



Planning Commission Meeting Agenda
Regular Scheduled Meeting Thursday, April 11, 2019– 6:30PM
CITY HALL COUNCIL CHAMBERS 300 CHIEF EDDIE HOFFMAN HIGHWAY

MEMBERS

Kathy Hanson
Chair
Term Expires 12/2021

Lorin Bradbury
Vice-Chair
Term Expires 12/2020

John Guinn
Commission Member
Term Expires 12/2019

Alex Wasierski
Commission Member
Term Expires 12/2021

Shadi Rabi
Commission Member
Term Expires 12/2019

Scott Campbell
Commission Member
Term Expires 1/2020

Tracy Beans
Alternate Member
Term Expires 12/2021

Thor Williams
Council Representative
Term Expires 10/2019

Betsy Jumper
Ex-Officio Member

Pauline Boratko
Recorder

A handwritten signature in black ink, appearing to read "Pauline Boratko", is written over the typed name and title.

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PEOPLE TO BE HEARD – (5 Minute Limit)
- IV. APPROVAL OF THE AGENDA:
- V. APPROVAL OF THE MINUTES:
 - A. Regular Re-Scheduled Meeting- March 21, 2019
- VI. NEW BUSINESS
 - A. Ciullkulek Subdivision Development Agreement (Action Item)
 - B. Land Leases (2) —Bethel Municipal Code 4.08—1. Commercial Land Lease between the City of Bethel and GCI Communication Corp. The legal description is Lot 5A, Block 9, United States Survey 3230, Plat 98-6 in the Bethel Recording District. The physical address is 280 3rd Avenue. 2. Commercial Land Lease between the City of Bethel and BTP, LLC. The legal description is Lot 2 of the Commercial Center Subdivision, Plat 98-15 in the Bethel Recording District. The physical address is 831 River Street. (Action Items)
 - C. Subdivision Violations: Junk cars in City Right-of-Way; business operations in Residential Zoned areas; freezer vans/connexes/shipping containers (Discussion Item)
- VII. PLANNER'S REPORT
- VIII. SPECIAL ORDER OF BUSINESS
- IX. COMMISSIONER'S COMMENTS
- X. ADJOURNMENT

City of Bethel, Alaska

Planning Commission

March 21, 2019

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER:

A regular meeting of the Planning Commission was held on March 21, 2019 at the Bethel City Hall, Council Chambers in Bethel, Alaska. The Chair of the Commission Kathy Hanson called the meeting to order at 6:32 PM.

II. ROLL CALL:

Comprising a quorum of the Commission, the following members were present for roll call:

Kathy Hanson, Lorin Bradbury, John Guinn, Alex Wasierski, Shadi Rabi, and Tracy Beans

Unexcused Absence: Scott Campbell

Excused Absence: Thor Williams

Also Present: Pauline Boratko, Recorder; and Patty Burley, City Attorney; Hugh Short, Blue Sky Developer.

III. PEOPLE TO BE HEARD:

Steve Murat: voiced his concerns of subdivision violations.

Mike Shantz: supports Steve Murat in which he addressed many violations in subdivisions.

IV. APPROVAL OF THE AGENDA:

MOVED:	John Guinn	Motion to approve the agenda
SECONDED:	Lorin Bradbury	
VOTE ON MOTION	Unanimous	

V. APPROVAL OF THE MINUTES:

MOVED:	Shadi Rabi	Motion to approve the February 14, 2019 regular meeting minutes.
SECONDED:	John Guinn	
VOTE ON MOTION	Unanimous	

MOVED:	John Guinn	Motion to approve the March 7, 2019 special meeting minutes.
SECONDED:	Alex Wasierski	
VOTE ON MOTION	Unanimous	

VI. NEW BUSINESS:

A. Blue Sky Supplemental Resolution: Commissioners reviewed supplemental resolution. John Guinn left the meeting early at 7:40pm.

MOVED:	Shadi Rabi	Motion to approve Blue Sky Supplemental Resolution.
SECONDED:	Lorin Bradbury	
VOTE ON MOTION	Unanimous	

Lorin Bradbury left the meeting early at 8:01pm

- B. Beginning Procedures to change the Bethel Municipal Code (BMC)-Commissioners discussed process to reword and clarify the BMC.

VI. PLANNER'S REPORT:

VII. SPECIAL ORDER OF BUSINESS:

VIII. COMMISSIONER'S COMMENTS:

Kathy Hanson-Concerned citizen informed her about 4-plex being built in subdivisions.
Tracy Beans- no comment.
Lorin Bradbury-not available for comment.
John Guinn- not available for comment.
Shadi Rabi-Please add subdivision concerns, right of ways, site plan permits to next month's agenda.
Alex Wasierski-no comment.

X. ADJOURNMENT:

MOVED:	Shadi Rabi	Motion to adjourn the meeting.
SECONDED:	Alex Wasierski	
VOTE ON MOTION	Unanimous	

With no further business the meeting adjourned at 8:14 pm
APPROVED THIS _____ DAY OF _____, 2019

ATTEST: Pauline Boratko, Recorder

Kathy Hanson, Chair

SUBDIVISION AGREEMENT

Subdivision: CIULLKULEK SUBDIVISION

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

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

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

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

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

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

Tract A contains 1.33 acres (more or less) and Tract B contains 12.86 acres (more or less).

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

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

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

- ☒ Circulation System (Roads). All cul-de-sacs, corners and dead ends to have sufficient turning radius, turnarounds and hammerheads to meet Fire Department requirements for larger apparatus.
- ☒ Complete Streets – Compliance
- ☒ Drainage (in conformance with Army Corp and City requirements)
- ☒ Dedicated dumpster easements with fill (dumpsters provided by City)
- ☒ Electrical Power Lines and telecommunication lines & Easements (as approved by AVEC, United Utilities and/or GCI)
- ☒ Graveled and compacted Streets
- ☒ LED Street Lighting
- ☒ Property Numbering and Street Names
- ☒ Recreation and Open Space Dedications. The open space must be usable space within the subdivision.
- ☒ Street Signs
- ☒ Water (hauled)
- ☒ Sewer (developer to connect to the nearby piped sewer lines)
- ☒ Zoning
- ☒ Other: All construction shall be in accordance with the plan set, which, in addition to having to meet all requirements of the BMC, must be reviewed and approved by the City of Bethel Public Works Department and the City's Engineer.
- ☒ Other: The Developer agrees to use metal pipes instead of polyethylene pipes.
- ☒ Other: Developer agrees to install sufficient LED lighting at the entrance to the Subdivision to allow for pedestrian safety.
- ☒ Other: Developer to cooperate with DOT on safety for ingress and egress to the Subdivision.
- ☒ Other: Developer to install hydrants every 500 road feet.

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

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

Required: additional estimate for Cost of Improvements

Estimate For

Date Attached

Roads : (Exhibit D) _____

Power: AVEC (Exhibit E) _____

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

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

ARTICLE I

GENERAL PROVISIONS

1.1 Application of Article.

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

1.2 Permits, Laws and Taxes

The Developer shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to its performance under this Agreement. All actions taken by the Developer under this Agreement shall comply with all applicable statutes, ordinances, rules and regulations. The Developer shall pay all taxes pertaining to its performance under this Agreement.

1.3 Relationship of Parties

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

1.4 Engineer's Relationship to City

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

1.5 Developer's Responsibility

The Developer shall be solely responsible for the faithful performance of all terms, covenants and conditions of this Agreement notwithstanding the Developer's

delegation to another of the actual performance of any term, covenant or condition thereof.

1.6 Allocation of Liability

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

1.7 Disclaimer of Warranty

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

1.8 Non-Discrimination

A. In performing its obligations under this Agreement, the Developer shall not discriminate against any person on the basis of race, creed, color, national origin, sex, sexual orientation, gender identification, marital status, age or on any other basis prohibited by law or ordinance.

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

1.9 Cost of Documents

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

1.10 Time of the Essence

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

1.11 Assignment

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

B. The Developer may assign its interest or delegate its duties under this Contract as expressly permitted in writing by the City.

1.12 Default: City's Remedies

A. The City may declare the Developer to be in default:

1. If the Developer is adjudged bankrupt, makes a general assignment for the benefit of creditors, suffers a receiver to be appointed on account of insolvency, takes advantage of any law for the benefit of insolvent debtors;

Or

2. If the Developer has failed in any measurable way to perform its obligations under this Agreement provided the City gives the Developer notice of the failure to perform and the Developer fails to correct the failure within thirty (30) days of receiving the notice; or if the failure requires more than thirty (30) days to cure, the Developer fails within thirty (30) days of receiving the notice to commence and proceed with diligence to cure the failure.

B. Upon a declaration of default, the City may do any one or more of the following:

1. Terminate the Agreement without liability for any obligation maturing subsequent to the date of termination;

2. Perform any act required of the Developer under this Agreement, including constructing all or any part of the improvements, after giving seven (7) days' notice in writing to the Developer. The Developer shall be liable to the City for any costs thus incurred. The City may deduct any costs thus incurred from any payment then or thereafter due the Developer from the City, whether under this Agreement or otherwise.

3. Exercise its rights under any performance or warranty guaranty securing the Developer's obligations under this Agreement.

4. Pursue any appropriate judicial remedy including, but not limited to, an action for injunction and civil penalties.

1.13 Non-Waiver

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

1.14 Interpretation

A. Each document incorporated by reference herein is an essential part of this Agreement and any requirement, duty or obligation stated in one document is as binding as if in all. All documents shall be construed to operate in a complementary manner and to provide for a complete project.

B. If the terms of any of the documents and amendments thereto comprising this Agreement conflict, the conflict shall be resolved by giving the conflicting documents and amendments thereto the following order of preference:

1. Documents
2. Article II of this Agreement titled "Improvement Construction Standards and Procedure", and Article III of this Agreement "Acceptance of Improvements."
3. Article I of this Agreement "General Provisions."
4. Any other document incorporated herein by reference.

1.15 Effect of Standard Specifications

The standard specifications of the City of Bethel Municipal Code in effect at the time this Agreement is executed are incorporated by reference as minimum construction standards for performance under this Agreement. All performance by Developer shall be done in a good and workmanlike manner with the warranty that all work and improvements (to include the engineering thereon) are fit for the ordinary purpose for which such work and improvements are used.

1.16 Amendment

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

1.17 Jurisdiction – Choice of Law

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

1.18 Severability

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

1.19 Integration

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

1.20 Responsibility for Claims

In addition to Developer's duties contained in §1.5 above, Developer shall indemnify (to include paying all costs of defense, including without limitation, actual attorney's fees) and save harmless the City, its officers and employees, from all suits, actions, or claims of any character brought because of any injuries or

damages received or sustained by any person, persons or property on account of or in consequence of any neglect in safeguarding the work; or through the use of unacceptable materials in constructing the work; or because of any act of omission, neglect or misconduct of said Developer; or from any claims or amounts arising or recovered under the "Worker's Compensation Act," or any other law, order, or decree; and in the event of suit or suits, action or actions, claim or claims for injuries or damages, Developer's surety shall be held until the aforesaid shall have been settled and suitable evidence to that effect furnished to the City.

1.21 No Contract Rights in Third Parties

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof a third-party beneficiary hereunder or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

1.22 Definitions

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

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

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

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

1.25 Waiver of Sovereign Immunity.

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

governing Board waiving sovereign immunity, and such resolution shall be incorporated into this Subdivision Agreement as Exhibit F.

