

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2012-16 (SUB 1)

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING TITLE 7, ANIMALS, AND ADDING SECTION 7.08.011, INVESTIGATION OF CRUELTY TO ANIMALS COMPLAINTS, AND SECTION 7.08.015, SEIZURE OF ANIMALS

WHEREAS, the City of Dillingham (City) is recommending changing the length of time an animal can be held before being put up for adoption based on the City's standard operating procedures and State law as it pertains to animals taken into protective custody; and

WHEREAS, two new sections were added to Chapter 7.08, Animal Care, Section 7.08.011, Investigation of Cruelty to Animals Complaints, and Section 7.08.015, Seizure of Animals;

WHEREAS, the Dillingham Municipal Code was not updated when the position of Community Service Officer was replaced with Animal Control Officer in 2011; and

WHEREAS, the City is looking to make several other minor adjustments to Title 7, Animals;

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a code ordinance.

Section 2. Amendment of Chapter 7.02, Definitions. Chapter 7.02 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold letters** and underlined and deleted language in CAPS and [brackets].

Chapter 7.02 DEFINITIONS.

7.02.010 Definitions.

"Animal Control agent" is the person acting on or in behalf of the [COMMUNITY SERVICE OFFICER] **animal control officer** enforcing the provisions of this title.

[“COMMUNITY SERVICE OFFICER”] **“Animal Control Officer”** is the person designated by the city manager as having the responsibility of enforcing the provisions of this title.

"Animal Control Center" is any area, temporary or permanent, designated by the [COMMUNITY SERVICE OFFICER] **animal control officer** for the holding of animals. A center can be publicly or privately owned and operated.

"Unweaned animal" means an animal **younger than six weeks old** [TOO YOUNG TO BE WEANED], separated from the care of its mother, and/or an animal still dependent on its mother's milk.

Section 3. Amendment of Chapter 7.05, Animal control center. Chapter 7.05 of the Dillingham Municipal Code is hereby amended as follows with new language in bold letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would extend the line of authority, and replace references to community service officer with animal control officer.

Chapter 7.05 Animal Control.

7.05.010 Animal control center.

A. The city shall maintain an animal control center under the direction of the city manager or the city manager's designee.

7.05.020 [COMMUNITY SERVICE OFFICERS] Animal control officers and agents.

A. A person designated by the city manager, as [COMMUNITY SERVICE OFFICER] animal control officer may be responsible for domestic animal registration, rabies vaccinations, investigation of animal bites, complaints, maintaining the animal control program and the animal control center, enforcement and issuance of civil citations, and the destruction and disposal of vicious or unwanted domestic animals.

Section 4. Amendment of Chapter 7.07 Animal Behavior. Chapter 7.07 of the Dillingham Municipal Code is hereby amended as follows with new language in bold letters and underlined and deleted language in CAPS and [brackets].

Chapter 7.07 Animal Behavior.

7.07.010 Animals creating disturbance or nuisance.

1. The [COMMUNITY SERVICE OFFICER] animal control officer or agent may, upon receiving a complaint alleging chronic animal noise, investigate and, if necessary, issue a warning notice to the animal owner or keeper.
3. Citations for chronic animal noise shall only be issued upon one of the following:
 - a. A complaint sworn by two or more persons living at different addresses, one of whom must be the original complainant, in the immediate neighborhood of the animal making the chronic noise and after completion of an investigation by [COMMUNITY SERVICE OFFICER] animal control officer or agent indicates that a citation is appropriate; or
 - b. A complaint sworn by one person living in the immediate neighborhood of the chronic noise where additional date and time specific evidence is provided and after completion of an investigation by [COMMUNITY SERVICE OFFICER] animal control officer or agent indicates that a citation is appropriate.

7.07.020 Dangerous animals.

A. The [COMMUNITY SERVICE OFFICER] animal control officer or agent has the authority to determine whether any animal has engaged in the behaviors specified in this section, thereby deeming the animal dangerous.

B. It is unlawful for any owner or keeper to permit it to:

1. Growl, snap at, jump upon, or otherwise menace, injure, or frighten persons or other animals; provided that this subsection shall not apply if the person or animal is trespassing or otherwise acting in violation of the law.
2. Chase, run after, or jump at vehicles or persons using the public thoroughfares within the city limits.

C. A person who owns or is in lawful possession of property upon which there is an animal who acts in the manner described in subsection B of this section, or who observes an animal who acts in the manner described in subsection B of this section, on public property or a public thoroughfare may take the animal into custody and hold the animal pending transfer to a [COMMUNITY SERVICE OFFICER] animal control officer or agent; provided no animal may be held in such private custody for more than twenty-four hours. A person who takes an animal into custody under this subsection shall:

1. Immediately call the [COMMUNITY SERVICE OFFICER] animal control officer or agent to request a pick up of the animal.
2. File a written witness statement with the [COMMUNITY SERVICE OFFICER] animal control officer or agent, describing the incident.

D. Any animal who acts in the manner described in subsection B of this section, may be immediately impounded by the community service officer or agent. The [COMMUNITY SERVICE OFFICER] animal control officer or agent shall take the written witness statement of the person holding the animal or the written witness statement and may issue to the owner or keeper of the dangerous animal a citation or warning to comply. (Ord. 03-06 § 1 (part), 2003.)

7.07.030 Vicious Animals.

A. Any animal who bites a person or animal without provocation, or which, by its actions, gives indication that it is able to bite any person or animal without provocation, shall be deemed vicious.

B. Any animal who bites a person or animal without provocation and is currently vaccinated, shall be immediately quarantined for no less than ten days at the expense of the owner. A date of euthanasia for the animal shall be scheduled for no less than forty-eight hours after completion of quarantine.

C. Any animal who bites a person or animal without provocation and is unvaccinated, shall be immediately impounded and quarantined for no less than ten days at the expense of the owner or keeper, and the owner or keeper may be found in violation of Chapter 7.13, subject to fees and/or fines established within Sections 7.16.010 and 7.16.020, and to comply with Chapter 7.14. Before completion of quarantine, the owner or keeper will be given a written notice of the date of euthanasia. A date of euthanasia shall be scheduled for no less than forty-eight hours after completion of quarantine.

D. Vicious animals shall be euthanized, as established in Section 7.11.010, by the [COMMUNITY SERVICE OFFICER] animal control officer or agent not less than forty-eight hours after providing actual written notice to the owner or keeper of the dog, by hand delivery to the owner or keeper, or by posting at the last known residence of the owner or keeper. Such notice shall advise the owner or keeper of the following:

1. Planned time of euthanization of the animal;

2. That the animal will be impounded and/or quarantined immediately upon issuance of notice;

3. That the owner or keeper has an opportunity to be heard before the city manager, or the city manager's designee, should they wish to appeal the [COMMUNITY SERVICE OFFICER'S] animal control officer's or agent's determination that the animal is vicious.

E. The issues to be considered at any appeal hearing shall be limited to the following:

1. Whether the animal bit a person or domestic animal;

2. Whether the animal caused damage to property;

3. Whether the bite or damage was without provocation;

4. Whether the animal by its actions, gave indication that it is able to bite any person or animal without provocation.

F. The owner or keeper of an animal deemed vicious has the option to have such animal euthanized by someone of their choosing (i.e., veterinarian, close acquaintance, etc.), providing proof of date, time, and location to community service officer or agent of the euthanasia.

G. Animals whose owner or keeper cannot be identified or located by the [COMMUNITY SERVICE OFFICER] animal control officer or agent shall be impounded and quarantined for no less than ten days before being euthanized. If during such quarantine the owner or keeper becomes known, or a person claims to be the owner or keeper, that person shall be provided notice pursuant to subsection D of this section.

H. Any animal deemed vicious and reasonably suspected of being rabid may, at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer or agent, be euthanized, before completion of quarantine and without notice to the owner or keeper. (Ord. 03-06 § 1 (part), 2003.)

Section 5. Amendment of Chapter 7.08.020(A). Chapter 7.08.020(A) of the Dillingham Municipal Code is hereby amended to read as follows:[new language in bold letters and underlined and deleted language in CAPS and [brackets]:

A. [THE CITY COMMUNITY SERVICE OFFICER] **Before a police officer or animal control officer or agent may take an animal and place it into protective custody, the police officer shall request an immediate inspection and opinion by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, advised either orally or in writing that it is in the immediate best interest of the animal that it be placed into protective custody. If the officer is not able to communicate with a veterinarian, before the officer may take an animal and place it into protective custody, if in the judgment of the officer it is in the immediate best interest of the animal that it be placed into protective custody.** [SHALL HAVE THE DISCRETION TO DECIDE IF ANY ANIMAL SUBJECTED TO CRUELTY AS DESCRIBED IN SECTION 7.08.010, MAY BE TAKEN, IMPOUNDED AND/OR QUARANTINED, IN WHICH CASE THE ANIMAL SHALL BE DEEMED IN PROTECTIVE CUSTODY].

Section 6. Amendment of Chapter 7.08 Animal care. Chapter 7.08 of the Dillingham Municipal Code is hereby amended by adding two new sections to be numbered 7.08.011 and 7.08.015 to read as follows : The proposed changes would add a section on investigation of cruelty to animals complaints and on the language

7.08.011 Investigation of cruelty to animals complaints.

A person who believes that cruelty to animals has taken place may file a written complaint with the public safety department.

7.08.015 Seizure of animals.

A. A police officer shall place an animal in protective custody before removing the animal from the location where it was found. If the animal is removed, the police officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian who has previously volunteered to accept animals seized under this Chapter and who has been accepted as a custodian by the City to be sheltered, cared for, and provided necessary medical attention.

B. A police officer who has removed an animal shall immediately notify the animal's owner in writing of the removal and of the owner's right to petition the court under this Chapter for return of the animal. Notification may be delivered in person, posted at the owner's residence, or mailed to the owner.

C. If a removed animal's owner is unknown and cannot be ascertained with reasonable effort, the animal shall be considered a stray or abandoned.

Section 7. Amendment of Section 7.08.020 . Section 7.08.020 of the Dillingham Municipal Code is hereby amended as follows with new language in bold letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would extend the line of authority, and replace references to community service officer with animal control officer.

7.08.020 Protective custody.

A. The [COMMUNITY SERVICE OFFICER] animal control officer or agent shall have the discretion to decide if any animal subjected to cruelty as described in Section 7.08.010, may be taken, impounded and/or quarantined, in which case the animal shall be deemed in protective custody.

B. The decision made by the veterinarian or the police officer authorizing the destruction of an animal destroyed under this chapter is a discretionary act as that phrase is used in AS 09.65.070(d)(2). A person may not recover damages for the destruction of the animal unless the owner shows that the destruction was an abuse of discretion.

[B.] C. Custody of the animal may not be regained by the owner or keeper while a prosecution for cruelty is pending. The owner or keeper may be subject to fees and/or fines for duration of impoundment and/or quarantine described in Sections 7.16.010 and 7.16.020.

[C.] D. Upon a defendant's conviction for cruelty under this title or AS 11.61.140, the court may order that the defendant forfeit ownership, custody, and control of the animal which was the subject of the cruelty.

[D.] E. Unless otherwise ordered by the court, the owner or keeper of an animal impounded pursuant to this section may redeem the animal as provided in Chapter 7.03 after completion of the prosecution.

Section 8. Amendment of Chapter 7.09 Impoundment. Chapter 7.09 of the Dillingham Municipal Code is hereby amended as follows with new language in bold letters and underlined and deleted language in CAPS and [brackets].

Chapter 7.09 Impoundment.

7.09.010 Terms.

A. Unidentified animals found to be in violation of this title may be impounded and held at the animal control center for a [FIVE-] ten day period. If not claimed by the owner or keeper by the expiration of the [FIVE-] ten day period, the animal shall become the property of the city and may be destroyed at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer or agent.

B. Identified animals found to be in violation of this title and found not restrained may be taken to the owner or keeper or impounded at the animal control center. A reasonable attempt will be made to notify the owner or keeper by phone, in person, or by letter that their animal is being held at the animal control center. Identified animals not claimed by the owner or keeper by the expiration of the [FIVE-] ten day period shall become the property of the city and may be disposed of at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer or agent.

C. Abandoned or unwanted animals brought to the animal control center by citizens for impoundment may or may not be accepted for impoundment by the city. Upon acceptance, such animals shall become the property of the city and may be disposed of at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer.

Section 9. Amendment of Chapter 7.10 Adoption. Chapter 7.10 of the Dillingham Municipal Code is hereby amended as follows with new language in bold letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would bring this section in line with the City of Dillingham's procedures for operating an animal shelter..

Chapter 7.10 Adoption.

7.10.010 Adoption Requirements.

A. A person may adopt an animal that is held in the care and custody of the city and/or animal control center no sooner than [FIVE-] ten days after the date of impoundment unless the city has received a release from the owner. They shall pay the adoption fee established under Section 7.16.010.

B. If the person interested in adoption had been previously registered to the potential adoptee or known to have been the keeper of the animal, the person upon adoption shall pay all applicable fees and penalties established in Section 7.16.010.

C. An owner may prevent the animal's adoption by

(1) petitioning the Superior Court for the Third Judicial District in Dillingham for the animal's immediate return, subject, if appropriate, to court-imposed conditions; or

(2) posting a bond or security with the City of Dillingham in an amount determined by the city manager to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was removed.

D. If the animal control officer still has custody of the animal when the bond or security posted expires and the court has not ordered an alternative disposition, the animal becomes the city's personal property. If the court has not allowed the city to adopt out the animal and the city continues to care for the animal, the owner of the animal shall post a bond or otherwise pay in advance for the City's continuing costs of care for the animal until a final decision is made by the trial court.

Section 10. Amendment of Chapter 7.11 Euthanasia. Chapter 7.11 of the Dillingham Municipal Code is hereby amended as follows with new language in bold letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would bring this section in line with the City of Dillingham's procedures for operating an animal shelter, and would replace references to community service officer with animal control officer.

Chapter 7.11 Euthanasia.

7.11.010 General.

A. The following animals may be euthanized at any time:

1. An animal exhibiting symptoms of a major infectious or contagious disease, as determined by a licensed veterinarian if available, that is a danger to the health and safety of the public or other animals within the city.
2. An animal that in the judgment of the [COMMUNITY SERVICE OFFICER] **animal control officer** or agent is injured or suffering to the extent that it should be euthanized for humane reasons. When possible the opinion of a licensed veterinarian will be obtained prior to euthanasia under this subsection.
3. An animal deemed dangerous or vicious.
4. An animal, not the subject of a pending hearing or court decision, who poses an unreasonable risk of physical injury and/or is deemed dangerous or vicious.
5. An adoption eligible animal, remaining unadopted following expiration of the [FIVE-] **ten** day minimum term of availability in Section 7.09.010.

B. Euthanasia of an animal shall be accomplished by a licensed veterinarian, or a technician trained and certified under the "Permit For Use of Drugs To Euthanize Domestic Animals" as specified in AS 08.02.050.

C. The [COMMUNITY SERVICE OFFICER] **animal control officer** shall maintain a list of animals euthanized including a description of the animal and the condition for euthanasia, available for review by the general public.

D. Except as provided in A. 1, 2 and 3 of this Section, an animal exhibiting symptoms of a major infectious or contagious disease as determined by a licensed veterinarian if available, or who in the judgment of the animal control officer or agent is injured or diseased to such an extent that it should be euthanized for humane reasons, an animal

may not be euthanized within 10 business days after the animal is taken into custody. An owner may prevent the animal's destruction by

(1) petitioning the Superior Court for the Third Judicial District in Dillingham for the animal's immediate return, subject, if appropriate, to court-imposed conditions; or

(2) posting a bond or security with the City of Dillingham in an amount determined by the city manager to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was removed.

E. If the animal control officer still has custody of the animal when the bond or security posted expires and the court has not ordered an alternative disposition, the animal becomes the city's personal property. If the court has not allowed the city to euthanizing or adopt out the animal and the city continues to care for the animal, the owner of the animal shall post a bond or otherwise pay in advance for the City's continuing costs of care for the animal until a final decision is made by the trial court.

Section 11. Amendment of Chapter 7.15 Incidence of Rabies. Chapter 7.15 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold letters and underlined** and deleted language in CAPS and [brackets]. The proposed changes would replace references to community service officer with animal control officer.

Chapter 7.15 Incidence of Rabies

7.15.010 Handling requirements.

A. The city [COMMUNITY SERVICE OFFICER] **animal control officer**, under the direction of the city manager, shall cooperate with other agencies in establishing a rabies control program for the city.

B. All persons shall report to a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent any suspected or positively diagnosed occurrence of rabies as soon as such occurrence becomes known to the person.

D. Any loose animal suspected of rabies, running at large uncontrolled and evading attempts to be caught shall be shot by a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent and the head sent to the appropriate laboratory for examination of rabies disease.

E. Only a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent may remove the carcass of any suspected or confirmed rabid animal from the location where the animal was killed or found.

