



**City Council Meeting Agenda
Special Meeting
December 29, 2014-6:30 pm
City Council Chambers, City Hall, Bethel, AK**

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

Leif Albertson
Vice-Mayor
Term Expires 2015
543-2819
labertson@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

Ann Capela
City Manager
543-2047
acapela@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 AGENDA

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

- a) AM 14-74: Approving The Contract For State Lobbying Services (Mayor Robb)
- b) Release Of Draft Investigative Findings Dated February 11, 2014, To Current City Manager For City Business Only And Under Strict Confidentiality (Council Member Fansler)
- c) Approve Contract Amendment For Project Development LLC (Pro Dev) (City Manager Capela)
- d) Approve Contract Amendment For DOWL HKM For engineering Services (City Manager Capela)
- e) Enforcement And Potential Modification Request Of The Operations Plan For The Yukon Kuskowim Regional Aquatic Training And Health Center (Mayor Robb)
- f) Authorizing The City Manager To Enter Into A Lease Agreement With An Employee For Residency At The Annex For A Period Exceeding 90 Days As Provided In Ordinance 14-22 (Mayor Robb)
- g) Contract Approval For Fuel Services With Delta Western (City Manager Capela)

VIII. ADJOURNMENT

NEW BUSINESS

Item A

City of Bethel Action Memorandum

Action memorandum No.	14-74		
Date action introduced:	12-09-2014	Introduced by:	Mayor Robb
Date action taken:		<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied
Confirmed by:			

SUBJECT/ACTION:

Approve the Contract for Professional State Lobbying Services with Proposer A.

Route to:	Department/Individual:	Initials:	Remarks:

Attachment(s):

- Draft Contract for Professional Services
- Released Request for Proposal

Amount of fiscal impact		Account information:
	No fiscal impact	
X (\$40,000 annually)	Funds are budgeted for.	10-51-649
	Funds are not budgeted. Budget modification is required.	

As approved by Council, the City released a Request for Proposal (RFP) for State Lobbying Services. The deadline for the proposal submissions was on December 18, 2014. In response to the RFP, the City Clerk’s office received two qualified proposals.

On December 22, the RFP Review Board consisting of the City Clerk, Assistant Finance Director and Mayor Robb, reviewed and scored the two qualified submissions based on the Evaluation Criteria listed under Section 4 of the RFP and attached hereto.

As a result of the review and collaborative scoring by the Review Board, the Board recommends Proposer A, for the City’s lobbying services.

Contract Summary

The Contract for State Lobbying Services as presented would consist of an annual fiscal responsibility of \$40,000 to the City with monthly invoicing submitted by the contractor. In return the City would obtain State Lobbying Services from Proposer A. State Lobbying Services would consist of in person and telephonic meetings with Council and Administration to discuss City priorities and strategic planning on

City of Bethel Action Memorandum

Action memorandum No.	14-74		
Date action introduced:	12-09-2014	Introduced by:	Mayor Robb
Date action taken:		<input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Denied
Confirmed by:			

how to best approach the requests to the Governor and the State Legislators. Status updates prior to and at the conclusion of the session would also be provided to Council and Administration as warranted.

If approved, the Contract would require Proposer A, to monitor State legislative committee meetings, agency hearings and meetings prior to and during the legislative session and any special session(s) as well as to attend and testify on behalf of the City where applicable. A full detail of services rendered is provided under Section 10 of the Contract and in the scope of work in the RFP.

The Contract would be for a period of three years, beginning January 1, 2015 and will remain in effect until December 31, 2017.

Summary Review Board's Cumulative Scores

After a thorough review, two qualified proposals were scored with a total of 100 points possible. Proposal A, received a total of 91 points; Proposal B, received a total of 68 points. The point values are broken out below.

Scoring Criteria	Proposer A	Proposer B
Cover Letter (Maximum: 10 Points)	8	8
References (Maximum: 10 Points)	10	10
Proposed Rates (Maximum 10 Points)	11	9
Qualifications & Experience (Maximum 30 Points)	27	21
Exclusivity Focus (Maximum 5 Points)	2	2
Overall Quality of Proposal (Maximum 20 Points)	19	10
Writing Sample (Maximum 15 Points)	14	8
Total	91	68

REQUEST FOR PROPOSALS

PROFESSIONAL LOBBYING SERVICES

INTRODUCTION

The City of Bethel, Alaska, is soliciting proposals from individuals or firms interested and qualified to provide Professional Lobbying Services.

It is the intent of the City of Bethel to select a single consultant/consulting firm to accomplish all the services outlined in this Request for Proposal.

1. GENERAL TERMS AND CONDITIONS OF THE REQUEST FOR PROPOSALS

1.1 Delivery Option

One (1) original, unbound proposal and two (2) copies of the proposal in a sealed box or envelope clearly marked "City of Bethel, State Lobbying Services-Request for Proposal". The proposal must be received no later than **December 18, 2014, 4:00 P.M.** Alaska Time, by mail or personal delivery to:

City Clerk's Office, Lori Strickler
City of Bethel
300 State Highway
P.O. Box 1388
Bethel, AK 99559

1.2 Questions

Questions or comments on this RFP shall be directed in writing to: Lori Strickler, City Clerk, by emailing lstrickler@cityofbethel.net. Any responses will be in writing via addendum distributed to all known Proposers.

1.3 Any proposal received after the announced time and date for submittal, whether by mail or otherwise, shall be rejected. It is the sole responsibility of the Proposer to ensure that its proposal is received by the deadline indicated. However, nothing in the RFP precludes the City of Bethel from requesting additional information at any time during the procurement process.

1.4 Nothing herein is intended to exclude any responsible Proposer or in any way restrain or restrict competition. The City reserves the right to reject any or all proposals.

- 1.5 Any proposal submitted must include the Signature Sheet which has been signed by an individual authorized to bind the Proposer. All proposals submitted without such signature may be deemed non-responsive.
- 1.6 RFP Process: Proposers are to submit written proposals which present the Proposer's requested information, qualifications and understanding of the work to be performed. The proposal should be prepared simply and economically and should provide all the information which the Proposer considers pertinent to its qualifications for the project and which respond to the Scope of Work and Evaluation Criteria listed herein. Emphasis should be placed on completeness of service offered and clarity of content. To assist in the evaluation process, Proposers should limit their qualifications portion to no more than ten (10) standard sized (8.5" x 11") pages.
- 1.7 All proposals shall be open for public inspection after a notice of intent to award a contract is issued. Offerors should not include proprietary information in proposals if such information should not be disclosed to the public.

2 PROPOSED SCOPE OF WORK

2.1 Term

The term of the agreement will be for three years, with the possibility of one (1) three year renewal option.

2.2 Purpose

The City of Bethel invites all interested, qualified Proposers to submit a proposal to provide professional consulting services for representing the City of Bethel in legislative matters at the State level for projects identified by the Bethel City Council. The legislative services shall include, but not be limited to: scheduled, extended, or special legislative sessions and meetings; state administrative and agency hearings, meetings, or rule making proceedings; all in accordance with the terms, conditions, and scope of work identified in this Request for Proposal (RFP).

2.3 Scope of Work

The successful Proposer will provide legislative and lobbying services at the State level to assist the City of Bethel in developing a legislative agenda and securing funding. This agenda will include areas of general municipal government, including but not limited to: telecommunications, sanitation waste disposal, parks and recreational services, economic development, streets and transportation, sanitary sewer, infrastructure, police and fire services, homeland security, grants, legislative issues that restrict the power of local government such as eminent domain and annexation, and other issues affecting municipalities as more fully described in this RFP.

The successful Proposer must agree to be available at all times, upon reasonable request, to meet with the City Council, City staff and others, as specified, in order to perform the responsibilities assigned; and to attend meetings, represent the interests of the City, and act as liaison between the City and all branches, departments, and agencies of the State Government. It is expected that the successful Proposer will review and understand the agendas of the House and Senate leaders at the State level in order to assist the City to strategically seek funds.

The successful Proposer will work collaboratively with the Bethel City Council, City manager and designated staff to develop the City's State program and represent the City's interests in Juneau. The Proposer will bear all costs associated with the travel, office space and other items as is necessary to perform the services provided to the City.

The successful Proposer will handle a range of activities including, but not limited to:

1. Work closely with the City Council, City Manager, and key staff to develop a detailed strategic plan, to be referred to as the City of Bethel State Legislative Requests, for acquiring appropriations and funding for the City of Bethel.
2. A minimum of two (2) meetings will be required in the City of Bethel to assist in the development of the City's State Legislative Requests. Status updates will be presented to the City Council on a semi-annual basis and as needed or required throughout the term of the Contract.
3. Assist the City in the preparation of appropriations requests and required sub-committee forms.
4. Identify and aggressively act to obtain funding for the City of Bethel projects.
5. Review, on a continuing basis, all existing and proposed state policies, programs, and legislation. Identify those issues that may affect the City or its citizens, and regularly inform the City on these matters. Provide legislative expertise and consulting services.
6. Review legislative policy statements adopted by the Alaska Municipal League, National League of Cities and other local government and lobbying groups for the purpose of identifying issues which may either positively or negatively affect the City.
7. Identify other state legislation of interest to the City, monitor actions on these initiatives, and advocate the City's interest when appropriate.
8. Monitor State legislative committee meetings, agency hearings and meetings prior to and during the regular and special legislative session(s) at which specific issues with the City's adopted Legislative Program are considered, as well as other issues that may arise that affect the City.

9. Work with the City Council, City Manager and designated staff to develop special general legislation in keeping with, or supportive of, the City adopted Legislative Request.
10. Develop and evaluate strategy for the support, opposition, or amendment of pending legislation.
11. Testify and lobby before State legislative and appropriations committees as necessary on behalf of the City, during the annual legislative session, extended, or special session(s) and at legislative committee meetings.
12. Appear and testify before agency hearings, rule making proceedings and other administrative agency or legislative meetings, as required, to promote, oppose, and seek passage of legislation affecting the City or its citizens, and specific legislation contained in the City's Legislative Requests.
13. Coordinate appointments or meetings between the City Council, other designated individuals, and Congressional leaders.
14. Assist the City in drafting any needed letters to State leaders regarding issues of interest and concern to the City of Bethel.
15. Provide written quarterly status reports on the Consultant's achievements as they related to the goals and objectives set forth in the City's Legislative Requests.
16. Other required reports may include, but not necessarily be limited to, personal briefings and information bulletins pertinent to any legislation, rules, or regulations and other State Policies or programs that affect the City and its citizens either directly or indirectly.
17. While the Legislature is in Session, a written summary report shall be submitted at the end of each week detailing legislative action taken during the week, status of legislative issues, anticipated action for the upcoming week, and suggested action that City staff or elected officials may implement.
18. A written report that summarizes the status of the City's Legislative Request shall be provided within one (1) week of the closing of the session and a more detailed final written report on specific legislation and new requirements affecting the City shall be provided within a reasonable time period, not to exceed thirty (30) days from the close of session.
19. When the Legislature is not in Session, the successful Proposer shall provide periodic reports on issues of interest or concern to the City. Such information may include, but not be limited to: action taken at interim committee meetings, rule making hearings, status of studies underway, and advance notice of legislation being proposed.

2.4 The cost of the services being solicited may not exceed \$40,000 annually.

3. QUALIFICATIONS AND EXPERIENCE

- 3.1. State in detail, the Proposer's specific experience and provide examples of similar work performed for other clients. If the Proposer has developed specialized

expertise in any area or issue, please describe the scope and extent of that expertise.

- 3.2 Provide at least three (3) references.
- 3.3 Provide two (2) writing samples that relate to the work being requested in this RFP.
- 3.4 Provide a statement identifying other municipalities or boroughs within the state of Alaska of whom you represent for lobbying services. If no contracts are currently held with other municipalities or boroughs, provide a statement identifying your position on representing multiple municipalities or boroughs for state lobbying services.
- 3.5 Explain how the Proposer is the best qualified to perform the requested services for the City (for example, years of experience, numerous contacts, past success, etc.).
- 3.6 Detail any proposed changes, if any, to the draft contract included with this RFP. If additional services are recommended, please state so clearly and how and why you feel these additional services are beneficial to the City. If some services should be cut, explain clearly why you recommend such changes.

4.0 EVALUATION OF PROPOSALS

4.1 Evaluation Process

The City will appoint a selection committee to formally evaluate each response. The evaluation process will grade the responses on merit and responsiveness. The evaluation process will include verification of references and may include other information as directed by the City.

4.2 Required Submittals

All Proposers shall submit the following, not to exceed a total of ten (10) standard (8.5" x 11") pages:

1. Cover sheet
2. Proposal
3. Resume
4. References
5. Proposal Price Sheet
6. Bidder Certification
7. Writing Sample (will not be counted towards page limit)

8. List of current contract(s) held with other organizations for lobbying services or your position on representing multiple municipalities or boroughs for state lobbying services (not counted toward the page limit).
9. Detailed list of any requested changes to the proposed contract (not counted towards the page limit).

4.3 Grading Format

Each section or subsection of the response will be considered a separate selection criterion and will be graded individually. All scores will be summed to give the grand total score. The maximum possible total score for the response is 100 points.

4.4 Point Values

Criterion	Point Value
TRANSMITTAL (COVER) LETTER	10%
REFERENCES	10%
PROPOSED RATES	10%
QUALIFICATIONS AND EXPERIENCE	30%
EXCLUSIVITY FOCUS	5%
OVERALL QUALITY OF PROPOSAL	20%
WRITING SAMPLE	15%

5.0 CERTIFICATION

The following certification must be included in the proposal in order to be considered:

“The undersigned affirms that they are duly authorized to execute this contract, that this RFP has not been prepared in collusion with any other Proposer, and that the contents of this RFP have not been communicated to any other Proposer prior to the official opening of this RFP.”

Signed By: _____ Title: _____

Print Name: _____ Company Name: _____

Phone No.: _____ Fax No.: _____

Email: _____

Bid Address: _____
PO Box or Street City State Zip

Other Address: _____
PO Box or Street City State Zip

Remit Address: _____
PO Box or Street City State Zip

Federal Tax ID No.: _____

Date: _____

**PROPOSAL PRICE SHEET
City of Bethel
LOBBYING SERVICES**

Proposal Date: _____ Price Submitted by: _____

TOTAL PROPOSAL PRICE:

_____ \$ _____
(Use words: Ex. One hundred thousand dollars) (use numerals: Ex. \$100,000)

SIGNATURE AND VERIFICATION

Pursuant to and in compliance with the City of Bethel's Request for Proposals, the undersigned hereby proposes to complete the scope of work described herein and in the proposal submitted for review and approval for the total amount of money given above.

Respondent Name (printed):	Title:
Company Name and Mailing Address:	Telephone Number: Fax Number: E-mail Address:
Signature:	

**Professional Services Agreement
State Lobbying Services**

This PROFESSIONAL SERVICES AGREEMENT (hereinafter "Agreement") is made by and between the City of Bethel, a municipal corporation (hereinafter "City") and _____ (hereinafter "Contractor") and is effective on January 1, 2015.

THE PARTIES AGREE AS FOLLOWS:

1. SCOPE OF SERVICES:

- 1.1 (Contractor) will provide the City with professional services as mutually agreed upon and described in the attached Statement of Work. All 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/Contract Amendment 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/Contract Amendment. Each Change Order shall be numbered serially and executed by City and Contractor.
- 1.4 The City Manager, or their designee, will receive and disseminate all reports to the Council. The City Manager will forward copies of progress reports or other correspondence submitted by the Contractor to the City Council.
- 1.5 The City Clerk will maintain original copies of the contract (including the Statement(s) of Work), and will maintain copies of any Change Orders/Contract Amendments.
- 1.6 Contractor will provide reports to the City as outlined in Section 11 of this Agreement.

2. OBLIGATIONS

- 2.1 Contractor will provide lobbying services to City outlined in both this Agreement and the attached Statement of Work.

3. SERVICES AND FEES AND EXPENSES

- 3.1 Contractor shall be responsible for all costs associated with the provision of work under this Agreement. Such costs may include, but are not limited to, lodging while in Juneau and travel to/from Juneau. Contractor understands that these costs form a part of the basis of the agreed upon fee of \$40,000 and will not be separately reimbursed.

- 3.2 Contractor will invoice the City monthly with a detailed invoice describing work performed. Contractor shall only invoice for work actually completed, not work anticipated to be completed.
- 3.3 City shall tender payment of all invoices within thirty (30) days of receipt.
- 3.4 In the event of a dispute regarding any invoice submitted by Contractor, 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.
- 3.5 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.
- 3.6 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.
- 3.7 Upon receipt of such notice, Senior Executives of the Parties shall schedule a meeting within ten (10) calendar days to discuss resolution. If the dispute remains unresolved twenty (25) calendar days from the date of first discussion, the Parties shall submit such matter to non-binding mediation.
- 3.8 **Mediation.** In the event all of the above methods of resolving a dispute fail, the parties shall proceed to mediation. Mediation shall be assisted by a neutral mediator acceptable to both parties and shall require the reasonable efforts of the parties to discuss with each other in good faith their respective positions and different interests to finally resolve such Dispute.
- 3.9 Each party may disclose any facts to the other party or to the mediator that it, in good faith, considers reasonably necessary to resolve the Dispute. However, all such disclosures shall be deemed in furtherance of settlement efforts and shall not be admissible in any subsequent proceeding against the disclosing party. Except as agreed to in writing by both parties, the mediator shall keep confidential all information disclosed during mediation. The mediator shall not act as a witness for either party in any subsequent proceeding between the parties.
- 3.10 Mediation shall conclude if the parties have engaged in good faith settlement negotiations but nonetheless are unable to resolve the Dispute through the mediation process.
- 3.11 The attorneys' fees and costs incurred by each party in such mediation shall be borne solely by such party, except that the fees and expenses of the mediator, if any, shall be borne equally by the parties.
- 3.12 Any Dispute not resolved first by mediation between the parties may be decided by litigation. The appropriate venue for any litigation is the Alaska Court System, Fourth Judicial District at Bethel.

4. **TERM AND TERMINATION**

- 4.1 This Agreement shall commence as of the Agreement Date above and shall remain in force through December 31, 2017.

- 4.2 In the event of a breach of this Agreement, the City will provide Contractor an opportunity to cure by providing written notice to the Contractor of the breach. The Contractor will have ten (10) calendar days from the date of notice 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 Contractor's operations as appropriate while still giving time for the Contractor 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 Contractor, a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, an assignment by the Contractor for the benefit of creditors, a petition or other proceeding against the Contractor 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 Contractor 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 Contractor.

5. CONTRACT RENEWAL OPTION:

- 5.1 Contractor and City may mutually agree to renew this Contract for one (1) additional three (3) year term.
- 5.2 At least one hundred and twenty calendar days (120) prior to the expiration of the contract, Contractor shall notify City, in writing, of their desire to extend the Contract.
- 5.3 City shall review the request and Contractor's past performance. Provided there have been no more than two (2) breaches of Contract, the City may elect to renew the Contract term.
- 5.4 City shall respond to Contractor's request to renew the Contract within thirty (30) calendar days of the receipt of the request.
- 5.5 If City does not receive a request to renew the contract by the deadline imposed under this section, the City shall submit the Contractor's services to RFP.

6. PROPRIETARY RIGHTS: CONFIDENTIAL INFORMATION

- 6.1 Contractor agrees that the work products from the Services provided to City shall be owned by City. Nothing contained in this Section shall be construed as prohibiting Contractor from utilizing in any manner knowledge and experience of a general nature acquired in the performance of Services for City.
- 6.2 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:

- 6.3 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.
- 6.4 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 pending any Federal or State laws related to the matter. 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 Contractor, 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.
- 6.5 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 6, 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.

7. WARRANTIES/ASSURANCES

- 7.1 Contractor represents that, at the time and within the locality where the Services are performed under this Agreement, those services shall be performed in a professional manner conforming to those generally accepted industry standards and practices existing at that time. Contractor agrees that it has the sole and exclusive obligation with respect to the Services performed under this Agreement to correct any nonconformity.
- 7.2 Contractor shall indemnify, defend and hold harmless the City from and against any claim of, or liability for, negligent acts, errors and omissions of the Contractor under this Agreement. The Contractor is not required to indemnify, defend, or hold harmless the City for a claim of, or liability for, the independent negligent acts, errors and omissions of the City. If there is a claim of, or liability for, a joint negligent act, error or omission of the Contractor and the City, the indemnification, defense and hold harmless obligation of this provision shall be apportioned on a comparative fault basis.

- 7.3 In this section, “Contractor” and “City” include the employees, agents and contractors who are directly responsible, respectively to each.
- 7.4 “Independent negligent acts, errors and omissions” means negligence other than in the City’s selection, administration, monitoring or controlling of the Contractor, or in approving or accepting the Contractor’s work.

8. INSURANCE

- 8.1 Contractor acknowledges they are an Independent Contractor and not an Employee of the City. Contractor is solely responsible for any insurance costs for Contractor’s company and in no event will Contractor be insured by the City of Bethel.

9. LIMITATIONS ON LIABILITY

- 9.1 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.
- 9.2 The Contractor agrees that the City is not bound by any act, omission, communication, determination, decision or direction of any person other than the City Council or their properly appointed designee. The Contractor must promptly carry out any determination, decision or direction of or given by the City Council as a body, not individually, but the Contractor is not responsible or liable for the consequences of doing so if the Contractor, acting in accordance with the standards and matters, immediately objected in writing to the City Attorney that the determination, decision or direction was contrary to those standards and matters.
- 9.3 Contractor represents that the Services provided hereunder will be performed in a professional manner consistent with the quality of Contractor’s performance of service for similarly situated customers and in accordance with generally accepted industry standards as existing at the time and within the locality where the Services are to be performed.

10. INDEPENDENT CONTRACTORS

- 10.1 Contractor 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.

11. REPORTING & MEETING REQUIREMENTS

11.1 In Person: Contractor shall meet in person with the City Council (as a body) and the City Manager at least twice annually. The first required in person meeting shall be prior to the legislative session commencing. This first meeting shall be scheduled sufficiently in advance to allow adequate time to prepare a detailed strategic plan for the upcoming legislative session.

The second required in person meeting shall be held within thirty (30) days of the final session report. During this second meeting, Contractor will be prepared to summarize the session and provide any key legislation the City should be aware of, identify the strengths and weaknesses with regard to the City's strategy for funding, and provide suggestions for how the City can improve in the following year.

11.2 Telephonic Updates: Contractor shall be available, upon reasonable notice, during the Legislative Session, to answer key questions or provide requested feedback to the City Council.

11.3 Written Reports

- (a) Contractor should provide regular written updates or information bulletins pertinent to any legislation, rules or regulations and other State Policies or programs that affect or reasonably may affect the City and/or its citizens.
- (b) While the Legislature is in session, Contractor shall provide a weekly written summary report by 8:00 am each Monday which provides a status of legislative issues heard the previous week, anticipated action for the coming week, and suggested action, if any, that City staff or elected officials should implement.
- (c) A short written report summarizing the status of the City's Legislative Requests shall be provided no more than one (1) week after the closing of each session or relevant special session(s).
- (d) A detailed final report shall be provided outlining all important issues before the legislature, the City's requests, and anything reasonably of pertinence to the City. This final report shall be provided within thirty (30) days of the close of the session. Supplementary final reports shall be provided at the close of any special session(s). Such report shall at a minimum:
 - 1) Summarize what happened during the recently adjourned legislative session;
 - 2) Summarize how the City's requests fared and provide an analysis of how the requests were received, both positively and negatively;
 - 3) Summarize key legislation that impacts or reasonably may impact the City and/or its citizens;
 - 4) Point out upcoming changes to the laws that are reasonably expected to impact the City and/or its citizens;
 - 5) Provide feedback to the City on how to improve its Legislative requests for the following year in light of their receipt in the recently adjourned session and in light of major changes or topics of discussion in the session.
- (e) During the time the Legislature is not in session, Contractor shall provide written quarterly reports outlining their achievements as they relate to Contractor's

services, and more specifically to the goals and objectives set forth in the City's Legislative Requests.

12. GOVERNING LAW

- 12.1 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.

13. GENERAL PROVISIONS

- 13.1 **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:

City Attorney
City of Bethel
PO Box 1388
Bethel AK 99559-1388

To the Contractor:

- 13.2 **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.
- 13.3 **Force Majeure:** Neither party shall be liable for loss, damage or penalty arising from delay due to causes beyond its reasonable control.
- 13.4 **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, Contractor may subcontract any portion of its obligations under this Agreement to a third party so long as Contractor remains responsible for the performance of such obligations.
- 13.5 **Complete Agreement:** This Agreement, the Statement of Work, the Request for Proposals and the accepted Proposal of Contractor, 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.
- 13.6 **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 Contractor.

13.7 **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.

13.8 **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 and the Submission by ____.

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.

Contractor

City of Bethel

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 _____ (hereinafter "Contractor") located at Bethel, Alaska.

