


SUBJECT: INFORMING THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY OF THE MANAGER ENTERING INTO A MANAGEMENT AGREEMENT WITH THE WILLOW AREA COMMUNITY ORGANIZATION FOR THE MANAGEMENT OF THE WILLOW COMMUNITY CENTER AND THE WILLOW LOG CABIN (ALSO KNOWN AS THE OLD WILLOW COMMUNITY CENTER) FOR A TERM OF FIVE YEARS, LOCATED WITHIN LOT 1 WILLOW COMMUNITY SUBDIVISION (MSB001918 & MSB007422).

AGENDA OF: August 2, 2022

ASSEMBLY ACTION:

presented to the Assembly

8-2-22 

MANAGER RECOMMENDATION: For information only.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER: 

Route To:	Department/Individual	Initials	Remarks
	Originator	<i>HM</i>	
	Recreation & Library Manager	<i>ill</i>	
	Community Development Director	<i>ca</i>	
	Public Works Director		
	Finance Director	<i>Chrysene Kindell</i>	
	Borough Attorney	<i>KS</i>	
	Borough Clerk	<i>BGA for LRM</i>	

ATTACHMENT (S): Fiscal Note: YES ☒ NO ☐
Management Agreement (28 pp)

SUMMARY STATEMENT:

On May 18, 2021, the Assembly approved Ordinance Serial No. 21-046 that extended the current Management Agreement between the Borough and Willow Area Community Organization (WACO) for a one-year term (expiration June 29, 2022) during the construction of the new Willow Library and the community center upgrades. Extending the current agreement for a year allowed the drafting of a new Management

Agreement that outlines the maintenance responsibilities, shared expenses based on a percentage of space, and the exclusive use of areas managed by either the library or WACO.

Furthermore, WACO desires to manage the log cabin formerly known as the Old Willow Community Center recently renovated by the Borough. The attached Management Agreement combines the management of the community center and the log cabin as one document.

The term of the Management Agreement is for a five-year period from July 1, 2022 through June 30, 2027. Adopted MSB Title 23.10.160(E) and the Land and Resource Management Policy and Procedures, Part 40-1, Management Agreements, subpart 3.4, allows the Manager to enter into Management Agreements that does not exceed five years.

MATANUSKA-SUSITNA BOROUGH FISCAL NOTE

Agenda Date: August 2, 2022

SUBJECT: INFORMING THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY OF THE MANAGER ENTERING INTO A MANAGEMENT AGREEMENT WITH THE WILLOW AREA COMMUNITY ORGANIZATION FOR THE MANAGEMENT OF THE WILLOW COMMUNITY CENTER AND THE WILLOW LOG CABIN (ALSO KNOWN AS THE OLD WILLOW COMMUNITY CENTER) FOR A TERM OF FIVE YEARS, LOCATED WITHIN LOT 1 WILLOW COMMUNITY SUBDIVISION (MSB001918 & MSB007422).

ORIGINATOR: Tracy K. McDaniel, Asset Manager

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <u>(YES)</u> NO
AMOUNT REQUESTED <u>45</u>	FUNDING SOURCE <u>Willow Library Operating</u>
FROM ACCOUNT # <u>200.170.507 4XX.XXX+ 100 132.900</u>	PROJECT
TO ACCOUNT :	PROJECT #
VERIFIED BY: <u>Murphy</u>	CERTIFIED BY:
DATE: <u>7/18/22</u>	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL			<u>* —————</u>			<u>7</u>
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REVENUE						
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FUNDING:

(Thousands of Dollars)

General Fund						
State/Federal Funds						
Other			<u>45 —————</u>			<u>7</u>
TOTAL			<u>45 —————</u>			<u>7</u>

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary) 45 amount depends on actual expenses as billed

PREPARED BY: _____ PHONE: _____

DEPARTMENT: Willow Library DATE: _____

APPROVED BY: Tracy K. McDaniel DATE: 7-18-22



Matanuska-Susitna Borough

COMMUNITY DEVELOPMENT DEPARTMENT
LAND & RESOURCE MANAGEMENT DIVISION

MANAGEMENT AGREEMENT

This Agreement is made and entered into this ____ day of _____, 2022 by and between the Matanuska-Susitna Borough ("Borough") and the Willow Area Community Organization, Inc. ("WACO"). This Agreement shall automatically terminate on June 30, 2027 unless renewed or otherwise terminated.

WITNESSETH:

WHEREAS, the Borough, received from the State a parcel of land identified as Lot 1, Willow Community Subdivision, according to Plat 2005-87, Palmer Recording District, Third Judicial District, State of Alaska; and

WHEREAS, WACO is a non-profit corporation established in 1959 to promote the general welfare of the Willow area and is recognized by the Borough as the community council for the Willow area; and

WHEREAS, WACO wished to manage the Borough-owned land and Facilities for purposes of a community center and historical wildlife museum (hereinafter referred to as the "Facility" or "Facilities"); and

WHEREAS, the Borough received funding from various donations, grants, the Borough Land Management Fund, and area wide and non-area wide funds for building a new library and renovations for the community center; and

WHEREAS, the Borough received funding from assembly reserves, Land Management Fund, and Alaska State Historic Preservation Office for renovations of the Old Willow Community Center Log Cabin; and

WHEREAS, this Agreement supersedes any previous management agreements, and amendment to same, between the Borough and WACO.

NOW THEREFORE, in consideration of the covenants and agreements contained herein, the Borough and WACO agree as follows:

Section 1. Management.

WACO desires to manage the Facilities for the benefit of the Willow community that offers community sponsored events and provides historical awareness for a public purpose. WACO's

management of the Facilities offset the Borough's day-to-day management and maintenance and considered to be in the best interest of the Borough for the community as a public purpose.

Section 2. Property and Facilities.

WACO does hereby agree to manage, operate, and maintain the Borough-owned land and Facilities located thereon, and described as follows:

The Facilities are located within the southern portion of the Willow Community Subdivision Lot 1, Plat No. 2005-87, recorded in the Palmer Recording District, Third Judicial District, State of Alaska, and the buildings shown on the attached Exhibit A for the community center and historical log cabin (hereinafter called the "Property" or Properties"). The property addresses are 23625 & 23612 W. Willow Community Center Circle.

The following areas within Lot 1, Willow Community Subdivision are specifically excluded:

- a public right-of-way 100" in width centered on and running along the entrance (access) road and parking lot; and
- an undesignated public access to the picnic shelter; and
- a 50 foot wide public access to and along the lake shore; and
- EMS warm storage buildings owned and operated by the Borough; and
- Willow Library owned and operated by the Borough.

WACO acknowledges it has examined the Property and Facilities and accepts the Property and Facilities in its current condition, "as is, where is." The Borough makes no warranties either expressed or implied, nor assumes any liability whatsoever, regarding the cultural, social, economic, or environmental aspects of the Property and Facilities, to include without limitation, soil conditions, water drainage, practical or feasible physical access, availability of gravel or personal use wood supplies, cultural artifacts which may or may not exist, natural or artificial hazards which may or may not exist, merchantability, suitability or profitability of the parcel for any use or purpose or development.

WACO further acknowledges the community center facility is designated, operated, and used by the Borough as an emergency shelter for major disaster events, natural or human-induced, that occur in the upper Mat-Su Valley.

Section 3. Term.

This Agreement shall be effective starting at 12:01 a.m. on July 1, 2022 and expiring at midnight on June 30, 2027. Pursuant to MSB 23.10.160, this Agreement cannot exceed five (5) years without Borough Assembly approval.

Section 4. Purpose.

This Agreement describes WACO's operation, management, and maintenance of the Property and Facilities.

