

Date of Action: 3/11/13	
Approved <input checked="" type="checkbox"/>	Denied <input type="checkbox"/>
By: Amended See Below [Signature]	

CITY COUNCIL ACTION MEMORANDUM

AM No. 13-07: Directing administration to proceed with the sale of the Meta Rose Square, Lot 5A, Block 1, Fred Nelson Subdivision, Block 1E Re-subdivision, Wasilla Townsite.

Originator: Council Member Brandon Wall

Date: 2/26/2013

Agenda of: 3/11/2013

Route to:	Department Head	Signature	Date
X	Public Works Director	[Signature]	3/1/13
X	Recreation & Cultural Services Director	[Signature]	2/27/2013
X	Finance Director	[Signature]	2-27-13
X	Deputy Administrator	[Signature]	2-27-13
X	City Clerk	[Signature]	2/27/13

Reviewed by Mayor Verne E. Rupright: [Signature] 3-4-13
AS TO FORM NOT CONTENT

Fiscal Impact: yes or no

Funds Available: yes or no

Account name/number/amount:

Account Name

Account #

Dollar Amount

Attachments: Ordinance Serial No. 07-76(AM) (2 pages)
WMC 5.32 Sale or Lease of Public Lands (8 pages)

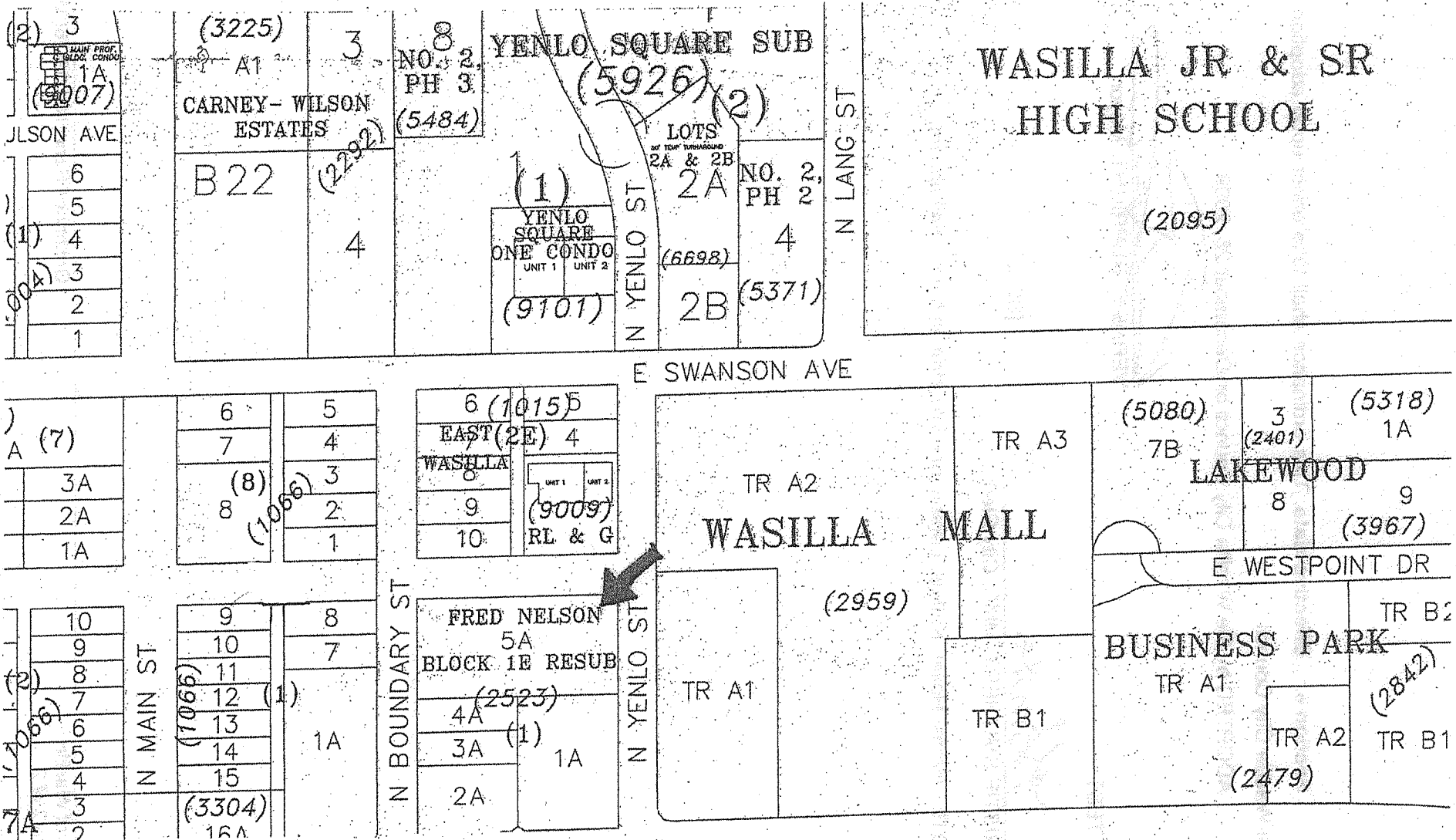
Summary Statement: This item was previously submitted as AM No. 13-06 during the City Council meeting of February 25, 2013. The AM failed with all other items on the Consent Agenda. This item is now being resubmitted as AM No. 13-07, to the meeting of March 11, 2013, and City Council action is requested. AM No. 13-07 differs from AM No. 13-06 by striking the sale of the parking lot, which is currently leased by Krazy Moose Subs.

