

**KENAI AIRPORT COMMISSION
REGULAR MEETING
JUNE 9, 2022 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
Telephonic/Virtual Information Page 2
<http://www.kenai.city>**

1. CALL TO ORDER

- a. Pledge of Allegiance
- b. Roll Call
- c. Agenda Approval

2. SCHEDULED PUBLIC COMMENT *(Public comment limited to ten (10) minutes per speaker)*

3. UNSCHEDULED PUBLIC COMMENT *(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)*

4. APPROVAL OF MEETING SUMMARY

- a. May 12, 2022..... Pg. 3

5. UNFINISHED BUSINESS

6. NEW BUSINESS

- a. **Discussion/Recommendation** – Recommending the Kenai City Council Approve a Special Use Permit to Empire Airlines, Inc. for Aircraft Loading & Parking..... Pg. 6
- b. **Discussion/Recommendation** – Recommending the Kenai City Council Approve a Special Use Permit to Everts Air Fuel, Inc. for Aircraft Loading & Parking.....Pg. 16
- c. **Discussion/Recommendation** – Recommending the Kenai City Council Approve a Special Use Permit to Crowley Fuels LLC for Aviation Fueling & Apron Fueling Area.....Pg. 26
- d. **Discussion/Recommendation** – Recommending the Kenai City Council Approve a Special Use Permit to Alaska Geographic for a Vending Kiosk in the Airport Terminal.Pg. 36
- e. **Discussion/Recommendation** – Recommending the Kenai City Council Approve a Special Use Permit to UPSCO United Parcel Service Co., Inc. for Aircraft Loading & Parking.....Pg. 41
- f. **Discussion/Recommendation** – Recommending the Kenai City Council Approve a Special Use Permit to Kenai Aviation for Aircraft Parking.....Pg. 51

- g. **Discussion/Recommendation** – Recommending the Kenai City Council Approve a Special Use Permit to Alaska Air Fuel, Inc. for Aircraft Loading & Parking.....Pg. 61
- h. **Discussion/Recommendation** – Recommending the Kenai City Council Approve Fifth Amendment to Agreement for Restaurant Concession with Situla LLC (D/B/A Brother’s Café).....Pg. 71

7. **REPORTS**

- a. Airport Manager
- b. City Council LiaisonPg. 75

8. **NEXT MEETING ATTENDANCE NOTIFICATION** – July 14, 2022

9. **COMMISSIONER COMMENTS AND QUESTIONS**

10. **ADDITIONAL PUBLIC COMMENT**

11. **INFORMATION ITEMS**

- a. April 2022 Enplanement Report.....Pg. 83

12. **ADJOURNMENT**

Join Zoom Meeting

<https://us02web.zoom.us/j/85350667509>

Meeting ID: 853 5066 7509 **Password:** 497998

OR

Call: (253) 215-8782 or (301) 715-8592

Meeting ID: 853 5066 7509 **Password:** 497998

****PLEASE CONTACT US IF YOU WILL NOT BE ABLE TO ATTEND THE MEETING****
MEGHAN -- 283-8231 OR, ERICA -- 283-8281

**KENAI AIRPORT COMMISSION
REGULAR MEETING
MAY 12, 2022 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
CHAIR GLENDA FEEKEN, PRESIDING**

MEETING SUMMARY

1. CALL TO ORDER

Chair Feeken called the meeting to order at 6:00 p.m.

a. Pledge of Allegiance

Chair Feeken led those assembled in the Pledge of Allegiance.

b. Roll was confirmed as follows:

Commissioners Present: G. Feeken, D. Pitts, P. Minelga, J. Bielefeld, J. Caldwell, J. Daily

Commissioners Absent: J. Zirul

Staff/Council Liaison Present: Airport Manager E. Conway, Administrative Assistant E. Brincefield, Council Liaison Baisden

A quorum was present.

c. Agenda Approval

MOTION:

Vice Chair Minelga **MOVED** to approve the agenda and Commissioner Caldwell **SECONDED** the motion. There were no objections; **SO ORDERED**.

2. SCHEDULED PUBLIC COMMENT – None.

3. UNSCHEDULED PUBLIC COMMENT – None.

4. APPROVAL OF MEETING SUMMARY

a. April 14, 2022

MOTION:

Commissioner Caldwell **MOVED** to approve the meeting summary of April 14, 2022 as presented. Commissioner Bielefeld **SECONDED** the motion. There were no objections; **SO ORDERED**.

5. UNFINISHED BUSINESS – None.

6. NEW BUSINESS

- a. **Discussion/Recommendation** – Recommending the City Council Approve a Special Use Permit to Pacific Star Seafoods for 15,000 sqft of Apron for Aircraft Parking & Loading from June 1, 2022-July 31, 2022.

MOTION:

Vice Chair Minelga **MOVED** to recommend Council approve a Special Use Permit to Pacific Star Seafoods for 15,000 sqft of Apron for Aircraft Parking & Loading from June 1, 2022-July 31, 2022. Commissioner Daily **SECONDED** the motion.

Discussion involved clarification on the map “Exhibit A” presented in the packet.

UNANIMOUS CONSENT was requested.

VOTE: There were no objections; **SO ORDERED.**

- b. **Discussion/Recommendation** – Recommending the City Council approve the Second Amendment to Agreement for Janitorial Services to Reborn Again Janitorial.

MOTION:

Commissioner Bielefeld **MOVED** to recommend Council approve the Second Amendment to Agreement for Janitorial Services to Reborn Again Janitorial. Commissioner Caldwell **SECONDED** the motion.

UNANIMOUS CONSENT was requested.

VOTE: There were no objections; **SO ORDERED.**

- c. **Discussion/Recommendation** – Recommending the City Council Approve Resolution No. 2022-XX – Approving the Execution of a Lease to Swanson Properties, LLC for Lot 6, Block 5, General Aviation Subdivision No. 1 Amended.

MOTION:

Vice Chair Minelga **MOVED** to recommend Council approve Resolution No. 2022-XX – Approving the Execution of a Lease to Swanson Properties, LLC for Lot 6, Block 5, General Aviation Subdivision No. 1 Amended. Commissioner Daily **SECONDED** the motion.

Clarification was provided that this lease is for the building lot, and the area where they store equipment is under a different lease agreement.

UNANIMOUS CONSENT was requested.

VOTE: There were no objections; **SO ORDERED.**

- d. **Discussion** – FY23 Draft Airport Budget.

Airport Manager Conway explained that because the City of Kenai had established the Airport Permanent Fund, the Kenai Airport is able to supplement about a third of its budget from earnings of the permanent fund. He reported that the Airport is self-sufficient and operating fiscally responsibly.

The commission discussed funding for additional improvements at the float plane basin, reported complaints of gravel material used at the float plane basin, and a memorial for Derek Leichter.

7. REPORTS

- a. **Airport Manager** – Airport Manager Conway reported on the following:
 - Kenai Aviation began flying on May 2, 2022;
 - My Alaskan Gifts opened in the terminal;
 - Enplanements continue to rise;
 - Parking revenue is up.
- b. **City Council Liaison** – Council Member Baisden reported that the City Council FY2023 Budget Work Session would be on Saturday, May 14, 2022.

8. NEXT MEETING ATTENDANCE NOTIFICATION – June 9, 2022

Commissioners Daily and Pitts noted that they may be absent.

9. COMMISSIONER COMMENTS AND QUESTIONS – None.

10. ADDITIONAL PUBLIC COMMENT – None.

11. INFORMATION ITEMS

- a. February 2022 Enplanement Report

12. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 6:17 p.m.

Meeting summary prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk



"Serving the Greater Kenai Peninsula"

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-7951
FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway – Airport Manager
From: Erica Brincefield - Assistant
Date: May 12, 2022
Subject: *Empire Airlines, Inc. - Special Use Permit*

Empire Airlines, Inc. is requesting a Special Use Permit for aircraft parking on approximately 11,250 square feet of apron space. The Special Use Permit will be effective for one year from July 1, 2022 to June 30, 2023.

Does Commission recommend Council approve the Special Use Permit to Empire Airlines, Inc.?