F. The carcass of an animal suspected of being rabid shall upon demand be surrendered to a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent or to the Department of Health and Social Services. (Ord. 03-06 § 1 (part), 2003.)

Section 12. Amendment of Chapter 7.16 Fees, Fines, and Failure to Comply. Chapter 7.16 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold letters and underlined** and deleted language in CAPS and [brackets]. The proposed changes would replace references to community service officer with animal control officer.

Chapter 7.16 Fees, Fines, and Failure to Comply

7.16.030 Allocation of fees.

A. Those fees and fines obtained by the city of Dillingham through registration, adoption, and/or Title 7 violations of animals, may, subject to annual appropriation therefore, be allocated to events organized to educate, encourage, and provide opportunity for vaccination and sterilization of animals for Dillingham residents.

B. A program for educating and enhancing Dillingham residents' access to vaccination and sterilization opportunities may be coordinated by the [COMMUNITY SERVICE OFFICER] animal control officer or agent. Events may include but not be limited to spay/neuter clinics and printed or recorded public information. (Ord. 03-06 § 1 (part), 2003.)

Section 13. Effective Date. This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on

_____.

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

City of Dillingham Information Memorandum No. O2012-16 (SUB 1)

Subject: An ordinance of the Dillingham City Council amending Title 7, Animals, and adding Chapters 7.08.011, Investigation of cruelty to animals, and 7.08.015, Seizure of animals

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.
City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Chief of Police / Nancy Chamberlain	NJC	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

- Memorandum from Atty. Chandler, dated September 21, 2012

Summary Statement.

Ordinance No. 2012-16 has been vetted through the Code Review Committee and the City's Attorney. However, the Attorney's comments were not received until after the ordinance was introduced. His comments were vetted back through the committee, reviewed, and the ordinance was amended as Ordinance No. 2012-16 (SUB 1). The ordinance was further amended based on the Attorney's memo of September 21, of which a copy is attached.

An advertisement for a public hearing on Ordinance No. 2012-16 was advertised in the Bristol Bay Times, September 27 edition, to meet the mandatory requirement that a public hearing of a proposed ordinance shall follow publication by at least five days.

(Clerk Note: At the Council meeting on October 4, 2012 the substitute ordinance will be recommended for adoption and the process will go as follows:

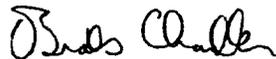
"I move to amend Ordinance No. 2012-16 by substituting Ordinance No. 2012-16 (SUB 1)." The Council will vote on the amendment.

If the amendment is approved the Council will vote on whether to adopt Ordinance No. 2012-16 (SUB 1.)

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bcf@bcf.us.com

MEMORANDUM

TO: JANICE WILLIAMS, CITY CLERK



FROM: BROOKS CHANDLER
CITY ATTORNEY

DATE: SEPTEMBER 21, 2012

RE: ANIMAL CONTROL ORDINANCE

This memorandum expands upon our comments to the draft animal control ordinance.

The draft ordinance adds some new code provisions pretty much word for word from Chapter 3.55 of the Alaska Statutes. We are not sure if the folks working on the ordinance assumed these provisions applied in Dillingham or whether they wanted them to apply. If they presumed they already applied the answer, in our opinion, is no. We believe that under AS 29.35.200(b)(5) the City's animal control ordinance trumps the AS 3.55 provisions. These would apply only outside city boundaries or in instances where a city has not adopted animal control provisions. So the draft ordinance may be based on a mistaken assumption.

On the other hand, the committee may have thought these provisions were a good idea for Dillingham- a perfectly legitimate viewpoint. If that is the case, I do have some additional concerns to point out.

Proposed DMC 7.011(B) in my opinion is not necessary to provide authority to seek a search warrant. Under DMC 7.08.010 it is a crime to fail to provide proper care to an animal. As a general matter of law, police officers who have probable cause to believe a crime has been

committed may obtain a search warrant. It is not necessary to specify this process for each particular unlawful act. So I do not believe this provision is necessary in Dillingham even though it is included in AS 03.55.

Section 7.08.011(C) could be cumbersome depending on the availability of veterinarians. In addition, it creates a conflict with 7.08.020(A) which allows the animal control officer to take animals into custody using their discretion without consulting a vet. If we do want to include a veterinarian consult requirement, rather than adopt 7.08.011(C) as a new section we should rework 7.08.020(A).

Similarly, rather than adopt a new section 7.08.020(C), any tweaks to euthanasia or adoption should be reflected in changes to DMC 7.11 and 7.10. That way someone that wants to know the rules and process can find them in a single chapter. For example, changing the adoption holding period from five days to ten days is a simple one word amendment to DMC 7.10.010(A).

Everyone should recognize that any court process associated with preventing euthanasia or adoption will usually be lengthy. Courts will not elevate the priority of these cases. The costs associated with long term city care of animals whose owners are petitioning courts will be significant. So this remedy may look better to dog owners on paper than it is in practice.

The change we previously recommended to section 7.08.020(B) was done to reduce the potential liability for destruction or loss of an animal of both the city and whatever private veterinarian may be involved in these decisions. Under Alaska law damages are extremely limited in this type of case, however, the costs of defending claims could be significant. It is much more difficult to prove that discretion was abused than it is to prove that someone acted negligently. It is possible those working on the ordinance want to make it easier to win these kinds of lawsuits. If that is the recommendation of the committee the changes we suggested to this section of the draft ordinance should be removed.

Because I was not sure if the committee thought the provisions referenced above applied automatically in Dillingham we have not attempted to rework the ordinance based on these comments. This could easily be accomplished so let me know if this is desired.

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2012-16

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WHEREAS, the City of Dillingham (City) is recommending changing the length of time an animal can be held before being put up for adoption based on the City's standard operating procedures and State law as it pertains to animals taken into protective custody; and

WHEREAS, the Dillingham Municipal Code was not updated when the position of Community Service Officer was replaced with Animal Control Officer in 2011; and

WHEREAS, the City is looking to make several other minor adjustments to Title 7, Animals;

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a code ordinance.

Section 2. Amendment of Chapter 7.02, Definitions. Chapter 7.02 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would provide staff with clear guidelines to determine when an unweaned animal can be placed up for adoption, and replace references to community service officer with animal control officer.

Chapter 7.02 DEFINITIONS.

7.02.010 Definitions.

"Animal Control agent" is the person acting on or in behalf of the [COMMUNITY SERVICE OFFICER] animal control officer enforcing the provisions of this title.

[“COMMUNITY SERVICE OFFICER”] “Animal Control Officer” is the person designated by the city manager as having the responsibility of enforcing the provisions of this title.

“Animal Control Center” is any area, temporary or permanent, designated by the [COMMUNITY SERVICE OFFICER] animal control officer for the holding of animals. A center can be publicly or privately owned and operated.

“Unweaned animal” means an animal younger than six weeks old [TOO YOUNG TO BE WEANED], separated from the care of its mother, and/or an animal still dependent on its mother's milk.

Section 3. Amendment of Chapter 7.05, Animal control center. Chapter 7.05 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would extend

the line of authority, and replace references to community service officer with animal control officer.

Chapter 7.05 Animal Control.

7.05.010 Animal control center.

A. The city shall maintain an animal control center under the direction of the city manager or the city manager's designee.

7.05.020 [COMMUNITY SERVICE OFFICERS] Animal control officers and agents.

A. A person designated by the city manager, as [COMMUNITY SERVICE OFFICER] animal control officer may be responsible for domestic animal registration, rabies vaccinations, investigation of animal bites, complaints, maintaining the animal control program and the animal control center, enforcement and issuance of civil citations, and the destruction and disposal of vicious or unwanted domestic animals.

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Chapter 7.07 Animal Behavior.

7.07.010 Animals creating disturbance or nuisance.

1. The [COMMUNITY SERVICE OFFICER] animal control officer or agent may, upon receiving a complaint alleging chronic animal noise, investigate and, if necessary, issue a warning notice to the animal owner or keeper.
3. Citations for chronic animal noise shall only be issued upon one of the following:
 - a. A complaint sworn by two or more persons living at different addresses, one of whom must be the original complainant, in the immediate neighborhood of the animal making the chronic noise and after completion of an investigation by [COMMUNITY SERVICE OFFICER] animal control officer or agent indicates that a citation is appropriate; or
 - b. A complaint sworn by one person living in the immediate neighborhood of the chronic noise where additional date and time specific evidence is provided and after completion of an investigation by [COMMUNITY SERVICE OFFICER] animal control officer or agent indicates that a citation is appropriate.

7.07.020 Dangerous animals.

A. The [COMMUNITY SERVICE OFFICER] animal control officer or agent has the authority to determine whether any animal has engaged in the behaviors specified in this section, thereby deeming the animal dangerous.

C. A person who owns or is in lawful possession of property upon which there is an animal who acts in the manner described in subsection B of this section, or who observes an animal who acts in the manner described in subsection B of this section, on public property or a public thoroughfare may take the animal into custody and hold the animal pending transfer to a [COMMUNITY SERVICE OFFICER] animal control officer or agent; provided no animal may be held in such private custody for more than twenty-four hours. A person who takes an animal into custody under this subsection shall:

1. Immediately call the [COMMUNITY SERVICE OFFICER] animal control officer or agent to request a pick up of the animal.
2. File a written witness statement with the [COMMUNITY SERVICE OFFICER] animal control officer or agent, describing the incident.

D. Any animal who acts in the manner described in subsection B of this section, may be immediately impounded by the community service officer or agent. The [COMMUNITY SERVICE OFFICER] animal control officer or agent shall take the written witness statement of the person holding the animal or the written witness statement and may issue to the owner or keeper of the dangerous animal a citation or warning to comply. (Ord. 03-06 § 1 (part), 2003.)

7.07.030 Vicious Animals.

D. Vicious animals shall be euthanized, as established in Section 7.11.010, by the [COMMUNITY SERVICE OFFICER] animal control officer or agent not less than forty-eight hours after providing actual written notice to the owner or keeper of the dog, by hand delivery to the owner or keeper, or by posting at the last known residence of the owner or keeper. Such notice shall advise the owner or keeper of the following:

3. That the owner or keeper has an opportunity to be heard before the city manager, or the city manager's designee, should they wish to appeal the [COMMUNITY SERVICE OFFICER'S] animal control officer's or agent's determination that the animal is vicious.

F. The owner or keeper of an animal deemed vicious has the option to have such animal euthanized by someone of their choosing (i.e., veterinarian, close acquaintance, etc.), providing proof of date, time, and location to [COMMUNITY SERVICE OFFICER] animal control officer or agent of the euthanasia.

G. Animals whose owner or keeper cannot be identified or located by the [COMMUNITY SERVICE OFFICER] animal control officer or agent shall be impounded and quarantined for no less than ten days before being euthanized. If during such quarantine the owner or keeper becomes known, or a person claims to be the owner or keeper, that person shall be provided notice pursuant to subsection D of this section.

H. Any animal deemed vicious and reasonably suspected of being rabid may, at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer or agent, be euthanized, before completion of quarantine and without notice to the owner or keeper. (Ord. 03-06 § 1 (part), 2003.)

Section 5. Amendment of Chapter 7.08 Animal care. Chapter 7.08 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would add two new sections: 7.08.011, Investigation of cruelty to animals complaints, and 7.08.015, Seizure of animals. It would also replace references to community service officer with animal control officer.

Chapter 7.08 Animal care.

Sections:

7.08.010 Animal cruelty.

7.08.011 Investigation of cruelty to animals complaints.

7.08.015 Seizure of animals.

7.08.020 Protective custody.

7.08.011 Investigation of cruelty to animals complaints.

A. A person who believes that cruelty to animals has taken place may file a complaint with the city.

B. A police officer who receives a complaint of animal cruelty may apply for a search warrant under AS. 12.35 to the judicial officer in the district court in which the alleged violation has taken place or is taking place. If the court finds that probable cause exists, the court shall issue a search warrant directing a police officer to proceed immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, take property including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

C. Before a police officer may take an animal and place it into protective custody, the police officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody.

7.08.015 Seizure of animals.

A. A police officer shall place an animal in protective custody before removing the animal from the location where it was found. If the animal is removed, the police officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention.

B. A police officer who has removed an animal shall immediately notify the animal's owner in writing of the removal and of the owner's right to petition the court under AS 03.55.130 for return of the animal. Notification may be delivered in person, posted at the owner's residence, or mailed to the owner.

C. If a removed animal's owner is unknown and cannot be ascertained with reasonable effort, the animal shall be considered a stray or abandoned.

7.08.020 Protective custody.

A. The [COMMUNITY SERVICE OFFICER] animal control officer or agent shall have the discretion to decide if any animal subjected to cruelty as described in Section 7.08.010, may be taken, impounded and/or quarantined, in which case the animal shall be deemed in protective custody.

B. An owner of an animal destroyed under this section may not recover damages for the destruction of the animal unless the owner shows that the destruction was not reasonable under the facts as known to a veterinarian or police officer authorizing the destruction.

C. Except as provided in A. 1, 2 and 3 of Section 7.11.010, Euthanization, an animal exhibiting symptoms of a major infectious or contagious disease as determined by a

licensed veterinarian if available, or in the judgment of the animal control officer or agent is injured or diseased to such an extent that it should be euthanized for humane reasons, an animal may not be adopted or euthanized within 10 business days after the animal is taken into custody. An owner may prevent the animal's adoption or destruction by

(1) petitioning the court of the judicial district in which the animal was removed for the animal's immediate return, subject, if appropriate, to court-imposed conditions; or

(2) posting a bond or security with the court of the judicial district in which the animal was seized in an amount determined by the court to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was removed.

D. If the animal control officer still has custody of the animal when the bond or security posted expires and the court has not ordered an alternative disposition, the animal becomes the custodian's property. If the court prevents the city from assuming ownership and the city continues to care for the animal, the court shall require the owner of the animal to pay by bond or otherwise for the City's continuing costs of care for the animal until a final disposition of the animal is made by the court.

[B.] E. Custody of the animal may not be regained by the owner or keeper while a prosecution for cruelty is pending. The owner or keeper may be subject to fees and/or fines for duration of impoundment and/or quarantine described in Sections 7.16.010 and 7.16.020.

[C.] F. Upon a defendant's conviction for cruelty under this title or AS 11.61.140, the court may order that the defendant forfeit ownership, custody, and control of the animal which was the subject of the cruelty.

[D.] G. Unless otherwise ordered by the court, the owner or keeper of an animal impounded pursuant to this section may redeem the animal as provided in Chapter 7.03 after completion of the prosecution. (Ord. 03-06 § 1 (part), 2003.)

Section 6. Amendment of Chapter 7.09 Impoundment. Chapter 7.09 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would bring the Code in line with the City's Animal Shelter Operating Procedures for holding an animal before it can be adopted out, and Chapter 7.07.030 Vicious Animals, G. animals whose owner or keeper cannot be identified or located shall be impounded and quarantined for no less than ten days before being euthanized. References to community service officer would be replaced with animal control officer.

Chapter 7.09 Impoundment.

7.09.010 Terms.

A. Unidentified animals found to be in violation of this title may be impounded and held at the animal control center for a [FIVE-] ten day period. If not claimed by the owner or keeper by the expiration of the [FIVE-] ten day period, the animal shall become the property of the city and may be destroyed at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer or agent.

B. Identified animals found to be in violation of this title and found not restrained may be taken to the owner or keeper or impounded at the animal control center. A reasonable attempt will be made to notify the owner or keeper by phone, in person, or by letter that their animal is being held at the animal control center. Identified animals not claimed by the owner or keeper by

the expiration of the [FIVE-] ten day period shall become the property of the city and may be disposed of at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer or agent.

C. Abandoned or unwanted animals brought to the animal control center by citizens for impoundment may or may not be accepted for impoundment by the city. Upon acceptance, such animals shall become the property of the city and may be disposed of at the discretion of the [COMMUNITY SERVICE OFFICER] animal control officer.

Section 7. Amendment of Chapter 7.10 Adoption. Chapter 7.10 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would bring this section in line with the City of Dillingham's procedures for operating an animal shelter, and would replace references to community service officer with animal control officer.

Chapter 7.10 Adoption.

7.10.010 Adoption Requirements.

A. A person may adopt an animal that is held in the care and custody of the city and/or animal control center no sooner than [FIVE-] ten days after the date of impoundment unless the city has received a release from the owner. They shall pay the adoption fee established under Section 7.16.010.

Section 8. Amendment of Chapter 7.11 Euthanasia. Chapter 7.11 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would bring this section in line with the City of Dillingham's procedures for operating an animal shelter, and would replace references to community service officer with animal control officer.

Chapter 7.11 Euthansia.

7.11.010 General.

A. The following animals may be euthanized at any time:

2. An animal that in the judgment of the [COMMUNITY SERVICE OFFICER] animal control officer or agent is injured or suffering to the extent that it should be euthanized for humane reasons. When possible the opinion of a licensed veterinarian will be obtained prior to euthanasia under this subsection.

