to the columns, and additional excavation and fill to remove unsuitable materials deeper than originally anticipated.





KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

FROM: Shellie Saner, City Clerk

DATE: September 11, 2023

SUBJECT: **October 3, 2023 Regular City Election – Precinct Election Boards**

Pursuant to Kenai Municipal Code 6.20.020(a), the Clerk, subject to approval by the Council shall appoint an election board of at least four judges in a precinct. The following persons have consented to serve as election officials, Council approval is respectfully requested.

Kenai No. 1, 07-015	Kenai No. 2, 07-020	Kenai No. 3, 07-025
Carol Freas	Barbara Norbeck	Sharon Efta
Kit Hill	Jennifer Ticknor	Deborah Sounart
Paul Klaben	Karen Monell	Mike Efta
Joan Seaman	Arlene "Susan" Smalley	Michael Sounart
Michelle Teates		
Virginia Walters		
Gwen Woodard		

Thank you for your consideration.



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Council Members

THROUGH: Mayor Gabriel

FROM: Shellie Saner, City Clerk

DATE: September 13, 2023

SUBJECT: Confirming the Appointment of Xinlan Tanner as Student Representative to City Council

Pursuant to Kenai City Council Student Representative Policy 20.100, Student Representative Applications and informational packet were distributed to Kenai Central High School, Kenai Alternative High School and Connections Homeschool. One application was received from Connections Homeschool student Xinlan Tanner.

Ms. Tanner meets the requirements for appointment as Student Representative to City Council. Mayor Gabriel has requested Council Confirmation of the following appointment:

Xinlan Tanner - Student Representative to City Council
Term September 20, 2023 - August 31, 2024

Your consideration is appreciated.



Application for
City of Kenai Student Representative

City Clerk's Office
 210 Fidalgo Avenue
 Kenai, Alaska 99611

Phone: 907-283-8246
 Fax: 907-283-5068
 Email: cityclerk@kenai.city

Commission, Committee or Council applying for, please select only one from the list below:

- | | |
|--|--|
| <input type="checkbox"/> Airport Commission | <input type="checkbox"/> Harbor Commission |
| <input type="checkbox"/> Beautification Committee | <input type="checkbox"/> Parks & Recreation Commission |
| <input checked="" type="checkbox"/> City Council <i>(must reside in City Limits)</i> | <input type="checkbox"/> Panning & Zoning Commission |
| <input type="checkbox"/> Council on Aging | |

Applicant Information:

Name: Xinlan Tanner Home Phone: [REDACTED]

Mailing Address: [REDACTED] Cell Phone: [REDACTED]

Residence Address: [REDACTED] Alt. Phone: [REDACTED]

Email Address: [REDACTED] Grade Level: 11

- Do you reside within the Kenai City Limits? Yes No
- Does your schedule permit you to attend required meetings? Yes No
- Are you a student in good standing at a School within Kenai City Limits? Yes No
 School attending: Connections Homeschool
- Are you a member of a leadership group or student council of your school? Yes No
 Identify your leadership group: student council
- If the Commission, Committee or Council you applied for is unavailable, would you be open to appointment to a different one. If yes, please indicate which ones by listing one or more in the order of preference for appointment.

- | | |
|----------------------------------|----------|
| 1. <u>Planning & Zoning</u> | 4. _____ |
| 2. <u>Beautification</u> | 5. _____ |
| 3. <u>Parks & Recreation</u> | 6. _____ |

****Complete Reverse Side****

Provide a brief statement describing your interest in serving as student representative to the Commission, Committee or Council you are applying for.

As a student representative, I would like to be more involved in the city's legislature and be able to learn about policies and serve my community in a larger way. I am applying to the City Council to realize this goal and sincerely hope to participate in making an impact for the betterment of Kenai.

Parent or Legal Guardians Approval

I, Haifei Tanner parent or legal guardian of Xitlan Tanner, understand that if appointed as a student representative my child will be required to attend regular meeting of the commission, committee or council appointed to during the regular school year. I further understand that the merits of my child may be discussed in a public forum during the appointment process and that the name of my child may be published in a newspaper or other media outlet.

Signature of Parent or Legal Guardian: [Signature] Date: 8/25/23

School Administration Approval

I confirm that the applicant is a student in good standing at Connections and that the school administration fully supports this appointment. ↑ Print School Name

Signature of Principal: [Signature] Date: 8/25/23

Students Affidavit

I understand that this is a voluntary, appointed position to be selected by the Mayor and confirmed by the City Council, and requires regular attendance at regular meetings. I further understand that this application is public information and the merits of my appointment may be discussed in a public forum. In addition, my name may be published in a newspaper or other media outlets.

Signature of Applicant: [Signature] Date: 08/25/23

FOR OFFICE USE ONLY		
Resident of the City:	<input checked="" type="checkbox"/> -Yes	<input type="checkbox"/> -No
Student in good standing at a School in City Limits:	<input checked="" type="checkbox"/> -Yes	<input type="checkbox"/> -No
Obtained Parent or Legal Guardians Permission:	<input checked="" type="checkbox"/> -Yes	<input type="checkbox"/> -No
Obtained School Administrations Permission:	<input checked="" type="checkbox"/> -Yes	<input type="checkbox"/> -No



Sponsored by: Administration

**CITY OF KENAI
ORDINANCE NO. 3371-2023**

AN ORDINANCE ACCEPTING AND APPROPRIATING FUNDS FROM THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES, PASSED THROUGH THE STATE OF ALASKA, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, DIVISION OF LIBRARY, ARCHIVES & MUSEUMS, FOR LIBRARY EMPLOYEE TRAINING.

WHEREAS, the Kenai Community Library has been awarded a federal grant for up to \$1,250 from the Institute of Museum and Library Services, passed through the State of Alaska, Department of Education and Early Development, Division of Library, Archives & Museums, for continuing education expenses; and,

WHEREAS, the funds will be used to reimburse travel costs related to a staff member's attendance at the Association for Small & Rural Libraries conference; and,

WHEREAS, it is in the best interest of the City of Kenai to appropriate these grant funds for the purpose intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. That the City Manager is authorized to accept this grant in the amount of \$1,250 and to execute grant agreements and to expend the grant funds to fulfill the purpose and intent of this Ordinance.

Section 2. That estimated Revenues and Appropriations be increased as follows:

General Fund:

Increase Revenues –	
Federal Grants -Library	<u>\$1,250</u>
Increase Appropriations –	
Library—Travel and Transportation	<u>\$1,250</u>

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 4TH DAY OF OCTOBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance:  _____

Introduced: September 20, 2023
Enacted: October 4, 2023
Effective: October 4, 2023



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Terry Eubank, City Manager
FROM: Katja Wolfe, Library Director
DATE: September 12, 2023
SUBJECT: **3371-2023 - Continuing Education Grant**

The State of Alaska, Department of Education and Early Development, Division of Library, Archives & Museums receives funds from the Institute of Museum and Library Services (IMLS) to pay for Continuing Education (CE) grants for Alaska library workers. These funds can be spent on travel, lodging, per diem and registration expenses for conferences and workshops.

The purpose of this ordinance is to accept and appropriate a CE grant from the IMLS, passed through the State of Alaska, Department of Education and Early Development, Division of Library, Archives & Museums, of up to \$1250 to reimburse the City of Kenai for a staff member's attendance at the annual Association for Small & Rural Libraries conference.

Thank you for your consideration.



Sponsored by: Administration

**CITY OF KENAI
ORDINANCE NO. 3372-2023**

AN ORDINANCE ACCEPTING AND APPROPRIATING A GRANT FROM THE STATE OF ALASKA FOR THE PURCHASE OF LIBRARY MATERIALS.

