

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION 2021-58

A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PARKSIDE DEVELOPMENT, LLC TO CONSTRUCT PRIMARY ELECTRIC, WATER AND SEWER UTILITY SERVICE EXTENSIONS FOR THE PARKSIDE ESTATES SUBDIVISION

WHEREAS, Unalaska Code of Ordinances Title 10 sets the terms and conditions upon which Primary Utility Services will be extended; and

WHEREAS, Parkside Development, LLC has formally requested the City's approval to construct Primary Utility Service infrastructure as part of its 23-parcel residential subdivision project; and

WHEREAS, Parkside Development, LLC's request to install Water and Wastewater Primary Utility Service infrastructure has been reviewed and approved by the Alaska Department of Environmental Conservation; and

WHEREAS, the City Council has determined it is in the best interests of the City to have such a project; and


WHEREAS, Parkside Development, LLC has complied with the requirements of Title 10 in requesting a contract for the construction of Primary Utility Service Extensions.

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council authorizes the City Manager to enter into a Contract with Parkside Development, LLC for the construction of Primary Electric, Water, and Sewer Utility Service Extensions.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on August 24, 2021.


Vincent M. Tutiakoff, Sr.
Mayor

ATTEST:


Marjie Veeder, CMC
City Clerk



MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Dan Winters, Director, Department of Public Utilities
Through: J. R. Pearson, Acting City Manager
Date: August 24, 2021
Re: Resolution 2021-58: Authorizing the City Manager to enter into a contract with Parkside Development, LLC to construct primary electric, water and sewer utility service extensions for the Parkside Estates Subdivision

SUMMARY: Resolution 2021-58 will approve the request by Parkside Development, LLC (Parkside) to extend primary utilities (electric, water and wastewater) to a 23-lot subdivision development, Parkside Estates.

PREVIOUS COUNCIL ACTION: Council has taken no action on this particular item. The criteria for Utility Extensions are contained in Unalaska Code of Ordinances (UCO) Title 10, Public Utilities, which received its last major update via Ordinance 2006-14, approved and adopted December 29, 2006.

BACKGROUND: UCO § 8.08.100 outlines the developer's responsibilities in making subdivision improvements. Parkside has been granted preliminary plat approval for the Parkside Estates Subdivision by the Planning Commission through Planning Commission Resolution 2021-12 on June 17, 2021.

UCO §10.04.035 sets out the basic conditions for extending utility services, and UCO § 10.04.060 details the conditions private developers must meet in order to receive the City's approval for the extension of primary utility services. Per UCO § 10.04.060(A), private developers are required to apply and be granted approval by the City Council to extend primary electric, water or wastewater services. Per UCO § 10.04.060(C)(1), private developers shall file a written request to the City to extend or expand a City utility system. Parkside submitted the attached written request on May 17, 2021 in accordance with UCO § 10.04.060(A) and § 10.04.060(C)(1) and is seeking City Council approval of this request. Per UCO § 10.04.060(C)(2), the City and developer shall enter into a contract that addresses design and construction costs, bonding, as-built drawings, ownership, testing and expanded capacity. City staff have been working with the City attorney to draft such a contract. A copy of this draft agreement is attached for reference.

DISCUSSION: Resolution 2021-58 represents the City's approval of Parkside's extension of primary utility services for the Parkside Estates Subdivision and is separate from the Building Permit Application process which will be required for development on each individual lot when they are eventually developed.

Parkside has received an Approval to Construct and an Interim Approval to Operate from the Alaska Department of Environmental Conservation, Division of Environmental Health, Drinking Water Program for this Project. Parkside has also received Alaska Department of Environmental Conservation, Division of Water, Conditional Approval to Construct a Wastewater Collection System.

Parkside's prime contractor is Northern Alaska Contractors, LLC, a local, experienced, and well-respected entity with whom the City and its Utilities have a good working relationship.

If Resolution 2021-58 is approved then the City will negotiate with Parkside to enter into a development agreement that addresses the issues identified in UCO § 10.04.060(C)(2).

ALTERNATIVES: The alternative would be to not approve this request by Parkside. This would stop the development of the Parkside Estates 23-lot subdivision.

FINANCIAL IMPLICATIONS: Parkside will bear all costs of constructing the utility extensions, including bonding and fees for testing and inspection services provided by the Utilities Division and third-party inspectors.