- A. WACO shall operate, manage, and maintain (hereinafter called "manage" or "management") the Borough-owned land and Facilities through the terms of this Agreement based on the Activities set forth in Section 8. Management in the regular course to perform the duties under a Management Plan of Operation specifically described and attached as Exhibit B, with the areas identified for each floor of the community center, as the areas of responsibility for the library or WACO, which further clarifies the operation, management and maintenance of the Property. It is the intent of both parties that WACO shall be responsible for the daily operations and management of the Property and Facilities, including the details necessary to operate, manage, and maintain the Property and Facilities in a clean, safe, and sanitary way at all times, in accordance with Section 8 and Exhibit B.
- B. WACO is a non-profit organization and shall manage the Property and Facilities as such. Any revenue generated as a result of fees charged for use of the Property and Facilities shall be used to offset the costs of operations, repairs, maintenance, and improvements to the Property and Facilities.

Section 5. WACO as an Independent Contractor.

WACO shall perform its obligations hereunder as an independent contractor of the Borough. The Borough may administer this Agreement and monitor WACO compliance with this Agreement but shall not supervise or otherwise direct WACO except to provide recommendations and to act on requests to approve or deny certain activities pursuant to this Agreement.

Section 6. Employees.

All persons engaged at the area covered in operating any of the services hereunder, except those working in, or for, the Willow Public Library or the Borough in its official capacity, shall be either unpaid volunteers, contractors, or the sole and exclusive employees of WACO and, when appropriate, shall be paid by WACO.

Any compensation paid that is the result of a grant by the Borough shall be paid at Little Davis Bacon compensation rates. In connection with the employment of its employees, WACO shall pay all applicable social security, unemployment, workmen's compensation, or other employment taxes or contributions to insurance plans, retirement benefits, and shall comply with all federal and state laws and regulations relating to employment, including, but not limited to, minimum wages, social security unemployment insurance and workmens' compensation, and shall indemnify, defend, save and hold the Borough from any responsibility therefor.

In performing its duties under this agreement, no participant shall discriminate against any person on the basis of race, creed, color, religion, national origin, age, sex or marital status, physical handicap, status as a disabled veteran, or veteran of the Vietnam War era.

Section 7. Utilities and Other Services.

WACO shall pay all costs of installation and service for utilities, including electric, telecommunication, gas, water, solid waste, and sewage disposal, and all costs to operate, manage, and maintain the Property and Facilities during the term of this Agreement and further describe in Exhibit B.

Any responsibilities or obligations, which may be assigned to the Borough, are subject to annual Borough Assembly appropriation. Any sums payable to WACO by the Borough may be paid monthly based on a statement submitted by WACO. Statements must be submitted at least on a quarterly basis and the costs allocated as described in Exhibit B.

Section 8. Use, Operations, and Activities.

WACO shall use the community center for weddings, reunions, business meetings, etc., which rent by the day or by the hour. The community center is equipped with a commercial kitchen, performance stage, and large capacity restrooms.

WACO shall use the log structure, known as the "Old Willow Community Center," as the Willow Historical and Wildlife Museum to display animal mounts, pelts, art, educational programs, and hands-on exhibits to promote wildlife appreciation and understanding of animal characteristics and habitats.

Use and operation of the Property shall be in strict accordance with this Agreement. If the Facilities are used for a public purpose, WACO shall provide for the maximum availability of the public, as intended, but shall have discretion to schedule public events and may set reasonable rules and fees for the use of the Property. Said fees shall be approved by, and filed with, the Borough prior to implementation of said fees. No fee charges apply to the library for the use of the community center for its programs, which will be coordinated and scheduled in advance, and will not conflict with WACO's scheduled events for the community center.

Restrictive uses include:

- A. Commercial use and advertising within the Facilities not related to a community event or educational programs.
- B. Overnight use on the Property must be authorized by the Borough.

Section 9. Alterations, Improvements, and Capital Improvements.

WACO shall not begin any alterations and improvement of a permanent nature or construction of the Property and Facilities without first obtaining the Borough's prior written approval of the preliminary plans for such work and of the final plans and specification for such work, which approval shall not be unreasonable withheld. Any approval by the Borough shall not be deemed a warranty or other representation by any of the alterations or improvements are legal, safe, or sound.

The preliminary plans and final plans shall be prepared by a licensed architect or engineer and shall include, but not be limited to a, detailed plot plan, landscaping plan, appropriate cross sections, elevations, and floor plans with an itemized estimate of the total cost of the work, and a timetable for completion.

Section 10. Warranty of Work.

WACO expressly warrants that all materials used in construction, alterations, repair, and maintenance of the Property and Facilities, of new or existing improvements will be of good quality, and that all workmanship will meet accepted codes and standards of the trade.

WACO shall undertake to correct workmanship or defect in materials found by the Borough to constitute a breach of this Agreement.

Section 11. Waste.

WACO, its volunteers, board members, members, employees, subcontractors, or anyone directly or indirectly employed by them, shall not commit waste upon or injury to the Property and Facilities thereon, or allow third parties to commit such waste or injury. WACO shall be liable for all damages, remediation, and repair costs during the term of this Agreement.

Section 12. Rights of Way.

Authority to grant or issue permits for easements and rights-of-way is retained by the Borough.

Section 13. Assignment, Sub-Lease, Delegation of Duties.

WACO may not assign any interest, or sub-lease any portion of the Property, or delegate any duties under this Agreement to any person, nor enter into any contracts for commercial concession or vending on the Property without the prior written approval of the Borough. Further, WACO shall not allow liens of any nature for any reason to be placed against the Property. Any attempt by WACO to assign any part of its interest, sub-lease any portion of the Property, delegate any duties, or allow any liens against the Property under this Agreement shall give the Borough the right to immediately terminate this Agreement without any liability to the Borough.

Section 14. Ownership of Improvements.

All improvements attached to the land will remain with the land and become the property of the Borough upon expiration or termination of this Agreement. Prior to the installation or construction of improvements, and only at the Borough's option, improvements may remain as mutually agreed in writing by WACO and the Borough, and such mutual agreement shall be attached as an addendum to this Agreement.

Section 15. Permits, Licenses, Laws, and Taxes.

All activities authorized under this Agreement shall be conducted in compliance with applicable federal and state constitutions, federal, state and local laws, regulations, and orders of governmental authorities having jurisdiction over the Property in effect during the term of this Agreement. WACO agrees to obtain the necessary approvals from all third parties and obtain any permit, license, or written authorization required by the applicable laws, rules, and regulations from governing authorities, which includes but is not limited to flood hazard area development permits, for any excavation, fill, gravel, or development proposed. WACO agrees that approvals required by this Agreement or otherwise are not being promised by this Agreement. The issuance of approval will be evaluated on its own merit, and nothing in this Agreement obligates the Borough or any other agency to issue approvals of permits or licenses. WACO agrees to provide documentation of all applicable permits and licenses to the Borough. All taxes and assessments if any, related to the Property shall be paid by WACO and shall be kept current.

Section 16. Alcoholic Beverages and Drugs.

There shall be no sale, service, or consumption of alcoholic beverages allowed upon the Property without specific written authorization by the Borough, whereupon WACO shall obtain and provide copies of required permits and insurance policy to serve such beverages. If WACO authorizes alcohol to be consumed as part of a rental agreement with a third party, the third party renter shall obtain a Special Event insurance policy with a Liquor Liability endorsement, naming both WACO and the MSB as Additional Insured with General Liability limits of \$1,000,000.

Drugs use, consumption, or sale, including marijuana, is strictly prohibited on the Property.

Section 17. Non-Discrimination.

WACO shall not discriminate against any person on the basis of race, color, religion, sex, national origin, physical handicap, age, status as a veteran or disabled veteran.

Section 18. Inspection of Property.

