



Kenai City Council - Regular Meeting

October 05, 2022 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

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

Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comments 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 comments limited to ten (10) minutes per speaker*)

1. "Kenai Police Department Accreditation" Scott Hayes, Executive Director of Oregon Accreditation Alliance.

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

D. PUBLIC HEARINGS

1. **Ordinance No. 3317-2022** - Increasing Estimated Revenues and Appropriations in the Airport Fund and Appropriating Funds in the Airport Snow Removal Equipment Capital Project Fund for the Purchase of Snow Removal Equipment Attachments and Installation of a Gate. (Administration)
2. **Resolution No. 2022-70** - Authorizing Changes to the Payment Terms of the Set Net Drive Street Improvement Special Assessment District, the Aliak, Mccollum, Japonski Streets Improvement Special Assessment District, the Thompson Park, Beaver Creek Alaska, Mack, Valhalla Heights and Sunset Rim Subdivisions Street Improvement Special Assessment District, the South Ames Road LID Street Improvement District, and the James Street and Kiana Lane Improvement Special Assessment District in an Effort to Resolve the Remaining Delinquent Accounts of the Districts. (Administration)
3. **Resolution No. 2022-71** - Authorizing the City Manager to Execute a Grant from the Alaska Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs for the Kenai Bluff Stabilization Project. (Administration)
4. **Resolution No. 2022-72** - Authorizing a Budget Transfer on the General Fund Decreasing City Manager Contingency, Increasing Non-Departmental Professional Services, and Authorizing a Change to a Purchase Order to Larson Engineering & Design for Tower Study. (Administration)

E. MINUTES

1. *Joint Work Session of September 21, 2022. (City Clerk)
2. *Regular Meeting of September 21, 2022. (City Clerk)

F. UNFINISHED BUSINESS

1. **Ordinance No. 3316-2022** - Amending Kenai Municipal Code 14.20.150-Conditional Use Permits, to Further Clarify Roles and Responsibilities of Applicants, the Planning Director, and the Planning Commission in the Conditional Use Process. (Glendening) [**Clerk's Note: At the September 21, 2022 City Council Meeting, this Ordinance was Postponed to this Meeting; Motions to Enact and a Motion to Amend are on the Floor.**]
2. **Resolution No. 2022-64** - Approving the Renewal of a Lease Utilizing a Non-Standard Lease Form on Airport Reserve Lands Between the City of Kenai and the Federal Aviation Administration for the Automated Flight Service Station and Satellite Communication Network Facilities on Lot 7A-1 FBO Subdivision No. 5. (Administration) [**Clerk's Note: At the September 21, 2022 City Council Meeting, this Resolution was Postponed to this Meeting; a Motion to Adopt is on the Floor.**]

G. NEW BUSINESS

1. ***Action/Approval** - Bills to be Ratified. (Administration)
2. ***Action/Approval** - Purchase Orders Over \$15,000. (Administration)
3. ***Action/Approval** – Consent to Assignment and Assumption of Lease Agreement of ADL 37765, ATS 770, to TK Enterprises, LLC. (Administration)
4. ***Ordinance No. 3318-2022** – Renaming and Amending Kenai Municipal Code Chapter 7.30 Land Sale Permanent Funds to Establish the Kenai Senior Center Cone Memorial Trust and Directing All Proceeds Received as a Residual Beneficiary from the Tamara Diane Cone Testamentary Trust to be Deposited into such Fund. (Administration)
5. ***Ordinance No. 3319-2022** - Increasing Estimated Revenues and Appropriations in the Kenai Bluff Erosion Capital Project Fund for Construction of the Kenai Bluff Stabilization Project. (Administration)
6. **Discussion** – City Manager Job Description (Mayor Gabriel)

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 COMMENTS

1. Citizens Comments (*Public comments 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.
- [2.](#) CIRCAC Director's Report

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/84610467586>

Meeting ID: 846 1046 7586 **Passcode:** 499690

OR

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

Meeting ID: 846 1046 7586 **Passcode:** 499690



Sponsored by: Administration

**CITY OF KENAI
ORDINANCE NO. 3317-2022**

AN ORDINANCE INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE AIRPORT FUND AND APPROPRIATING FUNDS IN THE AIRPORT SNOW REMOVAL EQUIPMENT CAPITAL PROJECT FUND FOR THE PURCHASE OF SNOW REMOVAL EQUIPMENT ATTACHMENTS AND INSTALLATION OF A GATE.

WHEREAS, on August 9, 2022, the Airport (ENA) submitted to the Federal Aviation Administration (FAA) a Project Application for a grant for Federal funds for a project associated with ENA in the amount of \$150,000; and,

WHEREAS, on September 9, 2022, the FAA approved a project for the Kenai Municipal Airport consisting of installation of a cantilever gate, and acquiring a snow removal equipment edge light cleaning attachment; and,

WHEREAS, the obligation of the FAA is 93.75%, or \$140,625; and,

WHEREAS, the obligation of ENA is 6.25%, or \$9,375; and,

WHEREAS, this project will significantly improve snow removal operational efficiency, and reduce fuel consumption; and,

WHEREAS, the airport solicited written quotes for the installation of a sliding cantilever gate in September 2022; and,

WHEREAS, the airport is seeking concurrence from the FAA for a noncompetitive bid procuring an edge light cleaning attachment available from only one manufacturer; and,

WHEREAS, this appropriation is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. That the City Manager is authorized to accept a grant in the amount of \$140,625.

Section 2. That the following budget revision is authorized:

Airport Special Revenue Fund:

Increase Estimated Revenues –	
Appropriation of Fund Balance	<u>\$9,375</u>
Increase Appropriations –	
Transfer to Airport Snow Removal Equipment Capital Fund	<u>\$9,375</u>

Airport Snow Removal Capital Project Fund:

Increase Estimated Revenues –	
Transfer from Airport Special Revenue Fund	\$ 9,375
Federal Grants	<u>140,625</u>
	<u>\$150,000</u>

Increase Appropriations –
Equipment

\$150,000

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 5TH DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance:



Introduced:	September 21, 2022
Enacted:	October 05, 2022
Effective:	October 05, 2022



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Eland Conway, Airport Manager

DATE: September 12, 2022

SUBJECT: **Ordinance No. 3317-2022 - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue Fund and Appropriating Funds in the Airport Snow Removal Capital Project Fund**

The Kenai Municipal Airport (ENA) applied for FAA grant funds to install a sliding cantilever gate, and acquire a snow removal equipment edge light cleaning attachment on August 9, 2022. The FAA provided the grant agreement for execution on September 9, 2022, and the agreement was fully executed on Monday, September 12, 2022.

This ordinance transfers and appropriates the 6.25% (\$9,375) Airport share of the \$150,000 project from the Airport Special Revenue Fund to the Airport Snow Removal Capital Project Fund. It also accepts and appropriates the 93.75% (\$140,625) FAA share of the project into the Airport Snow Removal Capital Project Fund. A separate Resolution authorizes the execution of this grant due to timing restrictions.

This capital project includes the installation of a sliding cantilever gate, and edge light cleaning attachment for the snow blower. The sliding cantilever gate makes available an additional 36,000 square feet of snow storage area in an area where snow storage is limited, is required to be hauled away, and encroaches on wing tip clearance. The edge light cleaning attachment is fit to an existing snow blower, it will significantly increase light cleaning efficiency and reduce by half the amount of equipment and personnel required to traditionally clear edge lights.

Council's support is respectfully requested.



Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2022-70**

A RESOLUTION AUTHORIZING CHANGES TO THE PAYMENT TERMS OF THE SET NET DRIVE STREET IMPROVEMENT SPECIAL ASSESSMENT DISTRICT, THE ALIAK, MCCOLLUM, JAPONSKI STREETS IMPROVEMENT SPECIAL ASSESSMENT DISTRICT, THE THOMPSON PARK, BEAVER CREEK ALASKA, MACK, VALHALLA HEIGHTS AND SUNSET RIM SUBDIVISIONS STREET IMPROVEMENT SPECIAL ASSESSMENT DISTRICT, THE SOUTH AMES ROAD LID STREET IMPROVEMENT DISTRICT, AND THE JAMES STREET AND KIANA LANE IMPROVEMENT SPECIAL ASSESSMENT DISTRICT IN AN EFFORT TO RESOLVE THE REMAINING DELINQUENT ACCOUNTS OF THE DISTRICTS.

WHEREAS, confirmation of the assessment role and the repayment terms of the Set Net Drive Street Improvement Special Assessment District were adopted by Resolution 2008-14; and,

WHEREAS, confirmation of the assessment role and the repayment terms of the Aliak, McCollum, Japonski Streets Improvement Special Assessment District were adopted by Resolution 2008-15; and,

WHEREAS, confirmation of the assessment role and the repayment terms of the Thompson Park, Beaver Creek Alaska, Mack, Valhalla Heights and Sunset Rim Subdivisions Streets Improvement Special Assessment District were adopted by Resolution 2008-71; and,

WHEREAS, confirmation of the assessment role and the repayment terms of the South Ames Road LID Street Improvement Special Assessment District were adopted by Resolution 2009-58; and,

WHEREAS, confirmation of the assessment role and the repayment terms of the James Street and Kiana Lane Improvement Special Assessment District were adopted by Resolution 2012-65; and,

WHEREAS, nine accounts remain from these five different special assessment districts all of which are in delinquency status; and,

WHEREAS, the repayment term of each district varied based upon the size of the district but the penalty and interest terms were the same at 10% annual interest and 10% penalty on delinquent balances; and,

WHEREAS, the City has perfected its interest by filing a lien on the subject parcels to ensure payment to the City in the event the parcels are sold or the owners seek financing using the property as collateral; and,

WHEREAS, additional legal action seeking a judgement against the owners or foreclosure are not desirable options of the City at this time; and,

WHEREAS, the City is seeking additional flexibility in its attempts to secure repayment and resolve the delinquencies; and,

WHEREAS, for the eight properties who's assessed value, as determined by the Kenai Peninsula Borough, are in excess of the accrued balance of the special assessment district, the City shall amend the repayment terms of the district to allow repayment of the balance as of the date of this Resolution, including any outstanding principle, accrued interest and accrued penalty, interest and penalty free for a period not to exceed ten years subject to the following conditions:

1. The property owner shall sign a confession of judgement for the balance as of the date of this Resolution.
2. Payment terms shall require monthly payments for a period of time not to exceed 120 months.
3. The terms of the new payment plan, for those individuals who violate its terms, shall revert to the original payment terms of its improvement district.

WHEREAS, for the one property who's assessed value, as determined by the Kenai Peninsula Borough, is less than the accrued balance of the special assessment district, the City shall accept the proceeds from sale of the property, for which a purchase offer in the amount of \$19,500 currently exists, less fees, real estate commissions, and less \$1,000 as payment and in addition, once the net proceeds are received the City shall release its lien on the property and will not attempt to collect the remaining balance from the estate of the former owners of the property.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the City Manager is authorized to negotiate and amend the repayment terms of the special assessment districts for parcels 04941024, 04509028, 04509035, 04908421, 04909214, 04927015, 04927015, and 04513060 pursuant to the terms of this Resolution.

Section 2. That the City Manager is authorized to negotiate and amend the repayment terms of the special assessment district for parcel 04513061 pursuant to the terms of this Resolution.

Section 3. The original repayment terms of each district will remain in effect for those parcels for which new payment terms are not agreed to or for those parcels for which the terms of the new payment plan are violated.

Section 4. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 5TH DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Terry Eubank, Finance Director

DATE: September 29, 2022

SUBJECT: **Resolution 2022-70 Authorizing Amendment to the Payment Terms of Various Special Assessment Districts of the City.**

The purpose of this memo is to recommend adoption of Resolution 2022-70 which will amend the payment terms of the Set Net Drive Street Improvement Special Assessment District, the Aliak, McCollum, Japonski Streets Improvement Special Assessment District, the Thompson Park, Beaver Creek Alaska, Mack, Valhalla Heights and Sunset Rim Subdivisions Street Improvement Special Assessment District, the South Ames Road LID Street Improvement District and the James Street and Kiana Lane Improvement Special Assessment District.

Remaining from these special assessment districts are nine properties which are in delinquency to the City. The term of repayment varies by district and was dependent upon the amount of the original assessment. The interest and penalty rate for each district is the same at 10% annual interest on principle and a 10% penalty on delinquent balances. The City's has protected its interest by placing liens on each property.

In an effort to resolve the delinquencies with no forgiveness of accrued interest or penalty it is recommended the payment terms of each district be amended as follows:

1. For the eight properties who's assessed value, as determined by the Kenai Peninsula Borough, are in excess of the accrued balance of the special assessment district, the City shall amend the repayment terms of the district to allow repayment of the balance as of the date of this Resolution, including any outstanding principle, accrued interest and accrued penalty, interest and penalty free for a period not to exceed ten years subject to the following conditions:
 - a. The property owner shall sign a confession of judgement for the balance as of the date of this Resolution.
 - b. Payment terms shall require monthly payments for a period of time not to exceed 120 months.
 - c. The terms of the new payment plan, for those individuals who violate its terms, shall revert to the original payment terms of its improvement district.

2. For the one property who's assessed value, as determined by the Kenai Peninsula Borough, is less than the accrued balance of the special assessment district, the City shall accept the proceeds from sale of the property, for which a purchase offer in the amount of \$19,500 currently exists, less fees, real estate commissions, and less \$1,000 as payment and in addition, once the net proceeds are received the City shall release its lien on the property and will not attempt to collect the remaining balance from the estate of the former owners of the property.

Properties who refuse these new terms will remain subject to the original payment terms of each special assessment district. Your support is respectfully requested.





Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2022-71**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT FROM THE ALASKA DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT, DIVISION OF COMMUNITY AND REGIONAL AFFAIRS FOR THE KENAI BLUFF STABILIZATION PROJECT.

WHEREAS, the Kenai Bluff Stabilization project has been the number one priority of the City of Kenai for over 30 years; and,

WHEREAS, in February of 2022 the project received federal funding in the amount of \$28 million; and,

WHEREAS, Federal funding will cover 65% of the total cost of construction of the Project; and,

WHEREAS, the City's match requirement towards construction of this project is 35%; and,

WHEREAS, the City has been pursuing funding for our local match through multiple sources, including the State of Alaska; and,

WHEREAS, during the State fiscal year 2022 legislative session, \$6.5 million was included in the State capital budget to support the Project; and,

WHEREAS, the City has received the grant agreement from the Department of Commerce, Community, and Economic Development Division of Community and Regional Affairs for execution; and,

WHEREAS, it is in the best interests of the City of Kenai to accept a grant from the State of Alaska in the amount of \$6.5 million to support the local match requirement of 35%.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the City Manager is authorized to execute the attached grant agreement from the Department of Commerce, Community, and Economic Development Division of Community and Regional Affairs.

Section 2. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 5TH DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and City Council Members

FROM: Paul Ostrander, City Manager

DATE: September 29, 2022

SUBJECT: **Ordinance 3319-2022 and Resolution 2022-71 - Kenai Bluffs Stabilization, State of Alaska \$6.5 Million Grant**

This memo is in support of both Ordinance 3319-2022 and Resolution 2022-71, legislation that authorizes the City Manager to execute a grant in the amount of \$6.5 million from the Alaska Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs and appropriates the money into the Kenai Bluff Erosion Capital Project Fund to support construction of the Project.

During the last State Legislative Session, the City was successful in getting this grant included in the State's Capital Budget. This grant is an important component of the City's required match of 35% of the total cost of the Project. With this grant, the City will have secured the necessary money to meet our required match if the project's total cost, design and construction, does not exceed \$35,000,000.

As we approach the completion of the efforts to get this important project built, a summary of the process that the City has navigated over the past 6 years is included for you information.

February 17, 2017 – City of Kenai attended the Tentatively Selected Plan (TSP) presentation given by Alaska USACE to the USACE HQ in Washington D.C. Signed Directors Report was scheduled for November 10, 2017.

June 10, 2017 – Schedule for Signed Directors Report slipped to April 31, 2018.

June 19, 2017 – Draft integrated feasibility report, environmental assessment and draft Finding of No Significant Impact (FONSI) was issued for agency and public comment.

July 5/6, 2017 – Public meetings held in Kenai, AK at the City Council Meeting on July 5 and at the Kenai Visitor and Cultural Center in Kenai on July 6.

August 22, 2017 – Realization by the USACE that additional federal funding was necessary in the amount of \$150,000 for the USACE to meet its 50% funding requirement to complete the

feasibility report. The City of Kenai provided their full funding amount of \$560,000 in February 2016. A congressional reprogramming request was submitted through OMB.

February 22, 2018 – OMB approves reprogramming request. The reprogramming request was delayed to the point that authorization for the project – expiring on May 12, 2018 – would lapse prior to Directors Report signature.

March 6, 2018 – Letter sent to Committee on Appropriations and the respective Committee Chairs.

April 4, 2018 – USACE Alaska District recognizes the need to request a waiver from the Assistant Secretary of the Army of Civil Works to extend the project authorization beyond May 12, 2018, but does not have sufficient funds left to process the waiver.

April 12, 2018 – Reprogramming approval signed by Representative Marcy Kaptur and Representative Mike Simpson, appropriating an additional \$150,000 of Federal money to the project.

April 26, 2018 – Time extension waiver package submitted to USACE HQ.

April 31, 2018 – Second scheduled signature date for Directors Report is missed. Because of the significant lapse in project funding, other projects were re-prioritized in front of the Kenai project; hence, the scheduled date for the signed Directors Report is changed to January 23, 2019, to allow time for USACE Alaska District to take the project back up and finalize the feasibility report package.

May 11, 2018 – Time extension granted by R.D. James, Assistant Secretary of the Army of Civil Works, increasing the total study time for the Kenai Bluffs Bank Stabilization Feasibility Study from 36 months to 44 months.

November 15, 2018 – Final integrated feasibility report and environmental assessment and finding of no significant impact submitted from USACE Alaska District to USACE HQ.

January 23, 2019 – Third scheduled signature date for Director's Report was missed. Re-scheduled for signature in late February.

March 1, 2019 – Fourth scheduled signature date for Director's Report was missed. Re-scheduled for April 30, 2019.

April 3, 2019 – Final submittal from USACE Alaska District to USACE HQ of feasibility report. Of note: according to USACE staff, nothing of substance changed from the feasibility report submitted on November 15, 2018 to this final report.

April 10, 2019 – Director's Report was signed by USACE HQ Director Of Civil Works, James C. Dalton, P.E. This was the same day that Senator Murkowski testified in front of the appropriations subcommittee to the Assistant Secretary of the Army (Civil Works), R.D. James and to the Commanding General and Chief of Engineers Lieutenant General Todd Semonite, questioning why the USACE process was so difficult to navigate, using the Kenai Bluffs Stabilization project as an example.



May 20, 2019 – Request from Alaska District to USACE HQ, signed by Colonel Phillip J. Borders to initiate Preconstruction Engineering and Design (PED) phase for the project with attachments from the City of Kenai including a letter committing the City to fully fund the PED phase at an estimated cost of \$1,000,000 and a Resolution from the Kenai City Council stating the same.

June 27, 2019 – A Finding of No Significant Impact (FONSI) Was signed by Colonel Phillip J. Borders, eliminating the need to prepare an Environmental Impact Statement.

July 31, 2019 – The City sent a request to the USACE Alaska District to complete the Design Agreement. This agreement outlines the responsibilities of the non-Federal sponsor and the USACE during the design phase.

September 15, 2020 – It took over 14 months to get the Design Agreement signed. Consistent communication with the USACE and our congressional delegation occurred during the entire period, but what should have been a much quicker turnaround labored for many months – far beyond what was expected or is reasonable. Although the Design Agreement implies that Federal Funding will be provided for the 65% match of the design effort, no Federal funding has been provided to date.

February 2021 – The City issued an RFP for the design of the project planning to fund the entire design with City dollars, a \$1,000,000 commitment with the intent of being reimbursed the 65% Federal obligation during construction.

August 2021 – HDR Engineering begins the design of the project. As the design begins, there is a limited amount of Federal funding that the Alaska District of the Corps of Engineers has to support the efforts of the City during the design process. They are able to provide limited input, putting the City at risk because without Corps oversight, the design effort may not meet Corps requirements in all aspects. This could result in the Corps not accepting all or a portion of the design for construction. Because the Corps signed the Design Agreement in September of 2020, the City was hopeful that the full Federal share of \$650,000 would be provided prior to the design effort beginning. Even though no Federal funding occurred, and considering the risks involved, the City strongly felt that it was essential to begin the design effort to keep the project moving forward.