1. **Description of Services:**

- ❖ Face to Face meetings with local state representatives as Lobbyist, in their professional opinion, deems appropriate and helpful to the City;
- ❖ Face to Face meetings with the City Council, as a body, prior to the annual convening of the Legislature in order to assist the City of Bethel in developing a legislative agenda.
- ❖ Face to Face meetings with the City Manager and/or Council as reasonably requested and as deemed appropriate to developing a detailed strategic plan for securing appropriations; for advising the City as to current state issues; and for updating the City on other important items before the Legislature.
- ❖ Assisting the City in preparing the annual appropriations requests for the Governor's budget;
- ❖ Assisting the City in preparing an annual appropriations request to legislators and following those requests through the committee and sub-committee process;
- ❖ Identifying and working to obtain funding for City projects and priorities;
- ❖ Regularly reviewing existing and proposed state policies, programs and legislation and keeping the City informed as to changes or issues that are of importance to the City;
- ❖ Following state legislation that is of potential interest to the City, including actions on initiatives and keeping the City informed as appropriate;
- ❖ Identifying and informing the City on issues that may affect it or its citizens;
- ❖ Reviewing legislative policy statements adopted by the Alaska Municipal League, National League of Cities and other local government and lobbying groups regarding issues which may be of importance to the City;
- ❖ Advocating the City's interests as appropriate;
- ❖ Monitoring State legislative committee meetings, agency hearings and meetings prior to and during the regular and any special legislative session(s) during which items of specific import to the City are discussed/considered;
- ❖ Developing and evaluating strategy for the support, opposition or amendment of pending legislation as directed by the City Council;
- ❖ Testifying and lobbying on behalf of the City before State legislative, appropriations committees, agency hearings, rule making proceedings and other administrative agency meetings, as necessary;
- ❖ Coordinating meetings or appointments between individual City Council members (acting in their official capacity) and the City Manager and Congressional leaders;
- ❖ Assisting the City in drafting any needed letters to State leaders regarding issues of interest and concern to the City and/or its citizens;

2. **AGREEMENT FINAL PRICE:** The maximum fee to be paid under this Agreement shall not exceed Fifty Thousand Dollars (\$40,000) annually.

3. **Invoicing & Payments:**

Detailed and itemized invoices shall be presented to the City of Bethel, Attn: City Manager, once each month. The City of Bethel will have thirty (30) days to process any undisputed invoices and submit payment to Contractor.

4. **Additional Terms and Conditions:** None.

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

AGREED AND ACCEPTED:

CITY OF BETHEL

Ann K. Capela, City Manager

Dated: _____

Dated: _____

NEW BUSINESS

Item C

December 17, 2014

Ann Capela
City Manager
City of Bethel Alaska
PO Box 1388
Bethel, AK 99559

Re: YK Aquatic Center, Project Management Services

Dear Ann,

This week Patty sent us a draft contract addendum outlining services desired for completing the project. However, much of the work is in progress and should be completed before the end of the year. There are additional items necessary to complete the project, some of which you may wish to retain ProDev for further assistance and for other items we can suggest could be accomplished by City staff most cost effectively. The tasks are outlined as follows:

Work in progress:

Record Documents - Attachment M of the construction contract governs the documentation required. Doug is working with Bethel Services/Unit Company and should be able to send to the City, before the end of the year, the following:

- O&M Manuals for all equipment as specified, including Table of Contents
- Training Videos from each training class
- Warranty Book containing all extended warranties (past 2 years)
- Sub-contractor submittals, also known as shop drawings

These materials will be organized by the Construction Specification Institute (CSI) numbering system, which is as specified and is an industry standard that corresponds to the construction specifications. The format is to be both paper (four copies) and electronic. In addition, the contractor will be submitting "As-Built" drawings.

The four copies are to be distributed as follows:

- Public Works
- USA Pools - Sections distributed in the facility and support vendors (boiler manual in boiler room, pool maint equipment in pool equipment room, etc.)
- Mechanical Specialists Inc. - The firm under contract to USA Pools for periodic maintenance.
- City of Bethel for safe keeping

Administration - Process the contractor final change order, review end of month pay applications.

List and binder of signed contracts To our knowledge, there are only four contracts: the construction contract with BSI, the project management contract with ProDev, materials testing contract with Dowl/Alaska Testlab and the O&M contract with USA Pools. The USA Pools binder was delivered on 15 December 2014.

Binder of relevant documents - The binders will be similar to the USA Pools binder previously supplied. In addition, please note that most all documents are located on the ftp site and will be supplied in electronic format.

Additional services from ProDev:

Inventory of equipment – USA Pools is required to provide an annual inventory of equipment. Our understanding from Hansel was that only equipment valued over \$5,000 is to be inventoried. We suggest that ProDev assist USA Pools in preparing the inventory.

Short list of who to call – This is to be addressed in the Maintenance Plan.

Walk Thru - For your information, of the original punchlist inspection that yielded approximately 100 items, there are six items yet to be closed out and they are of an administrative nature and will be closed out upon receipt of the record documents. We consider this task completed, but can provide additional site visits as necessary.

Maintenance Plan and Policy and Procedures Manual - Support USA Pools in preparation of a Maintenance Plan and Policy and Procedures Manual. We discussed the maintenance plan on Monday, there will be daily, weekly, monthly, and annual tasks identified. The bulk of the Policy and Procedures is addressed in USA Pools standard manual. I am already working with them to address the outstanding issues.

USA Pools - Continue to work with USA Pools to improve their invoicing and quality of information provided in their monthly reports.

FF&E (Furniture, Fixtures, and Equipment) - ProDev will prepare two separate Invitations to Bid for the City to purchase bleachers for the viewing area and additional security cameras covering the exterior. Review of the drawings show four exterior cameras and it is our understanding that five additional cameras are desired (coverage for the turbine, under the building and east, west and south of building).

Work that City Staff can complete:

FF&E – Issue the two above mentioned RFP's, get Council approval, administer subsequent contracts.

Additional FF&E – The purchases to date are well under the amount of funds available. There are additional needs that can and should be addressed. ProDev will provide the City with these lists. They are generally described as follows:

- Another purchase order to BSN for sports equipment.
- Another purchase order to Think Office for children's tables and bench seating.
- Another purchase order to Alaska Fitness Equipment for additional bikes and other equipment.
- Another purchase order for office type equipment.
- Purchase rubber flooring for the fitness room free weight area.

Art Program – The Rasmuson Foundation is aware that the FF&E is under budget and desires a building art program. Attached please find the original proposal from Charlotte Fox to manage a program commissioning art for the facility.

Reconciliation of budgets – We have been periodically reconciling the State construction grant financial report with project costs and believe that task is complete. Regarding the YKHC and Rasmuson grants we do not have complete information on all the purchases made by the City and it may be more cost effective for the City to undertake this task, we will resend our spreadsheets.

ProDev's contract for the support of the construction effort terminated on November 15th, 2014. ProDev's amendment for the support for FF&E Purchasing and O&M contracting support is time and materials reimbursable with a cost not to exceed of \$45,060 and \$171,360, plus expenses, respectively. Per our discussion with Greg Moyer and Pete Williams, we have continued to provide construction admin support and added that scope to the time and materials amendment.

The estimated amount of remaining authorization after November 30, 2014 is \$51,697 for labor and \$10,086 for expenses. We estimate the December 2014 invoice to be in the range of \$25,500 which leaves a remaining authorization of \$26,200 for labor. We should be able to accomplish the above work without any further authorization other than extending the completion date to January 31, 2015. Due to the uncertainties of the level of support that the City staff can provide, we do not wish to enter into a firm fixed price contract for services, rather extend our current authorization date.

Should you decide that our services are no longer required past December 31, 2014, please let us know as soon as possible. We will endeavor to use the remaining time to assist with as orderly a transfer of documentation as timely as possible.

Sincerely,



Digitally signed by Douglas Cobb
DN: cn=Douglas Cobb, o, ou,
email=Doug@prodevelopment.lc
om, c=US
Date: 2014.12.16 16:54:03 -0900

Douglas Cobb
Project Development Associates LLC

Memo to: Greg Moyer, Acting City Manager, City of Bethel
cc: John Conway, Project Development Associates
From: Charlotte Fox, Arts and Culture Consultant
Re: Art acquisition Services
Date: August 15, 2014
sent via email

First off, I must say how pleased I am that you are considering purchasing art for the new aquatic center in Bethel.

Below I've outlined the process that I have found most successful for purchasing art. Since I have not been in the space, it is difficult for me to estimate the size of the potential art pieces, or the appropriate location(s). I also am not sure about the budget for art purchases. So the recommendations below are a general guideline for you.

I am the retired Executive Director of the Alaska State Council on the Arts, a position I held for 11 years. I am pretty familiar with Bethel, having worked with the Yupiit Piciryarait Cultural Center and the Bethel Council on the Arts. I also hosted a few community meetings in Bethel, including one for the Rasmuson Foundation in 2012, so I have met a number of community leaders.

Below are the steps of selecting art that I would recommend. I'm happy to discuss this with you and your staff or committee prior to committing to this process.

Create a call for art to be commissioned

- a) Select an art committee of up to 6 people. Possible participants: a representative of the architect or project manager, an artist who will not be applying, one or two employees of the City (including yourself), a user of the aquatic center and a public member. You can add more people but the fewer people, the more cohesive the process. How broad you want to make this process is really up to you. Even if it's only three people, I do recommend meeting to discuss what style, medium and theme you want for the art in the building. If I'm chosen to provide my services with this process, meeting with the committee when I visit the site would be most helpful.
- b) After a site visit and meeting with your art committee or staff, I would create a call for art, send it out, publicize it and see who responds to the call for commissioned work. We could send it out to the entire state, the region or a select group of artists that work in the style that we've chosen as most suitable for the site.

-
- c) After the artist deadline, the committee would then be convened to look at samples of the artists' work and choose finalists, based on project budget, quality of the artist's work and adherence to the building's theme.
 - d) If the committee chooses one large art commission, then I recommend asking the finalists to submit a final proposal or scale drawing that will provide the committee with good information about the artist's capabilities and how the art would look in the facility.

COST OF ARTWORK: At this point, the amount of money allocated in the budget for art hasn't been determined, to my knowledge.

FEES: My fee is \$85/hour, plus travel expenses. I am happy to work with someone on the City of Bethel staff on this project, or to completely manage the entire process. From my prior experience in this area, for me to manage the project from the call for art through the artist contract and installation, the cost of my services is usually around \$3-4,000 for \$20,000 in commissioned work. Once I know the exact process and amount of funds set aside for art, I can provide a better estimate.

I also work with the artists to write the artist contract, secure signatures from all parties and coordinate the delivery of the work. Installing the work is the responsibility of the facility, under the direction of the artist.

If you would like more information about me or the process outlined above, don't hesitate to contact me. I've attached a recent resume for your information.

I look forward to hearing from you. I am out of the U.S. from Aug. 16 –Sept. 5, but will be checking email.

ConsensusDocs 810

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND OWNER'S REPRESENTATIVE



TABLE OF ARTICLES

1. AGREEMENT
2. RELATIONSHIP OF THE PARTIES
3. OWNER'S REPRESENTATIVE'S SERVICES
4. OWNER'S RESPONSIBILITIES
5. TIME AND COMPENSATION
6. INDEMNIFICATION AND INSURANCE
7. TERMINATION
8. DISPUTE RESOLUTION
9. MISCELLANEOUS PROVISIONS

This Agreement has important legal consequences. Consultation with an attorney and an insurance consultant is encouraged with respect to its completion or modification.

ARTICLE 1 AGREEMENT

This Agreement is made and becomes effective on the latest date of the two signatures that appear at the end of this contract, by

and between the





ConsensusDocs™
BUILDING A BETTER WAY

ConsensusDocs™ 810

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND OWNER'S REPRESENTATIVE

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ENDORSEMENT. This document was developed through a collaborative effort of organizations representing a wide cross-section of the design and construction industry. The organizations endorsing this document believe it represents a fair allocation of risk and responsibilities of all project participants.

Endorsing organizations recognize that this document must be reviewed and adapted to meet specific needs and applicable laws. This document has important legal and insurance consequences, and it is not intended as a substitute for competent professional services and advice. Consultation with an attorney and an insurance or surety adviser is strongly encouraged. Federal, State and Local laws may vary with respect to the applicability or enforceability of specific provisions in this document. **CONSENSUSDOCS SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASERS ASSUME ALL LIABILITY WITH RESPECT TO THE USE OF THIS DOCUMENT, AND CONSENSUSDOCS AND ANY OF THE ENDORSING ORGANIZATIONS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM SUCH USE.** For additional information, please contact ConsensusDocs, 2300 Wilson Blvd, Suite 400, Arlington, VA 22201, 866-925-DOCS (3627), support@consensusdocs.org or www.ConsensusDocs.org.



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OWNER
City of Bethel
P.O. Box 1388
300 State Highway
Bethel, Alaska 99559

and the

OWNER'S REPRESENTATIVE
Project Development Associates, LLC
4721 Haru Lane
Anchorage, Alaska 99517

for project management services in connection with the following Yukon Kuskokwim Regional Aquatic Health and Safety Center construction project.

Notice to the Parties shall be given at the above addresses.

ARTICLE 2 RELATIONSHIP OF THE PARTIES

2.1 The Owner and the Owner's Representative agree to proceed on the basis of mutual trust, good faith and fair dealing and shall endeavor to promote harmony and cooperation among all Project participants.

2.2 The Owner's Representative represents that it is, whether a person or entity, an independent contractor and that in its performance of its Services it shall act as an independent contractor.

2.3 DEFINITIONS

2.3.1 The Contractor (Design-Builder) is a person or entity retained by the Owner to perform design and construction work in connection with the Project.

2.3.2 The term Day shall mean calendar day, unless otherwise specifically defined.

2.3.3 Final Completion occurs on the date when a Contractor's obligations under its agreement with the Owner are complete and accepted by the Owner and final payment becomes due and payable.

2.3.4 A Material Supplier is a person or entity retained by a Contractor to provide material and/or equipment for the Work.

2.3.5 The Owner is defined as the City of Bethel, Alaska whose mailing address is PO Box 1388, Bethel AK 99559.

2.3.6 The Owner's Program is an initial description of the Owner's objectives that shall include budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

2.3.7 The Owner's Representative is Project Development Associates, LLC, 4721 Haru Ln, Anchorage, Alaska 99517.



2.3.8 The Project is the building, facility and/or other improvements for which a Contractor is to perform Work under its agreement with the Owner. It may also include construction by the Owner or others.

2.3.9 The Schedule of the Work is the document prepared by a Contractor that specifies the dates on which the Contractor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from the Owner.

2.3.10 A Subcontractor is a person or entity retained by a Contractor as an independent contractor to provide the labor, materials, equipment and/or services necessary to complete a specific portion of the Work. All subcontractors are licensed to do business in the State of Alaska.

2.3.11 Substantial Completion of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond the Contractor's control. This date shall be confirmed by a Certificate of Substantial Completion signed by the Owner and Contractor.

2.3.12 Not used

2.3.13 Work means the construction and services necessary or incidental to fulfill the Contractor's obligations for the Project in conformance with this Agreement and the other Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by the Owner or Others.

2.3.13.1 Changed Work means work that is different from the original scope of Work; or work that changes the Contract Price or Contract Time.

2.3.13.2 Defective Work is any portion of the Work that is not in conformance with the Contract Documents.

2.3.14 Worksite means the geographical area at the location of the Project where the Work is to be performed.

ARTICLE 3 OWNER'S REPRESENTATIVE'S SERVICES

3.1 The Owner's Representative shall serve as Owner's authorized representative on the Project and at the Worksite and shall be fully acquainted with the Project. The Owner's Representative shall not have the authority to bind the Owner without the Owner's prior approval in all Project matters requiring the Owner's approval, authorization or written notice.

3.2 The standard of care for Services performed under this Agreement shall be the care and skill ordinarily used by owner's representatives, or project administrators, practicing under similar conditions at the same time and locality.

3.3 The Owner's Representative's Services may be provided in one or more phases as outlined below. Portions of each phase may commence before the previous phase is completed, in which case both phases may proceed concurrently. The Phases of the Owner's Representative's Services shall include:



3.3.1 PROJECT INITIATION PHASE The Project Initiation Phase includes the development of the Owner's overall schedule and budget. For the purposes of this contract, it shall be known that the design is currently 65% complete. The facility program has been established and is accepted and approved by the Owner. .

3.3.2 PROJECT DESIGN PHASE The Project Design Phase is a part of the construction phase and includes Services during the development of the Project design and specifications through the preparation of construction documents for the Project, as further detailed in section 3.6.

3.3.3 PROJECT CONSTRUCTION PHASE The Project Construction Phase commences upon the issuance of a written notice to proceed to the Owner's Contractor(s) to proceed with the construction of the Project, and includes Services as further detailed in Section 3.7.

3.3.4 PROJECT CLOSE-OUT PHASE The Project Close-Out Phase commences when the Project, or a designated portion, achieves Substantial Completion, and continues through Final Completion, and includes Services as further detailed in section 3.8.

3.4 OWNER'S REPRESENTATIVE'S GENERAL RESPONSIBILITIES

The Owner's Representative shall:

3.4.1 Serve as the contact for all communications between the Owner and its Design Professional, Contractor(s) and consultant(s) including requests for information from or for actions by the Owner;

3.4.2 Maintain a copy of all Project documents and contract documents, including change orders and interim directed changes, for each of Owner's Contractor(s) on the Project, as well as meeting minutes, shop drawings, submittals, drawings and specifications, product data and applications for payment.

3.4.3 Perform on-site observations of the progress and quality of the Project so as to be able to report to the Owner on the progress and quality of the Work being performed and the services provided by all Project participants;

3.4.4 Attend Project meetings and report to the Owner on the proceedings.

3.5 PROJECT INITIATION PHASE SERVICES During the Project Initiation Phase, the Owner's Representative shall provide the following Services: (Strike services not required).

3.5.1 Review with the Owner the Project goals, objectives, constraints and relationships.

3.5.2 Prepare preliminary Project schedule and/or review the preliminary Project schedule prepared by others, provide a recommendation regarding such to the Owner and act upon any directive received from the Owner concerning such preliminary Project schedule.

3.5.3 Assist the Owner in the selection of the Contractor (Design-Builder) and other consultants retained by the Owner and the agreements to be used between the Parties.

3.5.4 Review with the Contractor its understanding of the Owner's Program and other relevant data, assist the Contractor in determining the requirements of its services under the Owner-Contractor agreement and report to the Owner any outstanding issues.



3.5.5 Assist the Owner with filing required documents with governmental authorities having jurisdiction over the Project, including necessary permits.

3.5.6 Review Project quality level guidelines.

3.5.7 Review Project management information systems and reporting procedures, attend meetings and monitor the compliance and completion of assigned responsibilities.

3.5.8 The Owner's Representative shall provide the following other Services during the Project Initiation Phase:

- Prepare Project Charter that codifies the City of Bethel's project goals, the overall project schedule, the overall budget, the delivery team's roles and responsibilities, and establishes lines of communication.
- Provide summary level monthly project reports.
- Prepare and execute Quality Assurance program for the remainder of the design process.

3.6 PROJECT DESIGN PHASE SERVICES During the Project Design Phase, the Owner's Representative shall provide the following Services: (Strike services not required).

Project Delivery System & Document Review

3.6.1 Receive and review the Contractor's design completion work from 65% to 100% , provide recommendations to the Owner and act upon any directive received from the Owner concerning these documents, including communicating Owner's approval to the Contractor. This includes the pool systems and acoustic performance reviews.

3.6.2 Monitor quality during the design process.

3.6.3 Review errors or omissions discovered in the drawings and specifications, review such with the Contractor and provide recommendations to the Owner and act upon any directive received from the Owner.

3.6.4 Review recommendations concerning constructability issues, material availability or value engineering, review with the Contractor and provide recommendations to the Owner and act upon any directive received from the Owner.

3.6.5 Review the general and/or supplementary conditions for the Project, provide recommendations to the Owner and act upon any directive received from the Owner including communicating Owner's approval. Provide draft RFP language for the Owner's review and approval that contains essential construction contract elements and assists in promoting the use of local materials, local services and local hire.

3.6.6 Assist the City with content for a project website for the community that would contain news, updates, project information, and communicate events and activities associated with the project.

Budget and Schedule

3.6.7 Prepare updated budget and schedule and/or review any updated budget and schedule prepared by others upon the completion of design development and construction documents,



provide recommendations to the Owner and act upon any directive received from the Owner concerning such updated budget and schedule, including communicating Owner's approval to the Contractor and others.

3.6.8 Prepare budgets for changes including alternate costs and/or review budgets for changes including alternate costs prepared by others, provide recommendations to the Owner and act upon any directive received from the Owner including communicating Owner's approval.

3.6.9 Prepare schedule for procurement of long-lead time items and/or review schedule(s) for procurement of long-lead time items prepared by others which will constitute part of the Work as required to meet the Schedule of the Work provide recommendations to the Owner and act upon any directive received from the Owner including communicating Owner's approval.

Bidding and Award

3.6.10 Assist the Owner in the development of contracting strategies and prequalification criteria and the selection process for contracting with the Contractor(s), Subcontractors and Material Suppliers.

3.6.11 Receive from the Contractor(s) a list of possible Subcontractors and Material Suppliers from whom proposals may be requested for each principal portion of the Work, provide recommendations to the Owner and act upon any directive received from the Owner including communicating Owner's approval of or objection to a specific Subcontractor.

3.6.12 Work with the Owner and/or others to obtain bids or negotiate proposals from Contractor(s), lead pre-bid or pre-award meetings and review, score, and perform team member evaluation of proposals, including proposed subcontractors and material suppliers, provide recommendations to the Owner and act upon any directive received from the Owner.

3.6.13 Receive and review Contractor's(s') proposed superintendent(s) and project manager, provide a recommendation to the Owner and act upon any directive received from the Owner.

3.6.14 Work with the Owner and others to make necessary modifications to construction documents, provide recommendations to the Owner and act upon any directive received from the Owner.

3.6.15 Review Contractor's(s') compliance with insurance, licenses, and bonding requirements.

3.6.16 Consult with the Contractor(s) regarding equal employment opportunity, affirmative action and local hire contract elements.

3.6.17 Assist the Owner in the preparation and award of the Owner and Contractor's(s') agreement(s).

3.6.18 Review Project management information systems and reporting procedures.

3.6.19 The Owner's Representative shall provide the following other Services during the Project Design Phase:

Prepare a Quality Assurance program for construction, closely coordinating with the Contractor and the Authorities having Jurisdiction.



3.7 PROJECT CONSTRUCTION PHASE SERVICES During the Project Construction Phase, the Owner's Representative shall provide the following Services: (Strike services not required).

Commencement and Progress of the Work

3.7.1 Issue written notices to the Contractor(s) to proceed with the Work.

3.7.2 Review the Contractor's(s') schedule of values to determine its accuracy and sufficiency.

3.7.3 Work with Contractor(s) to coordinate work performed by the Owner with the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures, monitor and review progress, and prepare weekly progress reports for Owner.

3.7.4 Maintain record of Contractor(s) submittals, including shop drawings, product data and samples, assist Owner with reviews when necessary, provide recommendations to the Owner, and act upon any directive received from the Owner.

3.7.5 Review and monitor the Schedule of the Work.

3.7.6 Assist Owner with review of Contractor's(s') notice of delays in the progress of the Work and Contractor's(s') delay claims, provide recommendations to Owner and act upon any directive received from the Owner.

Defective Work, Correction and Testing

3.7.7 Receive and review all notices of defects in the Work, provide recommendations to the Owner and act upon any directive received from the Owner.

3.7.8 Advise Contractor(s) of Defective Work to be corrected.

3.7.9 Advise and provide a recommendation to the Owner regarding Work that may need to be uncovered for inspection, and act upon any directive received from the Owner including directing Contractor(s) to uncover Work for inspection.

3.7.10 Assist Owner by providing recommendations regarding needed testing or inspection procedures for the Work, provide recommendations to the Owner and act upon any directive received from the Owner including communicating Owner's approval to the Contractor..

Changes and Claims

3.7.11 Assist Owner with review of Contractor's(s') request for changes in the Work or claims related to the Project.

3.7.12 Work with the Owner to review and process Contractor's(s') requests for changes in the Work or claims related to the Project, provide recommendations to the Owner and act upon any directive received from the Owner, including communicating Owner's approval to Contractor's(s').

Hazardous Materials



3.7.13 Receive and review Contractor's(s') reports of hazardous material discovered at the Worksite, provide a recommendation to the Owner regarding such and act upon any directive received from the Owner.

3.7.14 Assist Owner in retaining an independent testing laboratory to determine the nature of suspected hazardous materials encountered at the Worksite.

Payment

3.7.15 Receive and review applications for payment and forward same to Owner with a recommendation for action, including amount due, adjustments to the payment application and any basis for withholding payment, within seven days of receipt.

3.7.16 Receive and retain all Contractor's(s') partial lien and claim waivers for each progress payment as required in the Contractor's(s') agreement with the Owner.

3.7.17 Notify Owner and responsible Contractor(s) of liens filed against the Project and ensure that Contractor(s) cause the removal of any liens as required by their agreement with the Owner.

