City Council
January 27, 2014
Monday

Special Meeting 4:00 P.M.
Worksession 4:30 P.M.
Committee of the Whole 5:00 P.M.
Regular Meeting 6:00 P.M.

Cowles Council Chambers
City Hall
491 E. Pioneer Avenue
Homer, Alaska

Produced and
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January/February 2014

Monday 27th	**CITY COUNCIL** **Special Meeting 4:00 p.m., Worksession 4:30 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.**
Tuesday 4th	**1% FOR ART SELECTION COMMITTEE** (Homer Spit Trail) **Meeting 1:00 p.m.**
Wednesday 5th	**PLANNING COMMISSION** **Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.**
Monday 10th	**CITY COUNCIL** **Committee of the Whole 5:00 p.m. and Regular Meeting 6:00 p.m.**

Regular Meeting Schedule
City Council 2nd and 4th Mondays 6:00 p.m.
Library Advisory Board 1st Tuesday 5:00 p.m.
Economic Development Advisory Commission 2nd Tuesday 6:00 p.m.
Parks and Recreation Advisory Commission 3rd Thursday of the month with exception of December 5:30 p.m.
Planning Commission 1st and 3rd Wednesday 6:30 p.m.
Port and Harbor Advisory Commission 4th Wednesday 5:00 p.m.
(May – August 6:00 p.m.)
Transportation Advisory Committee Quarterly 3rd Tuesday 5:30 p.m.
Public Arts Committee Quarterly 3rd Thursday 5:00 p.m.
Lease Committee Quarterly 2nd Thursday 3:00 p.m.
Permanent Fund Committee Quarterly 2nd Thursday 5:15 p.m.

MAYOR AND CITY COUNCILMEMBERS AND TERMS
BETH WYTHE, MAYOR – 14
FRANCIE ROBERTS, COUNCILMEMBER – 15
BARBARA HOWARD, COUNCILMEMBER – 14
DAVID LEWIS, COUNCILMEMBER – 14
BRYAN ZAK, COUNCILMEMBER – 16
BEAUREGARD BURGESS, COUNCILMEMBER – 15
GUS VAN DYKE, COUNCILMEMBER - 16

City Manager, Walt Wrede
City Attorney, Thomas Klinkner

http://www.cityofhomer-ak.gov/cityclerk **home page access, Clerk's email address is:** clerk@ci.homer.ak.us
Clerk's office phone number: direct line 235-3130, other number 435-3106.

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov

SPECIAL MEETING
4:00 P.M. MONDAY
JANUARY 27, 2014
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
COUNCIL MEMBER GUS VAN DYKE
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

SPECIAL MEETING AGENDA

1. CALL TO ORDER, 4:00 P.M.

Councilmember Howard has requested excusal.

2. AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

4. NEW BUSINESS

A. **Memorandum 14-012,** From City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(A-C)(1 & 5), Matters, the Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Government Unit and Attorney/Client Privilege (A Legal Briefing on Castner vs. City of Homer). ***Page 7***

5. COMMENTS OF THE AUDIENCE

6. ADJOURNMENT NO LATER THAN 4:30 P.M.
Next Regular Meeting is Monday, February 10, 2014 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

Memorandum 14-012

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JANUARY 20, 2014

SUBJECT: REQUEST FOR EXECUTIVE SESSION PURSUANT TO AS 44.62.310 (A-C)(1 & 5) MATTERS, THE IMMEDIATE KNOWLEDGE OF WHICH WOULD CLEARLY HAVE AN ADVERSE EFFECT UPON THE FINANCES OF THE GOVERNMENT UNIT AND ATTORNEY/CLIENT PRIVILEGE (A LEGAL BRIEFING ON CASTNER VS. CITY OF HOMER).

Pursuant to Council's Operating Manual – "Any Councilmember, the Mayor or City Manager may place consideration of an executive session on the agenda…"

City Manager Wrede requested an Executive Session regarding "A Legal Briefing on Castner vs. City of Homer" for the Special Meeting of January 27, 2014. This has been publicly and internally noticed since that time.

Attorney Klinkner will be present by telephone and staff will participate.

RECOMMENDATION:

Approve the request for Executive Session and conduct immediately in the Conference Room.

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov

WORKSESSION
4:30 P.M. MONDAY
JANUARY 27, 2014
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
COUNCIL MEMBER GUS VAN DYKE
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

WORKSESSION AGENDA

1. CALL TO ORDER, 4:30 P.M.

Councilmember Howard has requested excusal.

2. AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

3. EMPLOYEE COMPENSATION PACKAGE

Memorandum 14-025, from Personnel Director, Re: Compensation. ***Page 11***

4. COMMENTS OF THE AUDIENCE

5. ADJOURNMENT NO LATER THAN 4:50 P.M.
Next Regular Meeting is Monday, February 10, 2014 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

City of Homer
www.cityofhomer-ak.gov

Office of the City Manager
491 East Pioneer Avenue
Homer, Alaska 99603
citymanager@cityofhomer-ak.gov
(p) 907-235-8121 x2222
(f) 907-235-3148

Memorandum 14-025

TO:	MAYOR WYTHE AND COUNCIL
THROUGH:	WALT WREDE
FROM:	ANDREA PETERSEN
DATE:	JANUARY 22, 2014
SUBJECT:	COMPENSATION

Base Pay

"What does base pay for the City of Homer mean?" Base pay is an employee's initial rate of compensation, excluding increases in the rate of pay. An employee's base pay can be expressed as a base hourly rate of pay or as an annual salary. Extra forms of compensation that are excluded from base pay typically include: shift differential pay, on-call pay, incentive-based pay or merit-based pay. As a general rule, an employee's base pay is the pay they will receive at a minimum, while extra forms of pay may increase the total pay above this level.

Range Classifications

"How does the City determine the range of a classification?" Job descriptions are written and reviewed on a regular basis and revised when needed. The job description will include but not limited to the following:

- Knowledge, skills, abilities, experience, education, training or specialization.
- Developing policy and procedures or carrying out policy and procedures.
- Nonsupervisory position or Supervisory position and type of supervisor (i.e. City Manager, Department Director, Division Head, Unit Supervisor).
- Budget/expenditure authority.
- Exposure to adverse weather or hazardous working conditions.
- Overall liability to the City.
- Public Visibility (Visibility of the incumbent to individuals and agencies with which City personnel are likely to come into contact such as key City personnel, general public, government officials, and key service personnel).

These "core functions" of the position are then evaluated by using a rating system. Typically, three supervisors review the job description and use the City's Factoring Form to help them determine the

range of the classification. Once the factoring is complete the supervisors will discuss their evaluation of the position to determine the range the position should be placed in. This has been a successful procedure for the City in the past; however, there are times that the market needs to be reviewed and considered as well.

Total Compensation

"What does total compensation mean?" When most of us hear the term "compensation" we typically only think of the money we receive in our paycheck each payday. However, "Total Compensation" goes beyond salary, it is the complete pay package for employees. Total compensation can be defined as all of the resources available to employees, which are used by the employer to attract, motivate and retain employees.

City of Homer regular full-time employees enjoy a total compensation package that exceeds the value of their base salary alone. The image below represents some of the key elements which makeup Total Compensation:

Compensation Surveys

“What is a compensation survey?” A compensation survey is survey of compensation practices and trends among participating companies, typically compiled by an independent research organization. Compensation surveys enable their participants to learn market compensation practices for jobs offered in their organizations. There are five compensation surveys enclosed for you to review. Public entities are challenged with comparing positions of like kind. Many positions are not the same in other public entities. Some positions have unique or other duties that are not typically included in the position in the private sector. This makes it very challenging when reviewing compensation surveys that are not tailored to fit the organization’s interests and needs. Enclosed is an analysis of some positions within the City of Homer. Please remember this analysis is comparing titles and not necessarily actual duties. The AML Salary and Benefit Survey is very informative; however, the City’s close competitors (Soldotna, Kenai, and Seward) information is not included.

Closing

Total compensation can be challenging for many organizations. The biggest challenge is to have a good balance of offered benefits to the actual base compensation. Although offering excellent benefits is a smart recruitment strategy, benefits do not always allow employees to financially keep up with inflation. Please let me know if you have any questions or concerns regarding this information.

Enc:
Alaska Municipal Salary & Benefit Survey FY 2014
Joint Alaska Survey Participant Survey
Kenai Peninsula Borough 2013 Compensation Study Overview
Kodiak Island Borough Compensation Study
City of Kodiak Classification and Compensation Study
City of Homer Position Analysis

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov

COMMITTEE OF THE WHOLE
5:00 P.M. MONDAY
JANUARY 27, 2014
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
COUNCIL MEMBER GUS VAN DYKE
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

COMMITTEE OF THE WHOLE AGENDA

1. CALL TO ORDER, 5:00 P.M.

Councilmember Howard has requested excusal.

2. AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

3. CONSENT AGENDA

4. REGULAR MEETING AGENDA

5. COMMENTS OF THE AUDIENCE

6. ADJOURNMENT NO LATER THAN 5:50 P.M.
Next Regular Meeting is Monday, February 10, 2014 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
AGENDA APPROVAL

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov

REGULAR MEETING
6:00 P.M. MONDAY
JANUARY 27, 2014
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
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CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

REGULAR MEETING AGENDA

Special Meeting 4:00 p.m., Worksession 4:30 p.m. and Committee of the Whole 5:00 p.m. in Homer City Hall Cowles Council Chambers.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Councilmember Howard has requested excusal.

Department Heads may be called upon from time to time to participate via teleconference.

2. AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

4. RECONSIDERATION

5. CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

A. Homer City Council unapproved Regular meeting minutes of January 13, 2014. City Clerk. Recommend adoption. ***Page 31***

B. **Memorandum 14-013,** from Mayor, Re: Reappointment of Cathy Ulmer, Bob Hartley, and Mike Stockburger to the Port and Harbor Advisory Commission; Appointment of Barbara Howard, David Lewis, Mike Stockburger, Bryan Hawkins, Todd Hoppe, and John Michael Pate to the

Vessel Haul-Out Task Force; and Mayor Wythe to the Public Safety Building Review Committee. ***Page* 59**

C. **Memorandum 14-014,** from City Manager, Re: City Representation at Board of Fisheries Meeting. ***Page 79***

D. **Memorandum 14-021**, from City Clerk, Re: Travel Authorization for Councilmember Zak to Attend the Alaska Municipal League Winter Legislative Conference in Juneau, Alaska, February 17 – 19, 2014. ***Page 81***

E. **Ordinance 14-05,** An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $500,000 from the Port and Harbor Enterprise Fund Depreciation Reserves for the Purpose of Providing the City's 25% Local Match for the New Port and Harbor Building. City Manager. Recommended dates: Introduction January 27, 2014, Public Hearing and Second Reading February 10, 2014. ***Page 85***

Memorandum 14-003 from Project Manager as backup. ***Page 91***

F. **Ordinance 14-06,** An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $300,000 from the General Fund Balance for the Purpose of Providing a Loan to the Port and Harbor Enterprise Fund to Complete the Financing Package for the New Port and Harbor Building. City Manager. Recommended dates: Introduction January 27, 2014, Public Hearing and Second Reading February 10, 2014.

Page 95

Memorandum 14-003 from Project Manager as backup. ***Page 91***

G. **Ordinance 14-07,** An Ordinance of the City Council of Homer, Alaska, Amending the 2014 Operating Budget by Appropriating $34,089 from the Airport Reserve Fund for the Replacement of the Boilers at the Airport Terminal and Authorizing the City Manager to Execute All Appropriate Documents. City Manager/Public Works Director. Recommended dates: Introduction January 27, 2014, Public Hearing and Second Reading February 10, 2014.

Page 101

Memorandum 14-022 from Public Works Director as backup. ***Page 105***

H. **Resolution 14-022,** A Resolution of the City Council of Homer, Alaska, Approving a New Five Year Lease at the Homer Airport Terminal Between the City of Homer and Era Aviation, and Finding that it is in the Public Interest to Award the Lease Without a Competitive Bidding Process. City Manager. Recommend adoption. ***Page 107***

Memorandum 14-015 from City Manager as backup. ***Page 109***

I. **Resolution 14-025,** A Resolution of the Homer City Council Awarding the Contract for the Homer Harbor Facilities Improvements 2014 to the Firm of Harris Sand & Gravel, Inc. of Valdez, Alaska, in the Amount of $4,834,748.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Port and Harbor Director.
Recommend adoption. ***Page 137***
Memorandum 14-020 from Project Manager as backup. ***Page 139***

6. VISITORS

A. Lisa Roberts, United Way, 10 minutes.

B. James Hornaday & George Matz, Kachemak Bay Research Reserve, 10 minutes.
Page 145

7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. **Mayor's Proclamation,** "Congenital Heart Defect Awareness Week" February 7 – 14, 2014
Page 149

B. Borough Report

C. Commissions/Board Reports:

1. Library Advisory Board

2. Homer Advisory Planning Commission

3. Economic Development Advisory Commission

4. Parks and Recreation Advisory Commission

a. Letter from Kate Crowley, Re: ReCreate Rec Fundraising
Page 151

5. Port and Harbor Advisory Commission

8. PUBLIC HEARING(S)

A. **Crittenden Drive Road Reconstruction and Paving Special Assessment District**
Page 165

B. **Webber Subdivision Road Reconstruction and Paving Special Assessment District**
Page 169

C. **Ordinance 14-01,** An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.78.010, Commission - Creation and Membership, to Make the Director of the Homer Chamber of Commerce an Ex Officio, Non-Voting Member of the Economic Development Advisory Commission. City Clerk/Economic Development Advisory Commission. Introduction

January 13, 2014, Public Hearing and Second Reading January 27, 2014.
Page 181

Memorandum 14-024 from Community and Economic Development Coordinator as backup.
Page 187

D. **Ordinance 14-03,** An Ordinance of the Homer City Council, Amending HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100, to Repeal the Exemption From City Sales Tax of Sales of Nonprepared Foods From September 1st Through May 31st; Amending HCC 9.16.010 to Dedicate a Sales Tax of One-Quarter Percent (.25%) to Fund a Parks and Recreation Department; and Submitting the Question of Repealing Such Sales Tax Exemption and Such Sales Tax Dedication to the Qualified Voters of the City at the October 7, 2014 Regular City Election. Burgess. Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014. ***Page 189***

E. **Ordinance 14-04,** An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $35,000 From the Port and Harbor Depreciation Reserves to Replace the Fish Grinder in the Fish Waste Grinding Facility. City Manager/Port and Harbor Director. Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.
Page 321

Memorandums 14-005 and 14-017 from Port and Harbor Director as backup.
Pages 325/327

9. ORDINANCE(S)

10. CITY MANAGER'S REPORT

A. City Manager's Report ***Page 333***

1. **Memorandum 14-023,** from Community and Economic Development Coordinator, Re: Citizens Academy. ***Page 349***

B. Games Report ***Page 357***

1. Homer Animal Friends ***Page 359***

11. CITY ATTORNEY REPORT

12. COMMITTEE REPORT

A. Public Arts Committee

B. Transportation Advisory Committee

C. Permanent Fund Committee

D. Lease Committee

E. Port and Harbor Improvement Committee

F. Employee Committee Report

G. Port and Harbor Building Task Force

13. PENDING BUSINESS

A. **Resolution 13-116,** A Resolution of the City Council of Homer, Alaska, Amending the Economic Development Advisory Commission Bylaws to Include That the Director of the Homer Chamber of Commerce May Serve as a Non-Voting, Ex-Officio Member of the Commission. City Clerk/Economic Development Advisory Commission. (Pulled from December 9, 2013.)
Page 367

Memorandum 13-165 from Economic Development Advisory Commission as backup.
Page 369
Memorandum 14-024 from Community and Economic Development Coordinator as backup.
Page 371

B. **Resolution 14-008,** A Resolution of the City Council of Homer, Alaska, Approving a New Intergovernmental Wastewater Agreement Between the City of Homer and Kachemak City. City Manager. (Postponed from January 13, 2014.)
Page 379

14. NEW BUSINESS

15. RESOLUTIONS

A. **Resolution 14-021,** A Resolution of the Homer City Council Approving an Economic Development and Tourism Marketing Agreement Between the City of Homer and the Homer Chamber Of Commerce. City Manager. ***Page 391***

B. **Resolution 14-023,** A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Donation of a Life-Size Bronze Bust of Brother Asaiah Bates by an Anonymous Donor and Created by Homer Artist Leo Vait for Permanent Placement in WKFL Park. City Clerk/Public Arts Committee. ***Page 399***

Memorandum 14-016 from Public Arts Committee as backup. ***Page 401***
Memorandum 14-018 from Parks and Recreation Advisory Commission as backup.
Page 403

C. **Resolution 14-024,** A Resolution of the City Council of Homer, Alaska, Awarding the Contracts for Park Signage to Handpainted Designs by Dan Coe of Anchor Point, Alaska, in the Amount of $1,650.00 for Jeffrey Park, Bayview Park, and Louie's Lagoon; to Lost Things Designs of Homer,

Alaska, in the Amount of $1,360.00 for the Jack Gist Park; and Approving the Uniform Sign Design Criteria as Standards for All City Parks, Trails, Beaches, and Recreational Areas. City Clerk/Public Arts Committee. ***Page 423***

Memorandum 14-019 from Parks and Recreation Advisory Commission as backup.
Page 425

16. COMMENTS OF THE AUDIENCE

17. COMMENTS OF THE CITY ATTORNEY
18. COMMENTS OF THE CITY CLERK
19. COMMENTS OF THE CITY MANAGER
20. COMMENTS OF THE MAYOR
21. COMMENTS OF THE CITY COUNCIL
22. ADJOURNMENT

Next Regular Meeting is Monday, February 10, 2014 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PUBLIC COMMENTS
UPON MATTERS
ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA

Session 14-01 a Regular Meeting of the Homer City Council was called to order on January 13, 2014 at 6:03 p.m. by Mayor Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT:	COUNCILMEMBERS:	BURGESS (telephonic), HOWARD, LEWIS, ROBERTS, VAN DYKE, ZAK
	STAFF:	CITY MANAGER WREDE CITY CLERK JOHNSON CITY ATTORNEY WELLS COMMUNITY & ECONOMIC DEVELOPMENT COORDINATOR KOESTER FINANCE DIRECTOR LI IT MANAGER POOLOS LIBRARY DIRECTOR DIXON PORT AND HARBOR DIRECTOR HAWKINS PUBLIC WORKS DIRECTOR MEYER

Council met for a Worksession from 4:01 p.m. to 4:50 p.m. to discuss Employee Healthcare. From 5:00 p.m. to 5:59 p.m. Council met as a Committee of the Whole to hear a presentation from Michael Fisher, Northern Economics, Port and Harbor Rate Study and the Economic Impacts Study: Drill Rig Endeavour. Council discussed Memorandum 14-007, the Consent Agenda and Regular Meeting Agenda items.

Councilmember Burgess has requested telephonic participation.

ZAK/LEWIS - MOTION TO ALLOW COUNCILMEMBER BURGESS TO PARTICIPATE BY PHONE.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Department Heads may be called upon from time to time to participate via teleconference.

AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The following changes were made:
CONSENT AGENDA - Memorandum 14-001, from Deputy City Clerk Re: Liquor License Renewals for Down East Saloon, Kharacters, Alibi, Harbor Grill, Grog Shop East End, Cosmic Kitchen, Pho & Thai Restaurant, and a New Liquor License for Little Mermaid. Non objection letters from Kenai Peninsula Borough Clerk as backup. **Ordinance 14-04,** An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $35,000 From the Port and Harbor Depreciation Reserves to Replace the Fish Grinder in the Fish Waste Grinding Facility. City Manager/Port and Harbor Director. Written public comments. **Resolution 14-006,** A Resolution of the City Council of Homer, Alaska, Approving a Memorandum of Understanding Between the City of Homer and Kachemak City Regarding the Canyon Trails Subdivision and Road Maintenance on Stellers Jay Drive and Golden Plover Avenue. City Manager. Map of area as backup. **Resolution 14-019,** A Resolution of the City Council of Homer, Alaska, Opposing Alaska Board of Fisheries Proposals 138, 139, 140, 142, and 143 That Close or Restrict Waters of Cook Inlet Near Homer to Commercial Drift Fishing. Lewis. Written public comments. **CITY MANAGER'S REPORT -** City Manager's Report of January 13, 2014.

Mayor Wythe called for a motion to approve the agenda as amended.

LEWIS/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Rachel Lord, city resident, expressed support for Resolution 14-015 and is happy to assist the city.

Katherine George, city resident, asked that Resolutions 14-011 and 14-012 be removed from the consent agenda for further discussion.

Kelly Cooper, Homer resident, told Council many small businesses have not been paid by Buccaneer.

Ian Pitzman, city resident, expressed support for Resolution 14-019 since half of the drift fishing activity takes place in Area 1.

Mike McCarthy, city resident, asked Council to postpone Resolution 14-012 until the final report on the erosion study the Borough commissioned is complete.

Matt Clarke, Homer resident and city employee, asked Council to support Resolution 14-019 to prevent the reallocation of economic activity to areas further north.

Jim Lavrakas, Executive Director, Homer Chamber of Commerce, expressed the Chamber's opposition to Ordinances 14-02 and 14-03. The City should work harder to make the business climate in Homer more inviting. He expressed support for Ordinance 14-01 and Resolution 14-019.

Todd Hoppe, Homer resident and representative of North Pacific Fisheries Association, expressed support for Resolution 14-019.

Matt Alward, Homer resident, expressed support for Resolutions 14-019 and 14-015 and is happy to help the City.

Frank Mullen, Homer resident, supports Resolution 14-019 that affects about 300 fishermen in the local area.

Barb Brodowski, city resident, expressed opposition on Ordinances 14-02 and 14-03. She provided an analysis of taxable nonprepared food items from twelve states.

Revelle Russell, Homer resident, asked Council to adopt Resolution 14-019 to prevent the loss of revenue to Homer.

Dan Anderson, Homer resident, supports Resolution 14-019 to keep the economic benefits in Homer.

Rick Oldham, Homer resident, supports Resolution 14-019 and thanked Council for standing up for fishermen.

Ben Gibson, city resident, opposes Resolution 14-011 since the special assessment district mechanism is already in place.

Rika Mouw, city resident, expressed opposition to Resolution 14-012 and would rather see a special assessment district.

Vicky Hodnick, city resident, asked Council to postpone Resolution 14-012 until the erosion study is completed.

Ken Castner, city resident, opposes Resolution 14-020. A contractor is not selected until you have a site, architect, preliminary design, and funding.

Charles Davis, city resident, commented on Resolutions 14-011 and 14-012. The City should be investing in the main water and sewer lines and filling in the city. He expressed opposition to Ordinances 14-02 and 14-03.

Scott Simmons, city resident, expressed opposition to Ordinance 14-02 and support for Ordinance 14-03 to push dollars towards recreation.

Kate Crowley, city resident, commented on Ordinances 14-02 and 14-03 and would like to see more discussion and more detail.

Tara Cain, Anchor Point Natural Foods, expressed opposition to Ordinances 14-02 and 14-03 since a lot of people are having financial difficulties.

RECONSIDERATION

CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

A. Homer City Council unapproved Special and Regular meeting minutes of December 9, 2013. City Clerk. Recommend adoption.

B. **Memorandum 14-001,** from Deputy City Clerk Re: Liquor License Renewals for Down East Saloon, Kharacters, Alibi, Harbor Grill, Grog Shop East End, Cosmic Kitchen, Pho & Thai Restaurant, and a New Liquor License for Little Mermaid.

C. **Ordinance 14-01,** An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.78.010, Commission—Creation and Membership, to Make the Director of the Homer Chamber of Commerce an Ex Officio, Non-Voting Member of the Economic Development Advisory Commission. City Clerk/Economic Development Advisory Commission. Recommended dates: Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

D. **Ordinance 14-02,** An Ordinance of the Homer City Council, Amending HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100, to Repeal the Exemption From City Sales Tax of Sales of Nonprepared Foods from September 1st Through May 31st. Lewis. Recommended dates: Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

Memorandum 14-004 from City Attorney as backup.

Moved to Ordinances.

E. **Ordinance 14-03,** An Ordinance of the Homer City Council, Amending HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100, to Repeal the Exemption From City Sales Tax of Sales of Nonprepared Foods From September 1st Through May 31st; Amending HCC 9.16.010 to Dedicate a Sales Tax of One-Quarter Percent (.25%) to Fund a Parks and Recreation Department; and Submitting the Question of Repealing Such Sales Tax Exemption and Such Sales Tax Dedication to the Qualified Voters of the City at the October 7, 2014 Regular City Election. Burgess. Recommended dates: Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

Memorandum 14-004 from City Attorney as backup.

Moved to Ordinances.

F. **Ordinance 14-04,** An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $35,000 From the Port and Harbor Depreciation Reserves to Replace the Fish Grinder in the Fish Waste Grinding Facility. City Manager/Port and Harbor Director. Recommended dates: Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

Memorandum 14-005 from Port and Harbor Director as backup.

Moved to Ordinances.

G. **Resolution 14-001,** A Resolution of the Homer City Council Confirming the City Manager's Appointment of Jo Johnson as Acting City Manager for Calendar Year 2014. City Manager. Recommend adoption.

H. **Resolution 14-002,** A Resolution of the Homer City Council Confirming the Appointments of Zhiyong Li as Treasurer and Laurie Moore as Deputy Treasurer for Calendar Year 2014. City Manager. Recommend adoption.

I. **Resolution 14-003,** A Resolution of the Homer City Council Designating Signatories of City Accounts and Superseding Any Previous Resolution So Designating. City Manager. Recommend adoption.

J. **Resolution 14-004,** A Resolution of the City Council of Homer, Alaska, Adopting an Alternative Allocation Method for the FY 14 Shared Fisheries Business Tax Program and Certifying That This Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area. City Manager. Recommend adoption.

K. **Resolution 14-005,** A Resolution of The City Council of Homer, Alaska, Requesting That the Alaska Legislature Amend Alaska Statute 16.20.590 Establishing the Kachemak Bay Critical Habitat Area by Changing the Critical Habitat Area Boundary

to Exclude the City of Homer Port and Harbor and Municipal Lands Immediately Adjacent to Port Facilities Necessary for Port Operations, and Make the Statute Consistent With the Stated Intent of the Critical Habitat Area Management Plan. Mayor/Council. Recommend adoption.

L. **Resolution 14-006,** A Resolution of the City Council of Homer, Alaska, Approving a Memorandum of Understanding Between the City of Homer and Kachemak City Regarding the Canyon Trails Subdivision and Road Maintenance on Stellers Jay Drive and Golden Plover Avenue. City Manager. Recommend adoption.

M. **Resolution 14-007,** A Resolution of the City Council of Homer, Alaska, Approving an Intergovernmental Agreement for Emergency Services and a Vehicle Lease Agreement Between the City of Homer and Kachemak City. City Manager. Recommend adoption.

N. **Resolution 14-008,** A Resolution of the City Council of Homer, Alaska, Approving a New Intergovernmental Wastewater Agreement Between the City of Homer and Kachemak City. City Manager. Recommend adoption.

Moved to Resolutions.

O. **Resolution 14-009,** A Resolution of the City Council of Homer, Alaska, Approving a Cost Sharing Agreement Between the City of Homer and Kachemak City Regarding Construction of a Natural Gas Main/Distribution Line in Spencer Drive. City Manager. Recommend adoption.

P. **Resolution 14-010,** A Resolution of the City Council of Homer, Alaska, Directing the City Manager to Produce on the Estimated Costs, Financing Options, Policy Considerations, and Feasibility of Constructing a "Loop" Water and Sewer Connection That Extends Up West Hill Road, Across Skyline Drive, and Down East Hill Road; to Be Presented and Discussed at a Future Worksession Scheduled by the City Council. Burgess. Recommend adoption.

Moved to Resolutions.

Q. **Resolution 14-011,** A Resolution of the City Council of Homer, Alaska, Expressing the Future Intention to Create Deferred Assessments on Property Benefitting From the Future Construction of the Shellfish Avenue/South Slope Drive Water Main Extension. City Manager/Public Works Director. Recommend adoption.

Memorandum 14-008 from Public Works Director as backup.

Moved to Resolutions.

R. **Resolution 14-012,** A Resolution of the City Council of Homer, Alaska, Expressing the Future Intention to Create Deferred Assessments on Property Benefitting From the Future Construction of the Kachemak Drive (Phase III) Water Main Extension Project. City Manager/Public Works Director. Recommend adoption.

Memorandum 14-009 from Public Works Director as backup.

Moved to Resolutions.

S. **Resolution 14-013,** A Resolution of the City Council of Homer, Alaska, Expressing Support for the City of Soldotna's Proposed Renovation and Expansion of the Soldotna Regional Sports Complex. Mayor/Lewis. Recommend adoption.

T. **Resolution 14-014,** A Resolution of the City Council of Homer, Alaska, Expressing Strong Support for Governor Parnell's Proposal to Appropriate $3 Billion from the Constitutional Budget Reserve into the Alaska Retirement Trust Funds in 2015. Mayor/City Council. Recommend adoption.