December 2021 – At the City's request, Governor Dunleavy included \$6.5 million in State funding to support the City's efforts in the design and construction of our Project. If the legislature and the voters approve the Governor's proposed General Obligation Bond, this increases the total amount of match money the City has available to \$9.5 million. This would be a sufficient match amount to construct an approximately \$27 million project, with \$17.5 million in Federal funding.

February 2022 – The project received \$28 million in Federal funding through the Infrastructure Bill. This funding is sufficient to support a \$42 million project, comprised of \$28 million in Federal funding and \$14 million in local funding.

April 2022 – Now with sufficient funding, the Army Corps of Engineers, Alaska District kicks off their full engagement in support of the design efforts of the Project. This engagement will slow the ultimate completion of the design, with design approval expected late in the 2022 calendar year, but will assure that the Project as designed meets the requirements of the Corps.



June 2022 – Governor Dunleavy signed the State of Alaska Fiscal Year 2023 budget. Included in the capital budget was \$6.5 million in support of the Kenai Bluff Stabilization Project.

September 2022 – The Federally committed funds of up to \$28 million establishes the high end of total Project costs of \$42 million. The Project will be funded 65% by the Army Corps of Engineers, and 35% through a local match. Our current construction estimates indicate that it is likely that the Project will not exceed \$35 million. The City has secured \$9.7 million in State funding, comprised of the \$6.5 million that was included in the States fiscal year 2023 Capital Budget and \$3.2 million that remains from State grants from 2012 and 2015. The City has also committed \$2.55 million from our General Fund that was included in our 2023-2027 Capital Plan. This brings the total amount of secured match that the City has to \$12.25 million, sufficient to support a total Project cost of \$35 million, matching \$22.75 million in Federal funding.





THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development
Division of Community and Regional Affairs
Anchorage

550 West Seventh Avenue, Suite 1640
Anchorage, Alaska 99501
Main: 907.269.4581
Fax: 907.269.4539

VIA E-MAIL

September 20, 2022

Paul Ostrander, City Manager
City of Kenai
210 Fidalgo Avenue
Kenai, AK 99669

RE: FY 2023 Designated Legislative Grant Agreement

Dear Mr. Ostrander:

Enclosed you will find a grant agreement between City of Kenai and Department of Commerce, Community, and Economic Development for Kenai River Bluff Stabilization.

In order to receive grant funds, a grant agreement must be executed. Please carefully review the agreement, sign, date, and return the cover page to my attention. Upon receipt and approval, a fully executed copy will be sent to you for your file.

If you have any questions, please contact me via phone at (907) 269-7906 or email Lindsay.reese@alaska.gov.

Sincerely,

Lindsay Reese

Lindsay Reese
Grants Administrator II

Enclosure:



DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF COMMUNITY AND REGIONAL AFFAIRS

Designated Legislative Grant Program
Grant Agreement

Grant Agreement Number 23-DC-007		Vendor Number CIK84891		Amount of State Funds \$6,500,000.00	
GAE	Appropriation Unit 085681004	Lapse Date 06/30/2027	Project Title Kenai River Bluff Stabilization		
Grantee			Department Contact Person		
Name City of Kenai			Name Lindsay Reese		
Street/PO Box 210 Fidalgo Avenue			Title Grants Administrator 2		
City/State/Zip Kenai, AK 99669			Street/PO Box 550 W. 7th Avenue Ste 1650		
Contact Person Paul Ostrander, City Manager			City/State/Zip Anchorage, Alaska 99501		
Phone 907-283-7535		Fax 907-283-3014		Fax 907-269-4563	
Email Postrander@kenai.city			Email Lindsay.reese@alaska.gov		

AGREEMENT

The Alaska Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs (hereinafter 'Department') and **City of Kenai** (hereinafter 'Grantee') agree as set forth herein.

Section I. The Department shall pay the Grantee for the performance of the project work under the terms outlined in this Agreement. The amount of the payment is based upon project expenses incurred, which are authorized under this Agreement. In no event shall the payment exceed **\$6,500,000.00**.

Section II. The Grantee shall perform all of the work required by this Agreement.

Section III. The work to be performed under this Agreement begins **July 1, 2022** and shall be completed no later than **June 30, 2027**.

Section IV. The Agreement consists of this page and the following:

ATTACHMENTS

- Attachment A: Scope of Work
1. Project Description
 2. Project Budget
 3. Project Management
 4. Reporting
- Attachment B: Payment Method
- Attachment C: Standard Provisions

AMENDMENTS

Any fully executed amendments to this Agreement

APPENDIX

Appendix A: State Laws and Regulations

Grantee	Department
Signature	Signature
Printed Name and Title Paul Ostrander, City Manager	Printed Name and Title Pauletta Bourne, Grants Administrator 3
Date	Date

Attachment A Scope of Work

1. Project Description

The purpose of this FY 2022 Designated Legislative Grant in the amount of \$6,500,000.00 *pursuant to the provisions of AS 37.05.315, Grants to Municipalities, SLA 2022, HB281, Chapter 11, Section 11, Page 86, and Line 32* is to provide funding to the City of Kenai for use towards the Kenai River Bluff Stabilization. The objective of this project is to provide a match for a federal grant in support of the Kenai River Bluff Stabilization Project. The City of Kenai in partnership with U.S. Army Corps of Engineers (USACE) will address chronic bluff erosion along the northern bank of the mouth of the Kenai River. The project will develop a rock revetment berm at the toe of the bluff to allow stabilization at a natural angle of repose to support vegetation.

This project may include the following items:

- Contractual
- Administration

Additional expenditures must be reasonable and relative to the project objective and may require preapproval by the department.

No more than five percent (5%) of the total grant award may be reimbursed for Administrative expenses for projects involving equipment purchase or repairs and no more than ten percent (10%) of the total grant award may be reimbursed for Administrative expenses for all other projects. To be reimbursed for eligible administrative costs, expenses must be reported on the Designated Legislative Grant Financial/Progress Report form.

2. Project Budget

Cost Category	Total Project Costs
Project Funds	\$6,435,000.00
Administration	\$65,000.00
Total Grant Funds	\$6,500,000.00

3. Project Management

This project will be managed by the Grantee.

Signatory authority for execution of the Grant Agreement and subsequent amendments is granted to the chief administrator. For grants appropriated to a municipality, the mayor is the chief administrator unless the municipality operates a managerial form of government; then the city manager/administrator acts as the chief administrator. For named recipients and unincorporated communities, the executive director or highest-ranking official will act as chief administrator.

The chief administrator may delegate authority for executing the Grant Agreement and amendments to others within the Grantee's organization via the Signatory Authority Form. The chief administrator also designates

financial and performance progress reporting authority via the Signatory Authority Form. Such delegation is limited to others within the Grantee's organization unless otherwise approved by the Department.

The Grantee must establish and maintain separate accounting for the use of this grant. The use of grant funds in any manner contrary to the terms and conditions of this Grant Agreement may result in the subsequent revocation of the grant and any balance of funds under the grant. It may also result in the Grantee being required to return such amounts to the State.

If applicable under state law, grantees must be registered and in good standing with the Department of Commerce, Community and Economic Development's Division of Corporations, Business and Professional Licensing.

4. Reporting

The Grantee shall submit a Designated Legislative Grant Financial/Progress Report Form provided by the Department each month, or quarterly, with the concurrence of the Department, during the life of the Grant Agreement. Grant Financial/Progress Report Forms are due thirty (30) days after the end of the month or quarter being reported. The report period is the first of the month through the last day of the month. If quarterly reporting is approved, the report period is the first day of the first month through the last day of the third month of the quarter. The final Financial/Progress Reports must be submitted within thirty (30) days following completion of the project.

Attachment B Payment Method

1. Reimbursement Payment

Upon receiving and approving a Grantee's Financial/Progress Report, the Department will reimburse the Grantee for expenditures paid during the reporting period, in accordance with this Grant Agreement. The Department will not reimburse without approved Financial/Progress Reports, prepared and submitted by the Grantee on the form provided by the Department. Before approving the financial/progress report for payment, the Department may require the Grantee to submit documentation of the costs reported (e.g., copies of vendor billings/invoices and proof of payment, general ledger expenditure report).

2. Advance Payment

In most instances, the Department will make payment to a Grantee on a cost reimbursable basis. If cost reimbursement significantly inhibits the Grantee's ability to implement the project, the Department may advance to the Grantee an amount not to exceed a projected thirty (30) day cash need, or twenty percent (20%) of the amount in Section I, whichever is less.

Before the Department will issue an advance, the Grantee must submit a "Request for Advance Payment" form along with documentation of costs associated with the advance. The "Request for Advance Payment" form can be obtained from the Department electronically or in hard copy.

All advances will be recovered with the Grantee's next Financial/Progress Report form. Should earned payments during the terms of this Grant Agreement be insufficient to recover the full amount of the advance, the Grantee will repay the unrecovered amount to the Department when requested to do so by the Department, or at termination of the Grant Agreement.

3. Withholding of Ten Percent (10%)

The Department may withhold ten percent (10%) of the amount in Section I until the Department determines that the Grantee has satisfactorily completed the terms of this Grant Agreement, including all required reporting of the project.

Attachment C Standard Provisions

Article 1. Definition

“Department” refers to the Department of Commerce, Community, and Economic Development with the State of Alaska.

Article 2. Indemnification

It is understood and agreed that this Grant Agreement is solely for the benefit of the parties to the Grant Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of the Grant Agreement.

The Grantee, its successors and assigns, will protect, save, and hold harmless the Department and the State of Alaska and their authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever by reason of the acts or omissions of the Grantee, its subcontractors, assigns, agents, contractors, licenses, invitees, employees, or any person whomever arising out of or in connection with any acts or activities authorized by this Grant Agreement. The Grantee further agrees to defend the Department and the State of Alaska and their authorized agents and employees in any litigation, including payment of any costs or attorney’s fees for any claims or actions commenced thereon arising out of or in connection with acts or activities authorized by this Grant Agreement. This obligation shall not include such claims, costs, damages, or expenses which may be caused by the sole negligence of the Department of the State of Alaska or their authorized agents or employees, provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) the Department and the State of Alaska and their agents or employees, and (b) the Grantee, its agents or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Grantee, or Grantee’s agents or employees.

Article 3. Legal Authority

The Grantee certifies that it possesses legal authority to accept grant funds under the State of Alaska and to execute the project described in this Grant Agreement by signing the Grant Agreement document. The Grantee’s relation to the Department and the State of Alaska shall be at all times as an independent Grantee.

Article 4. Waivers

No conditions or provisions of this Grant Agreement can be waived unless approved by the Department in writing. The Department’s failure to insist upon strict performance of any provision of the Grant Agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such a breach, shall not constitute a waiver of any right under this Grant Agreement.

Article 5. Access to Records

The Department and duly authorized officials of the State of Alaska shall have full access and the right to examine, excerpt, or transcribe any pertinent documents, papers, records, and books of the Grantee, and of persons or organizations with which the Grantee may contract, involving transactions related to the project and this Grant Agreement.

Article 6. Reports

The Grantee, at such times and in such forms as the Department may require, shall furnish the Department with such periodic reports as it may request pertaining to the activities undertaken pursuant to this Grant Agreement, including the final close-out report, the costs and obligations incurred in connection therewith, and any other matters covered by this Grant Agreement.

Article 7. Retention of Records

The Grantee shall retain financial and other records relating to the performance of this Grant Agreement for a period of six years from the date when the final financial status report is submitted to the Department, or until final resolution of any audit findings, claims, or litigation related to the grant.

Article 8. Assignability

The Grantee shall not assign any interest in this Grant Agreement and shall not transfer any interest in the same (whether by assignment or novation).

Article 9. Financial Management and Accounting

The Grantee shall establish and maintain a financial management and accounting system that conforms to generally accepted accounting principles.

Article 10. Program Income

Program income earned during the award period shall be retained by the Grantee and added to the funds committed to the award and used for the purpose and under the conditions applicable to the use of award funds.

Article 11. Amendments and Modifications

The Grantee or the Department may request an amendment or modification of this Grant Agreement. However, such amendment or modification shall not take effect until approved, in writing, by the Department and the Grantee.

Article 12. Procurement

Grantees may utilize their own written procurement procedures, provided they reflect applicable state and local laws and regulations and conform to the standards identified in AS 36.30.

Article 13. State Excluded Parties List Report

The grantee is responsible for ensuring that all sub-grantees or sub-contractors are not listed on the 'Excluded Parties List Report', which identifies those parties excluded from receiving State contracts.

Article 14. Recordkeeping

The Grantee agrees to keep such records as the Department may require. Such records will include information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. They will also include information pertaining to project performance and efforts to comply with the provisions of the Grant Agreement.

Article 15. Obligations Regarding Third-Party Relationships

None of the Work specified in this Grant Agreement shall be contracted by the Grantee without prior approval of the Department. No permission for subcontracting shall create, between the Department or the State of Alaska and the subcontractor, any contract or any relationship.

The Grantee shall remain fully obligated under the provisions of this Grant Agreement notwithstanding its designation of any third party or parties of the undertaking of all or any part of the project described herein. Any subcontractor that is not the Grantee shall be required by the Grantee to comply with all applicable provisions of this Grant Agreement.

The Grantee shall bind all subcontractors to each and every applicable Grant Agreement provision. Each subcontract for work to be performed with funds granted under this Grant Agreement shall specifically include a provision that the Department and the State of Alaska are not liable for damages or claims from damages arising from any subcontractor's performance or activities under the terms of the subcontracts.

Article 16. Conflict of Interest

No officer or employee of the Department; no member, officer, or employee of the Grantee or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such locality or localities who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Grant Agreement.

The Grantee shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this provision.

Article 17. Political Activity

No portion of the funds provided hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

Article 18. Notices

The Grantee shall comply with all public notices or notices to individuals required by applicable state and federal laws and shall maintain a record of this compliance.

Article 19. Prohibition Against Payment of Bonus or Commission

The assistance provided under this Grant Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval or concurrence under this contract provided, however, that reasonable fees of bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

Article 20. Termination by Mutual Agreement

This Grant Agreement may be terminated, in whole or in part, prior to the completion of contract project activities when both parties agree that continuation is not feasible or would not produce beneficial results commensurate with the further expenditure of funds. The Department will determine whether an environmental review of the cancellation is required under State and/or Federal law. The parties must agree on the termination conditions, including effective date and the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. The Department shall make funds available to the Grantee to pay for allowable expenses incurred before the effective date of termination.

Article 21. Termination for Cause

If the Grantee fails to comply with the terms of this Grant Agreement, or fails to use the grant for only those purposes set forth herein, the Department may take the following actions:

- A. Suspension – After notice in writing by certified mail to the Grantee, suspend the grant and withhold any further payment or prohibit the Grantee from incurring additional obligations of grant funds, pending corrective action by the Grantee or a decision to terminate. Response must be received within fifteen (15) days of receipt of the written notice.
- B. Termination – Terminate the grant in whole or in part, at any time before the final grant payment is made. The Department shall promptly notify the Grantee in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Payments made to the Grantee or recoveries by the Department shall be in accordance with the legal rights and liabilities of the parties.

Article 22. Withdrawal of Funds

In the event funding from the state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant Agreement and prior to normal completion, the Department may terminate the agreement, reduce funding, or re-negotiate subject to those new funding limitations and conditions. A termination under this article shall be implemented under the same conditions as a termination under Article 20 of this Attachment.

Article 23. Recovery of Funds

In the event of a default or violation of the terms of the Grant Agreement by the Grantee, the Department may institute actions to recover all or part of the project funds paid to the Grantee. Repayment by the Grantee of grant funds under this recovery provision shall occur within thirty (30) days of demand.

All remedies conferred on the Department by this agreement or any other instrument or agreement are cumulative, not exclusive, and may be exercised concurrently or consecutively at the Department's option.

Article 24. Disputes

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement that is not disposed of by mutual agreement shall be decided by the Department, which shall reduce its decision to writing and mail, or otherwise furnish a copy thereof, to the Grantee. The decision of the Department shall be final and conclusive.

This "Disputes" clause does not preclude the consideration of questions of law in connection with the decision provided for in the preceding paragraph provided that nothing in the Grant Agreement shall be construed as making final the decisions of any administrative official, representative, or board on a question of law.

Article 25. Jurisdiction

This Grant Agreement shall be governed by the laws and statutes of the State of Alaska. The venue of any suit hereunder may be in the Superior Court for the First Judicial District, Juneau, Alaska.

Article 26. Ownership of Project/Capital Facilities

The Department makes no claim to any capital facilities or real property improved or constructed with funds under this Grant Agreement and, by this grant of funds, does not and will not acquire any ownership interest or title to such property of the Grantee. The Grantee shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the Department and the State of Alaska harmless from any and all causes of action arising from the ownership and operation of the project.

Article 27. Site Control

If the grant project involves the occupancy and use of real property, the Grantee assures that it has the legal right to occupy and use such real property for the purposes of the grant, and further that there is legal access to such property.

As a minimum requirement, the Grantee should obtain a "sufficient interest" that allows the Grantee the right to use and occupy the site for the expected useful life of the building, structure or other improvement. Generally, the interest obtained should be for at least 20 years. A sufficient interest depends upon the nature of the project and the land status of the site.

Article 28. Insurance

The Grantee is responsible for obtaining any necessary liability insurance and maintain in force at all times during the performance of this Grant Agreement the insurance policies identified below. All insurance policies shall comply with, and be issued by insurers licensed to transact the business of insurance under Alaska Statute AS 21. The Grantee shall require any contractor hired to work on the project be licensed, bonded and insured for at least the amount of the project and if appropriate provide and maintain Professional Liability Insurance.

- A. Workers' Compensation Insurance for all employees engaged in work under this Grant Agreement, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements.
- B. Commercial General Liability Insurance covering all business premises and operations used by the Grantee in the performance of this project and Grant Agreement with coverage limits not less than \$300,000 combined single limit per occurrence and annual aggregates where applicable.
- C. Comprehensive Automobile Liability Insurance covering all vehicles used by the Grantee in the performance of this project and Grant Agreement with coverage limits not less than \$100,000 per person/\$300,000 per occurrence bodily injury and \$50,000.00 property damage.
- D. Professional Liability Insurance covering all errors, omissions or negligent acts of the contractor, subcontractor or anyone directly or indirectly employed by them, made in the performance of this contract which result in financial loss to the State. Limits required are per the following schedule:

Contract Amount Minimum Required Limits

Under \$100,000 \$100,000 per occurrence/annual aggregate

Article 29. Subcontracts for Engineering Services

In the event that the Grantee subcontracts for engineering services, the Grantee will require that the engineering firm certify that it is authorized to do business in the State of Alaska. In the event that the engineering firm is also the project administrator, the Grantee shall require that the bond or insurance shall be for not less than the amount of the entire project.

Article 30. Governing law

This Grant Agreement is governed by the laws of the State of Alaska. The Grantee shall perform all aspects of this project in compliance with the appropriate laws and regulations. It is the responsibility of the Grantee to ensure that all permits required for the construction and operation of this project by the Federal, State, or Local governments have been obtained.

Article 31. Budget Flexibility

Notwithstanding the provisions of Article 11, Attachment C, the Grantee may revise the project budget in Attachment A without a formal amendment to this agreement. Such revisions are limited within each line item to a maximum of ten percent (10%) of the line item or \$10,000, whichever is less, over the entire term of this agreement. Such budget revisions shall be limited to changes to existing budget line items. Budget revisions may not be used to increase any budget item for project administrative expenses. Changes to the budget beyond the limits authorized by this provision may only be made by a formal amendment to this agreement.

Article 32. Equal Employment Opportunity (EEO)

The Grantee may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood. The Grantee shall post in a conspicuous place, available to employees and applicants for employment, a notice setting out the provisions of this paragraph.

The Grantee shall state, in all solicitations or advertisements for employees to work on state funded projects, that it is an equal opportunity employer (EEO) and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood.

The Grantee shall include the provisions of this EEO article in every contract relating to this Grant Agreement and shall require the inclusion of these provisions in every agreement entered into by any of its contractors, so that those provisions will be binding upon each contractor or subcontractor.

