# City of Bethel

P.O. BOX 1388
Bethel, Alaska 99559
Phone: 907- 543-2047
Fax: 907-543-3781

**Regular City Council Meeting**
November 25, 2014
6:30 P.M.
Council Chambers; Bethel, Alaska

# City Council Meeting Agenda
# Regularly Scheduled Meeting
# November 25, 2014-6:30 pm
# City Hall 300 State Highway, Bethel, AK
# City of Bethel Council Chambers


Rick Robb
Mayor
Term Expires 2015
543-1879
rrobb@cityofbethel.net

Leif Albertson
Vice-Mayor
Term Expires 2015
543-2819
lalbertson@cityofbethel.net

Mark Springer
Council Member
Term Expires 2015
545-1450
mspringer@cityofbethel.net

Heather Pike
Council Member
Term Expires 2015
444-7211
hpike@cityofbethel.net

Chuck Herman
Council Member
Term Expires 2016
545-5394
cherman@cityofbethel.net

Zach Fansler
Council Member
Term Expires 2016
545-3300
zfansler@cityofbethel.net

Byron Maczynski
Council Member
Term Expires 2016
545-0970
bmaczynski@cityofbethel.net

Pete Williams
Acting City Manager
543-2047
pwilliams@cityofbethel.net

Lori Strickler
City Clerk
543-1384
lstrickler@cityofbethel.net

Patty Burley
City Attorney

Paul Richards
Lobbyist
pmrichards@gci.net


I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **ROLL CALL**

IV. **PEOPLE TO BE HEARD** – Five minutes per person

V. **APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA**

VI. **APPROVAL OF MEETING MINUTES**

a) **P3** *Regular City Council Meeting November 11, 2014

VII. **REPORTS OF STANDING COMMITTEE**

a) Public Safety and Transportation Commission
b) Port Commission
c) Planning Commission
d) Parks and Recreation Committee
e) Finance Committee
f) Public Works Committee
g) Energy Committee

VIII. **UNFINISHED BUSINESS**

a) **P29** Public Hearing Of Ordinance 14-27: Repealing And Replacing Bethel Municipal Code Chapter 4.20, Purchasing (Acting City Manager Williams)
b) **P77** City Of Bethel/ONC Joint Transit System Operations (Mayor Robb)

IX. **NEW BUSINESS**

a) **P95** AM 14-69: Donate Water And Sewer Deliveries As Needed, For A Maximum Of 2 A Week, To The Bethel Winter House During Their Times Of Operation. (Mayor Robb)
b) **P101** AM 14-70: Accept And Approve The Section 5309 Bus And Bus Facilities "Ladders of Opportunity" Grant Award (Acting City Manager Williams)
c) Confirming The RFP Review Team For Lobbying Services RFP (Mayor Robb)
d) **P107** Approval Of Contract For Institutional Corridor (Acting City Manager Williams)
e) *Personal Time Off For City Attorney, December 19-26, 2014 and December 31, 2014 – January 2, 2015 (Mayor Robb)

X. **MAYOR'S REPORT**

XI. **MANAGER'S REPORT**

Agenda posted on November 19, 2014, at City Hall, AC Co., Swansons, and the Post Office.

Bernard Mael, City Clerk's Office

(Items on the agenda noted with an asterisk (*) are considered the consent agenda.
All Resolutions noted with an asterisk (*) will automatically be adopted on the consent agenda unless removed from the consent agenda by Council.
Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing December 9, 2014**)

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pmrichards@gci.net


## XII. CLERK'S REPORT

## XIII. COUNCIL MEMBER COMMENTS

## XIV. EXECUTIVE SESSION

a) AS 44.62.310 (C) 1: Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity: Legal Liability For The Transit System (Council Member Fansler)

b) AS 44.62.310 (C) 1: Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity: Review Of Legal Options Regarding Pool Closure (Council Member Fansler)

## XV. ADJOURNMENT

Agenda posted on November 19, 2014, at City Hall, AC Co., Swansons, and the Post Office.

_____
Bernard Mael, City Clerk's Office

(Items on the agenda noted with an asterisk (*) are considered the consent agenda.
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Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing December 9, 2014**)

# Approval of the Minutes

## I. CALL TO ORDER

A Regular Meeting of the Bethel City Council was held on November 11, 2014 at 6:30pm, in the council chambers, Bethel, Alaska.

Mayor Robb called the meeting to order at 6:30 pm.

## II. PLEDGE OF ALLEGIANCE

## III. ROLL CALL

Comprising a quorum of the Council, the following members were present:

Mayor Rick Robb, Council Member Chuck Herman, Council Member Heather Pike, and Council Member Zach Fansler Council Member Byron Maczynski, Council Member Mark Springer arrived after roll call

Those absent were:
Vice-Mayor Leif Albertson

Also in attendance were the following:
City Attorney Patty Burley, City Clerk Lori Strickler and Acting City Manager Pete Williams

## IV. PEOPLE TO BE HEARD

Bill Ferguson, City of Bethel Transit Manager-
Provided the City Council with some statistical information, while requesting support for the continued operation of the Transit System.

Beverly Hoffman-
Encouraged the Council to direct administration to work closely with the contractors to determine what fix will need to occur to open the YK Regional Aquatic Training Center.

Marty Langlois-

Spoke in opposition to the Parks and Recreation's Recommendation for the Dog Park at the bluff next to the Lion's Club. Stated, there is a need for a dog park however, there is a greater need for the City to maintain and extend the walking trails and boardwalks around the community.

## V. APPROVAL OF THE CONSENT AND REGULAR AGENDA

| **Main Motion:** | To approve the Consent and Regular Agenda. |
|---|---|
| Moved by: | Herman |
| Seconded by: | Pike |
| Action: | Motion carried unanimously by a vote of 5-0 |
| In favor: | Robb, Fansler, Maczynski, Pike and Herman |
| Opposed: | None |

## VI. APPROVAL OF THE MEETING MINUTES

**Item A -** Special City Council Meeting October 20, 2014
*Passed on the consent agenda.*

**Item B-** Special City Council Meeting October 22, 2014
*Passed on the consent agenda.*

**Item C-**Special City Council Meeting October 23, 2014
*Passed on the consent agenda.*

**Item D -** Special City Council Meeting October 27, 2014
*Passed on the consent agenda.*

**Item E-** Regular City Council Meeting October 28, 2014
*Passed on the consent agenda.*

**Item F-**Special City Council Meeting November 3, 2014
*Passed on the consent agenda.*

## VII. REPORTS OF STANDING COMMITTEES

**Item A -** Port Commission –
Pete Williams, Port Director-
The next meeting will be held November 17.

**Item B -** Planning Commission –
Heather Pike, Council Representative-

The next meeting will be held on November 13. The Commission will be discussing trials, the John and Active lots, Code amendments, and the Hoffman Subdivision plat.

**Item C -** Public Safety and Transportation Commission-
Chuck Herman, Council Representative-
A meeting has not been held since the last City Council Meeting.

**Item D -** Energy Committee –
Zach Fansler, Committee Representative-
A quorum was not established, a meeting was not held.

**Item E -** Public Works Committee-
Byron Maczynski, Committee Representative-
The next meeting will be Wednesday November 19.

**Item F** - Finance Committee-
No one available to provide a report.

**Item G** - Parks and Recreations Committee-
Richard Robb, Council Representative
Nothing to report.

## VIII. UNFINISHED BUSINESS

**Item A –** Resolution 14-14: State Of Alaska Capital Priority Requests.

| | |
|---|---|
| **Main Motion:** | A motion to adopt was made at the October 14, Council Meeting. |
| Moved by: | Springer |
| Seconded by: | Albertson |
| Action: | Motion carried unanimously by a vote of 5-0 |
| In favor: | Robb, Fansler, Maczynski, Pike and Herman |
| Opposed: | None |

| | |
|---|---|
| **Primary Amendment:** | Amend to insert a Whereas Statement under the Sewer Lagoon to include relevant information from the Water and Sewer Rate Increase Ordinance. |
| Moved by: | Pike |
| Seconded by: | Fansler |
| Action: | Motion carried unanimously by a vote of 5-0 |
| In favor: | Robb, Fansler, Maczynski, Pike and Herman |
| Opposed: | None |

**Item B-** Public Hearing Of Ordinance 14-27: Repealing And Replacing Bethel Municipal Code Chapter 4.20, Purchasing.

*Mayor Robb opened the public hearing.*

Eric Middlebrook-
Has some reservations about changing one whole section of the Bethel Municipal Code. Suggested having it reviewed by a financial advisor as well as another attorney.

*Mayor Robb closed the public hearing.*

| **Main Motion:** | Adopt Ordinance 14-27. |
|---|---|
| Moved by: | Pike |
| Seconded by: | Herman |
| Action: | Item postponed |

*Council Member Springer arrived at 7:04p.*

| **Main Motion:** | Postpone until the next regular meeting. |
|---|---|
| Moved by: | Fansler |
| Seconded by: | Springer |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

**Item C-** Public Hearing Of Ordinance 14-28: City Of Bethel Fee And Rate Schedule Amended.

*Mayor Robb opened the public hearing.*

Eric Middlebrook
Concerned the cost for Burial Reservations is too high.

*Mayor Robb closed the public hearing.*

| **Main Motion:** | Adopt Ordinance 14-28. |
|---|---|
| Moved by: | Pike |
| Seconded by: | Maczynski |
| Action: | Motion carried by a vote of 5-1 |
| In favor: | Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | Robb |

| **Subsidiary Motion:** | Suspend the rules to hear from Ronda Sargent, Parks and Recreation Director. |
|---|---|

| | |
|---|---|
| Moved by: | Pike |
| Seconded by: | Herman |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

| | |
|---|---|
| **Primary Amendment:** | Amend to insert Youth Center Rental and Non- Profit Organizational Rentals. |
| Moved by: | Fansler |
| Seconded by: | Pike |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

| | |
|---|---|
| **Secondary Amendment:** | Amend the amendment to insert per staff member, behind "per hour." |
| Moved by: | Fansler |
| Seconded by: | Pike |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

| | |
|---|---|
| **Main Motion:** | Ten minute break. |
| Moved by: | Pike |
| Seconded by: | Springer |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

**Item D-** Recommendation From The Parks And Recreation Committee, Identifying A Location For A Dog Park.

| | |
|---|---|
| **Main Motion:** | Adopt Recommendation two as the option for the dog park was made at the October 28th Regular Council Meeting. |
| Moved by: | Pike |
| Seconded by: | Herman |
| Action: | Motion does not carry by a vote of 1-5 |
| In favor: | Pike |
| Opposed: | Robb, Fansler, Maczynski, Springer and Herman |

## IX. NEW BUSINESS

**Item A –** Resolution 14-15: Supporting Council Member Mark Springer In His Run For The Alaska Municipal League Vice President Seat.
*Passed on the consent agenda.*

**Item B –** AM 14-68: Appointment Of Wade Ferdia As An Alternate Member On The Public Works Committee.
*Passed on the consent agenda.*

**Item C –** Approval Of The City Clerk's 8 Hours Of Personal Time Off Request For October 30, 2014.
*Passed on the consent agenda.*

**Item D-** Council's Consideration Of A Fee Waiver For A YKHC Employee Party At The Yukon Kuskokwim Health And Safety Center.

| **Main Motion:** | Suspend the rules to hear from Raunicka Ray, USA Pool Representative. |
|---|---|
| Moved by: | Springer |
| Seconded by: | Herman |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

| **Main Motion:** | Declaring Mayor Robb has a conflict of interest on this issue due to his employment at YKHC. |
|---|---|
| Moved by: | Springer |
| Seconded by: | Herman |
| Action: | Motion carried by a vote of 4-1 |
| In favor: | Fansler, Springer, Pike and Herman |
| Opposed: | Maczynski |

| **Main Motion:** | Nominate Council Member Pike as Mayor Pro Temp. |
|---|---|
| Moved by: | Springer |
| Seconded by: | Maczynski |
| Action: | Motion carried unanimously by a vote of 5-0 |
| In favor: | Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

*Council Member Pike is elected as Mayor Pro Tem and Mayor Robb stepped down from the Council bench.*

| **Main Motion:** | Provide USA Pool the latitude to negotiate a waiver of the fee with YKHC as long as the negotiation is done with the intent that YKHC will consider a long term agreement for their employees as well as minimal impact on the operational hours for the public at large. |
|---|---|
| Moved by: | Fansler |
| Seconded by: | Springer |

| | |
|---|---|
| Action: | Motion does not carry by a vote of 1-4 |
| In favor: | Springer |
| Opposed: | Fansler, Pike, Herman, Maczynski |

| | |
|---|---|
| **Primary Amendment:** | Insert "or discount" after waiver. |
| Moved by: | Springer |
| Seconded by: | Fansler |
| Action: | Does not carry by a vote of 2-3 |
| In favor: | Springer and Fansler |
| Opposed: | Herman, Maczynski and Pike |

*Mayor Robb returned to the Council bench.*

**Item E –** City Of Bethel/ONC Joint Transit System Operations.

| | |
|---|---|
| **Main Motion:** | Commit the City of Bethel to provide $98,892 in the FY 2016 Budget for the operation of the Transit System. |
| Moved by: | Maczynski |
| Seconded by: | Herman |
| Action: | Item postponed. |

| | |
|---|---|
| **Incidental Motion:** | Suspend the rules to hear from John Sargent, City of Bethel Grant Manager, Bill Ferguson, Transit Manager, and Hansel Mathlaw, Finance Director. |
| Moved by: | Pike |
| Seconded by: | Fansler |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

| | |
|---|---|
| **Main Motion:** | Postpone until the next Regular City Council Meeting. |
| Moved by: | Fansler |
| Seconded by: | Pike |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

## XII. MAYOR'S RPORT
## XIII. MANAGER'S REPORT
## XIV. CLERK'S REPORT
## XV. COUNCIL MEMBER COMMENTS

Council Member Zach Fansler-
Thanked all of the veterans for their service.

Thanked Acting City Manager Pete Williams for all of his hard work.
Thanked the City Clerk's Office for the work during the Elections.
It is important to get the pool opened as soon as possible.
There are a number of vacancies on our committees and commission, especially the Energy Committee.

Council Member Chuck Herman-
Encouraged by the meeting, it seems as though there is some hope for the continued operation of the transit system.
Looking forward to the reopening of the pool.

Council Member Heather Pike-
Thanked Acting Pete City Manager Williams for all of his hard work.
Thanked all of the veterans out there, hug a veteran, thank a veteran.
Was disappointed in the turnout at the polls, politics are public, your vote is private.

Council Member Mark Springer-
Veterans Day is an appropriate time to thank the election officials. They are the ones that guarantee that our electoral process is kept.

Council Member Byron Maczynski-
Thanked all of the veterans who fought for our right to vote.
Hope everyone has a good night.

Mayor Richard Robb-
Thanked all of the veterans for their service to the Country.
We had a good election turnout.
December 1, is the opening for the Winter House, homeless shelter. The shelter is run entirely on volunteers, more volunteers are needed.
The Bethel Friends of the NRA took place last weekend; there were a lot of funds raised to help fund shooting sports in the community.
Yesterday was the first day of trapping season, wished all the trappers a safe season.
Thanked Acting City Manager Pete Williams for all of his hard work.

## XVI. ADJOURNMENT

| **Main Motion:** | Adjourn |
|---|---|
| Moved by: | Springer |
| Seconded by: | Fansler |
| Action: | Motion carried unanimously by a vote of 6-0 |
| In favor: | Robb, Fansler, Maczynski, Springer, Pike and Herman |
| Opposed: | None |

Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk

# Reports of Standing Committees

# City of Bethel, Alaska
# Planning Commission

November 13, 2014 Regular Meeting Bethel, Alaska

**I. CALL TO ORDER**

A regular meeting of the Planning Commission was held on at 6: 30 pm in the City Hall Council Chambers in Bethel, Alaska.

Vice-Chairman, Joy Shantz, called the meeting to order at 6:45 pm.

**II. ROLL CALL**

Present: Heather Pike, Joy Shantz, and Cliff Linderoth.

Ex -Officio members present were the following:

Rachael Pitts, Planning Director Betsy Jumper, Recorder

*Due to a lack of a quorum, meeting ended.*

_____
John Guinn, Chairman

_____
Betsy Jumper, Recorder

# Public Works Committee Agenda

Regular Meeting Wednesday, November 19, 2014 – 6:30PM
City Shop Conference Room

**MEMBERS**

Byron Maczynski
Council Rep.
Term Expires
10/2015

Frank Neitz
Chair
Term Expires
12/2016

Scott Guinn
Vice-Chair
Term Expires
12/2014

Robert Champagne
Committee Member
Term Expires
12/2017

Jennifer Dobson
Committee Member
Term Expires
12/2014

Donna Lindsey
Committee Member
Term Expires
12/2015

Delbert Egoak
Committee Member
Term Expires
12/2015

Wade Ferdig
Alternate Member
Term Expires
12/2017

.
Alternate Member
Term Expires
./.

Muzaffar Lakhani
Ex-Officio Member

Cheryl Roberts
Secretary/Recorder

**AGENDA**

I. CALL TO ORDER
II. ROLL CALL
III. PEOPLE TO BE HEARD – (5 Minute Limit)
IV. APPROVAL OF AGENDA
V. APPROVAL OF MINUTES
   A. Minutes from the previous regular meetings -
      - September 17, 2014 (there was a meeting)
      - October 15, 2014 (no quorum)
VI. SPECIAL ORDER OF BUSINESS
VII. UNFINISHED BUSINESS
   A. Water & Sewer Master Plan - Frank Neitz
   B. Institutional Corridor Location of 4th Well for City Sub WTP - Frank Neitz
   C. Sewer Lagoon - Frank Neitz
   D. Donut Hole options for a shorter route to Tundra Ridge - Frank Neitz
   E. Ridgecrest Dr. Rehabilitation Project for 5 Million at the school
      - Frank Neitz
   F. Decrease Landfill Intake - Frank Neitz

NEW BUSINESS
   A. Some kind of Traffic Light System at/near the Schools on Ridgecrest
      - Joe Klejka
   B. The City received (3) three responses for the RFP for the Institutional Corridor Piped Water Supply System - Muzaffar Lakhani

IX. DIRECTOR'S REPORT
VIII. MEMBER COMMENTS
IX. ADJOURNMENT

Cheryl Roberts, Recorder, Public Works Department
Posted: November 13, 2014 - City Hall, Post Office, Corina's, BNC Building

# City of Bethel, Alaska
# Public Works Committee Minutes

September 17, 2014 Regular Meeting Bethel, Alaska

## I. CALL TO ORDER

A regular meeting of the Public Works Committee Meeting was held on September 17, 2014 at 6:30 p.m. in the City Shop Conference Room, Bethel, Alaska was called to order by Committee Member Chair, Frank Neitz at 6:34 pm.