The Wasilla City Council adopted Ordinance Serial No. 09-76(AM) which purchased the Meta Rose Square building for the purpose of using it as a City library.

Since its purchase, this property is not being used as a library and is not needed for, or devoted to, a municipal purpose. Ownership of this property places the City of Wasilla in direct competition with private sector retail property management entities. Therefore, this land should be sold in accordance with Chapter 5.32 of the Wasilla Municipal Code.

Council Member Recommendation: Adopt AM No. 13-07 to direct administration to proceed with the sale of the Meta Rose Square, Lot 5A, Block 1, Fred Nelson Subdivision, Block 1E re-subdivision, Wasilla Townsite. *And authorize the Mayor to obtain a Broker's Opinion.*

PROPERTY LOCATION MAP



**CITY OF WASILLA
ORDINANCE SERIAL NO. 09-76(AM)**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING THE FISCAL YEAR 2010 BUDGET BY APPROPRIATING \$1,632,800 TO THE CAPITAL PROJECTS FUND LAND ACQUISITION ACCOUNT FROM THE GENERAL FUND, CAPITAL RESERVE FUND AND LAND BANK FUND TO PURCHASE LOT 5A, BLOCK 1, FRED NELSON SUBDIVISION BLOCK 1E RESUBDIVISION (META ROSE SQUARE) AND LOT 1, BLOCK 8, WASILLA TOWNSITE (USS1175).

Section 1. Classification. This is a non-code ordinance.

Section 2. Purpose. To appropriate \$1,632,800 to the Capital Project Fund, Land Acquisition Account from the General Fund \$174,689, Capital Reserve Fund \$1,408,111 and the Land Bank Fund \$50,000 to purchase Lot 5A, Block 1, Fred Nelson Subdivision Block 1E Re-subdivision (Meta Rose Square) And Lot 1, Block 8, Wasilla Townsite (USS1175).

Section 3. Appropriation. Funds are appropriated to the following accounts:

110-4181-499.45-12 Constr. Services - Land Acquisition \$1,458,111

Section 4. Sources of funds.