U. **Resolution 14-015,** A Resolution of the Homer City Council Appointing a Task Force to Review and Make Recommendations on a Large Vessel Haul-Out and Repair Facility at the Port. City Manager/Port and Harbor Advisory Commission. Recommend adoption.

V. **Resolution 14-016,** A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Refurbishment Services of Three Pedestal Cranes on Homer Fish Dock to the Firm of Oil & Gas Supply Company of Kenai, Alaska, in an Amount Not to Exceed $82,625 Per Crane and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Port and Harbor Director. Recommend adoption.

Memorandum 14-006 from Port and Harbor Director as backup.

Moved to Resolutions.

W. **Resolution 14-017,** A Resolution of the Homer City Council Directing the City Administration to Prepare a Preliminary Report for Council Consideration on the Costs, Feasibility, Potential Payback, and Other Community or Economic Benefits of Converting the City's Vehicle Fleet to Natural Gas. Burgess. Recommend adoption.

X. **Resolution 14-018,** A Resolution of the Homer City Council Affirming the City Manager's Decision to Offer Additional Reward Money for Information Leading to the Arrest and Indictment of the Person or Persons Responsible for the Murder of Mark Matthews. City Manager. Recommend adoption.

Y. **Resolution 14-019,** A Resolution of the City Council of Homer, Alaska, Opposing Alaska Board of Fisheries Proposals 138, 139, 140, 142, and 143 That Close or Restrict

Waters of Cook Inlet Near Homer to Commercial Drift Fishing. Lewis. Recommend adoption.

Moved to Resolutions.

Z. **Resolution 14-020,** A Resolution of the Homer City Council Creating a Public Safety Building Review Committee and Establishing the Scope of Work and Parameters Under Which the Committee Will Conduct Its Work. City Manager/Public Works Director. Recommend adoption.

Moved to Resolutions.

Ordinances 14-02 and 14-03 were moved to Ordinances A and B respectively. (Zak)
Ordinance 14-04 was moved to Ordinance C. (Burgess)
Resolutions 14-010, 14-011, 14-012, 14-016, and 14-020 were moved to Resolutions A, B, C, D, and E respectively. (Zak)
Resolution 14-019 was moved to Resolutions F. (Lewis)
Resolution 14-008 was moved to Resolution G. (Burgess)

Mayor Wythe called for a motion for the approval of the recommendations of the consent agenda as read.

LEWIS/HOWARD – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

A. **Jenny Martin,** Big Brothers Big Sisters

Jenny Martin, Big Brothers Big Sisters, provided an overview of the program that has changed the lives of both Bigs and Littles. There are 40 to 50 matches per year; most matches last two to three years, but many go beyond that. They have served over 300 children.

Big Joanna and Little Philoma and Big Katie and Little Emily related their positive experiences from the program.

Funding for the program is provided through local fundraising, a United Way grant, and statewide efforts. Upcoming fundraising events for Big Brothers Big Sisters are Saturday, January 18th at the Homer High School from 5:00 to 7:00 p.m. for food, an auction, raffle, and

games. Homer Council on the Arts will provide a Stepping Out show after. On Thursday, January 30th there is movie night at the Homer Theatre showing Despicable ME 2.

B. Paul Seaton & Kris Holderied, Tidal Incubator Project

Representative Paul Seaton and Kris Holderied, NOAA, provided an update on the tidal energy incubator project. Partners include: City of Homer, Kenai Peninsula Borough, State of Alaska, University of Alaska, Offices of Representative Paul Seaton and Senator Peter Micciche, Alaska Industrial Development and Export Authority, Alaska Department of Fish and Game, Homer Electric Association, NOAA Kasitsna Bay Laboratory, National Renewable Energy Laboratory, Kachemak Bay Research Reserve, Ocean Renewable Power Company, and Renewable Energy Alaska Project.

Kachemak Bay is a great place with strong tidal currents; they are stronger than most places in the U.S. Most of the current is tidal so it is very predictable. There is also existing infrastructure to include the Deep Water Dock, road system, and access to the grid.

They are trying to attract people to come here and develop something. The expertise is already Here with the science agencies, marine trades, and the University. Data has already been measured and collected on the currents, biology, and the habitat. The test bed includes turbine designs, camera systems, fish interaction, icing/siltation, and anchoring systems.

The project will create economic development and educational opportunities and bring hi-tech industry to Homer. It aligns with the CEDS (Community and Economic Development Strategy) of supporting growth of hi-tech industries. It presents more challenges for the marine trades and the education sector.

C. Michael Fisher, Northern Economics, Port and Harbor Rate Study and the Economic Impacts Study: Drill Rig Endeavour

Michael Fisher, Northern Economics, reported several months ago an RFP (Request for Proposals) was issued to look at harbor rates and the economic impact in the 200+ day stay of the Drill Rig Endeavour at the Homer harbor.

The Port and Harbor Rate Study was done to determine where the rates stand. It encompassed the cost of operating, maintaining, and replacing the facilities. They looked at rate changes to make sure the facilities are financially sustainable. There are large costs associated with replacing docks and harbor infrastructure and uncertainty of outside funding. The long term plan is to take advantage of the outside benefits, but not rely on them. They focused on the present facilities and costs of operating them. They used the life cycle cost analysis that cataloged all the facilities; they looked at the ages, remaining lives, and replacement costs and scheduled them out over time. They built in operating costs and brought the costs to the present. They then took an annualized number that represents revenue necessary each year.

R&M Consultants looked at remaining lives and replacement costs in coordination with the port and harbor office. They then grouped facilities into non-revenue and revenue generating facilities such as the harbor, Pioneer Dock, Fish Dock, Deep Water Dock, load and launch ramp, and fish grinder. They allocated overhead costs to all groups. To be financially sustainable, an overall rate increase of 58% is desired. Individual facilities compute to increases for the following: Harbor 32%, Pioneer Dock 136%, Fish Dock 126%, Deep Water Dock 41%, load and launch ramp generates twice the revenues it needs, fish grinder 162% rate increase needed to cover stand-alone costs. Some level of rate increase is warranted. Northern Economics recommend that the rate study go to a working commission to review and decide what they are comfortable with for a long range plan.

The Drill Rig Endeavour was docked at the harbor from the end of August 2012 to the end of March 2013. Property taxes were collected for the City and the Borough along with port fees. The study concluded: $3.3M in direct spending and $450,000 property taxes to the City and Borough combined. Spending was for employment and labor ($3.3M) with a ripple effect of indirect and induced spending at $1.5M for a total spending impact of $4.8M. This included 50 jobs.

Mayor Wythe called for a recess at 7:32 p.m. and reconvened the meeting at 7:42 p.m.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. Borough Report

Bill Smith, Kenai Peninsula Borough Assemblyman, reported the Assembly passed an ordinance to add the $50,000 residential exemption to the $300,000 senior exemption on property taxes. In 2007 the City of Homer enacted a $20,000 residential exemption that was also added to senior property tax exemptions. The City of Homer was the most generous tax exemption city in the Borough. With the food tax issues and property tax exemption this creates stringent budget issues for the City. Borough administration is looking at trying to hold the line on the mil rate. Service areas will have significant stress; some service areas will have increases in the mil rate to make up for the increased residential property tax exemption. If the City of Homer decided to raise the exemption to $50,000 instead of $20,000, the effect would be an increase from $77,000 up to $113,000 in lost revenue. There may be an increase to the hospital service area that may affect Homer city residents.

Per the report on the Drill Rig Endeavour we do not collect personal property tax. City Manager Wrede will check into that and report to Council at the next meeting.

B. Commissions/Board Reports:

1. Library Advisory Board

Phil Gordon, Library Advisory Commissioner, reported the children's librarian and the library staff are all working hard. Patron and material use is up and tomorrow they hook up with natural gas. These are nice indicators they are doing a good job.

2. Homer Advisory Planning Commission

3. Economic Development Advisory Commission

4. Parks and Recreation Advisory Commission

Dave Brann, Parks and Recreation Advisory Commissioner, reported the commission will meet this Thursday. City Manager Wrede has agreed to come to the meeting to talk about the recreation needs assessment. This weekend is the Best Cup ski tournament and women's hockey which will bring a lot of people to town. The uniform signage program is moving forward and the commission will be talking about it. He is looking forward to 2014 as the commission is anxious to work on things.

5. Port and Harbor Advisory Commission

Glen Carroll, Port and Harbor Advisory Commissioner, reported the commission discussed the large vessel haul-out at their last meeting. The commission is interested, as is everyone in the community. We are not locked into a large travel lift with a large dock; there are much more economical ways. The haul-out facility will be a tremendous economic engine for year round jobs and a tax base on the Spit.

PUBLIC HEARING(S)

ORDINANCE(S)

A. **Ordinance 14-02,** An Ordinance of the Homer City Council, Amending HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100, to Repeal the Exemption From City Sales Tax of Sales of Nonprepared Foods from September 1st Through May 31st. Lewis. Recommended dates: Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

Memorandum 14-004 from City Attorney as backup.

Mayor Wythe called for a motion for the introduction of Ordinance 14-02 by reading of title only.

LEWIS/HOWARD – SO MOVED.

Councilmember Lewis commented with the addition of EMTs, the full time librarian, and funding for the recreation needs assessment, there is not enough money to pay for everything. People compare us to Soldotna and Kenai, yet they have four soccer fields and a sports center, and can host region soccer and summertime tournaments. The hockey rink here has spent $10M out of pocket to keep it open. We need money for a lot of things since we have a lot of expenses and can't get money any other way. Many people outside the city call Homer home, and there has to be a way for them to support the programs within city limits.

Mayor Wythe added if we did not add a single service and only collected taxes to meet obligations of depreciation and reserves for future maintenance of the existing infrastructure, it would be funds well spent. We don't have to add something to justify the fact that we are not funding upwards of $1M a year in depreciation. This means that we are not preparing for future replacement and restoration of infrastructure.