## II. ROLL CALL

Present: Joe Klejka, Frank Neitz, Robert Champagne, Jennifer Dobson, Donna Lindsey
Excused absence(s): Scott Guinn, Delbert Egoak
Unexcused absence(s):

Also in attendance were the following:
Muzaffar Lakhani, Public Works Director
Cheryl Roberts, Recorder of Minutes

## III. PEOPLE TO BE HEARD

John Conway with ProDev - John updated the committee on the progress of the YK Regional Aquatic Health & Training Center. The company, MSI, is the HVAC Contractors for the Pool.

## IV. APPROVAL OF AGENDA

| | | |
|---|---|---|
| **MOVED BY:** | J. Dobson | Motioned carried to approve the agenda. |
| **SECONDED BY:** | J. Klejka | |

| | |
|---|---|
| **VOTE ON MOTION** | Motion carried by unanimous voice vote. |

## V. APPROVAL OF MINUTES

| | | |
|---|---|---|
| **MOVED BY:** | J. Klejka | To approve the minutes of the regular meeting of (last meeting date). |
| **SECONDED BY:** | D. Lindsey | |

| | |
|---|---|
| **VOTE ON MOTION** | Motion carried by unanimous voice vote. |

## VI. SPECIAL ORDER OF BUSINESS

## VII. UNFINISHED BUSINESS

Item A - Water & Sewer Master Plan

Item B - Institutional Corridor - Feasibility Study & Funding

Item C - Funding source for Sewer Lagoon & the Dredge

Item D - Unstable Sewer Lagoon Platform

Item E - Establishing a plan of action for a traffic plan for the new Swansons Store

Item F - Donut Hole options for a shorter route to Tundra Ridge

Item G - Water/Sewer Rate Hike

Item H - RUBA Assessment - When will this possibly be implemented

Item I - AVEC - The Interconnect Agreement for the Pool Wind Mill

## VIII. NEW BUSINESS

Item A - Some kind of Traffic Light System at/near the Schools on Ridgecrest - Joe Klejka

Item B - Sandpit & Gun Range Property Lines - Frank Neitz

## IX. DIRECTOR'S REPORT

– See Public Works Monthly Manager's Report

## X. MEMBER COMMENTS

Joe - I love the agenda; I love it that we're able to talk about everything. So super happy that we finally got the Rate increase & now we can start fixing things. And I hope to be back on the committee if there's an opening when I go off council, we'll see. I might take a month break.

Jennifer - No Comments from me.

Donna - I don't have anything.

Robert - I just want to say thanks for having me, I'm glad to be here & I hope I can contribute in some way. It's going to be a real interesting experience for me, so, thanks.

Frank - Welcome, I want to thank you for coming. Any ideas that you guys have, problems, ideas, that you might want to bring up, just email / text, me or Cheryl, something you want to talk about we'll put it on here & talk about it, Especially if it's beneficial to the City.

## XI. ADJOURNMENT

| | | |
|---|---|---|
| MOVED BY: | J. Klejka | Motion to adjourn the meeting. |
| SECONDED BY: | J. Dobson | |

| | |
|---|---|
| VOTE ON MOTION | Motion carried by unanimous voice vote. |

With no further business before the Committee, the meeting adjourned at 7:40 p.m.

APPROVED THIS ___~~15th~~ 19th___ DAY OF ~~OCTOBER~~ NOVEMBER, 2014.

Frank Neitz, Chair

Cheryl Roberts
Recorder of Minutes

# City of Bethel, Alaska
# Public Works Committee Minutes

October 15, 2014 Regular Meeting Bethel, Alaska

**CALL TO ORDER**
Committee Member Vice-Chair, Scott Guinn, called the regular Public Works Committee Meeting of October 15, 2014 to order.

**ROLL CALL**

Present: Scott Guinn, Robert Champagne, Delbert Egoak
Excused absence(s): Frank Neitz, Jennifer Dobson, Donna Lindsey
Unexcused absence(s):

Also in attendance were the following:
~~Muzaffer Lakhani, Public Works Director~~
Cheryl Roberts, Recorder of Minutes

October 15, 2014 meeting adjourned due to a lack of a quorum.

APPROVED THIS 19TH DAY OF NOVEMBER 2014.

Frank Neitz, Chair

Cheryl Roberts
Recorder of Minutes

Safety Meeting Tuesday
Oct 28, 2014

# Driving in Winter

*Vehicle Checks*

Make sure your vehicle is ready before driving in winter weather. You should make a regular pre-trip inspection, paying extra attention to the following items.

1. Coolant Level and Antifreeze Amount. Make sure the cooling system is full and there is enough antifreeze in the system to protect against freezing. This can be checked with a special coolant tester.
2. Defrosting and Heating Equipment. Make sure the defrosters work. They are needed for safe driving. Make sure the heater is working, and that you know how to operate it. If you use other heaters and expect to need them (e.g., mirror heaters, battery box heaters, fuel tank heaters), check their operation.
3. Wipers and Washers. Make sure the windshield wiper blades are in good condition. Make sure the wiper blades press against the window hard enough to wipe the windshield clean, otherwise they may not sweep off snow properly. Make sure the windshield washer works and there is washing fluid in the washer reservoir.
4. Use windshield washer antifreeze to prevent freezing of the washer liquid. If you can't see well enough while driving (for example, if your wipers fail), stop safely and fix the problem.
5. Tires. Make sure you have enough tread on your tires. The drive tires must provide traction to push the rig over wet pavement and through snow. The steering tires must have traction to steer the vehicle. Enough tread is especially important in winter conditions. You must have at least 4/32 inch tread depth in every major groove on front tires and at least 2/32 inch on other tires. More would be better. Use a gauge to determine if you have enough tread for safe driving.
6. Tire Chains. You may find yourself in conditions where you can't drive without chains, even to get to a placé of safety. Carry the right number of chains and extra cross-links. Make sure they will fit your drive tires. Check the chains for broken hooks, worn or broken cross-links, and bent or broken side chains. Learn how to put the chains on before you need to do it in snow and ice.
7. Lights and Reflectors. Make sure the lights and reflectors are clean. Lights and reflectors are especially important during bad weather. Check from time to time during bad weather to make sure they are clean and working properly.
8. Windows and Mirrors. Remove any ice, snow, etc., from the windshield, windows, and mirrors before starting. Use a windshield scraper, snow brush, and windshield defroster as necessary.
9. Hand Holds, Steps, and Deck Plates. Remove all ice and snow from hand holds, steps, and deck plates. This will reduce the danger of slipping.
10. Radiator Shutters and Winterfront. Remove ice from the radiator shutters. Make sure the winterfront is not closed too tightly. If the shutters freeze shut or the winterfront is closed too much, the engine may overheat and stop.
11. Exhaust System. Exhaust system leaks are especially dangerous when cab ventilation may be poor (windows rolled up, etc.). Loose connections could permit poisonous carbon monoxide to leak into your vehicle. Carbon monoxide gas will cause you to be sleepy. In large enough amounts it can

kill you. Check the exhaust system for loose parts and for sounds and signs of leaks.

*Driving*

12. Slippery Surfaces. Drive slowly and smoothly on slippery roads. If it is very slippery, you shouldn't drive at all. Stop at the first safe place. Start Gently and Slowly. When first starting, get the feel of the road. Don't hurry.
13. Check for Ice. Check for ice on the road, especially bridges and overpasses. A lack of spray from other vehicles indicates ice has formed on the road. Also, check your mirrors and wiper blades for ice. If they have ice, the road most likely will be icy as well.
13. Adjust Turning and Braking to Conditions. Make turns as gently as possible. Don't brake any harder than necessary, and don't use the engine brake or speed retarder. (They can cause the driving wheels to skid on slippery surfaces.)
14. Adjust Space to Conditions. Don't drive alongside other vehicles. Keep a longer following distance. When you see a traffic jam ahead, slow down or stop to wait for it to clear. Try hard to anticipate stops early and slow down gradually. Watch for snowplows, as well as salt and sand trucks, and give them plenty of room.
15. Wet Brakes. When driving in heavy rain or deep standing water, your brakes will get wet. Water in the brakes can cause the brakes to be weak, to apply unevenly, or to grab. This can cause lack of braking power, wheel lockups, pulling to one side or the other, and jackknife if you pull a trailer. Avoid driving through deep puddles or flowing water if possible. If not, you should:

1. Slow down and place transmission in a low gear.
2. Gently put on the brakes. This presses linings against brake drums or discs and keeps mud, silt, sand, and water from getting in.
3. Increase engine rpm and cross the water while keeping light pressure on the brakes.
4. When out of the water, maintain light pressure on the brakes for a short distance to heat them up and dry them out.
5. Make a test stop when safe to do so. Check behind to make sure no one is following, then apply the brakes to be sure they work well. If not, dry them out further as described above.

(CAUTION: Do not apply too much brake pressure and accelerator at the same time, or you can overheat brake drums and linings.)

Dor.mo.gov/forms/Commercial_Driver _License.pdf

# Unfinished Business

Introduced by: Acting City Manager Williams
Introduction Date October 28, 2014
Public Hearing: November 11, 2014
November 25, 2014
Action:
Vote:

# *CITY OF BETHEL, ALASKA*

## Ordinance #14-27

### AN ORDINANCE BY THE BETHEL CITY COUNCIL REPEALING AND REPLACING SECTION 4.20 PURCHASING

**THEREFORE BE IT ORDAINED** by the City Council of Bethel, Alaska, that the Bethel Municipal Code shall be amended and revised as follows:

**SECTION 1. Classification.** This ordinance is of a permanent nature and shall become a part of the Bethel Municipal Code.

**SECTION 2. Severability.** If any provisions of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not affected thereby.

**SECTION 3.** Section 4.20 is hereby repealed.

**~~Chapter 4.20~~**
**~~PURCHASING~~**

~~Sections:~~

~~Article I. General Provisions~~

~~4.20.010 Purpose.~~
~~4.20.020 Applicability.~~
~~4.20.030 Definitions.~~
~~4.20.040 Budget approval.~~
~~4.20.050 Specifications generally.~~

~~Article II. Purchasing Agent~~

~~4.20.060 Office established.~~
~~4.20.070 Powers and duties.~~
~~4.20.080 Delegation of authority.~~

~~Article III. Source Selection and Contract Formation~~

~~4.20.090 Competitive sealed bidding.~~
~~4.20.100 Competitive sealed proposals.~~
~~4.20.110 Cancellation of bid invitations and proposal requests.~~
~~4.20.120 Determination of nonresponsibility – Confidentiality.~~

~~Article IV. Appeals and Remedies~~



~~Article V. Procurements~~



~~Article VI. Ethics~~



~~Article VII. Violation and Penalty~~



## ~~Article I. General Provisions~~

### ~~4.20.010 Purpose.~~

~~The purpose of this chapter is to provide for the fair and equitable treatment of all persons involved in public purchasing by the city, to maintain and improve local employment opportunities by encouraging the city to purchase supplies and materials locally when feasible, to increase sales tax receipts, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.~~

**~~4.20.020 Applicability.~~**

~~A. This chapter applies to contracts for the procurement of supplies, services, and construction entered into by the city after the effective date of this chapter. It shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of the source of the funds.~~

~~B. When the procurement involves the expenditure of federal assistance, state grants, or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal or state law and regulation.~~

~~C. Nothing in this chapter shall prevent any public agency from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.~~

~~D. This chapter shall be used in conjunction with the purchasing procedures adopted by city administration and set forth in the city administrative manual.~~

**~~4.20.030 Definitions.~~**

~~As used in this chapter, the following words and phrases shall have the meanings set out in this section:~~

~~A. Architect-Engineer and Land Surveying Services. "Architect-engineer and land surveying services" means those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the state.~~

~~B. Business. "Business" means any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.~~

~~C. Confidential Information. "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or available to the public on request.~~

~~D. Construction. "Construction" means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.~~

~~E. Contract. "Contract" means all types of city agreements, regardless of what they may be called, for the procurement of supplies, services or construction.~~

~~F. Contractor. "Contractor" means any person having a contract with the city or a using agency thereof.~~

~~G. Direct or Indirect Participation. "Direct or indirect participation" means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity.~~

~~H. Employee. "Employee" means an individual drawing a salary or wages from the city, whether elected or not, and any individual serving as an elected official.~~

~~I. Financial Interest. "Financial interest" means:~~

~~1. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars ($1,000) per year, or its equivalent;~~

~~2. Ownership of twenty (20) percent of any property or business; or~~

~~3. Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.~~

~~J. Gratuity. "Gratuity" means a payment, loan, subscription, advance, deposit of money, service or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.~~

~~K. Immediate Family. "Immediate family" means a spouse, children, parents, brothers and sisters.~~

~~L. Invitation for Bids. "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.~~

~~M. "Local business" means a business with fixed offices or distribution points located within the boundaries of the city and who has a current city business license and who is at the time of bidding or proposing in compliance with all requirements of the city sales tax ordinance. A Bethel post office box number or residential address may not be used solely to establish status as a local business.~~

~~N. Person. "Person" means any business, individual, union, committee, club, other organization, or group of individuals.~~

~~O. Procurement. "Procurement" means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, professional services, preparation and award of contract, and all phases of contract administration.~~

~~P. Public Agency. "Public agency" means a public entity subject to or created by the city.~~

~~Q. Qualified Products List. "Qualified products list" means an approved list of supplies, services, or construction items described by model or catalogue numbers which, prior to competitive solicitation, the city has determined will meet the applicable specification requirements.~~

~~R. Request for Proposals. "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.~~

~~S. Responsible Bidder or Offeror. "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facility, equipment, and credit which will assure good faith performance.~~

~~T. Responsive Bidder. "Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.~~

~~U. Services. "Services" means the furnishing of labor, time, or effort, by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements, collective bargaining agreements or agreements relating to the procurement of insurance coverage through an insurance broker.~~

~~V. Specification. "Specification" means any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.~~

~~W. Supplies. "Supplies" means all property, including but not limited to equipment, materials, printing, and leases of real property, excluding land or a permanent interest in land.~~

~~X. Using Agency. "Using agency" means any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this chapter.~~

**~~4.20.040 Budget approval.~~**

~~It is the duty of the finance director to confirm that sufficient funds are available for the procurement of any single item or purchase order transaction exceeding ten thousand dollars ($10,000) which has already been approved by the adoption of the current fiscal year budget. The purchasing agent may give budget approval for the procurement of any single item of purchase order transaction less than ten thousand dollars ($10,000). Any item for which the procurement of is not otherwise included in the current fiscal year budget must be approved by council.~~

**~~4.20.050 Specifications generally.~~**

~~All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the city's needs. Whenever a material, article, or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the city, of equal substance and function. Any item quoted as "equal" shall be accompanied by complete data and/or brochures to be used in evaluation.~~

## ~~Article II. Purchasing Agent~~

**~~4.20.060 Office established.~~**

~~The position of purchasing agent is established in the finance department.~~

**~~4.20.070 Powers and duties.~~**

~~A. Principal Purchasing Official. Except as otherwise provided in this chapter, the purchasing agent shall serve as the principal purchasing official for the city, and shall be responsible for the procurement of supplies and services in accordance with this chapter, as well as the management and disposal of supplies and fixed assets.~~

~~B. Duties. In accordance with this chapter, and subject to the supervision of the finance director, the purchasing agent shall:~~

~~1. Procure or supervise the procurement of all supplies and services needed by the city;~~

~~2. Sell, trade, or otherwise dispose of surplus supplies and fixed assets belonging to the city.~~

~~C. Operational Procedures. Consistent with this chapter, and with the approval of the finance director, the purchasing agent may adopt and publish operational procedures relating to the execution of the duties of the position.~~

**~~4.20.080 Delegation of authority.~~**

~~With the approval of the city manager, the purchasing agent may delegate authority to purchase certain supplies, services, or construction to other city officials, if such delegation is deemed necessary for the effective procurement of those items. This provision recognizes that for the procurement of certain supplies, services or construction, effective management may call for the delegation of procurement authority to other city officials possessing specialized skills or knowledge that would make them better qualified to define the city's requirements or monitor a contractor's performance. When faced with an especially complex procurement, such as a complex construction project, the city may find it necessary to temporarily appoint a highly qualified construction management professional as construction procurement officer for that project. As an alternative, the city may choose to contract for the services of a construction management firm to oversee all phases of the project. As a city contractor, this firm shall be closely supervised in its performance by the purchasing agent or other city official as the city manager deems appropriate. In selecting and utilizing such a project management firm, the city will ensure that the contractors providing this management function are independent of those contractors providing construction or other project services to the city. Consistent oversight will be essential for the successful completion of such complex construction projects.~~

## ~~Article III. Source Selection and Contract Formation~~

**~~4.20.090 Competitive sealed bidding.~~**

~~A. Conditions for Use. All procurement contracts of the city shall be awarded by competitive sealed bidding except as otherwise provided in BMC 4.20.100,4.20.155 and 4.20.160.~~

~~B. Invitation for Bids. An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.~~

~~C. Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time, not less than thirty (30) calendar days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening. The public notice shall state the place, date and time of bid opening.~~

~~D. Bid Opening. Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the purchasing agent deems appropriate, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.~~

~~E. Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as otherwise authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for awards shall be objectively measurable, such as discounts, transportation costs, and total life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. The criteria shall include a statement that any local business submitting a bid shall receive a five (5) percent preference in determining the lowest responsible and responsive bidder. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.~~

~~F. Correction or Withdrawal of Bids – Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:~~

~~1. The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or~~

~~2. The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or~~

~~withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing agent.~~

~~G. Award. The contract shall be awarded with reasonable promptness by appropriate written notice to the local business that is the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, provided such bid does not exceed by more than five (5) percent the lowest bid of any bidder that is not a local business. In the event the low responsive and responsible bid exceeds available funds as certified by the finance director and such bid does not exceed such funds by more than five (5) percent, the city manager or authorized designee is authorized, when time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.~~

**~~4.20.100 Competitive sealed proposals.~~**

~~A. Conditions for Use. When the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by use of the competitive sealed proposal method.~~

~~B. Request for Proposals. Proposals shall be solicited through a request for proposals.~~

~~C. Public Notice. Adequate public notice of the request for proposals shall be given in the same manner as provided in BMC 4.20.090(C).~~

~~D. Receipt of Proposals. No proposals shall be handled so as to permit disclosure of the identity of any offeror or the content of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.~~

~~E. Evaluation Factors. The request for proposals shall state the relative importance of price and other evaluation factors. The evaluation factors shall include a statement that any local business submitting a proposal shall receive a five (5) percent preference in evaluating the proposed price.~~

~~F. Discussion with Responsible Offerors and Revisions to Proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the~~

~~solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors, or of any information derived from proposals submitted by competing offerors.~~

~~G. Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the evaluation. The contract file shall contain the basis on which the award was made.~~

**~~4.20.110 Cancellation of bid invitations and proposal requests.~~**

~~An invitation for bids, a request for proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part, when it is for good cause and in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.~~

**~~4.20.120 Determination of nonresponsibility — Confidentiality.~~**

~~A. Determination of Nonresponsibility. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the purchasing agent. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an injury with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file and be made a public record.~~