WHEREAS, the Kenai Community Library received the FY 2024 Public Library Assistance grant of \$7,000 from the State of Alaska, Department of Education and Early Development, Division of Library, Archives & Museums; and,

WHEREAS, the funds will be used to purchase library materials; and,

WHEREAS, it is in the best interest of the City of Kenai to appropriate these grant funds for the purpose intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. That the City Manager is authorized to accept this grant in the amount of \$7,000 and to execute grant agreements and to expend the grant funds to fulfill the purpose and intent of this Ordinance.

Section 2. That estimated Revenues and Appropriations be increased as follows:

General Fund:

Increase Estimated Revenues – Library—State Grants	<u>\$7,000</u>
Increase Appropriations – Library—Books	<u>\$7,000</u>

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 4TH DAY OF OCTOBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: DS

Introduced:	September 20, 2023
Enacted:	October 4, 2023
Effective:	October 4, 2023



KENAI

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MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Terry Eubank, City Manager

FROM: Katja Wolfe, Library Director

DATE: September 14, 2023

SUBJECT: **3372-2023 - Accepting and Appropriating a Grant for the Purchase of Library Materials**

The Library has been awarded the annual Public Library Assistance Grant by the State of Alaska, Department of Education and Early Development, Division of Library, Archives & Museums. As per the grant award, the amount of \$7,000 is to be used for the purchase of library materials.

The Library Director completes an application each year in order to receive these funds. Certain minimum standards must be met in order to receive this grant. These include reporting requirements on expenditures and collection statistics, the number of hours that the library is open to the public, minimum educational requirements for the Library Director and continuing education requirements.

Your consideration is appreciated.



Sponsored by: Baisden, Winger, Douthit

**CITY OF KENAI
ORDINANCE NO. 3373-2023**

AN ORDINANCE AMENDING KENAI MUNICIPAL CODE 14.20.330-STANDARD FOR COMMERCIAL MARIJUANA ESTABLISHMENTS TO PROHIBIT LICENSED RETAIL MARIJUANA ESTABLISHMENTS FROM SERVING CUSTOMERS THROUGH A WALK-UP OR DRIVE-THROUGH WINDOW.

WHEREAS, the City has adopted local regulations governing commercial marijuana establishments within the City as provided in KMC Chapter 14.20-Kenai Zoning Code; and,

WHEREAS, the State of Alaska has recently enacted new regulations allowing licensed retail marijuana establishments to serve customers through a walk-up or drive-through window unless prohibited by local law; and,

WHEREAS, concerns for public safety and practical enforceability of the new regulations outweigh any public benefit; and,

WHEREAS, at its regular meeting of September 27, 2023 the Planning and Zoning Commission recommended _____ of this ordinance; and,

WHEREAS, it is in the best interest of the City to prohibit licensed retail marijuana establishments from serving customers through a walk-up or drive-through window.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. Amendment of Section 14.20.330 of Kenai Municipal Code: That Kenai Municipal Code, Section 14.20.330-Standard for Commercial marijuana establishments is hereby amended as follows:

14.20.330 Standards for commercial marijuana establishments.

The purpose of this section is to establish general standards for commercial marijuana establishments.

- (a) Commercial marijuana establishments may be permitted or allowed with a conditional use permit under KMC 14.20.150, as provided in the City of Kenai’s Land Use Table, KMC 14.22.010, and the provisions of this section. On-site consumption endorsements may not be approved by conditional use permit or otherwise and are not permitted within the City. Serving customers through a walk-up or drive-through window is also prohibited.
- (b) Applicants applying for a conditional use permit must include an area map drawn to scale indicating all land uses on other properties within a five hundred (500) foot proximity of the lot upon which the applicant is seeking a conditional use permit. This shall be in addition to the conditional use permit submission requirements in KMC 14.20.150.
- (c) A public hearing shall be scheduled before the Planning and Zoning Commission to review the conditional use permit application once it has been deemed complete. The public hearing shall be scheduled in accordance with the requirements in KMC 14.20.280, except that notification shall be mailed to all real property owners on record on the Borough Assessor’s records within a five hundred (500) foot periphery of the parcel affected by the proposed action. The notice

periphery will be expanded until a minimum of thirty (30) different property owners are available for notification.

- (d) The preparation, packaging, manufacturing, processing, and storing of all marijuana, marijuana concentrate or marijuana products must be conducted within a fully enclosed, secure indoor facility. The growing and cultivating of marijuana must be conducted within a fully enclosed, secure indoor facility or greenhouse with view-obscuring rigid walls, a roof and doors, unless a nonrigid greenhouse, or other structure, is specifically approved, in which case the cultivation must be enclosed by a sight-obscuring wall or fence at least six (6) feet high.
- (e) All commercial marijuana establishments shall not emit an odor that is detectable by the public from outside the commercial marijuana establishment.
- (f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:
 - (1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (500) feet of any vocational programs, post-secondary schools, including but not limited to trade, technical, or vocational schools, colleges and universities, recreation or youth centers, correctional facilities, churches, and State-licensed substance abuse treatment facilities providing substance abuse treatment; and
 - (2) Buffer distances shall be measured as the closest distance from the perimeter of a stand-alone commercial marijuana establishment structure to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church, correctional facility, or a substance abuse treatment facility providing substance abuse treatment. If the commercial marijuana establishment occupies only a portion of a structure, buffer distances are measured as the closest distance from the perimeter of the closest interior wall segregating the commercial marijuana establishment from other uses, or available uses in the structure, or an exterior wall if closer, to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church or correctional facility, or a substance abuse treatment facility providing substance abuse treatment.
- (g) As provided in the Land Use Table, a person or licensee may apply for a conditional use permit to allow for a marijuana cultivation facility, standard, on lots of forty thousand (40,000) square feet or greater in size, and a marijuana cultivation facility, limited, on any size lot.
- (h) A marijuana cultivation facility, standard, or a marijuana cultivation facility, limited, shall only be allowed on a lot which has an existing structure consistent with a principal permitted use.
- (i) A marijuana cultivation facility located in an accessory building shall be subject to the setback provisions in KMC 14.24.020, development requirements table. A person or licensee seeking relief from the provisions in the development requirements table may apply for a variance subject to the provisions of KMC 14.20.180.
- (j) No retail marijuana store may conduct business on, or allow any customer or consumer to access, the licensed premises between the hours of 5:00 a.m. and 8:00 a.m. daily.

Section 2. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 3. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 4TH DAY OF OCTOBER, 2023.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Introduced:	September 20, 2023
Enacted:	October 4, 2023
Effective:	November 3, 2023



MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Vice Mayor James Baisden

DATE: September 13, 2023

SUBJECT: **Ordinance No. 3373-2023- Prohibiting the sale of marijuana and related products from walk-up and drive through windows.**

The State recently approved new regulations allowing the sale of marijuana and related products through walk-up and drive-through windows unless prohibited by local law. This ordinance prohibits commercial marijuana establishments within the City from utilizing walk-up and drive-through windows. The sale of marijuana and related products from walk-up and drive-through windows has the potential to increase the risk to public safety through impaired driving. Further, it seems practically difficult to ensure that all passengers in a vehicle are of sufficient age or familial relationship to the driver to purchase marijuana as required by the regulations, increasing the risk of consumption of marijuana by underage populations.

Your consideration is appreciated.

**KENAI PARKS & RECREATION COMMISSION – REGULAR MEETING
SEPTEMBER 7, 2023 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
VICE CHAIR SOVALA KISENA, PRESIDING**

ACTION MINUTES

A. CALL TO ORDER

A Regular Meeting of the Parks & Recreation Commission was held on September 7, 2023, in City Hall Council Chambers, Kenai, AK. Vice Chair Kisenka called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Vice Chair Kisenka led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

Sovala Kisenka, Vice Chair	Jennifer Joanis
Kyle Graham	Charlie Stephens
Michael Bernard	David Rigall

A quorum was present.