Councilmember Burgess echoed the Mayor's comments. Not including the last minute earmarks added to the budget, we are running at a deficit for depreciation. Voters say they don't want taxes raised. They have given us a clear signal to live within our means. The people should vote on the tax increase and we will try to respect the will of the people.

Councilmember Zak noted the savings to the 2014 budget with the conversion of a lot of city facilities to natural gas. It was all absorbed in the budget. We are stronger overall for the services we provide but we still request sales tax. People told us to put the money where it best belongs in the community without raising taxes. He prefers both sales tax ordinances go away.

Councilmember Howard will vote yes to get the ordinance to a public hearing.

Councilmember Lewis noted Soldotna, Kenai, and Seward have all maintained sales tax on nonprepared foods and it is not hurting their business. We need to draw more young families in with services for them. If you don't have kids you don't have teachers as they lay them off and then the quality of education drops. Then there will not be a lot of people coming. People that can least afford sales tax on food pay no taxes on food when using Quest cards. Adding sales tax will make people outside Homer contribute more. They use the city facilities and many don't mind paying sales tax to support the facilities they use.

Councilmember Van Dyke supports finding a way to get people outside the city to pay for some of the services. He doesn't support another arbitrary tax on the people. If we bring in the food tax for the winter it will help a little. He wouldn't support it unless there was a decrease in property tax to the city residents. There should be something to show the City is trying to balance the budget and not force all the money on just the people that live here.

Mayor Wythe reflected when she came on the council there was vote before the voters to increase the sales tax. It was voted down, but the library was voted up. We had a $7M library

with no funds to pay for it. That January we asked for an increase in sales tax due to increases in the city. Council reduced the mil rate in exchange for the sales tax increase. Now we are not collecting seasonal sales tax on nonprepared foods. As the voters were voting to get rid of sales tax on food, the Borough was changing the regulation and every other community on the peninsula except Homer took advantage of the Borough's regulation. Council will not cut a service that a few people come in and complain about. Instead we cut attorney fees, but if we need attorney fees we will have to bring that money out of our limited reserve account. We make decisions about money based on trying to meet the need without looking at the reason we have the sales tax. We have an infrastructure based on the premise that we will collect that sales tax. That money we are not collecting from taxes is reducing the amount of money we have in reserves for water and sewer, roads and trails, and depreciation funding. She favors taking it to the voters.

VOTE: YES. LEWIS, HOWARD
VOTE: NO. BURGESS, ROBERTS, ZAK, VAN DYKE

Motion failed.

B. **Ordinance 14-03,** An Ordinance of the Homer City Council, Amending HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100, to Repeal the Exemption From City Sales Tax of Sales of Nonprepared Foods From September 1st Through May 31st; Amending HCC 9.16.010 to Dedicate a Sales Tax of One-Quarter Percent (.25%) to Fund a Parks and Recreation Department; and Submitting the Question of Repealing Such Sales Tax Exemption and Such Sales Tax Dedication to the Qualified Voters of the City at the October 7, 2014 Regular City Election. Burgess. Recommended dates: Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

Memorandum 14-004 from City Attorney as backup.

Mayor Wythe called for a motion for the introduction of Ordinance 14-03 by reading of title only.

BURGESS/ROBERTS – SO MOVED.

Councilmember Burgess referred it as asking the voters if they wanted ice cream or to go see a movie. The voters said they want both ice cream and to go see a movie. We haven't followed through to say it is one or the other, that we must live within our means. The discretionary spending added in the budget at the last minute is small in comparison to the million dollar shortfall of depreciation funding. He wants to put the question before the voters to decide.

Councilmember Roberts clarified there is no sales tax increase. The .25% of the reinstated sales tax would go to the parks and recreation department. She asked if there was reasoning to combining the two questions into one ballot proposition.

Councilmember Burgess' intention is to not to separate the questions. It is a more clear-cut decision. If voters decide not to reinstate the sales tax they may decide to devote .25% to parks and recreation and then we would have more budgetary issues.

City Manager Wrede has received comments that we should consider two separate ballot propositions. Attorney Klinkner said the questions could be separated with the second proposition dedicating a certain portion that would be contingent on the first proposition passing. If the ballot proposition is separated he recommended coming back with a new ordinance at the next meeting as it would be a substantive change.

Discussion on whether the recreation needs assessment should be finished before the election ensued. City Manager Wrede noted the .25% amount came from the sponsor; the goal is to generate enough money to operate a parks and recreation department and maybe have enough left for some bond payments. The .25% could generate $400,000. An ordinance approving the ballot proposition would need to be approved by the end of June.

Council recommended the recreation needs assessment be a top priority and be delivered to Council by the end of May.

Councilmember Van Dyke agrees if the questions are separated it will be harder to pass both propositions. The attorney says we can dedicate the money, but it does nothing to stop next year's council from taking it away.

Attorney Wells advised it is confusing how increases in taxes are handled versus exemptions from taxes. Where dedications differ from this one is that water and sewer were increases in taxes. Water and sewer dedications are locked in by the voters' right to dictate those dedications. Exemptions have been found to fall outside of that. Council has the ability to repeal the exemption independent of the voters. Even if you take a vote it is more of an advisory vote. If the voters approved a .25% tax was collected for a parks and recreation department it would not be legally binding.

VOTE: YES. ROBERTS, HOWARD, LEWIS, BURGESS
VOTE: NO. ZAK, VAN DYKE

Motion carried.

C. **Ordinance 14-04,** An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $35,000 From the Port and Harbor Depreciation Reserves to Replace the Fish Grinder in the Fish Waste Grinding Facility. City Manager/Port and Harbor Director. Recommended dates: Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

Memorandum 14-005 from Port and Harbor Director as backup.

Mayor Wythe called for a motion for the introduction of Ordinance 14-04 by reading of title only.

LEWIS/BURGESS – SO MOVED.

Councilmember Burgess asked that a Request for Proposals be issued in the next year for someone to run the fish grinder. We are spending more money than we should be and need to save money and encourage private industry.

Councilmember Roberts referenced the letter in the supplemental packet. She asked why no RFP was issued and we are just selecting a bid.

Port and Harbor Director Hawkins reported we didn't go to RFP as the fish grinder is a highly specialized piece of equipment not available locally. The Port contacted four different companies that offer product grinders and priced them out. A direct replacement is needed for the current grinder which is 14 years old. He can spend more time looking at the features of the Autio grinder and report to Council at the next meeting.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

1. Natural Gas Conversions: City Hall is now heated with natural gas. The conversion was completed and the gas started flowing on January 8th. We are now paying less for energy and we have lowered greenhouse gas emissions by 30%. PW expect the library, animal shelter, sewer treatment plant, and the airport terminal to be converted and burning gas within the next 10 days.
2. 2014 Budget: The Finance Department is working hard to incorporate all of the budget amendments and produce the new and approved budget for 2014. We expect that hard copies will be available and the new budget posted online within the next few days. Fortunately, the budget still balanced after all of the amendments were made! The Finance Department is also preparing for the 2013 Audit which is coming up quickly.
3. Recodified City Code: You will recall that the 2013 Budget included money to recodify the code and improve its online presence. The project is now complete and it took almost a year. Thanks to Jo and to Tom Klinkner for all of their work on this project. The Code was reorganized and consolidated, inconsistencies and redundancies were addressed to the extent possible, and the code is now on a website actively managed by an outside company. The paper code is now half the size because it is double sided. All ordinances will be codified within 3 to 5 days of passage and placed online. There are new and much improved search functions that will make it easier for the public to

access the Code and find what they want. This is a real upgrade and I hope Jo gets an opportunity to talk about it a little.

4. Wastewater Agreement with Kachemak City: This agenda contains a resolution approving a new wastewater agreement between the City of Homer and Kachemak City. This agreement has not been updated since it was originally signed in 1988. The new version is mostly an update and removes much of the language that is no longer relevant; especially all of language having to do with construction of the new sewer treatment plant and the sewer lines in Kachemak City. One thing of particular note is that the draft agreement says the baseline average for gallons put into the system is 2,500 instead of 3,500. You will recall that this was a big issue for Kachemak City when the new water and sewer rate fee schedule was approved. Since the fee schedule was approved, we have spent more time talking to Kachemak City about this and we are pretty certain that the average monthly number of gallons placed into the collection system is significantly less than 3,500. There are many reasons for this including the fact that everyone either hauls water or has it delivered. People who do that tend to be much more conservation minded. Also, the demographics there are changing. Kids are grown up and moving out, the population is aging, and many residences have only two occupants. The new rate model was based primarily upon consumption. Keeping that in mind, it seems inconsistent with the intent of the model to charge people for more than they are actually using. Installing meters is problematic for a variety of reasons and measuring how much water people use is complicated because it is delivered, hauled, collected by roof cistern systems, and obtained via wells. 2,500 gallons seems like a reasonable number. The available evidence seems to suggest that the average is probably less than that. Another reason for dropping the number to 2,500 is that Kachemak City residents do not have the ability to shut off their meters and pay less during the months that they are away and are not putting anything into the system. They pay the full amount whether they are home or not. We recommend changing the amount to 2,500. If Council agrees, we will have to amend the fee schedule. The estimated fiscal impact is about $27,000.

5. Emergency Services Agreement with Kachemak City: This agenda contains a resolution approving a new emergency services agreement with Kachemak City. The new agreement is not much different from the old one but it renews and updates this long standing relationship. The basics are the same. Homer provides Fire and EMS services to Kachemak. Kachemak contributes a fire truck that Homer can use, a place to house and station the truck, and payment equal to 1 Mil based upon total property values in Kachemak. This relationship has worked well over the years, benefits both parties, and we recommend renewal.