Article 33. Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination against persons with disabilities. Title I of the ADA prohibits discrimination against persons with disabilities in employment and provides that a reasonable accommodation be provided for applicants and employees. Title II of the Act prohibits public agencies from discriminating against individuals with disabilities in the provision of services, programs, or activities. Reasonable accommodation must be made to ensure or allow access to all services, programs, or activities. This section of the Act includes physical access to public facilities and requires that public entities must, if necessary, make modifications to their facilities to remove physical barriers to ensure access by persons with disabilities. All new construction must also be accessible to persons with disabilities. A public entity's subgrantees or contractors must also comply with the ADA provisions. Grantees are responsible for assuring their compliance with the ADA.

Article 34. Public Purposes

The Grantee agrees that the project to which this Grant Agreement relates shall be dedicated to public purposes for its useful life. The benefits of the project shall be made available without regard to race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood.

If the Grantee is a non-municipal entity and if monies appropriated under this grant constitute the sole or principal funding source for the acquisition of equipment or facilities, the Grantee agrees that in the event a municipal corporation is formed which possesses the power and jurisdiction to provide for such equipment or facilities, the Grantee shall offer, without compensation, to transfer ownership of such equipment or facilities to the municipal corporation.

If the Grantee is a non-profit corporation that dissolves, the assets and liabilities from the grant project are to be distributed according to statutory law, AS 10.20.290-10.20.452.

Article 35. Operation and Maintenance

Throughout the life of the project, the Grantee shall be responsible for the operation and maintenance of any facility, equipment, or other items acquired under this grant.

Article 36. Assurance

The Grantee shall spend monies awarded under this grant only for the purposes specified in this Grant Agreement.

Article 37. Current Prevailing Rates of Wage

Certain grant projects are constrained by the provisions of AS 36. PUBLIC CONTRACTS. To the extent that such provisions apply to the project which is the subject of this Grant Agreement, the Grantee shall pay the current prevailing rates of wage to employees as required by AS 36.05.010. The Grantee also shall require any contractor to pay the current prevailing rates of wage as required by AS 36.05.010.

Article 38. Severability

If any provision under this Grant Agreement or its application to any person or circumstance is held invalid by any court of rightful jurisdiction, this invalidity does not affect other provisions of the contract agreement which can be given effect without the invalid provision.

Article 39. Performance

The Department's failure to insist upon the strict performance of any provision of the Grant Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any rights under this Grant Agreement.

Article 40. Sovereign Immunity

If the Grantee is an entity which possesses sovereign immunity, it is a requirement of this grant that the Grantee irrevocably waive its sovereign immunity with respect to state enforcement of this Grant Agreement. The waiver of sovereign immunity, effected by resolution of the entity's governing body, is herein incorporated into this Grant Agreement.

Article 41. Audit Requirements

The Grantee must comply with the audit requirements of the Alaska Administrative Code set forth in **2AAC45.010. AUDIT REQUIREMENTS**. An entity that expends a cumulative or total, equal to the state single audit threshold during the fiscal year is required to have a state single audit. A copy of the most current **2AAC45.010** adopted regulations is available at the Alaska Department of Administration's State Single Audit website: <http://doa.alaska.gov/dof/ssa/index.html>.

Current audit compliance supplements and guides specific to programs under AS 37.05.315 Grants to Municipalities, AS 37.05.316 Grants to Named Recipients, and AS 37.05.317 Grants to Unincorporated Communities can be found at http://doa.alaska.gov/dof/ssa/audit_guide.html.

Article 42. Close-Out

The Department will advise the Grantee to initiate close-out procedures when the Department determines, in consultation with the Grantee, that there are no impediments to close-out and that the following criteria have been met or soon will be met:

- A. All costs to be paid with grant funds have been incurred with the exception of close-out costs and any unsettled third-party claims against the Grantee. Costs are incurred when goods and services are received or contract work is performed.
- B. The last required performance report has been submitted. The Grantee's failure to submit a report will not preclude the Department from effecting close-out if it is deemed to be in the State's interest. Any excess grant amount that may be in the Grantee's possession shall be returned by the Grantee in the event of the Grantee's failure to finish or update the report.
- C. Other responsibilities of the Grantee under this Grant Agreement and any close-out agreement and applicable laws and regulations appear to have been carried out satisfactorily or there is no further State interest in keeping the grant open for the purpose of securing performance.

Appendix A

State Laws and Regulations and Permits

Grantees are responsible for all applicable state laws, regulations and permits; including but not limited to the following list which most commonly affects Grantees.

Municipality Public Facility Operations and Maintenance—AS 37.05.315(c)

In accepting a grant under AS 37.05.315 for construction of a public facility, a municipality covenants with the State that it will operate and maintain the facility for the practical life of the facility and that the municipality will not look to the State to operate or maintain the facility or pay for its operation or maintenance. This requirement does not apply to a grant for repair or improvement of an existing facility operated or maintained by the State at the time the grant is accepted if the repair or improvement for which the grant is made will not substantially increase the operating or maintenance costs to the State.

Restriction on Use—AS 37.05.321

A grant or earnings from a grant under AS 37.05.315 - 37.05.317 may not be used for the purpose of influencing legislative action. In this section “influencing legislative action” means promoting, advocating, supporting, modifying, opposing, or delaying or seeking to do the same with respect to any legislative action but does not include the provision or use of information, statistics, studies, or analyses in written or oral form or format. A grant or earnings from a grant made under AS 37.05.315 - 37.05.317 may not be used for purposes of travel in connection with influencing legislative action unless pursuant to a specific request from a legislator or legislative committee.

Hiring Preferences—AS 36.10

This chapter of the Alaska Statutes applies to grants for public works projects and requires compliance with the hiring preferences under AS 36.10.150 – 36.10.175 for employment generated by the grant.

Historic Preservation Act—AS 41.35

This chapter of the Alaska Statutes applies to public construction of any nature undertaken by the State, or by a governmental agency of the State, or by a private person under contract with or licensed by the State or a governmental agency of the State. The Department of Natural Resources must be notified if the construction is planned for an archaeological site. The Department of Natural Resources may stop the construction to determine the extent of the historic, prehistoric, or archaeological values.

Fire Protection—AS 18.70

This chapter of the Alaska Statutes requires the Alaska Department of Public Safety (the State Fire Marshal) to adopt regulations (currently in the form of Uniform Fire Code, as amended) establishing minimum standards for:

1. Fire detection and suppression equipment;
2. Fire and life safety criteria in commercial, industrial, business, institutional, or other public buildings used for residential purposes containing four or more dwelling units;
3. Any activity in which combustible or explosive materials are stored or handled in commercial quantities;
4. Conditions or activities carried on outside a building described in (2) or (3) likely to cause injury to persons or property.

Procurement Preference for State Agricultural and Fisheries Products—AS 29.71.040

This chapter of the Alaska Statutes applies to municipalities that use state funds to purchase agricultural and fisheries products. The law requires:

1. When agricultural products are purchased, only such products harvested in the state shall be purchased whenever priced no more than seven percent above products harvested outside the state, and of like quality compared with agricultural products harvested outside the state.
2. When fisheries products are purchased, only fisheries products harvested or processed within the jurisdiction of the state shall be purchased whenever priced no more than seven percent above products harvested or processed outside the jurisdiction of the state, available, and of like quality compared with fisheries products harvested or processed outside the jurisdiction of the state.

Alaska Product Preferences—AS 36.15

This chapter of the Alaska Statutes applies to projects financed by state money in which the use of timber, lumber, and manufactured lumber products is required, only timber, lumber and manufactured lumber projects originating in this state from local forests shall be used wherever practicable. The law requires the insertion of this clause in calls for bids and in all contracts awarded.

Permits and Environmental Procedures

The Alaska Department of Environmental Conservation (ADEC) regulates all activities in Alaska that might pollute the air, water or soil. There are dozens of ADEC permits related to constructing and operating public buildings. The law requires the following permits, including others designated by the commissioner. The following list is not intended to be all-inclusive.

- Air Emissions Permit
- Anadromous Fish Protection Permit
- Authorization for Tidelands Transportation
- Brine or Other Salt Water Waste Disposal Permit
- Burning Permit during Fire Season
- Coal Development Permit
- Critical Habitat Area Permit
- Dam Construction Permit
- Driveway Permit
- Encroachment Permit
- Miscellaneous State Land Use Permit
- Mineral and Geothermal Prospecting Permits
- Occupied Tide and Submerged Land
- Open Burning Permit
- Permit for Use of Timber or Materials
- Permit to Appropriate Water
- Pesticides Permit
- Preferred Use Permit
- Right-of-Way and Easement Permits
- Solid Waste Disposal
- Special Land Use Permit
- State Game Refuge Land Permit
- State Park Incompatible Use Permit
- Surface Oiling Permit
- Surface Use Permit
- Tide and Submerged Lands Prospecting Permit
- Tidelands Permit
- Tidelands Right-of-Way or Easement Permit
- Utility Permit
- Waste Water Disposal Permit
- Water Well Permit



Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2022-72**

A RESOLUTION AUTHORIZING A BUDGET TRANSFER IN THE GENERAL FUND DECREASING CITY MANAGER CONTINGENCY, INCREASING NON-DEPARTMENTAL PROFESSIONAL SERVICES, AND AUTHORIZING A CHANGE TO A PURCHASE ORDER TO LARSON ENGINEERING & DESIGN FOR TOWER STUDY.

WHEREAS, upon inspection, a contractor communicated to the City that the tower at the public safety building may be overloaded; and,

WHEREAS, in order to determine if the tower is structurally sound, a tower study was procured; and,

WHEREAS, on June 15, 2022 Council authorized a purchase order in the amount of \$34,750 to Larson Engineering & Design to complete a tower study; and,

WHEREAS, initial findings of the study indicate the tower, with properly sized guy wires and guy wire anchor points with sufficient strength, is in good condition and can support the existing and future equipment needs of the City as described in the projects scope; and,

WHEREAS, the original study didn't include a structural analysis of the guy anchor points; and,

WHEREAS, additional structural engineering is required to determine if the current guy anchor points are sufficient; and,

WHEREAS, Larson Engineering & Design provided an estimate of \$7,500 to complete this additional work.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the following budget revisions are authorized:

General Fund:

Decrease Expenditures:

City Manager - Contingency	<u>\$7,500</u>
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Increase Expenditures:

Non-Departmental - Professional Services	<u>\$7,500</u>
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Section 2. That the City Manager is authorized to issue a change to a purchase order to Larsen Engineering & Design in the amount of \$7,500, bringing the new total to \$42,250, for a Tower Study.


Section 3. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 5TH DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: 



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Dan Castimore, IT Manager

DATE: September 29, 2022

SUBJECT: Resolution 2022-72

The purpose of this memo is to recommend passage of Resolution 2022-72 which authorizes a budget transfer to provide funding for and to authorize a change order to an existing purchase order for a Tower Study.

The City has a communications tower located at the Public Safety building. This tower is used for both Public Safety radios as well as for IT data radios that connect City facilities. Recently the tower was inspected as part of a biannual process. The result of this inspection was that the contractor indicated that the tower may be overloaded. The only way to determine if the tower was indeed overloaded was to have an engineer complete a tower study. Funds were included in the FY22 budget to conduct this study.

A contract was issued to Larson Engineering and Design to complete this study. The initial findings of the study indicate the tower, with properly sized guy wires and guy wire anchor points with sufficient strength, is in good condition and can support the existing and future equipment needs of the City as described in the projects scope.

Further investigation is needed to determine the structural strength of the guy wire anchor points. This was not included in the original scope of the tower analysis

Larson Engineering provided a cost estimate of \$7,500 to complete this work. This resolution would transfer \$7,500, within the General Fund, from City Manager Contingency to Non-Departmental Professional services. It would also authorize an increase in the PO from \$34,750 to \$42,250.

Your consideration is appreciated.

**KENAI CITY COUNCIL – WORK SESSION
SEPTEMBER 21, 2022 – 4:45 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

NOTES

Council Present: B. Gabriel, H. Knackstedt, J. Baisden, T. Winger, J. Glendening, G. Pettey, D. Sounart

Airport Commission Present: J. Daily

Beautification Committee Present: None

Council on Aging Present: C. Thornton, R. Williams, V. Geller, J. Straughn, A. Heckert

Harbor Commission Present: D. Peck, C. Hutchison

Parks & Recreation Commission Present: S. Kisenia, D. Rigall

Planning & Zoning Commission Present: J. Twait, G. Woodard

Others Present: City Manager P. Ostrander, Assistant to the City Manager R. Broyles, Finance Director T. Eubank, City Clerk S. Saner, Airport Director E. Conway, Parks & Recreation Director B. Walker, Senior Center Director K. Romain, Police Chief D. Ross

A. CALL TO ORDER

Mayor Gabriel called the work session to order at 4:45 p.m.

B. INTRODUCTION

City Manager Ostrander welcomed everyone, provided a summary of the purpose of the work session and introduced Donna Logan of the McKinley Research Group, LLC. He explained that this is the first step in identifying what the City can do to create an area on the waterfront that meets the vision of the community, and is intended to support the private owners in that area.

C. PRESENTATION

Donna Logan introduced the project team, which included herself and Katie Berry with the McKinley Research Group, Chris Mertl with Corvus Design, and Alexandra West Jefferies with PND Engineers.

She presented the final results from the Kenai Waterfront Revitalization Assessment, which included a summary of community visioning; summary of programming & community-developed concepts; development of preferred concept; investment and funding strategies; and recommended next steps.

There was general public discussion of future waterfront development and plans from the owners of the Port of Kenai.

D. ADJOURNMENT

The work session adjourned at 5:45 p.m.

Notes were prepared by:

Michelle M. Saner, MMC
City Clerk

DRAFT

**KENAI CITY COUNCIL – REGULAR MEETING
SEPTEMBER 21, 2022 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai City Council was held on September 21, 2022, in City Hall Council Chambers, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Mayor Gabriel led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

Brian Gabriel, Mayor
Teea Winger
Glenese Pettey
Henry Knackstedt

James Baisden
Deborah Sounart
Jim Glendening, Vice Mayor

A quorum was present.

Also in attendance were:

**Silas Thibodeau, Student Representative
Paul Ostrander, City Manager
Scott Bloom, City Attorney
Terry Eubanks, Finance Director
Tony Prior, Fire Chief
Dave Ross, Police Chief
Kathy Romain, Senior Center Director
Katja Wolf, Library Director
Linda Mitchell, Planning Director
Eland Conway, Airport Director
Shellie Saner, City Clerk

3. Agenda Approval

Mayor Gabriel noted the following additions to the Packet:

- | | |
|----------------|---|
| Add item D.2 | Public Hearing – Ordinance No. 3307-2022 |
| | • Amendment Memo |
| Add item D.8. | Public Hearing – Ordinance No. 3313-2022 |
| | • Postponement Memo |
| Add item D.12. | Public Hearing – Ordinance No. 2022-64 |
| | • Postponement Memo |

MOTION:

Council Member Knackstedt **MOVED** to approve the agenda with the requested revisions and requested **UNANIMOUS CONSENT**. Council Member Pettey **SECONDED** the motion.

VOTE: There being no objection; **SO ORDERED.**

4. Consent Agenda

MOTION:

Council Member Knackstedt **MOVED** to approve the consent agenda. Council Member Baisden **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment; there being no one wishing to be heard, the public comment period was closed.

The items on the Consent Agenda were read into the record.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

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 – None.

C. UNSCHEDULED PUBLIC COMMENTS

Marian Nelson noted that the Harvest Auction will take place on Saturday and there are a lot of great items.

D. PUBLIC HEARINGS

1. **Ordinance No. 3306-2022** - Amending Kenai Municipal Code 7.15.020 Purchases Requiring Council Approval, to Provide Increased Flexibility for the Administration to Conduct City Business while Maintaining Sufficient Safeguards to Protect the Public Interest. (Baisden)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3306-2022. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that the current limit of \$5,000 for budget transfers was restrictive and had not been increased since 2005. There was discussion in support of the Ordinance, that it would address current inflation and provide greater flexibility.

VOTE:

YEA: Baisden, Gabriel, Glendening, Sounart, Knackstedt, Pettey, Winger

NAY: None

**Student Representative Thibodeau: YEA

MOTION PASSED UNANIMOUSLY.

2. **Ordinance No. 3307-2022** - Amending Kenai Municipal Code 7.25.020 – City Budget Control, to Provide Increased Flexibility in the Expenditure of Funds and Management of City Budgets while Maintaining Adequate Internal Controls to Protect the Public's Interest. (Baisden)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3307-2022. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

MOTION TO AMEND:

Council Member Baisden **MOVED** to amend Ordinance No. 3307-2022, Section 1, paragraph 7.25.020(a) as follows. Council Member Pettet **SECONDED** the motion.

"After approval by the Finance Director as to availability of unencumbered balances, transfers up to the amount of available funds may be made in line item accounts within a department of a fund and by up to ten thousand dollars (\$10,000.00) between the accounts of [A] departments within a fund. The City Clerk may make such transfers within the General Fund Department of the City Clerk, and the City Attorney may make such transfers within the General Fund Department of Law. The City Manager may make such transfers in all other areas except in the Legislative Department, which may be made by the Mayor or designee. The budgetary level of control will be the project level for Capital Project Funds."

UNANIMOUS CONSENT was requested on the motion to amend.

VOTE: There being no objection; **SO ORDERED.**

VOTE ON MAIN MOTION AS AMENDED:

YEA: Gabriel, Glendening, Sounart, Knackstedt, Pettet, Winger, Baisden

NAY: None

**Student Representative Thibodeau: YEA

MAIN MOTION AS AMENDED PASSED UNANIMOUSLY.

3. **Ordinance No. 3308-2022** - Accepting and Appropriating a Grant from the State of Alaska for the Purchase of Library Materials. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3308-2022. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that this was an annual award received from the State of Alaska.

VOTE:

YEA: Glendening, Sounart, Knackstedt, Pettet, Winger, Baisden, Gabriel

NAY: None

**Student Representative Thibodeau: YEA

MOTION PASSED UNANIMOUSLY.

4. **Ordinance No. 3309-2022** - Accepting and Appropriating Funds from the Public Library Association and AT&T for the Kenai Community Library's Participation in the PLA Digital Literacy Workshop Training Incentive. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3309-2022. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that this was a first-time award for the purpose of expanding digital literacy learning opportunities. There was discussion regarding the need for this in the community; and advertising through Facebook, print media and radio.

VOTE:

YEA: Sounart, Knackstedt, Pettet, Winger, Baisden, Gabriel, Glendening

NAY: None

**Student Representative Thibodeau: YEA

MOTION PASSED UNANIMOUSLY.

- 5. Ordinance No. 3310-2022** - Increasing Estimated Revenues and Appropriations in the General Fund, Police Department, for the Receipt of a Vehicle Forfeited to the State of Alaska. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3310-2022. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that it was not uncommon for the State to get forfeited vehicles.

VOTE:

YEA: Knackstedt, Pettet, Winger, Baisden, Gabriel, Glendening, Sounart

NAY: None

**Student Representative Thibodeau: YEA

MOTION PASSED UNANIMOUSLY.

- 6. Ordinance No. 3311-2022** - Determining that Real Property Described as Lot 5, Block 1, Gusty Subdivision Addition No. 1, According to Plat No. 83-126 KRD, City-Owned Airport Land Located Outside the Airport Reserve, is not Needed for a Public Purpose, Waiving KMC 22.05.095 Methods of Sale or Disposal and Authorizing the Sale of the Property to Aaron Swanson DBA Forever Business Plaza LLC. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3311-2022. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that this was one property out of ten that were approved to be sold; the property would be purchased at fair market value; and 25 percent of the value would be put in escrow for improvements.

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend Ordinance No. 3311-2022, by filling in the blanks of the twelfth and thirteenth whereas clauses with the word approval. Council Member Baisden **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to amend.

VOTE: There being no objection; **SO ORDERED.**

VOTE ON THE MAIN MOTION AS AMENDED:

YEA: Pettey, Winger, Baisden, Gabriel, Glendening, Sounart, Knackstedt

NAY: None

**Student Representative Thibodeau: YEA

MAIN MOTION AS AMENDED PASSED UNANIMOUSLY.

7. **Ordinance No. 3312-2022** - Determining Lot 4, Block 1, Gusty Subdivision Addition No. 1 Amended is not Needed for a Public Purpose and Approving the Execution of a Lease with an Option to Purchase between the City of Kenai and Aaron Swanson for the Property. (Administration)

Substitute Ordinance No. 3312-2022 - Determining Lot 4, Block 1, Gusty Subdivision Addition No. 1 Amended is not Needed for a Public Purpose and Approving the Execution of a Lease with an Option to Purchase between the City of Kenai and Aaron Swanson DBA Forever Business Plaza, LLC. for the Property. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3312-2022. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

MOTION TO AMEND:

Council Member Baisden **MOVED** to amend Ordinance No. 3312-2022, by Substitute Ordinance No. 3312-2022. Council Member Winger **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to amend by Substitute.