001-4990-499-99-11 General Fund \$ 174,689

250-4990-499.99-11 Capital Reserve Fund \$1,408,111

280-4990-499.99-11 Land Bank Fund \$ 50,000

Section 5. Stipulation of funds. Any future library will contain the name Meta-Rose in some manner. Additionally, the proceeds or any net gain from the future sale of said property, over and above cost, will be set aside in an account for the use of a future library.

Section 6. Effective date. This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on December 28, 2009.


VERNE E. RUPRIGHT, Mayor

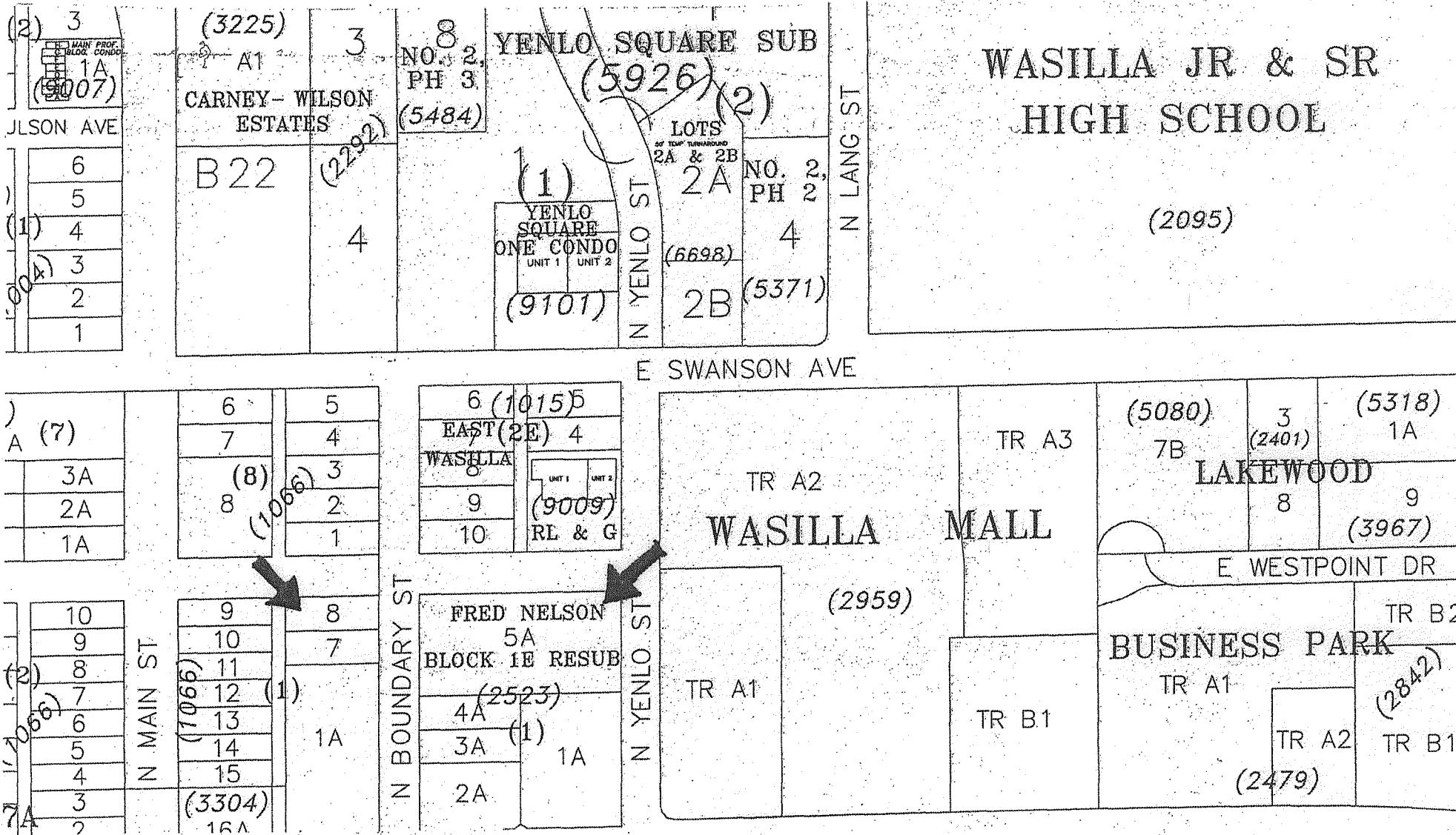
ATTEST:


KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

VOTE: Harris, Holler, Katkus, Larson, and Woodruff in favor. Hall absent.