5. An adoption eligible animal, remaining unadopted following expiration of the [FIVE-] ten day minimum term of availability in Section 7.09.010.

C. The [COMMUNITY SERVICE OFFICER] animal control officer shall maintain a list of animals euthanized including a description of the animal and the condition for euthanasia, available for review by the general public.

Section 9. Amendment of Chapter 7.15 Incidence of Rabies. Chapter 7.15 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would replace references to community service officer with animal control officer.

Chapter 7.15 Incidence of Rabies

7.15.010 Handling requirements.

A. The city [COMMUNITY SERVICE OFFICER] **animal control officer**, under the direction of the city manager, shall cooperate with other agencies in establishing a rabies control program for the city.

B. All persons shall report to a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent any suspected or positively diagnosed occurrence of rabies as soon as such occurrence becomes known to the person.

D. Any loose animal suspected of rabies, running at large uncontrolled and evading attempts to be caught shall be shot by a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent and the head sent to the appropriate laboratory for examination of rabies disease.

E. Only a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent may remove the carcass of any suspected or confirmed rabid animal from the location where the animal was killed or found.

F. The carcass of an animal suspected of being rabid shall upon demand be surrendered to a [COMMUNITY SERVICE OFFICER] **animal control officer** or agent or to the Department of Health and Social Services. (Ord. 03-06 § 1 (part), 2003.)

Section 10. Amendment of Chapter 7.16 Fees, Fines, and Failure to Comply. Chapter 7.16 of the Dillingham Municipal Code is hereby amended as follows with new language in **bold** letters and underlined and deleted language in CAPS and [brackets]. The proposed changes would replace references to community service officer with animal control officer.

Chapter 7.16 Fees, Fines, and Failure to Comply

7.16.030 Allocation of fees.

A. Those fees and fines obtained by the city of Dillingham through registration, adoption, and/or Title 7 violations of animals, may, subject to annual appropriation therefore, be allocated to events organized to educate, encourage, and provide opportunity for vaccination and sterilization of animals for Dillingham residents.

B. A program for educating and enhancing Dillingham residents' access to vaccination and sterilization opportunities may be coordinated by the [COMMUNITY SERVICE OFFICER] **animal control officer** or agent. Events may include but not be limited to spay/neuter clinics and printed or recorded public information. (Ord. 03-06 § 1 (part), 2003.)

Section 11. Effective Date. This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2012-18

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING CHAPTER 4.20 OF THE DILLINGHAM MUNICIPAL CODE TO LIMIT THE PENALTY ASSESSED FOR FAILURE TO FILE SALES TAX RETURNS OR REMIT SALES TAX TO FIFTEEN PERCENT, ELIMINATE INTEREST ACCRUAL ON PENALTY AMOUNTS AND PROVIDE AUTHORITY FOR REPAYMENT PLANS FOR UNPAID TAX

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Amendment of Section 4.20.210(B). Section 4.20.210(B) if the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

- B. Failure to File a Return. A seller who fails to file a return as required by this chapter or who fails to remit taxes collected, or which should have been collected, is subject to a penalty. The penalty is five fifteen percent of the taxes collected, or which should have been collected, ~~per month, until paid~~. The filing of an incomplete return is the equivalent of filing no return.

Section 2. Amendment of Section 4.20.220. Section 4.20.220 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

4.20.220 Interest on late payments.

A seller who fails to remit payments in a timely manner shall be liable for interest charges of ten and one-half percent per annum on the amount of delinquent taxes accruing from the due date until paid in full. Interest shall not accrue on any penalty imposed under Section 4.20.210(B).

Section 3. Amendment of Chapter 4.20. Chapter 4.20 of the Dillingham Municipal Code is hereby amended by adding a new section 4.20.265 to read as follows:

4.20.265 Repayment Plan

- A. A seller who is delinquent may cure their delinquency by agreeing to a repayment plan signed by both the City of Dillingham and the seller. Extended payment arrangements in the form of the repayment plan may be granted to a seller for a period not to exceed two years.

The repayment plan contract will meet the following requirements:

1. The seller has not been placed on the delinquent list in the previous three calendar years.
2. The seller has not been in default on a repayment plan in the previous three calendar years.

3. The seller agrees to pay twenty per cent down payment of the tax, interest, and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.
4. The seller agrees to pay the balance of the tax and interest owed in equally monthly installments over a period not to exceed two (2) years.
5. The seller will provide a personal guarantee of the obligations under the repayment plan if the seller is a corporation or limited liability entity.
6. The seller agrees to pay all future tax bills in accordance with the provisions of this section.

B. Interest on repayment plans shall be at the rate of six per cent (6%) per annum on the amount of tax due provided that if the seller fails to make one or more payments at the time agreed under the repayment plan the full amount of interest owed under Section 4.20.220 shall be due and owing on the entire remaining balance.

Section 4. Effective Date. This ordinance is effective upon adoption.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

City of Dillingham Information Memorandum No. O2012-18

Subject: An ordinance of the Dillingham City Council amending Chapter 4.20 of the Dillingham Municipal Code to limit the penalty assessed for failure to file sales tax returns or remit sales tax to fifteen percent, eliminate interest accrual on penalty amounts and provide authority for repayment plans for unpaid tax

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance Director / Carol Shade	CS	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available. Yes _____ No _____

Other Attachment(s):
• None

Summary Statement.

This ordinance was vetted through the Code Review Committee and was being recommended for introduction and adoption. The original task was to provide manager authority to settle unpaid accounts. Attorney Chandler had drafted an ordinance that would allow when someone could qualify to get a break. He also noted the manager or his/her designee had the option of working out a deferred payment plan to provide some relief. One of the committee's major concerns was in some cases the original tax was affordable, needed to be collected and pursued, but the penalties and interest could get substantial, and would the manager be able to negotiate a lesser amount. The task was then amended to add a review of penalty and interest on sales tax and personal property to the committee's task list. Attorney Chandler drafted the ordinance and included authority to enter into repayment plans.

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-53

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL CREATING A CITY OF DILLINGHAM CEMETERY COMMITTEE

WHEREAS, some citizens approached the City Council and City staff requesting that the City make improvements on the cemeteries located on City property; and

WHEREAS, the City Council understands that the City cemeteries have not had much structure for usage and access; and

WHEREAS, the City Council will appoint a Cemetery Committee to address the expressed concern of citizens, which would meet the expectations of citizens without a resulting financial and administrative cost to the City; and

WHEREAS, the City Council is sensitive to the City's limitations of available funding and available administrative support and staffing; and

WHEREAS, the City Council is very proud and thankful for the volunteer efforts of our citizens, and acknowledges that currently it is primarily through that effort that the cemeteries are accessible and coordinated within the community; and

WHEREAS, the City Council finds that providing a Cemetery Committee may provide better control and structure of the cemeteries that will benefit the community; and

WHEREAS, a Cemetery Committee made up of council members and citizens will allow for providing support, but also aid in exploring a structure that might best serve the limitations and needs of the community;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council establishes a Cemetery Committee with the following structure and responsibilities:

1. Unless extended by the Council, the Committee shall expire on October 31, 2014.
2. The Committee shall be made up of 7 members appointed according to DMC 2.90 Advisory Boards and Committees. At least one of the members will be a current City Council.
3. The Committee will assist and advise the City Manager on the following activities:
 - a. Create a comprehensive map and records for current city owned cemeteries as to the current occupant locations, available sites and access points (trails, roads etc.).
 - b. Establish a process for maintaining records of sites in the cemeteries.
 - c. Establish a process for procurement of City cemetery lots.
 - d. Identify improvements needed and ways to accomplish the improvements.

4. The Committee may not obligate the City of Dillingham but may serve as advisory to the City Manager on application for, receipt of and/or management of any funds for or by the City of Dillingham.
5. The Committee shall be responsible for arranging, conducting and recording minutes for its meetings and shall be responsible for administrative duties not specifically addressed in this resolution.
6. The Committee shall conduct all meetings according to the requirements of DMC 2.90.
7. Prior to expiration the Committee shall provide a report to the Council as to whether the desires of the City and the citizen group were met through this structure and recommend continuance of or changes to the structure for the future.

PASSED and ADOPTED by the Dillingham City Council on _____.

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

City of Dillingham Information Memorandum R2012-53

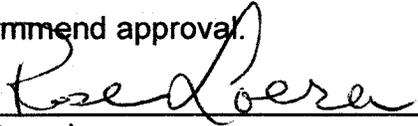
Subject: A Resolution of the Dillingham City Council Creating a Cemetery Committee

Agenda of: October 4, 2012

City Council Action:

Manager: Recommend approval.

City Manager:


Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	City Clerk / Janice Williams		

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s): None

Summary Statement.

At the September 6, 2012, City Council Meeting, Mayor Ruby noted the Council had earlier committed to an ad hoc cemetery committee. She had since contacted a few people, but was waiting for their confirmation. The process would be similar to creating the Parks and Recreation Committee: bring forward a resolution; create an interim committee with the responsibility to do specific items; council would revisit it in 2-3 years to see if was effective, and should continue on. It would be advisory, assisting city staff.

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-54

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL AMENDING THE ALLOCATION OF FUNDING FOR THE DILLINGHAM CITY SCHOOL DISTRICT FOR THE FISCAL YEAR ENDING JUNE 30, 2013 AND REPEALING RESOLUTION NO. 2012-21

WHEREAS, Alaska Statute 14.14.060(c) provides that the Dillingham School Board ("School Board") shall submit the school budget for the following year by May 1 for approval of the total amount; and

WHEREAS, the Dillingham City Council ("City Council") shall determine the total amount of money to be made available from local sources for school purposes within 30 days after the School District presents the budget request to the City; and

WHEREAS, the School Board submitted a proposed FY 2013 Budget of \$10,031,490 which includes a request of \$1,300,000 less Bond contribution of \$100,000 in local revenue from the City on March 29, 2012; and

WHEREAS, the City Council shall determine the total amount of money to be made available from local sources for School purposes and shall furnish the School Board with a statement of this sum on or before March 29, 2012; and

WHEREAS, AS 14.17.410(2) requires a contribution from the City in the amount of the equivalent of a 4 mill tax levy on the full and true value of the taxable real and personal property as of January 1, 2012, (2nd preceding year), which is calculated to be a local contribution in the amount of \$ 636,857; and

WHEREAS, the City Council wishes to allocate the minimum required amount to meet the City's legal obligation which is 4 mill equivalent to property tax or \$635,298, and 1% of sales tax equivalent, estimated at \$425,000, a total of \$1,061,857 for the education operating budget for the Fiscal Year ending June 30, 2013; and,

WHEREAS, the actual amount to be appropriated for School District purposes will be made a part of the City's FY 2013 Budget;

WHEREAS, the Dillingham City Council adopted Resolution No. 2012-21, April 19, 2012, establishing the level of funding for the Dillingham City School District for FY 2013, with the school appropriation be set at \$1.3 million with \$1.2 Million for operating costs and \$100,000 for major maintenance which for FY 2013 will cover the school bond payment;

WHEREAS, it was later determined during the City's FY 2013 budget process that the school appropriation be amended to allocate the \$1.3 Million level of funding as follows:

1. \$1.2 Million for operating costs,
2. \$50,000 for major maintenance, and
3. \$50,000 to go toward a reading interventionist specialist.

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 2012-21 is hereby repealed;

BE IT FURTHER RESOLVED that the school appropriation for FY 2013 be set at \$1.3 Million with \$1.2 Million for operating costs, \$50,000 for major maintenance, and \$50,000 to go toward a reading interventionist specialist.

PASSED AND ADOPTED by the Dillingham City Council on October 4, 2012.

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

City of Dillingham Information Memorandum No. 2012-54

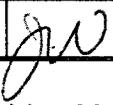
Subject: A Resolution of the Dillingham City Council amending the allocation of funding for the Dillingham City School District for the Fiscal Year ending June 30, 2013 and repealing Resolution No. 2012-21

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: _____
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance Director / Carol Shade		
X	City Clerk / Janice Williams		

Fiscal Note: Yes _____ No X Funds Available: Yes X No _____

Other Attachment(s):

Summary Statement.

The original Resolution 2012-21 was passed to establish the level of funding for the Dillingham City School District. The resolution written based on an assumption that the contribution to the schools would be \$1.3M. From the \$1.3M the City would hold back \$100,000 toward the school bond payment. During the budget process the School District requested an additional \$50,000 for a reading intervention specialist. In addition the School District made the Council aware of some Major Maintenance that needed to be done. The Finance & Budget Committee realizing the needs of the School and the fact that there was not enough revenues to allocate the additional \$50,000 request allocated the entire \$1.3M to the School with no deduction for the Bond payment. Therefore the final FY13 budgeted appropriation to the School for \$1.3M was to include \$50,000 for Major Maintenance and \$50,000 for the reading intervention specialist instead of requesting the School to pay the \$100,000 for the school bond payment. The effect of this resolution is to reflect the FY2013 budget as adopted and repeal 2012-21.

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-55

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING THE 2013-2018 CAPITAL IMPROVEMENT PLAN AND ADOPTING THE FY2014 LEGISLATIVE PRIORITIES LIST

WHEREAS, Dillingham Municipal Code 2.68.160 requires that the Dillingham Planning Commission prepare and recommend to the City Council an annual update of a six year capital improvements plan; and

WHEREAS, staff and the public prepared proposals from August 1 to 24, 2012; and

WHEREAS, there have been multiple public workshops with the Project Review Committee, and two public hearings, on September 18, before the Planning Commission, and October 4, before the City Council; and

WHEREAS, it is the intent of the Dillingham City Council to provide the Governor, the State Legislature, State agencies, the Alaska Congressional Delegation, and other potential funding sources with adequate information regarding the City's capital project funding needs;

NOW, THEREFORE, BE IT RESOLVED that the "City of Dillingham 2013-2018 Capital Improvement Plan" is hereby adopted as the official six year capital improvement plan for the City of Dillingham;

BE IT FURTHER RESOLVED that:

- The following capital improvement projects and project funding needs are identified as priorities for the FY2014 State Legislative Request:

1	Wastewater Treatment Plant Upgrades	\$ 10,920,000
2	Landfill Regulatory Compliance Improvements for 2014 Permit	\$ 4,348,436
3	Utilities and Storm Sewer Upgrades for Downtown Streets Project	\$ 3,000,000
4	Nerka Road Rehabilitation	\$ 2,500,000
5	Public Safety Building(s)	\$ 10,450,000
6	Wastewater Collection System Upgrades	\$ 1,500,000
7	E911 System Improvements	\$ 200,000
8	Harbor Revetments and Breakwater/Emergency Bank Stabilization	\$ 7,500,000
9	Downtown Sewer Expansion (Old Airport Sewer Line)	\$ 804,000
10	Seward and D Street Rehabilitation with Downtown Street Project	\$ 675,000
11	Library Ramps, Other Repairs	\$ 100,000
12	Water/Sewer Master Plan Phases 1.3 and 1.4 (New Water Source)	\$ 1,816,314
13	Harbor Bulkheads	\$ 8,184,000
14	Snag Point Bulkhead Protection	\$ 1,200,000
15	Heavy Equipment and Vehicle Replacement Schedule	\$ 42,000

2. The projects for the FY 2014 Federal Legislative Request will be selected from this list.
3. The City Manager is hereby instructed to advise appropriate State and Federal representatives and personnel of the City's FY2014 capital project priorities and take appropriate steps to provide necessary background information.

PASSED AND ADOPTED by the Dillingham City Council on October 4, 2012.

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

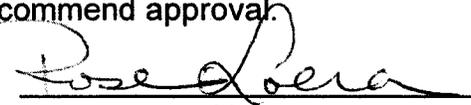
City of Dillingham Information Memorandum No. R2012-55

Subject: A resolution of the Dillingham City Council adopting the six year capital improvements program and the FY 2014 Legislative Request

Agenda of: October 4, 2012

City Council Action:

Manager: Recommend approval.

City Manager: 
Rose Loera, City Manager

Route To:	Department / Individual	Initials	Remarks
X	Planning Director / Jody Seitz	JS	
X	Public Works Director/Malcolm Brown	MB	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

- PCR 2012-18 Recommending the 2013-2018 Six Year Capital Improvement Program FY 2014 CIP List

Summary Statement.

The attached six year capital improvements plan is the City of Dillingham's statement of priorities for the next six years at this point in time. The six year program is updated annually.