LEGAL: City staff are working with the City attorney to develop a development agreement contract in accordance with UCO § 10.04.060(C)(2).

STAFF RECOMMENDATION: Staff recommends Council approve Resolution 2021-58. Parkside's subdivision development will increase revenue for the City and provide much needed housing units within the community.

PROPOSED MOTION: I move to adopt Resolution 2021-58.

CITY MANAGER COMMENTS: I recommend approval of Resolution 2021-58. Available housing has been ongoing issue in the community and this subdivision development will be a significant step toward resolving this issue.

ATTACHMENTS:

1. [Parkside Development, LLC's Formal Request for Utility Extension; and](#)
2. [Draft Development Agreement between the City of Unalaska and Parkside Development, LLC.](#)

Parkside Development, LLC

PO Box 810
Unalaska, Alaska 99685

May 17, 2021

Attn: Dan Winters/Dept. of Public Utilities
PO Box 610
Unalaska, Alaska 99685

Re: Utility Extension for Parkside Estates Subdivision

Dan,

Parkside Development, LLC is requesting a utility extension for electricity, water, and sewer for our twenty-three-parcel residential subdivision located in Unalaska, Alaska.

Northern Alaska Contractors, LLC (NAC) will be installing the utilities per the safety and quality standards of the Department of Public Works/Public Utilities Standard Details dated January 29, 2018, and following the Extension of Primary Utility Service form on approval of the extension.

Below we have provided detailed information needed by the City of Unalaska to approve the extension of utilities. Please contact our office at the number above if more information is needed to meet the approval standards.

- **Owner Information:** Parkside Development, LLC – PO Box 810 – Unalaska, Alaska 99685
- **Contractor Information:** Northern Alaska Contractors, LLC – 3610 Mere Circle – Anchorage, Alaska 99502
- **Engineers:** Scot Menzies, PE, SE, LS - Menzies Engineering Group, Inc, Ketchikan, Alaska
- **Surveyor:** John Segesser, PLS - Segesser Surveys, Soldotna, Alaska
- **Project Information:** A 23 parcel residential subdivision
- **Project Address:** NHN E. Broadway Ave, Unalaska, Alaska 99685
- **Subdivision:** Tract "D", Parkside Estates Subdivision, Aleutians East County, Alaska
- **Plat #:** 2011-7, Aleutian Island recording District, Third Judicial District, State of Alaska
- **Lot Size:** 478,942 sf.
- **SWPPP- APDES Project/Permit Number:** AKR10GG30

After installing utilities and approval from a licensed engineer, Parkside Development will forward the as-builts and a copy of the third-party inspection report to the City of Unalaska; at that time, the City shall become the owner of all Utilities and rights-of-way.

Thank you for your time regarding this matter. I have attached a copy of the ADEC approvals for the sewer and water installation and approved design drawings to this letter.

Regards,



Glenn Olson, Owner
Northern Alaska Contractors, LLC
Parkside Development, LLC



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

**Department of Environmental
Conservation**

DIVISION OF ENVIRONMENTAL HEALTH
Drinking Water Program

555 Cordova Street
Anchorage, Alaska 99501
Main: 907.269.6064
Toll Free: 866.956.7656
Fax: 907.269.7650
dec.alaska.gov
chris.pletnikoff@alaska.gov

October 28, 2019

Scot Menzies, P.E.
Menzies Engineering Group
9737 Mud Bay Road, Suite 301
Ketchikan, AK 99901

File: City of Unalaska
PWSID: AK2260309
Class: Community
Source: Surface & Groundwater

Re: Parkside Estates Subdivision Project, Unalaska PWS
Construction Approval

Mr. Menzies:

On July 7, 2019, this office received your submittal requesting Construction Approval for the Parkside Estates Subdivision project in Unalaska. Additional information and revised drawings dated 10/9/19 were received on October 10 and 21, 2019 to support the submittal. **This letter issues Approval to Construct for this project, as detailed in the submitted engineering plans and summarized below.**

Project Description

This project will develop a twenty-lot subdivision, Parkside Estates, in a single-family, residential zone in Unalaska, at 1500 East Broadway Avenue.

The proposed water distribution system includes installation of 950 feet of 8-inch ductile iron, class 52 water line that loops south from two connections to the existing water distribution main on East Broadway Avenue, just north of Kelty Field Road. Water improvements also include two gate valves, two fire hydrants, and service line stub outs and appurtenances.