Substantial Completion

3.7.18 Organize and lead inspections to determine whether Substantial Completion has been achieved by Contractor(s) and assist in preparation of list of items to be completed or corrected in order to achieve Final Completion.

3.7.19 Receive and review Contractor's(s') proposed certificate of Substantial Completion, provide recommendation to Owner and act upon any directive received from the Owner including communicating Owner's approval.

Miscellaneous

3.7.20 The Owner's Representative shall provide the following other Services during the Project Construction Phase:

- Focus on the goal of minimizing operating costs once the facility is constructed by reviewing plans, specifications, design, and observing work of Contractor; make recommendations to Owner on ways to reduce operating costs.
- Document work completed by Contractor through notes, photos, and some video-recordings.
- Prepare and submit weekly reports to the Owner, including photos and drawings for clarity when needed.
- Review material substitution recommendations made by Contractor and assist City in approval of substitutions.
- Ensure all entities involved in construction project comply with grantor requirements.
- Examine all work of Contractor to ensure that construction is done according to architectural and engineering drawings, plans, and specifications.
- Attend weekly progress meetings in City Manager's Office during construction, tentatively set for Friday mornings at 9:00 am.
- Review, comment, and provide recommendations on the Contractor's program for start-up, testing, and balancing of mechanical and electrical systems; monitor results and include results in progress report.



- Prepare punch lists and lists of non-conforming work. Resolve outstanding work items with applicable contractors/subcontractors; activate all product warranties.
- Review, comment, and provide recommendations on the Contractor's detailed written procedures and manuals for facility operations training; coordinate the handing over of new systems and facilities to the City's property maintenance personnel or other entity, if appropriate.
- Perform financial management services appropriate for project manager, including approving and tracking expenditures, recording disbursements, record keeping, and data verification in reports.
- Prepare and submit all reporting documents during the lifetime of contract; reports to be reviewed by City Grant Manager, Finance Director, and City Manager prior to submission.
- Assist with developing a program, for the procurement of the furniture, fixtures and equipment, if desired by Owner. Procurement work associated with furniture, fixtures, and equipment beyond the development of a program is considered additional work and will require mutual agreement on the procurement scope of services and its corresponding remuneration.
- If requested, assist with the procurement of a pool operator.

3.8 PROJECT CLOSE-OUT PHASE SERVICES During the Project Close-Out Phase, the Owner's Representative shall provide the following Services: (Strike services not required).

3.8.1 Receive and review all documentation required of Owner's Contractor(s) in order to achieve Final Completion and receive final payment.

3.8.2 The Owner's Representative shall provide the following other Services, if any, during the Project Close-Out Phase:

- Assist Owner with transitioning into the new facility.
- If requested, assist with planning of community celebration commemorating the opening of the facility.

3.9 The Owner's Representative shall not exceed the authority granted to it pursuant to this Agreement.

3.10 The Owner's Representative shall not be responsible for, nor liable to the Owner for, any damages arising out of, the failure of other persons providing services, work or goods to the Owner to carry out the performance of their contracts with the Owner.

3.11 The Owner's Representative makes no warranties relating to schedules or completion dates, budgets, the cost of the Work or the Project, the Work performed by Contractor(s), or any other warranties, express or implied, that are not expressly set forth herein. The Owner's Representative shall have no liability for any errors or omissions in the construction documents or any defects in the Services attributable to the Owner's Representative's use of and/or good faith reliance upon the construction documents or any other information furnished by or on behalf of Owner.

3.12 CONFIDENTIALITY The Owner's Representative shall treat as confidential and not disclose to third persons, except the Contractor(s), Subcontractors, and Material Suppliers as is necessary for the performance of the Work, or use for its own benefit, any of the Owner's confidential information, know how, discoveries, production methods and the like that may be disclosed to the Owner's Representative or which the Owner's Representative may acquire in connection with the Work.

ARTICLE 4 OWNER'S RESPONSIBILITIES



4.1 Any information or services to be provided by the Owner shall be provided in a timely manner so as not to delay the Owner's Representative in the performance of its Services under this Agreement.

4.2 The Owner's Representative's contact with the Owner shall be: Project Development Associates LLC.

ARTICLE 5 TIME AND COMPENSATION

5.1 Except as otherwise provided herein, the Owner's Representative shall provide the Services required by this Agreement from the date of this Agreement until completion of the Project and no later than November 15, 2014. Should the completion of the Project be delayed through no fault of the Owner's Representative, the Owner's Representative's compensation shall be equitably adjusted.

5.2 The Owner's Representative shall be compensated on the following basis:

The stipulated sum for all labor costs associated with project management services shall be \$791,600, this is based on five days per week, Monday through Friday, site coverage during construction. The Owner is responsible to pay the set amount of \$791,600 for labor costs, even if less hours than budgeted are expended on the project. Owner's Representative is responsible for ensuring all labor work is completed, even if more hours are necessary than was budgeted, as defined by the project time in Article 5.1, and the scope of Owner's Representative Services in Article 3. Both parties share in the risk by agreeing to this lump sum amount. The On-Site Construction Manager will allocate 40 hours total for the month of March 2013 and 40 hours total for the month of April 2013, when little to no construction work is expected. Owner's representative shall provide and on site construction manager for forty (40) per week, Monday through Friday, from approximately 8am to 5pm, during construction of the facility.



Total Labor \$791,600

Labor will be invoiced monthly.

5.3 Owner will provide housing for the On-Site Construction Manager in the City's Police Annex building located on Chief Eddie Hoffman Highway across the Bethel Fire Department. Housing includes one bedroom with shared bathroom and shared kitchen/living area. Housing includes internet and telephone service. Owner will be responsible for purchasing heating oil and having it delivered to the Annex. Owner will pay electrical costs for Annex. Owner will purchase and install washer and dryer prior to occupancy by On-Site Construction Manager. Owner's Representative and other housemates, if any, will pay for cable TV service, if desired.

5.4 Owner will provide one vehicle to the On-Site Construction Manager for the duration of his or her time in Bethel in fulfillment of this contract. Owner will pay for vehicle registration, inspections, insurance, and regularly scheduled maintenance (e.g., oil changes) and major repairs. Owner's Representative will pay for gasoline/diesel, oil, filters, and other routine maintenance parts (e.g., windshield wiper blades).

5.5 Reimbursable expenses under this Agreement are estimated to cost \$147,899 (one hundred forty seven thousand eight hundred ninety nine dollars) and shall include:

- Transportation expenses
- Miscellaneous office and printing expenses
- Travel Expenses, Hotel and Meals
- Travel Expenses – Air (On-Site Construction Manager expected to travel from Bethel to Anchorage round trip every weekend during this performance period. On-Site Construction Manager must leave work after



5:00 pm Friday and must begin work on Monday by 8:30 am. Owner's Representative will NOT be held responsible for airplane delays due to no fault of their own.

Reimbursable expenses shall be billed at cost plus 7.5% and will be invoiced monthly. It will be the responsibility of the Owner and Owner's Representative to monitor these expenses and act to keep them low and within reason to accomplish the goals of the project.

5.6 Adjustments in the Owner's Representative's Compensation shall be made as follows: For additional services outside the scope of this agreement, The following rates will be used:

Description	Hourly Rate
Sr. Project Manager	\$150
Project Manager	\$135
On Site Construction Manager	\$125
Swimming Pool Technical Adviser	\$100
Acoustic Consultant	\$175
FF&E & Activation Manager	\$150

5.7 The Owner shall pay the amount otherwise due on any payment application, no later than thirty (30) Days after the Owner's Representative has submitted a complete and accurate payment application.

5.8 PAYMENT DELAY If for any reason not the fault of the Owner's Representative, the Owner's Representative does not receive payment from the Owner within fourteen (14) Days after the time such payment is due, then the Owner's Representative, upon giving fourteen (14) Days' written notice to the Owner, and without prejudice to and in addition to any other legal remedies, may stop providing services until payment of the full amount owing to the Owner's Representative has been received.

ARTICLE 6 INDEMNIFICATION AND INSURANCE

6.1 To the fullest extent permitted by law, the Owner's Representative shall indemnify and hold the Owner, the Owner's officers, directors, members, consultants, agents and employees harmless from all claims for bodily injury and property damage that may arise from the Owner's Representative's services, but only to the extent of the negligent acts or omissions of the Owner's Representative.

6.2 To the fullest extent permitted by law, the Owner shall indemnify and hold the Owner's Representative, the Owner's Representative's officers, directors, members, consultants, agents and employees harmless from all claims for bodily injury and property damage that may arise from the Owner's services, but only to the extent of the negligent acts or omissions of the Owner.

6.3 All contracts let by or on behalf of the Owner in connection with the Project shall contain a provision providing that the Owner and the other Party to the agreement agree to indemnify and hold the Owner's Representative harmless from all claims for bodily injury and property damage (other than to the Work itself) to the extent of the negligence attributed to such acts or omissions by the Owner or the other Party to the agreement or anyone employed directly or indirectly by them or by anyone for whose acts they may be liable. In addition, all such agreements shall contain a provision requiring the other Party to include the Owner and the Owner's Representative as additional insureds on their Commercial General Liability insurance policies for the Project.



6.4 The Owner's primary liability coverage shall name the Owner's Representative as an additional insured under the policy. The Owner shall provide the Owner's Representative with proof of the insurance coverages required.

Owner's Representative shall maintain comprehensive general liability insurance coverage with no less than Five Hundred Thousand (\$500,000) in coverage limits naming the City of Bethel as an additional insured. Proof of such insurance shall be provided prior to any work commencing and written notice shall be provided to Owner within twenty-four (24) hours of any change in coverage.

ARTICLE 7 TERMINATION

7.1 Upon written notice to the Owner's Representative, the Owner may, without cause, suspend and/or terminate this Agreement. The Owner's Representative shall immediately cease providing Services under this Agreement. If the Owner terminates this Agreement pursuant to this section, the Owner's Representative shall be paid for all Services provided together with any reimbursable expenses incurred until the date of termination.

7.2 Upon thirty (30) Days' written notice either Party may terminate this Agreement should the other Party breach this Agreement through no fault of the Party initiating the termination.

7.3 Owner and Owner's representative mutually agree to communicate and resolve any issues that may arise due to unanticipated significant construction delays.

ARTICLE 8 DISPUTE RESOLUTION

8.1 INITIAL DISPUTE RESOLUTION If a dispute arises out of or relates to this Agreement or its breach, the Parties shall endeavor to settle the dispute first through direct discussions.

8.2 MEDIATION If the dispute cannot be settled through direct discussions, the Parties shall endeavor to settle the dispute by mediation under the current Construction Industry Mediation Rules of the American Arbitration Association before recourse to any binding dispute resolution procedures.

8.3 OTHER DISPUTE PROCESSES If neither direct discussions nor mediation successfully resolve the dispute, the Parties agree that the following shall be used to resolve the dispute. (Check one selection only)

Arbitration - Arbitration shall be pursuant to the Construction Industry Rules of the American Arbitration Association unless the Parties mutually agree otherwise. A written demand for arbitration by either Party shall be filed with the American Arbitration Association and the other Party to the Agreement within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding has run. The arbitration award shall be final. This agreement to arbitrate shall be governed by the Federal Arbitration Act and judgment upon the award may be confirmed in any court having jurisdiction.

Litigation Action may be filed in the appropriate state or federal court located in the jurisdiction in which the Project is located.

8.4 PROGRESS OF THE PROJECT The Parties shall not permit any dispute resolution process to affect or threaten the progress and completion of the Project.



ARTICLE 9 MISCELLANEOUS PROVISIONS

9.1 ASSIGNMENT Neither the Owner nor the Owner's Representative shall assign their interest in this Agreement without the written consent of the other except as to the assignment of proceeds. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns and legal representatives. Neither Party to this Agreement shall assign the Agreement as a whole without written consent of the other except that the Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Owner's Representative or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to the Owner's Representative than this Agreement. In the event of such assignment, the Owner's Representative shall execute any consents reasonably required. In such event, the wholly-owned subsidiary or lender shall assume the Owner's rights and obligations under the Agreement. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under this Agreement, unless otherwise agreed by the other Party.

9.2 GOVERNING LAW This Agreement shall be governed by the law in effect at the location of the Project.

9.3 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

9.4 NO WAIVER OF PERFORMANCE The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance or any other term, covenant, condition or right.

9.5 TITLES AND GROUPINGS The titles given to the articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose. The grouping of the articles in this Agreement is solely for the purpose of convenient organization and in no event shall the grouping of provisions, the use of sections or the use of headings be construed to limit or alter the meaning of any provisions.

9.6 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

9.7 RIGHTS AND REMEDIES The Parties' rights, liabilities, responsibilities and remedies with respect to this Agreement, whether in contract, tort, negligence or otherwise, shall be exclusively those expressly set forth in this Agreement.

9.8 OTHER PROVISIONS (Insert here other provisions, if any, that pertain to this Agreement.)



ATTEST: [Signature]

OWNER: City of Bethel

BY: [Signature]

Date: 9/5/12

PRINT NAME: Lee Foley PRINT TITLE: City Manager

ATTEST: [Signature]

OWNER'S REPRESENTATIVE: Project Development Associates, LLC

BY: [Signature]

Date: 9-5-2012

PRINT NAME: John F. Conway PRINT TITLE: Principal

END OF DOCUMENT.



ConsensusDocs 202

CHANGE ORDER

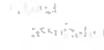


ConsensusDocs™

This document is proudly endorsed by:



Construction Industry Round Table



OWNER: City of Bethel
P.O. Box 1388
Bethel, Alaska 99559

CONTRACTOR: Project Development Associates, LLC
4721 Haru Lane
Anchorage, Alaska 99517

Project: Yukon Kuskokwim Regional Aquatic Health and Safety Center

Contract Date: 9/5/2012

Change Order No. One

This Change Order is made this 2nd day of April, 2014

By City of Bethel (Owner), and

Project Development Associates, LLC (Contractor)



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for the following changes in the Work:

A. Section 5.5 Reimbursable Expenses of Owner and Owner's Representative Agreement, dated 9/5/2012

Reduce estimated reimbursable expenses under this section by a credit of (\$39,615.00), revised estimated total \$108,284.00.

B. Additional Work Order 001 - FF&E Procurement Assistance Services

Scope of Work for completing the balance of the FF&E procurement process:

- Develop Equipment descriptions, RFP/Procurement Documentation
- Issue, Manage, and Evaluate RFP or purchase order responses
- Prepare purchase and/or subcontracting documents for purchase and installation services
- Provide management and oversight of purchasing process, shipping management, and supervision of installations.
- FF&E Equipment Areas:
 - Athletic & Pool Equipment
 - Furnishings
 - Kitchen/Concession Equipment
 - Office/Administrative Equipment

Not-To-Exceed Direct Labor	\$45,060.00
Reimbursable Expenses	<u>\$ 9,245.00</u>
Total Work Order 001	\$54,305.00

C. Additional Work Order 002 – Operations & Maintenance Assistance Services

- Oversee award of contract: finalize draft contract, clarify start-up scope and negotiate start up NTE budget, verify insurances, etc., due diligence visit to operator's home office, issue Notice of Intent, assist w/Council approval documents, issue NTP
- Assist City with oversight of contract during start-up period:
 - Review and negotiate operations budget, including proposed fees to be charged, prepare contract amendment
 - Review and coordinate information transfer for maintenance manuals
 - Review and comment on Policy and Procedures manuals, including emergency response, HR and procurement policies
 - Review and coordinate contractor proposed accounting systems, monthly reports, annual reports, inventory methods and sales tax records
 - Coordinate facilities transfer: building systems information, training, spares inventory, keys, etc
 - Grand Opening oversight, some coordination
- Assist City with first two months of full operations, including review of Operations plan, invoice, reports, customer feedback, two site visits, and amendment to contract if needed
- General coordination & management assistance to City for Pool Operator (act as extension of Staff to City Manager)

Not-To-Exceed Direct Labor	\$171,360.00
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Reimbursable Expenses \$ 19,672.50
Total Work Order 002 \$191,032.50

The Owner agrees to pay for all changes in the Work performed by the Contractor under this Change Order according to the terms of the Agreement. The amount paid by the Owner shall be full compensation for all Work requested and for all effects of this document on the Work. The change, if any, in the Contract Price shall be computed according to the following method:

1. Direct Labor based upon hourly rates delineated in Section 5.6 of the agreement, on a not-to-exceed basis.
2. Reimbursable expenses in accordance with Section 5.5 of the agreement.

The Contractor shall submit promptly to Owner such itemized labor and material breakdowns as Owner may require for Work performed from the Agreement by this Change Order. The Contractor shall submit invoices for each Work Order on a monthly basis.

CONTRACTOR: Project Development Associates, LLC

By: [Signature] JOHN E. CONWAY
Title: Principal Date: April 2, 2014

OWNER: City of Estel

By: [Signature]
Title: City Manager Date: 04/04/14

END OF DOCUMENT.

NEW BUSINESS

Item D



ConsensusDocs™

BUILDING A BETTER WAY

ConsensusDocs™ 246 STANDARD AGREEMENT BETWEEN OWNER AND GEOTECHNICAL CONSULTANT

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EMBEDDED INSTRUCTIONS are provided to help you complete the document. To display or hide instructions select the "¶" button under the "Home" tab to show all formatting marks. Instruction boxes are color coded as follows:

- Red Boxes:** Instructions for fields that are typically required to complete contract.
Blue Boxes: Instructions for fields that may or may not be required for a complete contract.
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ENDORSEMENT. This document was developed through a collaborative effort of organizations representing a wide cross-section of the design and construction industry. The organizations endorsing this document believe it represents a fair allocation of risk and responsibilities of all project participants.

Endorsing organizations recognize that this document must be reviewed and adapted to meet specific needs and applicable laws. This document has important legal and insurance consequences, and it is not intended as a substitute for competent professional services and advice. Consultation with an attorney and an insurance or surety adviser is strongly encouraged. Federal, State and Local laws may vary with respect to the applicability or enforceability of specific provisions in this document. **CONSENSUSDOCS SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASERS ASSUME ALL LIABILITY WITH RESPECT TO THE USE OF THIS DOCUMENT, AND CONSENSUSDOCS AND ANY OF THE ENDORSING ORGANIZATIONS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM SUCH USE.** For additional information, please contact ConsensusDocs, 2300 Wilson Blvd, Suite 400, Arlington, VA 22201, 866-925-DOCS (3627), support@consensusdocs.org or www.ConsensusDocs.org.



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ConsensusDocs 246
STANDARD AGREEMENT BETWEEN OWNER AND SPECIAL INSPECTION CONSULTANT



TABLE OF ARTICLES

1. AGREEMENT
2. GENERAL PROVISIONS
3. CONSULTANT'S RESPONSIBILITIES
4. SUBCONTRACTS
5. OWNER'S RESPONSIBILITIES
6. INDEMNITY, INSURANCE, AND WAIVERS
7. PAYMENT
8. DISPUTE MITIGATION AND RESOLUTION
9. SUSPENSION, NOTICE TO CURE, AND TERMINATION
10. MISCELLANEOUS

Job Number: YKAC 2012

Account Code: []

ARTICLE 1 - AGREEMENT

This Agreement is made this 15th day of February, in the year 2013, by and between the

OWNER, CITY OF BETHEL, City Hall, 300 State Highway, Bethel Alaska 99559 and the CONSULTANT, DOWL HKM, 4041 B Street, Anchorage, Alaska, 99503

for services in connection with the following

PROJECT, Yukon Kuskokwim Regional Aquatic Health and Safety Center at the following WORKSITE, 237 Akiachak Drive, Bethel, Alaska.

Notice to the Parties shall be given at the above addresses.



ARTICLE 2 - GENERAL PROVISIONS

2.1 PARTY RELATIONSHIP AND ETHICS. The Parties each agree to proceed with the Project on the basis of trust, good faith and fair dealing and shall take all actions reasonably necessary to perform this Agreement in an economical and expeditious manner consistent with the Contract Documents. The Consultant agrees to procure or furnish, as permitted by Law, the Services as set forth below.

2.1.1 The Consultant represents that it is an independent contractor and that it is familiar with the type of Services it is undertaking.

2.1.2 Neither the Consultant nor any of its agents or employees shall act on behalf of or in the name of the Owner unless authorized in writing by the Owner or Owner's Representative.

2.1.3 The Parties shall perform their obligations with integrity, ensuring at a minimum that each: (a) avoids conflicts of interest and promptly discloses any to the other Party, and (b) warrants that it has not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including its agents, officers and employees, Subcontractors or others for whom they may be liable, to secure preferential treatment.

2.2 DEFINITIONS

2.2.1 "Agreement" means this ConsensusDocs 246 Standard Agreement between Owner and Special Inspection Consultant, as modified, amendments, exhibits, addenda, and attachments made part of this agreement upon its execution.

2.2.1.1 The following attached exhibits are a part of this Agreement:

~~EXHIBIT A: Description of Services to be provided, dated [____], [____] pages.~~

~~EXHIBIT B: Listing of reports and other documents, dated [____], [____] pages.~~

~~EXHIBIT C: Listing of Project information, dated [____], [____] pages.~~

~~EXHIBIT D: Insurance, dated [____], [____] pages.~~

EXHIBIT E: Fee schedule and not-to exceed budget, dated 1/31/13, 2 pages.

EXHIBIT F: RFP for Materials Testing and Special Inspection Services, 23 pages

EXHIBIT G: Not to exceed budget for phase 1, thermopile special inspections, 1 page,
NTE amount \$36,845.00.

2.2.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.2.3 The "Consultant" is the person or entity identified as such in ARTICLE 1.

2.2.4 "Day" means calendar day.

2.2.5 "Laws" mean federal, state, and local laws, ordinances, codes, rules and regulations applicable to the Services with which the Consultant must comply that are enacted as of the Agreement date.



2.2.6 "Others" means other contractors and all persons at the Worksite who are not employed by the Consultant, its Subcontractors, or material suppliers.

2.2.7 The "Owner" is the person or entity identified in ARTICLE 1, and includes the Owner's Representative.

Owners Representative: Project Development Associates, LLC
(907) 338-4053
Doug Cobb, Project Manager
doug@projdevelopment.com

2.2.8 The "Parties" are collectively the Owner and the Consultant.

2.2.9 The "Project," as identified in ARTICLE 1, is the building, facility or other improvements in connection with which the Consultant is to perform the Services under this Agreement.

2.2.10 "Services" are those defined in Exhibit F.

2.2.11 A "Subcontractor" is a person or entity retained by the Consultant as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Services. The term Subcontractor does not include any separate contractor employed by the Owner or any separate contractor's subcontractors.

~~2.2.12 A "Subsubcontractor" is a party or entity who has an agreement with a Subcontractor or another Subsubcontractor to perform any portion of the Subcontractor's work.~~

2.2.13 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the U.S. government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.2.14 "Worksite" means the geographical area of the Project location mentioned in ARTICLE 1 where the Services are to be performed.

2.2.15 "Constructor" is the general contractor under contract with the City of Bethel to construct the project.

ARTICLE 3 - CONSULTANT'S RESPONSIBILITIES

3.1 SERVICES. The Consultant shall perform the special inspection services required for the Project, as more fully described in Exhibit F. Attachment G is the not to exceed budget for the first phase of the project, thermopile installation. As the schedule for the second phase of work is defined a not to exceed budget will be established and incorporated into this contract. To the extent required by Law, the Consultant shall perform such Services in a timely manner and under the direction of a licensed and experienced special inspector and/or engineer as appropriate.

3.2 REPORTS



3.2.1 The Consultant shall submit the written reports and other documents described in 2009 IBC 1704 and the project plans and specifications. To the extent required by Law, such reports and other documents shall be prepared under the direction of and shall bear the seal of a licensed and experienced special inspector and/or engineer as appropriate.

3.2.2 The Consultant shall treat such written reports and other documents, including supporting data and field logs, as confidential, and shall distribute copies of them only to the Owner and any other party authorized in writing by the Owner to receive copies, except the Consultant shall be entitled to distribute them as required by local Laws and to provide documents as otherwise required by Law. Reports and other documents created by the Consultant are prepared solely for the use of the Owner, and the consultants and contractors retained by the Owner, for the Worksite, and such reports and other documents are not for the benefit of any third party not expressly identified in this Agreement.

3.3 The Consultant does not assume any duties, responsibilities or obligations with regard to the Project which by custom or contract are vested in surveyors, governmental authorities or other parties.

3.4 The Consultant shall not provide supervision of or direction to the Owner's or any contractor's personnel, consultants or contractors, nor assume responsibility for the Owner's or any contractor's means, methods, techniques, sequences, or procedures of construction or safety programs.

3.5 STANDARD OF CARE

3.5.1 The Consultant shall perform all Services in accordance with the standard of professional skill and care required for a Project of similar size, scope, and complexity, during the time and locality in which the Services are provided.