Attachment

SPECIAL USE PERMIT

The CITY OF KENAI (City) grants to EMPIRE AIRLINES, INC. (Permittee), whose address is 11559 N. Atlas Road, Hayden, ID 83835, a Special Use Permit for the purpose of aircraft parking at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

- 1. Premises.** Permittee shall have the non-exclusive right to use 11,250 square feet as described in the attached Exhibit A for the uses identified in this Permit.
- 2. Term.** The term of this Permit shall be for 1 year commencing on July 1, 2022 and ending on June 30, 2023. Regardless of the date of signature, this Permit shall be effective as of July 1, 2022.
- 3. Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
 - A. Permit:** Permittee shall pay a monthly fee of \$1,190.63 plus applicable sales tax.
 - B. Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of one hundred dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
 - C. Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of ten percent (10%) per annum, and penalty of ten percent (10%) shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. Use. City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Parking. NOTE: This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

5. Airport Operations. Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

6. Inspection. The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

7. Coordination with Airport Management. Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

8. Radio Transmitting Equipment. Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

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

A. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee's fuel handling activities. The policy must name the City as an additional insured.

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

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

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

- i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance

coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2022. The effective date of the insurance shall be no later than July 1, 2022.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

10. Assumption of Risk. Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

11. Indemnity, Defend, and Hold Harmless Agreement. Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

12. Fuel Spill Prevention and Response Plan. Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within fifty feet (50') of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

13. Hazardous Substances and Materials. Permittee shall conform and be subject to

the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

14. No Discrimination. Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

15. Licenses and Permits. Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

16. Compliance with Law/Grant Assurances. This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

17. No Exclusivity. The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

18. Assignment. The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

19. No Joint Venture. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

20. No Waiver. Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

21. Personalty. Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or

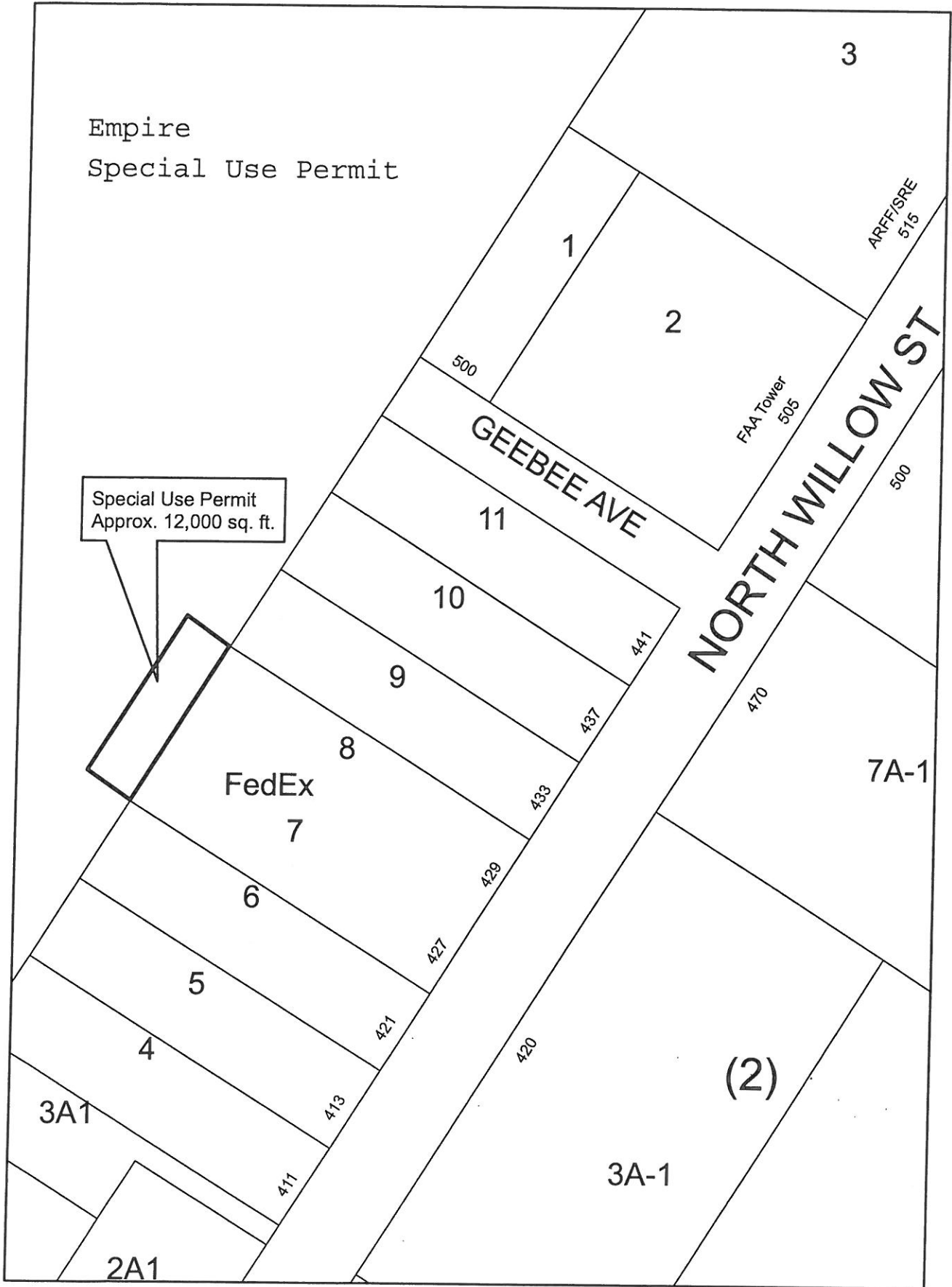
impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

22. Termination; Default. This Permit may be terminated by either party hereto by giving thirty (30) days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than thirty (30) days, to protect public health and safety or due to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

23. Landing Fees; Fee Schedule. Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City's comprehensive schedule of rates, charges and fees. Permittee shall make payment within thirty (30) days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten (10) days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

24. Impoundment. At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within ninety (90) days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three (3) consecutive weeks not more than thirty (30) days nor less than seven (7) days before the time of the auction.

25. Definitions. As used in this Permit, "Permittee" means Empire Airlines, Inc. and where the context reasonably indicates, its officers, agents, and employees. "Airport" means the Kenai Municipal Airport.



Empire
Special Use Permit

Special Use Permit
Approx. 12,000 sq. ft.

GEEBEE AVE

NORTH WILLOW ST

FedEx

(2)



“Serving the Greater Kenai Peninsula”

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-7951
FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway – Airport Manager
From: Erica Brincefield - Assistant
Date: May 12, 2022
Subject: ***Everts Air Fuel, Inc. - Special Use Permit***

Everts Air Fuel, Inc. is requesting a Special Use Permit for approximately 30,000 square feet of apron for aircraft loading and parking. The Special Use Permit will be effective for one year from July 1, 2022 to June 30, 2023.

Does Commission recommend Council approve the Special Use Permit to Everts Air Fuel, Inc.?

Attachment

SPECIAL USE PERMIT

The CITY OF KENAI (City) grants to EVERTS AIR FUEL, INC. (Permittee), whose address is P.O. Box 60908, Fairbanks, AK 99706, a Special Use Permit to conduct aeronautical and/or aviation-related activities at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

- 1. Premises.** Permittee shall have the non-exclusive right to use 30,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
- 2. Term.** The term of this Permit shall be for 1 year commencing on July 1, 2022 and ending on June 30, 2023. Regardless of the date of signature, this Permit shall be effective as of July 1, 2022.
- 3. Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
 - A. Permit:** Permittee shall pay a monthly fee of \$3,175.00 plus applicable sales tax.
 - B. Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of One Hundred Dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
 - C. Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of 10% per annum, and penalty of 10% shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. Use. City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Loading and Parking. NOTE: This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

5. Airport Operations. Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

6. Inspection. The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

7. Coordination with Airport Management. Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

8. Radio Transmitting Equipment. Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

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

A. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee's fuel handling activities. The policy must name the City as an additional insured.