Borough employees or representatives may at any time enter and inspect the Property and any improvements thereon. Any unsatisfactory work, services, or maintenance performed or not performed, as the case may be, shall be remedied by WACO within thirty (30) days to the

satisfaction of the Borough of written notification of such requirement from the Borough. Further, any structures, improvements, infrastructure, or personal property of the Borough that is altered without Borough's prior approval, or that are damaged by WACO management or use of the Property shall be replaced, restored, or repaired by WACO to the satisfaction of the Borough within thirty (30) days of written notification of such requirement from the Borough. Such unsatisfactory or incomplete work shall be based upon the performance standard of workmanship and materials designated in Section 9 of this Agreement.

Section 19. Fuel Storage, Hazardous Material, Environmental Impairment.

The storage of petroleum or toxic chemicals and substances is prohibited on the Property. Spills, contamination, or environmental impairment on or to the Property shall be controlled and recovered immediately by WACO at WACO's expense, and be reported immediately to the State of Alaska, Department of Environmental Conservation, and to the Borough as required by federal and state laws. WACO shall remediate at WACO's expense any environmental impairment to the satisfaction of the Borough. Nothing herein shall prohibit or prevent WACO from seeking recovery of its expenses for such control and recovery from the responsible party.

Section 20. Safety.

WACO is responsible for the safety of all persons entering the Property including, but not limited to, visitors, spectators, invitees, employees, contractors, vendors, members, volunteers, pedestrians, or any other persons on the premises under this Agreement.

Section 21. Defense and Indemnification.

WACO shall indemnify, defend, and hold and save the Borough, its elected and appointed officials, officers, agents, and employees harmless from any and all claims, demands, civil suits, or liability of any nature, kind, or character, including costs, expenses, and attorney's fees. WACO shall be responsible under this clause for any and all legal actions or claims of any character resulting from injury, death, economic loss, damages, violation of statutes, ordinances, constitutions, or other laws, rules, or regulations, deprivation of constitutional rights, contractual claims or any other kind of loss, tangible or intangible, sustained by any person or property arising from WACO or its officers, agents, employees, partners, attorneys, suppliers, subcontractors, or volunteers performance or failure to perform under this Agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the Borough or its agents which are said to have contributed to the loss, failure, violation, or damages. WACO shall not be responsible for any damage or claim arising from the sole negligence or willful misconduct of the Borough, its agents, or its employees.

Section 22. Insurance Requirements.

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of this Agreement to create in the public or any member thereof a third party benefit hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal or property damage pursuant to the terms or provisions of this Agreement. Insurance shall be purchased and maintained by WACO throughout the term of this Agreement, naming the Borough as "Additionally Insured" and as outlined and attached as Exhibit C and Section 16, if applicable. WACO shall secure such additional insurance, as it deems prudent for the items owned, brought, or constructed onto the Property by WACO.

Notwithstanding the foregoing, the Borough shall maintain insurance coverage for the community center physical plant and equipment.

WACO and the Borough waive all rights and claims they may have against the other, their subsidiaries, and affiliates for loss or damage arising or resulting from the operations at the center caused by fire or other perils normally covered in a standard form fire or all risk insurance policy.

For any facility rental agreements between WACO and other individuals or entities, WACO and the renter must assume all responsibility for and hold harmless, indemnify, and defend the Borough from and against any and all liability, claims, or causes of action for any and all bodily injury or property damage arising out of or related in any way to the use of alcohol on the premises and the renter must abide by the WACO standing authorization for "host" alcohol beverage use.

Section 23. Destruction of Covered Area.

In the event that the area covered or any part of the area covered shall be destroyed by fire, explosion, or other casualty so that all or a substantial portion of the area covered cannot be operated, and the Borough fails to rebuild, repair, and reopen the same for use within two hundred and forty (240) days after the happening of said fire or other casualty, WACO or the Borough shall have the right to cancel and terminate this Agreement.

Section 24. Severability.

If any section or clause of this Agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Agreement shall remain in full force and effect.

Section 25. Jurisdiction: Choice of Law.

The interpretation and enforcement of this Agreement shall be governed by the laws of the State of Alaska. Any civil action arising from this Agreement shall be brought in the Alaska Superior Court, Third Judicial District of Palmer.

Section 26. Interpretation and Enforcement.

This Agreement is considered to have been jointly drafted by the parties and shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this Agreement are not to be construed as limitations or definitions, but are for identification purposes only.

Section 27. Termination.

- A. The Borough or WACO may terminate this Agreement for their convenience for any reason or for no reason at all thirty (30) days after written notice of termination to the other party.
- B. WACO is to leave the Property and Facilities in a neat, clean, and undamaged condition.
- C. In accordance with Section 14 of this Agreement and termination thereof, any improvements attached to the land may only remain with the land at the Borough's option; however, the Borough may require removal of all WACO property within thirty (30) days upon expiration or termination of this Agreement. If timely removal is not made, the remainder of the property then becomes the property of the Borough, or the Borough reserves the right to remove WACO property at WACO's expense.
- D. This Agreement may also be terminated by the Borough for any of the following reasons:
 - 1. Failure of WACO to comply with the terms and conditions of this Agreement, and if the breach is curable, failure to remedy any default in performance within thirty (30) days of written notice from the Borough.
 - 2. In the event that safety is the basis for termination, the Borough may not be able to provide (30) day notice and will provide reasonable notice to WACO under such circumstances.
 - 3. Failure to maintain the Property and Facilities for the described purposes set forth in Sections 4 and 8 for the term of this Agreement.
 - 4. Abandonment of the Property, which shall include failure to carry out necessary maintenance or repairs to Facilities, if any.

Section 28. Cause Beyond Control: Force Majeure.

Any failure to perform by either party due to force majeure shall not be deemed a violation or breach thereof of this Agreement. Forces majeure include any interruption, suspension, or interference with the project caused by acts of God, acts of the public enemy, war, blockades, insurrection, riot, and similar occurrences.

Section. 29. Agreement Modifications.

The parties may mutually agree to modify the terms of this Agreement. All modifications to this Agreement shall be incorporated by written amendments to this Agreement and be executed by both parties. In the event modifications are required to this Agreement in order to implement recommendations set forth by changes to Borough Plans, SpUDs, or other enacted mandates by Borough adoption of such, it is expressly understood that refusal by WACO to agree to modifications to this Agreement will be the basis for termination of this Agreement for cause.

Section 30. Contract Administration.

Reports, requests, insurance certificates, permits, proposals for fee schedules, plans for facilities, if any, and other daily management issues under this Agreement, shall be submitted in writing by WACO to:

Matanuska-Susitna Borough
Community Development Director
350 E. Dahlia Ave.
Palmer, Alaska 99645

Section 31. Construction.

WACO acknowledges that WACO has read and understands the terms of this Agreement, has had the opportunity to review the same with counsel of its choice, and is executing this Agreement of its free will.

Section 32. Notice.

All written notices required to inform, enforce, modify, or terminate this Agreement shall be sent to the parties as follows:

Matanuska-Susitna Borough
Community Development Director
350 E. Dahlia Ave.
Palmer, Alaska 99645

Willow Area Community Organization
Chair
PO Box 1027
Willow, Alaska 99688-1027

Section 33. Management Fee.

No management fee will be paid to the Borough. The consideration for this Agreement is the provisions that allows WACO to collect fees, as approved by the Borough, which will be used to offset the expenses of WACO in its operation, management, and maintenance of the Property and Facilities, including improvements, and the mutual benefit to the Borough and public in general in having WACO perform the management functions.

Section 34. Non-Waiver.

That no assent, expressed or implied, by the Borough to any breach of any WACO covenants shall be deemed to be waiver of any succeeding breach of the same covenant, nor shall any forbearance by the Borough to seek a remedy for any breach of WACO be deemed a waiver by the Borough of the rights or remedies with respect to such breach.

Section 35. Disputes.

Disputes over the terms and conditions of this Agreement shall be resolved by negotiations between the parties. In the event the parties are unable to agree, the decision of the Borough Manager shall be final.

Section 35. Integration and Entire Agreement.