Absent:

Grant Wisniewski, Chair

Also in attendance were:

Tyler Best, Parks & Recreation Director
Jenna Brown, Parks & Recreation Assistant Director
Victoria Askin, City Council Member

3. Agenda Approval

MOTION:

Commissioner Joanis **MOVED** to approve the agenda with the requested revisions and requested unanimous consent. Commissioner Bernard **SECONDED** the motion.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

B. SCHEDULED PUBLIC COMMENTS - None.

C. UNSCHEDULED PUBLIC COMMENTS - None.

D. APPROVAL OF ACTION MINUTES

1. March 2, 2023.

MOTION:

Commissioner Graham **MOVED** to approve the minutes of March 2, 2023. Commissioner Bernard **SECONDED** the motion.

VOTE: There being no objection; **SO ORDERED.**

E. **UNFINISHED BUSINESS** – None.

F. **NEW BUSINESS**

1. **Discussion** - City of Kenai Commissions, Committees and Council on Aging Review

Director Best reported on the upcoming City of Kenai Commissions, Committees and Council on Aging Review, noting the information provided in the packet.

[Clerk's note: Commissioner Rigall joined the meeting at 6:19 p.m.]

G. **REPORTS**

1. Parks & Recreation Director – Director Best reported on the following:
 - Recap of 2023 Kite Festival event.
 - Introduced new Assistant Director Jenna Brown.
 - Update on personal use fishery bypass lane.
 - Reviewed Summer 2023 Parks & Recreation Department activities as described in the packet.
2. Commission Chair – Vice Chair Kisena discussed a project which would capture historical geographic data.
3. City Council Liaison – Council Member Askin reported on the actions of the September 6, 2023 City Council Meeting.

H. **ADDITIONAL PUBLIC COMMENTS** – None.

I. **NEXT MEETING ATTENDANCE NOTIFICATION** – October 5, 2023.

Commissioner Graham noted he would be absent for this meeting, and Commissioner Stephens may miss it as well.

Commissioner Rigall noted he would be absent for the November 2, 2023 meeting.

J. **COMMISSION QUESTIONS AND COMMENTS**

Commissioner Graham discussed the possibility for salmon education at the Coho Street trail.

Commissioner Rigall inquired about the new storage shed next to the Kenai Art Guild; Director Best noted that an informational item will be added to the next meeting packet.

K. **ADJOURNMENT**

L. **INFORMATIONAL ITEMS** – None.

There being no further business before the Parks & Recreation Commission, the meeting was adjourned at 6:54 p.m.

I certify the above represents accurate minutes of the Parks & Recreation Commission meeting of September 7, 2023.

Meghan Thibodeau
Deputy City Clerk



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Terry Eubank, City Manager
FROM: Mary Bondurant, Interim Airport Manager
DATE: September 11, 2023
SUBJECT: **Airport Mid-month Report September 2023**

2020/2021 Sand/SRE Storage Building – This project has a completion date of October 2023. Operations crew is looking forward to a readily available supply of heated sand instead of breaking into a frozen sand pile. This will allow the operations crew to dedicate more time for snow plowing and ice control.

In-house Activities

- Airport Manager and Operations Supervisor met with the USAF Space Command on Monday, September 11, 2023. Three engineers conducted a site feasibility evaluation to determine ability to support DOD operations. The report will identify the airfield capacity, condition, runway length, fueling facilities, temporary housing, hotels, dining options etc. All three were very impressed with the Airport, the City, and the surrounding community.
- FAA representatives will be meeting at the Airport with the Airport Manager and Public Works Director on Thursday, September 14.
- The Airport is advertising for one Seasonal Operator position from September 5-14, 2023 and advertising for the temporary equipment operators will start on September 15, 2023.
- A TSA Security Inspector met with the Airport Manager on August 14 & 15 to review the Airport's Security Plan and conduct a site assessment. All discrepancies noted were corrected during his visit and an updated security plan has been submitted for approval to the TSA.
- Saturday, October 21st, the Kenai Airport Operations Facility will be the location for Kenai Aviation's Pumpkin Drop/Chili/Cornbread Cookoff. This is the five-year anniversary of the event. The pumpkins will be dropped at Kalifonsky Meadows (not the airport). The event is from 10am to 5pm and open to the public.



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Terry Eubanks, City Manager
THROUGH: Dave Ross, Police Chief
FROM: Jessica “JJ” Hendrickson, Animal Control Chief
DATE: September 7, 2023
SUBJECT: August 2023 Monthly Report

This month the Kenai Animal Shelter took in **51** animals. Animal intake and disposition:

DOGS:				
	INTAKE	32	DISPOSITION	24
	Waiver	10	Adopted	8
	Stray	17	Euthanized	1
	Impound	0	Claimed	14
	Protective Custody	0	Field Release	0
	Quarantine	0	Transferred	1
	Other Intakes	5	Other Dispositions	0
CATS:				
	INTAKE	16	DISPOSITION	13
	Waiver	12	Adopted	9
	Stray	3	Euthanized	2
	Impound	0	Claimed	2
	Protective Custody	0	Field Release	0
	Quarantine	1	Transferred	0
	Other Intakes	0	Other Dispositions	0

OTHER ANIMALS:				
INTAKE	3	DISPOSITION	0	
Guinea Pig	1	Horse	0	
Bird	2	Rabbit	0	
Other	0	Guinea Pig	0	
DOA:	4	OTHER STATISTICS:		
Dog	2	Licenses (City of Kenai Dog Licenses)	7	
Cat	2	Rabies Clinic	0	
Rabbit	0			

- 5 Animal dropped with After Hours (days we are closed but cleaning and with KPD)
 - 26 Field Investigations & patrols
 - 7.35 Volunteer Hours Logged
 - 2 Citations
 - 0 Educational Outreach
 - 1 Microchip
- Total Animal Contacts:
- 29 Animals are *known* borough animals
 - 11 Animals are *known* City of Kenai
 - 6 Animals are *known* City of Soldotna
 - 1 Animals are *unknown* location

Statistical Data:

- 421 2021 YTD Intakes
- 309 2022 YTD Intakes
- 361 2023 YTD Intakes





MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Terry Eubank, City Manager
FROM: Tony Prior, Fire Chief
DATE: September 12, 2023
SUBJECT: Fire Department Mid-Month Report – August

August was one of our busiest months so far this year with calls for service increasing compared to August of 2022. Here are the calls for service break down.

August	2022	2023	% change
Totals	131	154	17.6%
EMS	95	130	36.8%
All Other	36	24	-33.3%
Year total	986	1002	1.6%

Training:

- We had our first run review/training with Dr. Levy as our new Physician Sponsor.
- All shifts continued gathering hydrant flow data and have been working through pre-fire plan inspections.
- Crews have been working on Driver/Operator training with hydrant hook-ups, drafting and water transfers and Tower operations.
- Firefighter Miller has begun his Certified Fire Investigator training.

Projects/Grants:

- Our crews removed everything from our apparatus bay floors area and Pro-Grind completed the refinish of our floors. They look amazing.
- We received our new Fire Extinguisher Training prop and Fire Marshal Hamilton put it in service. We have started to schedule training for other departments and will begin reaching out to the public for other training opportunities.
- We have advertised for a firefighter as Collin Morse accepted a position at Marathon Petroleum.
- We were able to send Unit-10 and firefighters Oden and Morse on a 2-week forestry assignment to the Teklaneka River Fire in the Anderson/Clear area, outside of Fairbanks.



MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Terry Eubank, City Manager
FROM: Stephanie Randall, Human Resources Director
DATE: September 12, 2023
SUBJECT: Human Resources Activity – August 2023

Recruitment

Human Resources worked with Departments to actively recruit and hire two Public Safety Dispatchers, a part-time Recreation Center Worker, a part-time Administrative Assistant for Planning and Zoning and a part-time Janitor. Applications continue to trend low, with most job postings requiring an extension to allow for a larger applicant pool; however, the City saw an increase in applications for the Part-Time Library Aide position. The City is currently recruiting for a Firefighter, a Police Officer, a Shop Foreman, two Drivers for the Senior Center and a Seasonal Equipment Operator for the Kenai Municipal Airport. The new Employee Referral program resulted in the hire of a Planning and Zoning Administrative Assistant, and a day off with pay was awarded to the referring City employee.

Safety/Training

Four accidents were reported in August, two resulted in property damage and one that resulted in a minor injury, Human Resources is working with Public Works to renew the City's participation in the Loss Control Incentive Program offered through the City's insurance provider, AMLJIA. The activity-based incentive safety program is designed to reduce losses and provide up to a 3% premium credit.

Special Projects

Human Resources is working with the City's Health and Life Insurance Benefits Consultant to review the quality and types of health benefits offered by the City in preparation for open enrollment in December.



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Terry Eubank, City Manager

FROM: Katja Wolfe, Library Director

DATE: September 6, 2023

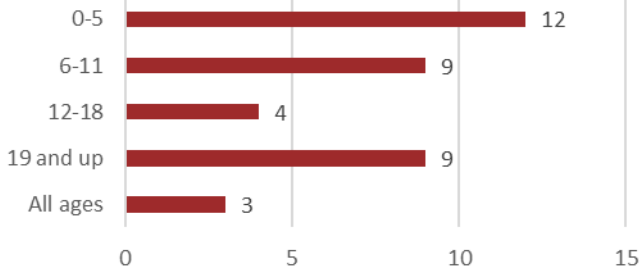
SUBJECT: **Library Report for August 2023**

AUGUST 2023 AT A GLANCE

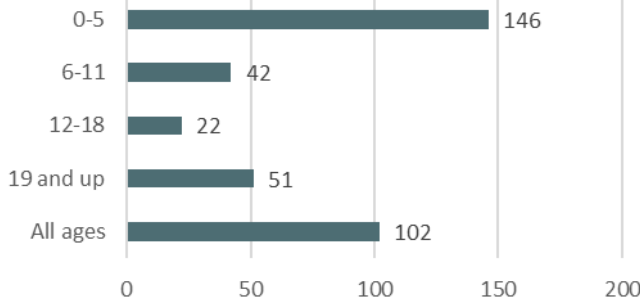
Items Borrowed	Aug-22	Aug-23	2023 YTD
Physical	7,575	6,541	54,848
Digital	1,604	1,615	13,104
Services			
New Memberships	60	58	471
Room Reservations	118	164	1,152
Programs			
Number of Programs	32	37	317
Program Attendance	375	363	3,947
Technology Sessions			
Computer sessions	540	536	4,337
WiFi Sessions	8,420	7,703	83,132
Early Literacy Station Sessions	292	426	2,619

AUGUST 2023 PROGRAMMING

Number of In-Person Programs Per Age Group



Total Attendance Per Age Group



HIGHLIGHTS

Kids

- 11 story times – 121 participants
- 4 Lego® clubs – 14 participants
- 1 Tech Lab – 2 participants
- Kenaitze Youth Drumming – 8 participants

Teens

- Mario Kart Contest – 15 participants
- 1 Chess Club – 6 participants

Adults

- Tech Time – 8 participants
- iPhone Basics @ the Senior Center – 2 participants
- Berries 101 – 23 participants
- Grass basket workshop – 18 participants

All Ages

- SRP Finale – 81 participants
- Oreo taste test – 21 participants

AUGUST 2023 SERVICE HIGHLIGHTS

- Our study and conference rooms were used by 164 individuals/groups for a total of 316 hours.
- Summer Reading Program stats are in:
 - 632 sign-ups
 - Close to 4000 reading hours logged
 - 431 SRP event attendees
- The Friends of the Kenai Community Library held a pop-up book sale in August. Thank you to the Friends and to those who donated books to the sale. A second pop-up book sale is planned for October.





KENAI

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MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Terry Eubank, City Manager

FROM: Tyler Best Parks and Recreation Director

DATE: September 12th, 2023

SUBJECT: **Mid-Month Report-August**

Summer is starting to wrap up as school starts and sports seasons end, except for the Kenai Little League fall ball, which will end at the end of September and plays through the season.

With fall starting, the Kenai River Marathon is coming and will take place on September 24th. Currently, racers have signed up from over 15 different states. Right after the Marathon on October 7th, we will have our Fall Pumpkin Festival at Millennium Square! (See flyers attached)

Kenai slash site is open from Thursday to Sunday, 10 am-6 pm, until October 8th., for anyone who wants to dispose of slash. To date, the slash site has collected 87.53 acres.

On October 1st, The Kenai Rec Center will switch to our winter hours: Mon-Friday 6 am-10 pm, Sat 8 am-10 pm, and Sun 1 pm-5 pm.

Kenai Rec. Center Visits-June

Weight Room/Cardio Room	757
Racquetball	41
Walleyball	20
Shower/Sauna	138
Gymnasium	1235
Other	0
Gym Rental Visits	400
Total Number of Visits	2591

The City of Kenai's 8th Annual

FALL

Pumpkin Festival

08 OCT | NOON-3 PM

HAYRIDES | MUSIC | CIDER | VENDORS
FACE PAINT | PUMPKIN DROP

Millennium Square - Spur View Dr & Frontage Road Kenai, AK 99611
907.283.8262



The City of Kenai | www.kenai.city

KENAI, ALASKA 2023

SEPTEMBER 24, 2023
9:00AM - 4:00PM

REGISTER ONLINE AT:
www.kenairivermarathon.org

FOR MORE INFORMATION, CALL THE KENAI CHAMBER OF COMMERCE AT 907-236-1991





KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Terry Eubank, City Manager
FROM: Linda Mitchell, Planning Director
DATE: September 14, 2023
SUBJECT: **Planning and Zoning – August 2023 Monthly Report**

General Information

- The City is in the interview process for the 2nd part-time Administrative Assistant II position.
- Planning staff will be out of the office starting Tuesday, September 19th through Friday, September 22nd to attend the 2023 Western Planner/Alaska APA Conference in Anchorage.
- The City contracted Max Best as the consultant to develop a new waterfront zoning district. Mr. Best started on August 28th.

Application Summary

Planning and Zoning received 9 applications in August, carried over 16 applications, and completed 14 applications.

Staff conducted five (5) pre-application meetings with collaboration with the Fire Marshal, Building Official, and/or Public Works Director.

Applications	No. Received	Carried Over	Completed	In Progress
<i>Planning</i>				
Building Permit	7	3	9	1
Sign Permit	0	1	0	1
Conditional Use Permit	0	1	0	1
Amendment	0	0	0	0
Time Extension	0	0	0	0
Transfer	0	0	0	0
Encroachment Permit	0	0	0	0

Landscaping/Site Plan	0	2	0	2
Home Occupation Permit	0	0	0	0
Plat	0	2	2	0
Easement/Right-of-Way	0	1	0	1
Variations/Exceptions	1	0	0	1
Variance	0	0	0	0
Zoning Map/Text Amendment	0	0	0	0
City-Initiated	0	0	0	0
Lands & Leases				
Purchase	0	1	0	1
New Lease	0	0	0	0
Renewal/Extension	0	0	0	0
Amendment	0	2	1	1
Assignment	1	1	1	1
Development Incentive	0	1	1	0
Special Use Permit	0	1	0	1
Total	9	16	14	11

Code Enforcement and Compliance

In August, Planning and Zoning received five (5) new complaints and closed three (3) cases. There is a cumulative total of 20 open cases. In FY2024, P&Z has received numerous complaints of abandoned vehicles on City-owned properties/ROW and three (3) vehicles have been towed to the Old City Shop with many more vehicles in the queue to be towed.

