

**CITY OF PALMER ACTION MEMORANDUM No. 09-033**

**SUBJECT:** Authorize Extension of Academy Charter School Use of Temporary Structures (Science Lab and Eight Portable Classrooms) for an Additional Ten Years

**AGENDA OF: August 11, 2009**

<b>Council action:</b>	<b>Authorized</b>
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**Approved for presentation by B. B. Allen, City Manager** 

Route To:	Department/Individual:	Initials/Date:	Remarks:
X	Originator – Department of Community Development	 7/21/09	
X	City Clerk	 8/3/09	
X	City Attorney	 8/3/09	
X	Director of Administration	 7/22/09	
	Director of Community Services		
	Director of Public Safety		
	Director of Public Works		

**Attachment(s):** Request for extension for use of temporary structures from Barbara Gerard, Principal of Academy Charter School  
 AM 06-073  
 2002 Agreement between Academy Advisory Board and City of Palmer

**Certification of Funds:**

X	No fiscal impact.	
	Funds are budgeted from this account number:	
	Funds are not budgeted. Budget modification is required. Affected account number:	

Director of Administration Signature:  \_\_\_\_\_

**Summary statement:** The Academy Charter School uses temporary structures for their Science Laboratory and eight classrooms. Section 15.08.3103 of the Palmer Municipal Code requires City Council approval for temporary buildings or structures in place for longer than six months. The Academy Charter School is requesting an extension of Council approval to continue using these temporary buildings.

**Background:** The City originally approved the use of these temporary buildings in 2003. On July 11, 2006, the Council extended its approval for the use of these buildings for an additional

three years. One of these buildings, the Science/8<sup>th</sup> grade Lab encroaches into the City utility easement. In May 2002 prior to the placement of this building on a foundation, the City and the Academy Advisory Board entered into an Agreement wherein the Academy waives any claims, damages and liabilities arising out of any work the City may need to do within this utility easement.

When contacted and informed of the encroachment and Agreement, Public Works Director Carter Cole indicated no problem with granting an additional extension for use of these temporary structures.

Because of the current economic downturn, funding for new permanent school buildings to replace these temporary structures may not become available for several more years. The Academy Charter School provides valuable services to its 231 students and to the greater Palmer community. Given the need for these classrooms, staff is recommending this extension be for a period ten years.

**Administration recommendation:** Approve action memorandum 09-033.

## Academy Charter School

A Public School of the Matanuska Susitna Borough School District

801 E. Arctic Ave.

Palmer, Ak. 99645

907-746-2358

907-746-2368

To: City of Palmer

From: Barbara Gerard, Principal

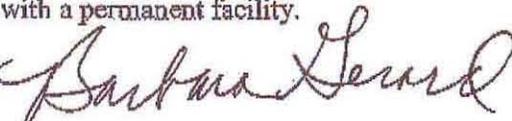
RE: Extension of use of Temporary Structures for Academy Charter School

To Whom It May Concern,

We respectfully request to continue to use temporary structures at Academy Charter School. These include our 8 portable structures and our Science/8<sup>th</sup> grade structure.

Thank you so much for your consideration. It is our hope to someday replace these structures with a permanent facility.

Sincerely,



Barbara Gerard, Principal

7/16/09

**CITY OF PALMER ACTION MEMORANDUM**

**SUBJECT:** Authorize Extension of Academy Charter School Use of Temporary Structures (Science Lab and Eight Portable Classrooms) for an Additional Three Years

**AGENDA OF:** July 11, 2006

**Council action:**

**Approved for presentation by Tom Healy, City Manager** *Tom Healy*

Route To:	Department/Individual:	Initials:	Remarks:
X	Originator - <i>MARGUERITE</i>	<i>MT</i>	
X	City Clerk	<i>JH</i>	
X	City Attorney	js	
	Emergency Services Director		
	Finance Director		
	Library Director		
	Police Chief		
	Public Works Director		

**Attachment(s):** Request for Extension

**Fiscal note:**

x	No fiscal impact.
	Funds are budgeted from this account number:
	Funds are not budgeted. Budget modification is required. Affected account number:

Finance Director Signature: *[Signature]*

**Summary statement:** The Academy Charter School uses temporary structures for the Science Laboratory and eight classrooms. The Council granted authority for the location of these temporary structures for three years in 2003. Council approval is required to continue the temporary status of these portable structures. This action will authorize Academy Charter School to continue using these temporary structures in this location for an additional three years.

**Administration recommendation:** Authorize the use of the temporary structures for an additional three years.

## AGREEMENT

This is an Agreement between Academy Advisory Board, Inc. (Academy), an Alaska non-profit corporation, and the City of Palmer (City), an Alaska municipal corporation.

This Agreement is based on the following premises:

A. Academy has requested the City to issue a building permit to remodel a portable building on a permanent foundation located in Tract 2-1 Sherrod Park Subdivision. Academy has received ownership of the building from the Matanuska-Susitna Borough (Borough).

B. Although the building is located on land owned by the Borough, it encroaches into a City easement, as shown on the attached Exhibit A.

C. Not only does the building encroach into the City easement, but the City has a 16-inch water line buried about 18 feet deep about 15 feet from the eastern edge of the easement where the building encroaches. In addition, in the past the line has suffered at least one major leak near this area, which caused the City to dig up the line.

D. The City is reluctant to grant the building permit, first because the building encroaches into the City easement, and second because it is reasonably foreseeable that the City may have to dig up the line and incur substantially greater expense to repair the line in a manner that minimizes harm to the building. The City believes that it would be more prudent to move the portable class rooms to a foundation that is not in the easement.

E. However, Academy believes it is more expedient to remodel the class rooms on the present foundation that is in the easement. Academy has assured the City that the building will be used only temporarily and that if the City needs to dig up the line, then Academy can rearrange its classes so that it will not be unduly disrupted. In short, Academy has assured the City that it can and will bear the risk of the disruption to school arising out of any needed excavation.

Now, therefore, the parties agree as follows:

1. The City agrees to issue the building permit in reliance upon the promises and agreements of Academy.

2. The Academy agrees that if the City needs to excavate the line, then the City may do so even though such excavation may harm part or all of the building and any or all of its contents. Academy agrees to waive any claims, damages and liabilities arising out of such excavation provided the City gives reasonable notice to Academy before commencing excavation that may result in harm to the building.

3. In addition, in the event of excavation, Academy agrees to be liable to the City for all extra costs and expenses reasonably incurred by the City:

(A) to protect the building, to include without limitation, the use of trench boxes, larger backhoes, remote-control compactors, etc., or

(B) to destroy and/or remove all or so much of the building as is necessary to safely perform the excavation and repair work, if the Academy, immediately after receiving notice regarding the excavation, notifies the City not to protect the building.

Academy Advisory Board, Inc.

Date: 5/17/02

Ann Riggs  
Ann Riggs, President

City of Palmer

Date: 5/17/02

Tom Healy  
Tom Healy, City Manager