3.5.2 The Consultant shall not be responsible for: (a) any errors or omissions of any party involved in the design or construction of the Project who are not under the direct control or authority of the Consultant, unless such errors or omissions were a direct result of the party's reliance on Services or recommendations of the Consultant that did not comport with a reasonable standard of care; or (b) any failure of the Owner or its consultants, constructors, or contractors, and their respective agents or employees, to comply with the recommendations, written or oral, made by the Consultant.

3.6 SAFETY. The Consultant shall have overall responsibility for safety precautions and programs in the performance of their Services. Consultant's subcontractors shall also be responsible for the safety of persons or property in the performance of their work, and for compliance with the provisions of Laws. The Consultant shall seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at the Worksite; materials and equipment stored at on-site or off-site locations for use in the Project; and property located at the Worksite and adjacent to Worksite areas, whether or not the property is part of the Project.

3.7 RIGHT TO SUBCONTRACT SERVICES. With the prior written approval of the Owner, the Consultant may subcontract such Services as the Consultant deems necessary to meet its obligations under this Agreement, and such Subcontractors shall be appropriately licensed.

3.8 AUTHORIZED REPRESENTATIVE. The Consultant shall designate in writing a person empowered to act as the Consultant's representative with respect to its performance under this Agreement. The Consultant's representative is Maria Kampsen. Such person shall have complete authority to bind the Consultant under this Agreement. If the Consultant wants to change its representative or the



representative's authority, the Consultant shall provide written notice to the Owner requesting consent to the proposed changes. The Owner shall not unreasonably withhold consent to the Consultant's proposed changes.

3.9 Not used

3.10 TIME. All Services required by this Agreement, shall be coordinated with Owners Representative On-site Field Project Manager, etc. and the contractor's construction schedule and all reports and documentation to be submitted as reasonably practical. |

3.10.1 Not Used

3.10.2 If delays are encountered for any reason, the Parties agree to take reasonable steps to mitigate the effect of such delays.

3.11 SAMPLES. All samples collected are the Owner's property. Upon completion of testing, samples shall be either:

retained and stored by Consultant until (date),

shipped to the Owner, or

discarded.

Consultant shall be responsible for the proper delivery, handling, storage, removal and disposal of all substances and materials brought to the Worksite by the Consultant for the performance of its Services. Disposal of samples or sampling process byproducts by the Consultant shall be done in accordance with applicable Laws and regulations.

3.12 HAZARDOUS WASTE

3.12.1 The term Hazardous Waste has a specific legal meaning that applies to certain materials and can include listed wastes, characteristic wastes, universal wastes and mixed wastes as defined by the United States Environmental Protection Agency. The Consultant shall not be obligated to commence or continue Services until any Hazardous Waste discovered at the Worksite has been removed, rendered harmless, or determined to be harmless by the Owner as certified by an independent testing laboratory, if applicable.

3.12.2 The Owner is not aware of any Hazardous Waste on or near the Worksite. After commencing the Services, if unanticipated Hazardous Waste is discovered at the Worksite, the Consultant shall be entitled to immediately stop work in the affected area. The Consultant shall promptly report the condition to the Owner and, if required, the governmental agency with jurisdiction.

3.12.3 The Consultant shall not be required to perform any Services relating to or in the area of unanticipated Hazardous Waste without written mutual agreement.

3.12.4 The Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the unanticipated material encountered and whether it is a Hazardous Waste requiring



corrective measures or remedial actions. Such measures and actions shall be the sole responsibility of the Owner, and shall be performed in a manner minimizing any adverse effect upon the Services of the Consultant. The Consultant shall resume work in the area affected by any unanticipated Hazardous Waste only after the unanticipated Hazardous Waste has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.12.5 If the Consultant incurs additional costs or is delayed due to the presence or remediation of unanticipated Hazardous Waste, the Consultant shall be entitled to an equitable adjustment in the Consultant's Fee.

3.12.6 Material Safety Data (MSD) sheets as required by Law and pertaining to materials or substances used or consumed in the performance of the Services, whether obtained by the Consultant, Subcontractors, Owner, or Others, shall be maintained at the Worksite by the Consultant and made available to the Owner and Subcontractors.

3.12.7 During the Consultant's performance of the Services, the Consultant shall be responsible for the proper handling of all materials brought to the Worksite by the Consultant.

3.13 BOOK AND RECORDS. The Consultant shall maintain a complete set of all books, records, reports, photos, electronic data, and other records, including pile logs, field data, laboratory test data, and calculations prepared or used by the Consultant with respect to the Project. The Consultant's records shall be current, complete, and accurate. The Owner shall be afforded reasonable access during normal business hours to all the Consultant's records relating to this Agreement. The Consultant shall preserve all such records for a period of two (2) years after the final payment or longer where required by Law.

3.14 COMPLIANCE WITH LAWS. The Consultant shall give all notices and comply with all Laws. The Consultant shall be liable to the Owner for all loss, cost, and expense attributable to any acts or omissions by the Consultant, its employees, Subcontractors, and agents resulting from the failure to comply with Laws, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if notice to the Owner was given, and advance approval by appropriate authorities, including the Owner, is received.

3.15 The Consultant shall provide periodic written reports to the Owner on the progress of the Services in detail and as agreed to by the Owner and the Consultant.

3.16 OWNERSHIP OF DOCUMENTS

3.16.1 OWNERSHIP OF DOCUMENTS. The Owner shall receive ownership of the property rights, of all documents, drawings, specifications, electronic data, and information ("Documents") prepared, provided, or procured by the Consultant, its Subcontractors, or consultants and distributed to the Owner for this Project, upon the making of final payment to the Consultant or, in the event of termination under ARTICLE 9, upon payment for all sums due to the Consultant pursuant to section 9.3.

3.16.2 COPYRIGHT. The Parties agree that the Owner shall/ [] shall not obtain ownership of the copyright of all Documents. The Owner's acquisition of the copyright for all Documents shall be subject to the making of payments as required by the subsection above and the payment of the fee reflecting the agreed value of the copyright set forth below: If the Parties have not made a



selection to transfer copyright interests in the Documents, the copyright shall remain with the Consultant.

3.16.3 USE OF DOCUMENTS IN EVENT OF TERMINATION. In the event of a termination of this Agreement pursuant to ARTICLE 9, the Owner shall have the right to use, to reproduce, and to make derivative works of the Documents to complete the Project, regardless of whether there has been a transfer of copyright under this section, provided payment has been made.

3.16.4 OWNER'S USE OF DOCUMENTS AFTER COMPLETION OF SERVICES. After completion of the Services, the Owner may reuse, reproduce, or make derivative works from the Documents for the purposes of maintaining, renovating, remodeling, or expanding the Project at the Worksite, to demonstrate compliance with applicable State, federal and local laws or as Owner deems appropriate. The Owner's use of the Documents without the Consultant's involvement is at the Owner's sole risk, except for the Consultant's indemnification obligations, and the Owner shall indemnify and hold harmless the Consultant, its Subcontractors and consultants, and the agents, officers, directors, and employees of each of them, from and against any and all claims, damages, losses, costs, and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from any prohibited use.

3.16.5 CONSULTANT'S USE OF DOCUMENTS. Where the Consultant has transferred its copyright interest in the Documents, the Consultant may reuse Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole.

3.16.6 The Consultant shall obtain from its Subcontractors rights of use that correspond to the rights given by the Consultant to the Owner in this Agreement, and the Consultant shall provide evidence that such rights have been secured.

3.17 Not used

3.18 ADDITIONAL SERVICES. The Consultant shall provide or procure additional services, within the general scope of the Services described in Exhibit F, upon the request of the Owner. A written agreement between the Owner and the Consultant shall define the extent of such additional services and the fees to be paid the Consultant before they are performed by the Consultant.

ARTICLE 4 - SUBCONTRACTS

Services not performed by the Consultant with its own forces shall be performed by Subcontractors.

4.1 RETAINING SUBCONTRACTORS. The Consultant shall not retain any Subcontractor to whom the Owner has a reasonable and timely objection, provided that the Consultant shall be entitled to an equitable adjustment in the Consultant's Fees for any additional costs incurred by the Consultant as a result of such objection. The Owner may propose Subcontractors to be considered by the Consultant. The Consultant shall not be required to retain any Subcontractor to whom the Consultant has a reasonable objection.

4.2 MANAGEMENT OF SUBCONTRACTORS. The Consultant shall be responsible for the management of the Subcontractors in the performance of their work.

4.3 CONTINGENT ASSIGNMENT OF SUBCONTRACT



4.3.1 If this Agreement is terminated, each subcontract agreement shall be assigned by the Consultant to the Owner, subject to the prior rights of any surety, provided that: (a) this Agreement is terminated by the Owner pursuant to sections 9.2 or 9.3; and (b) the Owner accepts such assignment, after termination by notifying the Subcontractor and the Consultant in writing, and assumes all rights and obligations of the Consultant pursuant to each subcontract agreement.

4.3.2 If the Owner accepts such an assignment, and the Services have been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, the Subcontractor's compensation shall be equitably adjusted as a result of the suspension.

4.4 BINDING OF SUBCONTRACTORS AND MATERIAL SUPPLIERS. The Consultant agrees to bind every Subcontractor and material supplier to all provisions of this Agreement as they apply to the Subcontractors' or material Suppliers' portions of the Services.

ARTICLE 5 - OWNER'S RESPONSIBILITIES

5.1 ACCESS. The Owner shall provide the Consultant with reasonable access to the Worksite so as to assist the Consultant in its performance of all tasks reasonably necessary for the completion of Services under this Agreement.

5.2 UTILITIES. The Constructor, along with any Subcontractors, shall arrange to locate and mark all underground utilities. This work will be performed in accordance with the individual state or local legally-authorized utility locating service known variously as "Bethel Utilities Corporation (BUC)" or other such entitled services. Underground utilities not located and marked by the state or local legally-authorized locating services will be located through the use of a private utility locator for which the Consultant will be compensated. Underground utilities or subterranean structures owned or installed by the Owner shall be located and marked by the Owner at his/her expense. No exploration services will commence until all known underground utilities are located and marked. The Consultant shall take reasonable precautions to avoid known underground utilities and subterranean structures.

5.3 OWNER'S REPRESENTATIVE. The Owner's Representative is Project Development Associates LLC and the consultant shall answer to the direction of the Owner's representative. The Owner's representative shall: (a) be fully acquainted with the Project, Services, and Worksite; and (b) agree to furnish the information and services required of the Owner in a timely manner. If the Owner changes its Representative or the Representative's authority, the Owner shall promptly notify the Consultant in writing in advance.

5.4 INFORMATION AND SERVICES PROVIDED BY OWNER. Owner's responsibilities under this article shall be fulfilled with reasonable detail and in a timely manner.

5.5 WORKSITE INFORMATION. To the extent the Owner has obtained, or is required by this Agreement to obtain, the following Worksite information, the Owner shall provide such information at the Owner's expense and with reasonable promptness:

5.5.1 Information describing the physical characteristics of the site, including surveys, Worksite evaluations, legal descriptions, data, notes, maps, or drawings depicting existing surface and/or subsurface conditions, boring logs, site photos, geophysical logs, lab tests, environmental studies, reports and investigation findings, and field observations, and any other data, reports, or information relevant to the Services. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction



and all other pertinent site conditions. Utility details shall include available services, lines at the Worksite, and adjacent thereto, and connection points. The information shall include public and private information, surface and subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used by the Consultant in planning and/or performing the Services.

5.5.2 Tests, inspections, and other reports dealing with environmental matters, Hazardous Waste, and other existing conditions, including structural, mechanical, and chemical tests, required by this Agreement or by Law; and

5.5.3 Any other information or services requested in writing by the Consultant which are required for the Consultant's performance of the Services and under the Owner's control.

5.6 MECHANICS AND CONSTRUCTION LIEN INFORMATION. Within seven (7) Days after receiving the Consultant's written request, the Owner shall provide the Consultant with the information necessary to give notice of or enforce mechanics lien rights and, where applicable, stop notices. This information shall include the Owner's interest in the real property interests of the Worksite and the record legal title.

5.7 .Not Used

5.8 Not Used

5.9 ELECTRONIC DOCUMENTS. If the Owner requires that the Owner and Consultant exchange documents and data in electronic or digital form, prior to any such exchange, the Owner and the Consultant shall agree on a written protocol governing all exchanges, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. The Parties shall each bear their own costs for the requirements identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

ARTICLE 6 - INDEMNITY, INSURANCE AND WAIVERS

The CONSULTANT shall indemnify, hold harmless, and defend the OWNER from and against any claim of, or liability for negligent acts, errors or omissions of the CONSULTANT under this Agreement. The CONSULTANT shall not be required to indemnify the OWNER for a claim of, or liability for, the independent negligence of the OWNER. If there is a claim of, or liability for, the joint negligent error or omission of the CONSULTANT and the independent negligence of the OWNER, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "CONSULTANT" and "OWNER", as used within this article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "Independent Negligence" is negligence other than in the OWNER's selection, administration, monitoring, or controlling of the CONSULTANT and in approving or accepting the CONSULTANT's Work.

The CONSULTANT shall exercise that degree of skill, care and judgment commensurate with the professional standards for the services of a similar nature. When such standards are in dispute, they shall be established by the Dispute Review Board.



The CONSULTANT shall correct, through re-performance at its expense, any services which are deficient or defective because of the CONSULTANT's failure to perform said services in accordance with professional standards, provided the OWNER has notified the CONSULTANT in writing within a reasonable time, not to exceed 60 days, of the discovery of any such deficiency during the performance of the services and within 12 months of the date of final payment under this Agreement.

ARTICLE 7

7.1 Not Used

7.2 INSURANCE REQUIREMENTS:

The Contractor shall provide evidence of insurance, via a copy of an insurance binder, satisfactory to the City of Bethel, evidencing: Professional Liability Insurance: Covering all negligent errors or omissions, and negligent acts, which the CONSULTANT, Subcontractor or anyone directly or indirectly employed by them, make in the performance of this Agreement which result in financial loss to the City of Bethel. Limits required are per the following schedule:

MINIMUM LIMITS OF PROFESSIONAL LIABILITY INSURANCE Contract Combined Single Limit, Per Amount Occurrence & Annual Aggregate
Under \$25,000 As Available
\$25,000 to \$100,000: \$300,000
\$100,000 to \$499,999: \$500,000
\$500,000 to \$999,000: \$1,000,000
\$1,000,000 and over Negotiable

PROFESSIONAL LIABILITY INSURANCE The Consultant shall obtain professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be: Practice Policy written for not less than \$1,000,000 per claim and in the aggregate with a deductible not to exceed \$100,000. The Professional Liability Insurance shall include prior acts coverage sufficient to cover all services rendered by the Consultant. This coverage shall be continued in effect for six (6) months after the Date of Substantial Completion of the project.

Workers Compensation Insurance is not required because the CONTRACTOR is an Independent Contractor, Sole Proprietor or Self-Employed Person having no employees in any sense of AS 23.30.045.

Comprehensive Automobile Liability Insurance is not required because only public transportation, or a rented passenger vehicle with business use insurance, will be used to accomplish requirements of this Agreement.

ARTICLE 8 - PAYMENT

8.1 The Owner agrees to pay in accordance with Exhibit E for all Services and expenses provided by the Consultant and authorized by the Owner. Payment shall be due thirty (30) Days from the date of receipt of the Consultant's invoice.

8.2 Any changes to the Scope of Work, not to exceed the contract amount established in Exhibit E must be approved in writing, in advance, by the Owner. Consultant shall promptly notify the Owner's project manager if any impacts are anticipated and no work shall be preformed prior to receiving formal written approval from the Owner.



8.3 Not Used

ARTICLE 9 - DISPUTE MITIGATION AND RESOLUTION

9.1 SERVICES CONTINUANCE AND PAYMENT. Unless otherwise agreed in writing, the Consultant shall continue the Services during any dispute mitigation or resolution proceedings. If the Consultant continues to perform, the Owner shall continue to make payments in accordance with the Agreement.

9.2 DIRECT DISCUSSIONS. If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, 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 matter and who will record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that resolution was not effected. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.

9.3 MITIGATION. If the Parties select one of the dispute mitigation procedures below, disputes remaining unresolved after direct discussions shall be directed to the selected mitigation procedure. The dispute mitigation procedure shall result in a nonbinding finding on the matter, which may be introduced as evidence at a subsequent binding adjudication of the matter, as designated in section 8.5. The Parties agree that the dispute mitigation procedure shall be:

Project Neutral or Dispute Review Board.

9.3.1 MITIGATION PROCEDURES. The Dispute Review Board (Board) shall be mutually selected and appointed by the Parties and shall execute a retainer agreement with the Parties establishing the scope of the Board's responsibilities. The costs and expenses of the Neutral/Board shall be shared equally by the Parties. The Board shall be available to either Party, upon request, throughout the course of the Services. The Board is to issue nonbinding findings within five (5) Business Days of referral of the matter to the Board, unless good cause is shown.

9.3.2 If the matter remains unresolved following the issuance of the nonbinding finding by the mitigation procedure or if the /Board fails to issue nonbinding findings within five (5) Business Days of the referral, the Parties shall submit the matter to the binding dispute resolution procedure designated in section 8.5.

9.4 Not used.

9.5 BINDING DISPUTE RESOLUTION. If the matter remains unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties shall submit the matter to the binding dispute resolution procedure selected below:

Arbitration using the current Construction Industry Arbitration Rules of the AAA or the Parties may mutually agree to select another set of arbitration rules. The administration of the arbitration shall be as mutually agreed by the Parties.



Litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

9.5.1 COSTS. The costs of any binding dispute resolution procedure and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

9.5.2 VENUE. The venue of any binding dispute resolution procedure shall be the Fourth Judicial District at Bethel, Alaska.

9.6 MULTIPARTY PROCEEDING. All Parties necessary to resolve a matter agree to be parties to the same dispute resolution proceeding. Appropriate provisions shall be included in all other contracts relating to the Services to provide for the joinder or consolidation of such dispute resolution proceedings.

9.7 LIEN RIGHTS. Nothing in this article shall limit any rights or remedies not expressly waived by the Consultant which the Consultant may have under lien Laws.

ARTICLE 10 - SUSPENSION, NOTICE TO CURE, AND TERMINATION

10.1 SUSPENSION BY THE OWNER FOR CONVENIENCE

10.1.1 The Owner may order the Consultant in writing to suspend, delay, or interrupt all or any part of the Services without cause for its convenience.

10.1.2 Adjustments caused by suspension, delay, or interruption shall be made for increases in the Consultant's Fee. No adjustment shall be made if the Consultant is or otherwise would have been responsible for the suspension, delay, or interruption of the Services, or if another provision of this Agreement is applied to render an equitable adjustment.

10.2 TERMINATION BY EITHER PARTY FOR BREACH. Either Party may terminate this Agreement upon thirty (30) days' written notice if the other Party materially breaches its terms through no fault of the initiating Party.

10.3 TERMINATION FOR OWNER'S CONVENIENCE. Upon seven (7) days' written notice, the Owner may, without cause, terminate this Agreement with the Consultant. If this Agreement is so terminated, the Consultant may recover from the Owner payment for all Services performed in accordance with this Agreement, all costs resulting from the termination, provided that the Consultant has delivered to the Owner all reports and supporting data prepared by the Consultant, its consultants and contractors.

ARTICLE 11 - MISCELLANEOUS

11.1 EXTENT OF AGREEMENT. Except as expressly provided, this Agreement is for the exclusive benefit of the Parties, and not for the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of the Owner and Consultant and not for the benefit of any third party.

11.2 ASSIGNMENT. Except as to the assignment of proceeds, neither Party shall assign its interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither



Party shall assign the Agreement as a whole without written consent of the other except that the Owner may assign the Agreement to a wholly-owned subsidiary of the Owner when the Owner has fully indemnified the Consultant or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to the Consultant than this Agreement. In the event of such assignment, the Consultant shall execute any consent reasonably required. In such event, the wholly-owned subsidiary or lender shall assume the Owner's rights and obligations under the Agreement. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under the Agreement, unless otherwise agreed by the other Party.

11.3 GOVERNING LAW. This Agreement shall be governed by the law in effect at the location of the Project.

11.4 SEVERABILITY. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

11.5 NO WAIVER OF PERFORMANCE. The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance.

11.6 TITLES. The titles given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.

11.7 JOINT DRAFTING. The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

11.8 RIGHTS AND REMEDIES. The Parties' rights, liabilities, responsibilities, and remedies with respect to this Agreement, whether in contract, tort, negligence, or otherwise, shall be exclusively those expressly set forth in this Agreement.

This Agreement is entered into as of the date entered in ARTICLE 1.

OWNER: CITY OF BETHEL

BY: Lee Foley NAME: LEE FOLEY TITLE: CITY MANAGER

WITNESS: _____ NAME: _____ TITLE: _____

CONSULTANT: DOWL HKM

BY: Maria Kampsen NAME: Maria Kampsen TITLE: Region Manager, Materials

WITNESS: Ken Ayn Nutter NAME: Ken Ayn Nutter TITLE: Geologist

END OF DOCUMENT.

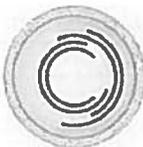




Exhibit F

DOWL HKM

Inspection and Material Testing Costs YK Aquatic Center

Effective January 31, 2013

Rates identified herein are for the special inspection and testing of the Yukon Kuskokwim Regional Aquatic Health and Safety Center.

*Earthwork inspection and testing has been excluded but is available upon request.

*Unit rates do not include field labor required to make or transport a sample. Unit rates do include laboratory personnel labor and reporting.

*Field labor hours in the field consist of time on the job site, to and from the airport to ship/receive samples and materials, and report writing.

*Travel to and from the jobsite from the Bethel housing locale will not be charged to the project.