ARTICLE II

IMPROVEMENT CONSTRUCTION STANDARDS AND PROCEDURE

2.1 Recording of Final Plat.

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

2.2 Performance Guaranty

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

B. Amount of Guaranty:

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

Total Estimated Cost of

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

2. If the City finds that increases in construction costs between the time the City approves the estimated improvement costs under 1 of this subsection and the time the improvements are completed, have rendered the approved estimated improvement costs unreasonably low; or if said costs are unreasonably low for other substantial cause, the City may require the Developer to increase the performance guaranty to an amount equal to an approved estimated cost of all improvements based upon current construction costs.

- C. If the Developer is not in default under this Agreement, the City may allow a reduction in the amount of the performance guaranty, or the amount secured thereby, not exceeding the difference between the estimated cost of all improvements and the current estimated cost of the work remaining to be performed under this Agreement; provided, however, that amount of the performance guaranty, or the amount secured thereby, always shall be greater than or equal to the amount of the warranty guaranty required by Section 3.11.
- D. As soon as one of the following occurs, the City shall release any performance guaranty that has not been used or encumbered under Section 1.12:
 - 1. The final acceptance of all improvements and the posting of a warranty guaranty as provided in Section 3.11; or
 - 2. The expiration of the warranty period as provided in Section 3.10.

2.3 Bonds

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

2.4 Escrow

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

2.5 Prerequisites to Construction

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

2.6 Engineer

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

B. The Engineer shall have the following insurance:

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

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

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

2.7 Plans and Specifications

A. The Developer shall submit to the City, in such form as the City may specify all plans and specifications pertaining to the construction of the improvements.

B. The Developer shall submit to the City proof that he has retained an engineer to perform the duties described in §2.6.

C. If the City Engineer requires soil tests or other tests pertaining to the design of improvements, the Developer shall submit reports of the test results with the plans and specifications to the City Engineer.

D. The City, either in-house or through retained professionals, shall approve the plans and specifications as submitted or indicate to the Developer how it may modify them to secure approval within eight (8) weeks from [1] the submission of all plans and specification for the improvements, and [2] the payment of the performance guarantee required under Section 2.2.

2.8 Cost Estimate

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

2.9 Reserved

2.10 Quality Control Program

A. The Developer shall submit to the City, in such form as the City may specify, a quality control program for the construction of the improvements.

B. The quality control program shall provide sufficient inspection and test procedures to determine compliance with all applicable plans, specifications, and safety requirements. The program shall include at least the following:

1. The frequency and type of all tests to be performed.

2. A list of all persons who will perform tests and inspections.
 3. Procedures for coordinating testing and inspection with the City Engineer, and for providing advance notice to the City Engineer of all inspections and tests which the City Engineer shall witness.
- C. Procedures for reporting quality control activities including discoveries of deficiencies in the work.
1. Quality Control Program to be attached as Exhibit A.

2.11 Work Schedule

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

2.12 Materials

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

2.13 Liability Insurance

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

2.14 General Standard of Workmanship

- A. The Developer shall construct all improvements in accordance with plans, specifications and contracts approved by the City and with the terms, covenants and conditions of this Agreement. The Developer shall not incorporate any material or equipment into an improvement unless the City has approved its use. Unless the City specifically agrees otherwise in writing, all materials, supplies and equipment incorporated into an improvement shall be new.

- B. If, in the course of construction, conditions appear that in the exercise of reasonable engineering judgment require a modification of or substitution for approved materials, equipment, plans, specifications or contracts to meet a higher standard of performance, the Developer shall give written notice thereof to the City and, subject to the City's prior approval, make the modification or substitution.
- C. The Developer shall construct all facilities in the subdivision not otherwise subject to this agreement in accordance with applicable statutes, ordinances and specifications.
- D. Developer will build the roads to the standards presently accepted by the City of Bethel Public Works department Director or his designee.

2.15 Work in Proposed Right-of-Way

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

There is no allowed access to the City's public Rights of Way until the plat is approved and recorded.

2.16 Surveyor

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

2.17 Required Reporting

A. Quality control.

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

B. Construction progress.

1. At such intervals as the City may require, the Developer shall enter on the approved work schedule progress chart the actual work progress to date, and immediately forward two (2) copies of the marked progress chart to the City.

2. If actual progress indicates that the Developer will not perform the work as scheduled, the Developer shall prepare and submit a revised schedule for the City's approval.

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

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

2.18 Progress Payments

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

2.19 Surveillance

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

2.20 Stop Work Orders

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

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

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

2.21 Access

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

2.22 Maintenance

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

2.23 Operation of Improvements Prior to Acceptance

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

2.24 Time

- A. All improvements required by this Agreement shall be completed within two (2) years of the date of execution hereof.

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

ARTICLE III

ACCEPTANCE OF IMPROVEMENTS

3.1 Prerequisites to Acceptance

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

3.2 As-Built Drawings

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

3.3 Monuments

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

3.4 Certificate of Compliance

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

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

The Developer shall convey to the City or the public, any easement, right-of-way or other property interest necessary to allow the City reasonable access to the municipal improvements and to operate, maintain, or repair the municipal

improvements. The Developer may condition the conveyance upon the City's acceptance of the improvements.

3.6 Inspection

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

3.7 Consequences of Acceptance of Improvements

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

3.8 Developer's Warranty

- A. The Developer shall warrant the design, construction materials and workmanship of the improvements against any failure or defect in design, construction, material or workmanship discovered no more than two (2) years from the date the City notifies the Developer of the acceptance of the improvements. This warranty shall cover all direct and indirect costs of repair or replacement, and damage to the property, improvements or facilities of the City, or other person, caused by such failure or defect or in the course of the repairs thereof, and any increase in cost to the City of operating and maintaining a municipal improvement resulting from such failures, defects or damage.
- B. That the City takes any action, or omits to take any action authorized by this Agreement, including but not limited to operation or routine maintenance of the improvements prior to acceptance, or surveillance, inspections, review or

approval of plans, tests or reports, shall in no way limit the scope of the Developer's warranty.

3.9 Warranty Guaranty

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

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

3.10 City's Remedies Under Warranty

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

3.11 Conditions of Reimbursement

- A. If this Agreement requires the City to reimburse the Developer for all or part of the cost of an improvement, the reimbursement shall be conditioned upon the Developer's performance of all its obligations under this Agreement.

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

3.12 Completion of Performance: Release of Warranty.

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

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

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

CITY OF BETHEL

DEVELOPER – ONC

Peter A. Williams
City Manager

ACKNOWLEDGMENT FOR DEVELOPMENT AGREEMENT

City's Acknowledgment

STATE OF ALASKA)
) ss:
FOURTH JUDICIAL DISTRICT)

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

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

Notary Public in and for Alaska
My Commission Expires: _____

Developer's Acknowledgment

STATE OF ALASKA)
) ss:
FOURTH JUDICIAL DISTRICT)

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

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

Notary Public in and for Alaska
My Commission Expires: _____

OWNER'S AFFIDAVIT

STATE OF ALASKA)
) ss
FOURTH JUDICIAL DISTRICT)

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

_____ Dated

Notary Public in and for Alaska

My Commission Expires: _____

Exhibit A: Quality Control Plan

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit B: Work Schedule

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit C: Insurance Requirements

I. Indemnification

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

II. Insurance

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

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

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

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

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

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

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

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

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

- B. The insurance required in this Agreement shall be written for not less than the limits listed in subsection (C), below, or those limits required by law, whichever limit is higher. Insurance, whether written on an occurrence or a claims-made basis, shall be maintained without interruption from the date of commencement of the work to the date of completion, or termination of any insurance required to be maintained after Final Plat Approval by the City.
- C. The insurance required in this Agreement, shall be written for not less than the following limits:
1. Worker's Compensation Insurance:
Statutory Requirements of the State of Alaska, and
Employer Liability Insurance limits of:
\$500,000 each accident
\$500,000 disease each employee
\$500,000 disease policy limit
 2. Commercial General Liability Insurance: Form CG0001 04/13 or equivalent
\$1,000,000 Combined Single Limit of Liability per Occurrence
\$1,000,000 Personal/Advertising Injury Limit of Liability, per Occurrence
\$2,000,000 Annual General Aggregate Limit of Liability
\$2,000,000 Annual Products/Completed Operations Aggregate Limit of Liability
\$ 100,000 Fire Damage Limit of Liability Any One Fire
\$ 5,000 Medical Payment Limit on Any One Person
 3. Commercial Automobile Liability Insurance: Form CA 0001 03/10 or equivalent
\$1,000,000 Combined Single Limit of Liability per Accident

For all Owned, Hired, and Non-Owned Vehicles

4. Commercial Excess Liability Insurance
\$4,000,000 Combined Single Limit of Liability per Occurrence
\$4,000,000 Annual Aggregate Limit of Liability
Excess of underlying Commercial General Liability Insurance, Commercial Automobile Liability Insurance, and employer Liability Insurance
5. Builder's Risk – Property Insurance
Special Form Coverage including the perils of Earthquake and Flood on a Builder's Risk Completed Value Form.

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

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

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

- D. Worker's Compensation insurance and employers liability insurance shall be in compliance with the statutory requirements of the State of Alaska, and any other statutory obligation, whether federal or state pertaining to compensation of injured employees. The worker's compensation insurance and employers liability insurance shall contain a waiver of subrogation provision in favor of the City of Bethel.
- E. The commercial general liability insurance shall name the City of Bethel as an additional insured and contain a waiver of subrogation provision in favor of the City of Bethel.
- F. All liability insurance required of the Developer shall be primary. All liability insurance carried by the City of Bethel is declared to be excess and non-contributory of any insurance carried by the Developer, its contractors or subcontractors.
- G. Developer's required insurance is subject to review and adjustment by the City, who may require reasonable changes in the amounts and types of insurance based upon changes of risk. Developer shall be provided a written explanation for any such changes.

- H. Certificates of Insurance acceptable to the City shall be filed with the City prior to the commencement of any dirt work by the Developer. These certificates and the insurance policies shall contain a provision that the policy shall not be canceled until prior written notice has been sent to the Developer with a copy to the City.

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

Failure to maintain these insurance provisions required of the Developer or failure to immediately notify the City of Bethel of cancellation shall be considered a material breach of the Subdivision Agreement by the Developer.

Exhibit D: Cost Estimate for Roads

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit E: Cost Estimate for Power
(AVEC)

[REQUIRED PRIOR TO SITE PLAN ISSUANCE]

Exhibit F

WAIVER OF SOVEREIGN IMMUNITY

RESOLUTION NUMBER _____

A RESOLUTION OF THE ORUTSARARMIUT NATIVE COUNCIL (ONC) accepting the City of Bethel's Subdivision Agreement ("Agreement") and waiving sovereign immunity from suit for actions arising out of, or in connection with, the Agreement.

