

Introduced by: Mayor Short  
Date: May 13, 2003  
Public Hearing: May 27, 2003  
Action: Adopted  
Vote: Unanimous

## *CITY OF BETHEL, ALASKA*

### **ORDINANCE #03-05**

#### **AN ORDINANCE AUTHORIZING THE CITY TO PURCHASE A USED BUS FROM GOLDEN EAGLE UNLIMITED, LLC; EXEMPTING THE TRANSACTION FROM CERTAIN PROVISIONS OF CHAPTER 4.20 OF THE BETHEL MUNICIPAL CODE; AND WAIVING AN INDIRECT EMPLOYEE CONFLICT OF INTEREST RELATED TO THE TRANSACTION IN ACCORDANCE WITH SECTION 4.20.240 OF THE BETHEL MUNICIPAL CODE**

**WHEREAS**, the City of Bethel ("City") needs to replace two vandalized vans used by the Parks and Recreation Department ("Parks and Rec") to transport youth to and from various activities, and;

**WHEREAS**, the City has been unable to repair the vans due to the prohibitive cost and lack of facilities in Bethel to make the needed repairs, and;

**WHEREAS**, the cost of a new vehicle or vehicles to replace the vans is expensive and beyond budgeted monies and would have to be air freighted to Bethel to meet the City's immediate need for transportation at Parks and Rec, and;

**WHEREAS**, a used bus is available to purchase in Bethel from Golden Eagle Unlimited, LLC, a local Bethel company ("Golden Eagle"), and;

**WHEREAS**, Golden Eagle's used bus fits the City's needs for transportation at Parks and Rec and is reasonably priced at ten thousand dollars (\$10,000.00), and;

**WHEREAS**, funds in the amount of five thousand and eighty four dollars (\$5,084.00) have been donated by the Youth Bus Fund and paid to Golden Eagle towards purchase of the bus, and;

**WHEREAS**, the remaining funds needed for the purchase of the bus, four thousand, nine hundred and sixteen dollars (\$4,916.00), exist and are available this fiscal year in the Parks and Rec budget, Vehicle Maintenance Budget Account (No. 10-71-661), and;

**WHEREAS**, City Manager Bob Herron is a part owner of Golden Eagle, and;

**WHEREAS**, the City Manager has not had any direct involvement in discussions between the City and Golden Eagle regarding the potential purchase of the bus on behalf of the City, and;

**WHEREAS**, section 4.20.200 of the Bethel Municipal Code ("BMC") provides for conflict of interest restrictions which limit the ability of a city employee to participate directly or indirectly in a procurement contract in which the employee has a financial interest pertaining to the contract, but section 4.20.240 of the BMC allows for any such conflict of interest to be waived by the City Council if certain conditions enumerated in section 4.20.240 are met, and;

**WHEREAS**, the conditions enumerated in section 4.20.240 of the BMC that apply to section 4.20.200 of the BMC are met in this case because the financial interest of Mr. Herron in Golden Eagle has been publicly disclosed; awarding the contract to Golden Eagle is in the best interest of the City because purchase of the used bus meets the immediate need for transportation in a more cost effective fashion than purchasing a new vehicle or vehicles; Mr. Herron has not participated in any negotiations regarding the transaction; and finally, because of the foregoing facts, Mr. Herron's indirect participation in the procurement of the bus is without actual or apparent bias or favoritism, and;

**WHEREAS**, the terms of the transaction provide that the City will not be obligated to purchase the used bus unless the City Council appropriates the funding to do so in this fiscal year.

**THEREFORE BE IT ORDAINED** by the City Council of Bethel, Alaska that:

**SECTION 1. Classification.** This ordinance is not permanent in nature and shall not be incorporated into the Bethel Municipal Code ("BMC").

**SECTION 2.** In accordance with Section 4.20.240 of the BMC, the City Council hereby waives section 4.20.200 of the BMC and determines that the conditions enumerated in section 4.20.240 of the BMC that apply to section 4.20.200 of the BMC are met in this case because the financial interest of Mr. Herron in Golden Eagle has been publicly disclosed; awarding the contract to Golden Eagle is in the best interest of the City because purchasing the used bus meets the immediate need for transportation in a more cost effective fashion than purchasing a new vehicle or vehicles; Mr. Herron has not participated in any negotiations regarding the transaction; and finally, because of the foregoing facts, Mr. Herron's indirect participation in the procurement of the bus is without actual or apparent bias or favoritism.

**SECTION 3.** Sections 4.20.090, 4.20.100, and 4.20.150 of the BMC shall not apply to the City's procurement of the bus from Golden Eagle.

**SECTION 4.** The City Council hereby approves acquisition of the bus from Golden Eagle and further authorizes the Mayor to enter into the Used Bus Purchase Agreement with Golden Eagle, attached to this Ordinance as Exhibit A.

**Section 5.** The City Council hereby authorizes payment of four thousand, nine hundred and sixteen dollars (\$4,916.00) to be paid this fiscal year towards the bus purchase, appropriated from the Parks and Rec budget, Vehicle Maintenance Budget Account (No. 10-71-661).

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon adoption and shall have retroactive effect back to the first date that the City began to negotiate terms for acquiring the bus.

**ENACTED THIS 27<sup>th</sup> DAY OF MAY 2003 by a vote of 5 in favor and 0 opposed.**

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Hugh Short, Mayor

ATTEST:

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Janette Persinger, City Clerk