~~B. Right of Nondisclosure. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed by the city outside of the office of the purchasing agent, or using agency, without prior written consent of the bidder or offeror.~~

## ~~Article IV. Appeals and Remedies~~

### ~~4.20.130 Appeals.~~

~~A. Right to Protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the city manager. A protest with respect to any invitation for bids or request for proposal shall be submitted in writing prior to the opening of bid or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within five (5) days, excluding Saturdays, Sundays, and other legal holidays, after such aggrieved person knows or should have known of the facts giving rise to the case.~~

~~B. Stay of Procurements During Protests. In the event of a timely protest under subsection A of this section, the purchasing agent shall not proceed further with the solicitation or award of the contract until the city manager makes a determination on the record that the award of a contract without delay is necessary to protect substantial interests of the city.~~

~~C. Decision of the City Manager. All claims by a contractor against the city relating to a contract, except bid protests, shall be submitted in writing to the city manager for a decision. The contractor may request a conference with the city manager on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.~~

~~D. Notice to the Contractor. The decision shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under subsection E of this section.~~

~~E. Finality of Decision – Contractor's Right to Appeal. The city manager's decision shall be final and conclusive unless, within five (5) days, excluding Saturdays, Sundays, and other legal holidays, from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the city council or commences an action in a court of competent jurisdiction.~~

### ~~4.20.140 Remedies.~~

~~A. Prior to Bid Opening or Closing Date for Receipt of Proposals. If prior to the bid opening or the closing date for receipt of proposals, the purchasing agent, after~~

~~consultation with the city attorney, determines that a solicitation is in violation of federal, state, or municipal law, then the solicitation shall be cancelled or otherwise revised to comply with applicable law.~~

~~B. Prior to Award. If after bid opening or the closing date for receipt of proposals, the purchasing agent, after consultation with the city attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state or municipal law, then the solicitation or proposed award shall be cancelled.~~

~~C. After Award. If, after an award, the purchasing agent, after consultation with the city attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:~~

~~1. If the person awarded the contract has not acted fraudulently or in bad faith:~~

~~a. The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the city; or~~

~~b. The contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or~~

~~2. If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the city.~~

## ~~Article V. Procurements~~

### ~~4.20.150 General equipment, material and supplies.~~

~~A. Source Selection. Except as otherwise provided in BMC 4.20.100, the source selection process for procurement of other than construction or professional services shall be as follows:~~

~~1. Over Twenty Thousand Dollars ($20,000). For the procurement of any single item or purchase order transaction expected to cost twenty thousand dollars ($20,000) or more, it shall be required that the request be put out for bid following the process as stated in BMC 4.20.090.~~

~~2. Ten Thousand Dollars ($10,000) or More, but Less than Twenty Thousand Dollars ($20,000). For the procurement of any single item or purchase order transaction expected to cost ten thousand dollars ($10,000) or more, but less than twenty thousand dollars ($20,000), no less than three (3) businesses~~

~~shall be solicited to submit written quotations. The names of the businesses submitting quotations shall be recorded and maintained as a public record. Any local business whose quotation does not exceed by more than five (5) percent the lowest price quotation received from any person who is not a local business shall be considered to have submitted a quotation lower than that submitted by the person who is not a local business.~~

~~3. Five Thousand Dollars or More, but Less than Ten Thousand Dollars ($10,000). For the procurement of any single item or purchase order transaction expected to cost five thousand dollars ($5,000) or more, but less than ten thousand dollars ($10,000), at least three (3) businesses shall be contacted for a phone quotation. The names of the businesses submitting a phone quotation shall be recorded and maintained as a public record. Any local business whose quotation does not exceed by more than five (5) percent the lowest price quotation received from any person who is not a local business shall be considered to have submitted a quotation lower than that submitted by the person who is not a local business.~~

~~4. Under Five Thousand Dollars ($5,000). The purchasing agent shall use judgment based on knowledge of vendors and products to determine whether or not it is necessary or practical or in the best interests of the city to solicit for quotations or bids.~~

~~B. Bid and Performance Bonds. Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing agent deems advisable to protect the city's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for determination of a bidder or offeror's responsibility.~~

**~~4.20.155 Contracts for insurance.~~**

~~A. The city shall procure liability, workmen's compensation and property insurance coverage by sealed competitive proposals for up to a three- (3-) year period either through one (1) or more insurance brokers, directly from an insurance company or through participation in a joint insurance arrangement established in accordance with AS 21.76.010.~~

~~B. The city shall procure insurance intended to benefit city employees by competitive sealed proposals for up to a three- (3-) year period either through one (1) or more insurance brokers, directly from an insurance company or through participation in a~~

~~health insurance trust or similar arrangement established in accordance with applicable state or federal law.~~

~~C. Competitive sealed proposals shall be solicited in accordance with BMC 4.20.100. The city may hire a consultant to assist in either soliciting or evaluating the competitive sealed proposals.~~

**~~4.20.160 Construction contracts.~~**

~~A. Source Selection. The source selection process for the procurement of construction contracts, whether it be remodeling or construction of a new structure, shall be made as follows:~~

~~1. One Hundred Thousand Dollars ($100,000) and Over. For any construction or remodeling project estimated by the requisitioning department head or the public works director to cost one hundred thousand dollars ($100,000) or more, the competitive sealed bid procedure shall be used as stated in Article III of this chapter.~~

~~2. Under One Hundred Thousand Dollars ($100,000). For any construction or remodeling project estimated by the requisitioning department head or the public works director to cost under one hundred thousand dollars ($100,000), no less than three (3) businesses shall be contacted to submit written quotations. Award shall be given to the lowest responsible and responsive contractor.~~

~~B. Bid Security. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the requisitioning department or the public works director to exceed one hundred thousand ($100,000). Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the city. Bid security shall be in the amount equal to at least five (5) percent of the amount of the bid.~~

~~C. Performance and Payment Bonds. When a construction contract is awarded in excess of fifty thousand dollars ($50,000), the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:~~

~~1. A performance bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, in an amount equal to fifty (50) percent of the price specified in the contract, unless the price specified in the contract exceeds five~~

~~million dollars ($5,000,000); then the performance bond shall be in the sum of two million five hundred thousand dollars ($2,500,000); and~~

~~2. A payment bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to fifty (50) percent of the price specified in the contract, unless the price specified in the contract exceeds five million ($5,000,000); then the payment bond shall be in the sum of two million five hundred thousand dollars ($2,500,000).~~

~~C. Contract Administration for Construction Contracts. The city manager or council shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the city manager shall consider the city's requirements, its resources, and the potential contractor's capabilities. The city manager shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project. It is recognized that at least the following methods are currently being used for control and coordination of construction projects:~~

~~1. A single prime contractor (including a turnkey or design-build contractor); or~~

~~2. Multiple prime contractors managed by:~~

~~a. A designated general contractor,~~

~~b. A construction manager, or~~

~~c. The public works director.~~

**~~4.20.170 Professional services.~~**

~~A. Source Selection. The method of source selection process for professional services shall be made through the solicitation for request for proposals as stated in BMC 4.20.100.~~

~~B. Public Notice. Adequate public notice of the request for proposals shall be given in the same manner as provided in BMC 4.20.090. The request for proposal shall describe~~

~~services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.~~

~~C. Statement of Qualifications. Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. Persons may amend these statements at any time by filing a new statement.~~

~~D. Discussions. The head of a using department procuring the required professional services or a designee of such officer may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.~~

~~E. Award. Award shall be made to the offeror determined in writing, by the head of the using department procuring the required professional services or a designee of such officer, to be best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, the negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.~~

**~~4.20.180 Sole-source procurement.~~**

~~A contract may be awarded without competition when the purchasing agent documents in writing, after conducting a good faith review of available resources, that there is only one (1) source for the required supply, service or construction item.~~

**~~4.20.190 Emergencies.~~**

~~Notwithstanding any other provisions of this chapter, the city manager may authorize in writing the purchasing agent to make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination or the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.~~

**~~Article VI. Ethics~~**

**~~4.20.200 Conflicts of interest.~~**

~~A. It shall be unethical for any city employee to participate directly or indirectly in a procurement contract when the city employee knows that:~~

~~1. The city employee or any member of the city employee's immediate family has a financial interest pertaining to the procurement contract; or~~

~~2. Any other person, business, or organization with whom the city employee or any member of a city employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.~~

~~B. A city employee or any member of a city employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.~~

**~~4.20.210 Gratuities, kickbacks and unauthorized spending.~~**

~~A. Gratuities. It shall be unethical for any person to offer, give, or agree to give any city employee or former city employee, or for any city employee or former city employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.~~

~~B. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.~~

~~C. Unauthorized Spending. Unauthorized spending of city moneys by a city employee on the city's behalf without proper approval shall be deemed unethical. No city funds shall be used for the procurement of goods and services for a city employee even if there was such intent to reimburse the city.~~

**~~4.20.220 Contingent fee prohibition.~~**

~~It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a city contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees~~

~~or bona fide established commercial selling agencies for the purpose of securing business.~~

**~~4.20.230 Contemporaneous employment prohibited.~~**

~~*Repealed by Ord. 10-19.* [Ord. 163 § 8-105, 1985.]~~

**~~4.20.240 Waivers from conflict of interest provisions.~~**

~~The city council may grant a waiver from the employee conflict of interest provision (BMC 4.20.200), upon making a written determination that:~~

~~A. The conflict of interest has been publicly disclosed;~~

~~B. *Repealed by Ord. 10-19*;~~

~~C. The award will be in the best interests of the city.~~

**~~4.20.250 Confidentiality.~~**

~~It shall be unethical for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.~~

**~~4.20.260 Sanctions designated.~~**

~~A. Employees. The city manager or city council may impose any one (1) or more of the following sanctions on a city employee for violations of ethical standards in this article:~~

~~1. Oral or written warnings or reprimands;~~

~~2. Suspension with or without pay for specified periods of time; or~~

~~3. Termination of employment.~~

~~B. Elected Official. The city council may impose any one (1) or more of the following sanctions for violations of the ethical standards:~~

~~1. Termination of contract;~~

~~2. Censuring. Such censure shall be made upon a two-thirds (2/3) majority vote of the city council. No member of the city council may vote on any question of his or her own censure, but may participate in any discussion and debate on the matter.~~

**~~4.20.270 Recovery of value received or transferred.~~**

~~A. General Provisions. The value of anything transferred or received in breach of the ethical standards of this chapter by a city employee or an elected official may be recovered from both city employee and an elected official.~~

~~B. Recovery of Kickbacks by the City. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.~~

**~~Article VII. Violation and Penalty~~**

**~~4.20.280 Criminal penalties.~~**

~~To the extent that violations of the ethical standards of conduct set forth in this chapter constitute violations of the State Criminal Code they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this chapter. Criminal, civil, and administrative sanctions against employees or nonemployees which are in existence on the effective date of the ordinance codified in this chapter shall not be impaired.~~

**~~4.20.290 Contractor in good standing.~~**

~~No procurement contract may be awarded to a person, group, organization, or other entity that is delinquent in the payment or collection of sales taxes, fees, charges, penalties, interest or other amounts that are due and owing, or otherwise obligated to the city.~~

**Section 4.** Title 4.20, Purchasing is hereby adopted to read as follows:

## 4.20 Purchasing

Article I – General Provisions
4.20.010 Definitions

Article II – Purchasing Agent
4.20.020 Purchasing Agent

Article III – Source Selection

## Article I - General Provisions

### 4.20.010 Definitions.

As used in this chapter, the following words, terms and phrases shall have the meanings set out in this chapter, except where the context clearly indicates a different meaning:

A. "Business" means any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.
B. "Construction" means the on-site erection, rehabilitation, alteration, extension or repair of improvements to real property, including painting or redecorating buildings, highways, or other improvements under contract for the City, but does not include routine operation, repair, or maintenance of existing buildings or improvements which are recurring services normally performed in connection with the ownership, occupancy or use of the building or improvement.
C. "Contract" means all types of City agreements, regardless of what they may be called, for the procurement of supplies, services or construction but does not include collective bargaining agreements or subdivision agreements.
D. "Contract Amendment" means any change in the term of a contract accomplished by agreement of the parties, including change orders.
E. "Contractor" means any person having a contract with the City or a using agency thereof.
F. "Financial interest" includes the receipt of a pecuniary benefit or the expectation of a pecuniary benefit:
    1. A financial interest of a person includes a financial interest of any member of the person's household.
    2. A person has a financial interest in an organization if the person:

i. Has an ownership interest in the organization or
ii. Is a director, officer or employee of the organization;

3. Whether a financial interest is substantial is determined on a case by case basis.

G. "Immediate family":
1. The spouse of the person
2. Another person cohabiting with the person in a conjugal relationship that is not a legal marriage;
3. A child, including a stepchild and an adoptive child, of the person;
4. A parent, sibling, grandparent, aunt or uncle of the person; and
5. A parent or sibling of the person's spouse.

H. "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids or proposals.

I. "Person" means any business, individual, union, committee, club, other organization, or group of individuals.

J. "Procurement" means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, professional services, preparation and award of contract, and all phases of contract administration.

K. "Professional Service" means those advisory, consulting, technical, research or other services, such as architectural, engineering, land surveying, legal and financial which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise or training gained by formal studies or experience.

L. "Qualified products list" means an approved list of supplies, services, or construction items described by model or catalogue numbers which, prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

M. "Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.

N. "Services" means the furnishing of labor, time, or effort, by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements, collective bargaining agreements or agreements relating to the procurement of insurance coverage through an insurance broker.

O. "Specification" means any description of the physical or functional characteristics or of the nature of a supply, service, professional service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

P. "Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of employer and

an employee) for the purchase, sale or use of personal property or non-personal services which, in whole or in part, is necessary to the performance of any one or more contracts; or under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

Q. "Supplies" means all property, including but not limited to equipment, materials, printing, and leases of real property, excluding land or a permanent interest in land.

## Article II – Purchasing Agent

### 4.20.020 Purchasing Agent

A. The Finance Director or their designee shall serve as the purchasing agent.

B. The purchasing agent shall have the following authority and responsibilities:

1. To procure or supervise the procurements of all supplies, services and construction required by the City;
2. To administer or supervise the sale, trade or other disposal of surplus supplies belonging to the City;
3. To join with other units of government in cooperative purchasing ventures where the best interest of the City would be served thereby;
4. To maintain all records pertaining to the procurement of supplies, services and construction, and the disposal of supplies, by the City in accordance with the City's most recent retention schedule or the retention schedule for the funding source, whichever is later;
5. To prescribe the time, manner, authentication and form of making requisitions for supplies and services; and
6. Any other authorities and responsibilities which this chapter assigns to the purchasing agent.
7. The City manager may delegate authority, in writing, to a department head, to purchase certain supplies, services, or construction if such delegation is deemed necessary for the effective procurement of those items provided such obligation does not exceed five ($5,000) thousand dollars.
8. When faced with an especially complex procurement, such as a complex construction project, the City may find it necessary to temporarily appoint a highly qualified construction management professional as construction procurement officer for that project. As an alternative, the City may choose to contract for the services of a construction management firm to oversee all phases of the project. As a City contractor, this firm shall be closely supervised in its performance by the purchasing agent or other City official as the City manager deems appropriate. In selecting and utilizing such a project management firm, the City will ensure that the contractors providing this management function are independent of those contractors providing construction or other project services to the City. Consistent oversight will be essential for the successful completion of such complex construction projects.

## Article III – Source Selection

**4.20.030 Competitive Sealed Bidding**

Unless otherwise authorized under this chapter or other provision of law, all City contracts for supplies, services (excluding professional services), and construction shall be awarded by competitive sealed bidding.

A. The purchasing agent shall initiate competitive bidding by issuing an invitation for bids. The invitation for bids shall be prepared by the using department and shall state, or incorporate by reference, all specifications and contractual terms and conditions applicable to the procurement.
B. Bids shall be opened publicly in the presence of one or more City witnesses at the time and place designated in the invitation for bids. The purchasing agent shall tabulate the amount of each bid and shall record such other information as may be necessary or desirable for evaluation together with the name of each bidder. The tabulation shall be open to public inspection, and a copy of the tabulation shall be furnished to each bidder upon request. Any bidder may review the bids after tabulation or summary.
C. Bids shall be accepted unconditionally without alteration or correction. For purposes of determining the low bidder and the responsiveness of bids, no criteria except those set forth in the invitation for bids, including all specifications and addenda, may be used.

**4.20.040 Competitive sealed proposals.**

A. Conditions for Use. When the purchasing agent determines, in writing, that the use of competitive sealed bidding is either not practicable or not advantageous to the City, the City may procure supplies, professional services, general services or construction by competitive sealed proposals as outlined in this section.
B. The request for proposals shall be prepared by the using department. The purchasing agent shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all specifications and contractual terms and conditions to which a proposer must respond, and shall state the factors to be considered in evaluating proposals and the relative importance of those factors.
C. Proposals shall be received at the time and place designated in the request for proposals, and shall be opened so as to avoid disclosing their contents to competing proponents during the evaluation, discussion, and negotiation process. Notwithstanding chapter 2.40, the names of the responding firms, contents of the proposals, tabulations and evaluations thereof shall be open to public inspection only upon City council approval of a contract award. However, the purchasing agent shall issue a notice of intent to award to all responding proposers at least seven (7) business days prior to the City council approval.
    1. Competing proponents may make written request, to view their proposal or competing proposals prior to City council consideration of a contract. All such reviews must be in person and under the supervision of the purchasing agent. The review by a competing proponent is to assure

reasonable access and opportunity to request a debriefing from the purchasing agent prior to council action on the proposed award.

D. In the manner provided in the request for proposals, the purchasing agent may enter into discussions with those responsible proponents whose proposals are determined by the purchasing agent to be most reasonably responsive to the request for proposals (short-listed firms). The purchasing agent may issue an interim notice to the remaining firms that a qualified list has been established for discussion purposes. No disclosure of the short-listed firms, contents of proposals, tabulations or evaluations thereof shall be made in accordance with subsection C above. Discussions shall be used to clarify and ensure full understanding of the requirements of the request for proposals. The purchasing agent may permit those short-listed firms to revise their proposals after submission and prior to award to obtain best and final offers. Proponents deemed eligible for discussions shall be treated equally regarding any opportunity to discuss and revise proposals. However, if during the discussions it is evident that the proposals, as submitted, will exceed the available funding, and/or other changes in the terms, conditions, or requirements are needed to clarify or fulfill the requirements of the City, the purchasing agent shall issue a written modification to those short-listed firms with an established date and time for the firms to respond. The failure of a short-listed firm to respond or to notify the purchasing officer of a needed time extension may be just cause to remove the proposer from further consideration. In conducting discussions or requesting revisions, neither the purchasing agent nor any other City officer or employee shall disclose any information derived from other competing proposals.

E. If fair and reasonable compensation, contract requirements and contract documents can be agreed upon with the most qualified proposer, the contract shall be awarded to that firm.