6. Virtualization: The IT staff is working to install the newly budgeted virtualization equipment. They are presently evaluating vendors and models and the merits of leasing rather than purchasing. The equipment will be purchased to be compatible with what already exists which under the procurement policies, is a justification for going sole source. This will be a large upgrade to the City's IT infrastructure and we appreciate the Council's support.

7. Recreation Service Area: Right before the Christmas break I participated in a teleconference with Mike Illg, Kate Crowley from ReCreate Rec, the Borough Attorney, and a staff member from Mayor Navarre's office. A lot of good information was exchanged. I would be happy to talk about this a little at the meeting if there is interest. Council could also invite Kate to give an update and progress report at a future meeting.
8. Camp Fee Station: The camp fee building has continued to take a pounding from some of the storms we have experienced this year. One of the storms over the holidays damaged the electrical box and exposed the sewer line. In order to prevent further damage, PW is hiring a contractor to lift the building and move it back to a safe place in the parking lot. Utilities will be capped or shut off and the pilings will be removed. The building will stay in that location until a final destination is determined. You will recall that there has been discussion about moving that building over to the "Pier One Lot". The parks staff suggests that Mariner Park would also be a good location.
9. Vehicle in Lake: Right before Christmas a vehicle broke through the ice and was partially submerged on Beluga Lake. Chief Robl worked to get the owner to take responsibility and have it hauled out. His efforts were unsuccessful. DOT/PF was contacted for assistance but they were reluctant or unable to provide assistance. DEC was in touch but was not in a position to provide assistance beyond advice. To make a long story short, we decided to hire a contractor to extract the vehicle from the lake. We will send the owner the bill and take other necessary steps to reimburse the City. The estimated cost was $2,000.
10. Scheduling: One item that appeared in the last report but did not get discussed due to the big agenda was scheduling. The Council has said that it wants to do a citizen academy and some strategic planning, all this winter. Time will slip away fast if we don't start mapping this out. Attached is a memo from Katie regarding the Citizen's Academy which talks about preparation time and all of the steps that might be involved.

City Manager Wrede reported City Hall is now heated with natural gas. Everyone should celebrate as we are saving money and reducing greenhouse gases. Within ten days the Library, Animal Shelter, Airport, and Water Treatment Plant will be operating on natural gas.

City Clerk Johnson provided an update on the code codification. The recodified city code is now accessible on the Clerk's website, hosted by Code Publishing.

Boys and Girls Club is in the process of moving out of the HERC building. They have been there for many years. Some of the stuff went to the dump, some to Soldotna, and they donated some equipment to the sports association. There is a pool table and piano there still. Next Wednesday a cleaning company will come in behind them.

The recreation needs assessment will be discussed with the Parks and Recreation Advisory Commission at their meeting on Thursday. A steering committee that represents user groups could look at the RFP and research to get useful information. Council could appoint a

committee or task force that wouldn't require clerks or staff. Alternately, they could use a standing commission such as Parks and Recreation to make sure all interested parties are there to participate. He asked for feedback from Council and the consensus was for the City Manager to take the lead and allow the Parks and Recreation Advisory Commission and Recreate Rec to form a steering committee.

City Manager Wrede reported he participated in meeting with Attorney Colette Thompson and Mayor Navarre's assistant for setting up a borough recreational area.

Kate Crowley, Recreate Rec, confirmed the meeting with the Borough. An October vote is needed to decide if there will be a borough-wide recreation area. They are still exploring the options and are not sure if a vote will happen in October. The Borough is very supportive of the idea.

City Manager Wrede asked for direction from Council on the Citizens Academy. Councilmember Howard commented the idea of the Citizens Academy is that it would increase and develop the knowledge of how the City operates. Citizens will learn complexities and it will help them imagine the potential of the town and encourage them to assume leadership roles in the community. Department heads would develop a program that would be a one day a week, six-week session for two hours. There is a fair amount of interest. Some cities feel it is advantageous to folks that live outside the city. If there were more than 20 interested people, city residents would have priority. The curriculum is for departments to look at why and how we do things. They would reassess themselves and showcase their work of what they do for the city. It is best to keep the information elementary, but thorough.

Councilmember Lewis asked who owns Beluga Lake. City Manager Wrede answered DNR owns some land, DOT owns the lake in the summer as a float plane base and the City of Homer manages it in the winter.

City Manager Wrede reported a disabled car was pulled out of the lake. The Police Chief worked hard to get the driver to take responsibility. DOT would not remove the car as they thought the ice was too thin. We received a reasonable bid proposal for an extraction plan at $2,000. We will pursue the owner to pay the cost. It was in the public's interest to pull the car out since it contained at least a half of a tank of gas and lubricants.

City Manager Wrede has been trading emails with Frank Griswold on Beluga Lake. In the 1970's DOT was urging the City to assume responsibility of the lake. We do zone the lake for certain activities, but the City has not actively managed what goes on in the lake. Frank Griswold thinks we should measure the ice and give warnings when it is weak. Council has chosen not to due to the liability.

Mayor Wythe recognized 11 employees celebrating a total of 69 years of service to the City.

1. January Employee Anniversaries

2. Memorandum 14-002 from Community and Economic Development Coordinator, Re: Citizens Academy.

B. Bid Report

C. Games Report

1. Homer Hockey Association, Inc.

D. Records Inventory Report

CITY ATTORNEY REPORT

A. December 2013 Report

City Attorney Holly Wells reiterated the new code format is a real pleasure and has had a notable impact in research on the code. The law firm would enjoy participating in the Citizens Academy.

Attorney Wells reported on the condo association judgment. The decision is involved and a substantial order. The attorney needs to go through the decision and sort out factual ambiguities to understand where the judge is coming from. They will decide the best approach in moving forward.

COMMITTEE REPORT

A. Public Arts Committee

B. Transportation Advisory Committee

C. Permanent Fund Committee

D. Lease Committee

E. Port and Harbor Improvement Committee

F. Employee Committee Report

G. Port and Harbor Building Task Force

1. Memorandum 14-003 from Project Manager, Re: Project Budget: New Harbormaster's Building.

Councilmember Howard reported more money is needed for the new harbormaster's building - about $300,000. The amount would be reduced by about $160,000 by taking out the 400 sq. ft. shop for light maintenance. Before moving ahead with 65% design they ask Council for the possibility of a 5-year loan or an outright gift from the fund balance. The building does include overslope; this is the only way the harbormaster can see up and down the harbor. The second story will be framed, but not occupied until later. It has been a difficult project to work on as they didn't have enough money to begin with although pretended they did. They are asking for either a 5-year loan as the animal shelter and other facilities have done, or to scratch the project completely.

There was $1.5M from the Legislature and a $500,000 match from Port and Harbor reserves that will support a loan. At the next meeting two ordinances are needed; one to appropriate matching funds and one for a loan. The floor plans will be provided at the next meeting.

PENDING BUSINESS

NEW BUSINESS

A. **Memorandum 14-007,** from City Clerk, Re: Recommendations for Reducing Meetings of Committees and Commissions.

Mayor Wythe called for a motion to adopt the recommendations of Memorandum 14-007.

LEWIS/ROBERTS - SO MOVED.

During the Committee of the Whole Council discussed reducing meetings of commissions and committees. The goal is to reduce staff time at meetings and still allow the commissions and committees to get their work completed.

ROBERTS/LEWIS - MOVED TO ELIMINATE THE LEASE COMMITTEE, TRANSPORTATION ADVISORY COMMITTEE, AND PORT AND HARBOR IMPROVEMENT COMMITTEE.

Amendments to the Lease Committee will require a code amendment. The committee has not met recently.

City Manager Wrede reported before the current make-up of the Lease Committee it was smaller and just administrative. In review of the committee with the attorney that is more appropriate as the administration has a fiduciary responsibility to manage city assets. Public members on the Lease Committee sometimes raise issues of political favoritism and ex-parte communication. The bureaucracy slows up the process. Evaluating proposals could go back to an in-house method that would streamline the process. The committee could be comprised of the Finance Director, Planner, and one or two other directors. They would evaluate leases and report directly to Council. Port and Harbor and Economic Development Advisory Commissions could give Council advice on lease policies.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

An ordinance to amend the Lease Committee will be forthcoming.

It is recommended no new committees, subcommittees, or task forces be formed without council approval and no special meetings be scheduled without council approval.

LEWIS/ROBERTS - MOVED TO ACCEPT THE RECOMMENDATIONS.

Council would need to approve the formation of committees. Commissions could no longer create their own committees. Several commissions have subcommittees that require staff time. The Planning Commission is exempt due to their timelines.

VOTE: YES. HOWARD, LEWIS, VAN DYKE, ROBERTS[1]
VOTE: NO.ZAK

Motion carried.

Mayor Wythe called for a motion that staff contact the remaining committees and commissions and request that they review their meeting schedule to see if they can modify their meeting schedule to quarterly or to the months when the staff associated with them are not highly engaged.

ZAK/ROBERTS - SO MOVED.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. VAN DYKE, LEWIS, HOWARD, ROBERTS[2]
VOTE: NO. ZAK

Motion carried.

RESOLUTIONS

A. **Resolution 14-010,** A Resolution of the City Council of Homer, Alaska, Directing the City Manager to Produce on the Estimated Costs, Financing Options, Policy Considerations, and Feasibility of Constructing a "Loop" Water and Sewer Connection

[1] Councilmember Burgess did not respond to roll call vote.
[2] Councilmember Burgess did not respond to roll call vote.

That Extends Up West Hill Road, Across Skyline Drive, and Down East Hill Road; to Be Presented and Discussed at a Future Worksession Scheduled by the City Council. Burgess.

ROBERTS/BURGESS - MOVED TO ADOPT RESOLUTION 14-010.

This proposal will get the discussion on the table of how to generate more customers for water and sewer.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Resolution 14-011,** A Resolution of the City Council of Homer, Alaska, Expressing the Future Intention to Create Deferred Assessments on Property Benefitting From the Future Construction of the Shellfish Avenue/South Slope Drive Water Main Extension. City Manager/Public Works Director.