The project will also install sanitary sewer and storm drain improvements.

Approval to Construct

The submitted engineering plans and supporting information have been reviewed and are approved in accordance with Alaska Drinking Water Regulations 18 AAC 80. **The enclosed Construction and Operation Certificate, with the Approval to Construct section completed, constitutes written approval.**

Deviations from approved plans which affect capacity, flow, pressure, operation, compliance, and materials of major system components (particularly any components which do not meet National Sanitation Foundation (NSF) Standard 61), must be approved by the Drinking Water Program prior to their construction or implementation.

Requirements for Interim Approval to Operate

Interim Approval to Operate (IATO) must be requested and granted prior to serving water from the new water lines and may be requested for sections of the project as they are completed. As part of your submittal requesting IATO, please provide written verification of the following:

1. Construction of the modifications to the water system have been completed under the direction of a professional engineer licensed to practice in the State of Alaska and in accordance with the engineering plans and specifications.
2. Water distribution lines have been successfully pressure tested.
3. Water distribution lines have been flushed, disinfected, and sampled for total coliform in accordance with AWWA Standard C651. Provide the location in the system where each sample was taken (plan or station numbers), the time and date of each sample, and the results for each sample. This includes any existing water lines that were depressurized to connect the new water lines.

Requirements for Final Approval to Operate

Final Approval to Operate (FATO) must be requested within 90 days after receiving IATO for the final section of this project. As part of the submittal requesting FATO, please provide Record Drawings, sealed and signed by an engineer licensed in the State of Alaska, confirming that the system meets the requirements of 18 AAC 80, and verifies the granted separation distance waiver encroachments were unchanged. "Record Drawings" refers to the original plans prepared for construction and department approval, revised to reflect how the system was constructed or installed.

Limitations, Expirations, and Appeal Process

This determination is not approval of omissions or oversights by this office or non-compliance with any regulation. This does not imply the granting of additional authorizations, nor obligate any federal, state, or local regulatory body to grant future authorizations. This determination does not guarantee correctness of functional design or waive the owner's responsibility for continued compliance with state, federal, and local regulations. Before proceeding you are advised to obtain any other necessary project authorizations/permits.

If the applicant fails to construct, install, alter, renovate, or improve the water system within two years, this approval is void in accordance with 18 AAC 80.215(b). If during the two-year period site conditions, plans and information, and requirements in 18 AAC 80 do not change, and if the applicant pays the required fee, the department will grant the applicant an extension.

The applicant, owner or operator, or other person adversely affected by this decision may request an informal review of this decision in accordance with 18 AAC 15.185, or may request an adjudicatory hearing in accordance with 18 AAC 15.195-15.340. Requests may be sent by mail, email, or facsimile. Informal review requests must be received by the Division Director within 20 days of this decision. Adjudicatory hearing requests must be received by the Commissioner within 30 days of this decision or the decision of the informal review issued by the Division Director; otherwise, the

right to appeal is waived. For more information, visit <https://dec.alaska.gov/commish/review-guidance>.

If you have any questions regarding this plan review, please call me at 907-269-6064 or email at chris.pletnikoff@alaska.gov.

Sincerely,



Chris Pletnikoff, PE
Engineer I
DEC Drinking Water Program

Encl.: Construction and Operations Certificate for Public Water Systems

Cc.: City of Unalaska, Public Works Department
Dan Winters, dwinters@ci.unalaska.ak.us
Jeremiah Kirchhofer, jkirchhofer@ci.unalaska.ak.us
Alaska Department of Environmental Conservation, Drinking Water Program
Leah Van Sandt, EPS, leah.vansandt@alaska.gov
Jessica Cahill, EPT, jessica.cahill@alaska.gov



**State of Alaska
Department of Environmental Conservation
Drinking Water Program**



**PUBLIC WATER SYSTEM
CONSTRUCTION AND OPERATION CERTIFICATE**

Approvals listed below are for compliance with the requirements of the State of Alaska Drinking Water Regulations 18 AAC 80. Any approvals granted do not imply or grant any other federal, state or local authorizations that may be required.