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

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

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

- i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance

coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least 30 days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2022. The effective date of the insurance shall be no later than July 1, 2022.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

10. Assumption of Risk. Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

11. Indemnity, Defend, and Hold Harmless Agreement. Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

12. Fuel Spill Prevention and Response Plan. Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within 50' of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

13. Hazardous Substances and Materials. Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

14. No Discrimination. Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

15. Licenses and Permits. Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

16. Compliance with Law/Grant Assurances. This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

17. No Exclusivity. The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

18. Assignment. The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

19. No Joint Venture. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

20. No Waiver. Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

21. Personalty. Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25 per day. The City of Kenai

is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

22. Termination; Default. This Permit may be terminated by either party hereto by giving 30 days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than 30 days, to protect public health and safety or due to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

23. Landing Fees; Fee Schedule. Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City's comprehensive schedule of rates, charges and fees. Permittee shall make payment within 30 days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

24. Impoundment. At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within 90 days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three consecutive weeks not more than 30 days nor less than seven days before the time of the auction.

25. Definitions. As used in this Permit, "Permittee" means Everts Air Fuel, Inc. and where the context reasonably indicates, its officers, agents, and employees. "Airport" means the Kenai Municipal Airport.

Exhibit A





"Serving the Greater Kenai Peninsula"

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-7951
FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway - Airport Manager
From: Erica Brincefield - Assistant
Date: May 12, 2022
Subject: ***Crowley Fuels LLC. - Special Use Permit***

Crowley Fuels LLC is requesting a Special Use Permit for aviation fueling on 35,000 square feet of the apron fueling area. The Special Use Permit will be effective for one year from July 1, 2022 to June 30, 2023.

Does Commission recommend Council approve the Special Use Permit to Crowley Fuels LLC?

Attachment

SPECIAL USE PERMIT

The CITY OF KENAI (City) grants to CROWLEY FUELS LLC (Permittee), whose address is 201 Arctic Slope Ave., Anchorage, AK 99518, a Special Use Permit for the fueling area on the apron at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

1. **Premises.** Permittee shall have the non-exclusive right to use 35,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
2. **Term.** The term of this Permit shall be for 1 year commencing on July 1, 2022 and ending on June 30, 2023. Regardless of the date of signature, this Permit shall be effective as of July 1, 2022.
3. **Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
 - A. **Permit:** Permittee shall pay a monthly fee of \$3,704.16 plus applicable sales tax.
 - B. **Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of One Hundred Dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
 - C. **Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of 10% per annum, and penalty of 10% shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. Use. City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aviation Fueling on Apron Fueling Area. NOTE: This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

5. Airport Operations. Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

6. Inspection. The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

7. Coordination with Airport Management. Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

8. Radio Transmitting Equipment. Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

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

A. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee's fuel handling activities. The policy must name the City as an additional insured.

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

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

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

- i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance

coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2022. The effective date of the insurance shall be no later than July 1, 2022.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

10. Assumption of Risk. Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

11. Indemnity, Defend, and Hold Harmless Agreement. Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

12. Fuel Spill Prevention and Response Plan. Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within 50' of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

13. Hazardous Substances and Materials. Permittee shall conform and be subject to

the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

14. No Discrimination. Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

15. Licenses and Permits. Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

16. Compliance with Law/Grant Assurances. This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

17. No Exclusivity. The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

18. Assignment. The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

19. No Joint Venture. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

20. No Waiver. Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

21. Personalty. Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or

impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

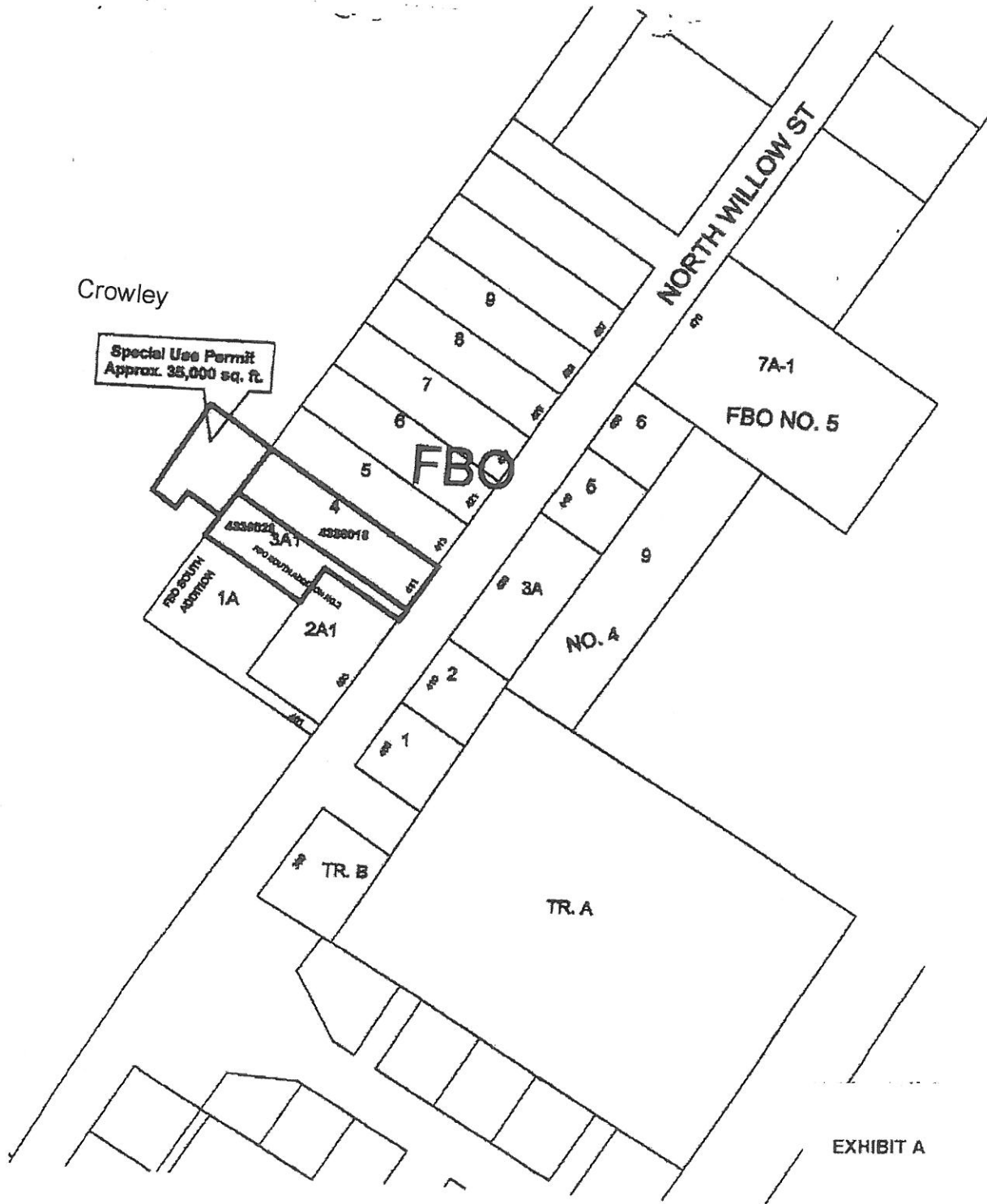
22. Termination; Default. This Permit may be terminated by either party hereto by giving 30 days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than 30 days, to protect public health and safety or due to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

23. Landing Fees; Fee Schedule. Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City's comprehensive schedule of rates, charges and fees. Permittee shall make payment within 30 days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

24. Impoundment. At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within 90 days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three consecutive weeks not more than 30 days nor less than seven days before the time of the auction.

25. Definitions. As used in this Permit, "Permittee" means Crowley Fuels LLC., and where the context reasonably indicates, its officers, agents, and employees. "Airport" means the Kenai Municipal Airport.

EXHIBIT A





"Serving the Greater Kenai Peninsula"

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-8281
FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway – Airport Manager
From: Erica Brincefield - Assistant
Date: May 18, 2022
Subject: *Alaska Geographic- Special Use Permit*

Alaska Geographic is requesting a special use permit for a vending kiosk inside the terminal building. This vending kiosk will sell interpretive and educational products related to the Kenai National Wildlife Refuge and the Alaska Maritime Wildlife Refuge.

The special use permit will be effective for one year from July 1, 2022 to June 30, 2023.

Does Commission recommend Council approve the Special Use Permit to ALASKA GEOGRAPHIC.?