RESOLUTION 2012-18

A RESOLUTION OF THE DILLINGHAM PLANNING COMMISSION

Recommending the Six Year Capital Improvement Program 2013-2018 to the
Dillingham City Council

WHEREAS, the Dillingham Municipal Code (2.68.160 (A)5) requires that the Planning Commission conduct an annual update of a six year capital improvement projects plan; and

WHEREAS, this is the first time that the City has prepared a six year capital improvements plan; and

WHEREAS, the Six Year Capital Improvement Program presented here is thoroughly vetted, being the result of a public process that included 30 days notice to solicit public and staff nominations, two ads in the Bristol Bay Times, posters in four locations downtown, regular announcements on KDLG, three Project Review Committee meetings, two of which were open to the public and staff; and a public workshop with the Planning Commission; and

WHEREAS, the Planning Commission held a public hearing on September 18 as part of its regular meeting; and

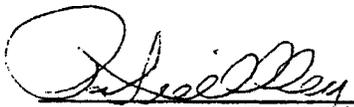
WHEREAS, the attached Six Year Capital Improvement Program represents the best estimate of the City's capital needs at this time; and

WHEREAS, this Six Year Program will provide the basis for this year's legislative requests as well as future updates of the City's capital needs; and

WHEREAS, the Planning Commission has carefully reviewed the proposed Six Year Capital Improvement Program for 2013-2018;

THEREFORE, BE IT RESOLVED that the Planning Commission recommends the Six Year Capital Improvements Program for 2013-2018 to the City of Dillingham City Council for approval.

APPROVED AND ADOPTED THIS 18th DAY OF September, 2012.



Paul Liedberg, Presiding Officer



Jody Seitz, Commission Clerk

City of Dillingham 2013-2018 Capital Improvement Plan

PROJECT	Existing Funding	Funding Need	Priority	2013	2014	2015	2016	2017	2018	Category Total
A. EQUIPMENT REPLACEMENT										
F350 Flatbed Truck		42,000	1		X					542,000
950 H Cat Loader		325,000	2			X				
580 Super Extendahoe Backhoe		95,000	2				X			
B7G 3500 Sierra Flatbed Replacement		40,000	3					X		
Low Boy Trailer - Used		40,000	3						X	
B. EROSION/PORT/HARBOR										
Harbor Revetments and Breakwater/Emergency Bank Stabilization*	USACOE	7,525,000	1	X	X	X	X	X		
East and South Interior Harbor Bulkheads		8,184,000	2			X	X	X	X	
Harbor Float Replacement		90,000	1		X		X		X	
Snag Point Bulkhead Protection		1,200,000	1		X	X	X	X	X	
C. FACILITIES										
Animal Shelter (new construction)*		420,000	2				X			14,179,173
Cemeteries		125,000	2			X	X	X		
City Hall Improvements		60,000	2			X	X			
E911 system improvements		200,000	1	X	X	X				
Hockey Rink Planning and Design		47,500	1		X					
Library Ramps and other repairs		100,000	1	X	X					
Fire Hall and Public Safety Building(s)		10,450,000	1	X	X	X	X			
Public Works Compound Fence		187,000	3					X		
Public Works Compound Storage Building		300,000	2			X				
Senior Center Upgrades		1,829,673	1		X	X	X	X	X	
Territorial School Renovation		460,000	2			X	X	X	X	
* Additional options such as purchasing or leasing are being explored.										

City of Dillingham 2013-2018 Capital Improvement Plan

PROJECT	Existing Funding	Funding Need	Priority	2013	2014	2015	2016	2017	2018	Category Total
D. LANDFILL										
Landfill Upgrades	161,564	4,348,436	1	X	X	X				4,348,436
E. ROADS										
Downtown Streets (ADOT 57180)	fully funded		1	X	X	X				
Kanakanak Beach Parking Lot with CTC	city land		1	X	X					
Nerka Road Rehabilitation	1,000,000	2,500,000	1	X	X					
Seward and D Street Rehabilitation with Downtown Street Project		675,000	2			X	X			
F. WATER/SEWER										
Downtown Sewer Expansion (Old Airport Sewer Line)		804,000	1		X					25,115,718
Harbor Water and Sewer Line		1,062,600	3					X		
Utilities and Storm Sewer Upgrades		3,000,000	1	X	X					
Wastewater Collection System Upgrades	200,000	1,500,000	1	X	X	X	X	X	X	
Wastewater Treatment Plant Upgrades	2,280,000	10,920,000	1	X	X	X				
Water and Sewer Master Plan Phases 1.3 and 1.4 (New Water Source)	5,503,983	7,829,118	1		X	X	X		X	
GRAND TOTAL	9,145,547	64,359,327								
G. PROPOSED FACILITIES (more than 6 years out)										
Fish Processing Plant		7,924,000								18,368,752
Harvey Samuelsen Community Cultural Center		10,444,752								
H. PROPOSED SERVICES										
1 Coordinated Transportation plan										
* USACOE Emergency Bank Stabilization Project at Harbor Entrance to protect dredge spoils facility and interior harbor										
Table includes City of Dillingham projects and those funded primarily by another entity but which require City matching funds.										
List does not include projects undertaken and fully funded by another entity.										

FY14 CIP PROJECTS BY SCORE

1	Wastewater Treatment Plant Upgrades	30
2	LandfillUpgrades	26
3	Utilities and Storm Sewer Upgrades for Downtown Streets Project	12
4	Nerka Road Rehabilitation	23
5	Public Safety Building(s)	22
6	Wastewater Collection System Upgrades	21
7	E911 system improvements	20
8	Emergency Bank Stabilization	20
9	Downtown Sewer Expansion (Old Airport Sewer Line)	19
10	Seward and D Street Rehabilitation with Downtown Street Project	17
11	Territorial School Renovation	16
12	Library Ramps, Other Repairs	16
13	Water/Sewer Master Plan Phases 1.3 and 1.4 (New Water Source)	16
14	Kanakanak Road Reconstruction Harbor Road to Squaw Creek	15
15	Harbor Bulkheads	14
16	Snag Point Bulkhead Protection	14
17	Heavy Equipment and Vehicle Replacement Schedule	12
18	Senior Center Upgrades	8
19	Fish Processing Plant	8
20	Public Works Improvements- Heated building	8
21	Harvey Samuelson Community Cultural Center	8
22	City Hall Improvements - carpets	7
23	Water Loop by Nushagak and Hydrants	6
24	Hockey Rink	6
25	Provide animal shelter services	5
26	Cemeteries	2
27	Composting	2

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-56

**A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING
INSTALLATION OF BURIED ELECTRICAL UTILITIES AT 4701 CESSNA DRIVE**

WHEREAS, a citizen would like to have electrical lines installed to his new house on a lot across the street from Stinson Drive; and

WHEREAS, the burial of these utilities is not anticipated to present a safety hazard now or in the future; and

WHEREAS, the City Public Works Department and Volunteer Fire and Public Safety Departments do not object to this encroachment; and

WHEREAS, the application for the permit was filed with the city too late for the September 18 Planning Commission meeting; and

WHEREAS, time is of the essence because the weather is turning cold and his new house has no other source of heat; and

WHEREAS, provision of electricity to his home affects energy assistance programs for which he is eligible; and

WHEREAS, the lines will be buried 3 feet deep in the road; and

WHEREAS, Nushagak Electric will do the trenching, lay the wire and compact the road back to its original condition; and

WHEREAS, there is no cost to the city for this encroachment permit;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council waives the Planning Commission recommendation and approves the permanent encroachment of utilities in the street at 4701 Cessna Drive, with the following conditions:

- That Nushagak Cooperative provide notice to the Planning Department 48 hours prior to working in the public right of way.
- That Nushagak Cooperative return the street to its original condition as stated above.
- That Nushagak Cooperative provide GPS coordinates or an as-built of the location of the buried electrical line to the City Planning Department within one month of the burial of the line.

PASSED and ADOPTED by the Dillingham City Council on October 4, 2012.

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

Subject: An ordinance of the Dillingham City Council authorizing underground power line across Cessna Drive to serve 4701 Cessna Drive

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Public Works / Malcolm Brown	MB	
X	Planning / Jody Seitz	JS	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

Summary Statement.

This resolution is to allow a citizen to have the utilities to his house buried in the City street at 4701 Cessna Drive. The applicant is participating in energy assistance programs and has no heat in the house to which the electrical utilities would be connected. The weather is rapidly turning colder. For these reasons this resolution comes to the council without a Planning Commission recommendation to expedite this request.

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-57

**A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING
INSTALLATION OF BURIED ELECTRICAL UTILITIES AT 4735 CESSNA DRIVE**

WHEREAS, a citizen would like to have electrical lines installed to a building on a lot he owns across the street from his home; and

WHEREAS, the lines will be buried 3 feet deep in the road; and

WHEREAS, Nushagak Electric will do the trenching, lay the wire and compact the road back to its original condition; and

WHEREAS, the burial of these utilities is not anticipated to present a safety hazard now or in the future; and

WHEREAS, the City Public Works Department and Volunteer Fire and Public Safety Departments do not object to this encroachment; and

WHEREAS, Planning Commission Resolution 2012-17 recommended approval of this encroachment into City streets;

WHEREAS, there is no cost to the City for this encroachment permit;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council approves the permanent encroachment of utilities in the street at 4735 Cessna Drive, with the following conditions:

- That Nushagak Cooperative provide notice to the Planning Department 48 hours prior to working in the public right of way.
- That Nushagak Cooperative return the street to its original condition as stated above.
- That Nushagak Cooperative provide GPS coordinates or an as-built of the location of the buried electrical line to the City Planning Department within one month of the burial of the line.

PASSED and ADOPTED by the Dillingham City Council October 4, 2012.

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

City of Dillingham Information Memorandum No. R2012-57

Subject: An ordinance of the Dillingham City Council authorizing underground power line across Cessna Drive to serve 4735 Cessna Drive

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Public Works / Malcolm Brown	MB	
X	Planning / Jody Seitz	JS	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

Summary Statement.

This resolution is to allow a citizen to have an electrical line buried in the City street at 4735 Cessna Drive. The applicant would like to provide electricity to his property across the street where he has a chicken coop. The electrical line will be off of his existing meter. The Planning Commission recommended approval in Resolution 2012-17 passed September 4, 2012.

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-58

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL AUTHORIZING THE CITY ATTORNEY TO INVESTIGATE AND FILE SUIT AGAINST JAMES BINGMAN FOR UNPAID SALES TAX

WHEREAS, the City of Dillingham ("City") taxes all sales, rents, and services provided within the City, including rental of real property; and

WHEREAS, James Bingman owns and operates multiple rental units within the City for which he charges rent to tenants, and which may operate under the name "Bayview Terrace"; and

WHEREAS, Mr. Bingman is required under Section 4.20.090 of the Dillingham Municipal Code to obtain a certificate of authority to collect sales tax, to collect the city tax for rentals within the City, and to remit the tax to the City on a monthly basis; and

WHEREAS, Mr. Bingman has failed to obtain a certificate of authority and to file sales tax returns as required by Section 4.20.115 of the Dillingham Municipal Code since at least January 2011, and previous filings are inconsistent, appear to under-report taxable sales, and claim unexplained exemptions; and

WHEREAS, Mr. Bingman is doing business in the City of Dillingham; and

WHEREAS, the City has previously advised Mr. Bingman of the need to collect and remit sales tax and obtain a city business license; and

WHEREAS, despite said notice from the City, Mr. Bingman continues to make taxable sales in Dillingham without collecting and remitting sales tax; and

WHEREAS, pursuant to Section 4.20.180, the City estimates that Mr. Bingman owes approximately \$146,992.84, inclusive of penalties and interest as of September 17, 2012, in unpaid sales taxes and related costs and fees; and

WHEREAS, Mr. Bingman owns taxable real property within the City limits of Dillingham; and

WHEREAS, Mr. Bingman has failed to pay the full amount assessed by the City for his 2011 property taxes; and

WHEREAS, Mr. Bingman is responsible for paying the unpaid taxes, penalties, and interest in their entirety;

NOW, THEREFORE, BE IT RESOLVED by the Dillingham City Council:

1. The City Attorney is authorized to investigate and file suit against James Bingman, Bayview Terrace, and any other entity owned by Mr. Bingman that is operating within the City of Dillingham and to recover all tax, penalty and interest and secure all relief to which the City may be entitled.

PASSED and ADOPTED by the Dillingham City Council on October 4, 2012.

SEAL:

Alice Ruby, Mayor

ATTEST:

Janice Williams, City Clerk

BOYD, CHANDLER & FALCONER, LLP

ATTORNEYS AT LAW

SUITE 302

911 WEST EIGHTH AVENUE

ANCHORAGE, ALASKA 99501

TELEPHONE: (907) 272-8401

FACSIMILE: (907) 274-3698

bcf@bcf.us.com

September 18, 2012

Jim Bingman
d/b/a Bayview Terrace
P.O. Box 82
226 Birch Lane
Dillingham, AK 99576

RE: Unpaid debts to the City of Dillingham

Dear Mr. Bingman,

This letter addresses the numerous outstanding obligations you owe to the City of Dillingham.

1. Unpaid sales tax

On August 1, 2012, the City of Dillingham asked you to provide complete and/or updated returns and supporting documentation for all taxable sales (specifically including apartment rentals) made by you and/or your company, Bayview Terrace, for each month from January 2007 until the present. You failed to respond to our request. Accordingly, the City has been forced to estimate the amount of sales tax owed for rentals during this period based on all the information available to it. DMC 4.20.180.

The attached spreadsheet shows estimated sales tax figures for the rental properties you and/or your company own within the City of Dillingham. For each of these properties, you have either not remitted sales tax at all or appear to have underreported taxable sales. Based on the information available to the City, including property tax records showing the number of rental units, the expected total monthly income from these properties at full capacity is approximately \$40,200.00. Given the extremely tight rental market in Dillingham, the City estimates that your properties are at least 90% occupied. You have not responded to our request to identify any relevant exemptions, nor provided any information that would support adjusting this estimate downwards for tax purposes.

Therefore, the City estimates that the total amount of taxable sales for all rental properties owned by you and/or Bayview Terrace is \$36,180 per month. The amount of sales tax due (6%) on that amount is \$2,170.80 per month. For the period of January 2011 until the present, during which you have not filed returns at all, the amount of unpaid sales tax due is \$41,245.20. For the period between January 2007 and December 2011, during which you filed returns reporting taxable sales that are substantially lower than previous years' tax returns, and which are not

consistent with the City's knowledge of your rental properties, the amount of unpaid sales tax due is \$68,613.96, exclusive of penalties and interest. This represents the amount of sales tax that would be due under the 90% capacity estimate, less sales tax you remitted previously but which the City believes was substantially underreported.

The total principal of unpaid sales tax for the period of January 2007 to the present is therefore \$109,859.16. In addition, interest (10.5% per annum, per DMC 4.20.220) is due in the amount of \$29,491.72 as of September 17, and is still accruing. Penalties (5% of unpaid tax, per DMC 4.20.210.B) in the amount of \$5,492.96 are also due. Finally, the City has incurred costs in excess of \$2,149.00 for attorney and other filing fees due to your unpaid taxes.

The City has therefore estimated the total sales tax obligation jointly owed by you and your company to be \$146,992.84. We have filed a lien against your real and personal property for this amount as provided by law. DMC 4.20.270.

By law, you have thirty (30) days to file accurate returns, supported by satisfactory records, indicating a lesser liability. DMC 4.20.180. If you fail to produce such records and documentation by October 19, 2012, this estimate will become final. After that date, you will no longer have the opportunity to challenge the amount owed to the City. The City will then sue you to collect the amount, and a court will order you to pay the amount owed, plus substantial costs for attorney's and other fees. A court may also order one or more of your properties sold in order to satisfy the obligation. I cannot stress enough how important it is for you to contact me immediately if you want to avoid this.

2. Unpaid Real and Personal Property Tax

In addition, the City has previously informed you of the substantial real and personal property taxes you owe for 2011. As of September 7, 2012, the amount due was \$21,385.84. In April, you indicated you would pay the amount due, but we have not received payment. You must pay this amount immediately, or contact me to arrange a payment plan. If you do not, we will have to place you on the foreclosure list and foreclose on one or more of your properties in order to satisfy that obligation as well.

3. Unpaid Municipal Utilities

Your municipal utility account is also extremely past due. The City intends to terminate your eligibility for municipal utility, port and harbor service if the delinquency is not cured by October 19, 2012. DMC 4.20.240. As of today, the payment due on the account is \$6,295.03. You should contact me at the office of the City Attorney if you contest this delinquency. You

Jim Bingman
September 18, 2012
Page 3 of 3

may request an informal hearing to resolve contested matters prior to the proposed date for termination of services.

4. Failure to Obtain a Business License

Finally, you have still not applied for a City of Dillingham business license as required by law. DMC 4.16.010. You must do so. We understand you do not believe you are required to obtain such a license, but the law is very clear and the penalties for non-compliance are severe: you may be fined up to one hundred dollars per day for every day you have not had a City business license. DMC 4.16.060. According to City records, you have been unlicensed since 2008, meaning the civil fine for your ongoing violations will be in excess of \$150,000 if the City is forced to pursue this matter in court. A court will also enter an injunction ordering you to obtain a license.

Mr. Bingman, it is time to resolve these matters. The City has an obligation to its citizens to enforce its laws and it intends to pursue this matter fully. We recently completed another lawsuit dealing with the same issues. The court rejected arguments nearly identical those you have offered in the past, ruling that the City has every right to seize and sell the properties of people who refuse to pay City taxes. We would like to avoid doing so in your case. Please contact me at the phone number or address above as soon as possible to discuss payment options.