WHEREAS, the City requires as a condition of the Subdivision Agreement that ONC irrevocably waives any sovereign immunity which it may possess, and consent to suit against itself or its officials as to all causes of action arising out of or in connection with the Subdivision Agreement;

NOW THEREFORE BE IT RESOLVED THAT:

1. Orutsararmiut Native Council (ONC) hereby consents to suit by the City of Bethel against ONC and its officials in state court, federal court or in administrative proceedings with respect to any disputes, claims or causes of action (including without limitation enforcement or injunctive relief) arising out of or in connection with the Subdivision Agreement; the contractual duties assumed by ONC under the Agreement, and any other Agreement pertaining to the Ciullkulek Subdivision project or the maintenance of the subdivision improvements following construction.
2. ONC hereby consents to levy, execution, garnishment against ONC's real and personal property, however held and wherever located, for any judgment or order entered in any lawsuit or administrative proceeding related to or arising out of the Subdivision Agreement and the Ciullkulek Subdivision; the contractual duties assumed by ONC under that Agreement and the Bethel Municipal Code (BMC); or the operation of the Subdivision and improvements following construction, including, but not limited to, awards of attorney's fees and costs entered by any court.
3. ONC consents to the assertion by the City of any defenses, cross-claims, or counterclaims in any civil action that is filed by ONC against the City.
4. With respect to a claim or action by a force account employee or other employee of ONC arising out of or in connection with the Subdivision Agreement, the contractual duties assumed by ONC under that Agreement, and any other agreement pertaining to the Ciullkulek Subdivision, or the operation of the subdivision following construction, ONC waives sovereign immunity to the extent of, and to the extent necessary to secure, insurance coverage including workers compensation insurance.

5. This waiver shall in no case be deemed a waiver or consent to suit, tax, or any other charge against ONC by any party other than the City of Bethel, except as specifically provided in (4) above.

6. _____ [person] _____ [title] is hereby appointed as the authorized representative of ONC throughout the Subdivision construction process. Said named individual may negotiate, execute, and administer any other documents, agreements, and contracts required under or related to the Subdivision Agreement including any subsequent amendments.

PASSED AND APPROVED BY ORUTSARARMIUT NATIVE COUNCIL (ONC) ON

_____, 2019

IN WITNESS THERETO BY: SIGNATURE OF CHAIRMAN OF THE BOARD

Signature

Printed Name

ATTEST: SIGNATURE OF CLERK/SECRETARY

Signature

Printed Name

Memo

To: the Planning Commission

From: Betsy Jumper, Planning Director

Date: April 11, 2019

RE: Ciullkulek Subdivision Agreement and Compatability with the Bethel Comprehensive Plan

The Ciullkulek Subdivision Development Agreement is compatible with the Bethel 2013 Comprehensive Plan.

Under the Goals and Strategies Section of Chapter 4 (Land Use, Housing, the Environment), the relevant section, "Growth Patterns" and "Land Use Compatability" both concern development site location.

Goal #2 under "Growth Patterns" encourages future growth to locate near or existing employment centers and public services.

The location of Ciullkulek development is near the Post Office, Health care oriented buildings/services, apartment buildings, single family dwellings and would provide existing road access to the new subdivision, access to existing power mains, and close proximity to existing water and sewer haul routes.

The Ciullkulek Subdivision location also adheres to the associated Action Step #1b that encourages infill of development.

Under the Land Use Compatibility section Goal #3 provides for compatibility among adjoin land uses to that future development maintains or improves the quality of life or land value of surrounding uses.

Map 4.4. the Future Land Use Map contained in the Comp Plan is a long-term vision of how and where the city will grow and change over the next 20 years to accommodate expected population and job growth. The Future Land Use Map designates the land as being mixed use residential which is intended to be the most common land use zone, made up of residential and residential-compatible uses. Examples of residential compatatible uses include school and other community serving, non-industrial facilities, and churches, office and professional services (e.g, health facilities) and neighborhood serving commercial.

By: Planning Commission
Public Hearing: March 8, 2018
Public Hearing:
Adopted:

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

**A RESOLUTION OF THE BETHEL PLANNING COMMISSION CONDITIONALLY APPROVING THE
PRELIMINARY PLAT REQUEST FROM CIULLKULEK SUBDIVISION, BETHEL, ALASKA**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finding: The Preliminary Plat was timely filed having been filed on November 28, 2017. More than thirty (30) calendar days passed from the time of the filing of the Preliminary Plat request to the time of the Planning Commission meeting on March 8, 2018.

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

Finding: The Preliminary Plat fee of Three Hundred (\$300) Dollars was paid on November 28, 2017.

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

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

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

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

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

Finding: This list was provided by the subdivider and verified by the City of Bethel's Planning Department pursuant to BMC 17.04.025(D) with notices being sent by the City's Planning Department on February 28, 2018.

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

Finding: The property sits on wetlands and requires an Army Corp. of Engineers Wetland Permit. The Corp. Wetland Permit was applied for on January 10, 2018, and is approved – sent out April 1st to ACE for signatures, then back to ONC and COB will get copy for their file. So, it has been approved.

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

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

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

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

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

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

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

Finding: The Preliminary Plat contains the name Ciullkulek Subdivision.

17.12.030(B)(4) The Plat shall show the location of the property by U.S. Survey, section, township and range.

Finding: This information is shown on the Preliminary Plat.

17.12.030(B)(5) The Plat shall contain the names and addresses of the subdivider(s) and the surveyor preparing the plat.

- Finding: This information is shown on the Preliminary Plat.
- 17.12.030(B)(6)** **The Plat shall contain a citation of existing covenants, reservations, deed restrictions, trails and easements on the property, if any.**
- Finding: This requirement is not applicable – the proposed subdivision contains no covenants, reservations or deed restrictions.
- 17.12.030(B)(7)** **The Plat shall indicate zoning on and adjacent to the proposed subdivision and any other land use designation of this area as established under BMC Title 18.**
- Finding: This section was not complied with. Zoning for the subdivision was indicated as General Use, however zoning for the adjacent lands was not indicated. Before the Final Plat can be authorized, zoning shall be clearly shown on the subdivision itself as well as on all adjacent lands.
- 17.12.030(B)(8)** **The Plat shall indicate the approximate acreage, dimensions and size of each lot of the proposed subdivision, including rights-of-way and easements, and the number of lots contained therein;**
- Finding: This requirement was fully complied with on the Preliminary Plat.
- 17.12.030(B)(9)** **The Plat shall indicate the location and size of existing and proposed utility systems or other improvements including, but not limited to, water, sewer, telephone, cable and electrical in and within two hundred (200) feet of the proposed subdivision.**
- Finding: A review of the Preliminary Plat indicates this was complied with.
- 17.12.030(B)(10)** **The Plat shall indicate the general location of streams, lakes, other bodies of water, and waterways, swamps, muskeg or marshy areas, drainage and erosion patterns including culverts and other drainage facilities in and within two hundred (200) feet of the proposed subdivision including proposed drainage ways and drainage way modifications both within and outside the subdivision.**
- Finding: A review of the Preliminary Plat indicates this was complied with. However, drainage arrows were not clearly identified on the legend for the Plat. The Final Plat shall correct this deficiency.
- 17.12.030(B)(11)** **The Plat shall indicate if any portion of the proposed subdivision is located in an area identified as a flood hazard area, a delineation of the**

one-hundred (100) year floodplain, every floodway and drainage way that is delineated within the floodplain, and the information required under BMC 15.08.170.

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

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

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

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

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

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

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

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

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

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

Finding: This section of the BMC was complied with.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

Kathy Hanson, Chairwoman
City of Bethel Planning Commission

Pauline Boratko, Recorder
City of Bethel Planning Commission

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

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

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

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

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

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

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

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

BMC §17.04.067 Subdivision Agreements

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

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

BMC 17.04.070 Control and Maintenance of Dedicated and Constructed Facilities

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

Conditions:

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

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

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

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

ATTEST:

Kathy Hanson, Chairwoman
City of Bethel Planning Commission

Pauline Boratko, Recorder
City of Bethel Planning Commission

Chapter 4.08 ACQUISITION AND DISPOSAL OF LAND

Sections:

- [4.08.010](#) Rights and powers of city.
- [4.08.020](#) Acquisition.
- [4.08.030](#) Disposal.
- [4.08.040](#) Notice of disposal.
- [4.08.050](#) Lease procedures.
- [4.08.055](#) Use permit procedures.
- [4.08.060](#) Definitions.

4.08.010 Rights and powers of city.

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of any interest in real property not prohibited by law.

A. Any sale, exchange or purchase of city land shall be approved by the city council by ordinance after consideration of the recommendations of the planning commission.

B. Any lease or lease renewal of city land shall be approved by the city council by ordinance. [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.020 Acquisition.

A. The city may acquire any interest in real property by purchase, lease, exchange, transfer, donation or any other method. All acquisitions not otherwise provided for by law shall be by ordinance enacted by a majority vote of the city council.

B. Real property shall be held in the name of the "city of Bethel." [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.030 Disposal.

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

B. **Disposal to Entity Providing Necessary Public Service.** The city council may, by ordinance, provide for the disposal of an interest in real property to a municipal, borough, state, or federal or other appropriate entity providing a necessary public service without seeking bids and for less than the current assessed value or current appraised value of that interest in real property. All disposals made pursuant to this subsection for less than the current assessed value or current appraised value shall include a condition requiring that the interest of the city being disposed of shall revert to the city in the event the real property disposed of is not being used to provide the necessary public service justifying the original disposal.

C. Disposal in Furtherance of Development of Local Trade or Industry. The city council may, by ordinance, provide for the disposal of an interest in real property to any person or entity in furtherance of the development of local trade or industry without seeking competitive bids but not for less than the current assessed value or current appraised value, whichever is higher, of that interest in real property. All disposals made pursuant to this subsection shall include a condition requiring that the interest of the city being disposed of revert to the city in the event that the real property disposed of is not being used in furtherance of the development of local trade or industry justifying the original disposal.

D. Disposal to Compromise Claim. The city council may, by ordinance, compromise disputed claims of litigation by authorizing disposal of an interest in real property.

E. Disposal to Individual with Equitable Claim. The city council may, by ordinance, provide for the disposal of an interest in real property to an individual with an equitable claim of an interest in the property by reason of their occupancy of the property as their principal place of residence prior to January 1, 1963, and their continued occupancy of the property as their principal place of residence after its transfer to the city by the federal townsite trustee without seeking bids and for less than the current assessed value or current appraised value of that property.

F. Disposal to Native Tribal Council. All disposals made by the city to a native tribal council shall include a requirement that the native tribal council waive any immunity from suit for the purpose of enforcing any conditions attached to the disposal of the city's interest in the real property to the native tribal council. [Ord. 15-29 § 2; Ord. 94-09 § 3; Ord. 182, 1988.]

4.08.040 Notice of disposal.

A notice of the proposed disposal of any interest in real property shall be posted in three (3) conspicuous public places within the city for not less than thirty (30) days and published in a newspaper with general circulation for three (3) weeks before the date of the bid opening or not less than thirty (30) days before the date of the passage of the ordinance authorizing the disposal. The notice shall include:

- A. A legal description of the property including the square footage contained therein;
- B. A description of the city's interest being disposed of;
- C. The method of disposal;
- D. The value of the city's interest being disposed of, according to current assessment or current appraisal;
- E. The date of the proposed disposal; and
- F. The time, place and manner in which the proposed disposal shall occur. [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.050 Lease procedures.

A. General Regulations. In addition to the regulations governing disposal of property, the following regulations shall apply specifically to leases. The city may renew a lease without public bid and during the renewal process, the city may change any term or condition contained in the original lease.

B. Expiration. Unless the lease is terminated beforehand, or renewed as stated above, the lessee shall peaceably and quietly leave, surrender and yield up to the lessor all the leased land on the last day of the term of that lease.

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

D. Subdivision Regulations. All leased property shall be subject to the land use and subdivision regulations of the city. [Ord. 15-29 § 2; Ord. 182, 1988.]

4.08.055 Use permit procedures.

In addition to the regulations governing disposal of property, the following regulations shall apply specifically to the issuance of use permits:

A. Use Permits. The city may issue revocable use permits allowing for short-term or seasonal uses of city property not to exceed six (6) months. The use permit shall include a provision that it is revocable by the city at any time during the term of the permit without liability to the city save for a pro rata refund of any prepaid permit fees.