PROPERTY LOCATION MAP



Chapter 5.32

SALE OR LEASE OF PUBLIC LANDS

Sections:

- 5.32.010 Lands available.
- 5.32.020 Qualifications of applicants or bidders.
- 5.32.030 Appraisal required.
- 5.32.040 Methods of disposal.
- 5.32.050 Public notice.
- 5.32.060 Council approval.
- 5.32.070 Conditions of sale.
- 5.32.080 General sale procedures.
- 5.32.090 Lease procedures.
- 5.32.100 Negotiated sales and exchanges.
- 5.32.110 Negotiated leases.
- 5.32.115 Leases of space in city buildings.
- 5.32.120 Lease of airport property.

5.32.010 Lands available.

All lands which the city holds title, and which in the opinion of the council are not needed for, or devoted to, a municipal purpose, may be leased or sold, as hereinafter provided for, and in such case where such sale or lease would be in the best interest of the public. (Prior code § 7.16.010)

5.32.020 Qualifications of applicants or bidders.

A. An applicant or bidder for a lease or purchase must be:

1. A citizen of the United States and nineteen (19) years of age or over;

2. A permanent resident who has filed a declaration of intention to become a citizen and be nineteen (19) years of age or over; or

3. A group, association or incorporation which is authorized to conduct business under the laws of Alaska.

B. A person acting as an agent for a qualified bidder must independently meet the requirements of this section and must file with the mayor, prior to the time set for the auction, a proper power of attorney or a letter of authorization creating such agency. The agent shall represent only one principal, who must meet the qualifications of this section.

C. A person is not a qualified applicant or bidder if:

1. He or she has failed to pay a deposit or payment due to the city in relation to city land in the previous five years and full payment, including interest at the legal rate, is not made;

2. He or she is currently in breach or default on any contract or lease involving land in which the city has an interest;

3. He or she has failed to perform under a contract or lease involving city land in the previous five years and the city has acted to terminate the contract or lease or to initiate legal action; or

4. The city has other good cause to believe that the person is unlikely to make payment or responsibly perform under the lease or other contract. (Prior code § 7.16.020)

5.32.030 Appraisal required.

No lands or any interest in land shall be sold or exchanged unless the same has been appraised by a qualified appraiser within six months prior to the date fixed for the sale or exchange. The mayor shall be responsible to have such appraisal made and it shall reflect any restrictions on the use of the land as offered for sale. Alternatively, the latest available Matanuska-Susitna Borough assessed value may be used. No land shall be sold or exchanged for less than the approved minimum appraised or assessed value. (Prior code § 7.16.030)

5.32.040 Methods of disposal.

Land, or any interest in land may be disposed of under one of the following procedures as approved by the city council.

A. By public auction or sealed bid to the highest qualified bidder; and

B. By negotiated sale, lease or exchange as provided in Sections 5.32.100 and 5.32.110. (Prior code § 7.16.040)

5.32.050 Public notice.

A. The public notice procedure set forth by subsections B and C of this section are not intended to

apply to "temporary use permits," as defined and set forth in Section 5.32.060.