Water System Name: Unalaska Water System **PWSID:** AK2260309

Water Source: Surface & Ground Water **Classification:** Community

System Wide Approval **Modification Approval**

Project Description: Parkside Estates Subdivision Project, Unalaska PWS

This project will develop a twenty-lot subdivision, Parkside Estates, in a single-family, residential zone in Unalaska, at 1500 East Broadway Avenue. The proposed water distribution system includes installation of 950 feet of 8-inch ductile iron, class 52 water line that loops south from two connections to the existing water distribution main on East Broadway Avenue, just north of Kelty Field Road. Water improvements also include two gate valves, two fire hydrants, and service line stub outs and appurtenances.

A. APPROVAL TO CONSTRUCT

Plans submitted in accordance with 18 AAC 80.205 by Scot Menzies, P.E. have been received and are

approved as submitted conditionally approved, see attached letter



Chris Pletnikoff, P.E.
(Reviewing Engineer)

Engineer I, DEC
(Title)

October 28, 2019
(Date of Approval)

If applicant fails to construct, alter, install, or modify the system within two years of the date of approval to construct, approval is void, and plans must be resubmitted for Department review and approval (as per 18 AAC 80.215 (a)).

Approved Change Order

Change (contract order number or description): _____

(Reviewing Engineer)

(Title)

(Date of Approval)

B. APPROVAL TO OPERATE

This section must be completed and signed by the Department before any water is made available for public use.

Interim Approval to Operate:

This interim approval to operate expires on _____. *It is illegal to operate a public water system beyond the expiration date without Final Approval to Operate from the Department.*

(Reviewing Engineer)

(Title)

(Date of Approval)

Interim Approval Extension:

This interim approval to operate has been extended to _____.

(Reviewing Engineer)

(Title)

(Date of Approval)

Interim Approval Extension:

This interim approval to operate has been extended to _____.

(Reviewing Engineer)

(Title)

(Date of Approval)

Final Approval to Operate

Record drawings and other documents submitted to the Department, or an inspection by the Department, has confirmed that the public water system was constructed in substantial conformance to 18 AAC 80.

(Reviewing Engineer)

(Title)

(Date of Approval)



THE STATE
of
ALASKA
GOVERNOR MICHAEL L. DUNLEAVY

Department of Environmental Conservation
DIVISION OF WATER
555 Cordova Street, 3rd floor
Anchorage, AK 99501
Bill Rieth: 907.269.7519

July 17, 2019

Scot A. Menzies P.E.
9737 Mud Bay Road, Suite 301
Ketchikan, Alaska 99901

Re: Unalaska-Parkside Estates Subdivision Tract D-Wastewater Collection System-Conditional Approval to Construct-.ADEC Plan Tracking Number 28125

Dear Mr. Porter,

On July 9, 2019 engineering plans, payment and needed documentation of construction forms were received for the Parkside Estates Subdivision, Tract D. The Project adds over 880lf of 8 inch Ductile iron pipe and 4 standard manholes which per your documentation has been accepted by the City of Unalaska.

The Department has reviewed the engineering plans submitted for the Sewer Rehabilitation of the domestic wastewater system and per the Wastewater Regulations 18 AAC 72.235 a conditional approval to construct is issued for the domestic wastewater systems. A "Certificate of Construction" so marked for the domestic wastewater system is enclosed. Please use the referenced plan number in correspondence regarding this project.

This approval is contingent upon compliance with the following conditions:

- 1) The engineer must provide site inspections to assure that the design is maintained. Please also identify on the Record Drawings any deviations from this plan to allow for our review. Also pressure testing results and alignment must be assured a form used for Lamp testing is attached for your use please complete it. Please also provide assurance that the City will now be responsible for this additional line as a part of their collection system.
- 2) If the applicant fails to construct, alter, install, or modify the system within two (2) years after the date that the department issues an approval to construct, the approval is void, and plans must be resubmitted, [along with associated fees], for department review and approval.
- 3) Deviations from approved plans which affect capacity, flow, operation, major design of units, point of discharge, materials of major system components (such as pipe, lagoon liners, etc.), or separation distances, must be approved by DEC in writing prior to their implementation.

- 4) This approval is contingent upon compliance with the conditions of Wastewater Disposal Regulations, 18 AAC 72.235, *Construction Certification*. The noted section of the regulations requires that a "*Certification of Construction*" be completed and submitted to the Department within ninety (90) days of completion of construction. As-built plans or record drawings should indicate any changes or deviations from the approved plans to facilitate final review. A "*Certification of Construction*" form is enclosed for your use.
- 5) This approval is contingent upon your receipt of any other state, federal or local authorizations which are required for your project. You are required to obtain all other necessary authorizations before proceeding with your project.
- 6) You are advised that if this development will require placing fill in wetlands or working in a stream, river, or lake, permits from the U.S. Army Corps of Engineers and the Alaska Department of Natural Resource may be required. The previous required Coastal Projects Questionnaire could be helpful to you to identify other permits and approvals that may be required for your project.