B. Land Use Regulations. All property disposed of by use permit shall be subject to the land use regulations of the city. All property disposed of by use permit shall not be subject to the subdivision regulations of the city. [Ord. 15-29 § 2; Ord. 95-15 § 2.]

4.08.060 Definitions.

In this chapter, unless otherwise provided or the context otherwise requires:

A. Appropriate Entity. A determination shall be made by the city council as to whether or not the entity in question will further the public interest.

B. "Interest in real property" includes, but is not limited to, fee simple ownership, a lease, an easement, and the possibility of reverter.

C. "Necessary public service" includes, but is not limited to, police protection; fire protection; public health and safety; public education; electric, water and sewer utilities; and marine, land or air transportation.

D. "Shall" is considered mandatory. [Ord. 15-29 § 2; Ord. 182, 1988.]

The Bethel Municipal Code is current through Ordinance 18-26, passed November 27, 2018.

Disclaimer: The City Clerk's Office has the official version of the Bethel Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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

This LEASE is made on April 10, 2019 by and between the City of Bethel, a Municipal Corporation ("Landlord") and GCI Communication Corp., an Alaska Corporation, ("Tenant").

**ARTICLE 1
LEASED PREMISES AND TERM**

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

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

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

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

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

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

1.04 **Lease Term.** This Lease shall be and continue in full force and effect for a term of Five (5) years commencing on May 1, 2019 and terminating on April 30, 2024 unless earlier terminated in accordance with the terms of this Lease. Tenant shall have two (2) options for renewal of five (5) year's per renewal.

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

ARTICLE 2 RENT

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

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

ARTICLE 3 QUIET ENJOYMENT

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

and performance continues, Tenant shall peaceably hold and enjoy the Leased Premises during the Lease Term without hindrance or interruption by Landlord or anyone lawfully claiming by, through, or under it.

ARTICLE 4 TENANT'S COVENANTS

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

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

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

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

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

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

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

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

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

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

responsible for the replacement or repair of any street lights that may illuminate the Premises.

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

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

Tenant acknowledges that before entering into this Lease it has fully inspected or been provided with an opportunity to fully inspect the Leased Premises and all documents in the possession of Landlord relating to the condition of the Leased

Premises, and to test or examine all conditions of or on the Leased Premises. Tenant further acknowledges that, at the time this Lease is entered into and on the basis of the foregoing inspection or opportunity to inspect, Tenant is as knowledgeable about the physical condition of the Leased Premises as Landlord, and on that basis, assumes all risks relating to the condition of the Leased Premises, except risks relating to environmental pollution not caused by Tenant.

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

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

ARTICLE 5 INSURANCE

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

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

ARTICLE 6 EMINENT DOMAIN

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

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

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

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

**ARTICLE 7
ASSIGNMENTS AND MORTGAGES**

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

**ARTICLE 8
TERMINATION, DEFAULT AND DEFEASANCE**

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

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

8.02 Notice and Right to Cure

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

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

8.03 Right of Landlord to Protect Against Default

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

8.04 Landlord's Remedies

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

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

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

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

ARTICLE 9 GENERAL PROVISIONS

9.01 Landlord's Right to Entry, Inspection and Repair

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

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

9.02 Notices

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

To Landlord:

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

With Required Copy to:

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

To Tenant:

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

With Required Copy to:

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

9.03 Covenants and Conditions

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

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

9.04 Integration and Amendment

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

9.05 Survival and Severability

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

9.06 Binding Effect

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

9.07 Landlord's Authority to Convey Fee Title

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

9.08 Tenant's Authority to Execute Lease

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

9.09 Captions

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

9.10 Execution and Counterparts

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

9.11 Governing Law/Construction

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

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

CITY OF BETHEL

GCI COMMUNICATION CORP.

Peter A. Williams
City Manager

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

Kathy Hanson, Chairwoman
City of Bethel Planning Commission

Pauline Boratko, Recorder
City of Bethel Planning Commission

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

This LEASE is made on April 24, 2019 by and between the City of Bethel, a municipal corporation ("Landlord") and BTP, LLC ("Tenant").

**ARTICLE 1
LEASED PREMISES AND TERM**

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

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

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

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

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

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

1.04 **Lease Term.** This Lease shall be and continue in full force and effect for a term of fifteen (15) years commencing on May 1, 2019 and terminating on April 30, 2034 unless earlier terminated in accordance with the terms of this Lease.

1.04 **Holdover.**

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

**ARTICLE 2
RENT**

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

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

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

**ARTICLE 3
QUIET ENJOYMENT**

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

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

ARTICLE 4 TENANT'S COVENANTS

- 4.01 **Development of Local Trade or Industry.** Tenant shall use the Leased Premises in furtherance of the development of local trade or industry. Should use of the Land cease, for a period of ninety (90) or more continuous days or should the use of the land no longer be in furtherance of the development of local trade or industry, the Landlord's interest in this Agreement shall automatically be triggered as outlined in Section 8.01 of this Agreement.
- 4.02 **Improvements Required by Law.** Tenant, at Tenant's own expense, during the Lease Term and subject to the requirements of this Lease, shall make, build, maintain and repair any fences, sewers, drains, roads, road widening, driveways, sidewalks, water, underground electric and telecommunications lines, curbs, gutters and other installations which may be required by law to be made, built, maintained, or repaired upon, and in connection with, or for use of the Leased Premises or any part of it, and regardless of whether the same were erected by Landlord or in existence at the inception of this Lease. In case any such installations required by law shall be made, built, maintained or repaired by Landlord after giving the required notice provided for in paragraph 4.06, and if Tenant does not complete the required work within the timeframe provided for in the notice, Tenant shall reimburse Landlord for the actual reasonable costs to cover Landlord's overhead, upon presentation of a bill therefore, as additional rent.
- 4.03 **Construction or Removal of Improvements, Additions and Alterations.** "Significant Work" as used in this section, means all work which (1) involves the excavation, filling, or other alteration of the grade or drainage of the Leased Premises, or (2) involves the construction, demolition, or removal on or from the Leased Premises of any improvement.

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

- 4.04 **Repair and Maintenance.** Tenant shall, at Tenant's expense and without notice from Landlord, at all times during the Lease Term, keep all improvements now or hereafter built on the Leased Premises, especially those improvements constructed thereon which are exposed to the view of the public (including but not limited to exterior building walls, windows, doors, fences, signs, landscaping,

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

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

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

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

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

4.07 Tenant agrees to hold harmless Landlord against all liability, cost and expense (including without limitation, any fines, clean-up costs, judgments, litigation costs, and attorneys' fees) incurred by or levied against Landlord as a result of Tenant's breach of this Lease.

4.08 **Inspection and Repair by Landlord.** Tenant shall repair, maintain, and make good, all conditions required under the provisions of this Lease to be repaired or maintained within five (5) working days from the date of written notice from Landlord with regard to removal of trash or debris, landscape or yard maintenance, snow removal or cleaning, or parking lot lighting replacement and repair, and thirty (30) days from the date of written notice from Landlord with regard to all other matters. If Tenant refuses or neglects to repair or maintain the Leased Premises as required under the terms of this Lease to the reasonable

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

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

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

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

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

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

4.14 **Surrender of Leased Premises and Improvements.** Upon the expiration or termination (including termination resulting from Tenant's breach) of this Lease, Tenant, without further notice, shall deliver to Landlord, possession of the Leased Premises. Tenant's improvements shall remain the property of Tenant. At the expiration or termination of the Lease, or any extended term thereof, Tenant shall remove, demolish, or otherwise dispose of all Tenant's improvements within one hundred twenty (120) days of expiration or termination, unless Landlord agrees otherwise, in writing, and shall leave Leased Premises in a clean and cleared condition. In the event of failure or refusal of Tenant to surrender possession of the Leased Premises or to remove Tenant's improvements from the Leased Premises in accordance with this paragraph, Landlord shall have the right to re-

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

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

ARTICLE 5 INSURANCE

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

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

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

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

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

ARTICLE 6 EMINENT DOMAIN; CASUALTY

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

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

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

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

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

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

ARTICLE 7 ASSIGNMENTS AND MORTGAGES

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

ARTICLE 8 TERMINATION, DEFAULT AND DEFEASANCE

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

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

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

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

8.02 **Notice and Right to Cure**

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

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

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

8.04 **Landlord's Remedies**

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

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

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

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

ARTICLE 9 GENERAL PROVISIONS

9.01 Landlord's Right to Entry, Inspection and Repair

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

9.02 Notices

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

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

With Required Copy to:

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

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

9.03 Covenants and Conditions

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

9.04 Integration and Amendment

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

9.05 Survival and Severability

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

9.06 Binding Effect

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

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

9.07 Landlord's Authority to Convey Fee Title

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

9.08 Tenant's Authority to Execute Lease

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

9.09 Captions

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

9.10 Execution and Counterparts

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

9.11 Governing Law/Construction

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

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

CITY OF BETHEL

BTP, LLC
By, UCI, LLC
Its: Member

Peter A. Williams
City Manager

By: David Cottrell
Its: Manager

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

Kathy Hanson, Chairwoman
City of Bethel Planning Commission

Pauline Boratko, Recorder
City of Bethel Planning Commission

CONDITIONS, COVENANTS, AND RESTRICTIONS

BLUEBERRY FIELD SUBDIVISION PLAT 84-9

RECORDED IN BETHEL RECORDING DISTRICT

BETHEL, ALASKA

1. All roads and streets have been dedicated to the public, and platted. Utility easements have been located on the front of each parcel of land offered. Roads, streets, and utility easements for Phase II, Blueberry Field Subdivision, are recorded with the Bethel Recorder's Office.
2. Certain easements are 100 feet wide. Other easements are 60 feet wide. Streets are to be constructed 32 feet wide, or 16 feet on each side of the center line.
3. It shall be the responsibility of each person purchasing land to construct the driveway to their purchased land at their own expense. It shall be the responsibility of each person purchasing land to provide suitable culverts across their driveway and to maintain the culvert and driveway in a satisfactory manner at all times.
4. Each purchaser of land in Blueberry Field Subdivision shall be responsible for all cost necessary to provide the electrical hook-up to their property from the main power line.
5. Each purchaser shall be responsible for providing a holding tank for "gray water" and sewer disposal for their property. The fresh water storage tank shall meet the requirements set forth in the City of Bethel Ordinance regarding same. No person or persons shall permit gray water or sewer to be placed or spilled on the land on or near their property. Each person is responsible for the removal of his or her gray water and sewage waste.

Gray water and waste disposal originating from fee simple land shall comply with local, state, and federal law.

Wells and water systems are permitted as long as they have no drainage on the land.

6. Under no circumstances will trash be stored or remain on the property so as to endanger health, life, or loss of limb, or create an eyesore to the public.
7. The residential lots are single family lots. One residential structure per lot is permitted.

Dwelling shall be a minimum size of 600 square feet (may include a arctic entry way).

In addition to one residential structure, the lot owner may have one detached non-residential structure on the property. This detached structure shall not exceed 20 feet by 20 feet, and shall not be used for commercial purposes.

No house trailers, or pulled two-wheel type camper-trailers shall be attached or stored on any parcel of land in Blueberry Field Subdivision.

There shall be no more than two (2) boat trailers stored on residential property at any time. Boats are not to exceed 24 feet in length, 8 feet in width and 8 feet in height.