Memorandum 14-008 from Public Works Director as backup.

Councilmember Burgess declared a potential conflict of interest as he owns property within the assessment area.

Mayor Wythe ruled Councilmember Burgess did have a conflict of interest. There was no objection from the Council.

Councilmember Burgess was excused from participation.

Mayor Wythe called for a motion to adopt Resolution 14-011 by reading of title only.

ZAK – SO MOVED.

Failed for lack of a second.

C. **Resolution 14-012,** A Resolution of the City Council of Homer, Alaska, Expressing the Future Intention to Create Deferred Assessments on Property Benefitting From the Future Construction of the Kachemak Drive (Phase III) Water Main Extension Project. City Manager/Public Works Director.

Memorandum 14-009 from Public Works Director as backup.

Mayor Wythe called for a motion to adopt Resolution 14-012 by reading of title only.

BURGESS – SO MOVED.

Failed for lack of a second.

D. **Resolution 14-016,** A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Refurbishment Services of Three Pedestal Cranes on Homer Fish Dock to the Firm of Oil & Gas Supply Company of Kenai, Alaska, in an Amount Not to Exceed $82,625 Per Crane and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Port and Harbor Director.

Memorandum 14-006 from Port and Harbor Director as backup.

Mayor Wythe called for a motion for the adoption of Resolution 14-016 by reading of title only.

LEWIS/ROBERTS – SO MOVED.

Councilmember Zak questioned the bid process.

City Manager Wrede explained when the project was advertised we received one bid and it was rejected since the bid was not responsive. The Port then requested bids from contractors that performed this type of service.

Port and Harbor Director Hawkins elaborated they contacted seven companies from Anchorage, Kenai, and Seattle and received two proposals for review. Oil & Gas Supply Company was selected and the singular bid amount per crane will be reviewed upon tear down of the first crane. There are funds in the port reserves to cover the costs.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

E. **Resolution 14-020,** A Resolution of the Homer City Council Creating a Public Safety Building Review Committee and Establishing the Scope of Work and Parameters Under Which the Committee Will Conduct Its Work. City Manager/Public Works Director.

Mayor Wythe called for a motion for the adoption of Resolution 14-020 by reading of title only.

ROBERTS/LEWIS – SO MOVED.

There was brief discussion on meeting the levels to select a contractor.

VOTE: YES. BURGESS, HOWARD, LEWIS, ROBERTS
VOTE: NO. ZAK, VAN DYKE

Motion carried.

F. **Resolution 14-019,** A Resolution of the City Council of Homer, Alaska, Opposing Alaska Board of Fisheries Proposals 138, 139, 140, 142, and 143 That Close or Restrict Waters of Cook Inlet Near Homer to Commercial Drift Fishing. Lewis.

Mayor Wythe called for a motion for the adoption of Resolution 14-019 by reading of title only.

LEWIS/ZAK - SO MOVED

Councilmember Lewis referenced the letter from Frank Mullen in the supplemental packet.

LEWIS/VAN DYKE – MOVED TO AMEND TO ADD THREE WHEREAS CLAUSES AFTER LINE 39: WHEREAS, PROBLEMS WITH SUSITNA SALMON PRODUCTION HAVE BEEN IDENTIFIED AND ARE THE RESULT OF FRESHWATER HABITAT ISSUES; AND WHEREAS, INTENSIVE MANAGEMENT OF SALTWATER FISHERIES WILL NEVER SOLVE THE PROBLEMS FOUND IN THE FRESHWATER HABITATS OF SPAWNING AND REARING SALMON; AND WHEREAS, THE BOARD OF FISHERIES SHOULD ELIMINATE RESTRICTIONS ON CENTRAL DISTRICT DRIFT GILLNETTING DURING THE JULY 9 THROUGH JULY 31 TIME PERIOD BECAUSE IT IS NOW KNOWN THAT THESE RESTRICTIONS ARE NOT AN EFFECTIVE METHOD OF IMPROVING SUSITNA SOCKEYE PRODUCTION.

Councilmember Lewis suggested a representative from the City attend the January 31 and February 1st meetings in Anchorage to testify to these facts.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ZAK/BURGESS – MOVED TO AMEND LINE 7 TO INSERT "STRONGLY" IN FRONT OF "IMPOSING."

There was no discussion.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ZAK/ROBERTS – MOVED TO AMEND LINE 54 TO MAKE THE SIMILAR INSERTION.

There was no discussion.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

G. **Resolution 14-008,** A Resolution of the City Council of Homer, Alaska, Approving a New Intergovernmental Wastewater Agreement Between the City of Homer and Kachemak City. City Manager.

Mayor Wythe called for a motion for the adoption of Resolution 14-008 by reading of title only.

ZAK/LEWIS – SO MOVED.

ROBERTS/LEWIS - MOVED TO POSTPONE RESOLUTION 14-008 TO THE NEXT MEETING.

There was no discussion.

VOTE: (postponement) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Ken Castner, city resident, commented on his lawsuit for condominium assessments for the natural gas line, special assessment districts, and tearing down the HERC and building a new public safety building.

Charles Davis, city resident, suggested issuing cards to all people and they would get tax discounts according to where they lived. He commented on the need for the City to build water and sewer lines throughout the city.

Todd Hoppe, Homer resident, questioned the outcome of Resolution 14-015.

COMMENTS OF THE CITY ATTORNEY

City Attorney Wells was no longer at the meeting.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Wrede had no comment.

COMMENTS OF THE MAYOR

Mayor Wythe appreciates the work Council has done tonight. There were a lot of things on the agenda; that is the fine for taking a month off. She understands the confusion and concern about consideration for a new fire hall. She is always at a loss when people interpret actions of the Council to be doing things without regard to the process. The process may not happen exactly as people think it will, but the process will take place. This is keeping a 5-year project as such, instead of having it turn into a 20-year project.

COMMENTS OF THE CITY COUNCIL

Councilmember Howard thanked the Mayor for her guidance through a tough meeting. She congratulated Michael Armstrong and McKibben Jackinsky on their reporting awards and to Homer News for 50 years of service. She encouraged citizens to watch for the advertisements about the Citizens Academy.

Councilmember Lewis let everyone know to stop by the rink tomorrow night to watch the high school hockey team play. The puck drops at 7.

Councilmember Burgess asked for information on the murder of Mark Matthews. Please come forward if you know anything. We all want to have a safe town. It is a moral issue. He echoed the Mayor's comments about the public safety building. It was misleading the public for Mr. Castner to say we were rushing ahead. We have no plans to demolish the HERC building. It is part of the planning and providing a forum for public input. He thanked everyone for allowing him to participate telephonically.

Councilmember Van Dyke hopes Councilmember Burgess comes back sunburned.

Councilmember Zak commented citizens will have a chance to weigh in on Ordinance 14-03 at the next meeting. He hopes the Boys and Girls Club finds a new home; it is sad that they are moving out of HERC. He wished everyone a Happy New Year. We need to be careful about the economic impact on restrictions on the drift net fishery. He thanked the citizens that came out tonight. It is good for the community to get together.

Councilmember Roberts is glad to see the people from the fishing community share their concerns about the proposed fishing regulations.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 10:00 p.m. The next Regular Meeting is Monday, January 27, 2014 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

_____
JO JOHNSON, MMC, CITY CLERK

Approved: _____

Memorandum 14-013

TO: HOMER CITY COUNCIL

FROM: MARY E. WYTHE, MAYOR

DATE: JANUARY 22, 2014

SUBJECT: REAPPOINTMENT OF CATHY ULMER, BOB HARTLEY, AND MIKE STOCKBURGER TO THE PORT AND HARBOR ADVISORY COMMISSION; APPOINTMENT OF BARBARA HOWARD, DAVID LEWIS, MIKE STOCKBURGER, BRYAN HAWKINS, TODD HOPPE, AND JOHN MICHAEL PATE TO THE VESSEL HAUL-OUT TASK FORCE; AND MAYOR WYTHE TO THE PUBLIC SAFETY BUILDING REVIEW COMMITTEE.

Cathy Ulmer, Bob Hartley, and Mike Stockburger are reappointed to the Port and Harbor Advisory Commission for a three-year term to expire February 1, 2017.

Appointments to the Vessel Haul-Out Task Force include Councilmembers Barbara Howard and David Lewis, Port and Harbor Commissioner Mike Stockburger, Port Director/Harbormaster Bryan Hawkins, Todd Hoppe, and John Michael Pate.

Appointment to the Public Safety Building Review Committee includes Mayor Wythe.

RECOMMENDATION:

Confirm the reappointment of Cathy Ulmer, Bob Hartley, and Mike Stockburger to the Port and Harbor Advisory Commission; the appointments of Barbara Howard, David Lewis, Mike Stockburger, Todd Hoppe, and John Michael Pate to the Vessel Haul-Out Task Force; and appointment of Mayor Wythe to the Public Safety Building Review Committee

Fiscal Note: N/A

1·20·14

JAN 20 2014 PM02:30 RK

Dear Mayor Wythe,

I enjoy serving on the Port and Harbor and would appreciate being reappointed. Anxious to see some of our projects completed!! Thank you for the fine job you do.

Sincerely,
MCulmer

JAN 22 2014 AM 11:22

To whom it may concern,

I have served on the Port and Harbor Commission for at least the last six years and hope to be able to serve for at least another two years. I feel that the Homer Port and Harbor forms the basis for the Homer economy. We are just on the threshold of several projects that will add a lot to our future economy. I would very much like to continue as a Commissioner on the Port and Harbor Advisory Commission.

Yours Truly,

Bob

Bob Hartley

Jo Johnson

From:	Melissa Jacobsen
Sent:	Tuesday, January 21, 2014 11:24 AM
To:	Mike Stockburger
Cc:	Jo Johnson
Subject:	RE: Reappointment to the Port and Harbor Commission

Thank you Mike. We will get this to the Mayor for her recommendation.