This approval does not imply the granting of additional authorizations nor obligate any state, federal or local regulatory body to grant required authorizations.

Any person who disagrees with this decision may request an adjudicatory hearing in accordance with 18 AAC 15.195- 18 AAC 15.340 or an informal review by the Division Director in accordance with 18 AAC 15.185. **Informal review requests** must be delivered to the Division Director, 555 Cordova, Anchorage, Alaska 99501, within 20 days of receiving the decision. Guidance information on the informal review process may be found at <http://www.dec.state.ak.us/commish/Review-Guidance.htm>. **Adjudicatory hearings requests** must be delivered to the Commissioner of the Department of Environmental Conservation, P.O. Box 111800, Juneau, Alaska 99801, within 30 days of the decision. If a hearing is not requested within 30 days, the right to appeal is waived.

Thank you for your cooperation. If you have any questions please do not hesitate to contact me at 269-7519.

Respectfully,



William R. Rieth, P.E.
Environmental Engineer



STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CONSTRUCTION AND OPERATION CERTIFICATE

for
DOMESTIC WASTEWATER DISPOSAL SYSTEMS
UNALASKA - PARKSIDE S/D, TRACT D-880LF + of 8" DI
4 STANDARD MANHOLE INTO CITY SYSTEM - ADEC PLAN
TRACKING NUMBER 28125

A. APPROVAL TO CONSTRUCT

Plans for the construction or modification of 880LF OR AS NEEDED 8" DI ^{COLLECTION} 4 MANHOLES FOR domestic wastewater disposal system

located in UNALASKA, Alaska, submitted in accordance with 18 AAC 72.225,

by SCOT A. MENZIES, P.E. have been reviewed and are

approved.

conditionally approved (see attached conditions).

PROVIDE PER LETTER THIS DATE

William R. Beth

ENV. ENG

JULY 17, 2019

BY

TITLE

DATE

If construction has not started within two years of the approval date, this certificate is void and new plans and specifications must be submitted for review and approval before construction.

3. APPROVED CHANGE ORDERS

Change (contract order no. or descriptive reference)	Approved by	Date

APPROVAL TO OPERATE

The "APPROVAL TO OPERATE" section must be completed and signed by the Department before this system is made available for use.

The construction of the _____ domestic wastewater disposal system was completed on _____ (date). The system is hereby granted interim approval to operate for 90 days following the completion date.

BY

TITLE

DATE

As-built plans submitted during the interim approval period, or an inspection by the Department, has confirmed the system was constructed according to the approved plans. The system is hereby granted final approval to operate.



State of Alaska
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



Certification of Construction for
Domestic Wastewater Systems

Instructions: Within 90 days after the construction, installation, or modification of a project is completed, the owner, the contractor(s) responsible for constructing the project, and a registered engineer responsible for construction inspection, must complete and sign this form declaring that the project was constructed in accordance with the most recent Department-approved plans, or in accordance with the attached as-built drawings.

If a project is being completed in phased construction, a map shall be attached showing that portion of the project being declared completed on the date stated in Section A - Owners Section. Completion of each phase of a project must be declared as it is completed. Additional Certification of Construction forms are available from any Department of Environmental Conservation office.

Please type or print, except for signatures

SECTION A- Owner's Section

Name and brief description of the project _____

Owner Name _____

Owner Address _____

City State Zip

ADEC Project No. _____ Date Project Completed: _____

I certify that I am the owner of the above-referenced project. I further certify that this project was constructed in accordance with the latest plans submitted to and approved by the Alaska Department of Environmental Conservation (ADEC), or in accordance with the attached as-built drawings. I understand that I may be required to take remedial measures to correct any construction which was completed without prior ADEC approval, which departs from the approved plans, and which is found to be inconsistent with the applicable requirements of ADEC wastewater disposal regulations (18 AAC 72).