This document and all appendices and amendments hereto embody the entire agreement of the parties. All negotiations, statements, representations, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this Agreement and the performance of either party hereto, are merged and integrated into the terms of this document. To the extent they are not inconsistent with the terms of this Agreement, the following documents are incorporated by reference into this Agreement as if fully set forth herein:

Exhibit A - Property Map

Exhibit B – Management Plan of Operation

Exhibit C – Insurance Requirements

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first written above.

[SIGNATURES ON THE NEXT PAGE]

WILLOW AREA COMMUNITY ORGANIZATION, INC.

ACKNOWLEDGEMENT

THIS IS TO CERTIFY that on this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared, Trygve Erickson, Chair, of Willow Area Community Organization, a non-profit corporation, known to me to be the identical individual who executed the foregoing instrument, and they acknowledged before me that they executed the Management Agreement as the free and voluntary act of said company, with full authority to do so and with full knowledge of its contents, for the uses and purposes therein mentioned.

[NOTARY SEAL]

IM 22-159

OWNER
MATANUSKA-SUSITNA BOROUGH

Michael Brown, Borough Manager

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
Third Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____ 2022, before me, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Michael Brown, Borough Manager of the Matanuska-Susitna Borough, a municipal corporation, who is personally known to me, appeared and acknowledged before me that he signed the Management Agreement for and on behalf of the municipal corporation, and acknowledge to me that he signed the same freely and voluntarily for the uses and purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

[NOTARY SEAL]

Notary Public for State of Alaska
My commission expires: _____

EXHIBIT A

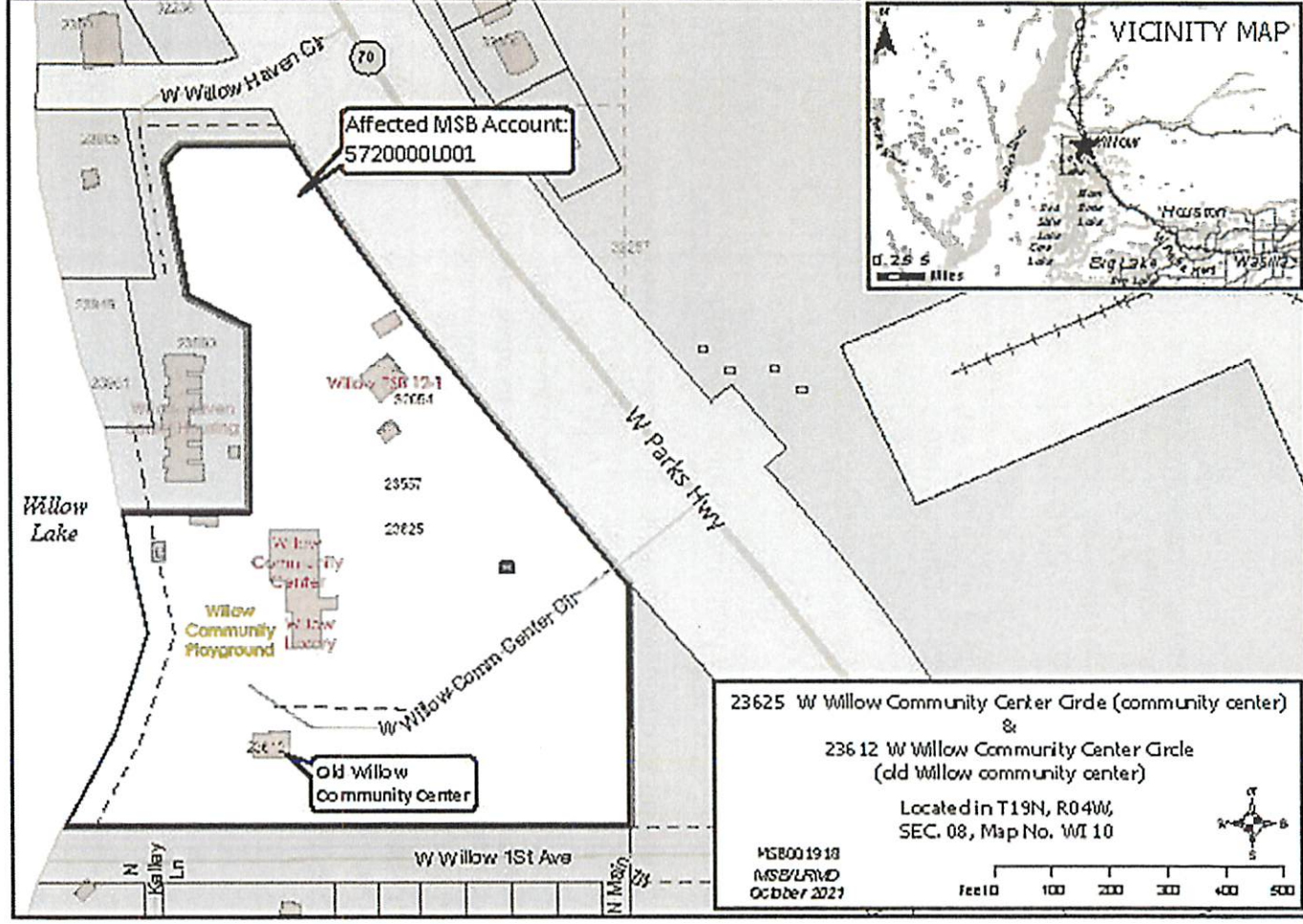
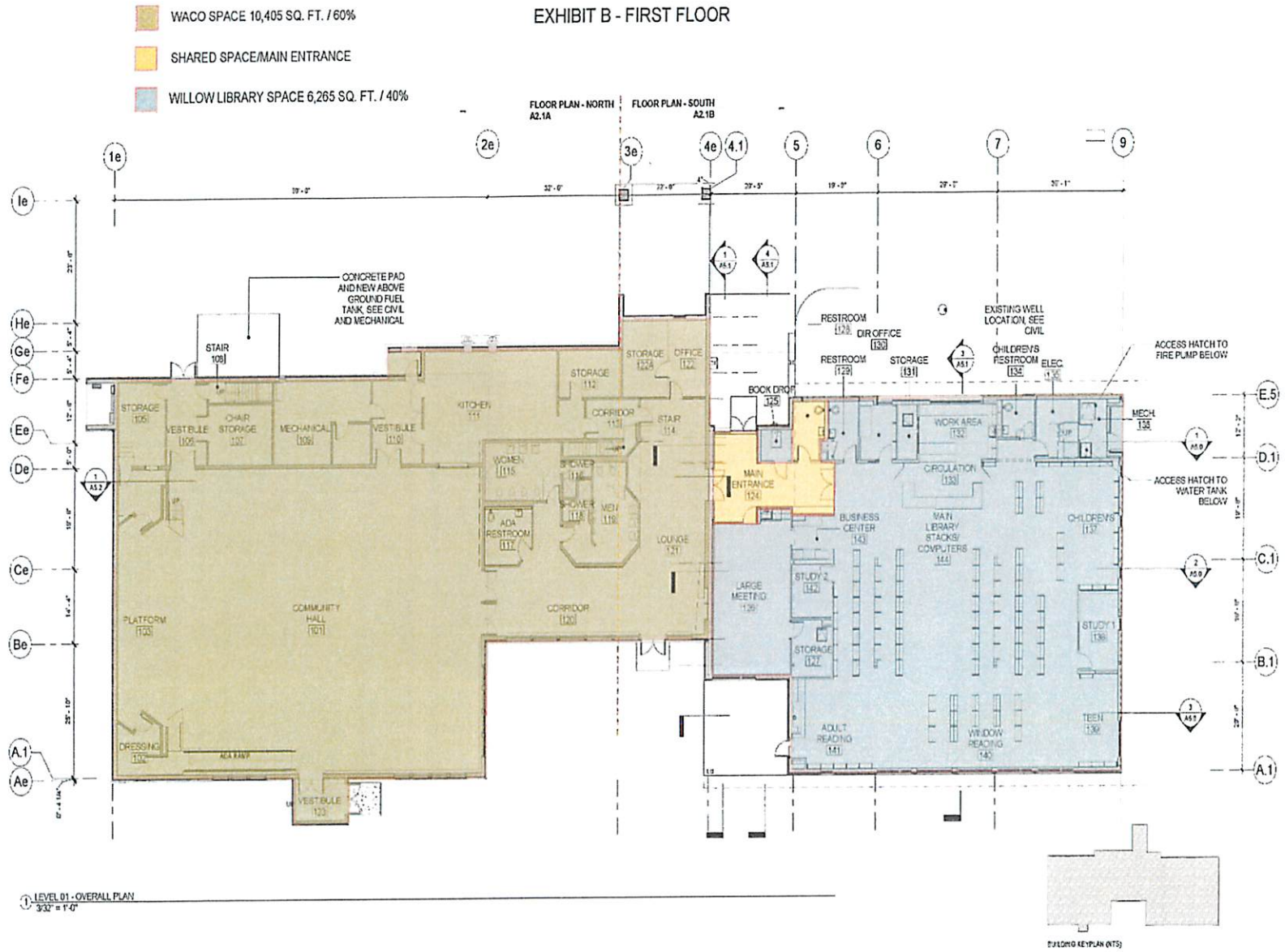