F. If fair and reasonable compensation, contract requirements and contract documents cannot be agreed upon with the most qualified proposer, the purchasing agent shall advise the proposer of the termination of negotiations within five (5) business days of the determination. If the proposals were submitted by one or more other proponents determined to be qualified, negotiations may be conducted with such other proposers in the order of their respective rankings. The contract may be awarded to the proposer then determined to be most advantageous to the City.

G. When the service is routine and repetitious, costs of the anticipated service shall be considered during evaluation of proposals. This subsection shall not apply to a qualifications-based selection process.

    1. When the source selection is for architectural and/or engineering services, a qualifications-based selection process shall be used. Price will not be a sole factor in the selection of the architect or engineer during the evaluation process.

2. Notwithstanding subsection G.1 of this section, the purchasing agent may include price as an added factor in selecting architectural and engineering services when, in the judgment of the purchasing agent, the services required are repetitious in nature, and the scope, nature, and amount of services required are thoroughly defined by measurable and objective standards to reasonably enable firms or persons making proposals to compete with a clear understanding and interpretation of the services required.
3. Except as otherwise required by state law in particular situations, this section shall apply to all procurements of architectural and engineering services by the City.

**4.20.050 Specifications generally for Bids and Proposals**

**A.** Requests for bids/proposals should clearly and accurately describe the technical requirements for the goods or services to be purchased. The specifications should not contain features that unduly restrict competition. A qualified products list may be used. It is the responsibility of the vendor to demonstrate to the City's satisfaction that its product is "equal" to that specified. Requests for approval of substitutions must be made with sufficient time to allow the City to adequately review the substitution request, including time for vendors to respond to questions and requests for additional information or clarification. The City has no obligation to accept proposed substitutions or to hire outside experts to evaluate proposed substitutions. Acceptance of a substitute product proposed as an "equal" to that specified will be made in writing and, if made prior to award, other firms/individuals will be notified if practical and convenient.

B. Public Notice. Adequate public notice of the invitation for bids/proposals shall be given a reasonable time, not less than twenty (20) calendar days prior to the date set forth therein for the opening of bids/proposals. Such notice may include publication in a newspaper of general circulation for a reasonable time prior to bid/proposal opening.
   1. The public notice shall state the place, date and time of bid/proposal submission and opening.
   2. The contents of the notice shall be sufficient to inform interested readers of the general nature of the supplies, services or construction being procured and the procedure for submitting a bid/proposal.
   3. The failure of any person to receive notice under this subsection shall not affect the validity of any award or contract.

C. The purchasing agent, at the request of the using department director, may provide for a pre-bid/proposal conference to be held at least seven (7) business days before the last day for submitting bids/proposal.

D. The terms of an invitation for bid/proposals may be modified or interpreted only by written addenda issued by the purchasing agent or the designee. Only a bid/proposal which acknowledges receipt of all addenda may be considered responsive. If an addendum is issued less than five (5) business days before the

last day on which bids/proposals are to be accepted, the time for accepting bids shall be extended by at least five (5) business days after the date on which the addendum was sent.

E. All requests for bids or requests for proposals shall require the bidder to attach to his proposal, a sworn declaration:
   1. Stating that neither he nor any of his representatives or third party mandated by him has attempted to contact City representatives or members of the selection committee, when applicable, for the purpose of influencing their choice, judgment or recommendation relating to the contract, or with members of the City council to influence their decision; and
   2. Stating that he has produced his proposal without collusion, communication, agreement or arrangement with a competitor with regards to prices, methods, factors or formulas for setting prices, to the decision to submit or not submit a proposal or to present a proposal that does not comply, directly or indirectly, with specifications contained in the request.
   3. Stating that neither he nor any of his representatives engaged in discrimination, intimidating measures, influence peddling or corruption or entered into any form of collusion, communication, agreement or arrangement with other suppliers or third parties relating to a contract with the City.

F. All requests for bids or request for proposals must clearly state that:
   1. A bidders/proposers failure to attach the sworn declarations required above shall result in automatic rejection of the proposal/bid, and
   2. That in the event that a bidder or proposer, or a representative or third party mandated by them, has been in violation of the statements called for above, the bidder's proposal shall be automatically rejected, and
   3. That the City of Bethel may cancel a contract that has been awarded if the City becomes aware, during the course of the contract, of a situation contravening a sworn statement required by this section.

G. Sealed bids/proposals shall be designated as such on the outer envelope and shall be submitted by mail, in person, e-mail or facsimile at the place and no later than the time specified in the invitation for bids/proposals. Bidders/Proposers who submit their bids/proposals via facsimile or e-mail do so at their own risk. The City is not responsible for failures or delays in transmission. Bids/proposals not submitted at the proper place or within the time specified shall not be opened or considered.

H. Awards shall be made by written notice to the bidder/proponent whose final proposal is determined to be most advantageous to the City. No criteria other than those set forth in the request for bids/proposals may be used in bid/proposal evaluation.

I. If the City manager determines that it is in the best interest of the City to do so, the City may reject all bids/proposals.

**4.20.060 Local Preferences**

A. In awarding competitive purchases or construction contracts, preference may be given to an otherwise qualified "local bidder" unless such preference is prohibited by the funding source.
B. For purposes of this section, a "local bidder/proposer" is a person who:
    1. Holds a current state business license, and in addition, for construction contracts holds a current, appropriate state contractor's registration certificate; and
    2. Holds a current City of Bethel business license both at the time the bid is announced and at the time it is scored; and
    3. Submits a bid for a competitive purchase or construction contract under the name as appearing on the person's license, and where applicable, a certificate; and
    4. Has continuously maintained a physical place of business within the City of Bethel staffed by the bidder or an employee of the bidder for a period of one hundred eighty (180) calendar days immediately preceding the date of the bid opening; and
    5. Is compliant with all requirements of the City sales tax ordinance.
    6. A Bethel post office box number or residential address may not be used solely to establish status as a local business.
C. Sliding Scale for Local Preference:
    1. A five (5%) percent preference in bid/proposal prices not to exceed Five Thousand ($5,000.00) on purchases not exceeding Two Hundred Fifty Thousand ($250,000) Dollars;
    2. A three (3%) percent preference in bid/proposal prices not to exceed Ten Thousand ($10,000.00) Dollars on purchases between Two-Hundred Fifty-One Thousand ($251,000) Dollars and Five Hundred Thousand ($500,000) Dollars; and
    3. A two (2%) percent preference in bid/proposal prices not to exceed Twenty Thousand ($20,000.00) Dollars on purchases exceeding Five Hundred Thousand ($500,000.00) Dollars.

**4.20.070 Contractor in Good Standing**

A. No procurement contract may be awarded to a person, group, organization, or other entity that is delinquent in the payment or collection of sales taxes, fees, charges, penalties, interest or other amounts that are due and owing, or otherwise obligated to the City which is not remedied within ten (10) business days of notice to the contractor.
B. Any contract can be terminated for cause if it is determined that the contractor is in violation of any taxation ordinance and if such violation is not remedied within

ten (10) business days of written notification by regular mail. If the delinquency arises due to non-filing of sales tax, no payment will be made to the contractor until all filings have been made and all amounts due are remitted.

C. The City reserves any right it may have to offset amounts owed by its contractor(s) for delinquent City taxes against any amount owing to the contractor(s) under a contract between the City and the contractor(s).

**Article IV –Awards**

**4.20.080 Award to be made only to Responsive Bidders or Proposers**

A contract awarded under this chapter shall be made only to a qualified, responsive and responsible bidder or proposer. The purchasing agent shall determine, after consultation with the appropriate department director and the City manager, whether a bidder/proposer is qualified, responsive and responsible on the basis of the following criteria:

A. The skill and experience demonstrated by the bidder in performing contracts of a similar nature;
B. The bidder's capacity to perform in terms of facilities, personnel, financing and location (including whether the bidder/proposer has performed contracts of a similar nature);
C. The bidder's/proposer's past performance under City contracts. If the bidder/proposer has failed in any material way to perform its obligations under any contract with the City, the bidder/proposer may be deemed a non-responsible bidder/proposer.
D. At all times the best interests of the City shall be recognized in awarding bids/proposals.

**4.20.090 Procedures for Award**

A. Contracts shall be awarded by written notice issued by the purchasing agent to the lowest qualified, responsive and responsible bidder or proposer.
B. At least seven (7) business days before council approval, the purchasing agent shall send written notice of intent to award the contract. Notice will be sent by to the three (3) lowest bidders/proposers.
C. If the lowest qualified, responsive and responsible bid/proposal exceeds the amount of funds certified by the purchasing agent to be available for the procurement, and if sufficient additional funds are not made available, the scope of the procurement may be reduced to bring its estimated cost within the amount of available funds. The purchasing agent shall issue a new invitation for bids/proposals for the reduced procurement, or, upon finding that the efficient operation of the City government requires that the contract be awarded without delay, the purchasing agent may negotiate with the three lowest qualified, responsive and responsible bidders starting with the first lowest and progressing upward by price or with the three most qualified proposers starting with the highest scored proposer and progressing downward by score; and may award, or

recommend to the City council for award, the reduced contract to the best negotiated bid/proposal, except where prohibited by state and federal grant conditions or where another procedure has been specified in this chapter.

### 4.20.100 Bonds

A. Bid Bonds. The purchasing agent may require that persons submitting bids pursuant to this chapter accompany their bids with a bid bond in an amount and in a form acceptable to the purchasing agent. The bonds shall be issued by a company qualified by law to do business as a surety in the state, or shall be in the form of a cash deposit. A condition of the bond shall be that, if the bidder receives the award, they shall enter into a contract therefore with the City.

B. Performance and Payment Bonds. If a requirement for a performance and payment bond is included in the terms of the invitation to bid, the purchasing agent may require that any person awarded a City contract furnish such bond, issued by a company qualified by law to do business as surety in the state. The bond shall be in an amount determined by the purchasing agent and in a form approved by the City attorney. Such bonds shall, at a minimum, guarantee the full and faithful performance of all contract obligations and payment for all labor and materials to be used under the contract.

C. Exceptions. The purchasing agent, with the using department head concurrence, may grant exceptions from bonds pursuant to AS 36.25.025.

## Article V – Exceptions

### 4.20.110 When Competitive Bidding Is Not Required

The following may be purchased without giving an opportunity for competitive bidding:

1. Supplies, materials, equipment or contractual services, purchased from another unit of government at a price deemed below that obtainable from private dealers, including war surplus;
2. Contractual services purchased from a public utility at a price or rate determined by State or other government authority;
3. Supplies, materials, equipment or contractual services purchasable under the contract of another governmental agency in which contract the City is authorized to participate.

### 4.20.120 Waiver of Irregularities

The City Council, or the City manager for bids of $50,000 or less, shall have the authority to waive irregularities on any and all bids, except that timeliness and signature requirements shall not be waived.

### 4.20.130 Cancelation of Bid Invitations and Proposal Requests

An invitation for bids, a request for proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part, when it is

for good cause and in the best interests of the City. The reasons therefore shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the City. Notice of cancellation shall be sent to all businesses solicited. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

**4.20.140 Determination of Non-Responsiveness**

A. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsive, a written determination of non-responsiveness, setting forth the basis of the finding, shall be prepared by the purchasing agent and presented to the bidder or offeror within three (3) business days.
B. The unreasonable failure of a bidder or offeror to supply information in connection with an inquiry within three (3) business days of notice by the purchasing agent may be grounds for a determination of non-responsiveness. A copy of the determination shall be sent promptly to the nonresponsive bidder or offeror. The final determination shall be made part of the contract file and be made a public record.

**4.20.150 Waiver of Formal Bidding Procedures**

The City manager may waive, in writing, some of the formal bidding procedures of this chapter when there is not sufficient time to comply with the waived requirements, or the best interests of the City will be served by such action.

Following such waiver, the City manager shall submit a written report to the council clearly outlining all waivers made. Such written report shall be included in the next available council packet following the waiver.

**Article VI. Specific Procurements**

**4.20.160 Construction**

A. Source Selection. The source selection process for the procurement of construction contracts, whether it be remodeling or construction of a new structure, shall be made as follows:
    1. One Hundred Thousand Dollars ($100,000) and Over. For any construction or remodeling project estimated by the requisitioning department director to cost one hundred thousand dollars ($100,000) or more, the competitive sealed bid procedure shall be used as stated in this chapter.
    2. Under One Hundred Thousand Dollars ($100,000). For any construction or remodeling project estimated by the requisitioning department director to cost under one hundred thousand dollars ($100,000), no less than three (3) businesses shall be contacted to submit written quotations. Award shall be given to the lowest responsible and responsive contractor.

B. Contract Administration for Construction Contracts. For construction contracts of less than One Million Dollars, the City manager or council shall have discretion to select the appropriate method of construction contracting management for a particular project. For contracts exceeding one million dollars, the discretion shifts solely to the City council.
   1. In determining which method to use, the following shall be considered:
      a) The City's requirements,
      b) The City's resources, and
   2. The potential contractor's capabilities. The City manager shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project. It is recognized that at least the following methods are currently being used for control and coordination of construction projects:
      a) A single prime contractor (including a turnkey or design-build contractor); or
      b) Multiple prime contractors managed by:
         i. A designated general contractor,
         ii. A construction manager, or
         iii. The public works director.

### 4.20.170 Consulting Services for City Council

The City council may solicit, evaluate, and select consultants to assist them in performance of their duties without the necessity of following the formal procedures for procurement of services set forth in this code. The City council shall direct the method and criteria for obtaining consultant services by resolution setting forth the urgent situation necessitating the need to bypass the regular procurement processes and demonstrating how the City is obtaining the best possible value.

### 4.20.180 Emergency Procurements

The City may award a contract for supplies, services or professional services or construction without competition, formal advertising or other formal procedure where the City manager determines, in writing, that an emergency threatening the public health, safety or welfare of the City requires that the contract be awarded without delay. A report on such emergency procurement shall be made to the City council no later than the second regular meeting following the decision to award the contract.

For purposes of this subsection, an "emergency" is defined as the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from:

1. An incident such as a storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic, explosion or riot;

2. The release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage;
3. Equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;
4. Enemy or terrorist attack or a credible threat of imminent enemy or terrorist attack in or against the State that the Adjutant General of the Department of Military and Veterans Affairs or a designee of the Adjutant General, in consultation with the Commissioner of Public Safety or a designee of the Commissioner of Public Safety, certifies to the Governor has a high probability of occurring in the near future (the certification must meet the standards set out in Alaska Statute, AS 26.20.200); or
5. An outbreak of disease or a credible threat of an imminent outbreak of disease that the Commissioner of Health and Social Services or a designee of the Commissioner of Health and Social Services certifies to the Governor has a high probability of occurring in the near future. The certification must be based on specific information received from local, state, federal or international agency or other source that the Commissioner or the designee determines is reliable.

**4.20.190 General Equipment, Materials and Supplies**

A. Source Selection. Except as otherwise provided in BMC 4.20.050, the source selection process for procurement of general equipment, materials and supplies, other than those for construction shall be as follows:
   1. Twenty Thousand (*$20,000*) Dollars and Over: For the procurement of any single item or purchase order transaction expected to cost twenty thousand dollars ($20,000) or more, it shall be required that the request be put out for bid following the process as stated in BMC 4.20.030.
   2. Under Twenty Thousand (*$20,000*) Dollars: For the procurement of any single item or purchase order transaction expected to cost ten thousand dollars ($10,000) or more, but less than twenty thousand dollars ($20,000), no less than three (3) businesses shall be solicited to submit written quotations. The names of the businesses submitting quotations shall be recorded and maintained as a public record.
   3. Under Ten Thousand (*$10,000*) Dollars: For the procurement of any single item or purchase order transaction expected to cost five thousand dollars ($5,000) or more, but less than ten thousand dollars ($10,000), at least three (3) businesses shall be contacted for a phone quotation. The names of the businesses submitting a phone quotation shall be recorded and maintained as a public record.
   4. Under Five Thousand *($5,000)* Dollars. The purchasing agent shall use judgment based on knowledge of vendors and products to determine whether or not it is necessary or practical or in the best interests of the City to solicit for quotations or bids.

## 4.20.200 Governmental and Proprietary Procurements

A. The purchasing agent may contract, without the use of the competitive source selection procedures of this chapter, for the following supplies, services, professional services or construction:
   1. For contracts, including reimbursable agreements, with federal, state or local units of government or utility provider where the City has a financial responsibility or beneficial interest in entering into an agreement.
   2. For contracts issued pursuant to any federal, state or local government contract where the City is an authorized user, or where the resulting contractor agrees to extend the same terms, conditions, and pricing to the City as those awarded under the original contract, all in accordance with BMC 4.20.050. Such agreements shall be limited to those contracts where the award is issued pursuant to a formally advertised solicitation.

B. All contract awards under this section, and any amendments thereto, shall be subject to the applicable approval requirements of this chapter prior to execution.

C. No contractor may provide supplies, services, professional services, or construction to the City before the applicable requirements of this section are first satisfied.

## 4.20.210 Joint Purchasing

A. The City manager may join with other units of government in cooperative purchasing ventures for the purchase of personal property to include bid extension, where the best interest of the City would be served thereby, provided such other unit of government uses competitive bidding on the item purchased. The property to be purchased must be budgeted and substantially meet or exceed the City requirements for a similar item.

B. The City manager may join with other units of government in the cooperative purchasing of professional services and products, where the best interest of the City is served. The professional service or product must be budgeted and substantially meet or exceed the City requirements for a similar service or product.

C. The City manager may purchase personal or real property from other governmental agencies, without competition, provided the City manager presents to the council, through an ordinance as provided in BMC 04.08. description of the transaction, including a description of the property, its price and any such terms or information that may be relevant prior to the purchase of any real property.

D. The other units of government may be outside of Alaska, to include other municipalities, states, and the federal government. If, for a federal government purchase the point of purchase or contract is outside of Alaska or if the unit of nonfederal government is outside of Alaska, then the bidder must agree: (1) to have venue in Bethel, Alaska, for any dispute arising out of or related to the

purchase or to the good or service provided, (2) to have the laws of the state of Alaska apply to all disputes arising out of or related to the purchase or to the good or service provided, and (3) to have the laws of no state other than the state of Alaska apply to all disputes arising out of or related to the purchase or to the good or service provided. If the goods are reasonably expected to require service over their lifetime, the bidder/proposer must certify that there is a service center for the goods available in Alaska; provided, that this requirement may be omitted by the City manager for good cause in writing.

1. In addition, the bidder must agree to ship the goods FOB Bethel, Alaska, at the best shipping rate available providing for a reasonable delivery time, which shipping rate and time must be preapproved by the City manager. The bidder must agree that the City will bear only that portion of the shipping costs FOB Bethel that exceed the shipping costs to the point of delivery under the contract with the other unit of government.

E. Any purchases or agreements exceeding Fifty Thousand ($50,000) dollars must also be approved by the City Council.

### 4.20.220 Insurance

A. The City shall procure liability, workmen's compensation and property insurance coverage by sealed competitive proposals for up to a five (5) year period either through one or more insurance brokers, directly from an insurance company or through participation in a joint insurance arrangement established in accordance with AS 21.76.010.