Signature of Owner

(Please Sign in Ink)

Date

SECTION B- Contractor's Section

I certify that I (or an individual under my direct supervision) have conducted an inspection of the project referenced in Section A, or portions of the project which I had the responsibility for constructing, and that to the best of my knowledge and information, the project, or those portions, was or were constructed in accordance with the latest plans submitted to and approved by the Alaska Department of Environmental Conservation, or in accordance with the attached as-built drawings.

Printed Name of Contractor Signature of Contractor Date

For multiple contractors, if applicable:

Printed Name of Contractor Signature of Contractor Date

Printed Name of Contractor Signature of Contractor Date

SECTION C- Engineer's Section

I certify that I (or any individual under my direct supervision) have conducted an inspection of the above referenced project, and that to the best of my knowledge and information, the project was constructed in accordance with: (check one of the following)

the latest plans submitted to and approved by the Alaska Department of Environmental Conservation

or

in accordance with the attached ^{record} ~~as-built~~ drawings.

I further certify that:

all conditions placed on the construction approval have been met as described briefly below: (if using a cover letter, you may write "see cover letter")

**Signature of Professional Engineer
Responsible for Construction Inspection
(Please Sign in Ink)**

**State of Alaska
Professional Engineer
Registration Number**

Date

Typed or Printed Name of Professional Engineer

SEWER LINE LAMP TEST - CERTIFICATION FORM - v.2/06

Reference: Alaska Area Native Health Service (IHS) Sanitation Facilities Guideline No. 0-39 (dated 1988)

Community _____

Project Number(s) _____

Superintendent _____

Superintendent _____

Engineer _____

Printed Name

Engineer _____





Signature & Date

Test Procedure:





1. Lamping shall be done after trench is compacted and complete.
2. Shine light at one end (lamped manhole) of each pipe section between manholes.
3. "Full Moon" must be visible (at observation manhole) to "Pass" for grade alignment.
4. At least "Half Moon" must be visible (at observation manhole) to "Pass" for horizontal alignment.
5. Repair poor alignment, displaced pipe, or other defects as needed.
6. Perform new lamp test on any repaired sections.
7. Record final test results in table using abbreviations shown at bottom of this sheet (e.g. "H-3/4" etc.).

Date	Street Name	Lamped Manhole I.D. Number	Lamped Manhole Station	Observation Manhole I.D. Number	Observation Manhole Station	Length Between Manholes (Feet)	Test Results "Pass" or "Fail"	Printed Name of Person Performing Test	GRADE	HORIZONTAL ALIGNMENT
									A	I
									○	○
									○	○
									○	○
									○	○
									○	○
									○	○
									○	○

Grade Alignment Test Result Examples:

"G-FULL"	"G-1/4"	"G-HALF"	"G-3/4"
			
"Pass"	"Fail"	"Fail"	"Fail"

Horizontal Alignment Test Result Examples:

"H-FULL"	"H-1/4"	"H-HALF"	"H-3/4"
			
"Pass"	"Fail"	"Pass"	"Pass"

DEVELOPMENT AGREEMENT
PARKSIDE SUBDIVISION

This Agreement is made _____, 2021 between the City of Unalaska, an Alaska municipal corporation, and Parkside Development, LLC, an Alaska limited liability company (“Developer”).

1. Scope of Agreement

A. *Development.* This Agreement applies to all improvements, including sewer utility, water utility, electrical utility, and road and drainage, intended for dedication to the City (the “Work”) as part of Developer’s development and subdivision of Tract D, Parkside Estates Subdivision, Plat 2011-7, as further described in City of Unalaska, Alaska, Planning Commission/Platting Board Resolution 2021-12.

B. *Expiration.* This Agreement is made in connection with the Planning Commission’s approval of a preliminary plat and to enable Developer to proceed to application for a final plat. Accordingly, the Agreement shall expire upon expiration of the primary plat approval as set forth in UCO 8.08.070(A)(4)(d).

2. Design, Construction, and Testing

A. Developer agrees that the Work will be performed in accordance with:

- i. All applicable federal, state, and municipal law, and specifically, though not limited to, Unalaska Code of Ordinances Chapter 8.08, Title 10, Title 15, and Title 17;
- ii. City of Unalaska Standard Details dated January 29th, 2018;
- iii. Alaska Standard Specifications for Highway Construction 2017 edition and Alaska DOT&PF Southcoast Region Special Specifications dated 2017; and
- iv. All plans submitted by Developer and approved by the City.