DOWL HKM PERSONNEL BILLING RATES

Personnel are identified on our invoices by name and labor category

Senior/Laboratory Manager	\$	150.00	/hr	All hourly rates include straight time, overtime and travel time. Inspector rates are based on a 10 hour day.
Engineer V	\$	150.00	/hr	
Risk Manager	\$	145.00	/hr	
Inspector	\$	85.00	/hr	
Dispatcher	\$	65.00	/hr	
Lead Laboratory Technician	\$	60.00	/hr	
Laboratory Technician	\$	60.00	/hr	
Field Technician	\$	60.00	/hr	

QA SERVICES PERSONNEL BILLING RATES AND REIMBURSABLES

Inspector	\$	75.00	/hr	Straight time (includes travel time)
Inspector	\$	105.00	/hr	Overtime (includes travel time)
Per Diem	\$	75.00	/day	

DOWL HKM REIMBURSABLES

Per Diem	\$	70.00	/day	
Airfare	cost plus markup			
Lodging	\$	1,400.00	/mo	
Transient Lodging	\$	150.00	/day	for short duration stays (less than 5 days)
Transportation	\$	25.00	/day	use of taxis and occasional short duration vehicle rentals
Ship Mobile Lab to and from Bethel	\$	3,000.00		Equipped for concrete, masonry, grout compressive testing only (cost is round trip) - may be able to utilize space on barge if in ANC
Shipping cylinders to Anchorage for testing	\$	50.00	/set	Cost will be actual freight or \$50 per set, whichever is less
Mobilize Equipment/Materials to site	\$	500.00	ls	Concrete, grout and mortar molds, buckets, coolers, concrete testing gear
Demobilize Equipment/Materials from site to Anchorage site	\$	500.00	ls	
Mark up		10	%	reimbursable expenses except per diem
Mark Up (Subconsultant)		5	%	



DOWL HKM

**Inspection and Material
Testing Costs
YK Aquatic Center**

Effective January 31, 2013
Page 2

MATERIAL TESTING UNIT PRICES

Make/Cure 4 Test Cylinders	\$ 175.00	/set	Includes 1 air, slump, unit weight, curing
Compressive Strength of Cylinders	\$ 100.00	/ea	set of 4 per ASTM C39
Extra Cylinders	\$ 40.00	ea	includes making and testing
Make/Cure 3 Grout Samples	\$ -	/set	ASTM C1019
Make/Cure Mortar Sample	\$ -	/set	ASTM C780
Compressive Strength of Grout / Mortar Samples	\$ 25.00	/ea	ASTM C109
Site Visit Charge	\$ 60.00	/ea	Round trip to ANC Airport to pick up samples

Yukon Kuskokwim Regional Aquatic Health and Safety Center
 Exhibit G
 Phase 1 - Thermopile Installation

Description	Qty	Unit	Hours/Day/N		Hours	Rate	DOWL HKM		Comments & Assumptions	
			Hrs	Hrs - 4Ea			Total	Total		
Thermopile Installation										
Full time Onsite Inspector	1	LS	380		380	\$ 75	\$	28,500	Assume 6 weeks, 6-10's, plus travel out & back, plus mob/demob of equip/plans, etc...	
Site Trips	2	Ea	8		8	\$ 75	\$	600	Travel time out and back	
Airfares	2	Ea		\$ 625		\$	\$ 688	\$ 690	Airfare is base rate plus each contractors markup	
Baggage	1	LS				\$	\$ 200	\$ 200	computer, printer, winter gear, bucket, tapes, etc...	
Lodging	1.5	Ea				\$	\$ 1,400	\$ 2,100	1.5 months at \$1400 per month	
Per Diem	45	Ea				\$	\$ 70	\$ 3,150		
Cab Fare (Daily Rate)	45	Ea				\$	\$ 25	\$ 1,125		
Gradation Sampling										
Gradation Analysis for Slurry	2	Ea				\$	\$ 130	\$ 260		
Ship Samples to Anch	2	Ea				\$	\$ 50	\$ 100		
Pickup Samples @ Anch Airport	2	Ea				\$	\$ 60	\$ 120		
PM Coordination by Home Office	40	Hr					\$	\$ -	Assume 1 hour per 10 hours of field time, includes closeout report	
Total for Phase 1							\$	\$	36,845	



DOWL HKM

- 4041 B Street ■ Anchorage, Alaska 99503
907-562-2000 ■ 907-563-3953 (fax)
- 5368 Commercial Boulevard ■ Juneau, Alaska 99801
907-780-3533 ■ 907-780-3535 (fax)
- 1225 Tongass Avenue, Suite 4A ■ Ketchikan, AK 99901
907-220-0682
- 104 Center Avenue, Suite 206 ■ Kodiak, Alaska 99615
907-512-0519
- 809 S. Chugach Street, Unit 4 ■ Palmer, Alaska 99645
907-746-7600 ■ 907-746-6705 (fax)
- 406 North Church Avenue ■ Tucson, Arizona 85701
520-882-8696 ■ 520-624-0384 (fax)
- 430 W Warner Road, Suite B101 ■ Tempe, Arizona 85284
480-753-0800 ■ 480-753-0803 (fax)
- 222 N. 32nd Street, Suite 700 ■ Billings, Montana 59101
406-656-6399 ■ 406-656-6398 (fax)
- 130 North Main Street, Suite 100 ■ Butte, Montana 59701-2839
406-723-8213 ■ 406-723-8328 (fax)
- 2090 Stadium Drive ■ Bozeman, Montana 59715
406-586-8834 ■ 406-586-1730 (fax)
- 106 1st Avenue South, Suite A ■ Great Falls, Montana 59401
406-453-4085 ■ 406-453-4288 (fax)
- 104 East Broadway, Suite G-1 ■ Helena, Montana 59601
406-442-0370 ■ 406-442-0377 (fax)
- 713 Pleasant ■ Miles City, Montana 59301
406-234-6666 ■ 406-234-7065 (fax)
- 41 East Broadway ■ Dickinson, North Dakota 58601
701-300-7014 ■ 701-300-7015 (fax)
- 8420 154th Avenue NE ■ Redmond, Washington 98052
425-869-2670 ■ 425-869-2679 (fax)
- 1901 Energy Court, Suite 170 ■ Gillette, Wyoming 82718
307-686-4181 ■ 307-686-4858 (fax)
- 945 Lincoln Street ■ Lander, Wyoming 82520
307-332-3285 ■ 307-332-5795 (fax)
- 1575 N. 4th Street, Suite 105 ■ Laramie, Wyoming 82072
307-742-3816 ■ 307-742-9741 (fax)
- 16 W. 8th Street ■ Sheridan, Wyoming 82801
307-672-9006 ■ 307-672-5214 (fax)

Project #:	Date: March 6, 2013
To: Patty Burley, City Attorney City of Bethel 300 State Highway Bethel, AK 99559	
Regarding: Contract Documents	

We are sending you <input checked="" type="checkbox"/> Attached <input type="checkbox"/> Under Separate Cover	
Via USPS the following items:	
<input type="checkbox"/> Shop drawings	<input type="checkbox"/> Prints <input type="checkbox"/> Plans <input type="checkbox"/> Specifications
<input type="checkbox"/> Copy of letter	<input type="checkbox"/> Change order <input checked="" type="checkbox"/> Other <input type="checkbox"/> Samples

Copies	Date	Description
2	3/6/13	Standard Agreement Between Owner & Geotechnical Consultant

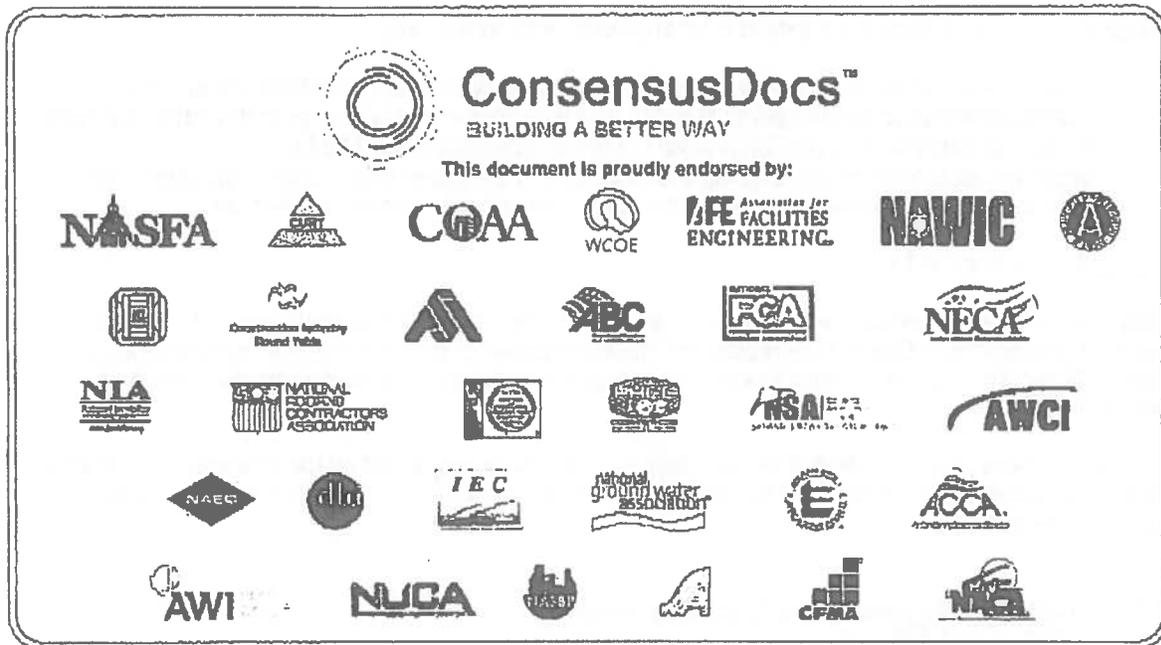
These are transmitted as indicated below:			
<input type="checkbox"/> For approval	<input type="checkbox"/> Approved as submitted	<input type="checkbox"/> Resubmit	copies for approval
<input checked="" type="checkbox"/> For your use	<input type="checkbox"/> Approved as noted	<input type="checkbox"/> Submit	copies for distribution
<input type="checkbox"/> As requested	<input type="checkbox"/> Returned for corrections	<input type="checkbox"/> Return	corrected prints
<input type="checkbox"/> For review & comment	<input type="checkbox"/> Prints returned after loan to us		
<input type="checkbox"/> Bids due	<input type="checkbox"/> Other: _____		

Remarks:

Copy to:	Typed Name: Maria Kampsen
	Signature:

ConsensusDocs 202

CHANGE ORDER



OWNER: CITY OF BETHEL, City Hall, PO Box 1388, Bethel Alaska 99559

CONTRACTOR: DOWL HKM, 4041 B Street, Anchorage, Alaska, 99503

Project: YKAC 2012

Contract Date: February 15, 2013

Change Order No. 1

This Change Order is made this 25th day of April, 2013

By CITY OF BETHEL (Owner), and DOWL HKM (Contractor)

for the following changes in the Work:

The Owner agrees to pay for all changes in the Work performed by the Contractor under this Change Order according to the terms of the Agreement. The amount paid by the Owner shall be full compensation for all Work requested and for all effects of this document on the Work. The change, if any, in the Contract Price shall be computed according to one of the following methods.

- 1. No Change
- 2. Costs Plus a Fee
- 3. Unit Price -- refer to contract exhibit E for inspection and testing rates.

- Work covered under this change to include welding inspection of pile extensions and pile cap welding anticipated in late April or May 2013. Also covered in this change is the additional hours for the pile and slurry inspection anticipated to be expended in April 2013.
- Work schedule to be determined as coordinated with the general contractors schedule. The not to exceed budget for this phase to be \$40,000, total contract amount \$76,845.00.

- 4. Lump Sum of \$

Unless Item 1 or 4 is marked, the Contractor shall submit promptly to Owner such itemized labor and material breakdowns as Owner may require for Work performed or deleted from the Agreement by this Change Order. The Contractor shall include the cost of such change in its next application for payment in a separate line item.

The change, if any, in the Contract Time resulting from the Work requested by the Change Order shall be determined according to the terms of the Agreement and allows for an additional deletion of (ZERO) Days.

PROJECT MANAGER -- recommend for owner approval:

By: [Signature]
 Title: Proj Mgr Date: 4-23-13

CONTRACTOR: DOWL HKM

By: [Signature]
 Title: Region Manager, Materials Date: 4/23/13

OWNER: CITY OF BETHEL

By: [Signature]
 Title: City Manager Date: 04/30/13

END OF DOCUMENT.



NEW BUSINESS

Item E



YKFC Operations Plan

November 1, 2014 through June 30, 2015

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June 30, 2015

This plan was prepared by Raunicka Ray, Facilities Director, and other USA Pools staff, for the YKFC. Martha Schoenthal, Project Development Associates, assisted in the development. This plan covers the operational period beginning November 1, 2014 thru the end of the City of Bethel 2015 fiscal year, June 30, 2015. This plan is based on industry best practices for pool safety, facility management and USA Pools industry experience.

Labor

Labor is the most significant operating expense and is somewhat controllable based upon days of operation, hours of operation, and programs offered. There are three categories of labor: full-time, wage grade and programs driven.

The full time employees are lead by the Facility Director who is responsible for the overall operations and maintenance of the facility. A full time Programs Director supports her and provides marketing, outreach, programs development and coordination responsibilities. In general terms, these two positions work 40-hour weeks, 5 days per week.

The wage grade employees are scheduled to match usage and safety requirements. These employees include:

- Lifeguard Managers
- Lifeguards
- Customer Service Representatives
- Cleaners

It is important to note that for safety reasons, there can never be less than 2 lifeguards on deck at the natatorium.

Program employees are generally instructors for a particular class. These include Water Safety Instructors for various aquatics programs, and instructors that would use the fitness and exercise rooms such as Yoga, Pilates, Aerobics, etc. USA Pools plans to reach out to the Bethel community (known as our "Strategic Partners Program") and engage knowledgeable instructors in specialty areas to meet demand. This will include such things as kayaking, martial arts, and dance. The Program Instructors can be engaged on an hourly basis with USA Pools managing registration and fees or the Instructor may arrange to use the space only. The intent is to serve the public; not compete with established programs.

See attached Staffing plan for days of operation and estimated staffing requirements. The staffing plan is the basis for the estimated operating budget. Several budget scenarios are being provided for evaluation. This Operations Plan will be finalized based upon the approved budget. As provided for in the underlying Operations and Maintenance contract, even after the Operations Plan and Budget is approved, adjustments to the schedule can and will be made that reflect actual usage of the facility.



June 30, 2015

Days and Hours of Operation

Days of Operation: USA Pools plans to observe federal holidays and will close the YKFC on those days. In addition, based on our experience with the public, there are additional closure days around major holidays. For the period of operation covered by this plan, the YKFC will be closed the following dates:

- Thanksgiving: Thursday and Friday, November 27 and 28, 2014
- Christmas Eve and Christmas: Wednesday, Thursday, and Friday, December 24-26, 2014
- New Year's Eve and New Year's Day: December 31 and 1 January 2015
- Martin Luther King's Birthday, Monday, January 19, 2015
- George Washington's Birthday, Monday, February 16, 2015
- Easter, Sunday, April 5, 2015
- Memorial Day, Monday, 25 May 2015

Hours of Operation: The following hours of operation are recommended for a facility of this size.

Monday: CLOSED TO PUBLIC
Tuesday – Friday: 6:30am – 9:00pm
Saturday: 9:00am – 8:00pm
Sunday: 10:00am – 8:00pm

The facility opening/closing hours can be adjusted on a monthly basis. A notice will be posted approximately 1 month in advance so monthly pass purchasers know what they are buying.

Exercise Room (w/equipment): Every day the facility is open.

Fitness Room: As scheduled for around programs

Natatorium:

- Lap Swim: 6:30am - 9:30am, Tuesday thru Friday
- Programs: 3:00-9:00, Tuesday thru Friday (while school is in session)
9:30am – 4:30pm Saturday
- Open Swim: 12:00pm – 9:00pm, Tuesday thru Friday, all day on weekends

All members and guests will be required to check in at the front desk. The facility will have set hours for both water and fitness programs. During those set time blocks there will be a designated area to conduct these classes. The water classes will be sectioned off and the fitness room will be closed when programs are in session. During lap swim, the lane pool will be solely for lap swimmers. During open swim the lap swimmer are free to swim but are not guaranteed a lane.

As detailed in the staffing plan, USA Pools plans to over-staff the facility for the first several months of operations. This allows us to continue to train staff in addition to handling a higher volume of patrons at a new facility. As usage tapers to normal levels and staff become more experienced, the staffing will taper down.



June 30, 2015

Generally, during weekday lap swim and open swim until 3:30, there will be two (2) lifeguards, one (1) customer service representative and one (1) cleaner. During the weekday afternoon and evening hours, staff levels will increase to up to four (4) lifeguards, two (2) customer service representative and two (2) cleaners. On Saturdays and Sunday, staff levels will be up to five (5) lifeguards, two (2) customer service representative and one (1) cleaner. Customer Service Representatives will be responsible for operating the pro shop. Pool cleaning hours will be set by the Facility Director at a later date.

Should the number of swimmers exceed the maximum allowable capacity of 111, 2-hour swim sessions will be scheduled. The swim session users will be banded and without a band the users will not be allowed to use the pool. Additionally, should staffing levels not match user limits due to approved operations budget, the facility will undergo capacity controls.

Usage Fees

Fees Approach: The facility will offer both day passes or individual or family memberships. People will have the option to get a day pass for both pool and fitness or memberships by the month or year. Memberships will include pool only, fitness only or both. Note that the McDowell Report suggested a surcharge for use of the water slide. These fees are all-inclusive; there is no surcharge. The labor cost to monitor use is more costly than potential additional revenue.

Admission categories are as follows:

Adults:	age 18 through 59 years
Military:	show ID card
Senior:	age 60 years and above
Kids:	age 2 years and 363 days and below
Youth:	age 3 through 17

Daily Admission: If participant wants to use both pool and fitness facilities, outside of a registered participant in a class, there is a \$3 add-on fee.

Category	Fitness	Pool	Fitness and Pool
Adult	\$8	\$8	\$11
Family*	\$30	\$30	\$40
Kids	N/A	Free w/swim diaper, \$5 for swim diaper	N/A
Youth	\$5 (14 and older)	\$5	\$8 (14 and older)
Military	\$6	\$6	\$9
Senior	\$3	\$3	\$6
First Time Pass Package, Youth	-	\$29	\$32
First Time Pass Package, Adult	-	\$39	\$42



June 30, 2015

The first time pass package is designed to accommodate visitors to Bethel that do not have a swimsuit and towel. The package is very modestly priced; the quality of the swimsuit and towel are suitable for limited use. This package will consist of a Suit, Towel and Bag. If demand outpaces supply we will have to reorder more items and price is subject to change based on cost of goods acquired.

Monthly Membership Fee:

Category	Fitness	Pool	Fitness and Pool
Adult	\$60	\$60	\$85
Family*	\$225	\$225	\$295
Youth	\$40 (14 and older)	\$40	\$60 (14 and older)
Military	\$30	\$30	\$50
Senior	\$25	\$25	\$45

Annual Membership Fee (VIP): The fee for annual membership is the equivalent of 10 months' membership for sale only during September 15, 2014 through October 30, 2014. The price for VIP membership will change once the pool is open to the public. VIP Members will have benefits such as, Up Front Parking, Dedicated Check-in Line, Special VIP Events discount on pro-shop goods, programming, and subsequent VIP purchases as well as Priority Service at public events.

No Annual Membership (VIP) passes will be sold until after the pool operating hours have been fully solidified. Pricing of annual passes will be determined at a later date.

*Family membership includes up to 6 members with the same home address.

Facility Rental: Parts or all of the facility may be rented. Reservations may be made through the Programs Director. Rates are as follows:

Booking Fee (in addition to the hourly rate): \$7.50 per booking which is non-refundable (waived for VIP members in the future.)

Entire Facility: Call Facilities Director (will be negotiated upon renters needs) At least 30 days notice needs to be given.

Natatorium: \$115.00 per hour for 1-25 people. (Comes w/ 2 staff)
\$153.50 per hour for 26-50 people. (Comes w/ 3 staff)
\$192.00 per hour for 51-75 people (Comes w/ 4 staff)

Concessions area, for food prep: \$16.50 per hour

Fitness Room: \$40.00 per hour

Exercise Room: \$65.00 per hour



June 30, 2015

Locker Rental: \$75.00 per annum

Reservations must be made at least 7 days prior to event. Maximum Schedule time frame is 90 days. Payment must be made at the time of reservation.

Cancellation Policy: Refund or account Credit will be made if notice in writing is received within Five (5) days of the Event. There is no service charge if a credit is requested. There will be a 5% or \$4.00 service charge for refunds, whichever amount is lesser.

Programs and Fees

Aqua Classes: Aqua classes must be purchased through the front desk or from the USA Pools web page. These classes have scheduled times and dates. Participants register for a specific scheduled time and date.

Class	Description	Instruction time	Fees
Aerobics	The classes focus on aerobic endurance, resistance training, and creating an enjoyable atmosphere. Most land-based aerobic exercisers don't incorporate strength training into their schedules and therefore adding aquatic exercise can greatly improve their health	1.5 hours per session	\$60
Senior Aerobics			\$45
Water Babies	Features: Parent participation, designed to help parents and child get comfortable in water, kicking and reaching and pull, blowing bubbles, underwater drafting, how to climb out of pool with assistance, floating with assistance		\$80
Tiny Tots	Designed for children 4 and 5 years old, accompanied by their parents. Parents are taught how to acclimate their child to the water. Child is taught the basic fundamentals of swimming with the help of the instructor and parent.		\$80
Levels 1-3	These classes are designed to teach youth ages 6 to 13 how to swim. There is a swim evaluation taken before being placed in a class.		\$75/each level

Other classes can and will be added as needed and can be supported by qualified instructors. The



June 30, 2015

specialty classes could include: Survival Suit Training, Kayaking, and Diving. Each class will have a minimum and maximum amount of students. If the class does not meet the minimum number of students, the course will be canceled or postponed until the student ratio is met.

Use of the pool for the purpose of physical therapy will be encouraged. Fees are to be determined.

Special Promotions: Special promotions will occasionally be offered. These include "Dive In Movies" and "Ladies Only" night. It is anticipated that modest fees will be charged for special promotions.

Fitness and Exercise Programs

Exercise Room: The exercise room will be open during all regular operational hours. Users must be at least 14 yrs old to enter the exercise room. All work out equipment is on a first come first served base. During peak hours, 4pm to 8pm, use of cardio machines will be limited to 30 minutes. All Exercise Room equipment must stay in the Exercise Room.

All Exercise Room users must sign a waiver of liability to use the equipment. First time users of equipment will be offered a free demonstration of the use of the pieces of equipment. Use of the exercise room will be monitored thru the security system. At minimum, staff will physically walk thru the room to verify proper use and cleanliness. Signage will be posted in the exercise room requesting users to wipe down the equipment after each use.

Fitness Room: The Fitness Room is generally reserved for classes. Classes must be purchased through the front desk or from the USA Pools web page. These classes have scheduled times and dates. Participants register for a specific scheduled time and date. All fitness equipment must stay in Fitness Room.

Class	Description	Instruction time	Fees
Aerobics	Designed to improve circulation efficiency and reduce blood pressure	Wed & Fri: 8:30am, 6pm Tues & Thurs: 8:30am, 6pm	\$60
Senior Aerobics	Designed for those 60 yrs and better. Classes are blocked for 45 minutes with 30 minutes of exercise.	Wed & Fri: 7:30am, 1pm Tues & Thurs, 7:30am, 1pm	\$45
Spin Class	Spinning is a cardio (aerobic) workout set to music and led by a qualified instructor.	Wed & Fri: 6:30am, 5pm Tues & Thurs: 6:30am, 5pm Sat & Sun: 1pm	\$55
Yoga	Classes combine traditional yoga postures and exercises that focus on flexibility, strength, balance and breathing. Go at your own pace for a	Wed & Fri: 9:30am, 7pm Tues & Thurs: 9:30am, 7pm Sat & Sun: 11am	\$45



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	workout as gentle or as challenging as you like. Instructors will always offer modified poses for all levels.		
Pilates	Pilates improves flexibility, builds strength, develops control and endurance in the whole human body	Wed & Fri: 10am, 4pm Tues & Thurs: 10am, 4pm Sat & Sun: 12pm	\$45

The above-mentioned classes will be held twice a week for a 1-month period. Class times are blocked at 1 hour, with 45 minutes of workout time unless otherwise stated.

In the future, VIP members receive a 50% discount on the above listed prices. Percentage discount will increase or decrease based upon the final approved price by City Council.

For those guests that are interested in trying a class, a single session can be purchased for \$20. Pro-rated fees will be available for those who want to join mid session.

Other classes can and will be added as needed and can be supported by qualified instructors. The specialty classes could include various martial arts or dance type classes.

Concessions and Pro-shop

Concessions: The Concessions area will generally open later in the day and close 30 minutes prior to the facility closing. Early closing of the concessions area insures that the guest will have time to consume their purchase. Customer Service Representatives will operate the concessions; additional staff will be added during peak hours. The hours of operation will be:

Monday: CLOSED TO PUBLIC
 Tuesday – Friday: 11:00am – 8:30pm
 Saturday: 10:00am – 7:30pm
 Sunday: 10:00am – 7:30pm

The Concession will offer a variety of food and snacks and include healthy choices. Prices will be clearly posted. Healthy food and snack choices will be more attractively priced to encourage better choices. Concessions items include the following:

Food or Snack	Sell price	Drinks	Sell price
Pizza (Personal)	\$ 6.50	*Bottled Water	\$ 2.50
Hot Dog	\$ 3.75	Gatorade	\$ 5.00
Chili Dog	\$ 4.50	Hot Chocolate	\$ 1.25
Corn Dog	\$ 2.75	Canned Soda	\$ 3.50



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Popcorn	\$ 1.25	Juice	\$ 2.00
Nachos	\$ 4.50	Coffee	\$ 1.25
*Granola Bar (variety)	\$ 2.25	*Uncrustable Sandwiches	\$ TBD
Crackers, peanut butter or cheese	\$ 1.00	*Single Serve Veggies + dip	\$ TBD
*Nuts	\$ TBD	*Veggie Chips	\$ TBD
*Fruit Cups	\$ TBD	*Animal Crackers	\$ TBD
*Yogurt	\$ TBD	*Pop Chips	\$ TBD
*Raisins	\$ TBD		
*Rice Cakes	\$ TBD		
*Dried Fruit	\$ TBD		

Pro-Shop: The pro-shop will be run by a customer service representative and open at 9:30am on weekdays, once the second customer service representative arrives. The pro-shop will close 30 minutes before the facility closes. Use of credit cards will be encouraged; however cash will be accepted.

The pro-shop will sell a variety of swimwear and accessories set up on a movable cart. All items will be priced or the sale price clearly indicated. After hours, the cart will be wheeled into the Concessions area and secured. Pro-shop items will include the following:

Item	Price	Item	Price
Women's one piece suit	\$ 32.00	Fun Kids Kickboards	\$ 14.00
Girls one piece suit	\$ 28.00	Regular Kickboards	\$ 16.00
Men's swim trunks	\$ 25.00	Pull buoy	\$ 11.50
Boy's swim trunks	\$ 23.00	Towels	\$ 5.25
Silicon swim cap	\$ 12.00	Shammy Towel	\$ 14.00
Fun Kids Goggles	\$ 7.50	Water Wings	\$ 3.00
Anti Fog Goggle	\$ 8.00	Swim diapers	\$ 2.00
Anti Fog Swedish Goggle	\$ 18.00	Mesh bag	\$ 13.00
Locker Locks	\$ 10.00	Ear Plugs	\$ 4.75
Hand Paddles	\$ 9.00	Nose Plugs	\$ 3.00
Dive Rings	\$ 9.00		

Facility and Pool Management

USA Pools will utilize our standard approach to managing underage children and any discipline, if needed. Our primary concern is safety of both the individual user and the other users. Safety will



June 30, 2015

always be the over-riding concern. The following is our approach.

Underage Children: Children ages 12 and under must be accompanied by a legal guardian age 18 years or older. Children ages 13-17 must take a "swim test" to enter the pool area by themselves. Upon completing the swim test a parent/legal guardian must sign a waiver giving USA Pools authority to administer emergency care to child. Additionally, USA Pools requires 2 separate contacts to be on file for the child.