B. The City shall procure insurance intended to benefit City employees by competitive sealed proposals for up to a five (5) year period either through one or more insurance brokers, directly from an insurance company or through participation in a health insurance trust or similar arrangement established in accordance with applicable state or federal law.

C. Competitive sealed proposals shall be solicited in accordance with BMC 4.20.040. The City may hire a consultant to assist in either soliciting or evaluating the competitive sealed proposals.

### 4.20.230 Legal Services

A. Legal services shall be procured in accordance with 4.20.040.

B. No negotiations or contracts for the services of legal counsel may be pursued or awarded without the prior written approval of the City attorney and/or City council. The City attorney shall review the responses received by the purchasing agent and shall be assisted by the purchasing agent in the selection process.

C. All bills or invoices for payment for legal services obtained pursuant to this section shall be reviewed and approved by the City attorney prior to payment. All funds budgeted, obligated or expended by any City department or utility for contract legal services must be charged to a separate legal services budget account within that department or utility.

D. The City council shall approve, in advance, the participation by the City in any litigation as plaintiff or intervener, where outside counsel is retained to represent the City if the cost, including attorneys' fees and litigation expenses of that representation, is likely to exceed thirty thousand ($30,000) dollars.

E. Exceptions and Waiver: The City Manager, City Clerk and/or City Attorney are exempt from this section only during the following situations:

1. Threatened or actual litigation initiated by an outside person;
2. Temporary coverage while the City Attorney's office is vacant for any period of time;
3. Situations where immediate legal action of a specialized nature is necessary; or
4. Situations where a neutral third party attorney is needed such as appeals to a commission or the city council.
5. Following such waiver, a written report to the council shall be presented clearly outlining the waiver and the reason for it. Such written report shall be included in the next available council packet following the waiver.

**4.20.240 Professional Services**

A. Source Selection. The method of source selection process for professional services shall be made through the solicitation for request for proposals as stated in BMC 4.20.040.

B. Public Notice. Adequate public notice of the request for proposals shall be given in the same manner as provided in BMC 4.20.050. The request for proposal shall describe services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.

C. Statement of Qualifications. Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. Persons may amend these statements during the filing period by filing a new statement.

D. Discussions. The purchasing agent may enter into discussions with those responsible proponents whose proposals are determined to be most responsive in accordance with the procedures laid out in section 4.20.040 (D) of this chapter.

E. Award. An award shall be made to the offeror determined, in writing, to be the best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable.

**4.20.250 Sole Source Procurements**

A. A sole-source contract may be awarded under this section only when the purchasing agent determines, in writing, that there is only one source for the required purchasing or construction.

B. A sole-source purchase may not be made if a reasonable alternative source exists. The written determination must include findings which support the determination that only one source exists.
C. The authority to make the determination and findings required by this subsection may not be delegated.
D. The using department shall submit written evidence to support a sole-source determination. The purchasing agent may also require the submission of cost or pricing data in connection with an award under this section.
E. The purchasing agent shall negotiate with the single supplier, to the extent practicable, to obtain the most advantageous contract to the city.
F. A sole-source contract may be awarded without competition when the purchasing agent documents in writing, after conducting a good faith review of available resources, that there is only one (1) source for the required supply, service or construction item.
G. All sole-source determinations will be made in advance and require council approval prior to final execution.

### 4.20.260 State and Federal Grants

A. The City council has the power and authority to appropriate funds and accept grant offers from state and federal agencies.
B. The council may authorize the City manager to enter into grant agreements with state and federal granting agencies.
C. All rights, powers and authority pertaining to grants, and the administration of grants, are vested in the City manager or their designee.
D. The council may authorize the City manager to enter into contracts with incorporated entities, including organized municipalities, to assist the City in performing under the terms and conditions of grant agreements.
E. When, in the opinion of the City attorney, it is determined that certain mandated provisions of a grant agreement regarding procurement are inconsistent with this chapter, the grant provisions shall take precedent.

## Article VII – Bid Protests and Appeals

### 4.20.270 Filing of a Bid Protest

A. The City establishes these administrative review procedures for bid/procurement protests to promote the fair and efficient resolution of such disputes over contracts awarded by the City pursuant to the provisions of this chapter regarding bids and requests for proposals. Time is of the essence in any protest. All documents the City issues shall be deemed to contain language advising bidders/proposers of the right to protest the determination of the successful bid/proposal as set out in this section.
B. An interested party may protest the intended award of a contract or a solicitation of supplies or services by filing a written protest with the purchasing agent.
C. All protests must include the following information:

1. The name, address, and telephone number and continuously operating fax number of the interested party filing the protest;
2. The signature of the interested party or the interested parties authorized representative;
3. Identification of the invitation, request or proposed award at issue;
4. A detailed statement of the legal or factual grounds for the protest;
5. Copies of all relevant documents;
6. The form of relief requested;
7. Certification under oath that the claim is made in good faith and that the supporting data are accurate and complete to the best of the bidder's/protester's knowledge and belief; and
8. A fee in the amount listed in the most current City of Bethel Schedule of Rates. Charges and Fees shall be paid to the City and must be received by the deadline for filing the written protest. This fee shall be refundable if the appellant prevails in the protest to the City manager or City council.

D. The purchasing agent shall reject an untimely or incomplete protest or a protest filed without timely payment of the required fee. Such rejection shall be final and may be appealed to the superior court pursuant to Part VI of the Rules of Appellate Procedure.

**4.20.280 Timeline:**

A. Pre-Award Notice Timeline: A protest based on alleged improprieties or ambiguities in an invitation to bid or a request for proposals must be filed with the purchasing agent at least (10) business days before the due date of the bid or proposal. Failure to meet this timeline shall constitute a waiver of the protesting party's rights and bar any further action regarding this matter.

B. Post-Award Notice Timeline. Any party bidding or submitting a proposal for a contract with the City that is adversely affected by the provisions of this chapter, or regulations promulgated hereunder, or by any acts of the City in connection with the intention of the City to award a City contract, may protest to the City manager, in a writing personally received at the office of the City purchasing agent within five (5) business days from the date of notice of intent to award a contract. The protest may be hand delivered, delivered by mail or by facsimile and must comply with the requirements of this section.

C. The purchasing agent shall immediately give notice of a protest filed to all interested parties.

**4.20.290 Stay of an Award**

A. If a timely and complete protest is filed, the award of a contract shall be stayed until all administrative remedies have been exhausted, unless the City manager determines, in writing, that award of the contract pending resolution of the protest is in the best interest of the City.

B. Notice of the stay, protest and decision of the City manager whether or not to grant the stay shall be delivered to all interested parties within three (3) business days of receipt of a properly filed protest.

### 4.20.300 Review by City Manager

A. The City manager shall issue a written decision to the protesting party within ten (10) business days of the date the protest is filed by certified mail or other authorized method. If multiple protests have been filed, they may be consolidated for purposes of the decision. The decision may include any lawful action, including without limitation an amendment of all or any part of the recommended award. For good cause shown the City manager may extend the date for the decision for such additional period as may be necessary. In such situation, the City Manager shall immediately give written notice to all interested parties and shall provide a date when a decision is expected.

B. If a decision is not made by the date it is due, the protester may proceed as if the City manager had issued a decision adverse to the protester.

### 4.20.310 Appeal of City Manager Decision

**A.** The City manager's decision may be appealed to the City council by filing a notice of appeal to the City clerk and requesting the City manager to forward the written appeal and the City manager's response to the council. The council shall conduct a de novo review of the issue appealed. The request to appeal to the City council must be submitted in writing to the City clerk within three (3) business days of the City manager's decision. Any appeal not timely filed shall be rejected by the clerk and the appeal forever barred. Appeals to the City council will be heard at the date and time established by the City clerk, not less than twelve (12) calendar nor more than thirty-five (35) calendar days after receipt of the appeal. For good cause the City council may shorten or extend the hearing date.

### 4.20.320 Notice and Record on Appeal

A. The City clerk shall provide all interested parties who may be adversely affected by a decision of the council, notice of the appeal and scheduled hearing date within seven (7) business days of receipt of the notice of appeal. Such notice shall also advise the parties of their right to appear and be heard at the appeal, and shall also set forth a schedule for written statements and submission of evidence.

B. The purchasing agent shall submit to the clerk the record of the bid or proposal process including the invitation to bid or request for proposal, any amendments thereto, all correspondence to or from all parties, the protest filed to the City manager and supporting documentation, and the decision issued by the City manager. The clerk shall prepare the record on appeal, to include written statements and all evidence submitted, and provide copies to interested parties

upon payment of appropriate copying fees in the amount listed in the most current City of Bethel Fee and Rate Schedule. Prior to the scheduled hearing the clerk shall distribute copies of the record to all City council members, the purchasing agent and the City manager.

C. The City council shall act in its quasi-judicial capacity when considering an appeal under this section and shall accordingly remain impartial and refrain from ex parte contact with any interested party regarding a specific invitation to bid or request for proposal from the time it has been issued. Any council member found to have violated this provision shall be recused from participation in the appeal.

D. Written arguments and submittals of evidence shall be filed in the following manner:
   1. Written arguments due. Written arguments shall be filed by the parties on a date set by the clerk no later than four (4) business days prior to the hearing. All exhibits, evidence, and affidavits supporting a party's position shall be filed on the date written arguments are due.
   2. Party participation. Any eligible party wishing to participate in the appeal must submit its mailing address, telephone and facsimile numbers, if any, to the clerk, in writing, within five (5) business days of the clerk issuing notice of the appeal. The clerk shall provide the parties, the City manager and council with written submittals before the hearing date.

### 4.20.330 Hearing Procedures

The following procedures shall be followed by the council when conducting a hearing under this chapter:

A. Evidence not submitted to the clerk five (5) business days prior to the hearing, may not be considered by the council unless good cause is shown. Good cause may include, but is not limited to; evidence that was not available to the party presenting the evidence at the time it was due to the clerk. Any objection to new evidence by any party shall be made at the time of the hearing before the council.

B. The following order shall be followed for the hearing, unless for good cause shown the council permits a change:
   1. Appellant's Opening Presentation;
   2. Administration's Opening Presentation;
   3. Opening Presentation by any other Party;
   4. Rebuttal by the Appellant;
   5. Rebuttal and closing by the Administration;
   6. Rebuttal by any other interested party; and
   7. Sur-Rebuttal and closing by the Appellant.

C. If the appellant or representative is not present when called, the council shall consider any written presentation, evidence, and documents presented to it pursuant to and thereafter proceed according to the remaining applicable provisions of this chapter.

D. All persons presenting evidence shall do so under oath, administered by the City clerk.
E. The hearing shall be conducted informally with respect to the introduction of evidence. Irrelevant evidence may be excluded by the presiding officer. Each interested party shall have a total of no more than thirty (30) minutes to present their case. Each party shall be responsible for dividing their thirty (30) minutes between oral presentation, argument, testimony (including witness testimony), and rebuttal. The council may expand or limit the length of the hearing depending on its complexity, or take other action to expedite the proceedings. Cross-examination will not be permitted during presentation of the case. If a witness testifies during presentation of either the appellant's or any other parties' case, unless excused by the council, with the concurrence of the appellant and all other parties, the witness must remain available in council chambers to be called to testify during rebuttal by the appellant and the administration or other interested party. City Council questions and parties' responses shall not be included in the time limitation.

**4.20.340 Decision by City Council**

A. The council may uphold the City manager's decision, remand the matter back to the City manager or order a rejection of all bids or proposals. The council shall make written findings of fact which are supported by the substantial evidence in the record, written conclusions and an order. The council member chairing the hearing shall execute the order. If the matter is remanded to the City manager, any further appeals of the City manager's decision shall be to the superior court pursuant to Part VI of the Alaska Rules of Appellate Procedure.
   1. "Substantial evidence" means relevant evidence a reasonable mind might accept to support a conclusion.
B. The clerk shall serve the written decision on the parties in person, or by mail within ten (10) business days after the oral decision. If facsimile service is requested by a party, service by U.S. mail shall follow.

**4.20.350 Appeal to superior court.**

Appeals may be taken from the written decision of the council within thirty (30) calendar days of the date of the decision pursuant to Part VI of the Alaska Rules of Appellate Procedure.

**Article VIII – Contract Formation and Modification**

**4.20.360 Budget Approval / Availability of Funds**

A. No contract for supplies, services or construction may be approved or executed unless the finance director has certified that funds are available for the City's performance under the contract.
B. It is the duty of the finance director to confirm that sufficient funds are available for the procurement of any single item, contract, bid/proposal or purchase order

transaction exceeding five thousand ($5,000) dollars, inclusive of all shipping costs.

C. The purchasing agent may give budget approval for the procurement of any single item or purchase order transaction less than five thousand ($5,000) dollars.

D. Any item for which the procurement of is not otherwise included in the current fiscal year budget must be approved by council prior to the solicitation or procurement of the item.

### 4.20.370 Contracting Authority

The City may, pursuant to an award in accordance with this chapter, contract with any person to acquire any supplies, services, professional services or construction required by the City.

### 4.20.380 Contracts Enforceable Against the City

A. No contract for supplies, services, professional services or construction, or any amendment thereto, may be enforced against the City unless its terms have been approved in accordance with this chapter and unless the contract or amendment thereto has been set forth in a writing executed in accordance with this chapter.

B. No oral contracts may be enforced against the City. The City only recognizes and accepts written contracts that follow the processes laid out in this Chapter.

### 4.20.390 Execution of Contracts

A. All City contracts and any amendments thereto, must be signed by the City manager or, in the absence of the City manager, by their duly appointed designee.

B. No contract or any amendments thereto may be enforced against the City unless the contract or amendment thereto has been set forth in writing and executed in accordance with this chapter.

### 4.20.400 Contract Administration

The using department shall administer all contracts for supplies, services, professional services and construction except as otherwise designated, in writing, by the City manager.

### 4.20.410 Contract Amendments

Contract amendments shall not be used to avoid procurement by the competitive procedures established under this chapter. Contracts for supplies, services, professional services and construction may be amended by the City manager only for the following reasons:

A. To change the quantity of supplies ordered or date of delivery under a contract for supplies, where necessary to meet unforeseen City requirements;
B. To change the quantity of services or professional services to be rendered or to change the scope of a project under a contract for services or professional services, where necessary to meet unforeseen changes in City requirements;
C. To change the scope of a project or the scope of services or professional services under a construction contract to meet unforeseen City requirements or to change the specifications under a construction contract because unforeseen conditions render the original specifications impracticable;
D. To change the time for completing a project under a contract for services, professional services or construction;
E. To correct an error in contract specifications made by the City in good faith or to resolve a good faith dispute between the City and a contractor as to a party's rights and obligations under the contract; or
F. To change administrative provisions of a contract without materially altering the contract terms governing the quantity or quality of supplies, services, professional services or construction furnished to the City.
G. No contact amendment or change order that will cause the total value of the contract to increase by more than fifteen thousand ($15,000) dollars may be executed unless the council has approved a memorandum setting forth the essential terms of the amendment or change order request.
H. No contract amendment that will increase the contract price may be approved or executed unless the finance director has certified that funds are available for the City's performance under the contract as amended.

### 4.20.420 Multi-year Contracts

A. The City may enter into contracts for terms exceeding one (1) year provided that funds for the City's performance during the fiscal year in which the contract term commences are certified in writing by the finance director as being available.
B. The City's payment and performance obligations for succeeding fiscal years after issue of a multi-year contract shall be subject to the availability of funds lawfully appropriated therefore.
C. Contracts for construction or in connection with requirements of federal and state grants are not to be construed as multi-year contracts; however, lawfully appropriated funds must be available for the term of the contract.

### 4.20.430 Council Approval of Contracts

A. Prior council approval by action memorandum is required before contracts for the following can be sought:
    1. All contracts over five hundred thousand ($500,000) dollars;
    2. Supply Contracts over five thousand ($5,000) dollars;
    3. Services, other than professional services, over fifty thousand ($50,000) dollars;

4. Insurance contracts over two hundred fifty thousand ($250,000) dollars;
5. Professional Service Contracts over two hundred fifty thousand ($250,000) dollars; and
6. Legal Services over thirty thousand ($30,000) dollars.

B. No contract under section (A) above shall be authorized unless the following essential terms of the contract are identified:
1. The identity of the selected contractor and all contractor's contacted;
2. The contract price;
3. The nature and quantity of the performance that the City shall receive under the contract;
4. The using department; and
5. The time for performance under the contract.

C. If contracts are awarded to more than one bidder pursuant to an invitation for bids, contracts with different bidders shall be considered together for purposes of determining the application of subsections (A) of this section. If any contract to be awarded under a given bid is subject to council approval, the award of other contracts pursuant to the same invitation for bids may, at the discretion of the purchasing officer, be delayed pending council approval.

D. No grant to a governmental or quasi-governmental agency or to a private nonprofit corporation for any amount may be issued unless the council has approved a memorandum setting forth:
1. The identity of the grantee;
2. The grant amount;
3. The purpose to which grant funds are to be devoted; and
4. The department charged with administration of the grant.

E. No contractor may provide supplies, services, professional services, or construction to the City before the applicable requirements of this section are first satisfied.

F. Council approval via action memorandum as described in this section constitutes authorization for the City manager to execute the contract described in the memorandum.

G. Regardless of the amount involved, all contracts for professional lobbying services must be approved in advance by the council.

## Article IX – Contract Disputes

### 4.20.440 Administrative Review of Contract Disputes

A. A person having a claim concerning a contract or other matter arising out of this chapter (other than a bid protest as covered in BMC 4.20.270) may file the claim with the purchasing agent. The claim must be accompanied by a filing fee as set out in the Bethel Schedule of Rates. When filing the claim, the claimant shall certify under oath:
1. That the claim is made in good faith;

2. That the supporting data are accurate and complete to the best of the claimant's knowledge and belief; and
3. That the amount requested accurately reflects the adjustment for which the claimant reasonably believes the City is liable.

B. A claim under this section must be filed within thirty (30) calendar days after the claimant becomes aware of the basis of the claim or should have known the basis of the claim or within such shorter period as may be required in the contract, whichever is earlier. If the claim does not meet the requirements of subsections (A) and (B) of this section, it shall be denied.

C. If a claim asserted concerning a matter arising out of this chapter cannot be resolved by agreement, the purchasing agent shall issue a written decision and serve it upon the claimant. The purchasing agent shall make the decision not more than thirty (30) calendar days after receipt of all necessary information from the claimant, except that if the claim is for more than fifty thousand ($50,000) dollars, the decision will be made within sixty (60) calendar days after receipt of all necessary information. If the claimant fails to furnish necessary information requested by the purchasing agent, the purchasing agent shall proceed to decide the claim and may, in the purchasing agent's discretion, deny all or part of the claim because of the failure to furnish necessary information.

D. During an appeal under this chapter, the claimant may not rely on or introduce information that the claimant has failed to furnish to the purchasing agent in support of the claim. Before issuing the decision, the purchasing agent shall review the facts relating to the claim and obtain necessary assistance from legal, fiscal, and other advisors.