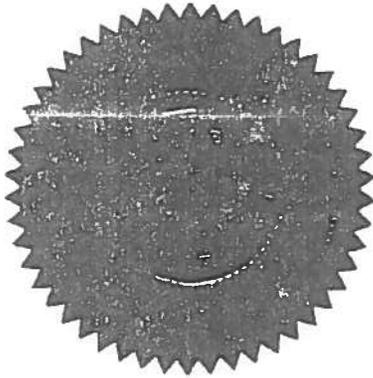
The use or storage of "ship containers" or cargo vans is permitted on residential property only during the construction phase of a home. At any time other than the construction phase the use or storage of "ship containers" or cargo vans shall be prohibited.

8. There shall be no storing or dismantling of disabled motor vehicles, to include trucks, cars, airplanes, boats, motorcycles, and snowmachines.
9. All motor vehicles shall be operated with effective mufflers in Blueberry Field Subdivision.
10. There shall be no more than two (2) family pets per household. Cats shall be restricted to their owners property. It is the owners responsibility to cage or leash pets so they do not wander onto the property of others.
11. There shall be no fencing over 6 feet high on residential lots. If live trees or hedges are used as fencing, this restriction does not apply.
12. A residential lot shall not be subdivided.
13. Prior to the sale of any lot by the owner of Blueberry Field Subdivision, the owner of Blueberry Field Subdivision reserves the right to amend the parcels of land listed as commercial. The amendment may increase or decrease the size of any commercial lot shown on the plat. The amendment may redesignate a portion of commercial into residential. The owner of Blueberry Field Subdivision will file a record of such action with the Bethel Recorder's Office.
14. No person or persons may use the utilities rights-of-way in Blueberry Field Subdivision for ingress or egress to any other parcel of property in or adjoining blueberry Field Subdivision without the express written approval of the owner or her designated representative.
15. Parcels of property purchased for commercial or residential use shall not be used for any act which is in violation of local, state, or federal law.
16. Failure to comply with these Conditions, Covenants, and Restrictions shall cause the title to any lot whereupon the incompliance occurs to revert back to the Owner of the subdivision, and the purchase money forfeited to the said owner.

Christina J. Shantz
Owner - Christina J. Shantz

State of Alaska Fourth Judicial District

The foregoing instrument was acknowledged before me this 17 day of May, 1984, by Christina J. Shantz.



J. Ann C. Honey
Notary Public State of Alaska
title

My commission expires on April 3, 1985
~~March 4, 1985~~

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
JUNEAU AREA OFFICE

The within Conditions, Covenants, and Restrictions is hereby approved this 476 day of June, 1984, pursuant to authority delegated in 209 DM 8 and 10 BIAM 3.1, November 17, 1981.

[Signature]
Area Director

8 4 0 9 8 0

1400
RECORDED-FILED
BETHEL RECORDING
DISTRICT

JUL 30 10 20 AM '84

REQUESTED BY AVCP
ADDRESS 928 819 Bethel, AK 99559

PLANNING DEPARTMENT (10-54)		FY 2016 Actuals	FY 2017 Actuals	FY 2018 Pre Audit Actuals	FY 2019 Budgeted	FY 2019 Mid Year Actuals	FY 2020 Budget
PERSONNEL:							
	Salaries, Benefits & Taxes minus EGHB		172,654	172,538	82,291	97,353	172,070
	Overtime			950		113	
	Employee Group Health Benefits		38,676	55,272	44,424	27,175	44,424
	Revision to Personnel Budget						
	Total Personnel	246,647	211,330	228,760	216,312	124,641	215,106
MATERIALS, SUPPLIES, & SERVICES							
520	Relocation Expenses						
541	ACMP (moved to special rev. fund FY07)						
545	Training/Travel	3,388	4,735	3,503	5,000		5,000
561	Supplies	3,316	2,029	3,537	5,600	923	5,600
563	Wearing Apparel				300		300
601	Vehicle Parts			637	1,000	242	1,000
602	Gasoline	759	681	590	1,800	342	1,800
621	Electricity (3.5% of City Shop)	1,638	1,452	1,226	1,440	411	1,440
622	Telephone	115	68	70	200	41	200
623	Heating Fuel (5% of City Shop)	5,150	7,062	3,421	2,400	346	2,400
626	Water/Sewer/Garbage (4% of City Shop)	1,205	1,309	1,250	1,400	425	1,400
627	Cell Phone			673	660	317	840
642	Legal Fees				5,000		10,000
648	Code Enforcement Activities				1,500		3,000
649	Other Professional Fees		10,210	42,774	50,000	16,210	50,000
661	Vehicle Maint/Repair (Int. Svc. Fund 57)	498	2,204	2,203	1,391	243	1,391
662	Property Maintenance						
668	Software License		1,900		4,500	1,929	7,500
669	Purchased Services	10,040	1,486	4,040	3,060		4,000
683	Minor Equipment			27	5,500		5,500
685	Equipment						
721	Insurance	1,453	3,332	1,610	1,900	444	1,900
724	Dues & Subscriptions	2,000		25	240		240
727	Advertising	297	291	1,567	2,000	247	2,000
771	Nuisance Enforcement Expenses				200		200
732	Rents/Leases						
735	Finance Charges/ Penalties						
771	Insurance/Enforcement Expenses						
799	Miscellaneous Expense	306	50	24	1,000		1,000
996	Administrative Overhead- IT			15,342	17,008		17028
	Total MS&S	30,166	36,809	82,519	113,099	22,120	123,739
	Total Operating Expenditures	276,813	248,139	311,279	329,411	146,761	338,845
DEBT PAYMENTS:							
	Total Debt Payments			-	-	-	
PROJECT EXPENDITURES (10-54-77X)							
	Total Project Expenditures			-			-
CAPITAL EXPENDITURES (10-54-69X)							
690	Pickup Truck			-	30,000		
690	Land Acquisition			-	60,000		
690	Plotter			-	20,000		
	Total Capital Expenditures				110,000	59,456	
	Subtotal Operating, Debt, Projects & Capital	276,813	248,139	311,279	439,411	206,217	338,845
875	Indirect Cost Recovery					-	-
	Total Operating, Debt, Projects & Capital	276,813	248,139	311,279	439,411	206,217	338,845

PLANNING 10-54

			FY 2019 Budget	FY 2020 Budget
PERSONNEL:				
MIH	P1	City Planner (85% of \$82,070)	77,250	90,000
R5	P2	Assistant Planner		82,070
R3	P3	Planning Clerk	49,465	
SALARIES			126,715	172,070
Annual Increases				4,302
Overtime				-
Total Wages			126,715	176,372
Leave Cashout/Payout 8% of Union FTE Base Wages			2,534	6,566
Social Security (6.2% of Temp Salary)			-	
Medicare (1.45% of Salary)			1,855	2,557
Employee Group Health Benefit @\$2160			44,424	48,644
Unemployment Ins. @2.23 of Total Wages (w/39,800 cap)			1,831	1,775
Workers' Compensation@.3783/100			484	667
PERS 22% of Total Wages			28,143	38,802
Utility Benefit (\$380 per month x 12 months x 2 FTE * 100%)			9,120	9,120
BENEFITS AND TAXES			88,391	108,131
SUBTOTAL PERSONNEL			215,106	284,503
<i>Revisions to Personnel Budget</i>				
			215,106	284,503



To: Pete Williams, City Manager
From: Betsy Jumper, Planner
Subject: Mar. Manager's Report
Date: Mar. 29, 2019

- Removal of junk/abandoned cars in conjunction with Streets and Roads on City rights of way—on-going.
- Had a Planning Commission meeting Mar. 21st.
- Updating the office with paint and flooring installation.
- 1 commercial site plan permit, and 2 residential site plan permits have been issued thus far.
- A Conditional Use Permit Application for Alcohol was submitted.



CITY OF BETHEL
P.O. Box 388
Bethel, Alaska 99559
Ph. (907) 543-4150
Fax (907) 543-3817

MEMORANDUM

DATE: March 19 – April 2
TO: City Council
FROM: Peter Williams, City Manager
RE: Managers' Report

Alaska Public Entity Insurance- Is up for renewal. Departments will work toward forwarding information to them to help reduce our costs. Last the work that the Risk Manager performed saved us \$48,000.

FY19- the audit be completed April.

Bethel Recycling Project – Attended the board meeting to discuss recycling in Bethel. There is a private company that will hold events to collect Solvents and E- waste. Not sure when they will start. One problem the industry is having that China has quit collecting materials. They were receiving about 95% of what was collected. Another problem is only about 12% of what is collected is reusable and municipalities are discontinuing their recycling programs to work out what can be collected. The big problem is that the material that is being collected isn't sorted enough to be re-used.

LKSD- Talking with the DEC to for a permit to dispose of the nonfriable in the landfill.

PROJECTS

Institutional Corridor – A final walk around still needs to be performed.

Jetty/Sewer Lagoon- The sewer trucks will be the last item to be completed for this project. They should arrive on the first barge in the springtime.

Long Range Transportation Plan 2020- The Tactical Advisory Committee will try to hold a meeting between May 23 or May 30. This is a public meeting. The roads that are mentioned in the LRTP will be what the DOT refers to for road projects in Bethel. The DOT area planner, Philana Miles, reports that the DOT&PF is trying to take the legal steps to condemn the Polk Rd. The Polks estate was notified of the situation in November.

The Avenues- We have picked first National Bank of Alaska to facilitate the loan needed for this project. I hope the loan documents is ready for council's approval at the end of April.

Bethel Heights Water and Sewer System- It looks like we will be able to use Village Safe Water funding to at least perform repairs in this subdivision. A Memo from our engineers lists some of the options we can choose. The Sanitary Deficient System/Village Safe Water (SDS/VSW), see Grant Manger's report, lets us apply for 4 M Dollars per project. The memo is attached to this report.

The DOT resolves tundra Ridge Road Realignment- On hold until the Polk Road.

PW Building Boilers- Contract signed. PW has been installing a beam under the boiler room at Public Works. One boiler has been removed and installation in progress.

Police Console- Pro-Com still needs to forward to us the Service Agreement for review and approval.

Lift Station Controls Project- Waiting for the final drawings we are at 65%

Geographic Information System (GIS) – The persons working on this project will be here April 9th to put the finishing touches on this project.

Asbestos Abatement- On March 18 and 19th an inspection for asbestos was completed in the laundromat and the old police annex. We received a report of the various materials in the building. Doesn't appear to be any asbestos. We are waiting for a written statement confirming our evaluation of the chemical report.

Owl Park- The playground equipment is ready to go. Playcraft's schedule is to start installation May 27th and wrap up June 7th.

Peter Williams
Bethel City Manager



CITY OF BETHEL
Fire Department

William F. Howell III, Fire Chief
P.O. Box 1388, Bethel, Alaska 99559
Phone: (907)-543-2131
Fax: (907)-543-2702
bhowell@cityofbethel.net

Celebrating 50 Years of Service

DATE: April 2, 2019
TO: Pete Williams, City Manager
FROM: Bill Howell, Fire Chief
SUBJECT: Management Report, March 2019

Current Events

- Bethel Fire fighters and Utilities personnel tested hydrants on the Institutional Corridor (IC) water system. Several of these hydrants demonstrated flows in excess of 1000 gallons per minute.
- The department is assisting in scheduling hearing testing for May 20-22, 2019.
- We are working with representatives of the Lower Kuskokwim School District to upgrade fire protection systems including a new water storage tank, address signage, hydrant plans, and fire access roads.
- The annual Camai festival was a wonderful success this year. Our staff and volunteers performed safety inspections and alarm tests prior to the commencement. There were no significant EMS or fire incidents during the festival.