Sincerely,

BOYD, CHANDLER &
FALCONER, LLP

By:



Patrick W. Munson

PWM/lkr
Enclosures

Sales Tax Historical Data

Rental Information for Bingman Properties					
Building	Units	Rent Amt per unit	Sales Tax per	Total Sales	Total Tax
Blue	16	\$ 1,900	\$ 54	\$ 114,000	\$ 864
New Yellow	8	\$ 900	\$ 54	\$ 7,200	\$ 432
Dark Green	4	\$ 900	\$ 54	\$ 3,600	\$ 216
Light Green	4	\$ 1,000	\$ 60	\$ 4,000	\$ 240
Grey	4	\$ 1,100	\$ 66	\$ 4,400	\$ 264
Old Yellow	6	\$ 1,300	\$ 66	\$ 7,800	\$ 496
Totals	42			\$ 40,200	\$ 2,412

Period Ending	Net Taxable Sales	Date Taxes Due	Amt Paid	90% Capacity Total Est. Tax	Sls Tax Due	Penalty	Interest	Total Due
Jan-07	20,510.15	2/28/2007	1,218.30	2,170.80	952.50	47.63	555.69	1,555.82
Feb-07	19,228.10	3/31/2007	1,142.15	2,170.80	1,028.65	51.43	590.94	1,671.02
Mar-07	16,800.50	4/30/2007	997.95	2,170.80	1,172.85	58.64	663.66	1,895.15
Apr-07	11,775.50	5/31/2007	699.46	2,170.80	1,471.34	73.57	819.44	2,364.35
May-07	15,360.50	6/30/2007	912.41	2,170.80	1,258.39	62.92	689.98	2,011.29
Jun-07	23,053.39	7/31/2007	1,369.37	2,170.80	801.43	40.07	432.28	1,273.78
Jul-07	11,600.00	8/31/2007	689.04	2,170.80	1,481.76	74.09	786.02	2,341.87
Aug-07	10,275.00	9/30/2007	610.33	2,170.80	1,560.47	78.02	814.31	2,452.80
Sep-07	10,223.50	10/31/2007	607.28	2,170.80	1,563.52	78.18	801.96	2,443.66
Oct-07	7,550.00	11/30/2007	448.47	2,170.80	1,722.33	86.12	747.23	2,555.68
Nov-07	9,900.00	12/31/2007	588.06	2,170.80	1,582.74	79.14	784.04	2,445.92
Dec-07	9,909.70	1/31/2008	588.64	2,170.80	1,582.16	79.11	769.64	2,430.91
Jan-08	8,355.00	2/29/2008	496.29	2,170.80	1,674.51	83.73	800.60	2,558.84
Feb-08	8,337.00	3/31/2008	495.22	2,170.80	1,675.58	83.78	786.17	2,545.53
Mar-08	8,355.00	4/30/2008	496.29	2,170.80	1,674.51	83.73	771.22	2,529.46
Apr-08	7,680.00	5/31/2008	456.19	2,170.80	1,714.61	85.73	774.39	2,574.73
May-08		6/30/2008		2,170.80	2,170.80	108.54	961.69	3,241.03
Jun-08	9,560.00	7/31/2008	567.86	2,170.80	1,602.94	80.15	695.83	2,378.92
Jul-08	10,460.00	8/31/2008	621.32	2,170.80	1,549.48	77.47	658.80	2,285.75
Aug-08	8,300.00	9/30/2008	493.02	2,170.80	1,677.78	83.89	698.88	2,460.55
Sep-08	8,535.00	10/31/2008	506.98	2,170.80	1,663.82	83.19	678.22	2,425.23

Oct-08	10,265.00	11/30/2008	609.74	2,170.80	1,561.06	78.05	622.86	2,261.97
Nov-08	10,315.00	12/31/2008	612.71	2,170.80	1,558.09	77.90	607.78	2,243.77
Dec-08	11,390.00	1/31/2009	676.57	2,170.80	1,494.23	74.71	569.55	2,138.49
Jan-09	10,685.00	2/28/2009	634.69	2,170.80	1,536.11	76.81	573.14	2,186.06
Feb-09	10,240.00	3/31/2009	608.26	2,170.80	1,562.54	78.13	569.06	2,209.73
Mar-09	6,970.00	4/30/2009	414.02	2,170.80	1,756.78	87.84	624.64	2,469.26
Apr-09	10,240.00	5/31/2009	608.26	2,170.80	1,562.54	78.13	541.64	2,182.31
May-09	12,800.00	6/30/2009	760.32	2,170.80	1,410.48	70.52	476.76	1,957.76
Jun-09	18,394.00	7/31/2009	1,092.60	2,170.80	1,078.20	53.91	354.83	1,486.94
Jul-09	24,365.00	8/31/2009	1,447.28	2,170.80	723.52	36.18	231.66	991.36
Aug-09	10,935.00	9/30/2009	649.44	2,170.80	1,521.36	76.07	473.98	2,071.61
Sep-09	15,684.00	10/31/2009	931.63	2,170.80	1,239.17	61.96	375.01	1,676.14
Oct-09	13,559.00	11/30/2009	805.32	2,170.80	1,365.48	68.27	401.45	1,835.20
Nov-09	14,220.61	12/31/2009	544.70	2,170.80	1,626.10	81.31	463.57	2,170.98
Dec-09	12,974.00	1/31/2010	770.66	2,170.80	1,400.14	70.01	386.67	1,856.82
Jan-10	11,518.67	2/28/2010	691.12	2,170.80	1,479.68	73.98	396.72	1,950.38
Feb-10	12,580.00	3/31/2010	747.26	2,170.80	1,423.54	71.18	368.97	1,863.69
Mar-10	11,120.00	4/30/2010	660.53	2,170.80	1,510.27	75.51	378.42	1,964.20
Apr-10	13,369.00	5/31/2010	794.12	2,170.80	1,376.68	68.83	332.67	1,776.18
May-10	12,576.00	6/30/2010	747.01	2,170.80	1,423.79	71.19	331.76	1,826.74
Jun-10	15,734.00	7/31/2010	934.60	2,170.80	1,236.20	61.81	277.03	1,575.04
Jul-10	15,734.00	8/31/2010	934.60	2,170.80	1,236.20	61.81	266.00	1,564.01
Aug-10	13,825.00	9/30/2010	821.21	2,170.80	1,349.59	67.48	278.76	1,695.83
Sep-10	21,500.00	10/31/2010	1,277.10	2,170.80	893.70	44.69	176.62	1,445.01
Oct-10	15,650.00	11/30/2010	929.61	2,170.80	1,241.19	62.06	234.58	1,537.83
Nov-10	17,565.00	12/31/2010	1,043.36	2,170.80	1,127.44	56.37	203.03	1,386.84
Dec-10	14,025.00	1/31/2011	833.09	2,170.80	1,337.71	66.89	228.97	1,633.57
Jan-11	36,180.00	2/28/2011		2,170.80	2,170.80	108.54	354.08	2,633.42
Feb-11	36,180.00	3/31/2011		2,170.80	2,170.80	108.54	334.72	2,614.06
Mar-11	36,180.00	4/30/2011		2,170.80	2,170.80	108.54	315.99	2,595.33
Apr-11	36,180.00	5/31/2011		2,170.80	2,170.80	108.54	296.63	2,575.97
May-11	36,180.00	6/30/2011		2,170.80	2,170.80	108.54	277.89	2,557.23
Jun-11	36,180.00	7/31/2011		2,170.80	2,170.80	108.54	258.53	2,537.87
Jul-11	36,180.00	8/31/2011		2,170.80	2,170.80	108.54	239.17	2,518.51

Aug-11	36,180.00	9/30/2011	2,170.80	2,170.80	108.54	220.44	2,499.78
Sep-11	36,180.00	10/31/2011	2,170.80	2,170.80	108.54	201.08	2,480.42
Oct-11	36,180.00	11/30/2011	2,170.80	2,170.80	108.54	182.35	2,461.69
Nov-11	36,180.00	12/31/2011	2,170.80	2,170.80	108.54	162.99	2,442.33
Dec-11	36,180.00	1/31/2012	2,170.80	2,170.80	108.54	143.63	2,422.97
Jan-12	36,180.00	2/29/2012	2,170.80	2,170.80	108.54	125.52	2,404.86
Feb-12	36,180.00	3/31/2012	2,170.80	2,170.80	108.54	106.16	2,385.50
Mar-12	36,180.00	4/30/2012	2,170.80	2,170.80	108.54	87.43	2,366.77
Apr-12	36,180.00	5/31/2012	2,170.80	2,170.80	108.54	68.07	2,347.41
May-12	36,180.00	6/30/2012	2,170.80	2,170.80	108.54	49.33	2,328.67
Jun-12	36,180.00	7/31/12	2,170.80	2,170.80	108.54	29.97	2,309.31
Jul-12	36,180.00	8/31/2012	2,170.80	2,170.80	108.54	10.62	2,289.96

35,584.44 145,443.60 109,859.16 5,492.96 29,491.72 144,843.84

Admin fees \$ 2,149.00

Sales Tax Total  \$146,992.84

**RECORD IN THE
BRISTOL BAY
RECORDING DISTRICT**

WHEN RECORDED RETURN

**TO: City of Dillingham
Finance Director
P.O. Box 889
Dillingham, AK 99576
Phone: (907)842-5211
Fax: (907)842-5691**

NOTICE OF CLAIM OF CITY LIEN

PLEASE TAKE NOTICE the City of Dillingham, PO Box 889, Dillingham, AK 99576, hereby gives notice of a claim of a lien on all equipment now stored at the Soldotna Sports Center for unpaid City sales tax, plus penalties and interest.

NAME OF DELINQUENT TAXPAYER:

**Jim Bingman
d/b/a Bayview Terrace**

ADDRESS OF DELINQUENT TAXPAYER:

**P.O. Box 82
226 Birch Lane
Dillingham, AK 99576**

The following amounts are delinquent and owing by reason of the GRANTOR's failure to remit the required fees in connection with an event held by the GRANTOR at the Soldotna Sport Center, a facility owned and operated by the GRANTEE, City of Soldotna:

PRINCIPAL AMOUNT OF TAX DUE AND OWING:	\$ <u>109,859.16</u>
INTEREST ACCRUED (as of September 17, 2012)	\$ <u>29,491.72</u>
PENALTY ACCRUED (as of September 17, 2012)	\$ <u>5,492.96</u>
ADMINSITRATION COSTS (as of September 17, 2012)	\$ <u>2,149.00</u>
TOTAL AMOUNT OF LIEN: (as of December 13, 2011)	\$ <u>146,992.84</u>

NOTICE OF CLAIM OF CITY LIEN

Page 1 of 2

Subject: Authorize City Manager to sign contract with Delta Western for the Annual Petroleum Fuel purchase of No. 1 Heating/Diesel, No. 2 Heating/Diesel and Unleaded Gasoline

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance / Carol Shade	CS	
X	City Clerk / Janice Williams	JW	
X	Public Works / Malcolm Brown	MB	

Fiscal Note: Yes X No _____ Funds Available: Yes X No _____

Other Attachment(s):

- Copy of contract

Summary Statement.

The purpose of this action memorandum is to authorize administration to enter into a contract for the FY13 purchase of No. 1 Heating/Diesel, No. 2 Heating/Diesel and Unleaded Gasoline with Delta Western, Inc. This action was advertised and Delta Western, Inc. was the lowest responsive bidder and was the only bidder.

Product	Low Bidder	Price per Gallon
No. 1 Heating/Diesel	Delta Western, Inc.	\$3.993
No. 2 Heating/Diesel	Delta Western, Inc.	\$4.429
Unleaded Gasoline	Delta Western, Inc.	\$4.199

City of Dillingham
Fiscal Note

Agenda Date: October 4, 2012

Request: _____

ORIGINATOR: Carol Shade

FISCAL ACTION (TO BE COMPLETED BY FINANCE)		FISCAL IMPACT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
AMOUNT REQUESTED: Estimated based on \$ 327,570.00		FUNDING SOURCE General Fund, Various Departments	
FROM ACCOUNT Gas XXXX 7385 xx xx xxxx x \$ 61,485.00 Heating Fuel XXXX 7730 xx xx xxxx x \$ 199,650.00 No. 2 Diesel XXXX 7385 xx xx : \$ 66,435.00		Projects* Unleaded Gasoline, No. 1 and No.2 Diesel	
TO ACCOUNT:	VERIFIED BY: Carol Shade	Date: 9/5/2012	

EXPENDITURES

OPERATING	FY13	FY14	FY15	FY16
Personnel				
Fringe Benefits				
Gas, Oil & Grease	\$127,920.00			
Heating Fuel	199,650.00			
Land/Buildings				
Miscellaneous				
TOTAL OPERATING	\$ 327,570.00	\$ -	\$ -	\$ -

CAPITAL	-			
----------------	---	--	--	--

REVENUE				
----------------	--	--	--	--

FUNDING

General Fund &	\$ 258,070.00			
State/Federal Funds				
Special Revenue Funds	69,500.00			
TOTAL FUNDING	\$ 327,570.00			\$ -

POSITIONS

Full-Time	1	1	1	
Part-Time				
Temporary				

ANALYSIS: (Attach a separate page if necessary)

See Attached Action Memorandum AM # 2012-06

PREPARED BY: Carol Shade

October 4, 2012

DEPARTMENT: Finance Department

October 4, 2012



**INVITATION TO BID
ANNUAL PETROLUEM FUEL BID**

Submit bids in a sealed envelope clearly marked with the following.
SEALED BID DO NOT OPEN, ANNUAL PETROLUEM FUEL BID, BID #PW01-12

Bids will be addressed with the following.

**City of Dillingham
PO Box 889
Dillingham, AK 99576**

Bid for the **ANNUAL PETROLUEM FUEL** will be accepted until **June 20, 2012 at 2:00pm** at which time they will be publicly opened and read aloud.

The City of Dillingham is requesting bids for the Annual Fuel Supply and Delivery of the following petroleum products.

<u>Description</u>	<u>Quantity of Gallons</u>
No. 1 Heating/Diesel	50,000
No. 2 Heating/Diesel	15,000
Unleaded Gasoline	15,000

Questions regarding the Bid should be addressed to.

Director of Public Works
Carter R. Cole
City of Dillingham
Phone: (907)842-4598
Email: publicworks@dillinghamak.us

PURPOSE OF BID

It is the intent of this bid request is to establish a primary source of supply for the petroleum products needed on an annual bases for the City of Dillingham..

The annual consumption for each type of fuel is an estimate only and the City of Dillingham, reserves the right to purchase only the quantities necessary, whether more or less than the estimated amount needed.

SCOPE OF WORK

Delivery of the fuel will accomplished according to the fill cycle listed in the **Tank Location and Capacity Schedule**. The fill cycle is based upon a minus twenty degree F temperature for a sustained period of a week, or equipment anticipated to be refilled in a weekly period.

See **Tank Location and Capacity Schedule** for delivery address. Tank sites and/or capacities may be changed during the course of the contract year. The brand and quality of the products being offered shall conform to industry standards.

Bidders shall specify the name and location of their wholesale supplier. Deliveries shall be made to the individual tank locations and it shall be the responsibility of the successful bidder to verify each fill location and to maintain sufficient quantities according to the fill cycle at each location to assure proper operation. Failure to do so may result in the assessment of damages.

The successful bidder will provide calibrated meter certificates to the City of Dillingham at least once during the course of the contract. Proof of meter calibration shall be the responsibility of the bidder.

The City of Dillingham's payment terms are net 30 days. Invoices are to show separately each location delivered to, the quantities delivered, and the date's delivery was made.

BID AWARD

Fuel or Unleaded Gasoline bids will be awarded separately; bidders are not required to submit bids for each type of fuel.

Bids are being solicited on:

- (1) Cost per gallon markup over wholesale price.
- (2) Guaranteed Price basis.

Said markup or guaranteed price shall be firm for the contract period, which will be until **June 30, 2013**.

All bid prices shall include any and all taxes, surcharges, and fees. All bid prices shall be FOB delivery locations. The City will make the final determination as to which method of purchasing fuel is in the best interest of the City.

Through the term of the award (fiscal year 2013), Bidder shall be subject to the insurance Requirements and indemnity provision as shown in Attachment A hereto.

The successful bidder shall, upon Notice of Award, furnish the following:

- 1) List of vehicles to be used to service the accounts, including year, make and capacity.
- 2) Certificate of Insurance showing general liability, automotive and worker's compensation in the amounts required by this Bid.
- 3) Posted wholesale price, when requested.

The City of Dillingham reserves the right to request background information on the bidder such as place of incorporation, principal and local offices and years in operation. In addition the City of Dillingham reserves the right to request references from any and or all bidders for evaluation. By submitting a bid, bidder warrants and promises that it will comply with all state and federal requirements for the transportation, storage and handling of the fuels to be provided under this bid.