E. The purchasing agent shall furnish a copy of the decision to the claimant by certified mail or other method that provides evidence of receipt. The decision must include:
   1. A description of the claim;
   2. A reference to the pertinent contract provisions;
   3. A statement of the agreed-upon and disputed facts;
   4. Findings of fact about the claim;
   5. A determination of any amount payable;
   6. A statement of reasons supporting the decision; and
   7. A statement substantially as follows:

      This is the final decision of the purchasing agent. This decision may be appealed to the City manager. If you appeal, you must file a written notice of appeal with the City manager within fourteen (14) calendar days after you receive this decision."

### 4.20.450 Appeal of Purchasing Agent's Decision

A. An appeal from a decision of the purchasing agent on a contract claim (excluding bid protests) arising out of a matter in this chapter may be filed by the claimant with the City manager. The appeal by a claimant shall be filed within fourteen

(14) calendar days after the decision is received by the claimant. An appeal by a claimant may not raise any new factual issues or theories of recovery that were not presented to the purchasing agent in the decision under BMC4.20.440. The claimant shall serve a copy of the appeal with the purchasing agent at the time of filing with the clerk.

B. An appeal must contain a copy of the decision being appealed and identification of the factual or legal errors in the decision that form the basis for the appeal.

C. The city manager shall appoint a hearing officer.

**4.20.460 Hearing Procedures**

A. The hearing officer shall arrange for a prompt hearing and notify the parties in writing of the time and place of the hearing. The hearing shall be conducted in an informal manner.

B. The hearing officer may:
   1. Hold prehearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
   2. Require parties to state their positions concerning the various issues in the proceeding;
   3. Require parties to produce for examination those relevant witnesses and documents under their control;
   4. Rule on motions and other procedural matters;
   5. Regulate the course of the hearing and conduct of the participants;
   6. Establish time limits for submission of motions or memoranda;
   7. Impose appropriate sanctions against a person who fails to obey an order of the hearing officer, including:
      a) Prohibiting the person from asserting or opposing designated claims or defenses or introducing designated matters into evidence;
      b) Excluding all testimony of an unresponsive or evasive witness; and
      c) Excluding a person from further participation in the hearing;
   8. Take official notice of a material fact not appearing in evidence, if the fact is among the traditional matters subject to judicial notice;
   9. Administer oaths or affirmations;
   10. Exclude witnesses when not testifying.

C. The parties shall have the right:
   1. To present witnesses and evidence; and
   2. To cross-examine opposing witnesses and rebut evidence.

D. The hearing will be open to the public.

E. The hearing shall be recorded. A transcribed record of the hearing shall be made available at cost to a party that requests it.

F. The hearing officer shall review the purchasing agent's decision using a preponderance of evidence standard with the burden of proof on the claimant.

**4.20.470 Determination after Hearing**

A. The hearing officer's decision will be written findings of fact and conclusions of law and will be made within thirty (30) calendar days of the end of the hearing, except that if the amount claimed exceeds fifty thousand ($50,000) dollars, the decision will be made within seventy-five (75) calendar days of the end of the hearing. The decision shall include a statement substantially as follows:

> This is the final decision of the hearing officer. This decision may be appealed to a court. If you appeal, you must commence your lawsuit in the Superior Court for the State of Alaska at Bethel within thirty (30) calendar days after your receipt of this decision.

B. The hearing officer shall deliver the written decision to the City manager and serve the written decision on the parties by fax and by mail.

C. Appeal to Superior Court. An appeal may be made from the written decision of the hearing officer pursuant to the Alaska Rules of Appellate Procedure to the superior court for the state of Alaska at Bethel only.

**4.20.480 Misrepresentation and Fraudulent Claims**

A. A person who makes or uses in support of a claim or a bid protest under this chapter a misrepresentation, or who practices or attempts to practice a fraud, at any stage of proceedings relating to a matter arising out of this chapter:
   1. Forfeits all claims relating to that procurement or contract; and
   2. Is liable to the City for reimbursement of all sums paid on the claim, for all costs, including without limitation actual attorney's fees, attributable to review of the claim or protest, and for a civil penalty equal to the amount by which the claim is misrepresented.

B. The purchasing agent, hearing officer, or court shall make specific findings of misrepresentation, attempted fraud, or fraud before declaring a forfeiture under subsection (A)(1) of this section.

C. Suits to recover costs and penalties under subsection (A)(2) of this section must be commenced within six (6) years after the discovery of the misrepresentation, fraud, or attempted fraud.

D. In this section, "misrepresentation" means a false or misleading statement of material fact, or conduct intended to deceive or mislead concerning material fact, whether or not it succeeds in deceiving or misleading.

**4.20.490 Exclusive Remedy**

The bid protest and claims procedures in this section provide the exclusive procedure for asserting a bid protest or claim against the City in relation to a matter arising under this chapter.

**SECTION 3. Effective Date.** This section shall become effective January 1, 2015.

**ENACTED THIS _____ DAY OF _____ 2014, BY A VOTE OF ___IN FAVOR AND ___OPPOSED.**

_____
Richard Robb, Vice-Mayor

ATTEST:

_____
Lori Strickler, City Clerk

BETHEL TRANSIT SYSTEM

Impact of Bethel Transit System Budget Reduction

The Bethel Transit System is funded by State and Federal Grants. The amount of these grants is determined by several factors, one being the local match. The local match has been given by ONC since the Transit System began on November 10, 2008. In years FY 11/ FY 12/FY13/FY14, ONC contributed $105,000 each year. For FY 2015 ONC reduced their contribution to $60,000. This resulted in a reduction of State and Federal Grants. For FY 2015 the budget for the Bethel Transit System was reduced by approximately $150,000. This reduction will have a large impact on the service that the Transit System can offer and will result in a reduction in ridership.

The following is a comparison of the ridership in FY 12 to FY 14 and the reductions that occurred prior to the funding reduction made for FY 2015. Under the current FY 2015 budget I'm sure the ridership will continue to decline.

| Passenger Type | Fiscal Year 2012 | Fiscal Year 2014 | Difference |
|---|---|---|---|
| Elders | 6,175 | 4,477 | **1,698** |
| Disabled | 887 | 1,194 | 307 |
| Youth/Student | 3,223 | 1,443 | **1,780** |
| Gen. Public | 16,036 | 8,894 | **7,142** |
| Total Passengers | 26,321 | 14,809 | **11,512** |

Over all, the reduction in the match dollars ($105,000 to $60,000) has resulted in almost a 50% reduction in the amount of service the Transit System can offer and consequently passengers have had to result to other means of transportation, mostly cabs.

Bill Ferguson, Transit Manager

BETHEL TRANSIT SYSTEM

November 1, 2014

Bethel Public Transit System Daily / Weekly Schedule

There are currently three employees in the Bethel Transit System:

- Bill Ferguson: Bethel Transit Manager, 8 hours per day/5 days per week.
- Brenda George: Full Time Bus Driver, 8 hours per day / 5 days per week. Acting Transit Manager when the Transit Manager is gone.
- Christina David: Bus Driver, 5 hours per day / 5 days per week. May work longer hours per day if the full time bus driver is on PTO.
- We currently operate two bus routes, Monday through Friday, a **Green Line and Red Line.** When all the buses are "working". The **Green Line** runs from 6:30am to 10:30am, off from 10:30am to 11:30am for lunch, and from 11:30am to 6:15pm. The **Red Line** runs from 9:00am to 12:00n and from 1:00pm to 3:00pm. We're down one bus (Bus #437) and the Saturday Route is not running yet. When the new bus arrives and/or Bus #437 I'd like to start the Saturday Route. It would run from 9:30am to 2:30pm, using the Green Route Schedule. This gives the community the opportunity to visit the Post Office, time to shop and go to the "Saturday Market" if it's open and get back home.

Work Day of.....

- Transit Manager: I come to work between 4:00-5:00am. From 4:00 and 6:30am I do daily paper work ( Change the money vaults in the buses, tally the ridership v.s the money/tickets collected, record this information in the computer file and then file the hard copies, in the filing cabinet. On the early morning bus #436 (Green Line) I check the lug nuts on the wheels (they've come loose in the past and we've lost the rear wheels a couple of times), check the oil / power steering/brake fluid/and window washing fluid, and if the buses need washing (depends on how much it's rained and the muddy roads) I wash them. From 6:30-7:00am, I check and answer email /email Tundra Drums if I have changes in the bus schedules, check the internet weather for Bethel, and etc. I'm off from 7:00-8:00 I take my

grandchildren to school. From 8:00 to 8:30am I take the money that's collect the day before and turn it into the finance department. While at City Hall I check the mail and check the other departments to see if they have any questions concerning the Transit System. From about 8:30 to 9:00 I get the second bus ready; check the lug nuts /oil/washer fluid/brake fluid /power steering fluid and make sure the bus check list (passenger-maintenance) are done and ready for the day. From 9:00 to 12:00n (because of budget reductions) I drive the Red Line from 9-12. I eat lunch sometime between 12:15-12:45 or 1:00, depending when I get time. From 1:00(+-) to 3:00pm I work on some of the following.....developing new bus brochures, making posters to put up around town, make daily passes, make daily tickets, make monthly passes, check the City Shop to see if a bus is ready, get oil / anti-freeze from the shop for the buses, and when there is down time I try to think of ways to increase the ridership.....In past, because of the lack funding, when the bus ran on Saturday I drove it, 5 hours. I did not put time down for it. However if and when we start it up this year I'm trying to figure out a way where the part time driver can drive it instead or we may need to hire an On-Call driver.

- Full Time Driver: Currently, Brenda George works 8 hours per day. Comes to work at 6:30am and drives until 10:30am, breaks for lunch, and then drives from 11:30am to 3:30pm. She also fills in as acting Transit Manager when I'm gone. I take very little leave from 1st of August to the end of May. I usually take about 4-5 weeks off during the summer.
- Part Time Driver: Currently, Christina David works 3-5 hours per day depending on whether or not all the buses are running. When both the Green Line and Red Line are running she comes to work at 1:00pm and drives the Red Line until 3:00pm, cleans the Red Line bus from 3:00-3:30, then she drives the Green Line from 3:30 to 6:15pm and cleans the Green Line from 6:15 to 6:30pm. If we're only running the Green Line then she only works from 3:30pm to 6:30pm.

Problems in the Bethel Transit System:

- Bus down Time: Bus 437 was down for 3 months. The parts were here but the mechanics kept telling me they just didn't have time to work on it. Bus #436 has been up and down with brake problems, power steering problems, and alternator problems. Each time it's been in the shop for 3-5 days, waiting for parts and/or time for the mechanics to work on it. With the arrival of the new bus it has helped to reduce the down time because of bus problems and we are scheduled to get another new bus on the 2015 summer barge, this will help greatly.

- Budget Reduction (cuts): In the past ONC (Native Corporation) has provided the match funds ($105,000.00 for the past 3 years) for the State/Federal Grant. This year, FY15, they (ONC) reduced the match from $105,000 to $60,000, which resulted in a reduction of the total grant of about $150,000.
- Lack of Transit Drivers....on leaves (sick leave, personal leave, and etc.) We haven't been able to hire an On-Call Driver, it seems no one wants to work 10-15 hours per week, and may be not at all depending on the need. We really need two full time drivers and a part-time or on-call driver all the time.

I greatly appreciate any new ideas you might have in increasing the ridership, and/or making the Transit System more efficient.

Bill Ferguson Transit Manager

# BETHEL PUBLIC TRANSIT SYSTEM REVENUES

| Revenue Sources: | | FY 2011 Actuals | FY 2012 Actuals | FY 2013 Actuals | FY14 Approved Budget | FY14 Revised Budget | FY15 Approved Budget |
|---|---|---|---|---|---|---|---|
| **Local Sources:** | | | | | | | |
| 40-408 | Contributed Support by ONC | 125,243 | 89,304 | 67,693 | 105,000 | 105,000 | 60,000 |
| | Total | 125,243 | 89,304 | 67,693 | 105,000 | 105,000 | 60,000 |
| **Federal Sources:** | | | | | | | |
| 41-410 | PERS on Behalf Payment | 17,193 | 23,843 | 16,908 | 23,844 | 23,844 | 16,908 |
| 41-412 | Rural Transportation Assistance Program | 255,862 | 5,681 | - | 3,000 | 3,000 | - |
| 41-413 | Section 5311 Grant | 5,499 | 265,667 | 214,192 | 210,796 | 210,796 | 251,882 |
| | Total | 278,555 | 295,191 | 231,100 | 237,640 | 237,640 | 268,790 |
| **State of Alaska:** | | | | | | | |
| 42-414 | State Transit Match Grant | - | 18,675 | - | - | - | - |
| | Total | - | 18,675 | - | - | - | - |
| **Charges for Services:** | | | | | | | |
| 43-420 | Charges for Services | - | - | - | - | - | - |
| 43-422 | Bus Fares | 34,218 | 36,261 | 17,439 | 18,500 | 18,500 | 18,900 |
| 43-423 | Bus Fares - Prepaid | 8,567 | 12,265 | 10,024 | 12,000 | 12,000 | 18,500 |
| | Total | 42,785 | 48,526 | 27,463 | 30,500 | 30,500 | 37,400 |
| **Miscellaneous:** | | | | | | | |
| 49-484 | Donations | 953 | 668 | 29 | 500 | 500 | 500 |
| 49-495 | Miscellaneous Revenue | - | 125 | (7) | 200 | 200 | 200 |
| | Total | 953 | 700 | 700 | 700 | 700 | 700 |
| | TOTAL REVENUES | 447,535 | 452,396 | 326,956 | 373,840 | 373,840 | 366,890 |

# Bethel Public Transit System Fund Summary

| | FY 2011 Actuals | FY 2012 Actuals | FY 2013 Actuals | FY 2014 Approved Budget | FY 2014 Revised Budget | FY 2015 Approved Budget |
|---|---|---|---|---|---|---|
| **Operating Revenues:** | 447,535 | 452,396 | 326,956 | 373,840 | 373,840 | 366,890 |
| **Operating Expenses for Services:** | 447,535 | 451,696 | 250,100 | 362,936 | 362,936 | 386,996 |
| *Excess of Revenues over Operating Expenses for Services* | 0 | 700 | 76,856 | 10,904 | 10,904 | (20,106) |
| **Operating Expenses for Non-Services:** | - | - | - | - | - | - |
| *Excess of Revenues over Svs. & Non-Svs. Expenses* | 0 | 700 | 76,856 | 10,904 | 10,904 | (20,106) |
| **Capital Expenses** | - | - | - | - | - | 63,000 |
| *Excess of Rev. over Svs. & Non-Svs., & Project Expenses* | 0 | 700 | 76,856 | 10,904 | 10,904 | (83,106) |
| **NET FUND INCOME (LOSS) BEFORE NON-CASH EXPENSES** | 0 | 700 | 76,856 | 10,904 | 10,904 | (83,106) |
| **Non-Cash Expenses:** | | | | | | |
| Depreciation and Amortization | 20,421 | 30,276 | 32,643 | 17,646 | 17,646 | 17,646 |
| TOTAL NON-CASH EXPENSES | 20,421 | 30,276 | 32,643 | 17,646 | 17,646 | 17,646 |
| *Excess Revenues over All Expenses* | (20,421) | (29,576) | 44,213 | (6,742) | (6,742) | (100,752) |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Total Fund Revenues:** | 447,535 | 452,396 | 326,956 | 373,840 | 373,840 | 366,890 |
| Less Total Fund Expenses less Depr. & Amort. | (447,535) | (451,696) | (250,100) | (362,936) | (362,936) | (449,996) |
| Less Total Fund Non-Cash Expenses | (20,421) | (30,276) | (32,643) | (17,646) | (17,646) | (17,646) |
| **NET ASSETS - GAIN/ (LOSS)** | (20,421) | (29,576) | 44,213 | (6,742) | (6,742) | (100,752) |

# Bethel Public Transit System 56-50

| | | | FY 2014 Budget | FY 2015 Budget |
|---|---|---|---|---|
| PERSONNEL | | | | |
| R6I | 29101 | Transit Manager | 67,092 | 67,092 |
| R4 | 29102 | Bus Driver | 40,866 | 40,866 |
| R4 | 29103 | Bus Driver | - | - |
| R4 | 29201 | Bus Driver- Part-Time (25 hours/week) | 25,545 | 25,545 |
| R4 | 29202 | Bus Driver- Part-Time (20 hours/week) | - | - |
| R4 | 29901 | Bus Driver- On Call (budgeted at 12 hours/week) | 10,589 | 10,589 |
| | | SALARIES | 144,092 | 144,092 |
| | | Annual Increase | - | 3,338 |
| | | Overtime | 3,000 | - |
| | | Subtotal | 3,000 | 3,338 |
| | | Leave Cashout/Payout (5% of Base Salary) | 9,366 | 7,205 |
| | | Social Security (6.2% of Temp Salary) | 3,168 | 3,168 |
| | | Medicare (1.45% of Salary) | 2,133 | 2,089 |
| | | Employee Group Benefits ($1,100 per month x 12 months x 2 FTE) | 26,400 | 26,400 |
| | | Unemployment (0.80% of Salary) | 1,177 | 1,153 |
| | | Workers' Compensation | 15,000 | 15,000 |
| | | PERS On Behalf Of Contribution | 23,844 | 16,908 |
| | | PERS (22.00% of Salary ) | 30,031 | 30,105 |
| | | Utility Benefit ($305 per month x 12 months x 3 FTE/PTE * 67%) | 7,357 | 7,357 |
| | | BENEFITS & TAXES | 118,474 | 109,384 |
| | | TOTAL PERSONNEL | 265,566 | 256,813 |

| | Bethel Public Transit System (56-50) | FY 2011 Actuals | FY 2012 Actuals | FY 2013 Actuals | FY 2014 Approved Budget | FY 2014 Revised Budget | FY 2015 Approved Budget |
|---|---|---|---|---|---|---|---|
| PERSONNEL: | | | | | | | |
| | Salaries, Benefits & Taxes minus EGHB | 300,146 | 296,057 | 125,050 | 225,826 | 225,826 | 230,413 |
| | Overtime | 3,183 | 5,404 | 5,727 | 3,000 | 3,000 | - |
| | Employee Group Health Benefits | 39,528 | 33,250 | 24,000 | 28,800 | 28,800 | 26,400 |
| | **Total Personnel** | 342,857 | 334,711 | 154,777 | 257,626 | 257,626 | 256,813 |
| MATERIALS, SUPPLIES, & SERVICES | | | | | | | |
| 545 | Training/Travel | 4,701 | 5,953 | 192 | 5,000 | 5,000 | - |
| 561 | Supplies | 3,689 | 2,501 | 4,109 | 2,000 | 2,000 | 2,300 |
| 600 | Tires/Wheels/Chains | 4,566 | 6,473 | 773 | 5,000 | 5,000 | 2,750 |
| 602 | Gasoline/Diesel/Oil | 21,265 | 51,746 | 31,569 | 34,500 | 34,500 | 36,225 |
| 621 | Electricity | 3,832 | 2,657 | 3,067 | 2,800 | 2,800 | 18,000 |
| 622 | Telephone | 844 | 778 | 473 | 457 | 457 | 457 |
| 623 | Heating Fuel | 6,920 | 2,839 | 3,281 | 3,100 | 3,100 | 15,000 |
| 626 | Water/Sewer/Garbage | 1,566 | 245 | 240 | 1,600 | 1,600 | 1,600 |
| 646 | Drug Testing/Background Checks | 130 | 1,806 | 928 | 2,000 | 2,000 | 2,000 |
| 661 | Vehicle Maint/Repair (Int. Svc. Fund 57) | 31,871 | 18,275 | 24,813 | 20,733 | 20,733 | 19,983 |
| 664 | IT Services (Internal Service Fund) | 7,814 | - | - | - | - | - |
| 669 | Other Purchased Services | 6,003 | 520 | 3,220 | 1,500 | 1,500 | 1,725 |
| 683 | Minor Equipment | - | 2,080 | - | 2,500 | 2,500 | 2,875 |
| 721 | Insurance | 10,566 | 8,419 | 7,256 | 9,000 | 9,000 | 9,000 |
| 722 | Insurance -Ded Exp & Other | - | - | - | - | - | - |
| 724 | Dues & Subscriptions | 250 | 300 | 1,250 | 250 | 250 | 300 |
| 727 | Advertising | - | 870 | 42 | 500 | 500 | 1,500 |
| 799 | Miscellaneous | 661 | 20 | 40 | 300 | 300 | 300 |
| 996 | I.T. Services Charges | - | 11,503 | 14,070 | 14,069 | 14,069 | 16,168 |
| | **Total MS&S** | 104,678 | 116,985 | 95,323 | 105,310 | 105,310 | 130,183 |
| | **Total Operating Expenses** | 447,535 | 451,696 | 250,100 | 362,936 | 362,936 | 386,996 |
| DEBT PAYMENTS: | | | | | | | |
| | **Total Debt Payments** | | | | - | - | - |
| CAPITAL EXPENSES (56-50-69X) | | | | | | | |
| 690 | Capital Expenditures | | | | | | 63,000 |
| | **Total Capital Expenses** | | | | - | - | 63,000 |
| | **Total Operating, Debt, Projects & Capital** | 447,535 | 451,696 | 250,100 | 362,936 | 362,936 | 449,996 |