Community Planning/Preparedness

- During March, 50 address plaques were ordered for residents and businesses. The department has ordered 740 address signs since inception of the program. For those needing assistance, the department has installed approximately 10% of these signs at the request of the property owners. Overall, reaction to the updated ordinance has been overwhelmingly positive. The department also oversees and facilitates ordering of commercial signs with an Anchorage vendor.
- The Department is working with the administration to update the City of Bethel Emergency operations plan.

- The Department is assisting administration with the cleanup and disposal of a release of Muriatic Acid inside a storage container at the pool. The storage container was secured by BFD personnel with a Knox padlock until City personnel receive the proper training to neutralize and dispose of the materials.
- Bethel Fire Department has been selected as a test site for the new Medicaid supplemental reimbursement program (GEMT). Being part of this pilot will allow Bethel to shape the program to meet Bethel's needs. GEMT legislation (HB 176) was signed into law in June of this year. This law allows municipal ambulance services to receive reimbursement of 50% or more of the uncompensated cost (UCC) of providing ambulance service.

Bethel's ambulance service costs the City around \$1500 per transport. The City receives about \$400 from Medicaid per transport. The City would be able to receive reimbursement for at least half of the UCC, \$1100. Current estimates suggest as much as 150K-200K in revenue from this program. These funds must be used for EMS purposes. The Department is waiting for further information on steps needed to participate

Training

- On 03/05/19 at 7:00 p.m., an EMT Meeting was held at the fire station. Responders reviewed care and treatment for individuals in cardiac arrest.
- On 03/14/19 at 7:00 p.m., a Fire Meeting was held at the fire station. Responders reviewed forcible entry tools and techniques for gaining entry into structures.
- On 03/19/19 at 7:00 p.m., an EMT Meeting was held at the fire station. Responders reviewed the assessment and treatment of individuals experiencing altered mental status.
- On 03/28/19 at 7:00 p.m., the Fire Meeting was cancelled.
- Five candidates are progressing through their Firefighter-1 training. Recent topics of instruction include Fire Behavior, Building Construction, Portable Fire Extinguishers, Tools and Equipment, Ropes and Knots, Response and Size-Up, Forcible Entry, Ladders, and Search and Rescue. The course will conclude on June 8, 2019 with State of Alaska Written and Practical Skills Examinations.
- Captain Solesbee has scheduled a Firefighter-2 course for June 2019. This course will deliver advanced training in the Incident Command System, Foam Application, Coordinating a Fire Attack, and Vehicle Extrication.
- Instructors from the United States Coast Guard delivered an Ice/Water Rescue course to fire department responders on March 21, 2019. Multiple paid and volunteer Fire Department and Bethel Search and Rescue personnel gained valuable knowledge and skills from this training.

- EMI-Alaska, Inc. will instruct a 16-hour HAZWOPER course to complete the 40-hour HAZWOPER training for City of Bethel personnel on April 10-11, 2019.
- Captain Solesbee attended a 4-day course at the Anchorage Police Department Training Center for the Reid Technique of Investigative Interviewing and Advanced Interrogation. This training will assist the department in investigating fire incidents.

Responses

- Between 03/01/19 and 03/31/19 the Bethel Fire Department responded to 131 EMS and 16 Fire incidents.
- During this period, 62 EMS incidents (47.3%) were alcohol-related.
- On 03/05/19 at 6:27 p.m. firefighters responded to East Avenue for the report of a steam bath fire. Upon arrival, Firefighters observed a fully involved steam bath.
- On 03/07/19 at 6:32 p.m. medics responded to Yukon-Kuskokwim Correctional Center for the report of a person experiencing respiratory distress. The patient was assessed, administered oxygen, and transported to the hospital.
- On 03/10/19 at 10:00 p.m. firefighters responded to Bethel Regional High School for the report of smoke. Upon arrival, no smoke was observed. Firefighters returned to quarters.
- On 03/11/19 at 4:51 a.m. firefighters responded to AVCP Apartments for the report of a possible propane leak. Upon arrival, no leak was located. Firefighters returned to quarters.
- On 03/16/19 at 12:40 p.m. medics responded to Larson Subdivision for the report of a person with a self-inflicted gunshot wound. The patient was assessed and transported to the hospital.
- On 03/16/19 at 9:00 p.m. medics responded to area of Q2 for the report of two people injured when their ATV collided with a vehicle. The patients were assessed and transported to the hospital.
- On 03/20/19 at 9:48 p.m. medics responded to 105 Atsaq Road for the report of a CPR in progress. Medics performed CPR and transported the patient to the YKDRH Emergency Department. The patient was pronounced deceased by Emergency Department providers shortly after arrival.
- On 03/25/19 at 11:50 a.m. medics responded to Kilbuck Street for the report of a person vomiting blood. The patient was assessed and transported to the hospital.

Budget/Financial

- The department is operating within budget.
- The proposed FY 2020 budget was submitted to the manager for review.

Grants

- The Department was awarded funding through the Volunteer Fire Assistance program for \$7,470, for three sets of firefighting turnouts. Due to Federal budget cuts to the VFA program, this award was cut in half.
- The Department applied for and passed the first round of approval the Phase 18 Code blue Grant for \$45,000 for the remount of Medic-5 to a new chassis. Funds have been awarded and will be reimbursed once expenditures are made.
- The Department was awarded \$7,500 in Code Blue grant funding for a new power stretcher for Medic-6. The YKHC EMS Department administers this grant and BVESA has committed matching funds. The stretcher is in service in the new ambulance. We are waiting for invoice to make final payment and close the grant.

Staffing/recruitment

- The Department is fully staffed effective November 1, 2018.
- All past due employee evaluations are complete.

Vehicles & Equipment

- A bill of sale and title was provided to administration to dispose of E-28. Once signed the surplus fire vehicle will be property of the Native village of Napaimute.
- The new ladder truck is receiving warranty repair for a problem with the nozzle-nesting feature and repairs to the Compressed Air Foam (CAFS) compressor. We are outfitting the new ladder truck with firefighting and rescue equipment.

FIRE DEPARTMENT VEHICLE STATUS

Vehicle	Type	Year	Status
Medic 4	Ambulance	1999	<i>(Backup ambulance) In service, Airbags repaired.</i>
Medic 5	Ambulance	2003	In service. Frequent no starts/dead batteries. (Plan to remount to new Dodge chassis in 2018/2019)
Medic 6	Ambulance	2017	<i>(Frontline Ambulance) In service.</i>
Engine 4	Pumper	2013	<i>(Frontline pumper) In service, Seat belt sensor silenced but still needing repair by V&E. DEF tank heater malfunction parts on order.</i>
Engine 3	Pumper	1986	<i>Being outfitted as a tender and water supply unit. 3000 feet of LDH. (Poor overall condition needs replacement) Generator mounting parts ordered for installation</i>
Truck 1	Ladder Truck	2017	Outfitting, in service
Com 1	Pickup	2014	In service
Com 2	Pickup	2004	In service.
Tanker 1	Tanker (1500 gallon)	1980	Out of Service
Truck 1	Ladder Truck	1980	Out of Service

MEMORANDUM

DATE: April 2, 2019

TO: Peter Williams, City Manager

FROM: John Sargent, Grant Manager

SUBJECT: Grant Manager's Report – April 9, 2019 Bethel City Council Meeting



Sanitation Deficiency System Projects

With only three week's notice ahead of the April 1 deadline, the City Manager, Public Works Director, the DOWL engineer, and I sat down on March 25 to discuss the water and sewer projects that should be included in the City's Sanitation Deficiency System database entry. The Village Safe Water engineer assigned to Bethel has an April 1 deadline to enter project details. The system then scores the projects via the pre-programmed parameters and spits out the results on all 650 or so statewide projects. If Bethel's projects score high enough relative to the funding available, the City will be issued a grant award.

The City decided to request funding for the following projects:

1. Two lift station electric panels (\$145,200)
2. Heat Trace (\$250,000)
3. AVCP East and AVCP West Lift Station Safety Installations (\$100,000)
4. Avenues Design (\$856,209)
5. New Utility Service Trucks (\$120,000)

Bethel's projects may not score high on health and safety factors, one of the heavily weighted criterion.

STIP Projects

The City is working with the Department of Transportation and Public Facilities and DOWL transportation planner to zero in on one or more roads that might score well during review of the City's application for 2020-2023 Statewide Transportation Improvement Plan. One road under consideration is Akakeek that runs from Ridgecrest Drive to Ptarmigan Street in front of BNC Apartment complex and AC Quickstop. The project might entail tearing the road down and rebuilding it per an engineered design. STIP applications are due May 15, 2019.

Grant Projects

Lift Station E-Panels and "New" Bethel Main

The City requested \$479,000 in additional Village Safe Water funds to complete the Bethel Lift Station Improvement project, which includes new electric panels for five lift stations and rehabilitation of the Bethel Main Lift Station. The funds are needed to cover the cost of construction over the City's current approved grant amount (\$259,000) and electric panels (\$220,000) for two more lift stations: City Hall and Public

Works building. The Program Manager at the Village Safe Water Program plans to reallocate unused project funds to meet the City of Bethel's request.

**City of Bethel
Grant Summary
Fiscal Year 2019**

Preparing

Sponsor	Name	Products/Services	City Depts. (Partners)	Date	\$ Grant \$ City Match
AK Dept. of Transportation & Public Facilities	STIP – Statewide Transportation Improvement Program	Transportation improvements in Bethel (e.g., roads/trails)	Public Works	5/15/19	TBD
United States Dept. of Agriculture-Rural Development	Water and wastewater grant/loan program	Piped water and sewer system in The Avenues subdivision	Public Works	Target 1/31/19	\$13,321,000 \$306,000

Submitted in Fiscal Year 2019

Most recent first

Sponsor	Name	Products/Services	City Depts.	Date	\$ Grant \$ Match
Village Safe Water Program, AK Dept. of Environmental Conservation	Sanitation Deficiency Database entries	Heat trace, two utility service trucks, lift station safety installs, Avenues proj. design	Public Works	4/1/19	\$1,546,209 \$0 expected
AK Dept. of Envior. Cons., Village Safe Water Program	Infrastructure Protection Funding	Heat trace from FAA lift station to Q2 lift station.	Public Works	2/8/19	\$127,500 \$22,500
Alaska Division of Homeland Security and Emerg. Mgmt.	State Homeland Security Grant Program	Interoperable Comm. Plan, thermal imager, fencing for water tanks, foam extinguishers, Continuity of Op. Plan.	Fire, Public Works	1/31/18	\$163,732 0
State of Alaska	Capital Budget Requests	Avenues water and sewer project, Bethel Heights Water Loop A, Dust Control, City Hall Roof	Public Works	12/18	\$20,743,645
AK Dept. of Transportation & Public Facilities	Community Transportation Grant	Operate Bethel Transit System	Public Works, Transit Division	12/17/18	\$316,832 \$86,381

Approved in Fiscal Year 2019				Most recent first	
Sponsor	Name	Products/Services	City Depts.	Date	\$ Grant
Alaska Dept. of Environmental Conservation	Alaska Village Safe Water Program	Preliminary Engineering Report & Environmental Report for Bethel Heights Sewer System	Public Works	11/27/18	\$75,000

Not Approved in Fiscal Year 2019				Most recent first	
Sponsor	Name	Products/Services	City Depts.	Date	\$ Grant



CITY OF BETHEL

Post Office Box 1388
Bethel, Alaska 99559
Phone: 907- 543- 2047

TO: City Manager
FROM: Human Resources
SUBJECT: February Managers Report

DATE: 29 March 2019

Position	Number of Vacancies	Number of New Applications	Number Hired During Period	Number of Vacancies Remaining	Applicants in Review
Driver Hauled	5	2	0	5	2
Bldg Maint Wkr	1	0	0	1	2
Util Maint Wkr	1	0	0	1	0
Police Officer III	2	0	0	2	2
TOTALS	9	2	0	9	6

Applications and Hiring:

A new Finance Director was selected and will start 1 April.