"Swim Test" consists of:

Swim 1 length of the pool

Float on back for 25 seconds

Tread water in deep end of pool for 60 seconds (hands may be used)

Should a diving board be on site – demonstrate child can use in a safe manner (jump off board, swim to side – onsite staff to make judgment call)

Should a moving water attraction be on site - demonstrate child can use in a safe manner

Discipline: Facility/Pool Rules will be posted in a conspicuous place for all users to read and understand. USA Pools will provide staff to answer any questions about the guidelines set by the facility. Should an infraction in the rules or unsafe behavior occur, the staff has express authority to discipline the individual.

The guidelines the staff uses to discipline the user if an infraction in the rules occurs is as follows:

1st time – Whistle will be blown and a warning will be given

2nd time – Whistle will be blown and a "time out" will be assessed (not to exceed 15 minutes)

3rd time – Whistle will be blown and the user will be asked to leave the facility for the day

Should a user be asked to leave the facility, proper company documentation will be filled out and the police will be called for an official police report.

Should the same individual be asked to leave more than 3 times in a rolling 30 day period, they will be suspended from the facility for 6 months. No refunds or credits will be given to those asked to leave the facility (regardless of the membership level).

Ongoing Staffing and Training

The USA Pools start-up plan identifies the approach to hiring and training new staff. This section concerns the ongoing staffing and training needs as a result of natural staff turnover, refresher classes and staying current within the industry.

For back-filling positions, USA Pools standard job descriptions will be used. Applicants apply on our website or may present paper applications at the facility. Applicants are interviewed and



June 30, 2015

screened through our personality checklist.

On-going training for the Facilities Director and the Programs Director will include:

- NSPF Certifications
- American Red Cross (ARC) Certifications
- Hospitality Training (typically done with the Walt Disney Company)

On-going training for the wage grade employees includes:

- Bi-weekly Staff Meetings
- Pass-through Hospitality Training
- Safety Audits Quarterly
- Fitness Audits Quarterly

As outlined in our start-up plan, training begins immediately for back-filled and/or new hourly wage employees and includes:

- After Interview procedures and policies test
- In-service Training
- Onsite Facility Operations Training
- Review Test prior to their second pay period
- Any Certifications needed to perform their associated duties

Training will include both print materials and videos and be administered by the Facility Director or USA Pools Staff.

USA Pools partners with the American Red Cross and the National Swimming Pool Foundation to implement all Aquatics safety training certifications. We recognize that the number of available lifeguards in Bethel, with current certifications will probably not fulfill the needs of the operations. The Facilities Director and Programs Director will both have certifications necessary to conduct classes and administer tests for lifeguards.

Advertising and Marketing

The Programs Director is responsible for the on going advertising and marketing of the facility. Advertising will include radio spots and printed material distributed around the City. USA Pools will sub-contract with their standard social media managers for maintaining the website and Facebook pages. Giveaways will be designed to promote the use of the facility. Special events such as Dive-in Movies and "Ladies Night" will be regularly scheduled.

Radio - Radio ads will run ranging from multiple times a week to daily basis. Programming and special events being held at the facility will be a high point for radio advertisements. Our marketing team will work with local radio stations to produce a string of advertisements to be "aired".



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Social Media and Website - We currently have three social media outlets setup for the facility including: Facebook, Twitter, and Instagram. Through these outlets we will be pushing advertising and marketing on a daily basis. Content will include facility information, facility updates and upcoming events. These outlets and the facility website will be updated by our marketing team as well as the Facility and Program Directors.

Printed materials - Monthly scheduling and facility events will be posted throughout the city by flyers, brochures and mailers. Our marketing team will work with the Programs Director to get these printed materials made and distributed.

Village Outreach – The Travel budget for village outreach has been deleted for now. The intent is that the Programs Director will coordinate and partner with other entities that have regular interface with the villages. Informational materials will be supplied. The materials will provide basic information about the facility. This element of the budget may need to be re-visited at a later date.

Facility and Pool Maintenance, Utilities

There are three distinct levels of maintenance involved with the facility: Daily Cleaning, Pool Maintenance, and Periodic/Preventative Facility Maintenance.

Daily Cleaning: Cleaners will maintain the facility in a clean and orderly manner. Floors will be swept, mopped or vacuumed. Toilet rooms will be cleaned and re-stocked. Horizontal surfaces will be dusted and cleaned as needed. Equipment will be re-arranged to original status. Windows and doors cleaned as needed. The facility will be cleaned after closing each evening.

Pool Maintenance: Pool maintenance will be overseen by the Certified Pool Operator, the Facility Director in this case. Water testing, daily logs, and reporting are included. The Operations and Maintenance Manual goes into much greater detail. After the installation of the pool cover, staff will place the cover each evening and remove it every morning before lap swim.

Facility Maintenance: Facility maintenance will be provided through local labor and contractors. The Facility Director serves as the coordinating point of contact for these services. Fire Alarms and Security Alarms will be monitored by SimplexGrinnell. The Heating Ventilating Air Conditioning (HVAC) systems will be monitored and possibly remotely adjusted by Mechanical Systems Inc. (MSI). Periodic inspection and maintenance of the HVAC systems will be provided by MSI and the onsite staff to include air filter changes. For less skilled tasks such as gypsum wallboard repair and painting, and light bulb changes, local labor will be engaged.

Note that snowplowing of the parking lot and maintenance of the wind turbine are the responsibility of the City of Bethel.



June 30, 2015

Utilities: The City of Bethel is responsible for directly paying for electricity, water/sewer, fuel oil and Internet connectivity. The Facility Director will coordinate with the City as needed to ensure continuous operations. The Facility Director will also directly coordinate with the water plant personnel when re-fill operations are required.

USA Pools will manage and budget for telephone service, cell phone service for management personnel, solid waste disposal, cable TV for the exercise equipment, and any hazardous materials waste.

NEW BUSINESS

Item F

Introduced by: Council Member Sigmon
Date: August 26, 2014
Public Hearing: September 9, 2014
Action: Passed
Vote: 7-0

CITY OF BETHEL, ALASKA

Ordinance #14-22

AN ORDINANCE APPROVING THE DISPOSAL OF CITY PROPERTY IN ACCORDANCE WITH 4.08.030, DISPOSAL OF PROPERTY NO LONGER NEEDED FOR MUNICIPAL PURPOSES

WHEREAS, in accordance with BMC 4.08.030(B) the City Council may dispose any interest in real property by purchase, lease, exchange, transfer, donation or any other method; all disposals not otherwise provide for by law shall be by ordinance enacted by a majority vote of the City Council;

WHEREAS, the City of Bethel is owner of property identified as 501 First Avenue, located on Plat 73-244 (an unrecorded Plat);

WHEREAS, the land contains a building currently known as the "Police Annex";

WHEREAS, the building is older and in need of repairs but is suitable for short-term housing;

WHEREAS, with completion of the new police department, one of the building's originally designated purposes or use as a training area has become obsolete;

WHEREAS, while the City's preference is to hire locally, there have been many times when the City has been required to hire from outside the area;

WHEREAS, housing is difficult for many newcomers to Bethel to obtain immediately;

WHEREAS, because the Police Annex has a residential component, utilizing that component for short-term transitional housing for new hires would give the City more flexibility and would give the city an advantage over other employers;

WHEREAS, the City is not in the long-term housing business and only desires to extend this benefit on a short-term basis as a way to assist incoming new hires as they move to Bethel and seek more permanent housing;

Introduced by: Council Member Sigmon
Date: August 26, 2014
Public Hearing: September 9, 2014
Action: Passed
Vote: 7-0

WHEREAS, the City Council authorizes the City Manager to enter into short term leases with newly hired employees relocating to Bethel for durations not to exceed three months unless otherwise authorized by the City Council;

NOW, THEREFORE BE IT ORDAINED, the City, in consideration of the agreements mentioned herein, disposes of property identified as: 501 First Avenue (a/k/a Police Annex Housing), by approved lease agreement and policy & procedure between the City of Bethel and incoming newly hired employees for temporary housing assistance.

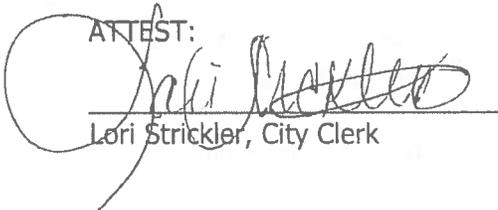
SECTION 1. Classification. This ordinance is of a general nature and shall not become a part of the Bethel Municipal Code.

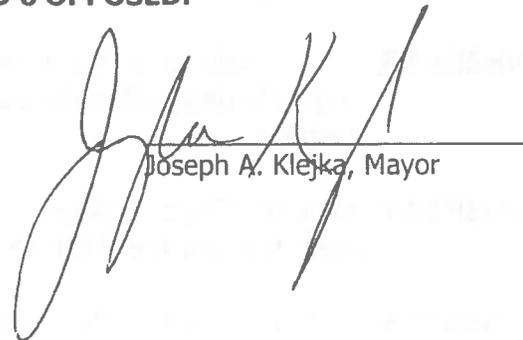
SECTION 2. Authorization. Pursuant to Bethel Municipal Code 04.08.030(B) Disposal to an Entity Providing Necessary Public Service.

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

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL ALASKA, THIS 9 DAY OF SEPTEMBER, BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED.

ATTEST:


Lori Strickler, City Clerk


Joseph A. Klejka, Mayor

City of Bethel Action Memorandum

Action memorandum No.	14-58		
Date action introduced:	08-26-2014 09-09-2014	Introduced by:	Council Member Sigmon
Date action taken:	09-09-14	X Approved	<input type="checkbox"/> Denied
Confirmed by:			

SUBJECT/ACTION:

Approval of the Lease agreement for short term housing at the Police Annex and Policy 1402, Short Term Housing for New Hires.

Route to:	Department/Individual:	Initials:	Remarks:
	City Manager		
	Finance		
	Public Works		

Attachment(s): Lease agreement for short term housing.
Short Term Housing Policy 1402.

Amount of fiscal impact		Account information:
X	No fiscal impact	
	Funds are budgeted for.	
	Funds are not budgeted. Budget modification is required. Affected account number:	

The City of Bethel is owner the building known as the "Police Annex" as well as the property the building is located. The initial intent of the Police Annex was short-term housing for newly hired employees of the Police Department relocating to Bethel. It has been brought to the attention of Council, the initial intent has not been adhered to, and in the past, the space was provided to long term employees as a means for long term housing at a rate below fair market value. Additionally, the Council came to realize, there are very few guidelines established to direct administrations placement of employees and contractors at the facility.

In the best interest of fiscal responsibility as well as union obligations, the Council approves the attached lease agreement and policy regarding the rental units available at the Police Annex.

In general, the lease agreement designates rooms at the Annex will be provided at a rate of \$400 per month which covers basic utilities, a private room, shared bathroom and common

City of Bethel Action Memorandum

Action memorandum No.	14-58		
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Date action taken:		<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied
Confirmed by:			

areas; a timeframe of three months or 90 days maximum, whichever is longer, short term housing for employees relocating to Bethel; and the obligations the employees and the City has as renter, rentee.

The policy, establishes the intended use of the facility for short-term housing for newly hired employees of the City of Bethel, relocating to allow these employees time to acquire appropriate long term living quarters. Additionally, the policy outlines the process, to which the Administration shall use to establish eligibility for the space.

No substantial modifications may be made to the attached lease agreement and policy without first being approved by the City Council.

Effective Date: 9-10-2014

TEMPORARY EMPLOYEE HOUSING

POL-1402

See Also: Ordinance 14-22

Approved by: Council

AUTHORITY

This Policy sets forth the City of Bethel's housing policies for the residential properties managed by the City of Bethel located in the building commonly known as the Police Annex.

The City Manager is responsible for enforcing this policy.

1. Method and Allocating Housing.

Per Ordinance 14-22, the City Manager has the authority to enter into lease agreements with individuals relocating to Bethel to work for the City of Bethel.

A request for temporary housing must be presented to the City Manager from the department head responsible for the hiring of the employee as far in advance as possible but at least two (2) weeks prior to the arrival of the individual. If the requirements of this policy are met and space is available, the City Manager may enter into a lease agreement with the applying employee. The placement of employees in the rental space will be on a first come first serve basis, based on the time the department head presents a request to the City Manager.

Once approved by the City Manager, the Department Head shall facilitate the execution of the lease between the new employee and the City Manager. The department head will also be responsible for informing the Finance Director, or their designee, of the lease agreement and providing the finance director with the original signed lease and any other relevant information.

All employees entering into a lease agreement with the City shall be furnished a copy of this Policy.

2. Evaluation Criteria.

Individuals who may be considered for the leasing of the Annex rooms are as follows:

- A. Newly hired City employees, who are relocating to Bethel.
- B. Individuals falling under Section 9 of this policy, Contractors.

3. Occupancy Lease Agreements.

The City of Bethel leases its rooms for a maximum term of three (3) months or 90 days whichever is greater. Lease agreements must be in place prior to employee occupancy. If a

Effective Date: 9-10-2014

TEMPORARY EMPLOYEE HOUSING

POL-1402

See Also: Ordinance 14-22

Approved by: Council

tenant becomes ineligible for housing the tenant will have seven days to vacate the leased space.

Upon the term expiration of the lease agreement, the tenant must have removed all personal belongings, and must return the space to the same condition as upon move in, less reasonable wear and tear. City staff shall inspect the premises prior to move in and immediately upon move out.

If it becomes necessary to commence eviction proceeding against an employee for non-payment, or any other reason, the Finance Director shall be notified immediately and shall commence eviction proceedings.

4. Subletting.

There shall be no subletting of the leased space for any reason.

5. Pricing of Room Rentals.

The rental rate for use of the Annex for Employee housing shall be a minimum of Four Hundred (\$400) Dollars a month, per room. The rate may only be adjusted by a majority vote of the Council.

The monthly rate for the rental agreement will include a private room for the tenant, and use of the common areas, which include bathroom, kitchen and lounge, as well as basic utilities: water, sewer, garbage, electricity and heat.

6. Insurance Requirements.

Tenants are required to obtain renter's insurance prior to occupancy and shall name the City of Bethel in the rental insurance policy.

7. Payment of Rental Rate.

The City of Bethel will require a \$100 security deposit prior to the lease term. No one may reside at the Annex without prior authorization in the form of a lease agreement.

Rent will be deducted from the employees pay checks in two equal installments per month.

Effective Date: 9-10-2014

TEMPORARY EMPLOYEE HOUSING

POL-1402

See Also: Ordinance 14-22

Approved by: Council

At the end of the Lease term, the employee's security deposit shall refund assuming the employee has not caused reason to relinquish the security deposit back to the City.

8. Taxing Requirements.

The City of Bethel will comply with all State, Federal and local requirements regarding taxation for employee housing.

9. Contractors.

If space is available, the City Manager may enter into a lease agreement not to exceed 3 months, or 90 days, whichever is longer, with individuals or businesses under contract with the City. The lease agreement under these special situations must be at the same rate as provided for employees and shall follow the same provisions as provided in this policy. The City Manager shall receive prior authorization from the City Council. The payment procedures outlined in this policy may be modified in the lease agreement to accommodate the special situation.

It will be the intent of the City to consider all new hired employees who may be relocating to Bethel for placement in the Annex prior to entering into any agreement with any other individual or business who may be working under contract with the City.

10. Managing the Lease Agreements and Property Availability.

The Finance Department shall be responsible for managing lease agreements, modification thereto, payments, property availability and other necessary information that may be identified within this policy.

11. Building Condition Maintenance and Inspections.

The City Administration and or their designated staff is responsible for inspecting the condition of the Annex on a regular basis for deferred maintenance, health and safety compliance.

The employee is responsible for the general condition and appearance of the facility. This includes but is not limited to general cleaning and upkeep of the interior and exterior.

If a leaser becomes aware of a facility maintenance problem, they shall immediately contact the Public Works, Building Maintenance Department to report the issue.

12. Public Use of Facility.

Effective Date: 9-10-2014

TEMPORARY EMPLOYEE HOUSING

POL-1402

See Also: Ordinance 14-22

Approved by: Council

There are areas of the facility that have been used as meeting space for other organizations and the public. Due to the vicinity of that meeting space and that of the tenant's common areas, the meetings space will no longer be open to the public for rental space.

City of Bethel
Annex Room Rental Agreement

THIS LEASE AGREEMENT (hereinafter referred to as the "Agreement") made and entered into on _____, by and between the **City of Bethel**, whose address is P.O. Box 1388, Bethel, AK 99559 (hereinafter referred to as "Lessor") and _____ (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor is the fee owner of certain real property being, lying, and situated in Bethel Alaska, such real property having a street address of 500 1st Ave. known as the Police Annex building (hereinafter "Annex").

WHEREAS, Lessor is desirous of renting a room and shared living quarters in the Premises to Lessee upon the terms and conditions as contained herein; and

NOW, THEREFORE, the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. **TERM.** Lessor rents to Lessee and Lessee rents from Lessor, the above described Premises together with any and all appurtenances thereto, for a term not to exceed ninety (90) days as per City of Bethel Ordinance. Due to the employee (Lessee) and employer (Lessor) relationship, if Lessee is discharged from their position, the term of this agreement will end two weeks from the date of discharge. Lessee may give notice to vacate at any time. Lessee will be responsible for all utilities and fees to the vacate date.
2. **LIMITED RENTAL TERM.** Use of the Annex is a temporary use only and is limited to short-term relocation assistance for incoming new hires of the City of Bethel only. As such, only employees of the City of Bethel are authorized to reside in the Annex and residence at the Annex is limited to no more than ninety (90) days duration unless a longer term is expressly authorized by the City Council.
3. **EXPIRATION.** This lease shall automatically expire within ninety (90) days of its inception and shall be non-renewable by either party. Lessee shall peaceably leave, surrender and yield up to the Lessor all the Leased Land on the last day of the term of that Lease.
4. **RENT.** The total rent for the term hereof is the sum of **Four hundred DOLLARS (\$400) monthly**, payable on the 1st of each month of the term. All such payments shall be made to Lessor at Lessor's address as set forth in the preamble to this Agreement on or before the due date and without demands.
5. **TAX LIABILITY.** Fair market rental value in the City of Bethel for similar rentals has been assessed at Seven Hundred Fifty (\$750) dollars per month. Because Employees are being charged below the fair market rental value, employees will be taxed for the benefit and the taxable benefit will be reported to the Internal Revenue

Service. Any tax liability incurred by Employee as a result of the rental shall be borne exclusively by the Employee.

6. **LATE FEE.** In the event that any payment required to be paid by Lessee hereunder is not made by the 5th day of each month, rent shall be considered late and Lessee shall be considered in default of the Lease. In addition to the monthly rental amount, Lessee shall owe Lessor a "late fee" of Twenty-Five (\$25) dollars per week. The addition of late fees shall not preclude Lessor from taking any and all legal remedies available to Lessor, up to and including eviction.
7. **DAMAGE DEPOSIT.** Upon the due execution of this Agreement, Lessee shall deposit with Lessor the sum of **Two Hundred (\$200) Dollars** receipt of which is hereby acknowledged by Lessor, as security for any damage caused to the Premises during the term hereof. Such deposit shall be returned to Lessee, without interest, and less any set off for damages to the Premises upon the termination of this Agreement.
8. **INSURANCE REQUIREMENTS:** Lessee shall provide proof of Renter's Insurance prior to move-in to the Premises. Such Insurance shall be for a minimum of three (3) months and shall name the City of Bethel as additional insured.
9. **USE OF PREMISES.** The premises shall be used and occupied by Lessee exclusively as a private bedroom with shared kitchen, bathroom and living room quarters, and no part of the Premises shall be used at any time during the term of this Agreement by Lessee for the purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than as a private single room dwelling. Lessee shall not allow any other person, other than Lessee's immediate family or transient relatives and friends who are guests of Lessee, to use or occupy the Premises without first obtaining Lessor's written consent to such use. Lessee shall comply with any and all laws, ordinances, rules and orders of any and all governmental or quasi-governmental authorities affecting the cleanliness, use occupancy and preservation of the Premises. The Lessee acknowledges that rental of the room is separate from the employee relationship Lessee has with Lessor and as such, no City supplies, City funded labor cost or any other City owned or funded resources will be used by the Lessee without the express permission of the Lessor.
10. **CONDITION OF PREMISES.** Lessee stipulates, represents and warrants that Lessee has examined the Premises, and that they are at the time of this Lessee in good order, repair, and in a safe, clean and tenantable condition.
11. **ASSIGNMENT AND SUB-LETTING.** Lessee shall not assign this Agreement or sublet the Premises or any part thereof without the prior written consent of Lessor. Consent by Lessor to one such subletting shall not be deemed to be consent to any subsequent subletting. Subletting without the prior written consent of Lessor or subletting by operation of law shall be absolutely null and void and shall terminate this Agreement.

12. ALTERATIONS AND IMPROVEMENTS. Lessee shall make no alterations to the buildings or improvements on the Premises or construct any building or make any other improvements on the Premises without the prior written consent of Lessor. Any and all alterations, changes, and/or improvements built, constructed or placed on the Premises by Lessee shall, unless otherwise provided by written agreement between Lessor and Lessee, be and become the property of Lessor and remain on the Premises at the expiration or earlier termination of this Agreement.
13. HAZARDOUS MATERIALS. Lessee shall not keep on the Premises any item of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion on the Premises or that might be considered hazardous or extra hazardous by any responsible insurance company.
14. UTILITIES. Lessee shall be responsible for arranging for and paying for any telephone, cable and other non-provided utilities. Lessor shall be responsible for providing the following utilities: water, electricity, sewer and garbage collection. Snow removal will be provided by the Lessor.
15. MAINTENANCE AND REPAIR (LESSEE) and associated RULES. Lessee will, at its sole expense, keep and maintain the Premises and appurtenances in good and sanitary condition and repair during the term of this Agreement and any renewal thereof. Without limiting the generality of the foregoing, Lessee shall:
- a. Not obstruct the driveways, sidewalks, courts, entryways, stairs and/or halls, which shall be used for the purposes on ingress and egress only;
 - b. Not obstruct or cover the windows or doors;
 - c. Not leave windows or doors in an open position during any inclement weather;
 - d. Not cause or permit any locks or hooks to be placed upon any door or window without the prior written consent of Lessor;
 - e. Keep all lavatories, sinks, toilets, and all other water and plumbing apparatus in good order and repair and shall use same only for the purposes for which they were constructed. Lessee shall not allow any sweepings, rubbish, sand, rags, ashes or other substances to be thrown or deposited therein. Any damage to any such apparatus and the cost of clearing stopped plumbing resulting from misuse shall be borne by Lessee;
 - f. And Lessee's family and guests shall at all times maintain order in the Premises and at all places on the Premises, and shall not make or permit any loud or improper noises, or otherwise disturb other residents;
 - g. Keep all radios, television sets, stereos, phonographs, etc., turned down to a level of sound that does not annoy or interfere with other residents;
 - h. Deposit all trash, garbage, rubbish or refuse in the locations provided therefore and shall not allow any trash, garbage, rubbish or refuse to be deposited or permitted to stand on the exterior of any building or within the common elements;

- i. Abide by and be bound by any and all rules and regulations affecting the Premises or the common area appurtenant thereto which may be adopted or promulgated by the associated room Lessee's;
- j. The Police Annex building is a City owned and operating public building and as such No alcohol and No smoking are allowed in the building.

16. MAINTENANCE AND REPAIR (LESSOR). Lessor Without limiting the generality of the foregoing, Lessee shall:

- a. Keep all windows, glass, window coverings, doors, locks and hardware in good, clean order and repair;
- b. Keep all air conditioning filters clean and free from dirt;
- c. Keep all lavatories, sinks, toilets, and all other water and plumbing apparatus in good order and repair;

17. DAMAGE TO PREMISES. In the event the Premises are destroyed or rendered wholly untenable by fire, storm, earthquake, or other casualty not caused by the negligence of Lessee, this Agreement shall terminate from such time except for the purpose of enforcing rights that may have then accrued hereunder. The rental provided for herein shall then be accounted for by and between Lessor and Lessee up to the time of such injury or destruction of the Premises, Lessee paying rentals up to such date and Lessor refunding rentals collected beyond such date. Should a portion of the Premises thereby be rendered untenable, the Lessor shall have the option of either repairing such injured or damaged portion or terminating this Lease. In the event that Lessor exercises its right to repair such untenable portion, the rental shall abate in the proportion that the injured parts bears to the whole Premises, and such part so injured shall be restored by Lessor as speedily as practicable, after which the full rent shall recommence and the Agreement continue according to its terms.

18. INSPECTION OF PREMISES. Lessor and Lessor's agents shall have the right at all reasonable times during the term of this Agreement and any renewal thereof to enter the Premises for the purpose of inspecting the Premises and all buildings and improvements thereon. And for the purposes of making any repairs, additions or alterations as may be deemed appropriate by Lessor for the preservation of the Premises or the building. Lessor and its agents shall further have the right to exhibit the Premises and to display the usual "for sale", "for rent" or "vacancy" signs on the Premises at any time within thirty (30) days before the expiration of this Lease. The right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations or additions that do not conform to this Agreement or to any restrictions, rules or regulations affecting the Premises.