Attachments

SPECIAL USE PERMIT

THE CITY OF KENAI (CITY) for the considerations and pursuant to the conditions and requirements set forth below, hereby grants **ALASKA GEOGRAPHIC** (PERMITTEE), whose address is 421 W. 1st Ave, Suite 250, Anchorage, AK 99501, the non-exclusive right to use that area described below:

A small area in the Kenai Airport Terminal approximately 3.4 feet
by 2.8 feet in size

- 1. TERM.** The term of this Permit shall be for 1 year commencing on July 1, 2022, and ending on June 30, 2023.
- 2. PERMIT FEES.** The monthly fee for this permit is \$29.60 plus applicable sales tax.
- 3. USE.** The use of the Premises by Permittee is for the purpose of placing a vending kiosk to sell interpretive products that entertain and educate visitors about Alaska's public lands. A portion of every purchase is donated to its host park, refuge or forest. The inventory will be monitored remotely and serviced by Kenai National Wildlife Refuge store manager in Soldotna.
- 4. LICENSES AND PERMITS; LAWS.** Permittee shall adhere to all federal, state, and local laws, ordinances, and regulations while conducting its activities on the Premises. Permittee shall obtain and maintain all required federal, state, and local licenses, permits, certificates, and other documents required for Permittee's operations under the Permit. Permittee shall provide proof of compliance to the City upon request by the City.
- 5. NO EXCLUSIVITY.** This Permit is not intended to grant any exclusive use to the described Premises.
- 6. INSURANCE.** Permittee shall provide proof of insurance coverage, including worker's compensation, if necessary, in an amount satisfactory to the City Manager, and listing the City as an additional insured.
- 7. INDEMNITY, DEFEND, AND HOLD HARMLESS AGREEMENT.** Permittee agrees to indemnify, defend, and hold the City, its agents, and employees harmless from and against any and all liability, loss, suit, claim, judgment, fine, demand, damage, penalty, property damage, or personal injury of whatever kind, including sums paid in settlements of claims, attorney fees, consultant fees, expert fees, or costs incurred arising from or connected with the Permittee's use or occupation of the Premises. Permittee shall give the

City of Kenai reasonable notice of any such claims or actions. However, Permittee shall not be responsible for any damage or claims from the sole negligence, activities, or omission of the City or its agents or employees.

8. PERSONALITY. Permittee is solely responsible for the maintenance of the kiosk. Permittee must keep the kiosk and all other materials on the Premises clean and in good condition.

Permittee shall remove any and all personal property from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee at or from the Premises.

9. NO WAIVER. Failure to insist upon a strict compliance with the terms, conditions, and/or any requirement herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions or requirements.

10. MUTUAL CANCELLATION. This Permit may be cancelled in whole or in part with one month written notice by Permittee or the City.

11. NO DISCRIMINATION. Permittee will not discriminate on the grounds of race, color, religion, national origin, ancestry, age, or sex against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or State law. Permittee recognizes the right of the City to take any action necessary to enforce this requirement.

12. ASSUMPTION OF RISK. Permittee shall provide all proper safeguards and shall assume all risks incurred in its use of the Premises.

13. NO JOINT VENTURE. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises.

14. CONTACT INFORMATION. The contact information for Permittee, and the person in responsible charge for Permittee during the term of the Permit, for purposes of notice and all communications from City to Permittee is:

Alaska Geographic

Executive Director Andy Hall
421 W. 1st Ave, Ste. 250
Anchorage, AK 99501
(907) 771-8400

The contact information for City for purposes of notice and all communications from Permittee to City is:

Airport Administration
305 North Willow, Suite 200
Kenai, Alaska 99611
Telephone: (907) 283-8281

15. RIGHTS OR REMEDIES. No right or remedy herein conferred upon or reserved to each respective party is intended to be exclusive of any other right or remedy. Each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity.

16. GOVERNING LAW; VENUE. The laws of State of Alaska will determine the interpretation of this Agreement and the performance thereof. Any lawsuit brought thereon shall be filed in the Third Judicial District at Kenai, Alaska.

17. AUTHORITY. By signing this Permit, Permittee represents that it has read this agreement and it agrees to be bound by the terms and conditions herein and that the person signing this Permit is authorized to bind Permittee.

CITY OF KENAI

By: _____

City Manager

ALASKA GEOGRAPHIC

By: _____
Andy Hall
Executive Director

Approved as to form:

Scott Bloom
City Attorney

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 2022, the foregoing instrument was acknowledged before me by PAUL OSTRANDER, City Manager, of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

Notary Public for Alaska
My Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2022, the foregoing instrument was acknowledged before me by ANDY HALL, Executive Director of Alaska Geographic, an Alaska non-profit corporation, on behalf of the corporation.

Notary Public for Alaska
My Commission Expires: _____



“Serving the Greater Kenai Peninsula”

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-7951
FAX 907-283-3737

Memo

To: Airport Commission

Through: Eland Conway – Airport Manager

From: Erica Brincefield - Assistant

Date: May 12, 2022

Subject: ***United Parcel Service Co., Inc. - Special Use Permit***

United Parcel Service Co., Inc. is requesting a Special Use Permit for approximately 4,000 square feet of apron for aircraft loading and parking. The Special Use Permit will be effective for one year from July 1, 2022 to June 30, 2023.

Does Commission recommend Council approve the Special Use Permit to UPSCO United Parcel Service Co., Inc.?

Attachment

SPECIAL USE PERMIT

The CITY OF KENAI (City) grants to UPSCO United Parcel Service Co., Inc. (Permittee), whose address is 6200 Lockheed Ave., Anchorage, AK 99502, a Special Use Permit to conduct aeronautical and/or aviation-related activities at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

- 1. Premises.** Permittee shall have the non-exclusive right to use 4,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
- 2. Term.** The term of this Permit shall be for 1 year commencing on July 1, 2022 and ending on June 30, 2023. Regardless of the date of signature, this Permit shall be effective as of July 1, 2022.
- 3. Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
 - A. Permit:** Permittee shall pay a monthly fee of \$423.33 plus applicable sales tax.
 - B. Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of one hundred dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
 - C. Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of ten percent (10%) per annum, and penalty of ten percent (10%) shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. Use. City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Loading and Parking. **NOTE:** This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

5. Airport Operations. Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

6. Inspection. The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

7. Coordination with Airport Management. Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

8. Radio Transmitting Equipment. Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

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

A. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee's fuel handling activities. The policy must name the City as an additional insured.

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

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

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

- i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance

coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2022. The effective date of the insurance shall be no later than July 1, 2022.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

10. Assumption of Risk. Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

11. Indemnity, Defend, and Hold Harmless Agreement. Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

12. Fuel Spill Prevention and Response Plan. Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within fifty feet (50') of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

13. Hazardous Substances and Materials. Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

14. No Discrimination. Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

15. Licenses and Permits. Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

16. Compliance with Law/Grant Assurances. This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

17. No Exclusivity. The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

18. Assignment. The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

19. No Joint Venture. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

20. No Waiver. Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

21. Personalty. Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of

Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

22. Termination; Default. This Permit may be terminated by either party hereto by giving thirty (30) days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than thirty (30) days, to protect public health and safety or due to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

23. Landing Fees; Fee Schedule. Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City's comprehensive schedule of rates, charges and fees. Permittee shall make payment within thirty (30) days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten (10) days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

24. Impoundment. At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within ninety (90) days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three (3) consecutive weeks not more than thirty (30) days nor less than seven (7) days before the time of the auction.

25. Definitions. As used in this Permit, "Permittee" means UPSCO, United Parcel Service Co., Inc. and where the context reasonably indicates, its officers, agents, and employees. "Airport" means the Kenai Municipal Airport.



Exhibit A



“Serving the Greater Kenai Peninsula”

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-7951
FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway – Airport Manager
From: Erica Brincefield - Assistant
Date: May 23, 2022
Subject: ***Kenai Aviation - Special Use Permit***

Kenai Aviation is requesting a Special Use Permit for approximately 2,714 square feet of taxi lane at the north end of GG for aircraft parking. The Special Use Permit will be effective for six months from May 1, 2022 to October 31, 2022.

Does Commission recommend Council approve the Special Use Permit to Kenai Aviation?