HR received a total of 8 **Applications** in March

From those 8 Applicants:

Two applications for hauled utility driver were received 27 March and are under review for hire.

Two police officer candidates are currently undergoing background reviews.

We currently have 4 job positions with a total of 9 openings, with 6 applications under review as follows:

Driver Hauled Utility (5 positions): Currently announced with two pending review

Utility Maint Wkr: Announced, two pending review

Building Maint Wkr: Announced

Police Officer III: two pending background investigations

Firefighter positions remain as open-continuous regardless of percentage of fill.

BEACON Programs:

There were no test conducted during the month of March

Reports of Injury:

There were no reports of injury

Administrative Actions:

Multiple terminations and resignations occurred simultaneously in both Hauled Utility and Water/Sewer creating an abundance of vacancies in conjunction to already existing vacancies.

Multiple routine PAR actions were executed.

Multiple yearly performance evaluations were submitted and processed.

Employee related announcements:

The Family and Medical Leave Act presents a variety of challenges for employers due to the complexity of the law. The US Department of Labor website has a variety of resources available to employers to provide guidance in navigating the law's many requirements. The following is a list of some of the resources that APEI most commonly refers employers to.

<https://akpei.com/fmla-resources-for-employers/>

Training, Conferences and Seminars:

The city closed out its prevention of sexual harassment training on 10 March with the training of the remainder of the police department.

James P. Harris
Human Resources Manager

Memorandum

Date: March 25, 2019

To: Pete Williams, City Manager

From: Bo Foley, IT Director

Subject: IT Director's Report



March 2019 Current Events

- **3rd Avenue Vacant Land RFB:**

The City's RFB for the vacant land on 3rd Avenue closed in March. Two bidders submitted offers and the City's legal department is currently working with the winning bidder's attorney to solidify a mutually acceptable lease agreement. The losing bidder was notified.

- **YKFC Server Issues:**

A problem from late February bled into this month involving the YKFC server not coming online without manual intervention due to a failure in the equipment. The server was operating, but only after getting stuck on an error screen that would need a user to exit from of upon restarting. I worked with AIT and HP as an onsite liaison, employing different trial and error techniques that they would need done to the server in order to isolate the issue. Eventually we performed a factory reset on the server's BIOS settings which fixed the problem. The server is now operating normally once again.

- **YKFC Internet Issues:**

Another problem from late February spilled into March where though the fitness center had Internet access, they could not access three secure websites that were vital to YKFC operations. I worked with GCI on the issue as we weren't sure if it was something on GCI's end or a problem with our own equipment. We spent time swapping out various pieces of hardware in order to restore working order, but nothing seemed to work. Eventually, the problem inexplicably went away and everything began functioning as normal. This suggests to me that it was something on GCI's end that their techs were probably working on elsewhere.

- **Global Policies and Procedures:**

A portion of the month was dedicated to working with the City's legal department in coming up with policy and procedure documentation covering the use, care, and disposal of City technology. The council-adopted policy in the employee's handbook offers a general taste of this, but does not expand on certain details. This new set of policies and procedures will hopefully bridge any gaps. The purpose of these documents is to inform and notify new and existing city employees as to the appropriate code of conduct regarding City technology as well as provide the City with legal protection against lawsuits. This is an ongoing process that, when finished, will cover both the City and the Police Dept.

Memorandum

Date: March 25, 2019

To: Pete Williams, City Manager

From: Bo Foley, IT Director

Subject: IT Director's Report



- **Dispatch Computer Repairs:**

The main dispatch computer at the Police Dept. went down towards the middle of March. I was contacted over a weekend and informed that the main dispatch station began making a lot of noise and producing a smell similar to that of burning plastic. When I was able to get to the machine to investigate, I had discovered that the fan on the machine's graphical processing unit had failed. The machine was originally purchased several years ago when the new PD was first renovated and so obtaining parts was somewhat challenging. Eventually I found something that would work as a replacement, ordered and installed the parts, and was able to bring the dispatch computer back online. The computer was down about a week, but all dispatchers were able to use the backup station to handle PD dispatch operations.

- **Dedicated Council Wireless:**

For FY19, I purchased a satellite Internet service to see if it would hold up during extreme weather and, more importantly, manage to stay online when GCI's services were having trouble thus giving us a redundant connection for Internet. The service performed well except when I tried to test on multiple computers. One day, during a GCI outage, I attempted to run the connection through the entirety of the City's network but could not get it to function properly.

Despite this failure for its originally intended purpose, the City clerk mentioned that the Council had been wondering about a dedicated connection for their council tablets. Needing a use for the satellite connection, I chose to try using it exclusively for the council as a wireless signal in the council chambers. Thankfully, the connection performed well during a council meeting and so I'm happy to leave that in place so the council has a less muddied connection to use for their meetings.

- **Business-As-Usual:**

Beyond the above-mentioned items, the month has been spent fixing or helping with run-of-the-mill trouble tickets such as email issues, printing/scanning, Caselle access, cellphone replacement and login problems.

Future Plans

- **FY20 Budget Discussions with Council:**

Preliminary planning for the FY20 budget is more or less complete and so going into April and May, I will meet with council to discuss the items of my budget and determine if anything should be added, removed, or changed.



March, 2019 Monthly Report

Personnel:

AST and BPD have both signed the Letter of Agreement and a BPD officer is assigned and working in the WAANT unit. Conditional job offers have been made to back fill that patrol position and the major crimes investigator position. Both applicants are scheduled to take both their polygraph examinations and psychological screening.

All Dispatch, administrative, CSP and CSO positions remain fully staffed.

Operations:

There were approximately 1,372 calls for service the month of March, a rise of approximately 250 cases from February and down approximately 150 cases from the same period in 2018. The number of calls requiring investigative reports was up 14 from February to 89 but down from 114 in 2018. There were 408 intoxicated pedestrian calls compared to 587 for the same period last year. The number of domestic violence investigations was 26 this month compared to 28 for the same period in 2018 and 31 in February. There was only 1 DUI arrest compared to 8 for the same period last year and 6 arrests in February. There were no unattended deaths in March, the same as February and compared to two in March of 2018.

BPD investigated a homicide at the Ayuplik Apartments. A crime scene investigation team from AST flew out from Anchorage to assist. A suspect was arrested and subsequently indicted by a Grand Jury for the killing. Chief Waldron has appeared telephonically for more Committee hearings for APSC confirmation but is still awaiting his final confirmation.

Animal Control:

There were 40 animal control calls for service for the month with one reported dog bite.

MEMORANDUM

DATE: 03.31.2019
TO: Peter Williams, City Manager
FROM: Bill Arnold, Public Works Director
SUBJECT: Manager's Report –

Programs/Divisions

Public Works Director:

The Public Works Building boiler project is under way. IC project (construction) is complete we are waiting on the as builds from the engineers.

Hauled Utilities:

The Hauled Utilities Dept. has been having a great month even we are still short on drivers all the drivers are making an effort to complete the scheduled services on time. We are still in need of water trucks that are slowly getting back on the road from maintenance. The drivers are doing a great job now to help each other to complete the assigned tasks. All the paperwork is caught up now from the driving I had to do the past months. We are usually one driver short a few days in the week but all the route sheets are getting done on schedule.

Utility Maintenance:

- Lagoon discharge operations are shut-down until spring. Normal operation for winter is ongoing.
- Additional Fire hydrant valves en route for inventory and use if needed.
- 15 alarms on residential lift stations were responded to. Multiple issues with grinder pumps, heat trace, and float systems.
- Monthly meter reading and service connections were completed
- Main Lift Station pump work – Pump #1 still in Anchorage for major repair. Pump and parts have arrived. Repairs expected to take 1-2 weeks. Lift Station is running on 2 pumps for now.
- Clean up and organization of shops.
- 15 residential lift station repairs
- Line flushing and leveling activities on low-flow and frozen sewer lines. Non-compliance reports were filled out per DEC requirements.
- Daily safety meeting.
- All 3 Utility Maint. Trucks are having issues that require repairs. Several of these are major safety issues. Continue to work with V&E to repair them, but some issues are arising due to 2 of the vehicles are more than 10 years old.
- Issues with FAA lift station freezing up. Heat trace is on and thawing line out slowly.

Property Maintenance:

- PW Building
 - South Roll up ramp door fell off track and would roll up cocked forcing the door into a jammed position. Temporarily fixed and operational.

- Middle roll up ramp door would not roll up evenly. Track was out of alignment and needed some additional cleaning. Door in “decent” operation.
 - All roll up ramp doors may need a preventive maintenance service scheduled by a door provider.
 - Replaced weight bearing structure glue lam beam under boiler room floor with Steel I-Beam in preparation for the new boilers to be installed by Inlet Mechanical. This took a combined team effort of two PW programs. Thank you Andy of Utility Maintenance for lending two employees for this lengthy, difficult and dangerous task.
 - Boiler #1 failed Primary Honeywell controller. Left boiler off and began full operation of building heat from Boiler #2.
 - Inlet Mechanical has begun the project of removing boiler #1 to replace with new boiler setup. Work is in progress.
 - Remodeled the planning office. Fresh paint, new electrical hardware, replaced ceiling tiles and installed new floor.
 - Hot water system has been removed from PW building as part of the boiler space remodel. PW building will not have hot water until the boiler project is complete.
 - Fire sprinkling system in PW
- City Hall
 - Several heating issues throughout the month. Suspect trapped air in the boiler lines. Adjusted boiler pressures, along with addition of running both circulating pumps seemed to resolve the issue.
 - Rear entrance stairs are rotting. Two different expanded metal stairs plates had to be repaired. Project to replace the stairs in entirety as a summer project.
 - Filtered water fountain near front entrance was reported as having poor water quality. Filtering system was replaced. Water taste pretty darn good, try some, tell us what you think.
 - Wheel chair ramp section at front entrance is showing signs of degradation and will need to be rebuilt or replaced. Project this work as a summer project. Materials will need to be ordered.
- Court House
 - **Dry Sprinkler System:**
 - Dry system is back in NORMAL operation minus ONE isolated sprinkler head located on the outside of the building to the left of the front main entrance. Project to have contractor complete repair from break Spring/Summer of 2019. Contractor is in communication with city building maintenance and scheduling a time for the work to be completed.
 - The dry system has a small leak in the dry system piping just above court room 4. Leak is temporarily fixed and holding. Static air pressure is remaining constant with additional help from the fire system air compressor. A plan is being developed to have the dry system evaluated for replacement and repair Spring/Summer 2019 by a contracted service.
 - **Holding Cell Area Door:**

- Door ordered from AHS, shipped and received. Prep work has begun to add the new wiring, relight vision, latching hardware and paint for install. Door removal and replacement will be coordinated with Alaska State Court System. The area where the door is a sensitive area as inmates are transferred through this area.
 - **Water leak damage remediation survey:**
 - Industrial Hygienist from Advanced Look Solutions in Anchorage completed an Environmental survey off all areas within the court system that was affected by the water leak. Sample have been sent to lab in Lower 48 for testing and results are expected to be returned in April.
 - A plan for remediation/remodel work will begin once results are returned and priority areas have been identified.
 - **Dirty sprinkler heads and escutcheon plates:**
 - All protruding sprinkler heads have been cleaned and inspected.
- Dog Pound
 - Replaced door latching hardware 3 times from vandalism.
 - Bethel Friends of Canines has transitioned and is using the building more often.
 - Area donated for BFK9 kennel relocation has been scraped clear of ice and debris.
 - Surveyed and staked off pad sight for sand pad prep.
 - BFK9 has been in close communication in the process of relocating their kennel to the property.
- Log Cabin
 - Boiler is consistently found tripped during building rounds. Building is temporary closed to resident use of the building due to a sewer line freeze and boiler reliability issues. Boiler remains operational with daily rounds to ensure adequate warmth of the building. Water service has been isolated and lines drained to prevent freeze up.
- YKFC - Pool
 - Requests for assistance with the boiler are frequent. The department assists when able.
 - Meeting completed with Pool management staff to determine cause of repeated issues with the boiler system. The issues have primarily been pressure related and high temp limit related. Action plan to evaluate the system in its entirety for correct daily operation is in place.
- Police Department
 - Periodic low fuel level alarm activation for the emergency power generator. The issue has been isolated to a set of terminals outside the building that get wet and short causing a false alarm. The alarm will short ad activate when the weather is rainy and windy.