VOTE: There being no objection; **SO ORDERED.**

There was discussion regarding this being a lease with the option to purchase; the proposed improvements; and that this lease would be eligible for lease incentives which would require future Council action.

VOTE ON THE MAIN MOTION AS AMENDED BY SUBSTITUTE:

YEA: Winger, Baisden, Gabriel, Glendening, Sounart, Knackstedt, Pettey

NAY: None

**Student Representative Thibodeau: YEA

MAIN MOTION AS AMENDED BY SUBSTITUTE PASSED UNANIMOUSLY.

8. **Ordinance No. 3313-2022** - Accepting and Appropriating Funds from the State of Alaska Department of Natural Resources, Division of Forestry and the United States Department of Agriculture, Forest Service to Support the City's Spruce Beetle Mitigation and Hazard Fuel Reduction Program and Authorizing the City Manager to Execute a Memorandum of Agreement for this Funding. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3313-2022. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that if awarded work should be able to begin in late October or November.

VOTE:

YEA: Baisden, Gabriel, Glendening, Sounart, Knackstedt, Pettey, Winger

NAY: None

**Student Representative Thibodeau: YEA

MOTION PASSED UNANIMOUSLY.

- 9. Ordinance No. 3314-2022** - Extending the Time Period for Completion of the Action Items Necessary for the Conditional Donation of an Approximate 2 Acre Parcel to be Subdivided from a Portion of the 6.8 Acre More or Less Portion of the East of Tract 4A, Baron Park 2020 Replat (KPB Parcel No. 04501035) to Triumvirate Theatre for the Development of a Theatre Facility. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3314-2022. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment.

Joe Rizzo thanked the City for working with Triumvirate Theatre, noting the process help they had received from the City Manager; he reported the fundraising was going well and that over \$700,000 had been raised from local donations.

There being no one else wishing to be heard, the public comment period was closed.

MOTION TO AMEND:

Vice Mayor Glendening **MOVED** to amend Ordinance No. 3314-2022, by filling in the blank in the sixth whereas clauses with the word approval. Council Member Baisden **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to amend.

VOTE: There being no objection; **SO ORDERED.**

VOTE ON THE MAIN MOTION AS AMENDED:

YEA: Gabriel, Glendening, Sounart, Knackstedt, Pettey, Winger, Baisden

NAY: None

**Student Representative Thibodeau: YEA

MAIN MOTION AS AMENDED PASSED UNANIMOUSLY.

- 10. Ordinance No. 3315-2022** - Increasing Estimated Revenues and Appropriations in the General Fund and Public Safety Capital Project Fund for Costs in Excess of Budgeted Amounts for the fire Department Apparatus Bay Floor Refinishing Project. (Administration)

MOTION:

Council Member Baisden **MOVED** to enact Ordinance No. 3315-2022. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

VOTE:

YEA: Glendening, Sounart, Knackstedt, Pettey, Winger, Baisden, Gabriel

NAY: None

****Student Representative Thibodeau: YEA**

MOTION PASSED UNANIMOUSLY.

11. Ordinance No. 3316-2022 - Amending Kenai Municipal Code 14.20.150-Conditional Use Permits, to Further Clarify Roles and Responsibilities of Applicants, the Planning Director, and the Planning Commission in the Conditional Use Process. (Glendening)

MOTION:

Vice Mayor Glendening **MOVED** to enact Ordinance No. 3316-2022. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that this ordinance would improve the conditional use permit application process for the applicants and public; noting that recent Board of Adjustment hearings demonstrated needed changes to the defined roles and responsibilities of the Planning Commission.

MOTION TO AMEND:

Vice Mayor Glendening **MOVED** to amend Ordinance No. 3316-2022, by filling in the blank of the fifth whereas clauses with the word approval. Council Member Baisden **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to amend.

VOTE: There being no objection; **SO ORDERED.**

MOTION TO AMEND:

Council Member Knackstedt **MOVED** to amend Ordinance No. 3316-2022, Section 1, paragraph 14.20.150(a) to delete the proposed new language as follows:

“Intent. It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The conditional uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed. The grant, denial, modification, or revocation of a conditional use permit is discretionary [BUT MUST BE BASED ON FINDINGS SUPPORTED BY SUBSTANTIAL EVIDENCE AND CITY ORDINANCES].”

Council Member Pettey **SECONDED** the motion to amend.

There was discussion regarding the importance of the Commissions ability to make applicable restrictive findings that could be outside of code and that the additional language adds additional burdens to the Commission.

[Clerk's Note: There were technical difficulties with audio from the remote attendees.]

MOTION TO POSTPONE:

Council Member Pettey **MOVED** to Postpone Ordinance No. 3316-2022 to October 5, 2022. Council Member Baisden **SECONDED** the motion.

There was discussion related to the merits of postponement; if the ordinance was time sensitive. It was clarified that the Ordinance would fall to the floor if not taken up at the meeting when the 2022 Election was certified.

VOTE ON THE MOTION TO POSTPONE:

YEA: Sounart, Knackstedt, Pettey, Baisden, Gabriel

NAY: Winger, Glendening

**Student Representative Thibodeau: YEA

MOTION TO POSTPONE APPROVED.

12. Resolution No. 2022-64 - Approving the Renewal of a Lease Utilizing a Non-Standard Lease Form on Airport Reserve Lands Between the City of Kenai and the Federal Aviation Administration for the Automated Flight Service Station and Satellite Communication Network Facilities on Lot 7A-1 FBO Subdivision No. 5. (Administration)

MOTION:

Council Member Baisden **MOVED** to adopt Resolution No. 2022-64. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was noted that the Administration had requested postponement of Resolution No. 2022-64.

MOTION TO POSTPONE:

Council Member Pettey **MOVED** to Postpone Resolution No. 2022-64 to October 5, 2022. Council Member Winger **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to postpone.

VOTE: There being no objection; **SO ORDERED.**

13. Resolution No. 2022-65 - Approving the Use of the Fleet Replacement Fund for the Purchase of Four Ford Police Interceptors Utilizing the State of Alaska Equipment Fleet Contract. (Administration)

MOTION:

Council Member Baisden **MOVED** to adopt Resolution No. 2022-65. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that this would be for Explorers and be for the scheduled replacements for FY2022 and FY2023; and deliver was expected to be in excess of twelve months.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

14. Resolution No. 2022-66 - Amending the Kenai Municipal Airport Aircraft Parking Fees. (Administration)

MOTION:

Council Member Baisden **MOVED** to adopt Resolution No. 2022-66. Council Member Sounart **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that the changes recognized the needs of the persons who are only parked for brief periods of time.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

- 15. Resolution No. 2022-67** - Allowing the City of Kenai, City Manager to Execute Federal Aviation Administration Grant Agreement for Airport Improvement Program Project No. 3-02-0142-072-2022 at the Kenai Municipal Airport. (Administration)

MOTION:

Council Member Baisden **MOVED** to adopt Resolution No. 2022-67. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

It was reported that this was time sensitive as the Federal Aviation Administration fiscal year ends on September 30; the purchase would not have to occur before the end of the FAA fiscal year; and if awarded the City should expect to have the equipment by the end of 2022.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

- 16. Resolution No. 2022-68** - Authorizing A FY2022 Budget Transfer in the Airport Fund, Airfield Department for Amounts in Excess of Budgeted Amounts Caused by Employee Retirement and Above Average Snow Removal Activity During the Fiscal Year. (Administration)

MOTION:

Council Member Baisden **MOVED** to adopt Resolution No. 2022-68. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

- 17. Resolution No. 2022-69** - Authorizing a FY2022 Budget Transfer in the General Fund, Street Department for Amounts in Excess of Budgeted Amounts Caused by Above Average Snow Removal Activity During the Fiscal Year. (Administration)

MOTION:

Council Member Baisden **MOVED** to adopt Resolution No. 2022-69. Council Member Winger **SECONDED** the motion.

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

E. MINUTES

1. *Regular Meeting of September 7, 2022. (City Clerk)

F. UNFINISHED BUSINESS – None.**G. NEW BUSINESS**

1. ***Action/Approval** - Bills to be Ratified. (Administration)

Approved by the consent agenda.

2. ***Action/Approval** - Special Use Permit for Corvus Airlines, Inc. DBA Ravn Alaska, LLC. for Use of 1,200 Square Feet of Warm Storage of a De-Ice Vehicle. (Administration)

Approved by the consent agenda.

3. ***Ordinance No. 3317-2022** - Increasing Estimated Revenues and Appropriations in the Airport Fund and Appropriating Funds in the Airport Snow Removal Equipment Capital Project Fund for the Purchase of Snow Removal Equipment Attachments and Installation of a Gate. (Administration)

Introduced by the consent agenda and Public Hearing set for October 5, 2022.

4. **Action/Approval** - Appointment of the October 4, 2022 Election Precinct Boards for the October 4, 2022 Regular City Election. (City Clerk)

MOTION:

Council Member Baisden **MOVED** approve the Election Precinct Board Appointments for the October 4, 2022 Regular City Election. Council Member Winger **SECONDED** the motion.

[Clerk's Note: Council Member Sounart declared a possible conflict with approval of the Election Board Appointments, as she is an appointee listed. Mayor Gabriel ruled a conflict did exist and Council Member Sounart abstained from discussion and voting on the appointment.]

Mayor Gabriel opened the floor for public comment. There being no one wishing to be heard, the public comment period was closed.

There was discussion related to one of the appointees to Kenai Precinct No. 1 having withdrawn.

MOTION TO AMEND:

Council Member Winger **MOVED** to remove "Susan Smalley" from the appointees to Kenai No. 1. Council Member Baisden **SECONDED** the motion.

UNANIMOUS CONSENT was requested on the motion to amend.

VOTE: There being no objection; **SO ORDERED.**

UNANIMOUS CONSENT was requested on the main motion as amended.

VOTE: There being no objection; **WITHOUT OBJECTION.**

[Clerk's Note: Council Member Sounart abstained from discussion and voting on the approval of Election Precinct Board Appointments.]

5. **Action/Approval** - Kenai Senior Center as a Residual Beneficiary of the Tamera Diane Cone Testamentary Trust – Options for Management of Funds. (Administration)

There was discussion related to the three options; further clarification of the proposed options as outlined in the memo were provided; the potential of creating a legacy for the Cone Family through option three and the creation of Permanent Fund for the Kenai Senior Center may generate additional donations.

MOTION:

Council Member Baisden **MOVED** to direct the administration to bring forward the legislation required for Option 3. Council Member Pettey **SECONDED** the motion.

UNANIMOUS CONSENT was requested.

VOTE: There being no objection; **SO ORDERED.**

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging

No report, next meeting October 13, 2022

2. Airport Commission

Council Member Baisden reported on the September 8, 2022 meeting; next meeting October 13, 2022.

3. Harbor Commission

No report, next meeting on November 7, 2022.

4. Parks and Recreation Commission

No report, next meeting on October 6, 2022.

5. Planning and Zoning Commission

Vice Mayor Glendening reported on the September 14, 2022 meeting; and cancelation of the September 28, 2022.

6. Beautification Committee

Council Member Sounart reported on the September 13, 2022 work session; next meeting October 11, 2022.

7. Mini-Grant Steering Committee

No report.

I. REPORT OF THE MAYOR

Mayor Gabriel reported on the following:

- Proclamation declaring September 25th through October 1st, 2022 as Childhood Cancer Awareness Week.
- Recognition for the Finance Departments receiving a certificate of achievement for excellence in Financial Reporting.
- Attendance at the Triumvirate Fundraising event.
- Success of the Silver Salmon Derby.

J. ADMINISTRATION REPORTS

1. City Manager – City Manager Ostrander reported on the following:

- Upcoming Leadership Training for Directors and Managers
- Introduced new Planning Director Linda Mitchell
- Complications with the Dog Park due to the extremely high-water table.

2. City Attorney – City Attorney Bloom. No Report
3. City Clerk – City Clerk Saner reported on the following:
 - Absentee In-Person Voting at City Hall Monday – Friday, 8:00 a.m. – 5:00 p.m.; and 7:00 a.m. – 8:00 p.m. on Election Day.
 - Participated in the Ballot Logic and Accuracy Testing at the Kenai Peninsula Borough Building.

K. **ADDITIONAL PUBLIC COMMENTS**

1. Citizen Comments (*Public comments limited to (5) minutes per speaker*) – None.
2. Council Comments

Council Member Knackstedt thanked Council for support on postponement of Ordinance No. 3316-2022; and thanked the Cone family for the donation.

Council Member Pettet welcomed Planning Director Mitchell; congratulated the Finance Department for receiving the Certificate of Achievement; thanked the Cone family; and reminded everyone about the upcoming Harvest silent auction.

Student Representative Thibodeau provided an update on Homecoming Activities.

Council Member Sounart welcomed Planning Director Mitchell; thanked the Cone family; and congratulated the Finance Department for receiving the Certificate of Achievement.

Council Member Winger thanked the Cone family for their donation and the Police Department for monitoring bus stops; welcomed Planning Director Mitchell; congratulated the Finance Department for receiving the Certificate of Achievement; noted she was in attendance for the Silver Salmon Derby final spin; provided a list of opportunities to support cancer awareness; and reminded everyone about the upcoming Kenai River Marathon on Sunday.

Vice Mayor Glendening welcomed Planning Director Mitchell; thanked the Cone family; he reminded everyone to vote in the upcoming local election.

Council Member Baisden welcomed Planning Director Mitchell; he thanked the Mayor for the Childhood Cancer Awareness Proclamation; Kenai Central High School Girls Volley Ball team would be having a fundraiser to help support two local families dealing with cancer

L. **EXECUTIVE SESSION** – None.

1. Discussion for Resolving Delinquent Special Assessment Districts. Pursuant to AS 44.62.310(c)(1) a Matter of which the Immediate Knowledge may have an Adverse Effect upon the Finances of the City. (Administration)

MOTION:

Council Member Sounart **MOVED** to enter into Executive Session to discuss resolving delinquent Special Assessment Districts, the Executive Session will include Mayor Gabriel, City Council Member, City Manager Ostrander, City Attorney Bloom and Finance Director Eubank. Council Member Baisden **SECONDED** the motion.

[Clerk's Note: Pursuant to AS 44.62.310(c) subjects that may have an adverse effect upon the finances of the City may be discussed in Executive Session.]

UNANIMOUS CONSENT was requested to enter into Executive Session.

VOTE: There being no objection; **SO ORDERED.**

MOTION:

Council Member Sounart **MOVED** to reconvene into regular session. Council Member Baisden **SECONDED** the motion.

UNANIMOUS CONSENT was requested to reconvene into regular session.

VOTE: There being no objection; **SO ORDERED.**

[Clerk's Note: The Council entered into executive session at 8:44 p.m. and reconvened into regular session at 9:46 p.m.]

Council Member Sounart reported that Council had provided direction to the Administration and City Attorney regarding resolving delinquent Special Assessment Districts.

M. PENDING ITEMS – None.

N. ADJOURNMENT

O. INFORMATIONAL ITEMS

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

There being no further business before the Council, the meeting was adjourned at 9:47 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of September 21, 2022.

Michelle M. Saner, MMC
City Clerk

*** The student representative may cast advisory votes on all matters except those subject to executive session discussion. Advisory votes shall be cast in the rotation of the official council vote and shall not affect the outcome of the official council vote. Advisory votes shall be recorded in the minutes. A student representative may not move or second items during a council meeting.*



Sponsored by: Vice Mayor Glendening

**CITY OF KENAI
ORDINANCE NO. 3316-2022**

AN ORDINANCE AMENDING KENAI MUNICIPAL CODE 14.20.150-CONDITIONAL USE PERMITS, TO FURTHER CLARIFY ROLES AND RESPONSIBILITIES OF APPLICANTS, THE PLANNING DIRECTOR, AND THE PLANNING COMMISSION IN THE CONDITIONAL USE PROCESS.

WHEREAS, Council recently, through Ordinance No. 3243-2021, amended KMC 14.20.150- Conditional Use Permits, to improve the conditional use process for applicants and the public; and,

WHEREAS, recent public hearings at the Planning and Zoning Commission's meetings and board of adjustment hearings demonstrate further changes are needed to define the roles and responsibilities within the process and improve decisions made by the Commission; and,

WHEREAS, the amendments within this Ordinance are primarily intended to ensure decisions are made based on applicable standards within city code based on substantial evidence; and,

WHEREAS, other changes include reporting requirements to Council and that public hearings are held prior to any permit revocations; and,

WHEREAS, at its meeting on September 14, 2022, the Planning and Zoning Commission recommended approval of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. Amendment of Section 14.20.150 of Kenai Municipal Code: That Kenai Municipal Code, Section 14.20.15 Conditional Use Permits, is hereby amended as follows:

14.20.150 Conditional use permits.

(a) *Intent.* It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The conditional uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed. The grant, denial, modification, or revocation of a conditional use permit is discretionary but must be based on findings supported by substantial evidence and City ordinances.

(b) *Pre-Application Meeting.* Every conditional use permit applicant must contact the Planning Director for a pre-application meeting with the Planning Director or designee before the application is submitted to the Commission in order to ensure applications are complete and the applicant is familiar with the conditional use permit public hearing process. If an application is determined to be

incomplete by the Planning Director, the application may be resubmitted to the Planning Director with changes or new information as many times as necessary, or the applicant may request a review with the City Manager whose determination shall be final and reported to the City Council. The review by the Planning Director is to determine that sufficient information is presented to allow the Commission a meaningful review [AND HAS NO BEARING ON WHETHER AN APPLICATION SHOULD BE GRANTED OR DENIED BY THE COMMISSION].

(c) *Applications*. Applications for a conditional use permit shall be filed in writing with the Planning Department. The application shall include, but is not limited to, the following:

- (1) Name and address of the applicant and name and address of the property owner if not the applicant;
- (2) Verification by the owner of the property concerned if other than the applicant;
- (3) The street address and a legal description of the property involved;
- (4) A description of the proposed use and how the use satisfies the review criteria including any applicable evidentiary support;
- (5) Dimensioned plot plans showing the location of all existing and proposed buildings or alteration, conceptual drawing and such data as may be required; and
- (6) The appropriate fee as set forth in the City's schedule of fees adopted by the City Council.

The application and its plans shall be posted to the City's website at time of publication of Commission packet.

(d) *Public Hearing*. If the application is in order, a public hearing shall be scheduled in accordance with the requirements of KMC [14.20.280](#). An applicant or representative of the applicant must be present in person or by remote device for the application to be considered at the public hearing. If the applicant or representative is not present at the scheduled public hearing and has not provided reasonable timely notice of unavailability to the Planning Department or Commission, the application will be dismissed by the Commission without a public hearing and the applicant may reapply at any time after paying a new application fee.

(e) *Review Criteria*. Prior to granting a conditional use permit, it shall be established by substantial evidence that the use satisfies all the following criteria:

- (1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;
- (2) The economic and noneconomic value of the adjoining property and neighborhood will not be significantly impaired;

- (3) The proposed use is in harmony with the Comprehensive Plan;
- (4) Public services and facilities are adequate to serve the proposed use;
- (5) The proposed use will not be harmful to the public safety, health or welfare; and
- (6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use as provided for in City ordinance, including the Land Use Table.

The Commission may approve, approve with conditions, dismiss, or deny the application. The Commission must make specific findings in its decision addressing all six (6) of the required criteria stated above. Any relevant evidence may be considered by the Commission in its decision.

(f) *Burden of Proof.* The applicant for a conditional use permit has the burden to show by substantial evidence that the six (6) criteria above are satisfied. Substantial evidence is such relevant evidence a reasonable mind might accept as adequate to support a conclusion.

(g) *Staff Report.* The Planning Director or designee will provide a staff report on the application to the Commission at the public hearing. The staff report may contain any information deemed pertinent by the Planning Director or designee, and may include a recommendation and proposed findings on whether the requirements of this chapter have been met and whether any additional specific conditions are recommended. The Commission may consider the recommendations of the Planning Director or designee, but shall accord it no deference. Evidentiary findings by the Planning Director or designee shall be considered. The staff report does not relieve the applicant's burden of proof.