Violations	No. of Open Cases	Carried Over	New	Closed
<i>By Types</i>				
Abandoned Structure(s)	0	0	0	0
Abandoned Vehicle(s)	2	1	1	0
Building (e.g., as-built, damaged or decayed)	3	2	1	0
Conditional Use Permit	1	0	1	0
Junk and/or Refuse	4	5	1	2
Junk Vehicle(s)	4	4	0	0
Livestock	1	0	1	0
Signs	1	1	0	0
Recreational Vehicle(s)	0	1	0	1
Zoning (e.g., structures, setbacks, use)	4	4	0	0
Total	20	18	5	3



List of Open Cases

Property Address	Date of Complaint	Type of Violation
110 Aleene Way	5/4/2022	Junk Vehicles; Junk and/or Refuse
5264 Kenai Spur Hwy	5/12/2022	Junk and/or Refuse
508 Hemlock Avenue	5/13/2022	Junk and/or Refuse
9168 Kenai Spur Hwy	5/16/2022	Junk Vehicles; Junk and/or Refuse
311 Linwood Lane	6/17/2022	Junk and/or Refuse
1009 Second Avenue	8/12/2022	Zoning (Use)
305 Sterling Court	10/20/2022	Building (On-Hold)
700 Cypress Drive	10/24/2022	Junk Vehicles
345 Dolchok Lane	10/28/2022	Building; Zoning
312 Aspen Street	10/26/2022	Abandoned Vehicles
11888 Kenai Spur Hwy	11/17/2022	Zoning (Use)
12656 Kenai Spur Hwy	12/1/2022	Sign
4315 Lupine Drive	2/8/2023	Junk and/or Refuse
4555 Johnisee Court	4/26/2023	Recreational Vehicle
307 James Street	5/22/2023	Junk in the Right-of-Way
204 Lawton Drive	6/7/2023	Zoning (Home Occupation)
415 Roger Road	6/7/2023	Zoning (Home Occupation)
8525 Kenai Spur Hwy	7/5/2023	Junk Vehicle
418 Birch Street	8/1/2023	Building
Marathon Road	8/2/2023	Abandoned Vehicle
908 Highland Avenue	8/17/2023	Junk and/or Refuse
412 Birch Street	8/23/2023	Livestock (Chickens)
8847 Kenai Spur Hwy	8/31/2023	Zoning (Conditional Use Permit)

Before and After Highlights



Significant Debris and Junk at 908 Highland Avenue



Abandoned Vehicles



Abandoned vehicles on City-owned properties that have towed to the Old City Shop

Planning and Zoning Commission

One (1) public meeting was held in the month of August.

- Planning and Zoning Commission took actions as follows:
 - **Resolution PZ2023-16** – Recommending Approval for Preliminary Plat – Strawberry Hill Estates 2023 Addition for a Subdivision of a Parcel Located at 801 Devray Street (KPB Parcel No. 04951027) into 13 Lots and Deny the Requested Exceptions to the Subdivision Design Standards in the Rural Residential (RR) Zoning District.





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MEMORANDUM

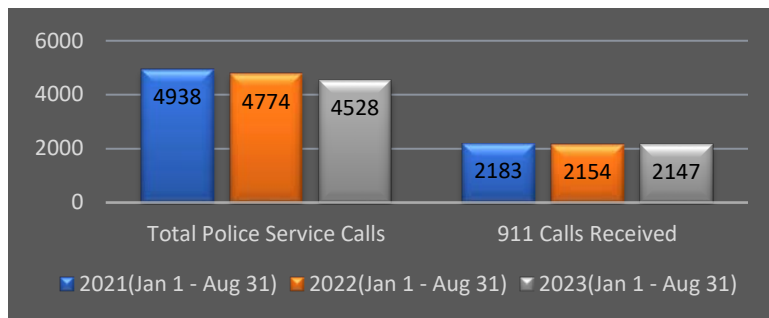
TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Terry Eubank, City Manager
FROM: David Ross, Police Chief
DATE: September 8, 2023
SUBJECT: Police & Communications Department Activity – August 2023

Police handled 616 calls for service in August. Officers made 45 arrests. Traffic enforcement resulted in 259 traffic contacts and 51 traffic citations. There were 9 DUI arrests. There were 25 reported motor vehicle collisions in August. There were two collisions involving a moose and there was one collision involving drugs or alcohol.

A Defensive Tactics training was conducted for all officers in Kenai. The dispatch supervisor attended a week-long Public Safety conference in Tennessee. Two new dispatchers started employment and are in field training at the Department. One police administrator attended two days of Crisis Leadership training in Kenai.

The department filled its 14 hour per-week janitor position. Three Temporary Enforcement Officers completed their season in August, leaving just one to work into September. One officer submitted his resignation and the Department started an officer recruitment to fill that position.

The School Resource Officer started back into the schools and handled a number of police related calls in the schools. Police Administration met with KPBSD Administration to discuss a Safe School Help Line that is being implemented in the school district.





MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Terry Eubank, City Manager
FROM: Scott Curtin, Public Works Director
DATE: September 2023
SUBJECT: Mid-Month Report; Public Works / Capital Projects

Airport Fund Projects:

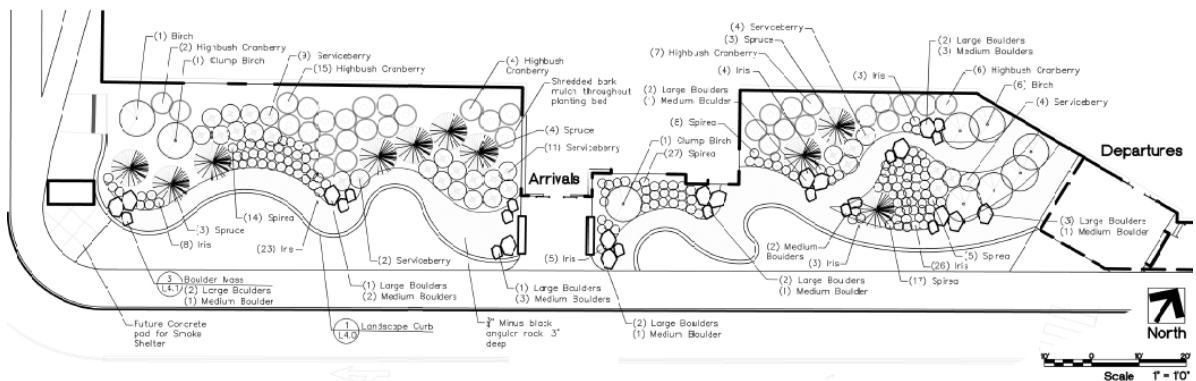
- Kenai Municipal Airport Sand Storage Facility – This project will provide warm storage for operational sand throughout the Airport. Orion Construction is currently under contract in the amount of \$2,289,000 with a pending Change Order 2 in the amount of \$43,308.03. All utilities have now been brought to the building. All exterior site work is expected to be completed by the end of September. Weather has delayed the progress on the exterior panels which in turn has delayed the start of mechanicals on the interior. The project will not make the targeted substantial completion date of September 30th but is tracking closer to an end of October completion date.