- Billy's Water plant
 - Boiler #1 shut down and Boiler #2 fired. To even out boiler usage.
 - Boiler #1 also had a failed fuel pressure gauge. Gauge was replaced Boiler #1 is back in normal operation as needed.

- Sean's Water Plant
 - Boilers monitored daily as they are the main source of heat for the City sub water utility lines.

- Teen Center
 - Boilers are monitored daily as they are a "Boost" of temperatures supporting the heat loop that runs through the City Sub water utility lines.

Parks and Recreation:

As spring is quickly approaches a list of projects for the summer are being developed within the department along with projected timelines.

- Projects so far, more to be considered.
 - Owl Park (projected dates May 27th thru June 7th)
 - Install of new playground equipment and play ground material
 - All play parks
 - General maintenance and grounds upkeep
 - Pinky's Park
 - Softball field refurbish/re-sod/re-seed
 - Dugout repairs, repaint
 - Soccer Sports Field
 - Hydro Seed
 - Maintenance contract options for field to be discussed
 - Install bleachers
 - Paint concrete blocks High Vis
 - Install soccer goal posts
 - Place Portable restroom facilities
 - Install bike rack
 - Place information bulletin stand
 - Airport Cemetery
 - Ordering additional fencing
 - Installing additional fencing
 - Hydro seeding expanded sections
 - Boardwalks
 - Trial Lighting pole project
 - General maintenance and upkeep
 - Vegetation trim back

Road Maintenance:

Streets and Roads took the D-8 Cat dozer out to the city sand pit and push up a pile of sand to haul to the landfill. We haul cover to the landfill for two-week in-between the thaw when it was froze. Pit road is now too muddy to drive dump trucks on.

Streets and Roads did have the steamer out from 2/25 -3/1/19 steaming culverts during the thaw, before it froze up. It was not until the 3/23/19 after the big thaw started before we have the steamer out again thawing culverts for the rest of the March. We had to thaw over half of the culverts again from the culverts we did last time.

Streets and Roads been grading roads every day, and on some roads two times a day, but the roads have been so wet from last fall's rain, and is now thawing out, it does not hold up. This week some roads are starting to dry out, and now there has been no rain this week, those roads are starting to hold up to grading.

Streets and Roads had to fix some. There was small wash out in Kasayuli Subdivision, Larson Subdivision, and in City Subdivision. We hauled sand, and gravel to those areas with dump truck, to spread out with the grader.

Vehicles and Equipment:

March has been a very productive and busy month. As soon as we got 1 of the graders back into service after major front end repairs, the other went down. The second grader should be back in service by weeks end. We have had 4 units with major suspension problems. While having at least one and usually two mechanics working on the grader we also did 58 work orders. The V&E team has done a great job this month keeping up with all the equipment. Looking forward to the new fleet of trucks to help us focus on other projects that are needed to be done.

Transit System:

The Bethel Transit System and the City's Finance Department has submitted the monthly Budget Summary Billings, to DOT, for the months of July through January. Currently the State has reimbursed the City \$116,879.71 from the Federal/State Transit System grant. As soon as the Finance Department closes March, I will be working on the February and March Budget Summaries.

The ridership for the month of March has picked up. For the month of March there were a total of 2347 rides. Elders/Seniors (64years old+) 282 rides, who paid the regular fare, 56 rides for youth fares (3-14 years old), 180 for Disabled and 493 rides for adults fares. 1516 rides for the general public, which include; monthly passes, day passes, yearly passes and ONC elder passes. The revenue for the month of March is \$4,737.00. ONC has purchased monthly senior/elder passes for 43 elders. This has helped to increase our ridership a little, but more importantly, it has saved the elders money.

The Transit System is currently running one route. The Green Line runs Monday through Friday from 6:30am to 10:30am, 11:30am to 6:15pm, and Saturday 9:30-11:30 and 12:30-2:30.

Bus 437 was purchased in 2008 and is down with a bad motor. The City Shop recommends not fixing it and if they do they'll have to replace the motor. A couple of years ago the City Shop replace the motor in Bus 436 and it cost between \$12,000 and \$15,000. It was down for over a year. Bus 436 was purchased in 2008 and has over 145,972 miles on it. Bus 438 was purchased in 2007 and has 123,864 miles. Our newer bus, Bus 439 was purchased in 2014 and has over 149,259 miles. The State's guidelines for replacing cutaway buses is 7 years old and/or 200,000.

However, DOT also takes into consideration the location, rural area, and road conditions. With DOT's approval we are currently in the process of purchasing a new bus and hopefully it'll be on this summer barge. The City has received State and Federal grants that cover the entire cost.

Landfill / Recycle Center:

We constructed an alternate MSW cell and dump pad adjacent to the new gravel road in anticipation of muddy roads. Dale Construction hauled 150 loads of dirt to the landfill. We used this dirt to cover and to form a stockpile. We hauled roughly 150 loads of dirt to stockpile for cover and used some of it to build up the North berm. We hauled about 11 pickup loads of bulk trash that was around residential dumpsters.

Water Plant Operations:

For the month of March both water plants are in normal operation for winter mode. Monthly water logs to ADEC from BHWTP and CSWTP. Sewage Lagoon DMR report for December. We also hold a safety meeting at CSWTP daily.

Institutional Corridor Update:

- Line construction has been completed.
- DEC has issued a letter (11/20/18) with Interim Approval to Operate the line. This is valid until February 22, 2019. Request for final approval must be submitted prior to expiration.
- U.S. Fish & Wildlife was the first customer to apply for and receive services following the receipt of approval to operate.
- To date (2/28/19) only 5 service connections have been turned on. U.S. Fish & Wildlife, Bethel Youth Facility, Correctional Facility and YKHC (hospital and housing units).
- Still waiting on other customers to complete work and apply for services soon.
- Issues with circulation pumps and high demand pump alarms and tripping has been resolved. Valve was left partially closed during commissioning
- Fire hydrant static and flow testing was performed to accommodate requests from multiple customers working on sprinkler designs in their buildings.

Staffing Issues/Concerns/Training:

Streets and Roads daily dialog

3/5/19

The grader was out tonight at 9pm grading roads so that the roads would freeze up smoother on Ridgecrest Drive, Akakeek Street, Ptarmigan Street, and Kalugtug Road for 4 hours.

3/6/19

Dug a grave at the new graveyard by the airport 3 hours.

Took the 950D loader to the city sand pit and loaded dump trucks that is hauling to the landfill 8 hours.

Graded roads when the roads thaw out so that we could grade, 4 hours.

Push at the landfill with the D5 dozer to cover trash for 7 hours.

3/7/19

Took the 950D loader to the city sand pit and loaded dump trucks hauling to the landfill, 8 hours.

Graded started grading Bethel roads after it started thawing for 4 hours.

Hauled to the landfill with one dump truck in the morning for 5 hours.

Push, up sand at the city sand pit with the D8 dozer for the dump trucks hauling to the landfill, 8 hours.

3/8/19

Took the 950D loader to the city sand pit and loaded dump trucks hauling to the landfill, 8 hours.

Grader been out grading roads being the roads were thaw enough to grade throughout Bethel, 8 hours.

3/18/19

Took the loader out to the city sand pit to loads dump truck to haul to the landfill.

Had the Peter Built dump truck hauling sand to the landfill for 7 hours

The grader was out scarifying and scratching City Sand Pit Road, H-Marker Road, and Boat Harbor Road.

Drove the loader back to the shop from city sand pit.

3/19/19

Worked on Peter Built Dump truck battery 2 hours.

Drove the loader back out to the city sand pit to load dump trucks to haul to the landfill.

We had the Peter Built dump truck haul to the landfill 6 hours.

Had to pull on new cutting edge on the grader 2 hours.

The grader was out scratching roads 4 hours

Drove loader back from city sand pit to shop.

3/20/19

Drove the 950 loader back out to the city sand pit and loaded dump trucks
Hauled to the landfill with peter build dump truck, 7 hours.
Staked the sand that was haul to the landfill with 966 loader.
Drove the 950 load back to city shop for the night.

3/21/19

Grader was out at 5:30 am in the morning plowing snow before the school buses run
The loader was out snowdrifts that drifted from the storm.
Drove the loader out to the city sand pit and loaded dump trucks to haul to the landfill.
The 324E excavator was digging up landfill to haul to the landfill.
We pick up the new road steamer at Evert air cargo.

3/22/19

We loaded dump trucks with the 324E excavator to haul to the landfill.
A grader was out grading Ptarmigan Road, Akakeek Street, and Ridgecrest Roads.
We worked out the new steamer so we could use it this coming week to steam culverts.

3/23/19

Hauled cover with dump trucks to the landfill 7 hours.
Loaded the dump trucks with 324E excavator 7 hours.
Graded BIA Road Ptarmigan Road, Akakeek Street, and Ridgecrest Road.

3/25/19

The, grader, was out 5am grading Ptarmigan Road, Akakeek Street, and Ridgecrest Road.
The steamer was out steaming culverts in Tundra Sub., and in City Sub...
Haul gravel to Kasayuli sub. To fix a washout before it got too bad.
We haul in 6 loads of sand to H-Marker before it to washout by building dam on the
upper side so the water would all run thought the culvert.

3/26/19

We tried to get the grader out at 5am in the morning but could get it stated, so when we
did get it start it was 8am before we could grade Ptarmigan Road, Akakeek Street,
Ridgecrest Road, and from there to BIA Road, Kasayuli, Blue Berry, City Sub., and Back
to Ptarmigan Road, Akakeek Street, Ridgecrest Road 9 hours.
The steamer was in Larson Sub., Kasayuli Sub., and Seventh Ave. steamer culverts for 9
hours.
Fix a washout starting in Kasayuli Sub., with one load of gravel and the graded push is.
We finish up with putting the new steamer to gather to test it out.

3/27/19

The grader was out at 5am grading Ptarmigan Road, Akakeek Street, and Ptarmigan Road
before the school buses run.
The old steamer was steamer culvert it Seventh Ave., Larson Sub., and Boat harbor Road.

Took the new steamer out to test it on culverts and had a big water leak in the water pump due to the water pump froze up and broke during shipping. So a new one is being Gold Streak out from Totem Equipment.

City of Bethel
Street and Roads Foreman
James Flemings