EXHIBIT B – FIRST FLOOR



IM 22-159

EXHIBIT B SECOND FLOOR – STORAGE AREA

① FLOOR PLAN - LEVEL 02
1/2" = 1'-0"

WACO SPACE 2,528 SQ. FT. / 60%
MSB & LIBRARY SPACE 623 SQ. FT. / 40%

EXHIBIT B - SECOND FLOOR

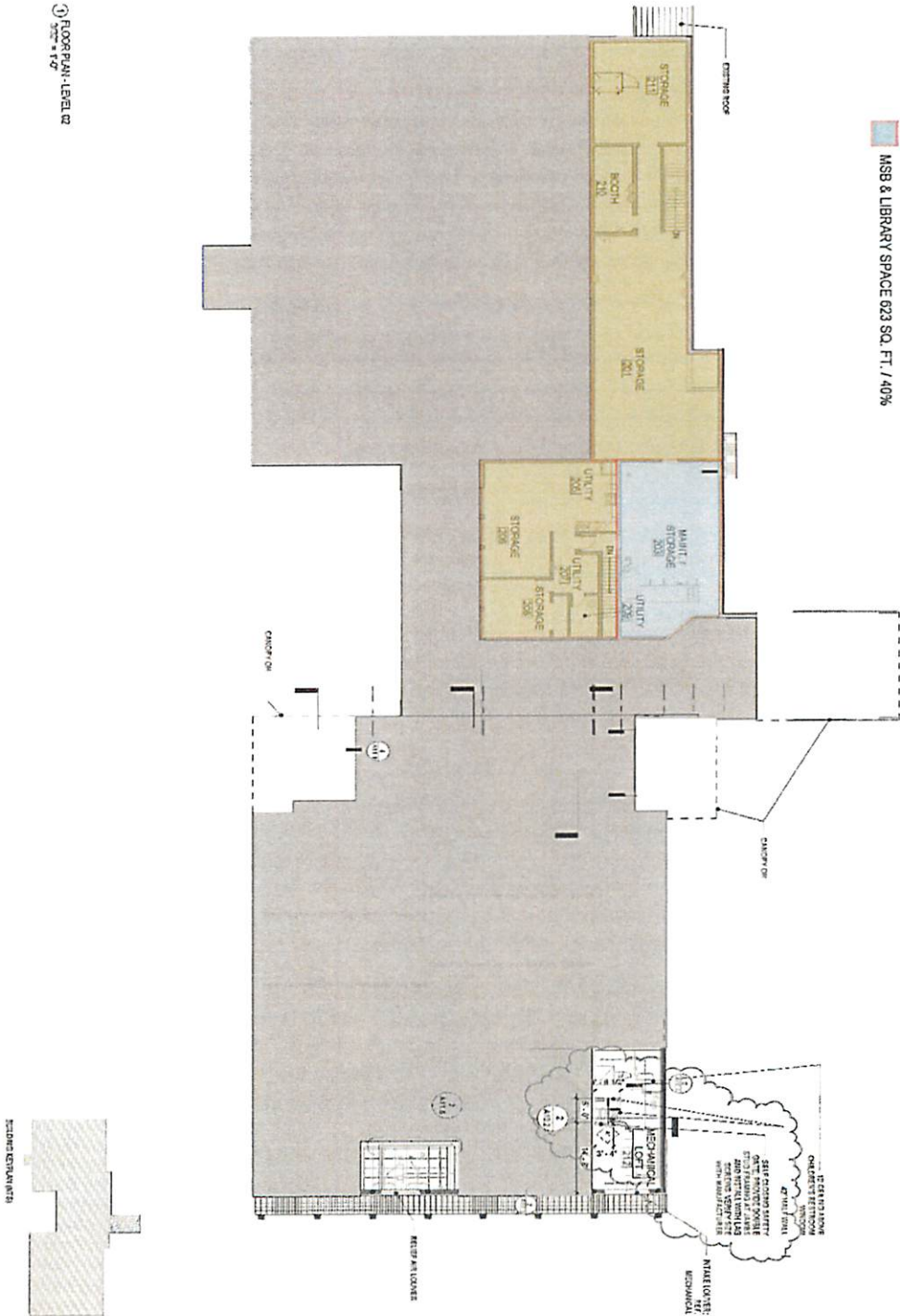


EXHIBIT B
Management Plan of Operation
COMMUNITY CENTER - 1st Floor

EXTERIOR MAINTENANCE			
ITEM	DESCRIPTION	MSB	WACO
GROUPS KEEPING	Grounds keeping is sidewalk (snow removal, sanding and sweeping), parking lot cleanup (litter pickup and trash removal), minor maintenance, tree and hedge maintenance, changing exterior and parking lot light bulbs, exterior signage and display maintenance.		X
	Lawn care (fertilizing and mowing and the upkeep of all equipment and machinery used in performing the above work.	X PARKS	
	Garden (flowers) maintenance.	X PARKS	
	<i>Asphalt painting, exterior signage and displays, or other such items must be requested by WACO as a capital expenditure and will be performed as funding is approved/allows</i>		
PLAYGROUND	WACO will conduct periodic visual inspections of playground equipment and notify MSB Parks and Recreation of potential safety issues.		X
	MSB certified playground inspector will conduct periodic inspections using a standardized check list, visually inspect gates and fences and maintain a dated log of findings. MSB Parks and Recreation will provide maintenance and repair of gates and fences, playground/park equipment.	X PARKS	
OUTSIDE BUILDING IMPROVEMENTS	Structural repair due to heaving, settling, or other ground movement of steps and ramps, or other outside improvements not tied to the building. WACO needs to request as capital expenditure. <i>Funding must be requested by WACO, in writing, prior to December 30, as a capital expenditure and will be performed by MSB as funding is appropriated by the Assembly.</i>	X	X
PARKING LOT AND ASSEMBLY AREAS	The parking lot includes the paved and unpaved parking areas in front of the building. Patching, major repairs, seal coating, and striping shall be the responsibility of the MSB for the paved portion. <i>Funding must be requested by WACO, in writing, prior to December 30, as a capital expenditure and will be performed by MSB O&M as funding is appropriated by the Assembly.</i>	X	X
	Sweeping of the parking lot shall be the responsibility of WACO. All maintenance, include grading, of all unpaved areas used for parking or other community activities, shall be the responsibility of WACO.		X
SNOW AND ICE REMOVAL.	The MSB will be responsible for contracting for routine snow and ice removal services for the paved parking lot and the fire lanes around the building. To the extent practical, plowing will only occur to cover routine usage when there is 4" accumulation or more. The cost for this service is equally shared between MSB and WACO.	X 40%	X 60%
	At other times when both WACO and the Borough mutually agree that snow and ice removal needs to be done, the cost will be shared equally between MSB and WACO.	X	X
	Any additional area(s) to be plowed or sanded for special events, such as the Willow Winter Carnival or the Iditarod Restart, shall be the sole responsibility of WACO.		X
	Maintenance, repairs, and replacement of the heat trace tape/cable for prevention of snow build-up on the roof eaves.	X O&M	