Photo taken 9/11/23



- Kenai Municipal Airport Runway Rehabilitation Project** – This project known as Task 4 within HDL Engineering Consultants LLC term service agreement with the City shall provided an initial assessment of the current condition of the airport runway. This included geotech work, coring numerous locations of the runway. On August 4th, 2021 HDL Engineering and staff successfully completed geotech borings of the runway after hours. On October 13th, 2021 HDL Engineering, City staff and the FAA discussed the findings of the geotech report. On December 6, 2021 the City received the draft Engineer’s Design Report (EDR) along with the draft Geotechnical Report. Ordinance 3278-2022 was approved on April 20th, 2022 to secure HDLs services through Bid Phase with a contract amendment of \$781,833 executed on May 6, 2022, bringing the total cost of design to \$1,031,833. Project has been stalled at 35% Design as Environmental Compliance requirements are being clarified. Project is currently tracking for Runway Rehab Construction in 2025 with the Taxiways 2026 the following year, however this may slide a year, dependent upon FAA funding. Update: Staff meeting was held in Anchorage with FAA Counterparts to discuss project on 3/8/23. March 27, 2023 staff meeting with DEC to discuss path forward for design services. Project is now moving forward again with Environmental Services toward a 65% design effort. Council approved a purchase order increase to HDL Engineering at the June 7th, 2023 to allow the environmental work to move forward. Airport Manager and Public Works Director met with HDL on 8/9/23 and reviewed the environmental documents status.
- Kenai Municipal Airport (KMA) Terminal Landscaping** – A Request for Proposals for Landscape Design Services was released on July 14, 2022 with proposals due on July 28, 2022 where Earthscape LLC was determined to have provided the highest scoring proposal at a cost of \$28,255. The Purchase Order to Earthscape LLC was approved by Council at the 9/7/22 council meeting. Design work continues with final design concepts working through the airport commission and airport administration. Contract is billed out to 65% as of July 5, 2023. On July 12, 2023 Earthscape delivered draft 95% design documents, on July 24, 2023 a preliminary cost estimate was provided. Documents are under staff review at this time. 8/4/23 provided comments back to Earthscape regarding a few plant types, *working with interim Airport Manager on a few elements including wind screens at entries and possibility of some bronze statues.*



- Kenai Municipal Airport (KMA) Operations Building HVAC Controls Upgrade & Boiler Replacement – This project was released for RFP on July 19, 2022 with proposals due on August 16, 2022. MBA Consulting Engineers was the successful proposer awarded under Resolution 2022-63 approved by Council at the September 7, 2022 Council Meeting. Contract Documents were fully executed with MBA on October 31, 2022 for the contracted amount of \$47,726. November 10, 2022 will be the first site meeting with staff and engineering team. Design work is anticipated to continue through the winter months. 95% design documents were received on January 30, 2023. Project cost estimate is over budgeted amounts and staff is coordinating with design team to refine documents. Introducing Ordinance at the 8/16/23 council meeting to appropriate additional funding in support of the project. Staff has begun conversations with the FAA working toward establishment of grant assistance.

General Fund Projects:

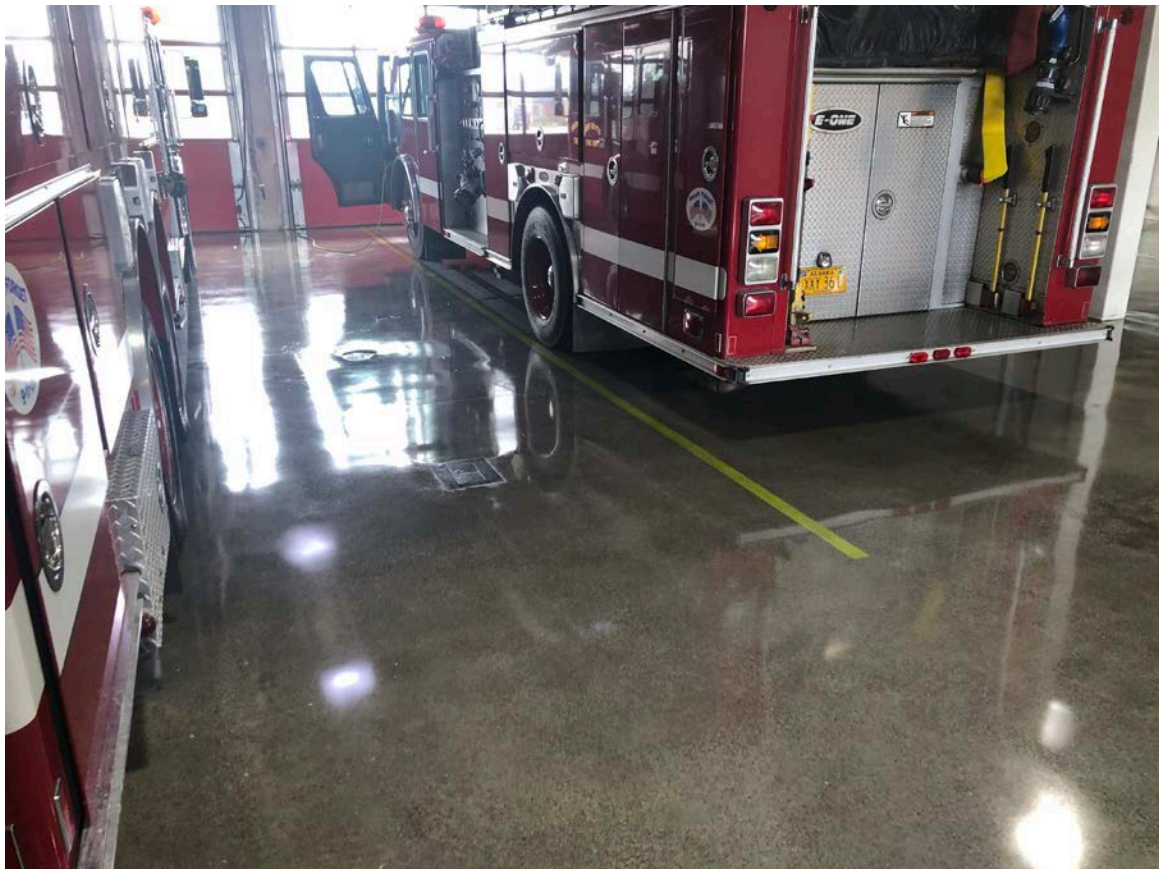
- USACE Kenai Bluff Bank Stabilization Project – This project encompasses approximately 5000 lineal feet of coastal bluff starting at the mouth of the Kenai river extending upriver along the northern river bank. The bluff in this area varies from 55'-70' above the toe. A protective armored rock berm with a crest elevation of approximately 12' in height is planned. The project is approaching execution of a Project Partnership Agreement (PPA) tentatively scheduled for September 25, 2023. Tentative release of an Invitation to Bid (ITB) for Construction is currently tracking for November 20, 2023. Construction is anticipated to continue through the 2024 & 2025 construction seasons. Milestones to date listed below.