B. Developer shall pay 100 percent of all costs associated with construction, including but not limited to design, engineering, full time inspection, testing, as well as all work, labor, and materials furnished for the Work.

C. Developer shall have prepared by a registered engineer a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data for the Work. Such construction plans shall be based on data contained in the approved preliminary plat and conform to the requirements for utilities, roads, and subdivisions set forth in the Unalaska Code of Ordinances, Plans shall be submitted to the Department of Public Works for review prior to commencing the Work.

D. Developer shall have prepared by a registered engineer a detailed cost estimate for the construction of the Work. This engineers’ cost estimate shall be submitted to the Department of Public Works for review prior to commencing the Work.

E. Developer warrants that the Work shall be performed in a workmanlike manner and that all materials incorporated into the Work will be new and of good quality. If requested by the Director of Public Works, Developer shall furnish satisfactory evidence as to the source, kind and quality of the materials.

F. Prior to beginning the Work, Developer shall submit to the Director of Public Works a proposal for inspection and testing of the Work. The proposal shall:

- i. Identify an independent registered engineer who has no financial interest in the development retained by Developer to inspect and test the Work;
- ii. Include a schedule for inspections by the City during such times as the Work is being performed; and
- iii. Identify how all inspection and testing requirements of the Unalaska Code of Ordinances as well as Alaska Department of Environmental Conservation regulations for water and wastewater systems will be satisfied.

The City shall review inspection and testing proposal and confer with Developer regarding changes to the proposal prior to approval.

G. Developer shall pay 100 percent of all costs relating to any inspection, surveillance, and testing by the City, performed for acceptance of the Work and correction period. Surveillance shall be performed by the City during the course of construction and up to the point of final acceptance of the completed project.

H. Sanitary Sewer shall be tested in accordance with the 2015 Municipality of Anchorage Standard Specification. Specifically, Division 50 – Sanitary Sewers, Article 2.5 Testing.

I. Water systems shall be tested in accordance with the 2015 Municipality of Anchorage Standard Specification. Specifically, Division 60 – Water Systems, Article 2.5 Testing.

3. Security

A. If the Work has not been completed prior to submittal of a final plat to the Planning Commission, Developer shall submit to the City a surety bond or certified check in an amount equal to the cost of the Work (“Security for the Work”) as estimated by the City. The Security for the Work will be subject to the condition that the Work will be completed within 24 months after approval of the final plat. If not completed, the City may complete the Work using the Security for the Work. Any amount in excess of the costs of completing the Work, including the City’s administrative costs, will be returned to the Developer.

B. The City shall release the Security for the Work upon satisfaction of each requirement of Section 4 of this Agreement. The City may refuse to release the Security for the Work if the Developer is in present or imminent default, in whole or in part, of completion of the Work or any provision of this Agreement.

4. Acceptance of the Work.

A. *Initial Inspection.* Inspection shall be made by the City prior to acceptance of the Work. The City shall have 14 days to provide Developer a list of deficiencies, except that the Director of Public Works may extend the 14-day period for unusual circumstances such as extreme weather. The 14-day period shall begin on the day the City receives written notice from Developer that Developer's own comprehensive inspection has confirmed that the Work is complete, and all applicable Agreement requirements are fulfilled, and the Work is ready for City inspection. The initial inspection cannot occur before Final Approval to Operate certification has been received for both the water and wastewater utility from the Alaska Department of Conservation.

B. *Follow-Up Inspection.* After the initial City inspection has been completed and all listed deficiencies noted in the initial City inspection report have been corrected, Developer shall notify the City in writing and the City shall perform a follow-up inspection within 14 days of receiving the notification, except that the Director of Public Works may extend the 14-day period for unusual circumstances such as extreme weather. If the follow-up inspection reveals continuing deficiencies, this process shall be repeated until all deficiencies noted in an inspection report have been corrected.

C. *Submittals.* Developer shall submit to the Department of Public Works:

- i. A complete record of the engineer's daily inspection reports;
- ii. Copies of all test results;
- iii. A complete set of as-built plans for the Work (As-builts shall contain both horizontal and vertical location of the Work and shall be furnished in both AutoCAD and in .pdf format);
- iv. Final Approval to Operate documentation for both the water and wastewater utility extensions from the Alaska Department of Conservation;
- v. Letters from electric and water/wastewater utilities that all lots have service available;
- vi. Certificate of monumentation.