The bidder will indemnify Owner against all suits, claims, judgments, awards, loss, cost or expense (including without limitation attorneys' fees) arising in any way out of the Contractor's performance or non-performance of its obligations under this contract. Contractor will defend all such actions with counsel satisfactory to Owner at its own expense, including attorneys' fees, and will satisfy any judgment rendered against Owner in such action.

The City of Dillingham reserves the right to reject any or all bids, to waive technical or legal deficiencies, and to accept any bid that it may deem to be in the best interest of the City.

LOCATIONS AND FUEL DELIVERY INFORMATION

TANK SITES

#1 CITY HALL	#2 POLICE STATION	#3 FIRE STATION DOWNTOWN
#4 FIRE STATION LAKE ROAD	#5 FIRE STATION AIRPORT	#6 SENIOR CENTER
#7 CARLSON HOUSE	#8 POTATOE HOUSE	#9 LIBRARY
#10 WWTP LAGOONS	#11 DOCK SMALL OFFICE	#12 DOCK LARGE OFFICE
#13 HARBOR OFFICE	#14 HARBOR BATH HOUSE	#15 DOCK EQUIPMENT TANK
#16 WATER TREATMENT BLDG.	#17 GENERATOR WTP	#18 DOCK EQUIPMENT TANK
#19 PUBLIC WORKS SHOP	#20 PUBLIC WORKS STORAGE	# 21 PUBLIC WORKS EQUIP.
#22 LANDFILL OFFICE	# 23 LANDFILL EQUIPMENT	#24 LANDFILL INCINERATOR
#25 PS VEHICLE FUEL		

LOCATION AND TANK CAPACITY SCHEDULE

Location: #1 CITY HALL Address: 141 Main Street Fuel Type #2 Heating Oil Tank Size: 1000 Gallon Tank FILL CYCLE: BI WEEKLY	Location: #2 POLICE STATION Address: 404 Dst Fuel Type #2 Heating Oil Tank Size: 1000 Gallon Tank FILL CYCLE: BI WEEKLY
Location: #3 FIRE STATION DOWNTOWN Address: 511 Dst Fuel Type #2 Heating Oil Tank Size: 1000 Gallon Tank FILL CYCLE: BI WEEKLY	Location: #4 FIRE STATION LAKE ROAD Address: 1335 Aleknagik Rd Fuel Type #2 Heating Oil Tank Size: 1000 Gallon Tank FILL CYCLE: BI WEEKLY
Location: #5 FIRE STATION AIRPORT Address: 743 Airport Rd Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: WEEKLY	Location: #6 Senior Center Address: 515 1 st ave Fuel Type #2 Heating Oil Tank Size: 1000 Gallon Tank FILL CYCLE: BIWEEKLY
Location: #7 Carlson House Address: 308 Cst Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: BIWEEKLY	Location: #8 Potato House Address: 412 Alaska St Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: BIWEEKLY
Location: #9 Library Address: 304 D st Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: WEEKLY	Location: #10 water/waste lagoons Address: 826 tower Rd Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: WEEKLY
Location: #11 Dock Small Ofc Address: 151 1 st ave Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: BIWEEKLY	Location: #12 Dock Large Ofc. Address: 34 A st Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: BIWEEKLY
Location: #13 Harbor Ofc Address: 300 Harbor Master Rd Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: BIWEEKLY	Location: #14 Harbor Bath House Address: 240 Harbor Rd Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: BIWEEKLY
Location: #15 Dock Equipment Tank Address: 151 1 st st Fuel Type: #1 Heating/Diesel Tank Size: 1000? Gallon Tank FILL CYCLE: WEEKLY	Location: #16 Water Treatment Plant Address: 524 Central Ave Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: WEEKLY
Location: #17 Generator Water Treatment Plant Address: 524 Central Ave Fuel Type #2 Heating Oil Tank Size: 500 Gallon Tank FILL CYCLE: BIWEEKLY	Location: #18 Dock Equipment Tank Address: 151 1 st St Fuel Type Unleaded Gasoline Tank Size: 500 Gallon Tank FILL CYCLE: WEEKLY

(Continued)

Location: # 19 Public Works Shop Address: 810 2nd ave Fuel Type #2 Heating Oil Tank Size: 1000 Gallon Tank FILL CYCLE: WEEKLY	Location: #20 Public Works Quonset storage Address: 808 2nd ave Fuel Type #2 Heating Oil Tank Size: 1000 Gallon Tank FILL CYCLE: WEEKLY
Location: #21 Public Works Equip. Tank diesel Address: 808 2nd ave Fuel Type #2 Heating Oil Tank Size: 1500 Gallon Tank FILL CYCLE: WEEKLY	Location: #22 Municipal Landfill Address: Landfill Rd Fuel Type #2 Heating Oil Tank Size: 300 Gallon Tank FILL CYCLE: WEEKLY
Location: #23 Landfill Equipment Tank Address: Landfill Road Fuel Type: #1 Heating/Diesel Tank Size: 500 Gallon Tank FILL CYCLE: WEEKLY	Location: # 24 Comm-service Incinerator Tank Address: Landfill Road Fuel Type: #2 Heating Oil Tank Size: 300 Gallon Tank FILL CYCLE: BIWEEKLY
Location: # 25 Public Safety Fuel depot unleaded Address: 404 Dst Fuel Type: Unleaded Gasoline Tank Size: 1500 Gallon Tank FILL CYCLE: WEEKLY	

ANNUAL PETROLUEM FUEL BID FORM

To the City of Dillingham, Alaska, herein called the Owner. The undersigned, as Bidder, herein referred to as singular declares as follows:

1. All interested in the Bid as Principals are named herein.
2. This bid is not made jointly, or in conjunction, cooperation or collusion with any other person, firm, corporation, or other legal entity;
3. No officer, agent or employee of the Owner is directly or indirectly interested in this Bid.
4. The bidder has carefully read and examined the bid documents and agrees to be bound by the terms and conditions set forth therein;
5. The bidder understands that the bidder will supply or perform all labor, services, plant, machinery, apparatus, appliances, tools, supplies and all other activities required by the bid documents in the manner and within the time therein set forth, and that the bidder will take in full payment therefore the following item prices as set forth below.
6. All Bids are to be submitted on this form and in a sealed envelope, plainly marked on the outside with the Bidder's name and address and the Project name as it appears at the top of the Proposal Form.

The undersigned further agrees to provide and deliver #1 & #2 Heating Oil/Blended Diesel Fuel and/or Unleaded Gasoline to the City of Dillingham, FOB the delivery locations, as per the bid documents, as follows:

1) #1 Heating Oil/Blended Diesel Fuel

OPTION A: Cost per gallon, markup over wholesale \$ N/A

OPTION B: Guaranteed Price \$ 3.993

The bid prices listed for Option A and for Option B shall include any and all taxes, fees, and/or surcharges.

Specify protection offered if wholesale price, plus markup drops below guaranteed price:

Name of Wholesale Supplier U.S. Oil Seattle, WA

2) #2 Heating Oil/Blended Diesel Fuel

OPTION A: Cost per gallon, markup over wholesale \$ N/A

OPTION B: Guaranteed Price \$ 4.429

The bid prices listed for Option A and for Option B shall include any and all taxes, fees, and/or surcharges.

Specify protection offered if wholesale price, plus markup drops below guaranteed price:

Name of Wholesale Supplier U.S. Oil Seattle WA

(Continued)

3) Unleaded Gasoline

OPTION A: Cost per gallon, markup over wholesale \$ N/A

OPTION B: Guaranteed Price \$ 4.199

The bid prices listed for Option A and for Option B shall include any and all taxes, fees, and/or surcharges.

Specify protection offered if wholesale price, plus markup drops below guaranteed price:

Name of Wholesale Supplier US Oil Seattle, WA

The undersigned certifies under penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this bid document, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

Submitted by: Ken Reiswig Manager
(PRINT NAME AND TITLE)

Signature: _____

Date: 6-20-2012

Company: Delta Western, Inc.

Address: 309 Main St. / P.O. Box 1209

City/State/Zip: Dillingham, Alaska 99576

Telephone: () 907-842-5441 Fax: () 907-842-2697

Attachment A

INSURANCE REQUIREMENTS

The bidder shall purchase and maintain, throughout Fiscal Year 2013 insurance of the limits and types specified below from an insurance company approved by the City. Insurance shall be in such form as will protect the Contractor from all claims and liabilities for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this contract whether such operation by himself or by anyone directly or indirectly employed by him. **Insurance must cover the accidental discharge of fuel during the course of performance of this contract.**

AMOUNT OF INSURANCE

- A. Comprehensive General Liability: Bodily injury or Property Damage - \$2,000,000 Per occurrence and general aggregate
- B. Automobile and Truck Liability: Bodily Injury or Property Damage - \$2,000,000 Per occurrence and general aggregate (excess or umbrella coverage may satisfy requirements)

Additionally, the Contractor shall purchase and maintain the following types of insurance:

- C. Full Workers Comprehensive Insurance coverage for all people employed by the Contractor to perform work on this project. This insurance shall at a minimum meet the requirements of the most current laws of the State of Alaska.
- D. Contractual Liability Insurance coverage in the amounts specified above under Comprehensive General Liability.

EVIDENCE OF INSURANCE

As evidence of insurance coverage, the Owner may, in lieu of actual policies, accept official written statements from the insurance company certifying that all the insurance policies specified below are in force for the specified period. The Contractor shall submit evidence of insurance to the Owner at the time of execution of this contract. Written notice shall be given to the City of Dillingham, Alaska at least thirty (30) days prior to cancellation or non-renewal of such insurance coverage.

Subject: Waive nepotism provisions to allow Christopher Marx to accept a grant funded position as the Internet Technology Aide at the library

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Administration / Jayne Freund	MF	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

- Page 12 – Personnel Regulations, Section 3.95, Nepotism

Summary Statement.

In Section 3.95, Nepotism, no employee shall hold a position over which a member of his/her family exercises direct supervisory control. Christopher Marx has applied for a grant funded position as an Internet Technology Aide at the library. This position is 7 hours per week, and ends June 30, 2013. If hired, his mother, Librarian Sonja Marx, would be his direct supervisor. Christopher was the only applicant, however, he comes with a lot of experience having volunteered numerous hours to help the Dillingham library modernize its equipment for which he received the Association of Alaska School Boards Spirit of Youth award.

Family is defined to include: spouse, children, parents and grandparents, brother and sister, parents and grandparents of spouse, brother-in-law, sister-in-law, and such person of a half or step relationship.

The City Council, upon the recommendation of the City Manager, shall have power to grant specific waivers of this provision if they decide the appointment of the individual is in the best interest of the City. Such waiver shall be a public record and a copy shall be placed in the personnel file of the individual.

VHF radio, if the employee is likely to be called in for emergency situations involving his/her job function.

3.70. **PROVISIONAL APPOINTMENT** If a vacancy cannot be filled by a qualified applicant, it may be filled by a provisional appointment. A provisional appointee's tenure shall terminate as soon as the position can be filled by appointing a qualified person to the position.

3.75. **EMERGENCY APPOINTMENTS** In an emergency that threatens life or property, the City Manager, may without complying with the provisions of the personnel regulations concerning regular appointments, employ such persons as are necessary to meet the emergency needs of the City for the duration of the declared emergency.

3.80. **TEMPORARY APPOINTMENTS** In cases of special projects, seasonal activity or other such situations, the City Manager may appoint a temporary employee, without complying with the provisions of the personnel regulations concerning regular appointments.

3.85. **RECRUITMENT BONUS** When a person has been hired by the City, and must move from a community outside Dillingham, a recruitment bonus may be negotiated by the City Manager at the time of appointment, and so set forth in writing with a copy furnished to the employee. The City shall not be liable for any relocation expenses. New employees shall be required to sign an agreement to reimburse the City on a pro rata basis for any recruitment bonus should they leave the City as a result of their own action prior to the completion of a period of time agreed to between the employee and the City Manager.

3.90. **PREVIOUS WORK RECORD** An applicant who has been previously employed by the City and whose services were unsatisfactory or whose departure was without sufficient notice may be disqualified for subsequent employment.

3.95. **NEPOTISM** No person shall be appointed to a City position when he or she or any member of their family is the Mayor or serves as a member of the City Council. No employee shall hold a position over which a member of his/her family exercises direct supervisory control.

Family is defined to include: spouse, children, parents and grandparents, brother and sister, parents and grandparents of spouse, brother-in-law, sister-in-law, and such person of a half or step relationship.

When the Mayor or a City Council member is elected, and a family member is a current City employee, the City Manager may recommend a waiver as long as the employee is not going to be directly supervised by the Council or the Mayor.

The City Council, upon the recommendation of the City Manager, shall have power to grant specific waivers of this provision if they decide the appointment of the individual is in the best interest of the City. Such waiver shall be a public record and a copy shall be placed in the personnel file of the individual.

Subject: Placement of Barbecue Grills in City Parks

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Planning Director / Jody Seitz	JS	
X	Chief of Police / Nancy Chamberlain	N/C	
X	Public Works Director / Malcolm Brown		
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s): photos

Summary Statement.

The local men's group, Dillingmen, has purchased three outdoor grills to install in City Parks. The grills are sturdy, black, and open. They would be installed permanently by digging a pit, pouring concrete in the pit, and then setting a post in the concrete.

The three locations are: old airstrip park, ballfield park, and harbor picnic park.

Subject: Adopt Dillingham Public Safety Operations Manual - Animal Shelter Operating Procedures

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Chief of Police / Nancy Chamberlain	NJC	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

- Animal Shelter Operating Procedures (adopted October 4, 2012)

Summary Statement.

The Animal Shelter Operating Procedures, part of the Dillingham Public Safety Operations Manual, were introduced to the Council at their March 3, 2011 meeting. Staff recommended and the council agreed that it be brought back in six months with any recommended changes and formally adopt the policy. In the meantime, this is the policy the public safety dept. has been working under.

With the introduction of Ordinance No. 2012-16 the Animal Shelter Operating Procedures have been revised to reflect the revisions introduced in Ordinance No. 2012-16, amend Title 7, Animals, as follows:

- page 4, item E. All impounded animals will be held no less than ten (10) days after which they can be put up for adoption or after 10 days euthanized. The exception to that rule would be an animal that, due to its temperament, presents a safety issue or is quarantined for ten (10) days or an animal under protective custody (Section III. G.)
- page 4, item G. All animals under protective custody are the property of the City until they are released or euthanized after ten working business days
- page 5, Care of Animals, item I. – Animals can be sheltered outside between the hours of 7 a.m. to 8 p.m. weather permitting.



Title	ANIMAL SHELTER OPERATING PROCEDURES	Reference	DMC Title 7, Animals AK Statutes, Title 3 and Title 8
Resource	DLG Public Safety Manual	Recommended	Dillingham City Council
Adopted	October 4, 2012	Reissued By	City Manager Rose Loera

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I. PURPOSE

To establish procedures to ensure that animals impounded or taken into custody by the City of Dillingham are provided with a place of temporary care and safe shelter where they are treated with dignity and compassion until they can be reclaimed, adopted, or euthanized if considered unadoptable.

II. POLICY

- A. All animals impounded by Animal Control Services are taken to the Animal Shelter the City is providing.
- B. Dillingham Animal Services is staffed with one full time employee who serves as the Animal Control Officer with volunteers as available.
- C. Normal hours of operation are Monday-Friday, 8:00 a.m. to 5:00 p.m.
- D. The shelter does not accept surrendered animals from outside Dillingham limits.



III. GENERAL PROCEDURES

A. Animal Control Officer Duties

The Animal Control Officer administers and enforces the City, State, and Federal Animal Control Ordinance, supervises personnel and volunteers, and manages and maintains the Animal Shelter.

The Animal Control Officer purchases supplies and new equipment for the shelter. Investigating animal related complaints is a primary job function. These investigations include, but are not limited to: rabies control, animal attacks, noise complaints, impoundment of nuisance and dangerous animals at large, animal welfare in terms of neglect and abuse. These types of investigations may require mediation of neighborhood disputes, interviews of violators, witnesses, issuance of warnings or citations, and impoundment of animals. Detailed reports are required for use in some court proceedings and knowledge of court procedure is required.

The Animal Control Officer works with the Chief of Police to plan long-range animal control programs. The position is responsible for maintaining accurate animal shelter records. The Animal Control Officer works with other City departments and outside organizations.

Further duties include shelter education programs and community based education programs.

B. Kennel Attendant (if the position is filled as an employee)

The Kennel Attendant serves under the supervision of the Animal Control Officer. The Kennel Attendant's main duties include, but are not limited to, the care of the shelter animals, the cleaning of the shelter, minor maintenance of the shelter, some snow removal, interaction with the public, overseeing volunteers, some computer work, filing, and other office work as needed.

C. Volunteers

Shelter volunteers are an important part of the Animal Shelter's success. They are encouraged to participate in the care and training of shelter animals.

Shelter volunteers must be at least 13 years old and receive special permission from the ACO to volunteer with the animals. Under 18 years old volunteers must have a permission form signed by their parents or guardian. Adult volunteers must also sign a volunteer form before working in the shelter.