## Memorandum of Agreement

### Between the City of Bethel and Orutsararmiut Native Council

### Regarding the Initiation, Operation and Maintenance of the Bethel Public Transit System

**Parties to this Agreement**


Eric Middlebrook, Mayor
City of Bethel
P.O. Box 1388
Bethel, AK 99559
907-543-2297

Ray Watson, Chairman
Orutsararmiut Native Council
P.O. Box 927
Bethel, AK 99559
907-543-2608


**Contacts for this Agreement**


Don W. Baird, City Manager
City of Bethel
907-543-1373

Michael Samuelson, Executive Director
Orutsararmiut Native Council
907-543-2608


**Purpose**

This Memorandum of Agreement (MOA) between the City of Bethel (City) and Orutsararmiut Native Council (ONC) is intended to define a partnership arrangement that allows for the initiation, operation, and maintenance of the Bethel Public Transit System. The two parties agree to share organizational resources, meet regularly, make decisions, and participate actively to ensure the success of the transit system.

The City will own and operate the Bethel Public Transit System. The transit vehicles will be owned by the City of Bethel with the grantor holding title for five years from the beginning of each grant period. Transit system employees will be City of Bethel employees.

**Background**

The City of Bethel was awarded a grant from the Alaska Mental Health Trust Authority that was used to pay transportation consultants to develop the *City of Bethel Public Transportation Plan* in October 2004. The plan documented the need for a public transit system in Bethel and recommended three fixed routes to serve the community. ONC was awarded a grant from the Community Transportation Association of America that was used to pay consultants to develop *Technical Memorandum #1: Draft Implementation Plan.* This implementation plan recommends starting small, with one to two routes using 14-passenger buses, and growing the system as demand increases. The City and ONC intend to follow the steps and act on recommendations contained in the implementation plan.

The Bethel City Council and ONC Council signed a Memorandum of Agreement which established the Bethel Transit System Advisory Committee. The Committee contains one Council member and one administrator from each organization and one community member. The Committee meets monthly

One new gasoline van/bus was delivered to Bethel in September 2007. Once insured, registered, and inspected, it will be placed into service as the first Bethel Public Transit System vehicle.

The City of Bethel ordered two standard body cutaway buses with four-wheel drive conversion. After being custom-made, the two vehicles will be delivered to Bethel in August 2008.

A transit manager was hired on March 11, 2008 by ONC. The transit manager will become a City of Bethel employee once this MOA becomes effective. The Transit Manager will work in the ONC office building. This will allow ONC administrators and Council members to have access to the manager while the supervisory responsibility remains with the City.

**Current Funding**

Over the last few years, the City of Bethel and Orutsararmiut Native Council were awarded grants to purchase transit vehicles and pay operating and maintenance costs. Table 1 shows the grants currently under administration.

**Table 1**
**Grant Funding for Public Transit System**

| Budget Category | Status | Grant Program | Recipient | Amount |
|---|---|---|---|---|
| One 8-passenger van/bus | Delivered | FTA Section 5310 | City | $51,562 |
| | | FY 2006 IRR | ONC | $17,132 |
| Two 14-passenger buses | Ordered; delivery Aug. 2008 | FTA Section 5310 | City | $120,000 |
| | | FY 2006 IRR | ONC | $79,679 |
| Training | Current | FY 08 RTAP | City | $3,000 |
| Operating | Current | FTA Section 5311 | City | $180,938 |
| Operating | Current | FY 2006 IRR | ONC | $49,827 |
| Operating | Current | FY 2007 IRR | ONC | $74,733 |
| Operating | Current | FY 2008 IRR | ONC | $74,733 |
| Operating | Current | FY 06 Tribal Transit | ONC | $105,193 |
| Operating | Current | FY 07 Tribal Transit | ONC | $136,370 |
| | | | **Total** | **$893,167** |
| **Expected Formula Grants (Recurring Annually)** | | | | |
| Operating | Expected | FTA Section 5311 | City | $180,938 |
| Operating | Expected | IRR | ONC | $74,733 |
| Training | Expected | RTAP | City | $3,000 |
| | | | **Total** | **$258,671** |

Key: IRR – Indian Reservation Roads Grant sponsored by Bureau of Indian Affairs.
RTAP – Rural Transportation Assistance Program, FTA training grant funds.

Note: Annual amount of IRR grant funds assigned to transit system will be maximum amount allowable.

**Future Funding**
The City of Bethel expects the transit manager to be responsible for obtaining funds to support and operate the transit system. Grants are expected to be a key funding source. Grants are available to provide funding for capital, operating, and administration costs. The City of Bethel and Orutsararmiut Native Council do not have discretionary funds available to support the public transit system. The City and ONC agree that non-grant cash contributions to the public transit system will not exceed $30,000 per fiscal year, per entity. Requests for cash contributions must be brought before City Council and ONC Council respectively.

**Transit System Operation**

City of Bethel
The City of Bethel agrees to own, operate, and maintain the Bethel Public Transit System. Specifically, the City will:

1. Own and possess all transit vehicles. Vehicle title may rest with grantor for a period of years before officially being transferred to City.
2. Manage the transit system by hiring and supervising a Transit Manager.
3. Recruit, hire, train, and supervise transit system employees. Includes incorporating new positions into City's Administration Department and into the City's three-year union contract to begin July 1, 2008.
4. Account for all revenue and expenses related to the initiation, operation, and maintenance of the Bethel Transit System.
5. Accept receipt of grant funds and other cash and in-kind donations made by ONC and other agencies, businesses, and individuals.

New positions at the City of Bethel will be created for Bethel Public Transit System employees. Each transit system employee will have the same rights, duties, and privileges afforded other City employees.

All Bethel Public Transit System employees will be represented by the labor union: Alaska Public Employees Association/AFT (AFL-CIO), City of Bethel Local #6055. Employees do not have to join the union, but will have the equivalent amount of union dues withdrawn from their paycheck each pay period, as with all non-union City employees.

The City will obtain sufficient insurance to cover the transit system and all related equipment and vehicles through its insurance company: Alaska Public Entity Insurance. The City's current insurance policy will be rewritten to include liability coverage of the Bethel Public Transit System. Existing insurance policy language will be extended to cover transit vehicles and transit employee compensation.

Orutsararmiut Native Council

The Orutsararmiut Native Council will assist the City in the initiation, operation, and maintenance of the Bethel Public Transit System. Specifically, ONC will:

1. Hire Transit Manager and place on ONC payroll with full benefits.
2. Assist the City in transferring Transit Manager position to the City, when appropriate.
3. Assist the Transit Manager and/or other City personnel in the preparation, submission, and administration of grants available to tribal entities that can and will provide funding to the transit system.
4. Make transit grant funds awarded to ONC available to the City of Bethel Transit Manager. ONC will assist in drawdown of grant funds to cover transit expenses.
5. Provide office space for Transit Manager and transit system operations in new ONC Office building located at 117 Alex Hately in Bethel.
6. Provide office supplies and access to telephone, photocopier, fax machine, and other standard office equipment as in-kind contribution or grant-funded expense.
7. Provide office furniture (e.g., desk, chair, shelves, file cabinets) in the Transit Manager's office.

Specialized equipment, such as a personal computer and software, will be purchased with grant funds.

**MOA Renegotiation**

Either party to this MOA may request renegotiation of the terms described herein. Both parties agree to meet and negotiate in good faith.

**Cessation**

If it is determined by mutual agreement between both parties that the Bethel Public Transit System no longer becomes a viable enterprise, there will be a division of transit system assets between the two parties. The division of assets, if permitted by grantors, will be done according to the grant agreements signed by grantor and grantee that funded the purchase of the assets. All City, State, and Federal laws will be followed.

In case a division of assets occurs, ONC will be given one or more transit system vehicle(s) for use in the provision of senior services, an ongoing social responsibility ONC intends to uphold.

**Supersession**

This MOA supersedes the MOA between the City and ONC titled *Bethel Transit System Advisory Committee Policy Joint Task Force* signed on October 10, 2006. The Transit System Committee will still operate as specified in the previous MOA, but this MOA must supersede the previous MOA to insure the operational responsibilities described herein are accepted and actions related thereto undertaken.

**Signatures**

The signatures below of the highest elected official and highest ranking administrator from the City of Bethel and Orutsararmiut Native Council validate this Memorandum of Agreement and obligate both parties to the terms herein

**City of Bethel**

04-07-2008

Highest Elected Official Date

4-7-08

Highest Ranking Administrator Date

**Orutsararmiut Native Council**

4-7-08

Highest Elected Official Date

4-7-08

Highest Ranking Administrator Date

# New Business

# City of Bethel Action Memorandum

| | | | |
|---|---|---|---|
| Action memorandum No. | 14-69 | | |
| Date action introduced: | 11-25-14 | Introduced by: | Mayor Rick Robb |
| Date action taken: | | ☐ Approved | ☐ Denied |
| Confirmed by: | | | |

SUBJECT/ACTION: **Donate water and sewer deliveries as needed, for a maximum of 2 a week, to the Bethel Winter House during their times of operation.**

| Route to: | Department/Individual: | Initials: | Remarks: |
|---|---|---|---|
| X | Finance | | |
| X | City Manager | | |

| Amount of fiscal impact | | Account information: |
|---|---|---|
| | No fiscal impact | |
| | Funds are budgeted for. | |
| $ 5,725.84 | Funds are not budgeted.<br>Budget modification is required.<br>Affected account number: | 10-72-799 |

*This Action Memorandum is sponsored by Mayor Richard Robb and is a request to donate water and sewer services as needed to the Bethel Winter House during the months that they are in operation. It has a maximum of 2 deliveries per week.*

*The Bethel Winter House provides emergency shelter during the coldest months of the year. Last year was the first year the Bethel Winter House was in operation. Bethel Winter House served 88 different people over a three (3) month period. The goal of the Bethel Winter House is "Zero Deaths by Exposure".*

*Bethel Winter House is run totally by volunteer labor and donations. The shelter is expected to be hosted by two churches: the Bethel Evangelical Covenant Church and the Immaculate Conception Catholic Church. By providing shelter, the Bethel Winter House puts an extra burden upon the utilities of the host churches.*

*Bethel Winter House is anticipating operating a shelter from December 1, 2014 through March 31, 2015.*

# Bethel Evangelical Covenant Church

| | |
|---|---|
| Current Water/Sewer: | 1500 tank Water |
| | 2000 tank sewer |
| Current Delivery: | 2X Month |
| Price: | 263.58 per month |
| | |
| In-Kind from COB: | 2X Wkly |
| Monthly Price: | 979.31 |
| Cost covered by In-Kind: | 715.73 |
| Cost covered by BEC Church: | 263.58 |

| | DECEMBER | JANUARY | FEBRUARY | MARCH |
|---|---|---|---|---|
| In-Kind Water/Sewer Contributions from COB | 715.73 | 715.73 | 715.73 | 715.73 |

| | |
|---|---|
| Total Winter House Contributions from COB: | 2862.92 |
| Total paid by customer for same period: | 1054.32 |

# Bethel Catholic Church:

| | |
|---|---|
| Current Water/Sewer: | 1500 tank Water |
| | 1500 tank sewer |
| Current Delivery: | 2X Month |
| Price: | 263.58 per month |
| | |
| In-Kind from COB: | 2X Wkly |
| Monthly Price: | 979.31 |
| Cost covered by In-Kind: | 715.73 |
| Cost covered by BEC Church: | 263.58 |

| | DECEMBER | JANUARY | FEBRUARY | MARCH |
|---|---|---|---|---|
| In-Kind Water/Sewer Contributions from COB | 715.73 | 715.73 | 715.73 | 715.73 |

| | |
|---|---|
| Total Winter House Contributions from COB: | 2862.92 |
| Total paid by customer for same period: | 1054.32 |

***Total Financial Impact***
***on City of Bethel:*** ***5725.84***

CITY OF
BETHEL

Peter Williams <pwilliams@cityofbethel.net>

## Bethel Winter House Lions Club

1 message

**Eva Malvich** <EMalvich@avcp.org> Wed, Nov 19, 2014 at 3:20 PM
To: "pwilliams@cityofbethel.net" <pwilliams@cityofbethel.net>

We are at Covenant Church 12/1/14 to 1/31/15, 165 State highway. We are asking for two water/sewer deliveries to the church during the time we are using it for the emergency shelter.

Also we will be at the Catholic Church Social Hall (I cannot find the address yet), we are also asking for two water/sewer deliveries to the church during the time we are running the shelter at this location from 2/1/15 to 3/31/15

# City of Bethel Action Memorandum

| | | | |
|---|---|---|---|
| Action memorandum No. | 14-70 | | |
| Date action introduced: | **November 25, 2014** | Introduced by: | **Peter Williams** |
| Date action taken: | | ☐ Approved | ☐ Denied |
| Confirmed by: | | | |

SUBJECT/ACTION: Accept and approve the Section 5309 Bus and Bus Facilities "Ladders of Opportunity" grant award from the Federal Transportation Association in the amount of $82,318 to purchase bus shelters and provide the required cash match of $20,579.40.

| Route to Department/Individual | Initials | Remarks |
|---|---|---|
| Administration/John Sargent | | The City applied for this grant to purchase one bus and 15 bus shelters and was awarded $82,318 to purchase the bus shelters only. The cash match required for this grant is $20,579. ONC's previous commitment of $13,669 for this grant was rescinded. The shelters will be high-quality three-sided shelters permanently installed on City property to provide bus passengers protection from the weather. |

**Attachment(s):**

1. Letter from City of Bethel dated July 29, 2014 committing $15,791.53 in cash match for the grant application to FTA in which the City requested funding for one bus and bus shelters.

| Fiscal Impact Amount | Description | Account information |
|---|---|---|
| $20,579.40 | The City submitted a letter in the grant application committing cash match of $6,910 for this project, but with the ONC match withdrawal, the City must now contribute $20,579.40. | A new Caselle account number would be set up for this grant. |

**Summary statement**

The City of Bethel applied for and was awarded a "Ladders of Opportunity" grant in the amount of $82,318 from the Federal Transit Administration to fund the purchase and shipping of 15 three-sided see-through bus shelters. Since ONC withdrew their commitment to fund the cash match for this grant, if the City accepts this grant, the City must provide $20,579 in cash match.

These bus shelters would be permanently installed on City property with the help of some in-kind sand deliveries and in-kind labor and expertise to facilitate installation.

An idea recently expressed was the additional use of these bus shelters for school children while they wait for the school bus. Strategic placement in town could satisfy both needs.

# CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559
907-543-2087
FAX # 543-4171


July 29, 2014

Sam Snead
Federal Transit Administration

RE: Cash Match Commitment Letter for Ladders of Opportunity Initiative in FY 2014

Dear Mr. Snead:

The FY 2015 State of Alaska Capital Budget contains a line item where $1,000,000 is to be provided to the Alaska Mobility Coalition to allow the State Department of Transportation and Public Facilities, Transit Division to disseminate it to public transit systems for use as Public and Community Transportation State Match. The City of Bethel has received a portion of the State Match Grant appropriation for each of the last three years. City amounts ranged from $15,000 to $18,000. State Transit Coordinator Debbi Howard indicated in an e-mail to the City that the grant agreements may be prepared and issued as early as the first week in August 2014.

Please accept this commitment letter from the City of Bethel that a cash match amount of $15,791.53 will be made available from the City to match money requested from FTA in the State's application on behalf of the City for Prior Year Section 5309 Bus and Bus Facilities Program (Ladders of Opportunity Initiative) funding. The City cash match amount will be made available until such time as the State Match Grant is awarded to the City. Once the State Match Grant is awarded, the amount of $15,791.53 will be used from the State Match Grant to match the Ladder of Opportunity Initiative grant and the City's commitment withdrawn. If the State Match Grant is less than $15,791.53, the City will provide the difference in match funds, such that a total of $15,791.53 will definitely be available as match.

If you have any questions, please contact me at your convenience by calling 907-543-1373 or sending an e-mail to (gmoyer@cityofbethel.net).

Sincerely,

Greg Moyer

Greg Moyer
Interim City Manager

*"Deep Sea Port and Transportation Center of the Kuskokwim"*

BETHEL TRANSIT SYSTEM

Impact of Bethel Transit System Budget Reduction

The Bethel Transit System is funded by State and Federal Grants. The amount of these grants is determined by several factors, one being the local match. The local match has been given by ONC since the Transit System began on November 10, 2008. In years FY 11/ FY 12/FY13/FY14, ONC contributed $105,000 each year. For FY 2015 ONC reduced their contribution to $60,000. This resulted in a reduction of State and Federal Grants. For FY 2015 the budget for the Bethel Transit System was reduced by approximately $150,000. This reduction will have a large impact on the service that the Transit System can offer and will result in a reduction in ridership.