D. *Security for Correction Period.* Developer shall furnish a surety bond or cash deposit in an amount equal to five percent of the cost of the Work for payment of costs for any correction, reconstruction, repair, or maintenance of the Work during the correction period. The amount of this security shall not limit Developer's liability for correction, reconstruction, repair, or maintenance during the correction period.

E. *Acceptance of Ownership.* The City shall provide its written acceptance of Developer's dedication of the Work only if each requirement of Section 4 of this Agreement is satisfied.

5. **Correction Period.**

A. *Duration.* Upon satisfaction of each requirement of Section 4 of this Agreement, the Work shall be placed in a correction period of not less than one year as described in this Section.

Repairs or modifications made during the correction period may extend the duration of the correction period for those repairs or modifications.

B. *Guarantee.* During the correction period, Developer guarantees that the Work will remain in good condition and meet operating specifications. Such guarantee covers all defects and failure of the Work to meet operating specifications except to the extent such condition is caused by the gross negligence or deliberate misconduct of the City.

C. *Correction of deficiencies.* Within 30 days, or a reasonable extension at the sole discretion of the Director of Public Works, of written notification by the City of the need for repair or reconstruction, Developer shall correct the deficiencies. If Developer fails to repair or reconstruct the deficiency within the time specified in this section, the City will make the repair at Developer's sole expense. The City may then bill Developer for the cost of the repair and associated administrative costs and declare the bond or deposit forfeited. If Developer identifies need for repair or reconstruction during the correction period, Developer shall notify the City by certified mail and shall make the repair or reconstruction with authorization (in lieu of the above notification) from the City.

D. *End of correction period.* Not sooner than 60 days prior the anticipated end of the correction period, Developer shall give the City written notice and request for final inspection. The City shall inspect the Work and provide a list of deficiencies to Developer with 30 days, except that the Director of Public Works may extend this time due to inappropriate weather or other conditions that impede complete inspection. All deficiencies identified in during this inspection or during the correction period shall be corrected, inspected, and approved within 30 days, except that the Director of Public Works may extend the 30-day period for unusual circumstances or inappropriate weather. Upon approval and final acceptance of any corrections, the correction period shall terminate.

E. *Release of Security.* The City is under no obligation to release any remaining security if Developer fails to correct any identified deficiencies. The City will release the remaining security within 90 days of final acceptance.

6. **Interpretation & Disputes.**

A. The Director of Public Works may make written orders and determinations regarding interpretation of and Developer's performance under this Agreement.

B. Developer may appeal such order or determination by filing a written notice of appeal with the Director of Public Works within 10 business days of the date of the action being appealed. Upon receipt of such appeal, the Director of Public shall transmit the appeal to the city manager, who shall set the time and place for a hearing at which the appeal will be considered. The city manager or the manager's designee shall serve as the hearing officer. Prior to the hearing, the Director of Public Works shall transmit to the city manager's office all records pertaining to the decision being appealed. The city manager shall timely issue a decision on the appeal, which may be appealed by filing a notice of appeal with the Superior Court within 30

days of notification of the manager’s decision. Citations for minor offenses are governed by the Alaska Rules of Minor Offense Procedure and are not appealable under this section.

C. Any suit relating to or arising out of this Agreement, including appeal of the city manager’s decision, shall be brought in the Third Judicial District, Superior Court at Unalaska.

7. General Terms.

A. *Modification.* No modification of this Agreement, or waiver of any portion thereof, shall be valid unless made in writing and duly executed by all parties.

B. *Assignment & Contracting.* Developer may not assign any right or interest under this Agreement. Developer’s contracting with any third party for performance of the Work shall not relieve Developer of any obligation under this Agreement. Developer shall be responsible for the actions and conduct of its contractors.

C. *Governing Law and Forum.* This Agreement shall be interpreted, construed, and enforced in accordance with, and otherwise governed in all respects by, the laws of the State of Alaska.

D. *Attorney Fees.* In any action undertaken to enforce any provision of this Agreement the prevailing party, whether in an administrative or judicial proceeding, shall be entitled to reimbursement of reasonable attorney fees and costs incurred by it in such action or proceeding.

WHEREFORE, the parties agree to the terms and conditions appearing above.

CITY OF UNALASKA

**PARKSIDE DEVELOPMENT,
LLC**

Erin Reinders Date
City of Unalaska, City Manager

Glenn Olson Date
Owner