B. Sale or Lease of Land. Except as otherwise provided, public notice shall be given of any sale or lease of public lands or any interest therein. Notice shall be published once a week for three consecutive weeks preceding the time of sale or lease stated in the notice in at least one newspaper of general circulation in the vicinity in which the land or interest therein is to be sold or leased. In no event shall the sale or lease be held less than nine days nor more than three weeks following the last date of publication. In addition to the newspaper publications a notice of sale or lease shall also be posted in three public places. Such notice shall set forth a description of the land and the interest therein to be sold or leased and the time, place and general terms of the sale or lease and limitations.

C. Negotiated Sales, Lease and Exchanges. If disposal of land or interest in land is authorized by negotiated sale or lease, or by exchange of lands, public notice or the ordinance approving the disposal shall be given in the same manner as for other ordinances and a public hearing shall be held. (Prior code § 7.16.050)

5.32.060 Council approval.

A. "Temporary use permits," as defined by this subsection, are not subject to the formal lease requirements specified by the terms of Section 5.32.050 nor are temporary use permits subject to the requirements of council approval as stated in Section 5.32.090(B), (C) and (D). Similarly, the lease procedures provided for by Sections 5.32.090 and 5.32.110 are not intended to apply to temporary use permits. The mayor is granted the authority to exercise his or her discretion to permit the use of city-owned land and/or improvements thereon for temporary use if the mayor, in his or her discretion, finds the following conditions to have been met:

1. The land and/or improvements are not needed or necessary, during the anticipated term of use, for the normal and ordinary activities of the city;
2. The temporary use is not anticipated to exceed six months;
3. The purpose of the temporary use permit is for an activity or purpose of nonprofit character;
4. The temporary use will be compatible with the conduct of regular and ordinary city business and the use of other city offices and property;
5. The activities contemplated by the temporary use occupant will be nondiscriminatory and based upon principles of equal opportunity;
6. The temporary use occupant will provide general liability insurance and agree to hold the city harmless in the event of claims for injury or damage; and
7. The temporary use occupant shall agree to pay a permit fee, in an amount to be established in the discretion of the mayor, intended to assist the city in the costs related to provision of utilities, maintenance, repairs and management and other such similar costs incurred by the city in maintaining such land and/or improvements thereon.

B. Any sale, lease or exchange of city land shall be approved by the council by ordinance after consideration of the recommendations of the planning commission. The ordinance shall identify the

parcels for sale, lease or exchange, the manner of disposition and any special terms and conditions thereof. Any other disposition of an interest in city land shall be approved by the city by resolution.

C. No public auction, deed or contract purporting to dispose of or convey any interest in city land is valid or binding unless the disposal has been approved by the council or as otherwise provided within this title. (Prior code § 7.16.060)

5.32.070 Conditions of sale.

Any sale or other disposition of city lands or any interest in lands shall be subject to terms and conditions as set forth in this chapter and in the city ordinance or resolution approving the disposition. The mayor may impose additional conditions, limitations and terms for the protection of the interest of the city and the public. (Prior code § 7.16.070)

5.32.080 General sale procedures.

A. All applications for purchase or lease of city lands shall be filed with the city on appropriate forms. Each application for lease or sale shall be accompanied by a ten dollar (\$10.00) filing fee. Filing fees are not refundable. The filing of an application for purchase shall not in any way vest any right in the applicant to the land or to the use of the land applied for.

B. Public auctions shall be held by the mayor or his or her representative. At the completion of the auction of each tract of land, the mayor or his or her representative shall indicate the apparent high bidder.

C. The apparent high bidder shall concurrently deposit with the city not less than ten (10) percent of the high bid, or in case of a lease offering, an amount equal to the annual rent. Lands to be purchased for a principal sum of five hundred dollars (\$500.00) or less will not be sold on contract but will be paid for in full.

D. Upon deposit of the required sum by the apparent high bidder, the mayor or his or her representative shall immediately issue a receipt containing a description of the land or interest therein sold, the price bid and the terms of the sale, which receipt shall be acknowledged in writing by the bidder. Upon completion of the final payment on the contract of purchase, the city will issue to the vendee a quitclaim deed. A contract of sale or lease in a form approved by the city shall be signed by the purchaser or lessee.