(h) *Issuance of the Permit.* Following approval by the Commission, the administrative official shall not issue the permit until the expiration of the fifteen (15) day appeal period contained in KMC [14.20.290](#). After approval by the Commission and before the issuance of the permit, the administrative official must determine that the applicant is current on all obligations (e.g., sales tax, property tax, lease payments, utility payments) to the City or has entered into an approved payment plan with the City on any obligations owed and the applicant is in compliance with the payment plan and (if the permit is for a use required to collect sales tax) must show a valid borough sales tax account. If a timely appeal is filed pursuant to KMC [14.20.290](#), the permit shall not be issued unless authorized by the Board of Adjustment.

(i) *Yearly Reports.* The permit holder shall submit a yearly report between October 1st and December 31st to the administrative official. Such report shall include a summary of the on-site activity.

(j) *Revocation for Noncompliance/Compliance Notices.* If the Commission determines after a public hearing, based on the yearly review or any other investigation undertaken by the official, that the conduct of the operation(s) is not in compliance with: (1) the terms and conditions of the permit; (2)

the provisions of the Kenai Zoning Code; (3) or that the permit holder is not current on any obligations (e.g., sales tax, property tax, utility payments, lease payments) to the City unless the applicant has entered into an approved payment with the City on any obligations owed and the applicant is in compliance with the payment plan, the Commission may revoke the permit. The Commission shall not revoke the permit until the permit holder has been notified and given reasonable opportunity to correct the deficiency(s) or to provide information relating to or rebutting the alleged deficiency(s). Appeals from decisions under this section shall be made in accordance with the provisions of KMC [14.20.290](#). If the administrative official determines the permit holder is in compliance with the conditions in this subsection, or notifies the permit holder of a potential violation in writing, the administrative official shall send any notice of compliance or notice of violation to the Commission and the permit holder in a timely manner.

(k) *Modification of Final Approval.*

(1) An approved conditional use permit may, upon application by the permittee, be modified by the Planning and Zoning Commission:

(i) When changed conditions cause the conditional use to no longer conform to the standards for its approval;

(ii) To implement a different development plan conforming to the standards for its approval;

(2) The modification application shall be subject to a public hearing and the appropriate fee as set forth in the City's schedule of fees adopted by the City Council in order to help cover the costs of the public hearing notice.

(l) *Expiration—Extensions—Transferability.*

(1) An approved conditional use permit lapses twelve (12) months after approval if no building permit is procured or if the allowed use is not initiated.

(2) A conditional use permit shall automatically expire if for any reason the conditioned use ceases for a period of one (1) year or longer.

(3) The Commission may grant time extensions to stay the lapse or the expiration of a permit for periods not to exceed one (1) year each upon a finding that circumstances have not changed sufficiently to warrant reconsideration of the approval of the conditional use permit or that good cause exists to grant the time extension. A permittee must request a time extension in writing, and submit any supporting materials, within ninety (90) days of the date of the administrative official's written notice to the permittee that either the permit has lapsed under subsection [\(l\)\(1\)](#) of this section or that the permit has expired under subsection [\(l\)\(2\)](#) of this section by a date certain. If the administrative official does not issue a written notice concerning lapse or expiration, the permittee may request a time extension at any time within two (2) years of the date the permit was issued or the use ceased, whichever is later. A permittee may be granted time extensions

not to exceed a total of two (2) years from the date of the Commission's grant of the first time extension. The Commission may, but is not required to, hold a public hearing prior to issuing a decision under this subsection.

(4) A permittee who disputes the administrative official's determination that the conditioned use has not been timely initiated or has ceased for a period of one (1) year or longer may appeal the official's determination to the Board of Adjustment in accordance with KMC [14.20.290](#). If the permittee has requested a stay under subsection [\(l\)\(3\)](#) of this section, the time for appeal of the administrative official's determination of lapse or expiration shall not run until such time as the Commission has made a final decision on the request for a stay.

(5) A conditional use permit is not transferable from one (1) parcel of land to another. Conditional use permits may be transferred from one (1) owner to another for the same use, but if there is a change in use on the property, a new permit must be obtained.

(6) Appeals from decisions of the Commission under this section shall be made in accordance with the provisions of KMC [14.20.290](#).

(m) A proposed conditional use permit shall not be considered if a substantially similar conditional use permit has been considered and denied within the nine (9) months immediately preceding.

Section 2. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 3. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 5TH DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Introduced:	September 7, 2022
Enacted:	October 5, 2022
Effective:	November 4, 2022



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Jim Glendening, Vice Mayor

DATE: August 25, 2022

SUBJECT: **Ordinance No. 3316-2022 Amending the Conditional Use Permits Process**

Council recently enacted Ordinance No. 3243-2021 amending KMC 14.20.150- Conditional Use Permits, to improve the conditional use process for applicants and the public. Recent public hearings at the Planning and Zoning Commission's meetings and board of adjustment hearings demonstrate further changes are needed to define the roles and responsibilities within the process and improve decisions made by the Commission. The following outlines the proposed changes:

1. Amend 14.20.150(a) to clarify that while the Commission has the discretion to grant, deny, modify or revoke a conditional use permit, such discretion must be based on substantial evidence and City Code supported by findings.
2. Amend 14.20.150(b) to require the City Manager report the results of any CUP application appeals made to him or her to the City Council.
3. Amend 14.20.150(b) by removing the language in the last sentence that states "and has no bearing on whether an application should be granted or denied by the commission" as it is unnecessary. It is already clearly stated that the Planners job in his review is to ensure that sufficient information is provided in the application to allow the Commission to have a meaningful review of the application.
4. Amend 14.20.150(c)(4) by adding that applicable evidentiary support for the granting of a conditional use permit should be included within the application process.
5. Amend 14.20.150(e) by emphasizing that the Commission must find that all required criteria in code are met **and** supported by substantial evidence prior to granting a conditional use permit.
6. Amend 14.20.150(e)(6) by adding language that clarifies that conditions placed on conditional use permits by the Commission must be based on applicable City Code.
7. Amend 14.20.150(g) by adding language to clarify that while the Commission does not have to give weight or deference to recommendations of the Planning Director with regard to whether a conditional use permit should be a granted or not, evidence presented to the Commission must be considered. This means that if the Planner provides evidence and

the Commission chooses to rely on other evidence or disagrees with the Planner regarding the evidence presented, the Commission must explain its decision in this regard.

8. Amend 14.20.150(j) to require that a public hearing is held prior to the revocation of any conditional use permit.

I request this Ordinance be removed from the Consent Agenda for introduction, so that it can be referred to the Planning and Zoning Commission to make a recommendation at its September 14, 2022 meeting, prior to Council's public hearing at its September 21, 2022 meeting.

Your consideration is appreciated.





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MEMORANDUM

TO: Mayor Gabriel and Council Members
FROM: Henry Knackstedt, Council Member
DATE: September 15, 2022
SUBJECT: Ordinance 3316-2022 Comments and Proposed Amendments

The Ordinance proposing changes to 14.20.150-Conditional Use Permits does little to further define roles and responsibilities of the Planner or Planning & Zoning Commission in a constructive way. Instead the proposed changes make it easier to attack the decision of the Planning and Zoning Commission and arguably switch the burden from the applicant to prove the conditions for a conditional use permit are met to the Commission. Additionally, the proposed changes restrict the ability of the Commission to impose conditions and restrict the Commissions flexibility. Regardless of how good the findings may be, the public always has the right to appeal, and these changes largely place the decision of the Commission at greater risk by imposing more restrictions.

The following are my proposed amendments to the Ordinance:

- 1) 14.20.150(a) Delete the proposed amendment at the end of the paragraph.

Substantial findings are good, but all lesser findings should also make up the evaluation by the Commission. Additionally, City ordinances (code) are not always completely inclusive, and the Commission needs the ability to make applicable restrictive findings that could be outside of code. Additionally, KMC 14.50.150(f) provides that the applicant has the burden to show by substantial evidence that all six required criteria for grant a CUP are met, this new language adds an unnecessary burden on the Commission to substantiate a CUP.

- 2) 14.20.150(b) Retain the stricken language at the end of the paragraph.

The stricken words are accurate and should remain. This section of code addresses the review by the Planner of CUP applications for completeness as related only to information provided in the application. Regardless of whether the information in an application supports the granting of a conditional use permit or not, all complete applications (application with sufficient information) are provided the Commission for a decision. It is unclear to me what the sponsor's intentions are in removing the verbiage.

- 3) 14.20.150(e) Delete the added language or modify as provided below.

The new proposed language states that before granting a conditional use permit all criteria must be established by substantial evidence. It is the applicants burden to show this, as specifically stated in subsection (f) “The applicant for a conditional use permit has the burden to show by substantial evidence that the six (6) criteria above are satisfied.” This new language is either duplicative and unnecessary, or means something else? If it is purely duplicative it should be removed or clarified by adding additional language as follows: “by substantial evidence as presented by the applicant” (New language in bold) If it is not duplicative and means something new, it should be explained and made clear.

4) 14.20.150 (e)(6) Delete added language.

This new language arguably restricts the ability and flexibility of the Planning and Zoning Commission to grant a CUP and add conditions to lessen the CUP’s potential impact. For example; quiet times are not found in City Code, nor are the requirement for site obscuring fences, outdoor lighting restrictions or occupancy limits outside of fire marshal safety concerns. These are all conditions that could be reasonable to mitigate the impact of a business in a residential zone. I attended the Commission’s review of this Ordinance and heard the City Attorney state that he would argue these types of conditions could be supported by language found in 14.20.150(a) regarding intent, but why require the City to make this argument, one that we could lose, when it was previously clear these conditions could be imposed. Is the sponsor’s intent not to allow the imposition of these types of conditions? If it is not the intent to prohibit these types of conditions, then no change to the existing code language is necessary. If the intent is to prohibit these types of conditions, then I can not support the new proposed language.





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MEMORANDUM

TO: Mayor Gabriel and Council Members

FROM: Shellie Saner, City Clerk

DATE: September 29, 2022

SUBJECT: **Ordinance 3316-2022 – Postponed with a Motion to Amend on the Floor**

At the September 21, 2022 meeting Ordinance 3316-2022 was postponed with a motion to amend on the floor.

The amendment motion on the floor proposed to amend Ordinance No. 3316-2022, Section 1, paragraph 14.20.150(a) to delete the proposed new language as shown below:

“Intent. It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The conditional uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed. The grant, denial, modification, or revocation of a conditional use permit is discretionary [BUT MUST BE BASED ON FINDINGS SUPPORTED BY SUBSTANTIAL EVIDENCE AND CITY ORDINANCES].”

Prior to making any additional motions or amendments, the Council will need to resume discussion and voting on the proposed amendment shown above.

POLICY NO. 2016-01 (Amended): Procedures for Commissions, Committees and Council on Aging

Purpose

The purpose of this policy is to establish procedures, other than those provided in KMC 1.90, for Commissions, Committees and Council on Aging.

Scope

This policy applies to all advisory bodies appointed by the City Council. The Planning and Zoning Commission is also regulated by KMC 14.05.

Policy

1. Appointment and Reappointments

- a. An application for consideration of appointment or reappointment to a Commission, Committee or Council on Aging must be submitted to the City Clerk.
- b. The Mayor nominates an applicant for appointment or reappointment and by motion, the City Council confirms.

2. Establishing Subcommittees

- a. A subcommittee of a commission or committee may be established for a specific function upon approval of Council.

3. Meeting Schedules

- a. Commission, Committee and Council on Aging meeting schedule is as follows:

Commission/ Committee/Council on Aging	Meeting Schedule	Scheduled Meeting Days
Airport Commission	Monthly	Second Thursday of the month
Beautification Committee	Meetings held January, April, May, September and October	Second Tuesday of the month
Council on Aging	Monthly	Second Thursday of the month
Harbor Commission	Monthly Meetings held February, March, April, May, June, August, September, and November	First Monday after first council meeting of the month
Library Commission (Suspended as of 2015, Ordinance No. 2815-2015)	N/A	N/A
Parks & Recreation Commission	Monthly, except for July	First Thursday of the month
Planning & Zoning Commission	Twice monthly	Second & fourth Wednesdays

- b. All regular meetings will be held in the Kenai City Hall Council Chambers with the exception of the Council on Aging who shall meet at the Senior Center, unless offsite arrangements are approved by the Clerk. Exceptions for subcommittee meetings may be made with the advance notice of the City Clerk.
- c. Regularly scheduled meetings shall begin at 7:00 p.m. unless otherwise approved by Council via motion, with the exception of the Council on Aging, which begins at 4:30 p.m.
- d. Commissions, Committees and Council on Aging may, with the City Clerk's approval and notification to Council and the City Manager, hold special meetings (for a specific purpose) on an as-needed basis.
- e. Commissions, Committees and Council on Aging meetings may be cancelled by the City Clerk, with notification to Council and the City Manager, if cancellation is warranted, i.e. lack of agenda items, pre-knowledge of lack of a quorum, etc.
- f. Any additional commissions or committees established will be set and incorporated into the meeting schedule by the City Council.

4. Minutes & Meeting Recordings

- a. With exception of the Planning & Zoning Commission, taking notes and electronically recording meetings shall be the responsibility of department liaison to the specific meeting body. The Clerk's Office shall take notes and record the meeting for the Planning and Zoning Commission.
- b. Summary minutes will be produced by the Clerk's Office from the department liaisons notes and provided to the City Council as official records of the meetings.
- c. Regularly scheduled meetings shall be electronically recorded and with the exception of Planning & Zoning Commission, shall be kept for two years.
- d. Planning & Zoning Commission meeting recordings shall be kept for 6 years.

5. Work Sessions

- a. Work sessions may not be held without the approval of the City Clerk unless they occur on the night of and at the time of a regularly scheduled advertised meeting. Notification of scheduled work session shall be provided to City Council and the City Manager. Work session may be requested by Council, the liaison or Chair of the body.
- b. During work sessions, only items on the work session agenda may be discussed and no formal actions may be taken.
- c. At a minimum, work sessions shall be posted on the Official City Bulletin Board in Kenai City Hall and on the city website at least five days prior to the meeting.

6. Basic Meeting Information

- a. All meetings shall be open to the public.
- b. At a minimum, meeting notices shall be posted on the Official City Bulletin Board in Kenai City Hall and on the city website at least five days prior to the meeting.
- c. Meeting agenda's shall be established by the Chair and the department liaison. Items requiring Committee, Commission or Council on Aging action under applicable municipal code prior to final action by the Council, as distinguished from advisory recommendations, will be referred to the respective body prior to any final Council action. The City Council, by motion, may refer any other item to be placed on an agenda seeking a recommendation from the respective Committee, Commission, or Council on Aging.
- d. The department liaison shall submit items for the agenda and supporting documentation to the Clerk's Office one week prior to a meeting, no later than 2:00 p.m. The Clerk's Office will compile meeting material and distribute. The Planning & Zoning Commission is exempt from this requirement as the Planning Department advertises, compiles meeting material and distributes for its commission.
- e. Rules of Order: Pursuant to KMC 1.15.120(b) and KMC 1.90.050(c), in all matters of parliamentary procedure, Robert's Rules of Order, as revised shall be applicable and govern all meetings, except as specified in KMC 1.15.060 (Motions), KMC 1.15.100 (Speaking), and KMC 1.15.110 (Voting).
- f. Quorum: No meeting may proceed in the absence of a quorum, i.e. a quorum is more than one-half of the board/commission (quorum of the whole).
- g. Motion: Pursuant to KMC 1.15.060(k), all motions require a second. A majority of votes is required to pass a motion.
- h. Speaking: In a meeting, members should be recognized by the Chair before speaking.
- i. When is it a Meeting: If any public business is discussed collectively by four or a majority of members of one body.

7. Council Participation

- a. Any Council Member may attend a meeting or work session of any Commission, Committee or the Council on Aging. Only the Council Liaison to the respective, Commission, Committee or Council on Aging may speak on behalf of the Council. Participation by Council Members at Commission, Committee or Council on Aging meetings should be limited to introduction of legislation by one Council Legislative Sponsor. Participation by any other Council Members, written or oral, is discouraged.
- b. Exception: Council Members may fully participate in any joint work session or other meeting with a Commission, Committee, or the Council on Aging when it has been noticed that the City Council will be in attendance, or there has been a specific delegation of authority by the Council for a member(s) to represent the Council.

Effective Date: _____

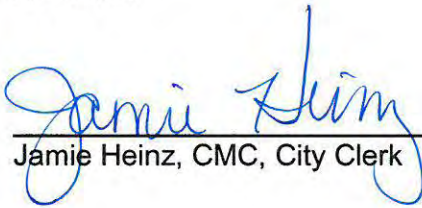
1/18/19

Approved by Resolution No. 2016-03
Amended by Resolution No. 2017-24
Amended by Resolution No. 2018-21
Amended by Resolution No. 2019-03



BRIAN GABRIEL SR., MAYOR

ATTEST:


Jamie Heinz, CMC, City Clerk





Sponsored by: Administration

**CITY OF KENAI
RESOLUTION NO. 2022-64**

A RESOLUTION APPROVING THE RENEWAL OF A LEASE UTILIZING A NON-STANDARD LEASE FORM ON AIRPORT RESERVE LANDS BETWEEN THE CITY OF KENAI AND THE FEDERAL AVIATION ADMINISTRATION FOR THE AUTOMATED FLIGHT SERVICE STATION AND SATELLITE COMMUNICATION NETWORK FACILITIES ON LOT 7A-1 FBO SUBDIVISION NO. 5.

WHEREAS, the lease to the Federal Aviation Administration (FAA) for Automated Flight Service Station (AFSS) and Satellite Communication Network facilities on Lot 7A-1 FBO Subdivision No. 5, expires on September 30, 2022; and,

WHEREAS, on June 8, 2022, the FAA submitted an application for a lease renewal of the City owned facility within the Airport Reserve, described as the AFSS, a 10,812 square foot building located on Lot 7A-1 FBO Subdivision No. 5; and,

WHEREAS, the proposed lease would be mutually beneficial and would conform with Kenai Municipal Code for zoning, Kenai's Comprehensive Plan, the Airport Land Use Plan, Airport Layout Plan, Federal Aviation Administration regulations, Airport Master Plan, Airport Improvement Program grant assurances, and Airport operations; and,

WHEREAS, the City of Kenai did not receive a competing lease application within thirty (30) days of publishing a public notice of the lease application from the FAA; and,

WHEREAS, at their regular meeting on September 14, 2022, the Planning and Zoning Commission reviewed the lease application and recommended approval by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. The Council of the City of Kenai approves the attached non-standard space lease form by the FAA for the lease of Lot 7A-1, Block 2, FBO Subdivision, locate within the Airport Reserve, to the FAA for the use of an automated flight service station.

Section 2. The City Manager is authorized to execute the lease between the City of Kenai, Lessor, and the FAA, Lessee.

Section 3. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 5th DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk



KENAI

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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Max Best, Interim Planning Director

DATE: August 15, 2022

SUBJECT: **Resolution No. 2022-64 – Approving the Renewal of a Lease on Airport Reserve Lands between the City of Kenai and the Federal Aviation Administration for the Automated Flight Service Station Facility on Lot 7A-1, FBO Subdivision No. 5.**

The City has received a request for a renewal of the Federal Aviation Administration (FAA) lease of the Automated Flight Service Station (AFSS). The FAA has leased the space for the purpose of operating the AFSS and Satellite Communication Network (SACOM) facilities dating back to 1983.

The lease agreement is for Lot 7A-1, FBO Subdivision No. 5, a 3.445 acre parcel the parcel contains the City owned Automated Flight Service Station a 10,812 square foot building.

Pursuant to Kenai Municipal Code 21.10.060 Lease application review, notice of the lease application was posted in the Peninsula Clarion and stated competing applications may be submitted for the parcel within 30 -days to the City. The 30 -day window from publication ended on July 16, 2022, and to-date, no competing applications have been submitted to the City.

The parcel is within the Airport Light Industrial (ALI) Zone. Pursuant to KMC 14.20.065, the purpose of the ALI Zone is to protect the viability of the Kenai Municipal Airport as a significant resource to the community by encouraging compatible land uses and reducing hazards that may endanger the lives and property of the public and aviation users. The proposed aeronautical use is a permitted and compatible use in the ALI Zone.

The Imagine Kenai 2030 Comprehensive Plan outlines goals, objectives, and action items for the City, including this one pertaining to the Kenai Municipal Airport:

Objective T- 1: Support future development near or adjacent to the airport when such development is in alignment with the Kenai Municipal Airport's primary mission, "To be the commercial air transportation gateway to the Kenai Peninsula Borough and Cook Inlet."