- Director's Report April 10, 2019 USACE approved Project Feasibility
 - Section 221 Agreement MOU July 7, 2020 allows City to conduct design prior to DA
 - Design Agreement (DA) September 14, 2020 executed but not federally funded
 - Section 221 Agreement MOU February 11, 2021 allows City to construct prior to PPA
 - Design Contract executed with HDR Engineering July 6, 2021
 - City's 35% Design submission submitted to USACE on January 25, 2022
 - City's 65% Design submission submitted to USACE on April 28, 2022
 - Preliminary Engineering Design (PED) funding arrives on May 17, 2022
 - Value Engineering (VE) Workshop held with USACE / Design team June 21-24, 2022
 - PED / Construction Federal Funding arrives July 28, 2022
 - Advanced Technical Review (ATR) begins October 3, 2022
 - City of Kenai receives FEMA notification of enrollment in National Flood Insurance Program December 19, 2022, a condition of receiving Federal funding.
 - Water Resources Development Act (WRDA 2022) late December 2022, this Bill has cost repercussions for the project which ultimately change the cost share between the City and USACE from 65% / 35% to 90% USACE / 10% City.
 - Project Cost Certification received January 27, 2023, confirming sufficient funding
 - USACE Headquarters Agreement draft PPA June 6, 2023 received by City
 - City provides USACE Financial Self-Certification in support of PPA June 15, 2023
 - City's 95% Design Submission after completion of all USACE back checks June 30, 2023
 - Pending Execution of Project Partnership Agreement (PPA) September 25, 2023
- Community Wildfire Prevention Plan (CWPP) Mitigation – This project will address beetle kill spruce trees on City property. The City has received grant funds in support of this project from the USDA and Alaska Division of Forestry. On November 3rd an Invitation to Bid was released in coordination with the Fire Department and Forest Service to perform mitigation services on approximately 105 acres of land through the No Name Creek Drainage from Redoubt Avenue extending to Cook Inlet. Five Bids were received on 12/13/22 with Doug Koch Professional Tree Service providing the winning bid at a cost of \$282,000. Work is anticipated to take place during allowable time frames over the next year. A Resolution to Award this Contract is before Council at the 12/21/22 Council Meeting. Construction Contract was fully executed on February 28th, 2023 and contractor is actively working on project. Much of the North section is now cut with timber and slash still remaining to haul away, Section 4-5 which is largely a hand felling area has started mitigation, as well as the South section near Municipal Park which has had extensive work completed to date. Contractor has been performing well, work will slow down through the summer months per the grant requirements when beetles are known to spread and work will resume later this fall. Update: May 18, 2023 representatives from the USDA Forest Service as granting agency were in town and provided a tour of the work actively taking place. Review of project documents, invoices, drone footage, etc. was completed and received very well. Tree cutting work has now resumed as of September 5, 2023. To date the contractor has invoiced for \$142,972.41, approximately 50% of the contracted work. Project has proceeded quickly and remains on time and on budget. While tree cutting was stopped for the summer months, contractor has hauled and stock piled slash that was cut earlier in the season.



- Recreation Center Improvements – *This project will replace the facilities roof system as well as numerous mechanical roof top HVAC units. Formal Invitation to Bid was released on February 23, 2023 with bids due on March 23, 2023. Orion Construction was the successful bidder with a total bid of \$1,425,700 as presented to Council through Resolution 2023-25 adopted at the April 5th, 2023 Council meeting. Construction will continue into the fall of 2023. Update: Mechanical HVAC Roof top units remain on order, expected in late December. Project is proceeding well and on schedule. Change Order 1 was executed on August 16, 2023 in the total amount of \$18,548.96, which included four items including replacement of the facilities electrical meter base at HEA's request.*
- Kenai Fire Department Apparatus Bay Coating –*This work involves cleaning and replacement of concrete floor markings with the installation of a new concrete sealer to protect and extend the life of the garage bay floors. Ordinance 3315-2022 provided supplemental funding to allow the project to bid. Existing budget was \$45,000 with approval of Ordinance 3315-2022 new budget will be \$60,000. Project was released for Construction Bids on May 2nd with bids due on May 18th. Council approved Resolution 2023-43 which awarded a construction agreement to Pro Grind Alaska Rental LLC in the amount of \$49,250. Work will take place this summer. Contractor walked site with staff on July 26, 2023. Pending work is expected to be completed by August 31, 2024. Contractor started on site on August 2, 2023. Project is now complete on time and on budget, floors look great!*



- Roadway Improvements – Nelson Engineering was the successful proposer to provide bid ready construction documents for improvements to Wildwood Dr, Willow Ave, First St. as well as multiple smaller misc. repairs. Wildwood Dr will require grant assistance to complete the project. The N. Willow St Roadway Improvements, First Avenue Roadway Repairs, and Misc. Repairs projects were all released for construction bids on May 18th 2023 with Bids due on June 1st, 2023. All three projects received bids in excess of budgeted amounts and there is legislation pending at the June 21st, 2023 Council meeting to provide supplemental funding to award these projects. They are still intended, with Council's approval, to be completed this construction season. Contracts have now all been executed with Foster Construction receiving a Notice to Proceed on July 19th for the First Ave Repairs and Misc Repairs projects, Knik Construction received their Notice to Proceed for N. Willow St. on July 26th. Knik Construction is expected to mobilize to N. Willow on August 14th, Fosters Construction to mobilize to First Ave approximately August 23rd, 2023. *Update: N. Willow St. is nearing completion with all ditching and utility relocations completed, milling of asphalt roadway taking place on September 13, 2023. Final paving is tracking for completion within the next few weeks as weather allows. First St. Repairs with Fosters construction has all subgrades now restored with concrete curb and sidewalk work complete on September 13, 2023. Final paving is tracking for completion within the next few weeks as weather allows. The Misc. Repairs project with Fosters has been working in the VIP and Watergate area with five locations receiving final payment the week of September 11-14. Remaining repairs taking place over the next two to three weeks. All work is proceeding well, on schedule and on budget.*
- Multi-purpose Facility – The Building Maintenance Department completed all of the pressure washing and rust prevention coatings in house. That portion of the project was completed on time and on budget and allowed for ice to go back in on schedule. Staff continues to work on ventilation solutions as well as some UV Heat lamps to replace the natural gas heaters suspended from the ceiling near the seating areas. Once a scope of work is finalized by the department these additional items will be released for bids. Currently roughly \$71,000 of the \$155,000 in funding has been expended. A Proposal Quote Request (PQR) was released on June 30th with quotes due on July 13th. MBA Consulting Engineers was the only respondent at a cost of \$30,580. Design work will cover ventilation, lighting, bleacher radiant heating and will take place through November. *Contract documents were fully executed on September 8, 2023.*
- Cemetery Expansion – This project is located at the corner of First Ave and Float Plane Rd and will provide for additional burial space as the existing adjacent cemetery has reached capacity. The Public Works Department using in house personnel has already cleared, leveled and graded the site, and placed and compacted a gravel sub-base for the parking area. Staff has successfully surveyed in 64 adult plot sites and 12 infant plot sites. These sites are available through the Clerk's office. The Parks & Recreation Commission is currently considering alternatives to fencing the cemetery in an effort to utilize those funds toward completing other items. Work will be suspended through the winter with the parking lot paving taking place early summer 2023. Cemetery Phase 2 Fencing was released for bids on July



26th with bids due on August 9th. Council will see legislation for a contract award at the August 16th, 2023 meeting. *AAA Fence, Inc was the successful bidder at a cost of \$147,595, their contract was fully executed on September 8, 2023, work is expected to be completed yet this year.*

- Softball Shelter Dugouts – Larsen Engineering has been awarded the design work for the dugouts. Design requirements are being discussed with the engineer, however this project is moving slowly as staff and engineer are heavily involved in other projects. Project will move forward shortly as staff time becomes available.
- Lilac Ln. Roadway Improvements – RFP was released on 8/8/23 for Professional Civil Engineering and CA Services to develop bid ready construction documents for this project. Proposals are due on 8/28/23. Council will see legislation to award a professional services agreement at either the 9/6/23 or 9/20/23 council meeting. Design work will take place over the winter for a summer 2024 construction date. This project is located between the Spur Highway and Cook Inlet Dr. *Resolution 2023-54 was approved by Council at the September 6, 2023 Council meeting, Contract documents are in process.*
- Cemetery Creek Culvert Replacement - RFP was released on 8/8/23 for Professional Civil Engineering and CA Services to develop 35% design documents for this project. Proposals are due on 8/28/23. This project is in coordination with the US Fish & Wildlife. Work involves replacement of several aging culverts with fish passage type culverts. 35% design documents will be used to apply for grant funding. *Two proposals were received by the Department with PND Engineer's receiving the highest scoring proposal at a total cost of \$29,577. Contract documents are in process.*