BUILDING STRUCTURE			
ITEM	DESCRIPTION	MSB	WACO
REPAIRS, MAINTENANCE & REPLACEMENT	MSB is responsible for the walls, floors, ceiling, roof and roofing, windows (including jambs & sashes), doors (including jambs & sashes), major painting (greater than 80 SQ./FT per area, sheetrock repairs and replacement, and carpet replacement. <i>Replacement of the above items must be requested by WACO, in writing, no later than December 30, as a capital expenditure and will be performed by MSB O&M as funding is appropriated by the Assembly.</i>	X O&M	
REPAIRS, MAINTENANCE & REPLACEMENT	WACO is responsible for the day-to-day custodial upkeep of the building and surrounding property, and the maintenance of equipment related to the presentation of the programs specific to the facility. It includes janitorial work, carpet cleaning, grounds keeping, patching small holes in walls (for example, nail holes), touch up and minor repainting (up to 80 SQ./FT per area), replacement of burned out light bulbs (excluding library), furniture repair and replacement (excluding library), and the purchase and maintenance of any other equipment not directly related to the physical operation of the facility and its support systems.		X
HEATING, AIR, FIRE SUPPRESSION SYSTEMS, FIRE ALARM AND GENERATOR EQUIPMENT			
ITEM	DESCRIPTION	MSB	WACO
HEATING & AIR CONDITIONING SYSTEMS	Maintain HVAC equipment including boilers, stacks, pumps, fans, storage tanks, air compressors, and air conditioning equipment, expansion tanks, ductwork, diffusers, VFD units, VAV boxes, filters, coils, valves, and associated control devices, sensors, and controllers.	X O&M	
	Borough operations and maintenance personnel are not trained or certified with geothermal heat equipment. WACO will procure the services of a trained and certified contractor for equipment maintenance and/or repair and such costs will be 50/50 shared between MSB Community Development Department (CD) and WACO.	X CD	X
	Cleaning of diffusers, ceiling grills, or exterior duct work related to the community center building.		X
FIRE SUPPRESSION SYSTEM & EQUIPMENT	Servicing, testing, and repairs to all wet pipe and dry pipe. Fire sprinkler equipment, if any.	X O&M	
	Certification, testing, and recharging or replacement costs for portable fire extinguishers/kitchen extinguishers, if any	X O&M	
FIRE ALARM EQUIPMENT	Servicing, testing and repairs to the fire alarm systems.	X O&M	
GENERATOR EQUIPMENT	Servicing, testing, and repairs to the emergency generator	X O&M	
WATER, SEPTIC, ELECTRICAL AND PLUMBING SYSTEMS			
ITEM	DESCRIPTION	MSB	WACO
WATER SYSTEM	As a designated borough emergency shelter, the well shall be maintained and tested to ensure that the well stays certified to DEC standards at no lower than a Class B public water system. This shall include water quality testing and sanitary surveys. ADEC schedule attached as Exhibit C.	X O&M	
	Nitrate and coliform	X Library	
	Sanitary survey every 5 years	X O&M	
	RTCR - Sample Siting Plan	X O&M	

WATER, SEPTIC, ELECTRICAL AND PLUMBING SYSTEMS CONTINUED			
ITEM	DESCRIPTION	MSB	WACO
SEPTIC SYSTEM	WACO shall receive concurrence from MSB Operations and Maintenance Division Manager before pumping or providing any other service to the septic system.	X	
	WACO will annually have the septic system checked to see if pumping is required. WACO will pump the septic system before and/or after the Iditarod Restart, depending on pumping requirements, with concurrence of MSB Operations and Maintenance Division Manager.		X
	Maintenance, repairs, and replacement of the heat trace tape for the septic system.	X O&M	
ELECTRICAL & LIGHTING SYSTEM	Power distribution equipment, panels, motor control centers, mag starters, disconnects, lighting relays, and all lighting ballasts; testing and repairs to exit fixtures and emergency light fixtures; provide light bulbs and light tubes for the library entrance, foyer, and bathrooms.	X O&M	
PLUMBING SYSTEM	Major replacement and repairs to broken or frozen pipes and lines, fixtures, faucets, lavatories, shower trees and leads, interior and exterior hose bibs, traps and cleanouts, drywells and roofing drainage equipment, valves, backflow devices, strainers, meters, PRV's, and flushometers.	X O&M	
	Unclogging lines and pipes smaller than 2" in diameter, plunging toilets, cleaning out sink traps or shower drains. Exterior hoses, exterior water lines, and lawn watering devices are property of WACO.		X
EQUIPMENT & SYSTEM MONITORING & PREVENTATIVE MAINTENANCE			
ITEM	DESCRIPTION	MSB	WACO
EQUIPMENT & SYSTEM MONITORING & CHECKS	Conduct periodic visual inspections of all the systems and equipment mentioned in Exhibit B. Maintain a written log of inspection observations and provide prompt notification to MSB Operations and Maintenance Division Manager of any observed abnormalities, equipment breakdown or failures, or system malfunctions.		X
PREVENTATIVE MAINTENANCE	Preventative maintenance include heating, major plumbing, electrical, snow and ice removal from the building, structure and other repetitive, scheduled maintenance work which will prolong or extend the useful life of the structure and its associated equipment and systems, ensure the continued safety of persons in or about borough facilities, maintain or reduce energy and operating costs, and work which will eliminate unscheduled downtime, repair, and replacement costs, or the chance of failure.	X O&M	
KITCHEN	Except for heating and electrical systems, complete upkeep, repairs and maintenance, including periodic cleaning of grease traps, vent hoods, and exhaust fans.		X
UTILITIES & SOLID WASTE			
ITEM	DESCRIPTION	MSB	WACO
HEATING FUEL	Heating fuel costs are split between MSB 40% and WACO 60% with the billing going to WACO.	40%	60%
ELECTRIC	Electric services is for the entire building. WACO shall reimburse MSB 60% per month WACO's share of electrical costs.	40%	60%
TELEPHONE & INTERNET	WACO will be responsible for all telephone and internet charges for telephone and internet services for the community center.		X
	MSB will be responsible for all telephone and internet charges for telephone and internet services for the library.	X	