D. Dealing with the Public

Good customer service is very important. Everyone who walks into the shelter must be treated with the upmost respect. The City serves the community and how it presents itself reflects on the City and on the Animal Shelter.

E. Animal Impounds

All animal impounds will be entered onto the Animal Impound Report form and will include the date of the impound, officers name, card/case number, the description of the animal, if it has a license, the license number, the name of the owner if known, name of animal if known, where impounded, and circumstances of impound. All animals under Impound are the property of the City of Dillingham until their release.

The yellow copy of the Animal Impound Report will be put on the animal's cage. The white and pink copy is taken by the ACO or Police Officer to the dispatch center.

Impounded cats will be placed in a kennel and given food, water, a litter box, and a cat bed. Impounded dogs will be placed in a kennel and given food, water, and a blanket or bed. If an impounded animal is ill or injured, the ACO must be notified immediately.

If the owner of an impounded animal is known, that owner must be notified of their animal's whereabouts as soon as possible.

All impounded animals will be held for no less than ten (10) days after which they can be put up for adoption or after 10 days euthanized. The exception to that rule would be an animal that, due to its temperament, presents a safety issue or is quarantined for ten (10) days or **an animal under protective custody (Section III. G)**. (AM 2012-09/10.4.2012)

F. Surrender of Animals

Abandoned or unwanted animals brought to the animal control center by citizens for impoundment may or may not be accepted for impoundment by the City. Upon acceptance, such animals shall become the property of the City and may be disposed of at the discretion of the ACO.

An owner who is surrendering an animal must fill out and sign a surrender form. The form will need to be retained for three (3) years.

The surrendered animal is logged in and an intake form is filled out in the same manner as an impounded animal. The animal will be evaluated before it is put up for adoption or euthanized.

G. Animals Under Protective Custody

All Protective Custody animals housed at the shelter cannot be released without permission of the ACO or the Chief of Police. Some animals are evidence in abuse or neglect cases, have owners who are incarcerated, or have other special circumstances. These animals may be housed with the other animals at the shelter, or may be kept separated in the Quarantine Kennel. Animals under Protective Custody are logged in and given intake sheets in the same manner as the other shelter animals. All animals under Protective Custody are the property of the City of Dillingham until they are released or euthanized after ten (10) **business** days. (AM 2012-09/10.4.2012)

(Additions are in bold letters and underlined. Deletions show as strikethrough.)



H. Evaluation of Animals

All animals put up for adoption are evaluated for temperament, health, and adoptability. They are also evaluated for the type of family, home situation that will best suit them, and what works for their new family.

When first put up for adoption, all dogs will have a Temperament Test form, an Information form, and Intake form on their cage. All dogs **must** be temperament tested before being adopted. The temperament test is used to evaluate the dog to help know where to place it. Dogs that show aggression or highly rated food/treat/toy possessiveness will be humanely euthanized and not adopted. Dogs that have bitten before will not be adopted, but also humanely euthanized.

Cats are harder to evaluate. If a cat cannot be handled after ten (10) days in the shelter, the only option may be humane euthanasia.

I. Care of Animals

The care and the welfare of the shelter animals are of the utmost concern. They should never be mistreated or neglected.

The ACO is responsible for the daily care of the animals in the shelter and the designated Kennel Attendant cares for them on the ACO days off. Volunteers will be allowed to help with the care of the animal. They will be under the ACO's supervision and must have some training.

All animals in the shelter will be provided with fresh water and food, clean bedding and toys on a daily basis. All cages will be cleaned and dried on a daily basis. When cleaning a dog's kennel, the animal must be removed first. **Animals can be sheltered outside between the hours of 7:00 AM and 8:00 PM, weather permitting.** All young puppies will be given their vaccines and be dewormed within 24 hours of their arrival. All animals will be checked on a daily basis for any possible problem. (AM 2012-09/10.4.2012)

All paperwork on the animal must be done immediately on its arrival, including the intake forms and the log-in sheet.

J. Maintenance of Shelter

The maintenance of the Animal Shelter is the responsibility of the ACO with the help of the volunteers. The volunteers will be trained by the ACO in proper cleaning and maintenance methods according to those noted below:

1. All kennels, cages and runs must be cleaned daily with hot water and a broad-spectrum disinfectant proven to be effective against various bacteria and viruses common in a shelter environment (including distemper and parvovirus). Each enclosure should be cleaned, scrubbed, and disinfected **BEFORE** a new animal enters. As an alternative, chlorine bleach (mixed with water in a 1:32 dilution) can be used.

(Additions are in bold letters and underlined. Deletions show as strikethrough.)



2. Mix disinfectants according to specific manufacturer instructions. After the application, allow the disinfectant to remain in contact with the surface for the length of time recommended by the manufacturer before rinsing.

3. Do not expose animals to water or disinfectant. During cleaning, place all animals in separate holding areas or in carriers; animals should never be left in the cage or kennel. Make sure enclosures are completely dry before animals are returned to them.

4. Clean the kennels and cages from floor to ceiling, and scrub cage doors and similar surfaces manually. It is fast economy – and a potential source of infections-to clean the walls of a run only to the height of the dog inhabiting the run. If any one section of the shelter is left unsanitized, disease can be easily transmitted.

5. The recommended daily cleaning routine is as follows:

- a. Remove the animal from the run or cage and place in a separate holding area or carrier, and then remove bedding, toys, and all food and water containers.
- b. Remove all solid waste such as feces and hair. Do not hose solid waste into the drainage system; rinse away only urine with water.
- c. Wash enclosures using a high pressure sprayer, steam-cleaning machine, or long-handled, stiff-bristled scrub brush.
- d. Using a scrub brush and a solution of detergent/disinfectant, scrub all surfaces within the enclosure including the floor, sides, resting board, top and gate, according to specific manufacturer instructions.
- e. Allow the solution to stand for at least 20 minutes (or the length of time recommended by the manufacturer).
- f. Thoroughly rinse all surfaces with a steady stream of water (preferably hot).
- g. Dry the run or cage as completely as possible using a squeegee or rag. If possible, ventilate the area prior to returning animals to it.
- h. Clean and disinfect beds, toys, food dishes, and water bowls.
- i. Clean and disinfect cat litter boxes.
- j. Clean and disinfect the holding area or carrier after each animal has been removed.
- k. Clean and disinfect other areas used by animals.
- l. Clean all areas used by the staff and public. Because bacteria can accumulate and lead to disease and odor problems, be sure to regularly clean and disinfect other areas, including the aisles, walls, and ceilings.

K. Safety Procedures

Safety is always a main concern in the shelter environment. Efforts must be taken to ensure that those working in the shelter and those visiting the shelter do not get hurt.

All items in the shelter should be picked up and not left where they may cause a person to trip on them. Wet floors must have signs notifying the public.

If threatened by a citizen, an employee, or volunteer must notify the Dillingham Police Department immediately. Never argue with anyone.

L. Dangerous, Vicious, and Quarantined Animals

All animals that are quarantined at the shelter for biting a person or another animal will be housed in a Quarantine Kennel until their ten (10) day quarantine is over. At that time, the animal's fate will be determined per City Code regulations. The only persons that are to care for and handle a quarantined animal are the ACO or a trained qualified person. (AM 2012-02)

Vicious, aggressive and dangerous animals will be housed at the shelter in a Quarantine Kennel. All paperwork, including the quarantine form, will be placed on the animal's cage. The Quarantine Kennel will remain locked with only the ACO and Police Department personnel allowed access.

M. Animal Adoptions

All animals available for adoption must have been evaluated for health and temperament. A determination must be made as to what would be the best possible home environment the animal can be placed into.

When a person is interested in an animal, they need to fill out an Adoption Application. An interview will be set up with the ACO or a trained staff or volunteer to find out more information on the person or family. The applicant will be informed of the fact that owners are not chosen on a first come first serve basis, but on what looks like a good match.

All adult family members must agree on adopting an animal. All family members, including children, must spend time with the animal to see how they interact with it. This is also the time to see how the animal interacts with the family. It will be possible for an overnight trial basis if approved by the ACO.

All staff and volunteers involved in this process will be able to input whether or not they feel an adoption will be a good one. If the owner is found to be a good match, an adoption can follow.

The new owner will be informed of the adoption fees and cost of initial shots. Adoption will include a free rabies shot and, in case of a dog, a free City tag. The new owner will also receive an adoption packet with information in animal care and training.

N. Euthanasia

All stray dogs and cats that are impounded will be held no less than five (5) days before their adoptability will be determined with possible euthanasia after ten (10) days. If the owner is known, they must be notified as soon as possible. The exceptions to this policy are animals that are a danger to the staff making their care impossible.

The factors that determine whether or not an animal will be euthanized are as follows:

- a. How the animal adjusts to the shelter environment, extremely depressed or highly stressed animals must be reevaluated;
- b. Animals determined to be aggressive are never released back into the community;
- c. How crowded the animal shelter is; there must be room and staff enough to provide quality care for all animals, high-maintenance animals may need to be euthanized in order to allow good care for others;
- d. Very ill or badly injured animals may be euthanized upon direction of the ACO without a wait period.

Once they have been turned over to the shelter, owner surrendered animals immediately become the property of the City of Dillingham. Their adoptability is then determined on the above factors.

The goal of the Animal Shelter and staff is to provide the best possible outcome for each of the animals in the shelter. The ACO develops, implements, and administers an animal adoption program. At times, there will not be enough homes available in Dillingham for all adoptable shelter animals. Every effort will be made to send animals to other available shelters with euthanasia as a "last resort" policy. In some cases, there may be no other choice than to perform humane euthanasia.

The approved method of euthanasia is with lethal drugs administered by a trained and certified technician.

The incinerator at the Dillingham Landfill is used solely for the purpose of the disposal of dead animals euthanized by the Animal Control Officer. All persons using the incinerator must be trained. If there are any technical problems, the City Maintenance Department will need to be called to fix the problem.

O. Record Keeping and Other Paperwork

All important forms must be filed on a regular basis. This would include but not be limited to, surrender forms, adoptions forms, and quarantine forms. When an animal leaves the shelter, for any reason, the paperwork on its cage may be disposed of and the animal logged out on the Log form.



Monthly Animal Shelter stats are recorded and yearly reports completed. Other stats are compiled as needed. The ACO will develop any new forms that may be needed, or eliminate any forms that are no longer required.

A call log will be kept by Dispatch with all dates and times the ACO, Kennel Attendant or Volunteers are at the shelter working.

P. Public Education

The shelter maintains free handouts on all kinds of animal related subjects. The shelter staff also can provide tips on training and care.

Using the media, such as newspapers, cablevisions, and the radio, are effective methods of providing education to the public. Every encounter with the public can be a chance to educate.

IV. RESPONSIBILITIES

A. Chief of Police

Chief of Police is responsible for administration and oversight of all animal control/animal shelter operations.

B. Animal Control Officer

Animal Control Officer is responsible for those duties outlined herein and as directed by the Chief of Police.

Subject: Authorize the City Manager to Negotiate and Execute Professional Services Engineering and Design Contract with Ecological Engineering Inc. (The Selection Committee's first choice) or if negotiations fail with CH2 M Hill (The Committee's second choice)

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.
 City Manager: Rose Loera
 Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance / Carol Shade	CS	
X	Project Mgr / Steve Cropsey	St	
X	Public Works / Malcolm Brown	MB	
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No _____ Funds Available: Yes X No _____

**Other Attachment(s):
 Summary Statement.**

The purpose of this Action Memorandum is to authorize the City Manager to negotiate and ultimately execute a professional services contract with Ecological Engineering Inc. (EEG) to provide engineering and design services for the upgrade of the Waste Water Treatment Plant (WWTP). The City received a \$2.28 million Legislative Grant for the upgrade. A committee of five selected the firm of EEG Inc. based on its evaluation of three proposals, which were received as a result of a public advertising campaign. Three highly qualified and experienced design teams presented proposals, which were responsive and complete per requirements set forth in the RFP. The contract will provide for all services required including completion of construction contract documents plus negotiation services to establish a Compliance Order by Consent with ADEC and a WWTP master Plan for a not to exceed amount of \$214,265. The contract needs to be put in place at the earliest possible time in order to meet the aggressive schedule required in order to build out Phase I in the summer of 2013. EEG is not currently licensed to do the design work for the project. The State requires a Certificate of Authority for a Corporation to actually do design engineering work. Securing the License should be perfunctory but a back up plan allowing negotiation with CH2 M Hill is being requested if EEG does not secure the license and / or the qualifying responsible person's References are not satisfactory.

City of Dillingham
Fiscal Note

Agenda Date: October 4, 2012

Request: _____

ORIGINATOR: Carol Shade

FISCAL ACTION (TO BE COMPLETED BY FINANCE)		FISCAL IMPACT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
AMOUNT REQUESTED: Not to Exceed \$ 214,265.00		FUNDING SOURCE Waste Water Treatment Plant	
FROM ACCOUNT 3213 8520 30 62 4410 0 \$ 214,265.00		Projects* Waste Water Master Plan	
TO ACCOUNT:	VERIFIED BY: Carol Shade	Date: 9/5/2012	

EXPENDITURES

OPERATING	FY13	FY14	FY15	FY16
Personnel				
Fringe Benefits				
Engineering Design	\$214,265.00			
Heating Fuel	-			
Land/Buildings				
Miscellaneous				
TOTAL OPERATING	\$ 214,265.00	\$ -	\$ -	\$ -

CAPITAL	214,265.00			
----------------	-------------------	--	--	--

REVENUE				
----------------	--	--	--	--

FUNDING

General Fund &	\$ -			
State/Federal Funds				
Special Revenue Funds	-			
TOTAL FUNDING	\$ -			\$ -

POSITIONS

Full-Time				
Part-Time				
Temporary				

ANALYSIS: (Attach a separate page if necessary)

See Attached Action Memorandum AM # 2012-10

PREPARED BY: Carol Shade

October 4, 2012

DEPARTMENT: Finance Department

October 4, 2012

Subject: Authorize the City Manager to negotiate and execute the Mutual Aide Agreements with the Alaska State Troopers (AST) and the Dillingham City School District and a Memorandum of Understanding with Choggiung Limited.

Agenda of: October 4, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Planning Director / Jody Seitz	JS	
X	Chief of Police / Nancy Chamberlain		
X	Finance / Carol Shade		
X	City Clerk / Janice Williams	JW	

Fiscal Note: Yes _____ No _____ Funds Available: Yes _____ No _____

Other Attachment(s):

- Mutual Aide Agreement with Alaska State Troopers / Respond to Emergencies in the Annexed Nushagak Waters
- Mutual Aide Agreement with Dillingham City School District / Territorial School
- Memorandum of Understanding with Choggiung Ltd./Cross Country Ski Trail

Summary Statement.

The purpose of this action memorandum is to authorize the City Manager to negotiate and execute the following Mutual Aide Agreements and Memorandum of Understanding (MOU) that she has been working on. The agreements in the packet are all in draft form waiting for the response from the participating entities. All the agreements have been vetted by our attorney.

1. Alaska State Troopers – the Petition for Annexation states that the AST are the first responders for the newly annexed waters. Exhibit F of the annexation document also states that a coordination meeting would take place between the two entities to if any transfer of responsibilities is to take place. The AST were not aware that the annexation document stated they were to be the first responders and have referred all emergency calls to the Dillingham Police Department. A meeting was held between the COD and AST and it was mutually agreed that we

would develop an agreement that spells out how we would work together on all emergency calls on the water.

2. Dillingham City School District – at the School Facilities Committee meeting it was recommended that the COD and the DCSD work out an agreement that identifies the usage and responsibilities in the Territorial School building. The COD owns the facility and provides the heat, the DCSD rents out the apartments and receives the rent and pays other utilities and both entities are using it for storage. This agreement will define the responsibilities and usage on paper.
3. Choggiung Limited – the Parks and Recreation Committee wants to develop a ski trail below the hospital that goes over Choggiung Limited land. In order for Choggiung to agree to such a request they are asking for a MOU and an Indemnity Agreement. The trail will provide additional recreational activity for our community members.

**Mutual Aid Agreement
Between
City of Dillingham
And
Alaska State Troopers**

A Mutual Aid Agreement made by and between the City of Dillingham (COD) and the Alaska State Troopers (AST) to define the roles of each entity in responding to emergencies in the annexed Nushagak waters.

Whereas, the COD and AST understand that it is in the best interest of both parties to define responsibility for responding to emergencies in the newly annexed Nushagak waters; and

Whereas, the Petition for Annexation approved by the Local Boundary Commission for Dillingham indicates that the first responders for the newly annexed waters would continue to be the AST; and

Whereas, Exhibit F of the Petition for Annexation indicates a coordination meeting between the COD and AST to affirm procedures and protocols will occur if any transfer of responsibilities is to take place; and

Whereas, a cooperative effort of the COD and AST is in the best interest of the COD, AST and residents of Dillingham;

The parties hereto do mutually agree as follows:

Article 1.