19. SURRENDER OF PREMISES. Upon the expiration of the term hereof, Lessee shall surrender the Premises in as good a state and condition as they were at the commencement of this Agreement, reasonable use and wear and tear thereof and damages by the elements excepted.

20. ANIMALS. Lessee shall not be entitled to keep any animals upon the Premises.

21. QUIET ENJOYMENT. Lessee, upon payment of all the sums referred to herein as being payable by Lessee and Lessee's performance of all Lessee's agreements contained herein and Lessee's observance of all rules and regulations, shall and may peacefully and quietly have, hold and enjoy said Premises for the term hereof.
22. DEFAULT. If Lessee fails to comply with any of the material provisions of this Agreement or materially fails to comply with any duties imposed on Lessee by statute, within seven (7) days after delivery of written notice by Lessee specifying the non-compliance and indication the intention of Lessor to terminate the rent term by reason thereof, Lessor may terminate this Agreement.
- If Lessee fails to pay rent when due and the default continues for seven (7) days thereafter, Lessor may, at Lessor's option, declare the entire balance of rent payable hereunder to be immediately due and payable and may exercise any and all rights and remedies available to Lessor at law or in equity or may immediately terminate this Agreement.
23. ABANDONMENT. If at any time during the term of this Agreement Lessee abandons the Premises or any part thereof, Lessor may, at Lessor's option, obtain possession of the Premises in the manner provided by law, and without becoming liable to Lessee for damages or for any payment of any kind whatever. Lessor may, at Lessor's discretion, as agent for Lessee, relet the Premises, or any part thereof, for the whole or any part thereof, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such reletting, and, at Lessor's option, hold Lessee liable for any difference between the rent that would have been payable under this Agreement during the balance of the unexpired term, if this Agreement had continued in force, and the net rent for such period realized by Lessor by means of such reletting. If Lessor's right of reentry is exercised in the following abandonment of the Premises by Lessee, then Lessor shall consider any personal property belonging to Lessee and left on the Premises to also have been abandoned, in which case Lessor may dispose of all such personal property in any manner Lessor shall deem proper and Lessor is hereby relieved of all liability for doing so.
24. ATTORNEYS' FEES. Should it become necessary for Lessor to employ an attorney to enforce any of the conditions or convenience hereof, including the collection of rentals or gaining possession of the Premises, Lessee agrees to pay all expenses so incurred, including reasonable attorneys fees.
25. GOVERNING LAW. This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of Alaska.
26. SEVERABILITY. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

27. BINDING EFFECTS. The covenants, obligations and conditions herein contained shall be binding and inure to the benefit of the heirs, legal representatives, and assigns of the parties hereto.
28. DESCRIPTIVE HEADINGS. The descriptive heading used herein are for convenience of reference only and they are not intended to have any effects whatsoever in determining the rights or obligation of the Lessor or Lessee.
29. CONSTRUCTION. The pronouns used herein shall include, where appropriate, either gender or both, singular and plural.
30. NON-WAIVER. No indulgence, waiver, election or non-election by Lessor under this Agreement shall affect Lessees duties and liabilities hereunder.
31. MODIFICATION. The parties hereby agree that this document contains the entire agreement between the parties and this Agreement shall not be modified, changed, altered or amended in anyway except through a written amended signed by all the parties hereto.

IN WITNESS WHEREOF, the Parties have caused these presents to be duly executed:

As the Lessor this ____ day of _____, 2014.

“Lessor”

 City Manager, City of Bethel

As the Lessee this ____ day of _____, 2014.

“Lessee”

 Printed Name

Witness:

NEW BUSINESS

Item G

**CITY OF BETHEL
BETHEL, ALASKA**



REQUEST FOR PROPOSALS

Fuel Services

RFP Release Date: October 13, 2014

Proposals deadline: November 13, 2014

Due Date: Thursday, November 13, 2014

Due Time: 3:30 pm (AST)

**Place: City of Bethel
City Hall
300 State Highway
Bethel, Alaska 99559**

CITY OF BETHEL
REQUEST FOR PROPOSALS FOR
FUEL AND FUEL DELIVERY SERVICES

INSTRUCTIONS FOR PROPOSERS

1. BACKGROUND

- A. The City of Bethel is seeking proposals for a two (2) year renewable contract for fuel for use at or for City owned properties and vehicles.
- B. The City is interested in using the bid process to obtain the best possible price and service for delivery of heating oil and HF#1 ULSD and the right to be able to purchase ULSD and gasoline from the pump at a set price over the life of the contract.
- C. The City of Bethel currently has the following capacity needs:
 - (i) Twenty-five (25) heating oil tanks attached to City-owned structures around Bethel;
 - (ii) Two (2) tanks in the Public Works Department yard;
 - (iii) One (1) tank in the landfill area that uses HF#1 Ultra Low Sulfur Diesel (ULSD) used to fill City heavy equipment; and
 - (iv) Approximately seventy-four (74) gasoline-powered vehicles
- D. In addition, the City occasionally purchases HF#1 ULSD from the pump for use in its heavy equipment.
- E. Last fiscal year, the City paid for the delivery of approximately 198,000 gallons of heating oil, and 3,000 gallons of HF#1 ULSD. During the same fiscal year, the City purchased from the pump approximately 2,363 gallons of HF#1 ULSD and 37,182 gallons of gasoline. These figures are provided as estimates. Actual purchases by the City over the proposed two (2) year contract may vary.

2. SCOPE OF WORK

- ?* A. Proposer shall fill City heating fuel tanks (as listed in Attachment A) once per month, every month of the year.
- ?* B. Proposer shall fill City Diesel (HF#1 ULSD) tanks (as listed in Attachment B) once per month, every month of the year.
- how often →* C. Proposer shall fill the Log Cabin tool shed only from October 1st to April 30th annually.
- D. Proposer shall be willing to provide additional fills at the contract price as needed and requested by the City. City to make requests at least one (1) business day prior to the anticipated fuel delivery.
- E. Proposer is to provide a method to allow City employees to charge for fuel at the pump that ensures that only City employees are able to charge fuel and only to City

vehicles.

F. Proposer shall not be obligated to deliver fuel outside of normal business hours or proposer's standard operating hours.

@ what rate ?

G. If the City requests a delivery outside of normal business hours, any such delivery shall be subject to a call out charge.

H. Proposer to ensure the following:

- (i) Fuel drivers hold a with valid State of Alaska Commercial Drivers Licenses (CDLs),
- (ii) Fuel delivery vehicles are properly licensed and insured;
- (iii) Bulk quantity shall be determined by certified meters
- (iv) All volume measurements shall be adjusted to 60 degrees F using the Volume Correction Factors prescribed by ASTM D 1250 (most current version) for the type of product delivered. If built-in meters are used, built-in temperature compensators should be used;
- (v) Proposer shall provide proof of insurance as required under this Proposal within thirty (30) days of Notice of Intent to Award.

I. Should City decide to fence or lock all of its fuel tanks, Proposer must be willing to carry and secure a set of keys for entry to the fuel tanks. In such situation, Proposer will be solely responsible for unlocking and relocking the fence or locks around or on the fuel tanks.

3. CRITERIA FOR EVALUATION

Evaluation of proposals will be based on:

- (1) The lowest cost in total for the expected amount of heating oil, ultra low sulfur diesel, and gasoline to be purchased over the course of a two (2)year contract [40 points];
- (2) Security Plan for safekeeping of City keys [10 points];
- (3) Proposal for having City employees charge at the pump, including checks and balances proposed to ensure only City employees are allowed to charge and only for city vehicles [25 points];
- (4) Description by proposer for hiring fuel truck drivers and ensuring they are properly licensed and maintain their licensing [15 points];
- (5) Description of process for measuring volume of fuel delivered and how or if it is adjusted for temperature differences [10 points];

4. INSTRUCTIONS FOR PREPARING PROPOSALS

A. Read the Request for Proposals document. Questions may be submitted (in writing only) and mailed, faxed, or e-mailed to:

Peter Williams, Acting City Manager
Fax: (907) 543-2311
E-mail: pwilliams@cityofbethel.net

- B. Proposers desiring to get any addenda or updates are encouraged to send an email to Peter Williams asking to be placed on the proposer list. All individuals on this list will be provided addendums and updates to this RFP as they are prepared and disseminated. Alternatively, prospective proposers may monitor the City's webpage, where all addendums and updates will be posted. The website and links are: www.cityofbethel.org > Public Notices > Request for Bids/Proposals > see *RFP related documents*.
- C. Prepare and submit a proposal package containing the following: Price Sheet – Attachment C and a proposal (maximum five standard sized 8.5" x 11" pages) with:
- (1) A description of the company, including its local facilities and tank capacity;
 - (2) List key personnel and their role in any Agreement with the City;
 - (3) List any subcontractors, if any, anticipated for carrying out the proposed Contract;
 - (4) Description of staffing of fuel truck drivers, including licensing process;
 - (5) Method to be used for measuring and billing the City;
 - (6) Security Plan for safekeeping of City keys and property;
 - (7) Proposed method to have City employees charge for fuel at the pump;
 - (8) Proposed changes, if any, to the attached draft contract (Attachment D).
- D. Proposal packages may be in either MS Word format or .pdf format and may be either hand delivered, sent by courier, US Mail or may be sent by email or fax. The City is not responsible for incomplete transmissions or unsuccessful delivery by electronic means.
- E. Proposal packages submitted in hard copy form must be in an envelope and marked, "Proposal for Fuel Delivery."

Peter Williams, Acting City Manager
City of Bethel
300 State Highway
P.O. Box 1388
Bethel, AK 99559

- F. Submit email proposals to: pwilliams@cityofbethel.net or fax proposals to City of Bethel, Attn: Peter Williams at (907) 543-2311. Again, the City of Bethel is not responsible for any incomplete or unsuccessful electronic transmissions.

5. RFP SCHEDULE

Event	Date
RFP issued	October 13, 2014
Submission of questions about RFP	October 27, 2014
Proposals due	November 13, 2014 @ 3:30 pm AST
Proposals Scored & Notice of Intent to Award Issued	November 17, 2014
City Council Meeting to Approve Contract associated with this RFP	November 25, 2014

6. GENERAL CONDITIONS

- A. Any proposal price or proposal modification received after the time and date specified shall NOT be considered. Conditional proposals will NOT be accepted.
- B. Proposal packages may be withdrawn prior to the scheduled time for the proposal opening or before any authorized postponement thereof. No respondent may withdraw a proposal within thirty (30) days after the due date.
- C. The City reserves the right to determine the qualifications of any proposer to perform the work specified in the proposal package. Upon request, the proposer shall furnish to the City all information and data requested for the purpose of determining the respondent's qualifications.
- D. No contract shall 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 of Bethel. See Bethel Municipal Code Title 4, Chapter 20.290 on the City's website (www.cityofbethel.org).
- E. The successful proposer shall comply with all applicable federal and state laws, City ordinances, and the rules and regulations of all authorities having jurisdiction over the fulfillment of the intended purchase as the purchase is described in this *Request for Proposals* document.
- ✓ F. Bethel businesses shall receive a five (5%) percent preference in determining the lowest responsible and responsive proposal. See Bethel Municipal Code Section 4.20.100 on the City's website (www.cityofbethel.org).
- G. The City will indicate its acceptance of the proposal by a written Notice of Award, emailed to the person, company and address identified on the Price Sheet.
- H. All proposals are subject to public inspection thus all proposers are cautioned not to include any trade secrets or confidential information in their proposals.
- I. 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. 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.

- J. If fair and reasonable compensation, contract requirements and contract documents can be agreed upon with the most qualified proponent, the contract shall be awarded to that firm.
- K. If fair and reasonable compensation, contract requirements and contract documents cannot be agreed upon with the most qualified proponent, the purchasing agent shall advise the proposer of the termination of negotiations. 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 proponent then determined to be most advantageous to the city.
- L. Awards shall be made by written notice to the proponent whose final proposal is determined to be most advantageous to the city. No criteria other than those set forth in the request for proposals will be used in the proposal evaluation.
- M. If the city manager determines that it is in the best interest of the city to do so, the city may reject all proposals.

7. LENGTH OF CONTRACT

- A. The contract term is two (2) years from the date of the latest signature.
- B. The contract is renewable for three (3) additional two (2) year terms as outlined in

the attached proposed contract.

8. INSURANCE REQUIREMENTS

A. Commercial General Liability Insurance

The proposer shall maintain commercial general liability insurance of not less than One Million (\$1,000,000) per occurrence.

B. Business Automobile Liability Insurance

The Proposer shall maintain business automobile liability insurance of at least One Million (\$1,000,000) Dollars.

C. Worker's Compensation Insurance

The Proposer shall procure and maintain Worker's Compensation Insurance as required by Alaska State law for all employees to be engaged in work under an Agreement with the City of Bethel.

Attachment A

City-owned Fuel Tanks 2014

Building	Location	# Tanks	Gallon Capacity
City Hall	300 State Hwy.	2	500 & 110
Fire Station	320 State Hwy.	1	1500
Police Station	157 Salmonberry	1	1000
Dog Pound	1225 Ridgecrest Dr.	1	1500
City Shop-heating	1155 Ridgecrest Dr.	1	5000
Bus Barn	507 State Hwy.	1	300
Youth Center-white tank (Utility Maintenance)	519 Mission St.	1	500
Youth Center red tool shed-black tank	519 Mission St.	1	300
Youth Center-black tank	519 Mission St.	1	300
Log Cabin	326 Akiachak	1	294
Log Cabin red shed	326 Akiachak	1	152
Bethel Heights Pumphouse (water treatment plant)	900 Ridgecrest Dr.	1	5000
City Subdivision Pumphouse (water treatment plant)	235 Akiak Dr.	1	3000
Recycle Center	1270 Ridgecrest Dr.	1	300
Utility Maintenance Shop	1290 Ridgecrest Dr.	2	700 & 110
Utility Maintenance Shop	311 3 rd Ave.	1	1500
Lift Station	1902 State Hwy.	1	500
Landfill Shack	1300 Ridgecrest Dr.	1	300
Courthouse	204 State Hwy.	1	1000
Port Office	919 Front St.	1	110
Transit Building	370 A 4 th Ave.	1	1500
Senior Center	127 Atsaq	1	300
YK Aquatic Health and Safety Center	267 Akiachak	1	7500

Attachment B

City-owned HF#1 ULSD Tanks 2014

Building	Location	# Tanks	Gallon Capacity
City Shop- for heavy equipment	1155 Ridgecrest Dr.	1	5000
City Shop-for heavy equipment	1155 Ridgecrest Dr.	1	5000
Landfill-on the ground, for heavy equipment	End of Ridgecrest Dr.	1	500

Attachment C

PRICE SHEET

City of Bethel - Fuel Delivery Services and Gasoline at the Pump

<p>Heating Oil</p> <p>Price per delivered gallon: _____</p> <p># of heating oil delivery trucks: _____</p>	<p>HF#1 Ultra Low Sulfur Diesel</p> <p>Price per delivered gallon: _____</p> <p>Price per gallon at the pump: _____</p> <p># of HF#1 ULSD delivery trucks: _____</p> <p>Number of HF#1 ULSD pumps: _____</p>
<p>Gasoline</p> <p>Price per gallon at the pump: _____</p> <p>Number of gasoline pumps: _____</p>	

SIGNATURE AND VERIFICATION

Pursuant to and in compliance with the City of Bethel's Request for Proposals, the undersigned hereby proposes to complete the scope of work described herein and in the proposal submitted for review and approval at the rates provided in the proposal for the duration of the contract.

<p>Respondent</p> <p>Name (printed):</p>	<p>Title:</p>
<p>Company Name and Mailing Address:</p>	<p>Telephone Number:</p> <p>Fax Number:</p> <p>E-mail Address:</p>
<p>Signature: _____ Date: _____</p>	

City of Bethel

Bulk Fuel Supply

Agreement

2019-2021



City of Bethel

Bulk Fuel Supply Agreement

(Attachment D)



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This Agreement is made this _____ day of November 2014, by and between the City of Bethel, a municipal corporation (hereinafter "City") and _____ (hereinafter "Contractor").

WITNESSETH:

WHEREAS, _____ is engaged in the business of providing fuel; and

WHEREAS the City of Bethel desires to purchase fuel in bulk from Contractor, subject to and in accordance with the Terms of this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. Effectiveness and Term

This Agreement shall become effective on _____, 2014 and shall continue to have effect thereafter until _____, 2016. [Fuel Supplier] shall have up to three (3) options to extend/renew the contract in accordance with Section 15 below.

2. Provision of Fuel – Monthly Top Off

[Fuel Supplier] shall provide Fuel to the City at the Delivery Points outlined in Attachment A, Part 1, on a monthly basis no later than the fourteenth (14th) day of each month.

Fuel for the location at Attachment A, Part 2, shall only be delivered once per month from October to April, no later than the fourteenth (14th) day of each of the months specified.

Fuel shall be made available for purchase by City employees for City vehicles as outlined in Section 3.

3. Provision of Fuel – At the Pump

[To be completed after the RFP Process, per the proposer's offer]

4. Quantities

Quantities of Fuel supplied shall be finally determined in accordance with the measurements provided in Attachment A.

5. Price: Year's One & Two

12.1 Heating Oil Delivered: shall be charged at the rate of \$ _____ (_____) per gallon.

12.2 HF#1 Ultra Low Sulfur Diesel (ULSD) Fuel Delivered: shall be charged at the rate of \$ _____ (_____) per gallon.

12.3 Gasoline at the Pump: shall be billed at the rate of \$ _____ (_____) per gallon.

12.4 HF#1 Ultra Low Sulfur Diesel (ULSD) Fuel at the pump: shall be billed at the rate of \$ _____
(_____) per gallon.

12.5 "Gallon" shall be defined as a U.S. standard gallon of 231 cubic inches at 60 degrees Fahrenheit.

6. Invoices and Payments

- 6.1 [Fuel Supplier] shall invoice the City monthly. All invoices shall be accompanied by supporting calculations and documentation of the amounts claimed.
- 6.2 The total amount to be paid under this Agreement shall be calculated on the basis of the total price per gallon delivered or sold under this Agreement. No claim for extra work or cost shall be allowed unless as outlined in this Agreement.
- 6.3 City shall pay all undisputed invoices and all undisputed portions of invoices within thirty (30) days of receipt.
- 6.4 In the event City fails to timely pay to [Fuel Supplier], the amount due in a timely manner, interest shall accrue at the rate of [xx%] per annum.

7. Records

[Fuel Supplier] and City shall each maintain and shall make available, on reasonable notice, for inspection and examination of the other Party, at all reasonable times, all records relating to this Agreement and of transactions performed pursuant to this Agreement for a minimum of five (5) years from the date of the record. If any Dispute arises between the Parties, all records relating to matters involved in such Dispute shall be preserved until the resolution of such Dispute. Certified copies of such records as are required to be maintained by this Agreement shall be made available at the requesting Party's cost and expense.

8. Insurance Requirements

During the term of this Agreement and any extensions thereto, [Fuel Supplier] shall maintain the following coverage:

- 8.1 Commercial General Liability Insurance – [Fuel Supplier] shall maintain commercial general liability insurance on an occurrence policy form covering all operations with combined single limits not less than:
- (a) One Million (\$1,000,000) Dollars Each Occurrence
 - (b) One Million (\$1,000,000) Dollars Personal Injury; and
 - (c) Two Million (\$2,000,000) Dollars General Aggregate.
- 8.2 Business Automobile Liability Insurance - covering all vehicles used in the performance of this Agreement, with combined single limits of not less than One Million (\$1,000,000) Dollars each occurrence.
- 8.3 Worker's Compensation Insurance - as required by AS 23.30.045, for all employees of the [Fuel Supplier] engaged in work under this Agreement. The coverage shall include:
- a) Waiver of subrogation against the City;
 - b) Employer's Liability Protection at \$500,000 each accident/each employee and \$500,000 policy limit;
- 8.4 General Insurance Requirements/Provisions -
- a) The City shall be named as an additional insured on all policies required under this Agreement. All of the above insurance coverage's shall be considered to be primary and non-contributory to any other insurance carried by the City of Bethel, whether through self-insurance or otherwise.

b) The [Fuel Supplier] shall furnish evidence of insurance to the City before June 1st annually. The evidence shall be issued to the City and shall be either a certificate of insurance or the policy declaration page with all required endorsements attached and must:

- (1) Denote the type, amount, and class of operations covered;
- (2) Show the effective (and retroactive) dates of the policy;
- (3) Show the expiration date of the policy;
- (4) Include all required endorsements;
- (5) Be executed by the carrier's representative; and
- (6) If a certificate of insurance, include the following statement: *The insurance carrier agrees that it shall notify the City, in writing, at least 30 days before cancellation of any coverage or reduction in any limits of liability.*"

8.5 The City's acceptance of deficient evidence of insurance does not constitute a waiver of Agreement requirements.

8.6 Failure to maintain the specified insurance or to provide substitute insurance if an insurance carrier becomes insolvent, is placed in receivership, declares bankruptcy, or cancels a policy may be grounds for withholding payments until substitute insurance is obtained, and may, in the City's discretion, be sufficient grounds for declaring the [Fuel Supplier] in default.

9. Fuel, Title, Warranty and Indemnity

[Fuel Supplier] warrants that it shall have title to all Fuel supplied under this Agreement immediately prior to passing title in Fuel to City at each Delivery Point and shall otherwise supply Fuel to each Delivery Point free and clear of all liens, encumbrances and claims whatsoever.

[Fuel Supplier] shall indemnify, defend and hold City harmless against all third party claims for damages, costs, losses, and expenses arising from or out of a breach of the warranty in section 9, including claims by any third party or parties for any royalties, taxes, license fees or charges applicable to Fuel supplied.

10. Passing Title and Risk in Fuel

Title and, subject to the passing of good title, risk in the Fuel supplied by [Fuel Supplier] shall pass from [Fuel Supplier] to City at the relevant Delivery Point.

11. Duty to Notify

Without prejudice to the other obligations in this Agreement:

- 11.1 [Fuel Supplier] shall, as soon as practicable after it becomes aware of the same, inform the City of any circumstances which affect, or will affect, its ability to supply fuel under this Agreement; and
- 11.2 City shall, as soon as reasonably practicable after it becomes aware of the same, inform [Fuel Supplier] of any circumstances which affect, or will affect, its ability to receive Fuel into its facilities.

12. Duties of City

City shall provide safe access to premises, including snow and ice removal. [Fuel Supplier] may refuse to deliver if, in their sole discretion, access to the Premises is not in a safe condition for service. In such situation, [Fuel Supplier] shall give notice to City within three (3) Business Days of failure to deliver in order for City to correct the problem and allow for re-delivery. [Fuel Supplier] may impose a reasonable fee for having to respond to the location a second time.

13. [Fuel Supplier's] Rights to Interrupt Supplies of Fuel

[Fuel Supplier] shall be entitled to interrupt the supply of Fuel under the following circumstances:

- 13.1 Where undisputed payments are due and owing to [Fuel Supplier] by City under this Agreement; or
- 13.2 Subject to Clause 16, where and to the extent there is an Event of Force Majeure affecting the supply by [Fuel Supplier] or receipt by City of the Fuel.

14. Fuel Quality and City's Right to Reject Fuel

Fuel supplied by [Fuel Supplier] under this Agreement shall conform to American Society for Testing and Materials (ASTM) D1250 (latest version).

15. [Fuel Supplier's] Delays and Default

Where [Fuel Supplier] is delayed in the supply of Fuel for more than four (4) calendar days from the original date for delivery under clause 2 for any reason (other than an Event of Force Majeure) then City shall be entitled on notice to [Fuel Supplier] either to accept the delay in the supply or cancel the supply and the quantity canceled shall constitute Shortfall and breach of this Agreement.

16. Force Majeure

16.1 Events of Force Majeure: For the purposes of this Agreement, an "Event of Force Majeure" means any circumstance not within the reasonable control of the Party affected, but only if and to the extent that (i) such circumstance, despite the exercise of reasonable diligence and observing Good Utility Practice, cannot be, or caused to be, prevented, avoided, or removed by such Party, and (ii) such circumstance materially adversely affects the ability of the Party to perform its obligations under this Agreement, and such Party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the Party's ability to perform its obligations under this Agreement and to mitigate the consequences thereof.