The following is a comparison of the ridership in FY 12 to FY 14 and the reductions that occurred prior to the funding reduction made for FY 2015. Under the current FY 2015 budget I'm sure the ridership will continue to decline.

| Passenger Type | Fiscal Year 2012 | Fiscal Year 2014 | Difference |
|---|---|---|---|
| Elders | 6,175 | 4,477 | **1,698** |
| Disabled | 887 | 1,194 | 307 |
| Youth/Student | 3,223 | 1,443 | **1,780** |
| Gen. Public | 16,036 | 8,894 | **7,142** |
| Total Passengers | 26,321 | 14,809 | **11,512** |

Over all, the reduction in the match dollars ($105,000 to $60,000) has resulted in almost a 50% reduction in the amount of service the Transit System can offer and consequently passengers have had to result to other means of transportation, mostly cabs.

Bill Ferguson, Transit Manager

## Consulting Services Agreement

This CONSULTING SERVICES AGREEMENT (hereinafter "Agreement") is made by and between the City of Bethel, a municipal corporation (hereinafter "City") and DOWL HKM, (hereinafter "Consultant") and is effective on November 25 2014.

THE PARTIES AGREE AS FOLLOWS:

**1. SCOPE OF SERVICES:**

1.1 (Consultant) will provide the City with engineering and consulting services as mutually agreed upon and described in the attached Statement of Work. All consulting services to be provided hereunder will be referred to as Services.

1.2 Statements of Work will be written documents setting forth at a minimum:

a. A complete, sufficiently-detailed description of the types of Services to be rendered;
b. The applicable billing rates for the Services to be rendered (Services Fees); and
c. Any additional terms and conditions to which the parties may agree.

1.3 The parties contemplate that it may be desirable to make changes to the Statement(s) of Work. Before performing any work associated with any such change, a written Change Order shall set forth the necessary revisions to the Statement(s) of Work, and the parties, shall agree in writing that such work constitutes a change from the original Statement of Work, as amended, and that they further agree to the change provisions set forth in the Change Order. Each Change Order shall be numbered serially and executed by City and Consultant.

1.4 Consultant will provide such resources and utilize such employees and/or consultants as it deems necessary to perform the Services.

1.5 City's Project Manager and Consultant's Project Manager will review the Status of the Services, Statement(s) of Work, Change Orders, invoices and estimates as may be required. A written status report will be produced regarding the review. City and Consultant agree to execute and maintain copies of these status reports.

**2. OBLIGATIONS**

2.1 Consultant will provide other support services to City as both the Consultant and City subsequently agree and as outlined in the Statement of Work.

**3. SERVICES AND FEES AND EXPENSES**

3.1 Consultant shall be responsible for all Service Fees as identified in the applicable Statement(s) of Work (and Change Orders, as applicable) as those Services are provided.

3.2 Consultant will invoice the City monthly with a detailed invoice describing work performed, who performed the work (stating the hours and tenths of an hour spent), and providing original receipts for any budgeted reimbursable. Consultant shall only invoice for work actually completed, not work anticipated to be completed.

3.3 Invoicing shall be in proportion to the work completed. For example, if ten (10%) percent of the project is completed, then no more than ten (10%) of the work should be invoiced for.

3.4 City shall tender payment of all invoices within thirty (30) days of receipt.

3.5 In the event of a dispute regarding any invoice submitted by Consultant, City shall provide written notice of the dispute within ten (10) days of receipt of the invoice. The undisputed portion of the invoice shall be paid in accordance with this Agreement.

3.6 In the event the parties have a dispute as to invoicing and cannot reach a resolution immediately, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matters and who will record the date of first discussions.

3.7 If the Parties' representatives are not able to resolve such matter within ten (10) business days of the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that resolution was not affected.

3.8 Upon receipt of such notice, Senior Executives of the Parties shall schedule a meeting within ten (10) calendar days to personally meet and discuss resolution. If the dispute remains unresolved twenty (25) days from the date of first discussion, the Parties shall submit such matter to a dispute review board.

3.9 **Dispute Review Board.** In the event all of the above methods of resolving a dispute fail, a Project Neutral/Dispute Review Board shall be mutually selected and appointed by the Parties. The costs and expenses of the Neutral/Board shall be shared equally by the Parties. The Neutral/Board shall be available to both parties, upon request, and is to issue written findings within ten (10) business days of referral of the matter, unless good cause is shown for more time. Findings by the Neutral/Board are non-binding.

3.10 If the matter remains unresolved following the issuance of the nonbinding finding by the Neutral/Board, the parties may proceed to litigation. Venue shall be in the Bethel courts for the State of Alaska.

## 4. TERM AND TERMINATION

4.1 This Agreement shall commence as of the Agreement Date above and shall remain in force through November 1, 2016.

4.2 In the event of a breach of this Agreement, the City will provide Consultant an opportunity to cure by providing written notice to the Consultant of the breach. The Consultant will have ten (10) days in which to either cure the breach or present an acceptable correction plan to the City with an approved timeline. If a breach is not cured within the specified period of time, the City may terminate the Agreement for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature shall be grounds for termination for default without a cure period.

4.3 If the breach endangers City property, employees or the public, the City may suspend the Consultant's operations as appropriate while still giving time for the Consultant to cure the breach.

4.4 The City may terminate this Contract upon the filing or the execution of a petition in bankruptcy by or against the Consultant, a petition seeking relief of the same or

different kind under any provision of the Bankruptcy Act or its successor, an assignment by the Consultant for the benefit of creditors, a petition or other proceeding against the Consultant for the appointment of a trustee, receiver, or liquidator, or the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. The City may terminate this Agreement if the City reasonably determines that the Consultant is unable to perform the terms of the Agreement due to bankruptcy or insolvency.

4.5 Termination of this Agreement shall be by written notice to the Consultant.

## 5. PROPRIETARY RIGHTS: CONFIDENTIAL INFORMATION

5.1 Consultant agrees that the work products from the Services provided to City shall be owned by City. Nothing contained in this Section 5.1 shall be construed as prohibiting Consultant utilizing in any manner, knowledge and experience of a general nature acquired in the performance of Services for City.

5.2 By virtue of this Agreement, each party hereto may disclose to the other party information that is Confidential and otherwise proprietary. Unless governed by the terms of an existing contemporaneously executed non-disclosure agreement ("NDA"), the following apply:

5.3 Confidential Information includes all information identified by a disclosing party as proprietary and confidential, which Confidential Information shall remain the sole property of the disclosing party unless the ownership of such Confidential Information is otherwise expressly set forth in the Agreement. Items will not be considered Confidential Information if: (a) available to public other than by a breach of an agreement by the recipient; (b) rightfully received from a third party not in breach of any obligation of any confidentiality; (c) independently developed by one party without access to the Confidential Information of the other; or (d) rightly known to the recipient at the time of disclosure as verified by its written records.

5.4 Each party agrees that it shall not use for any purpose or disclose to any third party any Confidential Information of the other party without the express written consent of the other party. Each party agrees to safeguard the Confidential Information of the other party against use or disclosure other than as authorized by or pursuant to this Agreement through measures, and exercising a degree of care, which are at least as protective as those, City or Consultant, as the case may be, exercises in safeguarding the confidentiality of its own proprietary information, but no less than a reasonable degree of care under the circumstances. Each party shall permit access to the Confidential Information of the other party only to those individuals (a) who have entered into a written nondisclosure agreement with the other party on terms equally as restrictive as those set forth herein, and (b) who require access in performance of their duties to the other party in connection with the other party's rights under this Agreement.

5.5 Each party acknowledges that the wrongful use or disclosure of Confidential Information of the other party may result in irreparable harm for which there will be no adequate remedy at law. In the event of a breach by the other party or any of its officers, employees or agents of its or their obligations under this Section 5, the non-breaching party may immediately terminate this Agreement without liability to the

other party, and may bring an appropriate legal action to enjoin such breach, and shall be entitled to recover from the breaching party reasonable legal fees and cost in addition to other appropriate relief.

## 6. WARRANTIES

6.1 Consultant warrants that the Services to be provided under this Agreement shall be performed in a professional manner conforming to generally accepted industry standards and practices. Consultant agrees that it has the sole and exclusive obligation with respect to the Services covered by this limited warranty to correct any nonconformity or to refund the Services Fee paid for any affected executive consulting services.

## 7. INSURANCE

7.1 Consultant is solely responsible for insuring all machinery and equipment owned, rented or borrowed and used by it for the performance of Services.

7.2 Professional Liability Insurance (errors and omissions) insurance coverage shall be obtained to a limit of not less than One Million ($1,000,000) Dollars on a claim made basis. Such coverage shall be maintained for a period of two (2) years subsequent to conclusion of services provided under this Agreement.

7.3 The Consultant shall provide to the City certificates of insurance which shall include a provision that such insurance shall not be canceled or modified by the Consultant without at least thirty (30) days advance written notice.

7.4 The City of Bethel shall be named as an additional insured.

## 8. LIMITATIONS ON LIABILITY

8.1 EXCEPT FOR DAMAGES OR LOSSES ARISING FROM A PARTY'S INDEMNIFICATION OBLIGATION OR INFRINGEMENT OR MISAPPROPRIATION OF A PARTY'S INTELLECTUAL PROPERTY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT NEGLIGENCE, STRICT LIABILITY, LOSS OF DATA, LOSS OF USE, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 The Consultant agrees that the City is not bound by any act, omission, communication, determination, decision or direction of any person other than the City's Representative, Muzaffar Lakhani or his designee. The Consultant must promptly carry out any determination, decision or direction of or given by the City's Representative, Muzaffar Lakhani or his designee, but the Consultant is not responsible or liable for the consequences of doing so if the Consultant, acting in accordance with the standards and matters, immediately objected in writing to the City's Representative that the determination, decision or direction was contrary to those standards and matters.

8.3 Consultant warrants that the Services provided hereunder will be performed in a professional manner consistent with the quality of Consultant's performance of

service for similarly situated customers and in accordance with generally accepted industry standards.

## 9. INDEPENDENT CONTRACTORS

9.1 Consultant shall perform the services under this Agreement as an independent contractor, and nothing contained in this Agreement shall be construed to create or imply a joint venture, partnership, principal agent or employment relationship between the parties. Neither party shall take any action or permit any action to be taken on its behalf which purports to be done in the name of or on behalf of the other party and shall have no power or authority to bind the other party to assume or create any obligation or responsibility, express or implied on the other party's behalf or in its name, nor shall such party represent to any one that it has such power or authority.

## 10. GOVERNING LAW

10.1 This Agreement shall be governed and construed in accordance with the laws of the State of Alaska. Exclusive jurisdiction for any action relating to this Agreement shall be in the Bethel Superior Court, Bethel, Alaska.

## 11. GENERAL PROVISIONS

11.1 **Notices:** Any notice, direction, demand, approval, certificate or waiver which may be or is required to be given under this Agreement must be in writing and be hand delivered or sent by certified mail, addressed as follows:

| To the City: | To the Consultant: |
|---|---|
| City Attorney | DOWL HKM |
| City of Bethel | Attn: Aaron R. Christie |
| PO Box 1388 | 4041 B Street |
| Bethel AK 99559-1388 | Anchorage AK 99503 |

11.2 **Severability:** If any term or provision of this Agreement is determined to be invalid or unenforceable for any reason, it shall be adjusted rather than voided, if possible, to achieve the intent of the parties to the extent possible. In any event, all other terms and provisions shall be deemed valid and enforceable to the maximum extent possible.

11.3 **Force Majeure:** Neither party shall be liable for loss, damage or penalty arising from delay due to causes beyond its reasonable control.

11.4 **Assignment:** Neither party shall assign, delegate or subcontract any portion of its rights, duties or obligations under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed; provided, however, that consent shall not be required in the case of an assignment by either party to the surviving entity in a merger or consolidation in which it participates or to a purchaser of all or substantially all of its assets. Notwithstanding the foregoing, Consultant may subcontract any portion of its obligations under this

Agreement to a third party so long as Consultant remains responsible for the performance of such obligations.

11.5 **Complete Agreement:** This Agreement, the Statement of Work, the Request for Proposals and the accepted Proposal of Consultant, the Feasibility Study and update to the Feasibility Study are the complete and exclusive statement of the agreement between the parties regarding the subject matter hereof, which supersedes all proposals, oral or written, and all other communications between the parties relating to such subject matter.

11.6 **Modification:** Each party agrees that any terms or conditions of this Agreement that are in addition to or inconsistent with the terms and conditions of this Agreement shall be of no force or effect. This Agreement may only be modified by a written instrument duly executed by an authorized representative of both the City and Consultant.

11.7 **Non-Waiver:** The failure of a party to enforce any provision of this Agreement shall not constitute a waiver of such provision or the right of such party to enforce such provision or any other provision.

11.8 **Contract Interpretation:** This contract shall be interpreted based on the Statement of Work. Any discrepancies should be resolved looking first to the following documents: the Request for Proposals, the Submission by DOWL, HKM, the Feasibility Study and Update to Feasibility Study.

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by their duly authorized representatives as of the Agreement date first written above.

| Consultant | City of Bethel |
|---|---|
| _____ | _____ |
| Aaron R. Christie, DOWL HKM | Ann K. Capela, City Manager |

**STATEMENT OF THE WORK**
**EXHIBIT A**

This Statement of Work is made effective by and between the City of Bethel (a municipal corporation) (hereinafter "City"), and DOWL HKM (hereinafter "Consultant") located at: 4041 B Street, Anchorage AK 99503.

1. **Description of Services:** All services described herein anticipate that DOWL, HKM will advise and consult with the City on at least a weekly basis and more frequently if warranted. Questions as to how to proceed should be guided by the RFP, DOWL's submission, the feasibility study and the update to the feasibility study. DOWL HKM is expected to independently verify all figures and calculations provided to it either via a study or via City documents.

   a. *Preliminary Design and System Modeling* – Develop preliminary design documents that will be used to guide survey and geotechnical crews. City to approve final design documents prior to their implementation.
   b. *Survey and Easement Acquisition* – Complete Right of Way (ROW), topographic and utility as-built survey upon agreement of a preliminary design. Identify any necessary easements which must be acquired and assist the City of Bethel in obtaining those easements.
   c. *Geotechnical Investigation* – Conduct Geotechnical investigation focused around establishing what depth helical piers must be driven to support above ground water and sewer infrastructure. Provide results, in written format, to the City of Bethel.
   d. *Thirty (30%) Percent Design and Long Lead Item* Procurement – Develop a 30% alignment, identify utility conflicts and develop 30% piping and instrumentation diagrams for modifications inside the City's Water & Sewer Treatment Plant. This design shall be presented to the City for review and approval.
   e. *Ninety (90%) Percent Design and Alaska Department of Environmental Conservation Plan Review* – Advance the Design documents to 90% taking into consideration the review comments from the 30% design phase. Develop design details to such a level that submission of an ADEC request for approval to construct is appropriate. Conduct pre-meeting with ADEC, if necessary and recommended.
   f. *One Hundred (100%) Percent Construction Documents*– Following review of the 90% design, all comments shall be addressed and, if appropriate, incorporated into the final 100% construction document. Particular attention should be focused on ADEC comments. Construction drawings should be ready at this phase.
   g. *Bid Documents* – Develop contract and bid documents to assist the City of Bethel in selecting the best possible contractor for the institutional corridor project. All prepared bids must comply with the City's procurement policies as set out in Chapter 4.20 of the Bethel Municipal Code. The bid draft, as well as the contract draft, must be approved by the City's legal counsel prior to public dissemination. DOWL, HKM will assist the City with evaluating the proposals and selecting the most qualified proposer.
   h. *Construction Administration* – Staff the actual construction, including full-time on-site inspectors. Oversee all onsite construction work, be available to answer

contractor questions and tend to any and all issues that may arise during construction. Brief the City regularly throughout construction and monitor progress to ensure all safety and general constructions standards are being adhered to.

2. **Billing Rate**
   Rates as submitted in the DOWL's Proposal dated Oct. 31, 2014.

   This statement of work is effective beginning Nov. 26, 2014 through the final acceptance of the project by the City of Bethel

   Not To Exceed Total: Five Hundred Ninety Two Thousand, Two Hundred Eleven Dollars and thirty cents ($592,211.30).

3. **Invoicing & Payments:**
   Detailed and itemized invoices shall be presented to the City of Bethel, Attn: Finance Director, once each month. The City of Bethel will have thirty (30) days to process any undisputed invoices and submit payment to DOWL, HKM.

4. **Additional Terms and Conditions**
   Time Estimated: Final Completion and Acceptance of Project by November 16, 2016.

   This Statement of Work serves as an Exhibit to the Services Agreement.

AGREED AND ACCEPTED:

| DOWL HKM | CITY OF BETHEL |
|---|---|
| BY: _____ | _____ |
| Title: _____ | Ann Capela, City Manager |
| Dated: _____ | Dated: _____ |

# Mayor's Report

# Manager's Report

# PORT OF BETHEL

Post Office Box 1388
Bethel, Alaska 99559
Voice: 907-543-2310
Fax: 907-543-2311

TO: Bethel City Council

FROM: Peter A. Williams: Acting City Manager/ Port Director

SUBJECT: City Managers Report- November 11th too Nov.18, 2014

## CITY ADMINISTRATION ACTION ITEMS AND ACTIVITIES

**PROJECTS:**

- **YK Aquatic Center –** A second option was picked for the fire suppression system too fix the problems with the system. After reviewing the equipment specs we agreed to try a system that uses a radio signal to turn on the high demand pump in the City Sub Water Plant. As of this writing we are unsure when this will be complete. The Fire Dept was able to vet enough volunteers to stand a fire watch starting on November 18th.

  Nov. 18th early afternoon there was a malfunction of major filter that appears at this time be due to a manufacture defect of the filter.

  Pool USA needs too forward a maintenance plan. Included in the plan should be a hold harmless agreement if City Departs. are involved in a fix.

  Pro-Dev needs to forward O&M M to the City along with any as-builds used during construction. The daily reports of the engineer Mike Naverro who was employed by Pro-Dev as a engineer might prove useful as we move forward.

- **H.R.Dept.**- The candidate for this position has decided not to accept the position. No reason was given other than the former city manager had offered him high rate pay which was extended to him but we have not heard back from him at this time.

  Fire Chief- Position needs to be filled.

- **Institutional Corridor-** Public Works is working with City Attorney to implement the Dowl HKM's contract..

- **Fuel Services-** Two RFP's received and should be scored by Nov. 21st.

- **Bethel Wind Farm-** Grant Agreement Amendment to transfer this grant to AVEC was signed and forwarded to the AEA for their signatures.

- **Alternate Energy Feasibility Study-** Wind Energy Study Grant, Amendment #5 was forwarded to the AEA. The purpose of the amendment is to extend the Period of Performance too 2015.These funds were unspent funds from the 2006 Feasibility Study . The funds will be used for two MET towers after a WASP study is completed. Simply put they will study where the best spot in town is and erect two wind towers to study the wind.

# Clerk's Report