The City shall:

- A. Develop and document the COD protocol for responding to emergencies on the annexed portion of Nushagak Bay and assure that the COD staff and AST are familiar with the protocol.
- B. Provide certified boat operator training to staff for the boat in the Harbor.
- C. Purchase life jackets, life rings and spot lights and other equipment as funding allows for water emergencies.
- D. Provide water rescue training to COD police and AST as identified by the Chief of Police using already appropriated training funds before spring of 2013.
- E. Work closely with the AST in emergency situations in the annexed portion of Nushagak Bay.

Article 2.

The Alaska State Troopers shall:

- A. Work closely with the COD in emergency situations in the annexed portion of Nushagak Bay.
- B. Participate in training that the COD provides to enhance skills for responding to water emergencies.
- C. Utilize their 18' and 20' boat and certified operators to respond to emergencies when available.

Article 3.

It is further mutually agreed that:

- A. The Coast Guard has jurisdiction over all navigable waters along the coast of Alaska.
- B. Historically response to emergencies in the Nushagak Bay area has relied on the Coast Guard and/or vessels in the area that could respond quickly to the scene.
- C. Historically response to an emergency that turns into recovery is not something the Coast Guard would get involved in.
- D. That neither COD police nor the AST have or anticipate having, the specialized expertise or equipment to respond to an emergency in the newly annexed waters of the Nushagak Bay in a timely matter due to tide, weather and unfamiliarity with the Nushagak Bay.
- E. That in the event of an emergency requiring a water rescue in the annexed portion of Nushagak Bay the COD police and the AST would work together to activate all local resources possible for a rescue operation.

Article 4.

This Agreement is terminable by either party upon ninety (90) days written notice to the other party.

 Rose Loera, City Manager
 City of Dillingham

 Date

 Name
 Alaska State Troopers

 Date

**Mutual Aide Agreement
Between
City of Dillingham
And
Dillingham City School District
Territorial School**

A Mutual Aide Agreement made by and between the City of Dillingham (COD) and the Dillingham City School District (DCSD) for the Territorial School is to define the roles of each entity in the use and oversight of the facility.

Whereas, the COD and DCSD understand that it is in the best interest of both parties to share and define the usage of the Territorial School; and

Whereas, a cooperative effort of the COD and DCSD, in the usage of the Territorial School, is in the best interest of the COD, DCSD and residents of Dillingham.

The parties hereto do mutually agree as follows:

Article 1.

The City shall:

- A. Provide the heat routed through the City Hall boilers.
- B. Have access to and will use the facility for storage of records, furniture and equipment in areas agreed by both parties.
- C. Maintain and keep their area clean and clutter free.
- D. Assist the DCSD with repairs and maintenance of the building when funding is available.
- E. Have access to the facility for periodical inspections.
- F. Have access to parking in front of the building.
- G. Make a report to the School Facility Committee meeting as to the usage of the facility.

Article 2.

The Dillingham City School shall:

- A. Rent out the top floor for teacher housing with a copy of the lease be sent to the COD and the lease to have wording that holds the City harmless.
- B. Shall pay for Electricity, Water, Sewer and Garbage for the facility.
- C. Have access to and will use the facility for storage of records, furniture and equipment in areas agreed by both parties.
- D. Will not allow animals in the building and will insert such clause into the lease agreement.
- E. Maintain and keep their area clean and clutter free.

- F. Report any issues the facility to the City Manager as soon as possible.
- G. Assist the DCSD with repairs and maintenance of the building when funding is available.
- H. Make a report to the School Facility Committee meeting as to the usage and issues with the facility.

Article 3.

It is further mutually agreed that:

- A. Title to all lands and structures for the Territorial School shall remain with the COD.
- B. Once the assessment of the use of the facility is determined the long-term usage will be determined by both parties.

Rose Loera, City Manager
City of Dillingham

Date

William McLeod, Superintendent
Dillingham City School District

Date

MEMORANDUM OF UNDERSTANDING
CROSS COUNTRY SKI TRAIL

Between

CHOGGIUNG LTD
&
CITY of DILLINGHAM

Draft

WHEREAS: Choggiung Ltd. ("Choggiung") is a village corporation organized under the provisions of the Alaska Native Claims Settlement Act of 1971 (ANCSA) with surface estate ownership to certain lands within the Dillingham area,

WHEREAS: City of Dillingham is an Alaska municipal corporation incorporated as a first class city with a mayor/council form of government that has assumed powers of taxation, planning, public safety and education.

WHEREAS: Choggiung, Ltd. and City of Dillingham wish to enhance the quality of life in the Dillingham area,

WHEREAS: Choggiung, Ltd. and City of Dillingham wish to provide healthy entertainment in the Dillingham area,

THEREFORE: The parties hereto agree as follows:

1. Choggiung, Ltd. will allow the City of Dillingham, through the Parks and Recreation Committee, to use its land in the Kanakanak area; South 1/2 of both sections 35 & 36 T13SR56W SM, Alaska, for a Cross Country Ski Trail at no charge.
2. The only improvements allowed to the land are minor tree limbing, use of a cross country ski groomer, and the cooperative sign posting.
3. The City of Dillingham and Choggiung Ltd. shall sign an Indemnity Agreement, substantially in the form attached hereto.
4. City of Dillingham shall provide no less than two million dollars liability insurance with Choggiung listed as additional insured.
5. A sign is to be posted at the ski trail site by _____ stating that this is a cooperative project between Choggiung and City of Dillingham.
6. Choggiung Ltd. or City of Dillingham may revoke this MOU with a thirty day written notice to the other party without cause.

Dated:
CHOGGIUNG, LTD

By: _____
Its: CEO _____

Dated:
City of Dillingham

By: _____
Its: Manager _____

INDEMNITY AGREEMENT

Draft

This agreement constitutes a single use agreement between Choggiung Ltd. (Chog) and City of Dillingham (CD) for use of the Kanakanak area located in the South 1/2 of both section 35 & 36 T13SR56W SM, Alaska for a, CROSS COUNTRY SKI TRAIL, from November 1, 2012 through October 31, 2013, hereinafter referred to as "The Ski Trail". City of Dillingham hereby agrees to defend, indemnify and hold Chog harmless from any and all expense, liability or claim arising out of, or in connection with, activities on The Ski Trail after the date that this agreement is signed except for claims arising from the sole negligence of Chog. CD consents to any liability that it might incur from this activity by reason of this indemnity, consents to being sued to enforce such liability or to enforce its duties under this indemnity, consents to the jurisdiction of the courts of the State of Alaska for such lawsuit, and consents to the enforceability against it and its property of any judgment rendered by such court.

CD shall provide evidence of liability insurance coverage with limits of at least \$2,000,000 per claim. Choggiung Ltd. must be named as an additional insured on this policy. A copy of an ACCORD certificate as evidence of proof of coverage as required by this agreement must be turned in to Choggiung Ltd. prior to November 1, 2012.

DATED this _____ day of _____, 2012.

City of Dillingham

Manager: Rose Loera

Choggiung Ltd.

CEO: Lance Nunn



September 21, 2012

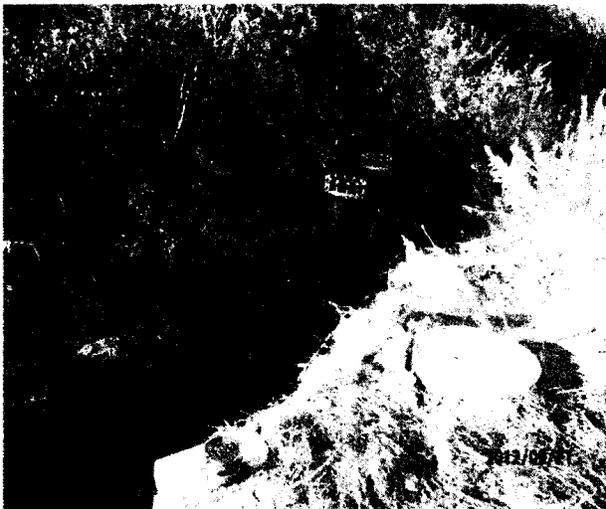
Representative Bryce Edgmon
716 W. 4th Ave. Suite 620
Anchorage, AK. 99501-2133

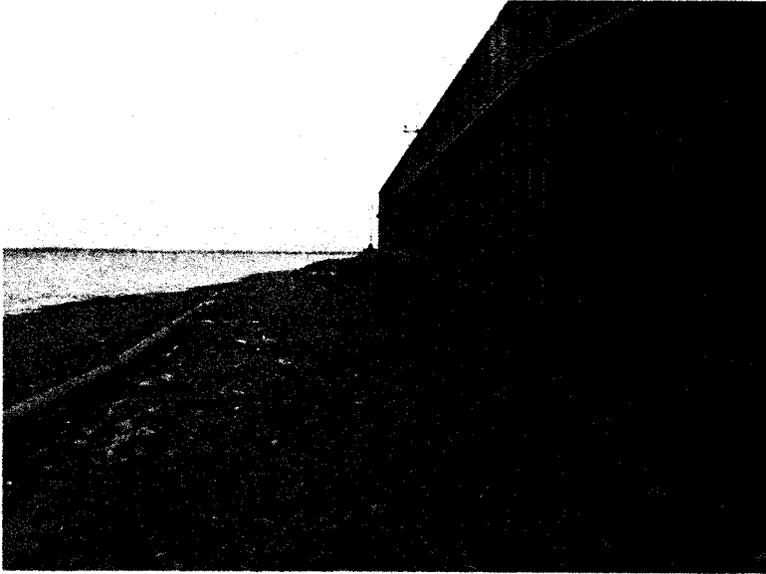
Subject: Sewer Line Force Main Relocation Progress Report

Dear Representative Edgmon:

The City of Dillingham's sewer line force main was identified as an immediate threat by the US Army Corps of Engineers when coastal erosion exposed it on the beach of the Nushagak River. The City received a State of Alaska Legislative Grant for \$1.8 million for FY 2012 to relocate the endangered portion of the sewer line force main. The City of Dillingham is very appreciative of your support for this essential project. We thought you would be pleased to know that the City is actively executing the grant and will be able to use the newly relocated sewer line force main this fall.

Below are several photos that were taken today. The new sewer line's force main is getting installed next to the lagoon. The construction project involves horizontal directional drilling.





Snag Point Force Main. The sewer line force main became an immediate threat to the Nushagak River when it was exposed by coastal erosion.

We can appreciate that you are very busy, but how often do you get a progress report?

Again, thank you very much.

Sincerely,

Rose Loera
City Manager

cc: Senator Lyman Hoffman
For the City of Dillingham:
Mayor Alice Ruby
Steve Cropsey, Project Manager
Jody Seitz, Planning Director
Malcolm Brown, Public Works Director

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

Department of Labor and Workforce Development

Labor Standards and Safety Division

P. O. Box 111149
Juneau, AK 99811-1149
PHONE: (907) 465-4855
FAX: (907) 465-6012
<http://www.labor.state.ak.us/lss/lss.htm>

April 6, 2012

City of Dillingham
PO Box 889
Dillingham, AK 99576

To Whom It May Concern:

City of Dillingham has been selected as a primary target for an occupational safety and health enforcement inspection under the 2012 "High Hazard Targeting System" (HHT). This system is used by Alaska Occupational Safety and Health (AKOSH) to make enforcement inspections more efficient and productive. Companies on this list are likely to receive an unannounced enforcement inspection sometime during the next year. This letter provides information about how the HHT list was created and steps your company can take to ensure compliance with AKOSH requirements.

The HHT list consists of employers with relatively high loss time injury rates. An employer must meet both of the following criteria to be listed as a primary target for potential enforcement inspections.

1. An employer must have at least three recorded loss time incidents for Worker's Compensation Insurance purposes over the previous year.
2. The employer must have a loss time rate per 100 employees that is greater than 90 percent of the average loss time rate per 100 employees for all industries during the previous year. The 2011 all industry loss time rate in Alaska was 1.72 incidents per 100 employees.

If you have questions about why your company appears on the list, please contact Yana Rekoun, Project Assistant, at (907) 269-4940.

The State of Alaska recognizes your contributions to Alaska's economy and the difficulties you face in complying with regulatory requirements. Upon your request, the Alaska Occupational Safety and Health Consultation and Training Program can help by providing a comprehensive review and analysis of your work site along with step by step guidance to meet occupational safety and health requirements. There are no upfront costs, but your organization may be required to make an investment in programs or equipment necessary to meet occupational safety and health standards. Many employers who make the necessary investment in workplace safety and health find that the return on investment is well worth it in terms of reduced accidents and associated costs like Workers' Compensation Insurance premiums. As an added benefit, your work site will be removed from the HHT list while the consultation is in progress and may be granted a full one-year exemption after receiving a comprehensive consultation visit, correcting identified hazards and demonstrating an effective safety and health management system. Please keep in mind that resources are limited and there may be a delay before someone from Consultation and Training can assist you.

COPIED TO:
PUBLIC WORKS
FINANCE

Enforcement Targeting Notice

April 6, 2012

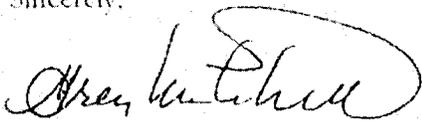
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Alternatively, you may wish to take advantage of the services of a private workplace safety and/or health consultant. Most consultants list their services in the yellow pages under either "Safety Consultant" or "Industrial Health Consultant." You may also want to check with your Workers' Compensation Insurance carrier to see if they might have a service to assist you.

If you decide that you want to take advantage of our Consultation and Training Program services, it is important to request a consultation visit without delay. You can do so by submitting the enclosed request form or calling 1-800-656-4972 (269-4935 in Anchorage) for more information.

Our goal is to eliminate workplace fatalities and reduce the incidence of workplace illnesses and injuries in Alaska. We hope that you will help us achieve this goal. Good, safe jobs are Alaska's future.

Sincerely,



Grey Mitchell
Director

Enclosure: Consultation Request Form

The Communications Landscape of Alaska *Has Changed*

AT&T has filed a petition with the Regulatory Commission of Alaska (RCA) asking to be relieved of its current designation as a "Carrier of Last Resort" (COLR) in areas where the TERRA-Southwest Network (owned by GCI/UUI) is providing service. This filing in no way affects AT&T's wireless coverage or plans for expansion within the state. It is solely focused on updating the application of a long-distance landline regulation within the TERRA-Southwest region.

AT&T is committed to Alaska. In fact, from 2009 through 2011, AT&T invested more than \$650 million in Alaska's wireless and wireline networks to ensure our customers' needs are met.

Why is this important?

Much has changed in the Alaska communications industry. The arrival of alternatives for communication and the deployment of wireless and broadband service in many parts of Alaska have transformed the state's communications market.

Originally designed to ensure customers could make calls when other providers did not exist, the current application of COLR is outdated now that customers in the TERRA-Southwest area have choices.

The COLR obligation is no longer needed in this area of Alaska.

But most importantly...

You will still be able to make a call.

AT&T is committed to Alaska and this filing does not eliminate phone service or seek permission for AT&T Alaska to discontinue service to any customer or community. It will not impact wireless voice or data service in Alaska. People who receive phone service from AT&T Alaska will continue to be able to make a call.

The petition is just a request to remove an antiquated label from AT&T Alaska. The petition also only relates to those areas served by TERRA-Southwest where options are already available for consumers.



AT&T Alaska's Petition for Relief of COLR Obligation in Southwest Alaska
Executive Summary

- AT&T Alaska is the only interexchange carrier burdened with the carrier of last resort ("COLR") obligation in the state of Alaska. AT&T Alaska has this obligation throughout the state.
- The COLR obligation was imposed decades ago and was meant to ensure that customers could make long distance calls when there was a single provider. At that time, AT&T Alaska's predecessor was the sole provider of interexchange service in the state and, therefore, had the opportunity to recover the cost of serving low-density, high-cost areas of the state through regulated rates. This is no longer the case. Much has changed in the Alaska communications industry. The arrival of alternatives and the deployment of wireless and broadband service in many parts of Alaska mean consumers have alternatives to communicate long distances.
- In Southwest Alaska, GCI/UUI constructed the TERRA-Southwest network with \$88 million in federal grants/loans to serve 65 communities.
- The Regulatory Commission of Alaska ("RCA") has the ability under its existing regulations to change and/or reassign the IXC COLR responsibilities in whole or in part.
- In its petition, AT&T Alaska is requesting that the Regulatory Commission of Alaska ("RCA") relieve AT&T Alaska of the IXC COLR obligation in Southwest Alaska where GCI/UUI has built the TERRA-Southwest network.
- AT&T Alaska is not seeking to discontinue the provision of service to any customer or community in the TERRA-Southwest area. Instead, AT&T Alaska is seeking the flexibility to efficiently provide service through our current network assets or by reselling service from another provider or through other alternatives where it makes economic sense to do so.
- Granting AT&T Alaska's request will place it on equal footing with its competitors.