Attachment

SPECIAL USE PERMIT

The CITY OF KENAI (City) grants to Kenai Aviation (Permittee), whose address is 101 N Willow Street, Kenai, AK 99611, a Special Use Permit to conduct aeronautical and/or aviation-related activities at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

- 1. Premises.** Permittee shall have the non-exclusive right to use 2,714 square feet as described in the attached Exhibit A for the uses identified in this Permit.
- 2. Term.** The term of this Permit shall be for six months commencing on May 1, 2022 and ending on October 31, 2022. Regardless of the date of signature, this Permit shall be effective as of May 1, 2022.
- 3. Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
 - A. Permit:** Permittee shall pay a monthly fee plus applicable sales tax as follows:

May-June 2022	\$124.39
July-October 2022	\$131.17
 - B. Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of one hundred dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
 - C. Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of ten percent (10%) per annum, and penalty of ten percent (10%) shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. Use. City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Parking. NOTE: This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

5. Airport Operations. Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

6. Inspection. The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

7. Coordination with Airport Management. Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

8. Radio Transmitting Equipment. Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

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

A. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee's fuel handling activities. The policy must name the City as an additional insured.

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

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

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

- i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance

coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by May 1, 2022. The effective date of the insurance shall be no later than May 1, 2022.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

10. Assumption of Risk. Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

11. Indemnity, Defend, and Hold Harmless Agreement. Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

12. Fuel Spill Prevention and Response Plan. Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within fifty feet (50') of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

13. Hazardous Substances and Materials. Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

14. No Discrimination. Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

15. Licenses and Permits. Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

16. Compliance with Law/Grant Assurances. This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

17. No Exclusivity. The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

18. Assignment. The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

19. No Joint Venture. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

20. No Waiver. Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

21. Personalty. Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of

Kenai is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

22. Termination; Default. This Permit may be terminated by either party hereto by giving thirty (30) days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than thirty (30) days, to protect public health and safety or due to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

23. Landing Fees; Fee Schedule. Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City's comprehensive schedule of rates, charges and fees. Permittee shall make payment within thirty (30) days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten (10) days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

24. Impoundment. At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within ninety (90) days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three (3) consecutive weeks not more than thirty (30) days nor less than seven (7) days before the time of the auction.

25. Definitions. As used in this Permit, "Permittee" means Kenai Aviation and where the context reasonably indicates, its officers, agents, and employees. "Airport" means the Kenai Municipal Airport.

Exhibit A





"Serving the Greater Kenai Peninsula"

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-7951
FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway – Airport Manager
From: Erica Brincefield - Assistant
Date: May 18, 2022
Subject: *Alaska Air Fuel, Inc. – Special Use Permit*

Alaska Air Fuel, Inc. is requesting a Special Use Permit for approximately 15,000 square feet of apron for aircraft parking. The Special User Permit will be effective for one year from July 1, 2022 to June 30, 2023.

Does Commission recommend Council approve the Special Use Permit to Alaska Air Fuel, Inc.?

Attachment

SPECIAL USE PERMIT

The CITY OF KENAI (City) grants to ALASKA AIR FUEL, INC. (Permittee), whose address is 3700 W. Aviation Avenue, Wasilla, AK 99654, a Special Use Permit to conduct aeronautical and/or aviation-related activities at the Kenai Municipal Airport subject to the requirements and the conditions set forth below.

1. **Premises.** Permittee shall have the non-exclusive right to use 15,000 square feet as described in the attached Exhibit A for the uses identified in this Permit.
2. **Term.** The term of this Permit shall be for 1 year commencing on July 1, 2022 and ending on June 30, 2023. Regardless of the date of signature, this Permit shall be effective as of July 1, 2022.
3. **Permit Fees.** Permittee shall pay the following fees for the privileges extended to Permittee under this Permit:
 - A. **Permit:** Permittee shall pay a monthly fee of \$725.00 plus applicable sales tax.
 - B. **Proximity Card for Gate Access:** In addition to the general permit fee, Permittee shall pay a deposit of One Hundred Dollars (\$100.00) for the use of each proximity card issued to Permittee by City to allow for gate access to the Airport to conduct the uses permitted hereunder. City shall refund this deposit to Permittee when the card is returned to City. City may exercise a right of offset to apply the deposit to any outstanding balance due to City from Permittee at the termination of this Permit.
 - C. **Other Fees:** City may assess additional fees for aviation or aviation support activities and uses not defined in this Permit. If a fee has not been established for those activities or services, a fee will be established by the Airport Manager.

Payment shall be directed to City of Kenai, ATTN: Finance Department, 210 Fidalgo Avenue, Kenai, AK 99611 and a courtesy notice of payment provided to Airport Administration at 305 North Willow Street, Suite 200, Kenai, AK 99611. All permit fees are payable in advance of each month unless otherwise provided. In the event of delinquency, interest at the rate of 10% per annum, and penalty of 10% shall also be due (KMC 1.75.010). Interest shall accrue from the date due until the date paid in full. Failure to timely make payments is grounds for termination of this Permit. (See ¶ 22, Termination)

4. **Use.** City authorizes Permittee's non-exclusive use of the Premises for the following purpose(s):

Aircraft Loading & Parking. NOTE: This permit does not guarantee the exclusive use of the area identified in Exhibit A. City reserves the right to re-assign Permittee, upon reasonable notice, to other areas as airport needs may require.

Permittee shall have the right of ingress and egress to the Airport using only designated gate access locations (which may require a proximity card) for the use of the Premises. This Permit, and any access rights allowed hereunder, are for Permittee's use only and may not be transferred or assigned.

Use of the Premises by Permittee is subject to the reasonable administrative actions of the City of Kenai for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities and is further subject to the following conditions:

Permittee acknowledges that the use granted herein is subject to the Kenai Municipal Code and municipal regulations governing the Kenai Municipal Airport and as those laws and regulations may be amended from time to time.

Solicitation of donations or operation of a business or other commercial enterprise not contemplated by this Permit is prohibited without the written consent of City.

No person may repair an aircraft, aircraft engine, propeller, or apparatus in an area of the Airport other than that specifically designated for that purpose by the Airport Manager or designated representative. The Airport Manager or designated representative reserves the right to designate reasonable areas where aircraft owners may perform services on their own aircraft.

5. Airport Operations. Permittee shall ensure that the Permittee, its employees, and guests, and anyone else acting by, on behalf of, or under the authority of Permittee on the Airport, that perform any repairs or activities authorized under this Permit act in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Airport and any premises on the Airport. Permittee shall employ qualified personnel and maintain equipment sufficient for the purposes of this provision. The Permittee shall immediately notify City of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of any premises on the Airport.

6. Inspection. The Federal Aviation Administration (FAA) and/or City shall have the right and authority to inspect, at any time for any purpose whatsoever, the Premises as well as any and all equipment used by the Permittee under this Permit.

7. Coordination with Airport Management. Permittee shall coordinate all activities on the Airport with Airport Management, or a designated representative, and shall abide by all reasonable decisions and directives of the Airport Management regarding general use of the Airport by Permittee.

8. Radio Transmitting Equipment. Permittee shall discontinue the use of any machine or device which interferes with any government-operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

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

A. Commercial General Liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must include an endorsement under which the insurer extends coverage to Permittee's fuel handling activities. The policy must name the City as an additional insured.

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

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

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

- i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
- ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.

- iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
- iv. Provide the City with notification at least 30 days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
- v. Evidence of insurance coverage must be submitted to City by July 1, 2022. The effective date of the insurance shall be no later than July 1, 2022.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

10. Assumption of Risk. Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Airport. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on and access to the Kenai Municipal Airport and its exercise of the privileges granted in this Permit.

11. Indemnity, Defend, and Hold Harmless Agreement. Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises, Permittee's access to the Kenai Municipal Airport, and/or Permittee's exercise of the privileges granted in this Permit. This shall be a continuing obligation and shall remain in effect after termination of this Permit.

12. Fuel Spill Prevention and Response Plan. Areas of the Apron have been seal coated to protect asphalt from adverse effects of petroleum product spills. The City requires that

Permittee provide adequate absorbent materials and tools available on the Premises and at the airport in order to maintain a fuel spill and response capability. Permittee shall be liable for any damage caused by and costs associated with any spill, the cleanup of any spill, or the discharge of petroleum products or hazardous materials due to Permittee's use of the Apron and/or use of the Airport.

Permittee shall provide to City an acceptable fuel spill prevention and response plan and will maintain fuel spill and response capability. Permittee further agrees to have a copy of the fuel spill prevention and response plan located in the Permittee's fuel dispensing equipment at all times. Permittee must comply with the Airport's Storm Water Pollution Prevention Plan as appropriate to Permittee's activities.