16.2 Instances of Force Majeure: Subject to the provisions of Clause 16.1, Events of Force Majeure shall include, but not be limited to:

- (a) Fire, chemical or radioactive contamination or ionizing radiation, earthquakes, lightning, cyclones, hurricanes, floods, droughts, or such other extreme weather or environmental conditions, unanticipated geological or ground conditions, epidemic, famine, plague or other natural calamities and acts of God;

- (b) Explosion, accident, breakage of Facilities, plant or equipment, structural collapse, or chemical contamination caused by a person not being the affected Party or one of its contractors or subcontractors or any of their respective employees or agents;
- (c) Acts of War (whether declared or undeclared), invasion, acts of terrorists, blockade, embargo, riot, public disorder, violent demonstrations, insurrection, rebellion, civil commotion, and sabotage;
- (d) Strikes, lockouts, work stoppage, labor disputes, and such other industrial action by workers related to or in response to the terms and conditions of employment of those workers or others with whom they are affiliated save when such event is directly related to, or in direct response to any employment policy or practice (with respect to wages or otherwise) of the Party whose workers resort to such action;
- (e) Any legal prohibition on either Party's ability to perform its obligations under this Agreement, including passing of a statute, decree, regulation or order by a Competent Authority prohibiting that Party from performing its obligations under this Agreement;

provided that breakdown of any plant, equipment or vehicles (unless due to an Event of Force Majeure) or unavailability of funds shall not constitute an Event of Force Majeure.

16.3 Consequence of Force Majeure: Either Party shall be excused from performance and shall not be in default in respect to any obligation hereunder to the extent that failure to perform such obligation is due to an Event of Force Majeure.

16.4 Notice of Force Majeure: If a party wishes to claim protection in respect of an Event of Force Majeure, it shall as soon as possible following the occurrence or date of commencement of such Event of Force Majeure and shall thereafter keep the other Party informed until such time as it is able to perform its obligations. The Parties shall use their reasonable endeavors to:

- (a) Overcome the affects of the Event of Force Majeure as soon as practicable;
- (b) Mitigate the effect of any delay occasioned by any Event of Force Majeure; including by recourse to acceptable alternative sources of Fuel (which acceptance shall not be unreasonably withheld by either Party); and
- (c) To ensure resumption of normal performance of this Agreement as soon as reasonably practicable and shall perform their obligations to the maximum extent practicable,

provided that neither Party shall be obligated to settle any strike, lock out, work stoppage, labor dispute or such other industrial action by its employees.

17. Liabilities and Indemnities

17.1 [Fuel Supplier] Indemnity:

17.1.1 [Fuel Supplier] shall be responsible for any third party claim for any injury to or loss or damage to property of any person (including reasonable legal fees) arising out of transport, delivery and transfer of Fuel up to the Delivery Point (each referred to as a "[Fuel Supplier] Third Party Claim").

17.1.2 [Fuel Supplier] shall fully indemnify and hold City, its officers and employees harmless in respect of [Fuel Supplier] Third Party Claims provided that the indemnity

shall not extend to, and City hereby waives any claim against [Fuel Supplier] Third Party Claims to the extent caused by any negligent act or omission of City, its officers or employees.

17.2 City Indemnity:

17.2.1 City shall be responsible for any third party claim for any injury to or loss or damage to property of any person (including reasonable legal fees) arising out of transfer, storage and use of Fuel at and from the Delivery Point (each referred to as a "City Third Party Claim").

17.2.2 City shall fully indemnify and hold [Fuel Supplier], its Affiliates, officers, contractors, employees, and agents harmless in respect of City Third Party Claims provided that the indemnity shall not extend to, and [Fuel Supplier] hereby waives any claim against City Third Party Claims to the extent caused by any negligent act or omission of [Fuel Supplier], its Affiliates, officers, employees, contractors and agents.

17.3 Right to Defend Actions: The indemnifying Party shall have the right, but not the duty, to assume the defense of any third party claim indemnified in clause 17.1 or 17.2, as the case may be. Any Party shall, as soon as practicable after receiving notice of any claim brought against it, deliver to the other indemnifying Party full particulars thereof and shall render all reasonable assistance requested by such Party in the defense of such claim.

17.4 Indemnified Party not to Compromise:

17.4.1 Where any Party has an obligation under clause 17.1 or 17.2, as the case may be, to indemnify the other Party, such other Party shall not compromise or in any way settle any claim, lawsuit, action or cause of action without the express written consent of the other Party who has the obligation of indemnifying under clause 17.1 or 17.2, as the case may be. Where such consent is not obtained prior to such compromise in settlement, the Party who had the obligation of indemnifying shall be released and discharged from all obligations under clause 17.1 or 17.2, as the case may be.

17.4.2 Any payment payable by the indemnifying Party to the indemnified Party pursuant to this Section 17 shall be paid within forty-five (45) days from the date on which a claim for such payment accrues to the indemnified Party under this Agreement.

18. Pollution Prevention and Responsibility

In the event of a spill, escape or discharge of oil or other product occurs and causes or threatens to cause pollution damage ("Spill"), the Party responsible for the Spill shall undertake all measures reasonably necessary to prevent or mitigate the pollution damage. Any and all costs or expenses incurred as a result of any measures so taken shall be at the expense of the Party creating or causing the spill, escape or discharge. In the event the Party's cannot agree as to the cause of the spill, escape or discharge, the State of Alaska, Department of Environmental Conservation shall be the sole determinant of responsibility.

The Party who caused the spill, escape or discharge shall be responsible to indemnify, defend and hold harmless the other Party from any and all claims, costs, expenses, clean up costs, fines, losses, penalties, damages or other liability incurred as a result of the Spill.

19. Fuel Contract Extension/Renewals

[Fuel Supplier] shall have the option to extend/renew this Agreement up to three (3) consecutive times as follows:

- 19.1 [Fuel Supplier] shall provide City with written notice of its request to renew the Agreement at least ninety (90) days prior to the Agreement Expiration. Renewal notices shall state the following:
- (a) The applicable rate for all types of fuel specified under this contract during the new two (2) year term; and
 - (b) Any significant changes requested to the existing Agreement; and
 - (c) Any proposed changes to the scope of services to be performed under the Agreement.
- 19.2 Upon receipt of a Notice to Extend/Renew the Agreement, the City shall:
- (a) Ensure that [Fuel Supplier] continues to be eligible to contract with the City [i.e., maintains a valid City of Bethel business license, a valid State of Alaska business license and is not delinquent on any sales taxes or other fees with the City];
 - (b) Verify that [Fuel Supplier's] certificates of insurance are up to date;
 - (c) Update Attachment A; and
 - (d) Notify [Fuel Supplier] of any significant changes requested to the existing Agreement.
- 19.3 If City determines [Fuel Supplier] remains eligible and the increased rate for fuel is acceptable to City, then City shall give notice to [Fuel Supplier] within thirty (30) days of receipt of Notice of Request to Renew/Extend Contract that it intends to renew. At that time a contract extension shall be prepared and executed by both parties.

20. Termination

20.1 Events of Default

- 20.1.1 City's Event of Default: Each of the events described below shall constitute a City Event of Default:
- (a) A material breach by City of any obligation under this Agreement, which (where capable of remedy) has not been remedied within ten (10) days following notice from [Fuel Supplier] stating that such breach has occurred, identifying the breach and demanding it to be remedied, provided that if City has diligently and as quickly as possible commenced the remedial action necessary but is unable to complete it within ten (10) days, it shall be allowed such further period as may be reasonable to complete the remedial action, not exceeding another thirty (30) days;
 - (b) City has made material misrepresentation in the representations and warranties set out in this Agreement and has not disclosed any material fact which renders any such representation or warranty materially misleading;
 - (c) The reorganization, merger, consolidation, amalgamation, dissolution or reconstruction of City, except to the extent that it does not affect the ability of the resulting entity to perform its obligations under this Agreement;
 - (d) Except for the purposes permitted under subsection (c), the occurrence of any of the following events (other than as a direct result of [Fuel Supplier] Event of Default):

- (i) Passing of a resolution or initiation of any proceeding for the bankruptcy, insolvency, winding up, liquidation of or other similar proceedings relating to City;
 - (ii) The appointment of a trustee, liquidator, custodian or a similar person in a proceeding referred to in paragraph (d)(i), which appointment has not been set aside or stayed within sixty (60) days of such appointment; or
 - (iii) The making by a court having jurisdiction of an order winding up or otherwise confirming the bankruptcy or insolvency of City, which order has not been set aside or stayed within sixty (60) days; and
- (e) City ceasing to hold a license, permit or consent, as a result of breach by City of the terms and conditions of such license, permit or consent, making it unlawful for City to operate.

20.1.2 [Fuel Supplier] Event of Default: Each of the events described below shall constitute a [Fuel Supplier] Event of Default:

- (a) A material breach by [Fuel Supplier] of any obligation under this Agreement, which (where capable of remedy) has not been remedied within ten (10) days following notice from City stating that such breach has occurred, identifying the breach and demanding it to be remedied, provided that if [Fuel Supplier] has diligently and as quickly as possible commenced the remedial action necessary but is unable to complete it within ten (10) days, it shall be allowed such further period of up to another thirty (30) days as may be reasonably necessary to complete the remedial action;
- (b) [Fuel Supplier] has made material misrepresentation in the representations and warranties set out in this Agreement and has not disclosed any material fact which renders any such representation or warranty materially misleading;
- (c) The reorganization, merger, consolidation, amalgamation, dissolution or reconstruction of [Fuel Supplier], except to the extent that it does not affect the ability of the resulting entity to perform its obligations under this Agreement;
- (d) Except for the purposes permitted under subsection (c), the occurrence of any of the following events (other than as a direct result of City Event of Default):
 - (i) Passing of a resolution or initiation of any proceeding for the bankruptcy, insolvency, winding up, liquidation of or other similar proceedings relating to [Fuel Supplier];
 - (ii) The appointment of a trustee, liquidator, custodian or a similar person in a proceeding referred to in paragraph (d)(i), which appointment has not been set aside or stayed within sixty (60) days of such appointment; or
 - (iii) The making by a court having jurisdiction of an order winding up or otherwise confirming the bankruptcy or insolvency of [Fuel Supplier], which order has not been set aside or stayed within sixty (60) days; and
- (e) [Fuel Supplier] ceasing to hold a license, permit or consent, as a result of breach by [Fuel Supplier] of the terms and conditions of such license, permit or consent, making it unlawful for City to operate.

20.2 Consequences in the Event of Default: In the case of [Fuel Supplier] Event of Default, City may terminate this Agreement and in the case of a City Event of Default, [Fuel Supplier] may terminate this Agreement, in either case by giving a notice ("Termination Notice") to the other whereupon this Agreement shall terminate upon the date specified in such Termination Notice or such later date as the Parties may have agreed.

20.3 Sole Grounds for Termination: The provisions of this Paragraph 20 shall be the sole and exclusive grounds on which the Parties may terminate this Agreement.

20.4 Consequences: On termination of this Agreement for whatever reason, neither Party shall have any liability to the other for any damages or loss, whether under this Agreement, at law or otherwise, save for claims relating to accrued rights under this Agreement prior to its termination.

21. Dispute Resolution

21.1 If any dispute arises between the Parties in connection with or relating to this Agreement (a "Dispute") the Parties through their respective Chief Executive Officers shall attempt to resolve the Dispute through discussion.

21.2 If a Dispute is not resolved within thirty (30) Business Days by discussion pursuant to clause 21.1, the matter may be referred to mediation by either Party.

21.3 If Mediation fails to resolve the matter, either party is free to request Arbitration or file in court as they deem appropriate. The City and [Fuel Supplier] both agree that the appropriate venue for any legal dispute shall be the Bethel Courthouse.

22. Governing Law

This Agreement shall be governed by, and construed under, the laws of the State of Alaska.

23. Enforcement

Subject to any right of appeal, second appeal, revision or any other legal proceeding or remedy available to either Party under the law, each Party consents with respect to the enforcement of any final judgment against it in any such proceedings, whether in Alaska or outside and to the giving of any relief or the issue of any process in connection with such proceedings (including, without limitation, the making, enforcement or execution against or in respect of any property whatsoever, irrespective of its use or intended use, and whether situate in or outside Alaska).

24. Representation and Warranties

24.1 [Fuel Supplier] represents and warrants to City that:

24.1.1 It has the full legal ability and authority to enter into and carry out its obligations under this Agreement and this Agreement constitutes a valid, legally binding and enforceable obligation of [Fuel Supplier] and does not conflict with the terms of any other agreement by which it may be bound;

24.1.2 All approvals necessary to allow [Fuel Supplier] to enter into this Agreement and to carry out the obligations contemplated herein have been given or received and shall remain in full force and effect;

24.1.3 There are no applicable constitutional provisions, laws, regulations, decrees or rules of Competent Authorities of Alaska in force on the date of execution of this Agreement, which restrict or prohibit the ability of [Fuel Supplier] to enter into and perform the terms of this Agreement. [Fuel Supplier] is not entitled to immunity from legal process or jurisdiction on grounds of sovereignty or otherwise; and

24.1.4 This Agreement does not conflict with any provisions of any law, including any regulation of the State of Alaska as in effect on the date of execution of this Agreement.

- 24.2 City represents and warrants to [Fuel Supplier] that:
- 24.2.1 It is a validly existing municipal corporation under the laws of the State of Alaska;
 - 24.2.2 It has the full legal ability and authority to enter into and carry out its obligations under this Agreement and this Agreement constitutes a valid, legally binding and enforceable obligation of City and does not conflict with the terms of any agreement by which it may be bound; and
 - 24.2.3 There are no provisions of any organizational document of City which restrict or prohibit the ability of City to enter into and perform the terms of this Agreement.

25. Notices

25.1 All notices given under this Agreement are to be in writing [in English] and shall be:

25.1.1 Sent to:

(a) for City, to:

PO Box 1388

Bethel AK 99559

and marked to the attention of: City Attorney

(b) for [Fuel Supplier] to:

and marked to the attention of:

25.1.2 In writing and delivered by hand or sent by first class prepaid post or facsimile transmission and deemed to have been received:

(a) In case of delivery by hand when delivered; or

(b) In the case of first class prepaid post, on the second (2nd) day following the day of posting, or

(c) In the case of facsimile transmission, at the time of actual receipt,

provided that if, in accordance with the above provisions, any such notice or other communication would otherwise be deemed to be given or made outside working hours, such notice or other communication shall be deemed to be given or made at the start of working hours on the next Business Day.

25.2 Either party may notify the other Parties of a change to its name, relevant addressee, address or facsimile number for the purposes of clause 25.1, provided that such notification shall only be effective on:

25.2.1 The date specified in the notification as the date on which the change is to take place; or

25.2.2 If no date is specified or the date specified is less than fifteen (15) Business Days after the date on which notice is given, the date falling thirty (30) Business Days after notice of any such change has been given.

26. Confidentiality & Security

Each party shall take all proper steps to keep confidential any trade secrets or confidential

information learned about the other Party or its customers during the course of this Agreement.

Each party shall protect the keys and other secure property of the other party and shall take appropriate and reasonable steps to ensure security is maintained. In the event of a breach of security, the Party whose security is breached shall notify the other party as soon as practicable.

27. Amendments

This Agreement may only be amended or varied by the written agreement of both Parties.

28. Waiver

No waiver or failure by a Party to insist on the strict performance of this Agreement or to act in respect of the defaults of the other Party, and no acceptance of payment or performance during the continuance of any such default precludes any right, relief or remedy available to the non-defaulting Party, and may not be relied on by the other Party as a consent to those defaults.

29. Successors

This Agreement binds and ensures to the benefit of the Parties and their respective successors and permitted assigns.

30. Assignment and Transfer of Interest

Neither Party to this Agreement shall assign or transfer all or part of its rights, benefits or obligations under this Agreement except with the other Party's written consent.

31. Severability

If any provision of this Agreement is or becomes invalid or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

32. Relationship of Parties

This Agreement does not create an association, joint venture, or partnership between the Parties. Neither Party has any right, power or authority to enter into any agreement or undertaking for, or to act on behalf of, or to act as an agent or representative of, or to otherwise bind, the other.

33. Good Faith

The Parties undertake to act in good faith in relation to the performance and implementation of this Agreement and to take such other reasonable measures as may be necessary for the realization of its objectives.

34. Further Assurance

Each Party agrees to execute and deliver all such further instruments and do and perform all such further acts and things as shall be necessary for the carrying out of the provisions of this Agreement.

35. Entirety of Agreement

This Agreement constitutes the entire agreement between the Parties in relation to its subject matter and, except in case of fraud, all prior representations, negotiations and undertakings of any nature whatsoever between the Parties with any bearing on the subject matter of this Agreement are superseded and extinguished, and all rights and liabilities arising by reason of them, whether accrued or not at the date of this Agreement, are canceled, to the extent they have such bearing.

36. Costs

Each Party shall bear all costs and expenses incurred by it in connection with entering into this Agreement.

37. Counterparts

This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

CITY OF BETHEL

[FUEL SUPPLIER]

By: _____

By: _____

Attachment A
DELIVERY POINTS

Part 1: Year Round Monthly Top-Off of Heating Fuel

Building	Location	# Tanks	Gallon Capacity
City Hall	300 State Hwy.	2	500 & (110)
Fire Station	320 State Hwy.	1	1500
Police Station	157 Salmonberry	1	1000
Dog Pound	1225 Ridgecrest Dr.	1	1500
City Shop-heating	1155 Ridgecrest Dr.	1	5000
Bus Barn	507 State Hwy.	1	300
Youth Center-white tank (Utility Maintenance)	519 Mission St.	1	500
Youth Center red tool shed-black tank	519 Mission St.	1	300
Youth Center-black tank	519 Mission St.	1	300
Log Cabin	326 Akiachak	1	294
Bethel Heights Pumphouse (water treatment plant)	900 Ridgecrest Dr.	1	5000
City Subdivision Pumphouse (water treatment plant)	235 Akiak Dr.	1	3000
Recycle Center	1270 Ridgecrest Dr.	1	300
Utility Maintenance Shop	1290 Ridgecrest Dr.	2	700 & (110)
Utility Maintenance Shop	311 3 rd Ave.	1	1500
Lift Station	1902 State Hwy.	1	500
Landfill Shack	1300 Ridgecrest Dr.	1	300
Courthouse	204 State Hwy.	1	1000
Port Office	919 Front St.	1	(110)
Transit Building	370 A 4 th Ave.	1	1500
Senior Center	127 Atsaq	1	300
YK Aquatic Health and Safety Center	267 Akiachak	1	7500

Part 2: Seasonal Heating Fuel Top-Off (October – April)

Log Cabin red shed	326 Akiachak	1	152
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Part 3: Yearly HF#1 Ultra Low Sulfur Diesel (ULSD) Fuel Delivered

Building	Location	# Tanks	Gallon Capacity
City Shop- for heavy equipment	1155 Ridgecrest Dr.	1	5000
City Shop-for heavy equipment	1155 Ridgecrest Dr.	1	5000
Landfill-on the ground, for heavy equipment	End of Ridgecrest Dr.	1	500

City of Bethel

Request for Proposals – Fuel Services

Addendum Request

Based on the responses received, all qualified proposers are being asked two follow-up questions. In order to remain a qualified proposer, your responses to this addendum should be received no later than December 1 at 4 pm. Responses may be hand delivered to:

City of Bethel – City Hall
300 Chief Eddie Hoffman Highway
Bethel, AK 99559
Attn: John Sargent

In the alternative, addendums may be e-mailed to John Sargent at: (jsargent@cityofbethel.net). Addendums that are emailed should anticipate a response indicating the email was received.

Addendum Question #1:

Given the difficulties each company is having in setting a firm price for the second year of the proposed contract, the contract is proposed to be amended as follows:

One year contract with the option to renew it three (3) times. New language would read:

1. Effectiveness and Term

This Agreement shall become effective on _____, 2014 and shall continue to have effect thereafter until June 30, 2015. [Fuel Supplier] shall have up to three (3) options to extend/renew the contract in accordance with Section 19 below.

19. Fuel Contract Extension/Renewals

[Fuel Supplier] shall have the option to extend/renew this Agreement up to three (3) consecutive times as follows:

- a. *[Fuel Supplier] shall provide City with written notice of its request to renew the Agreement at least sixty (60) days prior to the Agreement Expiration. Renewal notices shall state the following:*
 - (a) *The applicable rate for all types of fuel specified under this contract during the new one (1) year term; and*
 - (b) *Any significant changes requested to the existing Agreement; and*
 - (c) *Any proposed changes to the scope of services to be performed under the Agreement.*
- b. *Upon receipt of a Notice to Extend/Renew the Agreement, the City shall:*
 - (a) *Ensure that [Fuel Supplier] continues to be eligible to contract with the City [i.e., maintains a valid City of Bethel business license, a valid State of Alaska business license and is not delinquent on any sales taxes or other fees with the City];*
 - (b) *Verify that [Fuel Supplier's] certificates of insurance are up to date;*

(c) Update Attachment A; and

(d) Notify [Fuel Supplier] of any significant changes requested to the existing Agreement.

- 19.3 If City determines [Fuel Supplier] remains eligible and the increased rate for fuel is acceptable to City, then City shall give notice to [Fuel Supplier] within thirty (30) days of receipt of Notice of Request to Renew/Extend Contract that it intends to renew. At that time a contract extension shall be prepared and executed by both parties.
- 19.4 Both parties may mutually agree to extend the timeframe provided for in this section or to temporarily extend this contract while a new RFP is prepared should the price not be able to be agreed upon.

Please indicate whether the proposed changes would be acceptable and if so, how you anticipate determining the costs of the fuel for this contract during years 2-5. P 2-3

Attach additional pages as necessary.

City of Bethel

Request for Proposals – Fuel Services

Addendum #2 Request

The City of Bethel discovered a few errors in its Request for Proposals (RFP) for fuel services and would like to make sure that the proposers are aware of the corrections and have a chance to respond with a new price sheet based on the new information. All information contained in responses previously submitted will be used to score Criteria items 2-5 (totaling 60 points) as listed on Page 2 in RFP.

Based on the responses received, all qualified proposers are being asked to respond to this Addendum #2. In order to remain a qualified proposer, your responses to this addendum should be received no later than December 12, 2014 at 4 pm. Responses may be hand delivered, emailed, or faxed to:

John Sargent, Grant Manager (point of contact)
City of Bethel – City Hall
300 Chief Eddie Hoffman Highway
Bethel, AK 99559
Fax: 907-543-1388
Email: jsargent@cityofbethel.net

Addendums that are emailed or faxed will be sent an email confirming it was received.

Addendum #2:

New section is underlined and previous section from original RFP is ~~struck out~~.

2. SCOPE OF WORK

- A. Over the course of one year, the City paid for the delivery of approximately 198,000 gallons of heating fuel and 93,000 ~~3,000~~ gallons of HF#1 ULSD, and purchased from the pump: 2,363 gallons of HF#1 ULSD and 37,182 gallons of gasoline. These figures are provided as estimates. Actual purchases by the City over the proposed two-year contract may vary.
- J. The City's new Yukon Kuskokwim Regional Aquatic Health and Safety Center (YK Fitness Center) is expected to require 55,000 gallons of heating fuel in the coming year. Tank location and tank size are included on tank list, but the expected amount was not provided in original RFP. *Annually*
- K. All tanks should be filled on a "keep filled basis." The Fuel Contractor must determine how often each tank is filled to meet this requirement.

9. BILLING

- A. For each delivery of heating fuel and HF#1 ULSD, a delivery ticket must be prepared that lists at a minimum: the exact address location of the tank, date delivery was made, and description of the tank (e.g., Teen Center black tank), and quantity of fuel delivered.
- B. A monthly invoice must be prepared and submitted to the City Finance Department, Accounts Payable, PO Box 1388, Bethel, AK 99559 that includes the following information: Date delivery was made, ticket #, location of delivery, quantity delivered, price/unit, and total cost for the delivery. Copies of delivery tickets must be included with each invoice submitted.

Changes to Addendum Request (Addendum #1)

New section is underlined and previous section from original RFP is ~~struck out~~.

Statement on Page 2 in bold type:

Please indicate whether the proposed changes would be acceptable and if so, how you anticipate determining the costs of the fuel for this contract during years ~~2-5~~ 2-4.

Attachment C-2

PRICE SHEET IN RESPONSE TO ADDENDUM #2

City of Bethel - Fuel Delivery Services and Gasoline at the Pump

<p>Heating fuel</p> <p>Price per delivered gallon: _____</p> <p># of heating fuel delivery trucks: _____</p>	<p>HF#1 Ultra Low Sulfur Diesel</p> <p>Price per delivered gallon: _____</p> <p>Price per gallon at the pump: _____</p> <p># of HF#1 ULSD delivery trucks: _____</p>
<p>Gasoline</p> <p>Price per gallon at the pump: _____</p> <p>Number of gasoline pumps: _____</p>	<p>Number of HF#1 ULSD pumps: _____</p>

SIGNATURE AND VERIFICATION

Pursuant to and in compliance with the City of Bethel's Request for Proposals, the undersigned hereby proposes to complete the scope of work described in the proposal and responses to each of two addendums submitted for review and approval at the rates provided in Attachment C-2 (Price sheet in Response to Addendum #2) for the duration of the contract. By signing below, you agree to the new terms and acknowledge receipt of information contained in this Addendum #2.

<p>Respondent</p> <p>Name (printed):</p>	<p>Title:</p>
<p>Company Name and Mailing Address:</p>	<p>Telephone Number:</p> <p>Fax Number:</p> <p>E-mail Address:</p>
<p>Signature: _____</p>	
<p>Date: _____</p>	