The proposed use complies with the Imagine Kenai 2030 Comprehensive Plan by supporting development on lease lots with development that is in alignment with the Kenai Municipal Airport's marketing strategy.

Please review the attached materials.

Your consideration is appreciated.

Attachments:

City of Kenai Land Lease Application from FAA

470 N. Willow Street Map & Plat





City of Kenai Land Lease Application

Application for: ☐ New Lease
☐ Amendment ☐ Extension
☐ Assignment ☐ Renewal

Application Date: 5/25/2022

Applicant Information

Name of Applicant:	Department of Transportation - Federal Aviation Administration						
Mailing Address:	2200 S 216th St	City:	Des Moines	State:	WA	Zip Code:	98198
Phone Number(s):	Home Phone:		Work/ Message Phone:				
E-mail: (Optional)							
Name to Appear on Lease:	Federal Aviation Administration						
Mailing Address:	2200 S 216th St	City:	Des Moines	State:	WA	Zip Code:	98198
Phone Number(s):	Home Phone:		Work/ Message Phone: 206-231-3058				
E-mail: (Optional)							
Type of Applicant:	<input type="checkbox"/> Individual (at least 18 years of age) <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> Government <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Other _____						

Property Information and Term Requested

Legal description of property (or, if subdivision is required, a brief description of property):	
7A-I, Block 2 FBO Subdivision No. 5, according to Plat No. 92-60, in the Kenai Recording District, Third Judicial District, State of Alaska. Comprising more or less 3.445 acres, and a 3.214 acre building restr. clear zone easement	
Does the property require subdivision? (if Yes, answer next questions)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Subdivision costs are the responsibility of the applicant unless the City Council determines a subdivision serves other City purposes:	
1. Do you believe the proposed subdivision would serve other City purposes?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
2. If determined it does not, applicant is responsible for all subdivision costs.	Initials _____
If an appraisal is required to determine the minimum price on the land, applicant is responsible for the deposit to cover costs associated with appraisal. If a sale is approved, the cost of the appraisal will be either refunded or credited to the applicant.	
	Initials _____
It is the responsibility of the applicant to cover recording costs associated with lease.	
	Initials _____
Do you have or have you ever had a Lease with the City? (if Yes, answer next question)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
1. Legal or brief description of property leased:	
7A-I, Block 2 FBO Subdivision No. 5, according to Plat No. 92-60, in the Kenai Recording District, Third Judicial District, State of Alaska. Comprising more or less 3.445 acres, and a 3.214 acre building restriction clear zone easement at 470 North Willow Street, Kenai, Alaska.	
Request a Lease with an Option to Purchase once development requirements are met?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Requested term for Initial Lease or Renewal (based on Term Table, not to exceed 45 years): TBD	
Requested term for Lease Extension (based on Term Table, not to exceed a total of 45 Years):	
Requested Starting Date: 10/01/2022	

Proposed Use and Improvements

Proposed Use (check one): <input checked="" type="checkbox"/> Aeronautical <input type="checkbox"/> Non-Aeronautical	
Do you plan to construct new or additional improvements? (if Yes, answer next five questions) L YES <input checked="" type="checkbox"/> NO	
1. Will the improvement change or alter the use under an existing lease? L YES <input checked="" type="checkbox"/> NO	
2. What is the proposed use of the improvement? N/A	
3. What is the estimated value of the improvement? N/A	
4. What is the nature and type of improvement? N/A	
5. What are the dates construction is estimated to commence and be completed? (generally, construction must be completed within two years) Estimated Start Date: _____ Estimated Completion Date: _____	
Describe the proposed business or activity intended: This space will be used by the Federal Aviation Administration for our Automated Flight Service Station and Satellite Communications Center (currently in place under prior lease with the City of Kenai)	
How does the proposed lease support a thriving business, residential, recreational, or cultural community? FAA is tasked with supporting the safety of the National Airspace. The operations are critical for flight safety in the local area of Kenai as well as for national flights throughout the country.	
Lease Assignment Only: What is the name of the individual or legal entity the lease is to be assigned? N/A	

Lease Renewal Only

<input type="checkbox"/> Renewal of an Existing Lease (at least one year of term remaining): Requires new development.			
Lease Term based on: Estimated cost of new improvements and <input type="checkbox"/> Purchase Price (optional)			
<input checked="" type="checkbox"/> Renewal of an Expiring Lease (less than one year of term remaining): Does not require new development.			
Lease Term based on: <input type="checkbox"/> Purchase Price <input checked="" type="checkbox"/> Professional Estimate of Remaining Useful Life			
<input type="checkbox"/> Fair Market Value appraisal and/or <input type="checkbox"/> Estimated cost of new improvements (optional)			
Requested Term for Renewal Based on Term Table, not to exceed 45 Years: TBD			
Submitting an application for a lease does not give the applicant a right to lease or use the land requested in the application. The application shall expire twelve (12) months after the date the application has been made if the City and the applicant have not, by that time, entered into a lease, unless the City Council for good cause grants an extension for a period not to exceed six (6) months. The City has no obligation to amend, renew or extend a lease and may decline to do so upon making specific findings as to why a lease renewal, extension, or amendment is not in the best interest of the City			
Signature:	CORI A BEEKMAN <small>Digitally signed by CORI A BEEKMAN Date: 2022.06.08 06:30:16 -07'00'</small>	Date:	06/08/2022
Print Name:	Cori Beekman	Title:	RECO

For City Use Only:		Date Application Fee Received: _____	
<input type="checkbox"/> General Fund	<input type="checkbox"/> Airport Reserve Land	Date Application Determined Complete: _____	
<input type="checkbox"/> Airport Fund	<input type="checkbox"/> Outside Airport Reserve	30-Day Notice Publication Date: _____	
Account Number: _____		City Council Action/Resolution: _____	



Basic Tools

Tool Labels X



☆ 04336033

PARCEL ID: 04336033
Municipal
Institutional

Owner:
KENAI CITY OF
210 FIDALGO AVE STE 200
KENAI, AK 99611

Legal:
T 6N R 11W SEC 32 SEWARD MERIDIAN
KN 0920060 FBO SUB NO 5 LOT 7A-1

Physical Addresses:
470 N WILLOW ST

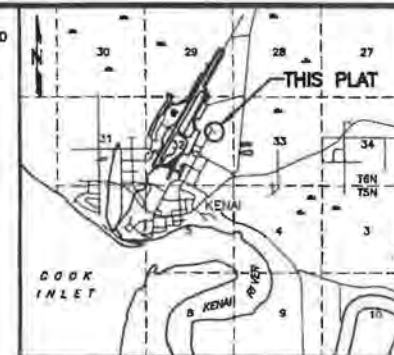
[Add to Results](#) [View Additional Details](#)
[Run a Report](#)



NOTE: NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.

LEGEND

- SET 5/8" REBAR WITH 1 1/2" ALCAP
- ⊙ FOUND 5/8" REBAR WITH 1 1/4" PLASTIC CAP
- ⊙ FOUND 1/2" REBAR WITH 1" PLASTIC CAP
- FOUND 1/2" REBAR
- ⊙ FOUND 3 1/4" ALCAP MONUMENT
- (R1) RECORD DATA - KR0 76-225
- (R2) RECORD DATA - KR0 84-145
- (R3) RECORD DATA - KR0 90-82
- (M) MEASURED DATA



VICINITY MAP
SCALE: 1"=1 MILE

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

CITY MANAGER

CITY OF KENAI
210 FIDALGO STREET
KENAI, AK 99611

NOTARY'S ACKNOWLEDGEMENT

FOR: City of Kenai, Charles Brown
SUBSCRIBED AND SWORN BEFORE ME THIS 29th
DAY OF September, 1992
Kari Spierck
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: 7/10/96

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF July 28, 1992
BY: Harold E. Solomon
AUTHORIZED OFFICIAL

KPB FILE NO. 92-068

FBO SUBDIVISION NO. 5

A RESUBDIVISION OF LOT 7A, BLOCK 2, FBO SUBDIVISION NO. 2 AND A PORTION OF THE NE1/4, SEC. 32, T6N, R11W, S.M., AK.

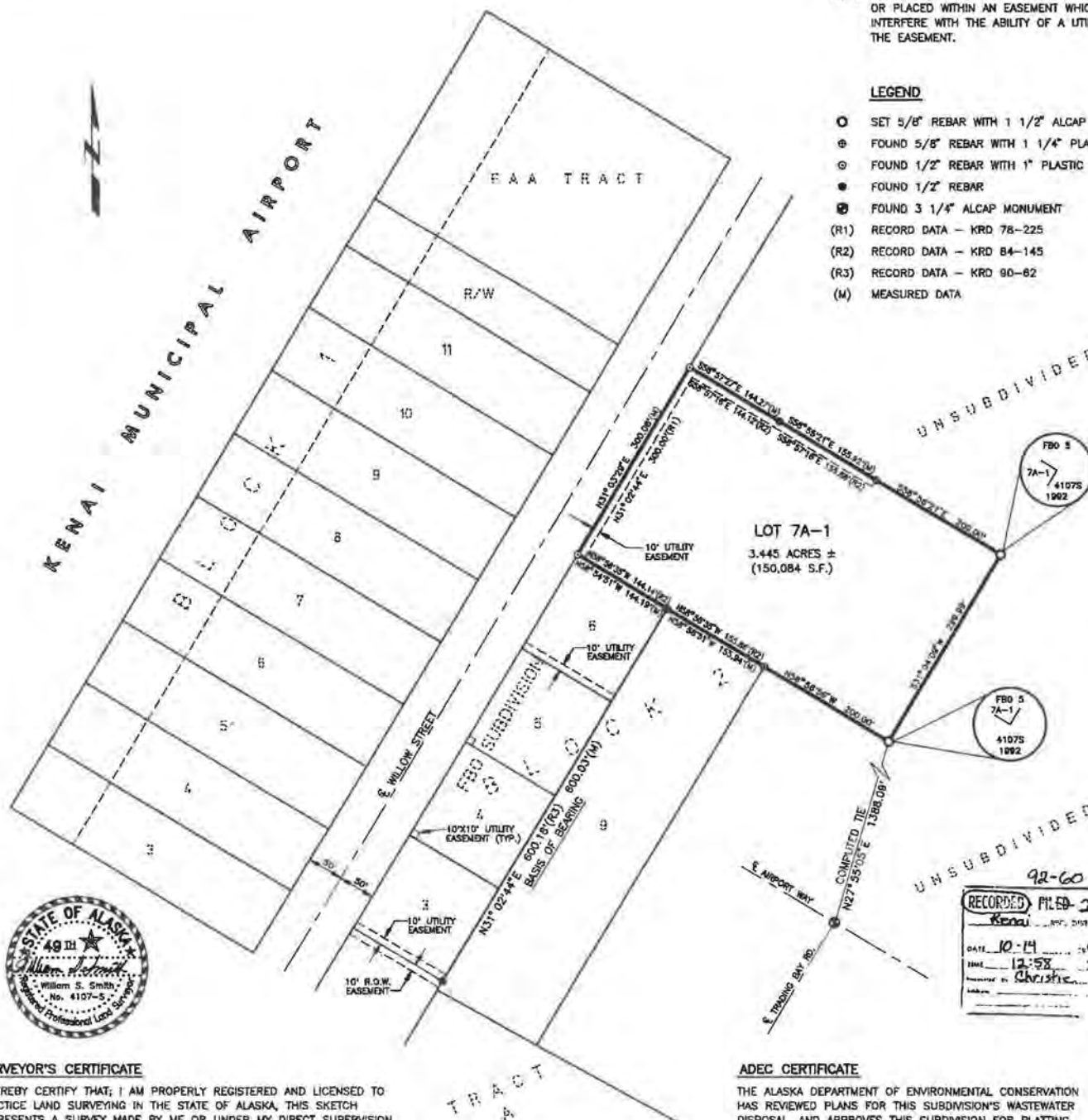
LOCATED WITHIN THE NE1/4, SEC. 32, T6N, R11W, S.M., AK, CITY OF KENAI, KENAI RECORDING DISTRICT, KENAI PENINSULA BOROUGH, ALASKA

CONTAINING 1 LOT OF 3.445 ACRES ±

RAYTHEON SERVICE COMPANY

550 W. 7th AVENUE, SUITE 1320
ANCHORAGE, AK 99501
279-5400

SURVEY DATE:	8-21-92	PLATTED:	
DRAWN:	BWC	FIELD BOOK:	N/A
CHECKED:	WSS	SCALE:	1" = 100'
DATE PREPARED:	9-28-92	PREPARED FOR:	FAA



SURVEYOR'S CERTIFICATE

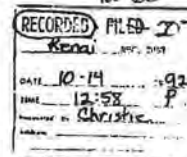
I HEREBY CERTIFY THAT: I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, THIS SKETCH REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED, AND ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT TO THE NORMAL STANDARDS OF PRACTICE OF LAND SURVEYORS IN THE STATE OF ALASKA.

SURVEYOR'S SIGNATURE: William S. Smith DATE: 9/22/92

ADEC CERTIFICATE

THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS REVIEWED PLANS FOR THIS SUBDIVISION'S WASTEWATER DISPOSAL, AND APPROVES THIS SUBDIVISION FOR PLATTING.

SIGNATURE: [Signature] TITLE: EE DATE: 9-29-92



PAYMENTS OVER \$15,000.00 WHICH NEED COUNCIL RATIFICATION
COUNCIL MEETING OF: OCTOBER 5, 2022

VENDOR	DESCRIPTION	DEPARTMENT	ACCOUNT	AMOUNT
PERS	PERS	VARIOUS	LIABILITY	105,320.87

INVESTMENTS

VENDOR	DESCRIPTION	MATURITY DATE	AMOUNT	Effect. Int.
PIPER JAFFRAY	U.S. AGENCY SECURITY	08/25/2026	1,201,808.86	3.36%
PIPER JAFFRAY	U.S. AGENCY SECURITY	01/31/2024	725,928.99	3.15%
PIPER JAFFRAY	U.S. AGENCY SECURITY	03/31/2024	745,378.28	3.16%
PIPER JAFFRAY	U.S. AGENCY SECURITY	04/30/2024	747,063.91	3.16%
PIPER JAFFRAY	U.S. AGENCY SECURITY	07/31/2024	748,311.20	3.17%

PURCHASE ORDERS OVER \$15,000.00 WHICH NEED COUNCIL APPROVAL
COUNCIL MEETING OF: OCTOBER 5, 2022

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
ASPHALT MARKING SERVICES	LINE STRIPER	AIRPORT	CONSTRUCTION	26,000.00
TWO RIVERS TERMINAL	UREA	AIRPORT	OPERATING SUPPLIES	28,500.00
AAA FENCE	SLIDING SNOW GATE	AIRPORT	CONSTRUCTION	32,404.00
Contingent Upon Passage of Ordinance 3317-2020				

INCREASE OF EXISTING PURCHASE ORDER

VENDOR	DESCRIPTION	P.O. # - DEPT.	REASON	AMOUNT	TOTAL PO AMT
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KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Eland Conway, Airport Manager

DATE: September 28, 2022

SUBJECT: **Purchase Order – Asphalt Marking Services**

The Kenai Municipal Airport (ENA) would like to purchase a used LineLazer V 250DC HP Reflective Series Self-Propelled gas hydraulic airless Line Striper from Asphalt Marking Services. This piece of equipment is approximately 3 years old and shows little to no wear. Asphalt Marking Services has agreed to sell this piece of equipment with additional accessories for \$26,000.

Sherwin Williams Soldotna provided a verbal quote to purchase the same piece of equipment without the additional accessories, for a total cost of \$39,101.40.

The purchase of this equipment gives the Airport the ability to complete small and large airfield and parking lot marking projects as needed, resulting in substantial savings to the Airport.

Thank you for your consideration.



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members
THROUGH: Paul Ostrander, City Manager
FROM: Eland Conway, Airport Manager
DATE: September 23, 2022
SUBJECT: Purchase Order Over \$15,000 – Two Rivers Terminal

The purpose of this memo is to request approval to purchase twenty (20) tons of urea from Two Rivers Terminal. This is replenishing the urea stockpile in preparation for the 2022-2023 winter season.

There were three vendors who provided quotes FOB Kenai:

Two Rivers Terminal -	\$28,500
Univar Solutions -	\$38,600
Alaska Garden and Pet -	\$32,000

Thank you for your consideration.



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Scott Curtin, Director of Public Works

DATE: September 26, 2022

SUBJECT: Purchase Order – AAA Fence Inc.

The Public Works Department released a Request for Quotes for the Kenai Municipal Airport (KMA) Sliding Snow Gate Installation project on September 12, 2022 with Quotes due on September 22, 2022. AAA Fence Inc, Acme Fence, Four Seasons Fence, and Fireweed Fence were all contacted, with AAA Fence Inc. providing the only bid at \$32,404.

This project will provide a manually operated cantilevered gate to access 155 North Willow from the taxiway for snow storage purposes. This lot is currently empty and resides at the end of a taxiway, adjacent to Granite Point Ct, which has been historically difficult to remove snow from due to a lack of available snow storage areas and being on an essentially dead end street with minimal turn around space.

The Airport Manager has applied for a Federal Aviation Administration (FAA) Grant to assist with paying for these improvements which Council approved at the September 21, 2022 meeting through passage of Resolution 2022-67. Ordinance 3317-2022 was also introduced at that meeting which will appropriate those funds if passed at the October 5, 2022 Council Meeting. This Purchase Order is then contingent upon passage of Ordinance 3317-2022, as sufficient funding will not exist until those funds are appropriated.

This was a last minute grant application as the Federal fiscal year end is September 30th, 2022, which is why there is a Resolution and Ordinance associated with this project. The grant needed to be accepted prior to the October 5th meeting in order to receive the funding. The FAA will be contributing 93.75% of the funds toward this work. This is an operational priority for the airport, and Council's support is respectfully requested.



This type of Gate in the location below.





KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Linda Mitchell, Planning Director

DATE: September 26, 2022

SUBJECT: **Action/Approval - Consent to Assignment and Assumption of Lease Agreement, of ADL 37765, ATS 770, to TK Enterprises, LLC**

Ryan Pleas has submitted an application for an Assignment and Assumption of Lease Agreement from Port of Kenai, LLC, Assignor to TK Enterprises, LLC, Assignee. The applicant notes that the current use will remain the same. A map of the parcel is attached to this memorandum.

The original Lease was executed by the State of Alaska, Department of Natural Resources, Lessor, and Cherrier and King, Lessee, on May 9, 1969, for all of the Alaska Tideland Survey No. 770 and recorded in Book 153 at Page 193. The subject Lease is for a term of 55 years, and expires on May 8, 2024.

Title to ATS 770 was conveyed to the City of Kenai under Patent Tidelands No. 295, ATS 272 on January 6, 1977 and recorded in Book 107 at Page 186 on April 20, 1977, in the Kenai Recording District.

Cherrier and King, entered into an Assignment of Lease to Port of Kenai, LLC on January 6, 2005, for leasehold interest in the property. The Lessee is in compliance with the terms and conditions of the lease.

Section 13, of the Lease stipulates that "*The Lessee may assign the lands, or portion thereof, herein demised, provided, he first makes application to the Lessor for a permit and the Lessor, in his discretion, may issue such permit if he finds it to be in the best interest of Alaska*".

If City Council approves the consent to Assignment and Assumption of Lease Agreement the City Manager will be authorized to sign the Consent to Assignment.

Thank you for your consideration.