Permittee shall not store any personal property, solid waste, petroleum products, Hazardous Material as defined by 14 CFR § 171.8, hazardous waste (ignitable, corrosive, reactive, or toxic) or any hazardous substance on any portion of the Airport. Permittee is aware that there are significant penalties for improperly disposing of the Hazardous Materials and other waste and for submitting false information regarding Hazardous Materials, including the possibility of fine and imprisonment for knowing violations.

Permittee shall immediately remove the material in the event of spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement or surface in or on any area of the Airport.

Permittee may not construct or install any above-ground or underground fuel storage tanks or dispensing systems at the Airport.

No person shall smoke on an aircraft-parking ramp, inside an aircraft hangar, or within 50' of any aircraft fuel facility or fuel truck.

Permittee is subject to FAA Advisory Circular 150/5230-4 Aircraft Fuel Storage, Handling, and Dispensing on Airports, the National Fire Protection Associations' "Standard for Aircraft Fueling Servicing" in NFPA 407 (1996 version), and the current version of the International Fire Codes. All inspections of fuel facilities, by City or other regulating entities to which Permittee is subject, shall be conducted to assure compliance with the fire safety practices listed in these referenced documents.

13. Hazardous Substances and Materials. Permittee shall conform and be subject to the requirements of 14 CFR § 139.321 regarding the handling and storage of hazardous substances and materials.

14. No Discrimination. Permittee shall not discriminate against any person because of the person's race, creed, color national origin, sex, age, or handicap. Permittee recognizes the right of City to take any action necessary to enforce this requirement of the Permit. Permittee will furnish services provided under this Permit on a reasonable, and not unjustly discriminatory, basis to all users of the Airport and shall charge reasonable, and not unjustly discriminatory, prices for each product or service provided at the Airport.

15. Licenses and Permits. Permittee shall obtain and maintain all required federal, state, and local licenses, certificates, and other documents required for its operations under the Permit. Permittee shall provide proof of compliance to City upon request by the City.

16. Compliance with Law/Grant Assurances. This Permit, and Permittee's activities conducted under this Permit, is subject to all executive orders, policies and operational guidelines and all applicable requirements of federal, state, and City statutes, ordinances, and regulations in effect during the term of this Permit. Further, Permittee shall comply with all applicable requirements imposed on the Airport by federal law to ensure that the Airport's eligibility for federal money or for participation in federal aviation programs is not jeopardized. This Permit is subordinate to the City's grant assurances and federal obligations.

17. No Exclusivity. The privileges granted under this Permit are not exclusive to Permittee. City has the right to grant to others any right or privilege on the Airport.

18. Assignment. The privileges granted under this Permit are personal to Permittee and may not be assigned by Permittee.

19. No Joint Venture. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises or elsewhere at the Kenai Municipal Airport.

20. No Waiver. Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.

21. Personalty. Permittee shall remove any and all personal property, including all vehicles, from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25 per day. The City of Kenai

is not responsible for any damage to or theft of any personalty of Permittee or of its customers.

22. Termination; Default. This Permit may be terminated by either party hereto by giving 30 days advance written notice to the other party. City may terminate the Permit immediately, or upon notice shorter than 30 days, to protect public health and safety or due to a failure of Permittee to comply with condition or term of this Permit which failure remains uncured after notice by City to Permittee providing Permittee with a reasonable time period under the circumstances to correct the violation or breach.

23. Landing Fees; Fee Schedule. Timely payment of landing fees and other required Airport fees is a condition of this Permit and, as such, failure to timely pay landing and other airport fees is grounds for termination. Without limiting the foregoing, Permittee shall pay landing fees for aircraft landings as set out in the City's comprehensive schedule of rates, charges and fees. Permittee shall make payment within 30 days following the end of each month and without demand or invoicing from City. Permittee shall also provide Airport Administration with monthly certified gross take-off weight reports within ten days following the end of each month for landings for the preceding month. Airport landing fees shall be paid at the Airport Administration Building, 305 North Willow Street, Suite 200, Kenai, AK 99611.

24. Impoundment. At the discretion of the Airport Manager, City may impound any aircraft parked on the Premises after termination of this Permit. Impoundment may be accomplished by affixing a seal to the door of the aircraft or the moving of the aircraft for impoundment purposes. Inconvenience or damage that may result from such movement will be at the risk of Permittee. An impoundment fee plus a towage fee shall be charged on each aircraft impounded. In addition, a daily storage fee shall be charged for each day the aircraft remains impounded. Any impounded aircraft that is not redeemed within 90 days after impoundment shall be considered abandoned and shall be subject to sale at public auction. Notice of any auction shall be published. Publication shall be in a newspaper of general circulation in that area for at least once during each of three consecutive weeks not more than 30 days nor less than seven days before the time of the auction.

25. Definitions. As used in this Permit, "Permittee" means Alaska Air Fuel, Inc. and where the context reasonably indicates, its officers, agents, and employees. "Airport" means the Kenai Municipal Airport.

Exhibit A





"Serving the Greater Kenai Peninsula"

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-8281

FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway – Airport Manager
From: Erica Brincefield – Assistant
Date: May 27, 2022
Subject: Fifth Amendment to Restaurant Concession Agreement

On August 1, 2018 the City of Kenai entered into an Agreement for a Restaurant Concession with Situla LLC (d/b/a Brother's Café) from August 1, 2018 through June 30, 2020 with the option to extend for an additional three (3) one-year terms if the City and concessionaire mutually agree in writing.

The Concessionaire requests to renew under the same terms and conditions.

Attached for your review and recommendation is the Fifth Amendment to Agreement for Restaurant Concession Agreement which shall be effective July 1, 2022.

Does Commission recommend Council approve the Fifth Amendment to Agreement for Restaurant Concession with Situla LLC (d/b/a Brother's Café)?

Attachment

**FIFTH AMENDMENT TO CITY OF KENAI
KENAI MUNICIPAL AIRPORT
RESTAURANT CONCESSION AGREEMENT**

James Hamilton and **Zachary Hamilton**, Co-Owners (Concessionaire), Situla LLC (d/b/a/ Brother's Cafe, 1510 Kittiwake CT, Kenai, Alaska 99611, and the **CITY OF KENAI**, a municipal corporation, organized and existing under the laws of the State of Alaska (City), 210 Fidalgo Avenue, Suite 200, Kenai, Alaska 99611, entered into a contract for restaurant concession services at the Kenai Airport, beginning August 2, 2018.

Whereas: on August 1, 2018, the Kenai City Council adopted Resolution 2018-42, authorizing the City Manager to enter into a restaurant concession agreement with Concessionaire; and,

Whereas: on March 6, 2019, the Kenai City Council adopted Resolution 2019-14, authorizing the City Manager to amend the Agreement with Concessionaire to reflect a temporary adjustment to the fees and payments due; and,

Whereas: on June 3, 2020 the Kenai City Council adopted Resolution 2020-34 authorizing the City Manager to extend the Agreement through June 30, 2021;and,

Whereas: on December 16, 2020 the Kenai City Council adopted Resolution 2020-94 authorizing an additional change to the fee structure of the Agreement; and,

Whereas: pursuant to Article II of the Agreement, the City and Concessionaire mutually agree to extend the Agreement for the third successive one-year term.

Now, therefore, the City of Kenai and Concessionaire agree as follows:

1. Pursuant to Article II of the Restaurant Concession Agreement for the Kenai Municipal Airport, this Agreement is extended for the third one-year term extension beginning on July 1, 2022 and ending on June 30, 2023.
2. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

LESSOR:

CITY OF KENAI

Paul Ostrander, City Manager

CONCESSIONAIRE:

Situla LLC (d/b/a/ Brother's Café)

Situla LLC (d/b/a/ Brother's Café)

James Hamilton – Co-Owner

Zachary Hamilton – Co-Owner

STATE OF ALASKA)
)ss
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2022, James Hamilton, Co-Owner, Situla LLC (d/b/a/ Brother's Café), being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said Corporation.

Notary Public for Alaska
My Commission Expires:_____

STATE OF ALASKA)
)ss
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2022, Zachary Hamilton, Co-Owner, Situla LLC (d/b/a/ Brother's Café), being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said Corporation.