E. The council shall ratify the sale or lease, or it may reject any and all bids in the best interest of the city. Upon ratification, the contract of sale or lease shall be signed by the mayor and clerk on behalf of the city. (Prior code § 7.16.080)

5.32.090 Lease procedures.

A. General Regulations. In addition to the regulations governing leasing as set forth within sale procedures above, the additional regulations and procedures set forth below shall apply specifically to leases.

B. Expiration. Unless the lease is renewed or sooner terminated as provided herein, the lessee shall peaceably and quietly leave, surrender, and yield up unto the lessor all of the leased land on the last day of the term of the lease.

C. Renewal. If, at the expiration of any lease of any lands hereunder, the lessee desires a renewal lease on the land, properties, or interests covered thereby, he or she shall, not sooner than one hundred eighty (180) days prior to the expiration, make application for a renewal lease in writing on forms provided entitled "Application for Renewal of Lease," certifying under oath as to the character and value of all improvements existing on the lands, properties or interests therein, the purpose for which he or she desires to renew the lease, and such other information as the mayor may require. The applicant shall deposit with the mayor an amount equal to the annual rent. The mayor shall upon recommendation of the planning commission and direction of the council issue a renewal of the lease to the lessee. The date that the application for renewal of lease is presented to the office of the mayor, as evidenced by the date stamped thereon, whether delivered or forwarded by regular, certified or registered mail, shall be binding.

D. Subdivision Regulations. Leases for terms longer than ten (10) years shall comply with the Matanuska-Susitna Borough subdivision regulations. (Prior code § 7.16.090)

5.32.100 Negotiated sales and exchanges.

A. The mayor may, with the approval of the city council by ordinance, negotiate a sale or exchange of city land without public auction or sealed bid if the following conditions exist:

1. The application to purchase or exchange city land is: (a) by an owner of property contiguous on a side with the city land applied for and the purchase is necessary for the proper utilization of the owner's contiguous property; (b) by the United States, the state or a political subdivision; (c) by a public utility for facilities serving the general public; (d) for a beneficial new industry; or (e) for a particular, stated purpose in the best interests of the city, and the council approves the sale with appropriate findings and conditions;

2. The land so sold or exchanged shall not be used by the vendee, his or her heirs or assigns for any purpose other than that for which it has been classified by the city council at time of sale or unless otherwise zoned subsequent to sale;

3. No such sale or exchange shall be made if the result of such sale or exchange were to hinder or prevent the utilization of a larger parcel of city land to its best advantage;

4. Such sale or exchange is to the best interest of the city.

B. Negotiated sales shall be subject to all other requirements and conditions applicable to sales under this chapter. (Prior code § 7.16.100)

5.32.110 Negotiated leases.

A. The mayor may, with the approval of the council by ordinance, negotiate a lease of city land without public auction or sealed bid and without voter ratification under the following conditions:

1. The lease is for a beneficial new industry;
2. The lease is for a public purpose, to a governmental agency or nonprofit organization authorized to carry out the public purpose; or
3. The lease is to a public utility for a site for public utility facilities.

B. Leases authorized under this section shall be subject to all other requirements and conditions applicable to leases under this chapter, except that no appraisal of the leased property is required for a lease to a public utility under subsection (A)(3) of this section.