UTILITIES & SOLID WASTE - CONTINUED			
ITEM	DESCRIPTION	MSB	WACO
SOLID WASTE	Solid waste is the removal of all solid waste from the community center, library and grounds. The fee to WACO for a portion of this service will be \$67 per month for normal use of the solid waste services. Any additional solid waste services needed due to large events shall be the sole responsibility of WACO.	X Library	\$67 + Special Events
OUTSIDE LIGHTING	The MSB shall reimburse WACO 40% per month for MSB's use of the outside lighting.	40%	60%
HEAT PUMP SYSTEM	The MSB shall reimburse WACO 40% per month for MSB's use of the heat pump system.	40%	60%
OTHER UTILITY COSTS	All other costs of services not specifically covered by the Agreement or Exhibit B shall be the sole responsibility of WACO and no other compensation shall be furnished by MSB to WACO.		X
BUILDING KEYS & KEY SYSTEM			
ITEM	DESCRIPTION	MSB	WACO
KEYS	WACO received 8 keys that open the front door and the door to the community center and 2 keys for the office door. WACO is responsible for any lost or stolen keys and required to pay for the re-keying the front door in the event keys are lost or stolen.		X
KEY/SECURITY BADGES	WACO is responsible for all security badges issued by the Borough. If a security badge is lost or stolen, WACO will immediately notify Borough IT to deactivate the card. Replacement of the security badge is issued by Borough Human Resources. At this time, there is no charge for a replacement security card. In the future, if a charge is required, that is the responsibility of WACO.		X
WILLOW LIBRARY JANITORIAL DUTIES			
DAILY	DESCRIPTION	MSB	WACO
BATHROOMS	Clean and disinfect restrooms and fill supplies. The "Main Entrance" bathroom cleaning will be split 50/50 since it serves the library and community center.	X 50%	X 50%
BUILDING SAFETY & SECURITY	Patrol the building and grounds for safety and mechanical problems. Check all doors and windows to secure the building when locked down.		X
3 TIMES PER WEEK	DESCRIPTION-PREFERABLY TUES, THURS, & SAT	MSB	WACO
GENERAL UPKEEP	Library staff will maintain general upkeep on off janitorial days	X	
	Empty trash containers (spare bags in bottom of container) and boxes to be discarded under trash cans.		X
	Vacuum carpet		X
	Disinfecting checkout counter, work counters, and kids' tables		X
MONTHLY	DESCRIPTION (OR MORE FREQUENTLY AS NEEDED)*	MSB	WACO
	Dust furniture and bookshelves (without moving books), window sills, and fire place.		X
	Deep clean sink except for personal items, cups, and dishes. Do not clean if books or other items are in close proximity.		X
	Library staff cleans sink after daily use.	X	
TWICE YEARLY	DESCRIPTION (OR MORE FREQUENTLY AS NEEDED)*	MSB	WACO
	Wash inside of windows.		X
	Wash outside of windows (Spring and Fall).		X
	Wash display case windows (Library staff will unlock 2 times a year for inside cleaning).		X
AS NEEDED ITEMS	DESCRIPTION - TO BE DONE AS NEEDED	MSB	WACO
	Treat carpet stains using carpet cleaner.		X
	Care of immediate spills and removal any food from the floors or carpeting.	X	
	Cleaning of the light fixtures will be done when replacing bulbs, except the library.		X
	Wash trash containers.		X

* Janitorial staff and library staff must communicate in advance on these items marked with an "*" so arrangements
NOTE: Stacks of books will be left "as is" in the work area; oily cleaners will not be used near books, on the study

COMMUNITY CENTER
Management Plan of Operation - 2nd Floor

FLOOR SPACE / STORAGE AREAS			
ITEM	DESCRIPTION	MSB	WACO
STORAGE AREAS	Exhibit B includes areas used by the library and community center for storage use only. No other uses are allowed.	X BLUE AREA	X GREEN AREA
MECHANICAL & UTILITY AREAS	All mechanical, PVC piping, electrical junction boxes, and utility areas are to be kept clean and free of debris to maintain access. No stacking of boxes or other items that impede access to any mechanical or utility areas.	X BLUE AREA	X GREEN AREA

**OLD WILLOW LOG CABIN
Management Plan of Operation**

EXTERIOR MAINTENANCE			
ITEM	DESCRIPTION	MSB	WACO
GROUNDS KEEPING	Grounds keeping is sidewalk (snow removal, sanding and sweeping), parking lot cleanup (litter pickup and trash removal), minor maintenance, tree and hedge maintenance, changing exterior lighting and parking lot light bulbs, exterior signage and display maintenance.		X
	All maintenance, include grading, of all unpaved areas used for parking or other community activities, shall be the responsibility of WACO.		X
OUTSIDE BUILDING IMPROVEMENTS	Structural repair due to heaving, settling, or other ground movement of steps and ramps, or other outside improvements tied to the building. WACO needs to request as capital expenditure. <i>Funding must be requested by WACO, in writing, prior to December 30, as a capital expenditure and will be performed by MSB as funding is appropriated by the Assembly.</i>	X	
SNOW AND ICE	WACO will be responsible for contracting for routine snow and ice		X
	Any additional area(s) to be cleared, plowed or sanded for special		X
BUILDING STRUCTURE			
ITEM	DESCRIPTION	MSB	WACO
REPAIRS, MAINTENANCE & REPLACEMENT	MSB is responsible for the walls, floors, ceiling, roof and roofing, windows (including jambs & sashes), doors (including jambs & sashes), major painting (greater than 80 SQ/FT per area, sheetrock repairs and replacement, and carpet replacement.	X O&M	
	<i>Replacement of the above items must be requested by WACO, in writing, no later than December 30, as a capital expenditure and will be performed by MSB O&M as funding is appropriated by the Assembly.</i>		
REPAIRS, MAINTENANCE & REPLACEMENT	WACO is responsible for the day-to-day custodial upkeep of the building and surrounding property, and the maintenance of equipment related to the presentation of the programs specific to the facility. It includes janitorial work, carpet cleaning, grounds keeping, patching small holes in walls (for example, nail holes), touch up and minor repainting (up to 80 SQ/FT per area), replacement of burned out light bulbs, furniture repair and replacement, and the purchase and maintenance of any other equipment not directly related to the physical operation of the facility and its support systems.		X
HEATING, FIRE SUPPRESSION SYSTEMS, AND FIRE ALARM			
ITEM	DESCRIPTION	MSB	WACO
HEATING	Maintain, repair, and replace Toyo oil heating stove.	X O&M	
	Cleaning grills, outside structure, fan or interior duct work related to the Toyo stove.		X
FIRE SUPPRESSION SYSTEM & EQUIPMENT	Servicing, testing, and repairs to all wet pipe and dry pipe. Fire sprinkler equipment, if any.	X O&M	
	Certification, testing, and recharging or replacement costs for portable	X	
FIRE ALARM EQUIPMENT	Servicing, testing and repairs to the fire alarm systems.	X O&M	
WATER, SEPTIC, ELECTRICAL AND PLUMBING SYSTEMS			
ITEM	DESCRIPTION	MSB	WACO
WATER SYSTEM	The well shall be maintained and tested to ensure that the well stays certified to DEC standards at no lower than a Class B public water system. This shall include water quality testing and sanitary surveys.	X O&M	
	Nitrate and coliform	X	
	Sanitary survey every 5 years	X O&M	

WATER, SEPTIC, ELECTRICAL AND PLUMBING SYSTEMS CONTINUED			
ITEM	DESCRIPTION	MSB	WACO
WATER SYSTEM - CONT	RTCR - Sample Siting Plan	X O&M	
SEPTIC SYSTEM	WACO shall receive concurrence from MSB Operations and Maintenance Division Manager before pumping or providing any other service to the septic system.	X	
	WACO will annually have the septic system checked to see if pumping is required. WACO will pump the septic system before and/or after the Iditarod Restart, depending on pumping requirements, with concurrence of MSB Operations and Maintenance Division Manager.		X
ELECTRICAL & LIGHTING SYSTEM	Power distribution equipment, panels, motor control centers, mag starters, disconnects, lighting relays, and all lighting ballasts; testing and repairs to exit fixtures and emergency light fixtures.	X O&M	
PLUMBING SYSTEM	Major replacement and repairs to broken or frozen pipes and lines, fixtures, faucets, lavatories, interior and exterior hose bibs, traps and cleanouts, drywells and roofing drainage equipment, valves, backflow devices, strainers, meters, PRV's, and flushometers.	X O&M	
	Unclogging lines and pipes smaller than 2" in diameter, plunging toilets, and cleaning out sink traps. Exterior hoses, exterior water lines, and lawn watering devices are property of WACO.		X
EQUIPMENT & SYSTEM MONITORING & PREVENTATIVE MAINTENANCE			
ITEM	DESCRIPTION	MSB	WACO
EQUIPMENT & SYSTEM MONITORING & CHECKS	Conduct periodic visual inspections of all the systems and equipment mentioned in Exhibit B. Maintain a written log of inspection observations and provide prompt notification to MSB Operations and Maintenance Division Manager of any observed abnormalities, equipment breakdown or failures, or system malfunctions.		X
PREVENTATIVE MAINTENANCE	Preventative maintenance include heating, major plumbing, electrical, snow and ice removal from the building, structure and other repetitive, scheduled maintenance work which will prolong or extend the useful life of the structure and its associated equipment and systems, ensure the continued safety of persons in or about borough facilities, maintain or reduce energy and operating costs, and work which will eliminate unscheduled downtime, repair, and replacement costs, or the chance of failure.	X O&M	
UTILITIES & SOLID WASTE			
ITEM	DESCRIPTION	MSB	WACO
HEATING FUEL	Heating fuel costs.		X
ELECTRIC	Electric services is for the entire building.		X
TELEPHONE & INTERNET	WACO will be responsible for all interior telephone and internet service lines and charges.		X
	MSB will be responsible for the telephone service line from the pole to the exterior of the building.	X	
SOLID WASTE	Solid waste is the removal of all solid waste from the building and grounds. The library and community center facilities share the expense of solid waste services. Therefore, there is no fee for the building to use the solid waste services for everyday normal use. Any additional solid waste services needed due to large events shall be the sole responsibility of WACO.	X	X + Special Events
EXTERIOR & INTERIOR LIGHTING	Replacement of light bulbs for the exterior and interior lighting.		X
OTHER UTILITY COSTS	All other costs of services not specifically covered by the Agreement or Exhibit B shall be the sole responsibility of WACO and no other compensation shall be furnished by MSB to WACO.		X