Notary Public for Alaska
My Commission Expires:_____

STATE OF ALASKA)
)ss
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2022, personally appeared before me, **PAUL OSTRANDER**, known to me and to me known to be the City Manager of the City of Kenai, Alaska, and who acknowledged before me that the foregoing instrument was freely and voluntarily executed on behalf of the City of Kenai, for the uses and purposes set forth and with full authority of the City of Kenai to do so.

Notary Public for Alaska
My Commission Expires:_____

Approved by Kenai City Council on _____
Approved as to lease form by City Attorney _____
Approved by Finance Director _____
Approved by City Manager _____



Kenai City Council - Regular Meeting

May 18, 2022 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

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

www.kenai.city

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

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

B. SCHEDULED PUBLIC COMMENTS (*Public comment limited to ten (10) minutes per speaker*)

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

D. PUBLIC HEARINGS

1. **ENACTED UNANIMOUSLY. Ordinance No. 3286-2022** – Increasing Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting a Grant from the US Department of Transportation Passed Through the State of Alaska Department of Transportation and Public Facilities for Traffic Enforcement Overtime Expenditures. (Administration)
2. **POSTPONED UNTIL 6/1/2022. Ordinance No. 3287-2022** – Conditionally Donating Certain City Owned Property Described as Tract A Park View Subdivision (KPB Parcel No. 047010118) to the Boys and Girls Club of the Kenai Peninsula for Development of Facilities for Youth Sports, Recreation, Education, After School Care and Other Youth Activities. (Mayor Gabriel and Council Member Baisden)
3. **ENACTED UNANIMOUSLY. Ordinance No. 3288-2022** – Accepting and Appropriating a Scholarship from the Alaska Association of Municipal Clerks for Employee Travel and Training. (City Clerk)
4. **ADOPTED UNANIMOUSLY. Resolution No. 2022-29** – Authorizing an Agreement for Professional Engineering Services to Provide Construction Documents for the Waste Water Treatment Plant Digester Blower Replacement Project. (Administration)
5. **ADOPTED UNANIMOUSLY. Resolution No. 2022-30** – Authorizing A Budget Transfer in the General Fund, Non-Departmental, Department to Provide Supplemental Funding to the Communications Tower Condition Assessment and Capacity Study Project. (Administration)

6. **ADOPTED UNANIMOUSLY. Resolution No. 2022-31** – Authorizing an Agreement for Professional Engineering Services to Conduct a Rate Study for the Water, Sewer Wastewater Utility. (Administration)
7. **ADOPTED UNANIMOUSLY. Resolution No. 2022-32** – Amending the Employee Classification Plan by Reclassifying the Public Works Wastewater Treatment Plant Foreman and the Water and Sewer Foreman Positions Under the Foreman Classification and Adjusting the Range for this Class. (Administration)
8. **ADOPTED UNANIMOUSLY. Resolution No. 2022-33** – Approving the Vacation of a 60' Wide Right of Way and Associated Utility Easements in Jaynes Subdivision, Big Mike's Addition, as Granted by Plat K-2015-99, and Bridge Road Subdivision 2019 Replat as Granted by Plat K-2020-15, Located Within Section 4, Township 5 North, Range 11 West, Seward Meridian, Alaska, and Determining the Right of Way and Utility Easements are Not Needed for a Public Purpose. (Administration)
9. **ADOPTED UNANIMOUSLY. Resolution No. 2022-34** – Adopting the Updated 2022 Kenai Peninsula Community Wildfire Protection Plan. (Administration)
10. **ADOPTED UNANIMOUSLY. Resolution No. 2022-35** – Authorizing a Budget Transfer in the Airport Fund, Administration Department for the Payment of Concession Relief Payments to Terminal Concessionaires from Grant Funds Received through the Coronavirus Response and Relief Supplemental Appropriation Act, 2021. (Administration)
11. **ADOPTED UNANIMOUSLY. Resolution No. 2022-36** – Authorizing a Budget Transfer in the General Fund, Shop Department for Costs in Excess of Budgeted Amounts. (Administration)

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of May 4, 2022. (City Clerk)

F. UNFINISHED BUSINESS

G. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Bills to be Ratified. (Administration)
2. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Purchase Orders Over \$15,000. (Administration)
3. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval – Non-Objection to Liquor License Renewals for Kenai Elks Lodge #2425. (City Clerk)
4. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 6/1/2022.** *Ordinance No. 3289-2022 – Adopting the Annual Budget, Salary Schedule and Employee Classification Plan for the Fiscal Year Commencing July 1, 2022 and Ending June 30, 2023 and Committing \$3,986,107 of General Fund, Fund Balance for Future Capital Improvements. (Administration)
5. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 6/1/2022.** *Ordinance No. 3290-2022 – Authorizing the Return of Funds Remaining from Completed or Canceled Capital Projects to the General, Airport Special Revenue and Water and Sewer Special Revenue Funds. (Administration)
6. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 6/1/2022.** *Ordinance No. 3291-2022 – Accepting and Appropriating Private Donations to the Kenai

Community Library for the Purchase of Programming Equipment and Library Materials.
(Administration)

7. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 6/1/2022.**
***Ordinance No. 3292-2022** – Increasing Estimated Revenues and Appropriations in the General Fund and Public Safety Capital Project Fund to Provide Supplemental Funding for the Fire Department Flooring Replacement Project. (Administration)
8. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 6/1/2022.**
***Ordinance No. 3293-2022** – Amending the Appendices to the Kenai Municipal Code to Delete Cemetery Regulations, Amending Title 24-Municipal Cemetery, to Include Certain Portions of the Appended Cemetery Regulations and Make Other Housekeeping Changes and Adopting a Kenai Municipal Cemetery Regulations Policy. (City Clerk)
9. **APPROVED UNANIMOUSLY. Action/Approval** – Special Use Permit to Pacific Star Seafoods, Inc. for 15,000 square feet of Apron for Aircraft Parking & Loading from June 1, 2022-July 31, 2022. (Administration)
10. **APPROVED UNANIMOUSLY. Action/Approval** – Second Amendment to Agreement for Janitorial Services with Reborn Again Janitorial Services. (Administration)
11. **APPOINTMENTS OF ALICE HECKERT, MICHAEL STRAUGHN, AND BRETT PERRY APPROVED. Action/Approval** – Confirmation of Mayoral Nominations for Appointment to the Council on Aging and Mini Grant Steering Committee. (Mayor Gabriel)
12. **BOARD OF ADJUSTMENT SCHEDULED FOR 6/20/2022. Discussion** – Scheduling a Board of Adjustment Appeal Hearing. (City Clerk)

H. COMMISSION / COMMITTEE REPORTS

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

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

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

K. ADDITIONAL PUBLIC COMMENT

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

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000

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

Join Zoom Meeting

<https://us02web.zoom.us/j/86134600195>

Meeting ID: 861 3460 0195 **Passcode:** 368520

OR

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

Meeting ID: 861 3460 0195 **Passcode:** 368520



Kenai City Council - Regular Meeting

June 01, 2022 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

****Telephonic/Virtual Information on Page 4****

www.kenai.city

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comment limited to three (3) minutes) per speaker; thirty (30) minutes aggregated*)

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

B. SCHEDULED PUBLIC COMMENTS

(Public comment limited to ten (10) minutes per speaker)

C. UNSCHEDULED PUBLIC COMMENTS

(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)

D. PUBLIC HEARINGS

1. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3289-2022** – Adopting the Annual Budget, Salary Schedule and Employee Classification Plan for the Fiscal Year Commencing July 1, 2022 and Ending June 30, 2023 and Committing \$3,986,107 of General Fund, Fund Balance for Future Capital Improvements. (Administration)
2. **ENACTED UNANIMOUSLY. Ordinance No. 3290-2022** – Authorizing the Return of Funds Remaining from Completed or Canceled Capital Projects to the General, Airport Special Revenue and Water and Sewer Special Revenue Funds. (Administration)
3. **ENACTED UNANIMOUSLY. Ordinance No. 3291-2022** – Accepting and Appropriating Private Donations to the Kenai Community Library for the Purchase of Programming Equipment and Library Materials. (Administration)
4. **ENACTED UNANIMOUSLY. Ordinance No. 3292-2022** – Increasing Estimated Revenues and Appropriations in the General Fund and Public Safety Capital Project Fund to Provide Supplemental Funding for the Fire Department Flooring Replacement Project. (Administration)