Attachments

Application for Lease Assignment

Map of ADL 37765, ATS 770

Draft Consent to Assignment



City of Kenai Land Lease Application

Application for: ☐ New Lease
☐ Amendment ☐ Extension
☒ Assignment ☐ Renewal

Application Date: 9/23/22

Applicant Information

Name of Applicant:	Port of Kenai, LLC c/o Ryan Pleas						
Mailing Address:	2404 Boyer Ave East	City:	Seattle	State:	WA	Zip Code:	98112
Phone Number(s):	Home Phone: 206-818-2390	Work/ Message Phone:	206-818-2390				
E-mail: (Optional)	ryan_pleas@msn.com						
Name to Appear on Lease:	TK Enterprises, LLC						
Mailing Address:	1514 W 14th Ave	City:	Anchorage	State:	AK	Zip Code:	99501
Phone Number(s):	Home Phone:	Work/ Message Phone:					
E-mail: (Optional)							
Type of Applicant:	<input type="checkbox"/> Individual (at least 18 years of age) <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Government <input checked="" type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Other _____						

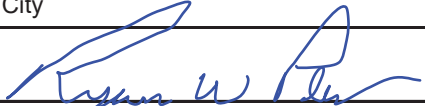
Property Information and Term Requested

Legal description of property (or, if subdivision is required, a brief description of property): ADL 37765, Alaska Tidelands Survey ATS 770 (0.51 acres)- Kenai Tax ID # 04901403LH01	
Does the property require subdivision? (if Yes, answer next questions) Subdivision costs are the responsibility of the applicant unless the City Council determines a subdivision serves other City purposes:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
1. Do you believe the proposed subdivision would serve other City purposes?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. If determined it does not, applicant is responsible for all subdivision costs.	Initials _____
If an appraisal is required to determine the minimum price on the land, applicant is responsible for the deposit to cover costs associated with appraisal. If a sale is approved, the cost of the appraisal will be either refunded or credited to the applicant.	Initials _____
It is the responsibility of the applicant to cover recording costs associated with lease.	Initials <u>RP</u>
Do you have or have you ever had a Lease with the City? (if Yes, answer next question)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
1. Legal or brief description of property leased: ADL 37765, Alaska Tidelands Survey ATS 770 (0.51 acres)- Kenai Tax ID # 04901403LH01	
Request a Lease with an Option to Purchase once development requirements are met?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Requested term for Initial Lease or Renewal (based on Term Table, not to exceed 45 years):	
Requested term for Lease Extension (based on Term Table, not to exceed a total of 45 Years):	
Requested Starting Date:	

Proposed Use and Improvements

Proposed Use (check one):	<input type="checkbox"/> Aeronautical	<input checked="" type="checkbox"/> Non-Aeronautical
Do you plan to construct new or additional improvements? (if Yes, answer next five questions)		L YES <input checked="" type="checkbox"/> NO
1. Will the improvement change or alter the use under an existing lease?		L YES <input checked="" type="checkbox"/> NO
2. What is the proposed use of the improvement?		
3. What is the estimated value of the improvement?		
4. What is the nature and type of improvement?		
5. What are the dates construction is estimated to commence and be completed? (generally, construction must be completed within two years)		
Estimated Start Date:		Estimated Completion Date:
Describe the proposed business or activity intended: Intended use will not change. RV Park.		
How does the proposed lease support a thriving business, residential, recreational, or cultural community? N/A		
Lease Assignment Only: What is the name of the individual or legal entity the lease is to be assigned? TK Enterprises, LLC		

Lease Renewal Only

<input checked="" type="checkbox"/> Renewal of an Existing Lease (at least one year of term remaining): Requires new development.			
Lease Term based on: Estimated cost of new improvements and <input checked="" type="checkbox"/> Purchase Price (optional)			
<input type="checkbox"/> Renewal of an Expiring Lease (less than one year of term remaining): Does not require new development.			
Lease Term based on: <input type="checkbox"/> Purchase Price <input type="checkbox"/> Professional Estimate of Remaining Useful Life			
<input type="checkbox"/> Fair Market Value appraisal and/or <input type="checkbox"/> Estimated cost of new improvements (optional)			
Requested Term for Renewal Based on Term Table, not to exceed 45 Years:			
Submitting an application for a lease does not give the applicant a right to lease or use the land requested in the application. The application shall expire twelve (12) months after the date the application has been made if the City and the applicant have not, by that time, entered into a lease, unless the City Council for good cause grants an extension for a period not to exceed six (6) months. The City has no obligation to amend, renew or extend a lease and may decline to do so upon making specific findings as to why a lease renewal, extension, or amendment is not in the best interest of the City			
Signature:		Date:	9/23/22
Print Name:	Ryan W. Pleas	Title:	managing member
For City Use Only:		Date Application Fee Received:	
<input type="checkbox"/> General Fund	<input type="checkbox"/> Airport Reserve Land	Date Application Determined Complete:	
<input type="checkbox"/> Airport Fund	<input type="checkbox"/> Outside Airport Reserve	30-Day Notice Publication Date:	
Account Number:		City Council Action/Resolution:	
		9/23/2022	
		N/A	



Application for Lease Assignment
ADL 37765, ATS 770
Parcel 04901403



Data Source: Kenai Peninsula Borough. Data is for graphic representation only. Imagery may not match true parcel boundaries.

CITY OF KENAI**CONSENT TO ASSIGNMENT**

The Assignment of that certain Lease entered into on May 9, 1969, and recorded in Book 153 at Page 193, in the Kenai Recording District, from PORT OF KENAI, LLC whose address is 2404 Boyer Avenue, Seattle, Washington 98122, to TK ENTERPRISES, LLC, whose address is 1514 W 14th Avenue, Anchorage, Alaska 99501, covering the following-described property:

All of the Alaska Tideland Survey No. 770, according to the official plat thereof, file under Plat No. 80-51, books and records of Kenai Recording District, Third Judicial District, State of Alaska, is hereby ACKNOWLEDGED AND CONSENTED TO, subject to the same terms and conditions as contained in the above-described original Lease, and any and all amendments thereto.

This Consent is given by the City of Kenai without waiving any right or action, or releasing the Assignor from any liability or responsibility under the aforementioned Lease, and does not relieve the Assignee from the condition requiring the City's approval for any subsequent sublease or assignment.

Dated this ____ day of _____, 2022.

Paul Ostrander
City Manager

ACKNOWLEDGEMENT

[illegible]

THIS IS TO CERTIFY that on this _____ day of _____, 2022, Paul Ostrander, City Manager of the City of Kenai, Alaska, 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 City.

Notary Public for Alaska
My Commission Expires: _____

Approved as to form:

Scott Bloom, City Attorney

After Recording, Return to:

City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611



Sponsored by: Administration

**CITY OF KENAI
ORDINANCE NO. 3318-2022**

AN ORDINANCE RENAMING AND AMENDING KENAI MUNICIPAL CODE CHAPTER 7.30 LAND SALE PERMANENT FUNDS TO ESTABLISH THE KENAI SENIOR CENTER CONE MEMORIAL TRUST AND DIRECTING ALL PROCEEDS RECEIVED AS A RESIDUAL BENEFICIARY FROM THE TAMARA DIANE CONE TESTAMENTARY TRUST TO BE DEPOSITED INTO SUCH FUND.

WHEREAS, Chester Cone moved to Shungnack, Alaska from Arkansas in 1949 to teach at a Bureau of Indian Affairs school; and,

WHEREAS, Chester moved to the Kenai area in 1950 seeking a warmer climate and to work in the commercial fishing industry; and,

WHEREAS, in the fall of 1950 Chester sent a one-way ticket and an invitation to his old girlfriend, Mavis Stepp, to move to Alaska; and,

WHEREAS, Chester and Mavis were married and in 1957 began homesteading off of what is now Beaver Loop Road; and,

WHEREAS, Chester was a business man who formed Better Concrete Corporation and owned and operated Beaver Loop Laundromat and Cleaners; and,

WHEREAS, the Cone's had two children, Tammy and Curtis; and,

WHEREAS, Curtis Cone passed on August 19, 1986; and,

WHEREAS, the Cone's established the Tamara Diane Cone Testamentary Trust to provide for Tammy until her passing on July 2, 2022; and,

WHEREAS, the Kenai Senior Center was named a residual beneficiary of the Tamara Diane Cone Testamentary Trust and to date has received disbursements from the trust totaling \$715,585.23; and,

WHEREAS, it is the intent of the City Council to establish a permanent fund with the proceeds and where the fund's earnings, in excess of inflation, may be appropriated for the acquisition of capital items or capital projects for the Kenai Senior Center; and,

WHEREAS, establishment of the Kenai Senior Center, Cone Memorial Trust honors the wishes and legacy of the Cone Family, will provide a lasting benefit to the Kenai Senior Center, and is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. Amendment of Chapter 7.30 of Kenai Municipal Code: That Kenai Municipal Code, Section 7.30 Land Sale Permanent Funds is hereby amended as follows:

**Chapter 7.30
[LAND SALE] PERMANENT FUNDS**

7.30.005 - General Fund Land Sale Permanent Fund.

- (a) A separate fund of the City of Kenai is hereby established as the General Fund Land Sale Permanent Fund. The purpose of the fund is to account for the principal proceeds of the sale of City-owned non-trust lands that are not subject to deed or other conveyance restrictions that require the funds be used for specific other uses or benefits (General Fund lands).
- (b) The General Fund Land Sale Permanent Fund shall be a restricted fund. City Charter prescribes the establishment of a separate City account for the principal proceeds from sales of City-owned, non-trust lands; however, the establishment of the investment guidelines for that account is within the discretion of the Kenai City Council.
- (c) The net proceeds received by the City on closing sale of non-trust lands shall be deposited in the General Fund Land Sale Permanent Fund. Where notes are taken in payment for General Fund lands, all principal payments on said notes shall be deposited in the General Fund Land Sale Permanent Fund. Interest on notes taken in payment for General Fund lands shall be recorded as investment earnings in the General Fund Land Sale Permanent Fund.
- (d) Money placed in the General Fund Land Sale Permanent Fund shall not be available for use by the City for any purpose other than for investments in accordance with City Charter and ordinances.
- (e) Interest or income earned by the General Fund Land Sale Permanent Fund shall be recorded as investment earnings in the General Fund Land Sale Permanent Fund and can be deposited in the General Fund or held in reserve in the fund. The City Council may, by ordinance, transfer funds from the General Fund to the General Fund Land Sale Permanent Fund. After such a transfer, the money will become a part of the General Fund Land Sale Permanent Fund to be used only for the investment purposes for which the fund is established.

7.30.010 - Airport Land Sale Permanent Fund.

- (a) A separate fund of the City of Kenai is hereby established as the Airport Land Sale Permanent Fund. The purpose of the fund is to account for the principal proceeds of the sale of Airport Land. Airport Lands shall consist of all land owned by the City of Kenai and held by it for the use or benefit of the Kenai Municipal Airport under the terms of the 1963 Quitclaim Deed from United States of America recorded at Book 27, Page 303 at the Kenai Recording District, Kenai, Alaska. Additionally, any other land owned by the City and acquired with airport funds shall be Airport Lands.
- (b) The Airport Land Sale Permanent Fund shall be a restricted fund. The establishment of the fund known as the Airport Land Sale Permanent Fund is within the discretion of the Kenai City Council. Deed restrictions, Federal regulations and grant assurances require that airport funds be used for the use and benefit of the Kenai Municipal Airport.
- (c) The net proceeds received by the City on closing sale of Airport Lands shall be deposited in the Airport Land Sale Permanent Fund. Where notes are taken in payment for Airport Lands, all payments on said notes shall be deposited in the Airport Land Sale Permanent Fund.
- (d) Money placed in the Airport Land Sale Permanent Fund shall not be available for use by the City for any purpose other than for investments in accordance with City ordinances.
- (e) The City Council may, by ordinance, transfer funds from the Airport Special Revenue Fund to the Airport Land Sale Permanent Fund. After such a transfer, the money will become a part of the Airport Land Sale Permanent Fund to be used only for the investment purposes for which the fund is established.

7.30.015 - Kenai Senior Center, Cone Memorial Trust Permanent Fund.

- (a) A separate fund of the City of Kenai is hereby established as the Kenai Senior Center, Cone Memorial Trust Permanent Fund. The purpose of the fund is to account for the proceeds received from the Tamara Diane Cone Testamentary Trust.
- (b) The Cone Memorial Trust Permanent Fund shall be a restricted fund. The establishment of the fund known as the Kenai Senior Center, Cone Memorial Trust Permanent Fund is within the discretion of the Kenai City Council. Trust language requires the funds be used for the use and benefit of the Kenai Senior Center
- (c) The proceeds received by the City from disbursement of the trust shall be deposited in the Kenai Senior Center, Cone Memorial Trust Permanent Fund.
- (d) Money placed in the Kenai Senior Center, Cone Memorial Trust Permanent Fund shall not be available for use by the City for any purpose other than for investments in accordance with City ordinances.

7.30.020 - Investments.

- (a) The [LAND SALE] Permanent Funds shall be managed by the Finance Director, with the following conditions:
 - (1) The City will contract for the management of the investments for each [LAND SALE] Permanent Fund with one (1) or more professional investment managers with experience handling institutional endowment investments subject to Council approval.
 - (2) The [LAND SALE] Permanent Funds shall be invested in such types of income producing investments as limited by subsection (b) of this section, Authorized Investments for the [LAND SALE] Permanent Funds. The investments for each [LAND SALE] Permanent Fund shall be approved by resolution annually, usually during the City budget process, in the form of an asset allocation plan, with each [LAND SALE] Permanent Fund following the same asset allocation plan. The asset allocation plan shall have specific categories of investments for the funds with percentage targets that allow for reasonable fluctuations above and below the target percentage. The plan will establish benchmarks for evaluating the performance of each investment manager and asset classification. Investments shall be managed such that the target ranges of the asset allocation plan are adhered to.
 - (3) Investments of the [LAND SALE] Permanent Funds will take a conservative posture on derivative securities by recognizing that derivatives may be utilized within investment vehicles as a portfolio management tool to create or enhance exposure to an asset class or implementation strategy while requiring that any embedded leverage created by their use be fully collateralized. Net exposure exceeding the asset value of the investment vehicle is prohibited. Exposure must be net long at all times.
 - (4) All income derived from investment of each [LAND SALE] Permanent Fund, including interest income, realized gains, and undistributed earnings, can be distributed or reinvested into the respective [LAND SALE] Permanent Fund and shall be invested in accordance with subsection (b) of this section, Authorized Investments for the [LAND SALE] Permanent Funds.
 - (5) Appropriations from the Airport Land Sale Permanent Fund may be made as follows:
 - (i) In any fiscal year, the amount available for appropriation for airport operations and capital needs will be based upon the five (5) year average of the fund's calendar year end market

value. An amount not to exceed three and four-fifths percent (3.8%) of the five (5) year average market value may be distributed if the average market value is less than the fund's inflation adjusted principal balance. An amount not to exceed four and one-fifth percent (4.2%) of the five (5) year average market value may be distributed if the average market value is greater than the fund's inflation adjusted principal balance.

(6) Appropriations from the General Fund Land Sale Permanent Fund shall be limited to the lesser of the cumulative earnings at calendar year end for the fund or four percent (4%) of the fund's fair market value as of December 31st of each year. "Cumulative earnings" is defined as the market value at calendar year end minus the fund's inflation adjusted principal balance.

(7) Appropriations from the Kenai Senior Center, Cone Memorial Trust Permanent Fund may be made as follows:

(i) In any fiscal year, the amount available for appropriation for Kenai Senior Center capital needs shall be limited to the Funds cumulative earnings at the previous calendar year end for the fund. "Cumulative earnings" is defined as the market value at calendar year end minus the fund's inflation adjusted principal balance.

(b) Authorized Investments for the [LAND SALE] Permanent Funds.

(1) Investments authorized by KMC 7.22.030.

(2) Corporate obligations of investment-grade quality as recognized by a nationally recognized rating organization. If, after purchase, these obligations are downgraded below investment grade, the obligations shall be sold in an orderly manner within ninety (90) days of downgrading.

(3) Domestic equities which, taken as a whole, attempt to mirror the characteristics or replicate the Standard and Poor's 500 Index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, including both mutual funds and exchange traded funds (ETFs).

(4) Domestic equities which, taken as a whole, attempt to replicate the Standard and Poor's 400 Mid-Cap Index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, including both mutual funds and exchange traded funds (ETFs).

(5) Domestic equities which, taken as a whole, attempt to replicate the Standard and Poor's 600 Small-Cap Index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, including both mutual funds and exchange traded funds (ETFs).

(6) International equities which, taken as a whole, attempt to replicate the Financial Times Stock Exchange Developed ex North America Index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, including both mutual funds and exchange traded funds (ETFs).

(7) Equities which, taken as a whole, attempt to replicate the universe of domestic real estate investment trusts as represented by the Standard and Poor's REIT composite index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, including both mutual funds and exchange traded funds (ETFs).

- (8) Emerging market equities which, taken as a whole, attempt to replicate the Financial Times Stock Exchange Emerging Index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, including both mutual funds and exchange traded funds (ETFs).
 - (9) Global infrastructure equities which, taken as a whole, attempt to replicate the STOXX Global Broad Infrastructure Index, or a substantially similar index, including both mutual funds and exchange traded funds.
 - (10) Investment grade domestic bonds which, taken as a whole, attempt to mirror the characteristics or replicate the Bloomberg Barclays Aggregate bond index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, including individual securities, mutual funds and exchange traded funds (ETFs).
 - (11) High yield domestic bonds which, taken as a whole, attempt to mirror the characteristics or replicate the Bloomberg Barclays U.S. Corporate High Yield Very Liquid bond index or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, utilizing mutual funds and/or exchange traded funds (ETFs).
 - (12) Alternative beta funds which, taken as a whole, attempt to provide systematic exposure to trading strategies included in, or similar to, those within the Wilshire Liquid Alternatives Index, or another index of similar characteristics and approved by resolution of the Council as a component of the annual [LAND SALE] Permanent Funds Asset Allocation Plan, utilizing mutual funds and/or exchange traded funds (ETFs) that adhere to the limitations identified in subsection (a)(3) of this section.
- (c) Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or that could impair their ability to make impartial investment decisions. Such employees and officers shall disclose to the City Manager any material financial interests in financial institutions that conduct business with the City and such information shall be kept confidential to the extent otherwise allowed by law. Employees and officers shall subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchases and sales. A “material financial interest” in an entity is a financial interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect the employee’s or officer’s judgment with respect to transactions to which the entity is a party.
- (d) The Finance Director shall submit to the City Council a quarterly investment report that summarizes recent and anticipated market conditions and that describes the City’s investment portfolio in terms of transactions during the quarter, maturities, risk characteristics, and investment return compared with both benchmark performance returns and with the City’s budgetary expectations.
- (e) The Finance Director shall establish custody and safekeeping procedures with regard to all investments authorized by this chapter. All such investment securities, or their related collateral securities, shall be either held by the City or by a custodial agent for the City.

Section 2. Direct the \$715,585.23 received to date and any addition proceed the City receives as a residual beneficiary of the Tamara Diane Cone Testamentary Trust be deposited into and accounted for in the Kenai Senior Center, Cone Memorial Trust Permanent Fund.

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 19TH DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Introduced:	October 5, 2022
Enacted:	October 19, 2022
Effective:	November 18, 2022



KENAI

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MEMORANDUM

TO: Mayor Gabriel and Council Members

THROUGH: Paul Ostrander, City Manager

FROM: Terry Eubank, Finance Director

DATE: September 29, 2022

SUBJECT: **Ordinance 3318-2022 Amending KMC 7.30 to Establish the Kenai Senior Center Cone Memorial Trust.**

The purpose of this memo is to recommend passage of Ordinance 3318-2022 which will amend KMC 7.30 Land Sale Permanent Funds to establish the Kenai Senior Center Cone Memorial Trust and codify a restriction that cumulative earnings of the fund may only be used for Kenai Senior Center Capital Projects. Cumulative earnings is defined as the market value at calendar year end minus the fund's inflation adjusted principal balance. In other words, only the investment earnings of the fund less the amount needed to inflation proof the fund, inflation is measured by the annual change in the Anchorage, Alaska Consumer Price Index for All Urban Consumers (CPI-U), may be used for acquisition of capital items or capital projects of the Kenai Senior Center.

As a residual beneficiary, the City has received to date \$715,585.23 in disbursements from the Tamara Diane Cone Testamentary Trust. The trust was established by the Chester and Mavis Cone for the benefit of their daughter. Tamara Cone passed on July 2, 2022 and the City was named as a 1/3 beneficiary of any remaining trust assets. Chester and Mavis were longtime Kenai residents who homesteaded in the Beaver Loop area of Kenai. Chester and Mavis owned and operated Better Concrete Corporation and the Beave Loop Laundromat and Cleaners. Chester was actively involved in the founding and formation of the City.

Establishing the Kenai Senior Center Cone Memorial Trust Permanent Fund will honor Chester and Mavis's wishes in leaving these funds to the Kenai Senior Center and ensure the lasting benefit of their gift for this and future generations of Kenai residents. Your support for passage of Ordinance 3318-2022 is respectfully requested.



Sponsored by: Administration

**CITY OF KENAI
ORDINANCE NO. 3319-2022**

AN ORDINANCE INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE KENAI BLUFF EROSION CAPITAL PROJECT FUND FOR CONSTRUCTION OF THE KENAI BLUFF STABILIZATION PROJECT.