BUILDING KEYS			
ITEM	DESCRIPTION	MSB	WACO
KEYS	WACO received 7 keys for access to the building. WACO is responsible for any lost or stolen keys and required to pay for the re-keying all locks.		X
JANITORIAL DUTIES			
DAILY	DESCRIPTION	MSB	WACO
BUILDING SAFETY & SECURITY	Patrol the building and grounds for safety and mechanical problems. Check all doors and windows to secure the building when locked down. Check exterior for ice build up and Toyo stove vent pipes are free and clear of any debris, snow, and are properly working.		X
WEEKLY	DESCRIPTION-PREFERABLY TUES, THURS, & SAT	MSB	WACO
GENERAL UPKEEP	Empty trash containers and discard any boxes.		X
	Clean floors with types of cleaners approved for laminate flooring.		X
BATHROOMS	Clean and disinfect restrooms and fill supplies.		X
MONTHLY	DESCRIPTION (OR MORE FREQUENTLY AS NEEDED)*	MSB	WACO
	Dust furniture, window sills, and flat surfaces.		X
	Deep clean and disinfect sink.		X
TWICE YEARLY	DESCRIPTION (OR MORE FREQUENTLY AS NEEDED)*	MSB	WACO
	Wash inside of windows.		X
	Wash outside of windows (Spring and Fall).		X
	Wash display cases inside and out.		X
AS NEEDED ITEMS	DESCRIPTION - TO BE DONE AS NEEDED	MSB	WACO
	Treat carpet stains using carpet cleaner, if applicable.		X
	Care of immediate spills and removal any food from the floors or carpeting.		X
	Cleaning of the light fixtures will be done when replacing bulbs.		X
	Wash trash containers.		X

EXHIBIT C
INSURANCE REQUIREMENTS

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

It is highly recommended that the Lessee/Permittee/Manager confer with their respective insurance companies or brokers to determine if their insurance program complies with the Borough's Insurance requirements.

The Lessee/Permittee/Manager shall procure and maintain the following insurance:

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services office form number CG 0001 (Edition 4/13) covering Commercial General Liability.
2. Insurance Services office form number CA 0001 (Edition 4/13) covering Automobile Liability, symbol 1 "any auto."
3. Worker's Compensation insurance as required by the State of Alaska and Employers Liability Insurance.

B. Minimum Limits of Insurance

Lessee/Permittee/Manager shall maintain limits no less than:

1. General Liability:

\$1,000,000 combined single limit per occurrence for bodily injury, property damage, personal injury and advertising injury. Minimum general aggregate limit shall be \$1,000,000. The general aggregate limits shall apply separately to each project.

General liability insurance shall be maintained in effect throughout the term of the Agreement.

If the general liability insurance is written on a claim made form, the Lessee/Permittee/Manager shall provide insurance for a period of two years after termination or expiration of this Agreement. The policy(s) shall evidence a retroactive date, no later than the beginning of this Agreement.

2. Auto Liability:

\$1,000,000 combined single limit per accident for bodily injury and property damage.

3. Worker's Compensation and Employers Liability:

Worker's Compensation shall be statutory as required by the State of Alaska. Employer's liability shall be endorsed to the following minimum limits:

Bodily injury by Accident -	\$100,000 each accident
Bodily injury by Disease -	\$100,000 each employee
Bodily injury by Disease -	\$500,000 policy limit

4. Excess Liability:

In order to meet the required minimum limits of insurance it is permissible for the Lessee/Permittee/Manager to combine an excess liability or umbrella policy with the general liability, or auto liability or employer's liability. In the instance where the Lessee/ Permittee/ Manager purchases an excess liability or umbrella policy the occurrence limit and the aggregate limit may be of the same amount.

C. Deductibles and Self-Insured Retention

Prior to the agreement effective date, any deductible or self-insured retention must be declared and approved by the Borough. Lessee/Permittee/Manager may be requested to demonstrate how the deductible or self-insured retention will be funded in the event of a claim. At the option of the Borough, the Lessee/Permittee/Manager shall reduce or eliminate such deductibles or self-insured retention as respects the Borough, its officers, officials, employees and volunteers; or the Lessee/Permittee/Manager shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability, Automobile Liability

- a. The Borough, its Administrator, officers, officials, employees and volunteers shall be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the Lessee/Permittee/Manager; products and completed operations of the Lessee/Permittee/Manager premises owned, occupied or used by the Lessee/ Permittee/ Manager or automobiles owned, leased, hired or borrowed by the Lessee/Permittee/Manager. The coverage shall contain no special limitation on the scope of protection afforded to the Borough, its Administrator, officers, officials, employees, and volunteers.
- b. The Lessee/Permittee/Manager's insurance coverage shall be primary insurance as respects the Borough, its Administrator, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Borough, it's Administrator, officers, officials, employees, and volunteers shall be excess of the Lessee/Permittee/Manager insurance and shall not contribute to it.
- c. The Lessee/Permittee/Manager insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Worker's Compensation and Employer's Liability

The insurer shall agree to waive all rights of subrogation against the Borough, its Administrator, officers, officials, employees, and volunteers for losses arising from work performed by the Lessee/Permittee/Manager or any subcontractor of the Lessee/Permittee/Manager in relation to this Agreement.

3. All Insurance

Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party,

reduced in coverage or in limits except after 30 days prior written notice for nonpayment of premium or fraud on the part of the Lessee/Permittee/Manager or 60 days prior written notice for any other reason by certified mail, return receipt requested, has been given to the Borough. Such notice shall be mailed by the Lessee/Permittee/Manager to the attention of the Borough's Land Management Officer.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A-VII.

F. Verification of Coverage

Lessee/Permittee/Manager shall furnish the Borough with certificates of insurance and with certified copies of all endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms acceptable to the Borough. All certificates are to be received and approved by the Borough before work commences. The Borough reserves the rights to require complete, certified copies of all required insurance policies, at any time.

G. Subcontractors and Sublessee's

Lessee/Permittee/Manager shall include all subcontractors and sublessees as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor and sublessees. All coverage for subcontractors and sublessees shall be subject to all requirements stated herein.

H. Lapse in Insurance Coverage

A lapse in insurance coverage, any change that restricts, reduces insurance provided, or changes name of insured without Borough approval is a material breach of this agreement, which shall result in immediate termination of the agreement.