5. **POSTPONED TO 6/15/2022. Ordinance No. 3293-2022** – Amending the Appendices to the Kenai Municipal Code to Delete Cemetery Regulations, Amending Title 24-Municipal Cemetery, to Include Certain Portions of the Appended Cemetery Regulations and Make Other Housekeeping Changes and Adopting a Kenai Municipal Cemetery Regulations Policy. (City Clerk)
6. **POSTPONED TO 6/15/2022. Resolution No. 2022-37** – Removing the Moratorium on the Purchase of Standard Cemetery Plots for the Sole Purpose of Reserving a Cemetery Plot Not Being Used for Immediate Internment. (City Clerk)
7. **ADOPTED UNANIMOUSLY. Resolution No. 2022-38** – Fixing the Rate of Levy of Property Tax for the Fiscal Year Commencing July 1, 2022 and Ending June 30, 2023. (Administration)
8. **ADOPTED UNANIMOUSLY. Resolution No. 2022-39** – Amending the Comprehensive Schedule of Rates, Charges, and Fees to Incorporate Changes Included in the FY2023 Budget to Include Adjusting Airport Fees, Animal Control Fees, Fire Department Ambulance Fees, Library Fees, Parks and Recreation Fees, City Dock Fees, Water Fees, Sewer Fees, Senior Center Fees, and Adjusting the Monthly Rental Rates at Vintage Pointe. (Administration)
9. **ADOPTED UNANIMOUSLY. Resolution No. 2022-40** – Approving the Divestment of the City's Interest in the Deeded Thirty-Foot Public Use Easement Lying Along the North Boundary Of Lot 35, Section 6, Township Five North, Range Eleven West, Seward Meridian, Alaska, and Determining The Easement Is Not Needed For A Public Purpose. (Administration)
10. **ADOPTED UNANIMOUSLY. Resolution No. 2022-41** – Authorizing Renewal of the City's Insurance Coverage with Alaska Municipal League Joint Insurance Association for July 1, 2022 Through June 30, 2023. (Administration)
11. **ADOPTED UNANIMOUSLY. Resolution No. 2022-42** – Authorizing Contracts for Employee Health Care and Other Benefits Effective July 1, 2022. (Administration)
12. **ADOPTED UNANIMOUSLY. Resolution No. 2022-43** – Authorizing the City Manager to Enter Into a Memorandum of Agreement with the State of Alaska Department of Natural Resources, Division of Forestry to Support Spruce Beetle Mitigation and Hazard Fuel Reduction. (Administration)
13. **ADOPTED UNANIMOUSLY. Resolution No. 2022-44** – Approving the Execution of a Lease of Airport Reserve Lands Using the Standard Lease Form Between the City of Kenai and Swanson Properties, LLC on Lot 6, Block 5, General Aviation Subdivision No. 1 Amended. (Administration)
14. **ADOPTED UNANIMOUSLY. Resolution No. 2022-45** – Supporting the Constitutional Right of Alaska Grand Juries to Investigate and Make Recommendations on Public Welfare and Safety Concerns. (Council Members Sounart and Pettay)

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Budget Work Session of May 14, 2022. (City Clerk)

F. UNFINISHED BUSINESS

1. **ENACTED AS AMENDED. Ordinance No. 3287-2022** – Conditionally Donating Certain City Owned Property Described as Tract A Park View Subdivision (KPB Parcel No. 04701018) to the Boys and Girls Club of the Kenai Peninsula for Development of Facilities for Youth Sports, Recreation, Education, After School Care and Other Youth Activities. (Mayor Gabriel and Council Member Baisden) [*Clerk's Note: At the May 18th Meeting, this Ordinance was Postponed to this Meeting; a Motion to Enact is On the Floor.*]

G. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Bills to be Ratified. (Administration)
2. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 6/15/2022.** *Ordinance No. 3294-2022 – Accepting and Appropriating Funding From the State of Alaska Department of Natural Resources, Division of Forestry, to Support Spruce Beetle Mitigation and Hazard Fuel Reduction. (Administration)
3. **APPROVED UNANIMOUSLY. Action/Approval** – Executing an Amendment to the Facility Management Agreement with Kenai Chamber of Commerce and Visitor Center, Inc. to Extend the Current Agreement to June 30, 2023. (Administration)
4. **APPROVED UNANIMOUSLY. Action/Approval** – Approving Official Bond Amounts for City Manager, City Clerk and Finance Director. (Administration)
5. **BOARD OF ADJUSTMENT SCHEDULED FOR 6/20/2022 AT 7:00 P.M. Discussion** – Scheduling a Board of Adjustment Appeal Hearing. (City Clerk)

H. COMMISSION / COMMITTEE REPORTS

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

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

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

K. ADDITIONAL PUBLIC COMMENT

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

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000

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

Join Zoom Meeting

<https://us02web.zoom.us/j/89499065354>

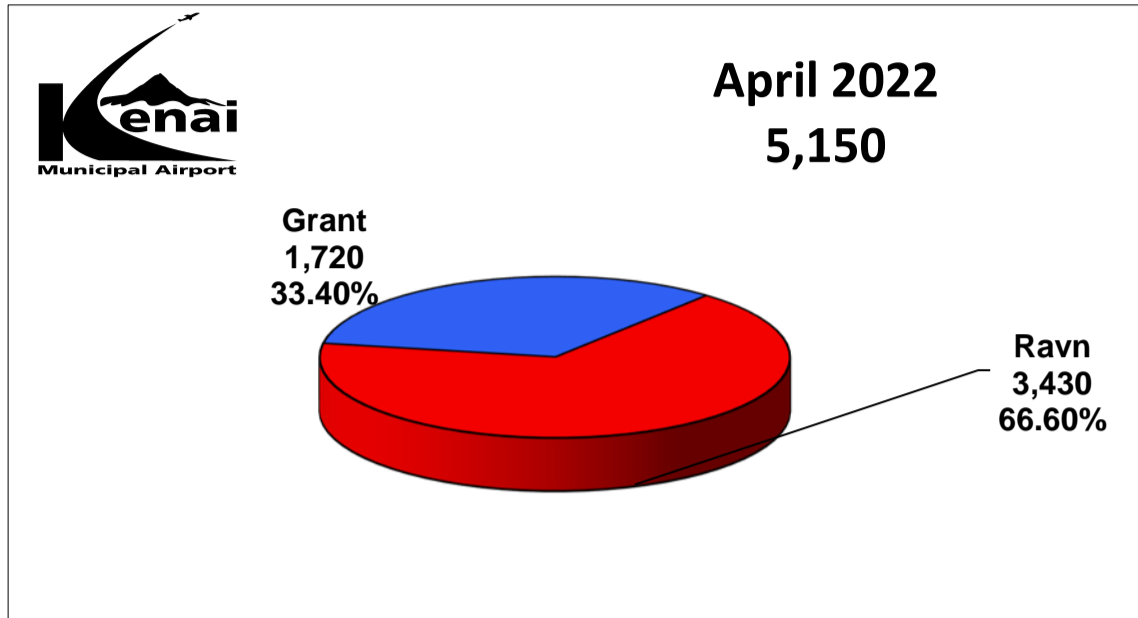
Meeting ID: 894 9906 5354 **Passcode:** 382673

OR

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

Meeting ID: 894 9906 5354 **Passcode:** 382673

April
Enplanement Report



Month	RAVN ALASKA	GRANT AVIATION	Total 2022	2021	Change from 2021
January	2,882	1,764	4,646	3,389	1,257
February	3,122	1,573	4,695	3,112	1,583
March	3,438	1,911	5,349	4,127	1,222
April	3,430	1,720	5,150	4,035	1,115
May			0	4,464	
June			0	5,953	
July			0	9,259	
August			0	10,035	
September			0	6,500	
October			0	5,596	
November			0	5,803	
December			0	5,571	
Totals	12,872	6,968	19,840	67,844	5,177

Terminal - Vehicle Parking Revenues

April

FY21	\$11,757
FY22	\$20,530

FY21 Total	\$109,923
FY22 YTD	\$169,633