WHEREAS, the Kenai Bluff Stabilization project has been the number one priority of the City of Kenai for over 30 years; and,

WHEREAS, in February of 2022 the project received federal funding in the amount of \$28 million; and,

WHEREAS, federal funding will cover 65% of the total cost of construction of the Project; and,

WHEREAS, the City's match requirement towards construction of this project is 35%; and,

WHEREAS, the City has been pursuing funding for our local match through multiple sources, including the State of Alaska; and,

WHEREAS, during the State fiscal year 2022 legislative session, \$6.5 million was included in the State capital budget to support the Project; and,

WHEREAS, appropriation of this \$6.5 million Alaska Legislative Grant will help support the City's 35% match requirement and is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

Section 1. That the following budget revision is authorized:

Kenai Bluff Erosion Capital Project Fund:

Increase Estimated Revenues –

State Grants

\$6,500,000

Increase Appropriations –

Construction

\$6,500,000

Section 2. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 3. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect immediately upon enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 19TH DAY OF OCTOBER, 2022.

Brian Gabriel Sr., Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Approved by Finance: _____



Introduced:	October 5, 2022
Enacted:	October 19, 2022
Effective:	October 19, 2022



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MEMORANDUM

TO: Mayor Brian Gabriel and City Council Members

FROM: Paul Ostrander, City Manager

DATE: September 29, 2022

SUBJECT: **Ordinance 3319-2022 and Resolution 2022-71 - Kenai Bluffs Stabilization, State of Alaska \$6.5 Million Grant**

This memo is in support of both Ordinance 3319-2022 and Resolution 2022-71, legislation that authorizes the City Manager to execute a grant in the amount of \$6.5 million from the Alaska Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs and appropriates the money into the Kenai Bluff Erosion Capital Project Fund to support construction of the Project.

During the last State Legislative Session, the City was successful in getting this grant included in the State's Capital Budget. This grant is an important component of the City's required match of 35% of the total cost of the Project. With this grant, the City will have secured the necessary money to meet our required match if the project's total cost, design and construction, does not exceed \$35,000,000.

As we approach the completion of the efforts to get this important project built, a summary of the process that the City has navigated over the past 6 years is included for you information.

February 17, 2017 – City of Kenai attended the Tentatively Selected Plan (TSP) presentation given by Alaska USACE to the USACE HQ in Washington D.C. Signed Directors Report was scheduled for November 10, 2017.

June 10, 2017 – Schedule for Signed Directors Report slipped to April 31, 2018.

June 19, 2017 – Draft integrated feasibility report, environmental assessment and draft Finding of No Significant Impact (FONSI) was issued for agency and public comment.

July 5/6, 2017 – Public meetings held in Kenai, AK at the City Council Meeting on July 5 and at the Kenai Visitor and Cultural Center in Kenai on July 6.

August 22, 2017 – Realization by the USACE that additional federal funding was necessary in the amount of \$150,000 for the USACE to meet its 50% funding requirement to complete the

feasibility report. The City of Kenai provided their full funding amount of \$560,000 in February 2016. A congressional reprogramming request was submitted through OMB.

February 22, 2018 – OMB approves reprogramming request. The reprogramming request was delayed to the point that authorization for the project – expiring on May 12, 2018 – would lapse prior to Directors Report signature.

March 6, 2018 – Letter sent to Committee on Appropriations and the respective Committee Chairs.

April 4, 2018 – USACE Alaska District recognizes the need to request a waiver from the Assistant Secretary of the Army of Civil Works to extend the project authorization beyond May 12, 2018, but does not have sufficient funds left to process the waiver.

April 12, 2018 – Reprogramming approval signed by Representative Marcy Kaptur and Representative Mike Simpson, appropriating an additional \$150,000 of Federal money to the project.

April 26, 2018 – Time extension waiver package submitted to USACE HQ.

April 31, 2018 – Second scheduled signature date for Directors Report is missed. Because of the significant lapse in project funding, other projects were re-prioritized in front of the Kenai project; hence, the scheduled date for the signed Directors Report is changed to January 23, 2019, to allow time for USACE Alaska District to take the project back up and finalize the feasibility report package.

May 11, 2018 – Time extension granted by R.D. James, Assistant Secretary of the Army of Civil Works, increasing the total study time for the Kenai Bluffs Bank Stabilization Feasibility Study from 36 months to 44 months.

November 15, 2018 – Final integrated feasibility report and environmental assessment and finding of no significant impact submitted from USACE Alaska District to USACE HQ.

January 23, 2019 – Third scheduled signature date for Director's Report was missed. Re-scheduled for signature in late February.

March 1, 2019 – Fourth scheduled signature date for Director's Report was missed. Re-scheduled for April 30, 2019.

April 3, 2019 – Final submittal from USACE Alaska District to USACE HQ of feasibility report. Of note: according to USACE staff, nothing of substance changed from the feasibility report submitted on November 15, 2018 to this final report.

April 10, 2019 – Director's Report was signed by USACE HQ Director Of Civil Works, James C. Dalton, P.E. This was the same day that Senator Murkowski testified in front of the appropriations subcommittee to the Assistant Secretary of the Army (Civil Works), R.D. James and to the Commanding General and Chief of Engineers Lieutenant General Todd Semonite, questioning why the USACE process was so difficult to navigate, using the Kenai Bluffs Stabilization project as an example.



May 20, 2019 – Request from Alaska District to USACE HQ, signed by Colonel Phillip J. Borders to initiate Preconstruction Engineering and Design (PED) phase for the project with attachments from the City of Kenai including a letter committing the City to fully fund the PED phase at an estimated cost of \$1,000,000 and a Resolution from the Kenai City Council stating the same.

June 27, 2019 – A Finding of No Significant Impact (FONSI) Was signed by Colonel Phillip J. Borders, eliminating the need to prepare an Environmental Impact Statement.

July 31, 2019 – The City sent a request to the USACE Alaska District to complete the Design Agreement. This agreement outlines the responsibilities of the non-Federal sponsor and the USACE during the design phase.

September 15, 2020 – It took over 14 months to get the Design Agreement signed. Consistent communication with the USACE and our congressional delegation occurred during the entire period, but what should have been a much quicker turnaround labored for many months – far beyond what was expected or is reasonable. Although the Design Agreement implies that Federal Funding will be provided for the 65% match of the design effort, no Federal funding has been provided to date.

February 2021 – The City issued an RFP for the design of the project planning to fund the entire design with City dollars, a \$1,000,000 commitment with the intent of being reimbursed the 65% Federal obligation during construction.

August 2021 – HDR Engineering begins the design of the project. As the design begins, there is a limited amount of Federal funding that the Alaska District of the Corps of Engineers has to support the efforts of the City during the design process. They are able to provide limited input, putting the City at risk because without Corps oversight, the design effort may not meet Corps requirements in all aspects. This could result in the Corps not accepting all or a portion of the design for construction. Because the Corps signed the Design Agreement in September of 2020, the City was hopeful that the full Federal share of \$650,000 would be provided prior to the design effort beginning. Even though no Federal funding occurred, and considering the risks involved, the City strongly felt that it was essential to begin the design effort to keep the project moving forward.

December 2021 – At the City's request, Governor Dunleavy included \$6.5 million in State funding to support the City's efforts in the design and construction of our Project. If the legislature and the voters approve the Governor's proposed General Obligation Bond, this increases the total amount of match money the City has available to \$9.5 million. This would be a sufficient match amount to construct an approximately \$27 million project, with \$17.5 million in Federal funding.

February 2022 – The project received \$28 million in Federal funding through the Infrastructure Bill. This funding is sufficient to support a \$42 million project, comprised of \$28 million in Federal funding and \$14 million in local funding.

April 2022 – Now with sufficient funding, the Army Corps of Engineers, Alaska District kicks off their full engagement in support of the design efforts of the Project. This engagement will slow the ultimate completion of the design, with design approval expected late in the 2022 calendar year, but will assure that the Project as designed meets the requirements of the Corps.



June 2022 – Governor Dunleavy signed the State of Alaska Fiscal Year 2023 budget. Included in the capital budget was \$6.5 million in support of the Kenai Bluff Stabilization Project.

September 2022 – The Federally committed funds of up to \$28 million establishes the high end of total Project costs of \$42 million. The Project will be funded 65% by the Army Corps of Engineers, and 35% through a local match. Our current construction estimates indicate that it is likely that the Project will not exceed \$35 million. The City has secured \$9.7 million in State funding, comprised of the \$6.5 million that was included in the States fiscal year 2023 Capital Budget and \$3.2 million that remains from State grants from 2012 and 2015. The City has also committed \$2.55 million from our General Fund that was included in our 2023-2027 Capital Plan. This brings the total amount of secured match that the City has to \$12.25 million, sufficient to support a total Project cost of \$35 million, matching \$22.75 million in Federal funding.





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MEMORANDUM

TO: City Council Members

FROM: Mayor Brian Gabriel

DATE: September 27, 2022

SUBJECT: Discussion - City Manager Job Description

The job description for the City Manager has not been updated since 2016. Prior to moving forward with recruitment to fill the City Manager position, a thorough review of the job description is necessary.

If there are no objections from the City Council, the Supervisory Sub-Committee will work with the Human Resource Director, City Manager and other Administrative Staff as needed to review the current job description and bring any recommended amendments to Council for review and approval at the October 19, 2022 Regular City Council Meeting.

Additionally, at the October 19, 2022 meeting, the Sub-Committee will provide Council with recruitment options to select from so that Council may provide direction to the Administration for moving forward with the recruitment process.

Supervisory Sub-Committee Members: Mayor Gabriel, Vice Mayor Glendening, and Council Member Baisden.

Attached: Current City Manager Job Description

CITY OF KENAI CITY MANAGER

TITLE: CITY MANAGER
SUPERVISOR: CITY COUNCIL
NO. SUPERVISED: 110 - 125
NORMAL HOURS/WK: 40
SERVICE TYPE: EXEMPT

GENERAL DESCRIPTION The City Manager serves as the Chief Administrative Officer of the City of Kenai and is appointed by and reports to the Mayor and the City Council. The City Manager performs all duties and assumes all responsibilities required by Alaska Statutes, the City Code and the Charter of the City of Kenai and works with the broadest level of independence. This position requires daily contact with elected, administrative, federal, state and local officials, as well as the public.

ESSENTIAL DUTIES AND RESPONSIBILITIES

1. Plan, direct, coordinate, and administer the activities of all departments in carrying out the requirements of City ordinances, rules, regulations, and policies of the City Council.
2. Appoint, supervise, evaluate, discipline, or terminate, all directors, or heads of administrative departments and all other administrative officers and employees of the City in accordance with City personnel policies.
3. Administer the City's personnel program, supervise, directly or indirectly, all administrative departments, agencies, officers, and employees of the City.
4. Prepare an annual budget and submit it to the Council, be responsible for budget administration after appropriations are made, and recommend to the Council any necessary changes in the estimates and appropriations.
5. Submit a report to the Council at the end of the fiscal year on the finances and administrative activities of the City for the preceding year; report regularly to Council concerning the status of all assignments, projects, and functions of the City.
6. Keep the Council advised of the financial condition and future needs of the City, and make such recommendations on matters of policy and other matters to the Council as necessary.
7. Hold staff meetings with all department heads to insure adequate cross-communication between the departments and the City Manager as relates to current and pending actions of the City. In addition, in preparing annual budgets, include informational input from all department heads.

8. Work through duly elected appointees/ representatives of the Planning Commission (City of Kenai and Kenai Peninsula Borough) and the Borough Assembly, so that all matters relating to those bodies may be addressed as a unified City action.
9. Keep an active checklist of Council questions and problems and attempt to answer or dispose of the same as prioritized by the Council.
10. Present all lease applications to the City Council. Where applicable, the applications will first be presented to the Kenai Planning Commission for its consideration.
11. Enter into contracts and purchase agreements not to exceed the amount authorized by the Council or by City Code.
12. Act as the Council's representative before any body, assemblage, or business meeting not within the boundaries of the City of Kenai.
13. Submit proposed ordinances and resolutions.
14. Administer oaths of office and affirmations in any matter pertaining to the affairs and government of the City.
15. Have regular, reliable, and predictable attendance at work.
16. Perform other related duties as requested by the City Council or as required by law.

MINIMUM QUALIFICATIONS

1. Bachelor's degree in public administration or an equivalent combination of experience and training providing at least five (5) years of high level administrative and/or management experience requiring independent judgment and initiative, preferably in the area of municipal government.
2. Possess or obtain a valid Alaska driver's license within thirty (30) days of employment and prior to operating a City vehicle. Applicants will be required to submit a Division of Motor Vehicles record upon request.
3. The Applicant may be subject to background investigations, including but not limited to a criminal background check.
4. The employee must be available to work varying schedules including weekends, City holidays, religious holidays, and into the late evening hours.
5. At the time of appointment, the applicant need not be a resident of the City or State; but, the employee must reside with the City while serving as City Manager.

WORKING ENVIRONMENT

The work environment is typically in an indoor office and community room setting, adequately heated, lighted, and ventilated. The City Manager must work during daytime and nighttime hours. The employee must attend public meetings, often at night. The appointee must occasionally travel to other areas in the community, particularly public office buildings.

PHYSICAL DEMANDS

While performing the duties of this job, the employee is regularly required to communicate orally and to use hands dexterously to operate office equipment (e.g., computers, telephones, photocopiers, keyboards, scanners, and other general office equipment). The employee must be able to communicate orally in person and on the telephone. The employee is frequently required to sit for long periods of time and is occasionally required to stand, walk, stoop, bend, crouch, lift, and reach with hands and arms. The employee must occasionally transport up to 40 pounds. Specific vision abilities required include close vision and ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

MISCELLANEOUS INFORMATION

The City of Kenai is an equal opportunity employer. Employment is based on qualifications free of personal and political considerations, with equal opportunity for all with no discrimination on the basis of race, color, religion, sex, national origin, age, disability, marital status, changes in marital status, pregnancy, parenthood, genetic information or any other basis prohibited by law.



MEMORANDUM

TO: Mayor Gabriel and Council Members
FROM: Scott Bloom, City Attorney
DATE: September 27, 2022
SUBJECT: Review of Ordinance 3298-2022 (Substitute)

After further review of Ordinance 3298-2022 (Substitute), regarding the City's participation in the National Flood Insurance Program, technical errors were found that are being fixed administratively. The following are the changes shown in legislative format:

First: Capitalization of the letter H in 14.30.050(B).

- B. *Specific Standards.* In Zone A, AE, A1-30, A[H] H and AO, as set forth by this Chapter, the following provisions are required:

Second: Formatting in 14.30.050(B)(5), renumbering c, d, e, and f to 6, 7, 8, and 9.

5. Appurtenant Structures (Detached garages and Storage Structures.

a. For A Zones (A, AE, A1-30, AH, AO):

Appurtenant structures used solely for parking of vehicles or storage may be constructed such that the floor is below the Base Flood Elevation, provided the structure is designed and constructed in accordance with the following requirements:

- i. Use of the appurtenant structure must be limited to parking of vehicles or storage;
- ii. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- iii. The appurtenant structure must be adequately anchored to prevent flotation, collapse and lateral movement;

- iv. Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the Base Flood Elevation;
- v. The appurtenant structure must comply with floodway encroachment provisions; and
- vi. The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters.

Detached garages, storage structures and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards as required for A zones.

Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

b. For V Zones (VE, V1-30 and V):

Floodproofing of non-residential structures is prohibited. All structures must be elevated and constructed according to the requirements set forth for residential construction.

- 6. [C]*Before regulatory floodway.* In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Special Flood Hazard Area zones AE, A1-A30 as identified in the current effective FIRM or DFIRM panel at that location unless the applicant demonstrates in the application that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- 7. [D]*Fuel storage tanks.* Any fuel storage tanks shall be elevated above the base flood elevation or made watertight and anchored to resist flotation, collapse, and lateral movement. The tank must also be installed within an impervious containment basin of a size sufficient to contain 110 percent of storage capacity plus 12 inches of freeboard.
- 8. [E]*Logging or clearing.* Within any special flood hazard area of the current effective FIRM or DFIRM, logging or clearing may not increase runoff and/or erosion to such levels that it may significantly damage the floodplain function, riparian habitat or wetlands.
- 9. [F]*Floodways.* Located within flood hazard areas established in this Chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to erosion potential and the velocity of floodwaters which carry debris, the following provisions apply:
 - a. [I]All encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during occurrence of base flood discharge.



- b. [II] If subdivision (1) of this subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
- c. [III] Encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations may be permitted, provided that the City first applies for and fulfills the requirements for a Conditional Letter of Map Revision (CLOMR), and receives approval from the Federal Insurance Administrator to revise the FIRM and FIS in accordance with Notification to Other Entities.

No action is necessary, but I want to keep Council informed of the changes and maintain a record.



PURCHASE ORDERS BETWEEN \$2,500.00 AND \$15,000.00 FOR COUNCIL REVIEW
COUNCIL MEETING OF: OCTOBER 5, 2022

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
PENINSULA PUMPING	WASTE DISPOSAL REMOVAL	VARIOUS	REPAIR & MAINTENANCE	3,000.00
BOB'S SERVICES	SCRAPER BLADE	STREETS	MACHINERY & EQUIPMENT	14,658.00
POLAR NORTH CONSTRUCTION	CONCRETE WORK AT DOG PARK	MUNICIPAL PARK IMPS.	CONSTRUCTION	9,982.00
USA BLUE BOOK	RODDER FOR CLEANING SEWERS	SEWER	SMALL TOOLS	2,813.86



Update from the Board of Directors Cook Inlet Regional Citizens Advisory Council

John Williams, Vice-President, representing the City of Kenai

The Cook Inlet Regional Citizens Advisory Council Board of Directors met in Seldovia on September 9th. This was the first in-person meeting for the Council since December of 2019 and our first meeting in Seldovia since 2016.

The Board heard a presentation from David Duffy of Hilcorp's Land Department regarding tidal energy concepts for Cook Inlet. A number of small-scale tidal energy projects have been deployed in Cook Inlet over the years, but as the technology advances, there are more opportunities for research which could provide more complete data for future power generation models. Several state and federal agencies including the National Renewable Energy Laboratory (NREL) and the Alaska Center for Energy and Power at the University of Alaska Fairbanks, among others, have partnered to conduct research and pilot programs. Hilcorp reported that they have no plans at this time to install significant generation capacity, but the company is interested in the potential for using Cook Inlet's existing oil production platforms as part of the infrastructure that could accommodate tidal power generation in the future. We look forward learning more about the technologies in play, what other partnerships could be developed and how that existing infrastructure could find new life in helping harness the power of Cook Inlet's unique tidal movements.

Marathon Petroleum's Vice President of Marine Operations, Marc Bayer, updated the Council on the company's marine operations and its investments in new and updated resources. Examples include adding 50 barrels of recovered oil capacity to the tug Bob Franco, allowing it to also be classified as an Oil Spill Response Barge (OSRB). The Council appreciates Marathon's continued commitment to doing safe and responsible work in the sensitive environment of Cook Inlet.

The Council also received an operational update from U.S. Coast Guard Sector Anchorage Commander Captain Leanne Lusk. The Coast Guard was active over the summer, responding to a number of sunken vessel incidents and conducting rescue operations. One of these was a legacy incident in Women's Bay near Kodiak where the F/V St. Patrick went down in 1989. Working with other state partners, the Coast Guard has been monitoring this vessel for decades and recently had more than \$4.5 million released from the Oil Spill Liability Trust Fund for spill response efforts that recovered some 16,000 gallons of oily water. Captain Lusk also noted CIRCAC's assistance in the effort to recover a lost anchor that had gone unreported and was found wrapped around a subsea pipeline following a routine inspection by Marathon Petroleum. Numerous state and federal agencies coordinated in the ultimately successful

effort to retrieve the anchor and no spills occurred during the operations. Captain Lusk expressed appreciation for CIRCAC'S continued interest in ensuring and encouraging Oil Spill Removal Organizations (OSRO) to meet the National Planning Criteria (NPC) or continue to expand their capabilities to meet NPC.

CIRCAC staff each delivered updates to the board regarding their programs and current projects. Executive Director Michael Munger presented a brief budget overview and noted upcoming elections and preliminary work on the organization's annual reauthorization by the U.S. Coast Guard. Director of Science and Research, Susan Saupe, highlighted field work that resumed over the summer, including significant updates to the Alaska ShoreZone imagery database. Director of Operations Steve "Vinnie" Catalano reported with updates from area committees and recent drills.

Our next meeting is scheduled for December 1st and 2nd in Anchorage.