C. An application to lease city lands for a beneficial new industry under subsection (A)(1) of this section, or for a public purpose under subsection (A)(2) of this section shall be made in the same manner as other applications to lease city land and shall include a plan for development and use of the property requested. To approve an application under subsection (A)(1) of this section, the council must find that the proposed use of city land is for a beneficial new industry. To approve an application under subsection (A)(2) of this section, the council must determine that the proposed use of city land is for a worthwhile public service, that there will be no discrimination in providing the service, and that the use will be nonprofit. The city may, from time to time, make such other requirements as it deems proper before the issuance of such leases. The lessee's failure to develop and use the land in accordance with the approved plan may result in revocation of the lease. (Ord. 08-16(SUB) § 2, 2008; Ord. 02-20 § 2, 2002; prior code § 7.16.110)

5.32.115 Leases of space in city buildings.

This section applies to the leasing of space in city-owned buildings, to the exclusion of the provisions of all other sections of this chapter. The mayor may, with the approval of the council by resolution, award a lease of space in a building owned by the city either by negotiation or to the person that submits the best proposal in response to a request for proposals. The lease shall be for one or more of the following uses:

- A. A government agency or nonprofit organization providing a public service.
- B. The provision of goods or services, on either a for-profit or nonprofit basis, that support or supplement the public uses or functions that are located in the building.
- C. Provide revenue to the city from the productive use of building space that will not be required for any public purpose during the term of the lease. (Ord. 08-20 § 2, 2008)

5.32.120 Lease of airport property.

- A. General. This section applies to the lease of airport property, to the exclusion of the provisions of all other sections of this chapter. Airport property may be leased through an application or sealed bid process.
- B. Application Process. An applicant desiring to lease airport property shall submit an application to the city. The application shall contain:

1. Name, address and phone number of applicant;
2. Identification of area requested;
3. A description of the activity to be conducted;
4. A scale drawing depicting the proposed development, including but not limited to location, size and height of buildings, identification of materials to be installed on the property, and proposed location of all utility connections. This drawing must show the relationship between the development, the property lines, and any relevant development on adjacent or other properties;
5. If the proposed use is commercial, a written business plan for the activity to be conducted;
and
6. Any and all additional information which may be requested by the city.

C. Action On Application. The city shall process applications depending upon use as follows:

1. For private use, such as a hanger or tie-down, where the building is less than ten thousand (10,000) square feet, and the term of the lease is ten (10) years or less, the application and lease may be approved by the mayor after administrative review and evaluation.
2. For a small commercial use, where the building is less than ten thousand (10,000) square feet and the term of the lease is ten (10) years or less, the application and lease may be approved by the mayor after administrative review and evaluation.
3. For any other use, the application will be reviewed by administration, submitted to the planning commission for review and recommendation, and then submitted to the city council for final action. Private or small commercial use may also be submitted to the planning commission and the city council if, in the opinion of the mayor, such submittal is appropriate under the circumstances.
4. For all uses, the city may accept, reject or place conditions on the acceptance of any application to lease airport property. The city may also require the prepayment by applicant of certain necessary costs such as administrative costs, surveying, subdividing, utility installation, soils testing, etc.

D. Sealed Bid Process. The city council may make specific areas of the airport available for lease for general or specific development through a sealed bid procedure under conditions to be specified by the city council. In this process, the city reserves the right to take into consideration factors other than lease rate, and may award the property to any bidder whose proposal is deemed to be in the best interests of the city, regardless of lease rate proposed. In addition, the city reserves the right to reject any and all bids or proposals.

E. Lease Form. A lease for airport property shall include certain provisions, as follows:

1. A requirement that the use of the property be in accord with the airport development plan, and that the use of the property shall not violate any condition or requirement placed on the property or the airport itself by the city, the state of Alaska, or the Federal Aviation Administration;
2. Lease rate, term, rental adjustment and other provisions that are in accord with the requirements and policy of the Federal Aviation Administration;

3. A provision prohibiting assignment or sublease without the approval of the city; and
4. A provision authorizing the granting of a security interest by the lessee in the leasehold interest for the purpose of securing financing for the construction of improvements on the property.

F. No Warranties. By classifying or leasing airport property, the city expressly does not warrant that the land is suited for the use proposed or authorized under the classification or lease, and no express or implied warranty or guaranty is given as to the present or any future condition of the property or that it shall be profitable to employ the land for the proposed or authorized use. (Prior code § 7.16.125)

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