Water & Sewer Fund Projects:

- Lift Station Renovations – Resolution 2021-58 awarded HDL Engineering agreement in the amount of \$59,560 to provide bid ready construction documents for three lift stations. These locations included the stations at mile posts 13 and 14, which are near the soccer fields and Spur / Redoubt Ave respectively, as well as a station on Lawton Drive. These locations are intended to receive new pumps and pump control panels as part of this project. After determination of which lift stations would receive renovations to start, a design meeting was held on 12/3/21 to discuss pump and control panel design. Basis of design memo received on January 6, 2022. Design documents are approaching 95%. Design is finally approaching completion. Challenges with our current SCADA team required some changes to different lift station controllers which has now been resolved. *Final Cost estimate has now been received and Council will see legislation in October to provide supplemental funding to allow the project to move forward.*
- Wastewater Plant Digester Blowers Replacements – HDL Engineering was authorized to proceed on design documents for this project through passage of Resolution 2022-29 on May 18, 2022. Design Agreement is currently in the amount of \$382,513 and will provide bid ready



construction documents for the replacement of two 40+ year old blowers at the WWTP. The Department received 35% Design Study Report on September 23, 2022 and the project is currently moving toward 65% design documents. A grant for this project has been applied for through Senator Murkowski's office through the Congressional Directed Spending (CDS) program. We are awaiting word on if we were successful in receiving grant funds. This is a high priority project for the department and is anticipated to provide further energy savings similar to the aeration basin blower replacement project completed a few years ago. Final 65% plan reviews are being conducted on site with HDL on 12/19/22, bid documents are expected to be ready 5/1/23 and if funding is in place will be bid immediately, if not will be delayed until funding arrives. Environmental review process is delayed as we are not sure of the grant requirements at this time, and may not know until a future grant is executed. Until then this will be a shovel ready project waiting on funding. May 5th a Community Grants Webinar was held to discuss the pending grant requirements, the Public Works Director and HDL Engineering participated in the webinar. Consultants are reviewing requirements and hope to have the design moving forward shortly. Project will not be able to be bid until funding formally arrives. *Design team is actively working with granting agency.*

- Water Treatment Plant Pumphouse – This project will construct a new pumphouse building and provide replacement distribution pumps for the City's Water System. On August 1, 2023 received letter that the State of Alaska Department of Environmental Conservation (ADEC) has awarded the City of Kenai a \$1,200,000 loan through the state's revolving fund program and that the loan would receive 100% forgiveness in support of this project. *Resolution 2023-56 is up for Council approval at the September 20, 2023 Council Meeting to allow access to these funds.*

Senior Citizens Fund Projects:

- Senior Center Front Entry Modifications – Capital Project Manager is developing scope of work for this project to address operation of automatic entry doors.

Congregate Housing Fund Projects:

- Vintage Pointe Boiler Replacement – A RFP for design services was released on October 6, 2022 with proposals due on November 3, 2022. Design work will continue into the winter with a construction bid release expected at the end of the first quarter 2023. This project will replace outdated boiler heat systems for the facility as well as providing a direction on backup power generation to support the heating system when grid power is unavailable. No proposals were received, the Department is requesting approval to enter negotiations with RSA Engineering in the hopes of moving the project forward. RSA Engineering is under contract and is expected to start design in early January 2023. On February 3, 2023 RSA Engineering provided draft 65% Design Documents. Staff is currently reviewing. Engineering has a planned site visit for February 15, 2023 scheduled. We are anticipating bid documents being ready for an April Construction Bid release. 100% Design Documents are were received from the RSA Engineering on April 14th. Council approved Resolution



2023-30 on May 3rd to reallocate funds for the project. *Invitation to Bid* was released on August 2, 2023 with bids due on August 23, 2023. Council approved Resolution 2023-53 at the September 6, 2023 meeting which awarded construction agreement to Orion Construction in the total amount of \$503,850. Contract documents are in process now.



Other Projects Information:

- DOT Kenai Spur Highway to Sports Lake Rd – This project continues to wait for appropriation of state funds. Reached out to DOT staff on September 13, 2023, no new information provided at this time.
- DOT Bridge Access Road Bike Path – Council passed Resolution 2021-53 on August 4, 2021 authorizing the City Manager execute a memorandum of agreement with DOT for design, construction, and maintenance of the Kenai Bridge Access Road Pathway project. In speaking with representatives from DOT the state has not provided funding as yet for this project to move forward. To date the City has appropriated \$294,947 in support of this project which is intended to provide a 1.2 mile path connecting the paths between the Spur Highway and Beaver Loop. Total cost of project per DOT estimates equals \$3,266,301. Per communications with the DOT, design funding is in place and they are waiting on final signatures for the Reimbursable Services Agreement (RSA) with DNR. Once the RSA is approved they will be able to begin design work. Process is expected to be completed by the end of January. Update: Formal kickoff meeting took place on March 30th with the City Manager and Public Works Director in attendance. From appearances this design process will be a slow one, we are not anticipating seeing construction on the path this calendar year. Will continue to update as more information becomes available. Update: A site meeting will be



taking place between the City, DNR, & DOT on 6/9/22 to review the project. HDL Engineering appears to be conducting surveying services in support of the project, crews were in the area on 6/7/22. On June 29, 2022 the City Manager & Public Works Director met with DOT representatives and discussed projects. State funding continues to be an issue. *Reached out to DOT staff on September 13, 2023, no new information provided at this time.*

- DOT Boat Launch Road Fish Passage Culvert – Council approved a construction easement to allow DOT access to replace the roadway culvert at the intersection of Boat Launch Rd and Bridge Access at the April 5th Council meeting. Work is anticipated to start later this year in coordination with the River Center to minimize impacts to fish entering the watershed.





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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Terry Eubank, City Manager
THROUGH: Kathy Romain, Senior Center Director
FROM: Astrea Piersee, Administrative Assistant III
DATE: September 6, 2023
SUBJECT: August 2023 Monthly Report

The Kenai Senior Center organized enjoyable activities to make the most of the remaining warm weather. Seniors were taken on various outings, including visits to the Nikiski Pool, shopping trips to the Wednesday market in Soldotna, and the Kenai Peninsula Fair where the center's bell ringers put on a performance. Additionally, there was a casual dinner at the Keen Kow Thai restaurant in Ninilchik and a day trip to Whittier.

The participants enjoyed a concert by the Thornton Family, followed by the center hosting the Old Timers Luncheon. This event marked the first gathering of "The Old Timers", bringing together 145 people who were delighted to be a part of this celebratory occasion.

	2023	2022
Home Delivered Meals	2062	1535
Individuals	87	95
Dining Room (Congregate) Meals	1165	676
Individuals	236	115
Transportation (1-way rides)	302	210
Individuals	36	19
Grocery Shopping Assistance	32/75	12/76
Writers Group	30	12
Caregiver Support Group	16	2
Growing Stronger Exercise	71	33
Tai Chi Class	42	8
TOPS Weight Loss Class	68	11
Bluegrass & Music Sessions	136	60
Card Games	152	36
Wii Bowling	38	7
Arts & Crafts	25	18
Total Event Sign-ins *	2339	1786
Individuals *	254	192
Vintage Pointe Manor Vacancies	0	0

* (not including home meals clients)