-----Original Message-----
From: Mike Stockburger [mailto:mstock@homerboat.com]
Sent: Tuesday, January 21, 2014 11:23 AM
To: Melissa Jacobsen
Subject: Reappointment to the Port and Harbor Commission

Melissa,

Per our conversation today, I am very much interested in reappointment to the Port and Harbor Commission. I have enjoyed being part of this group. We always seem to be involved in important issues related to the Port. Many of these will have long term effects on the future of both the Harbor and our community. I have just applied to be considered for the task force looking into a large boat haul out facility. I feel this is another big step toward making our harbor attractive to more of the potential users that steam by on their way to some other facility. I appreciate the opportunity to be part of this progression.

Thank You,

--
Mike Stockburger, Owner
Homer Boat Yard, LLC
2559 Kachemak Drive
Homer, AK 99603
(907)299-1020

JAN 16 2014 PM01:49 RL

CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM

CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council Information packet.

Name: Barbara Howard Date: January 16, 2014

Physical Address: 629 Rangeview City: Homer

Mailing Address: 629 Rangeview Zip Code: 99603

Phone: 907.226.2025 Work #: Cell #: 907.299.3124

Email Address: bhfish@gci.net

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
☐	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
☐	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2ND TUESDAY OF THE MONTH AT 6:00 P.M.
☐	LIBRARY ADVISORY BOARD	1ST TUESDAY OF THE MONTH AT 5:00 P.M.
☐	PARKS & RECREATION ADVISORY COMMISSION	3RD THURSDAY OF THE MONTH AT 5:30 P.M.
☐	PORT & HARBOR ADVISORY COMMISSION	4TH WEDNESDAY - JANUARY TO APRIL & SEPTEMBER TO DECEMBER AT 5:00 P.M. 4TH WEDNESDAY - MAY - AUGUST AT 6:00 P.M.
☐	PUBLIC ARTS COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:00 P.M.
☐	TRANSPORTATION ADVISORY COMMITTEE	3RD TUESDAY OF THE MONTH AT 5:30 P.M.
☐	PERMANENT FUND COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:15 P.M.
☐	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
☒	OTHER - PLEASE ENTER THE	Haul Out Task Force

I have been a resident of the City for 10 ☐ mos. ☒ yrs I have been a resident of the area for 10 ☐ mos. ☒ yrs.

I am presently employed as: Retired

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

Have you ever served on a similar commission, committee, board or task force?

If so when and where?

Served on several committees such as:
Park and Recreation Commission
Planning Commission
Permanent Fund Committee
Port and Harbor Improvement Committee

When are you available for meetings? ☒ Weekly ☐ Monthly ☐ Bi-Monthly

I am interested in serving on the above because:

Over the past several years by serving on various committees my knowledge of the harbor has increased. In addition I have three boats in the harbor and generally at the harbor on a daily basis which helps me to see the level of activity etc.

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☐ Yes ☒ No If yes, please list organizations:

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence?

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis?

If yes, is you use primarily: ☐ Commercial ☐ Recreational ☐ Both

Please include any additional information that may assist the Mayor in his decision:

When you have completed the form please review all the information and then click on the print button.

DEC 17 2013 AM10:17

CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM

CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council information packet.

Name: Todd Hoppe Date: 12/16/2013

Physical Address: 5525 Carlson Place City: Homer

Mailing Address: Box 2589 Zip Code: 99603

Phone: Work #: Cell #: 299-2045

Email Address: hoppe@acsalaska.net

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
☐	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
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☐	LIBRARY ADVISORY BOARD	1ST TUESDAY OF THE MONTH AT 5:00 P.M.
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☐	TRANSPORTATION ADVISORY COMMITTEE	3RD TUESDAY OF THE MONTH AT 5:30 P.M.
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☐	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
☒	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	Vessel haulout Committee

I have been a resident of the City for 9 ☐ mos. ☑ yrs I have been a resident of the area for ☐ mos. ☐ yrs.

I am presently employed as: Commercial fisherman.

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

2 years EDAC in Homer

21 years commercial fishing out of Homer

Have you ever served on a similar commission, committee, board or task force? ☐

If so when and where?

2 years Economic Development Advisory Commission. 2009, 2010

When are you available for meetings? ☐ Weekly ☒ Monthly ☐ Bi-Monthly

I am interested in serving on the above because:

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☐ Yes ☐ No If yes, please list organizations: Marine Trades, NPFA.

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence? ☐

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis? Yes

If yes, is you use primarily: ☒ Commercial ☒ Recreational ☐ Both

Please include any additional information that may assist the Mayor in his decision:

When you have completed the form please review all the information and then click on the print button.

Print Form

JAN 21 2014 PM12:13

CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM

CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council Information packet.

Name: JOHN MICHAEL DATE Date: 1/21/14

Physical Address: 1850 HIGHLAND DR. City: HOMER

Mailing Address: PO BOX 257, HOMER, AK 99603 Zip Code: 99603

Phone: 235-6507 Work #: Cell #: 399-1517

Email Address: JMICHAELDATE@GMAIL.COM

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
☐	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
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☐	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
☒	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	LARGE VESSEL HAUL OUT TASK FORCE

I have been a resident of the City for 60 ☐ mos. ☒ yrs I have been a resident of the area for 60 ☐ mos. ☒ yrs.

I am presently employed as:

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

LOCAL BUSINESS OWNER 35 YRS
HEA BOARD OF DIRECTORS 20 YRS
NBA / WELLS FARGO BOARD OF DIRECTORS 20 YRS
LOCAL BOAT OWNER 35 YRS

Have you ever served on a similar commission, committee, board or task force? YES

If so when and where? HOMER GAS LINE TASK FORCE

When are you available for meetings? ☒ Weekly ☐ Monthly ☐ Bi-Monthly

I am interested in serving on the above because: I believe this may present a viable addition to our Port & Harbor and the community in general.

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☐ Yes ☒ No If yes, please list organizations:

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence?

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis? YES

If yes, is you use primarily: ☐ Commercial ☒ Recreational ☐ Both

Please include any additional information that may assist the Mayor in his decision: I believe my knowledge of the area & business experience may prove of value to this task force.

When you have completed the form please review all the information and then click on the print button.

Print Form

CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM

JAN 22 2014

CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council Information packet.

Name: David G. Lewis Date: 1-22-14

Physical Address: 4037 Beluga Cir City: Homer

Mailing Address: Box 468 Zip Code: 99603

Phone: 235-2245 Work #: 235-1663 Cell #: 399-7063

Email Address: clavelyn@gci.net

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
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☐	PERMANENT FUND COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:15 P.M.
☐	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
☑	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	Vessel 73 Haul out task force

I have been a resident of the City for 24 ☐ mos. ☑ yrs I have been a resident of the area for 24 ☐ mos. ☑ yrs.

I am presently employed as: college Staff

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

Have you ever served on a similar commission, committee, board or task force? yes

If so when and where? Port + Harbor building.

When are you available for meetings? ☑ Weekly ☐ Monthly ☐ Bi-Monthly

I am interested in serving on the above because: I like the Harbor

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☐ Yes ☑ No If yes, please list organizations:

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence?

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis? yes

If yes, is you use primarily: ☐ Commercial ☑ Recreational ☐ Both

Please include any additional information that may assist the Mayor in his decision:

When you have completed the form please review all the information and then click on the print button.

Print Form

JAN 21 2014 AM 10:42

CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council Information packet.

Name: Michael Stockburger Date: 1/17/2014

Physical Address: 737 Fireweed Lane City: Homer

Mailing Address: PO Box 1257 Zip Code: 99603

Phone: Work #: 907-235-7158 Cell #: 907-299-1020

Email Address: mstock@homerboat.com

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
☐	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
☐	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2ND TUESDAY OF THE MONTH AT 6:00 P.M.
☐	LIBRARY ADVISORY BOARD	1ST TUESDAY OF THE MONTH AT 5:00 P.M.
☐	PARKS & RECREATION ADVISORY COMMISSION	3RD THURSDAY OF THE MONTH AT 5:30 P.M.
☐	PORT & HARBOR ADVISORY COMMISSION	4TH WEDNESDAY - JANUARY TO APRIL & SEPTEMBER TO DECEMBER AT 5:00 P.M. 4TH WEDNESDAY - MAY - AUGUST AT 6:00 P.M.
☐	PUBLIC ARTS COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:00 P.M.
☐	TRANSPORTATION ADVISORY COMMITTEE	3RD TUESDAY OF THE MONTH AT 5:30 P.M.
☐	PERMANENT FUND COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:15 P.M.
☐	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
☒	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	Port and Harbor Commission/Large Vessel Haulout Task Force

I have been a resident of the City for 3.5 ☐ mos. ☒ yrs I have been a resident of the area for 15 ☐ mos. ☒ yrs.

I am presently employed as: Self employed, Homer Boat Yard

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

I commercial fished on the Yukon River and in Bristol Bay for 15 years, so am familiar with commercial gillnetters. I have spent the past 13 years owning and operating Homer Boat Yard, a boat storage and haul out facility located on Kachemak Drive. We transport boats to 42' around the local area and state wide. This has given me hands-on experience in the area of boat hauling but also the business of operating a haul out facility.

Have you ever served on a similar commission, committee, board or task force? Yes

If so when and where?

I am currently on the Port and Harbor Commission for the City of Homer. I am also currently a member and serve on the Board of Directors for Homer Marine Trades Association, a local organization of marine trades people committed to attracting more business to Homer.

When are you available for meetings? ☒ Weekly ☐ Monthly ☐ Bi-Monthly

I am interested in serving on the above because:

As a businessman in this area, I feel a large haul out facility here in Homer would be very attractive to many sea going ventures, including fisherman, oil/gas exporation entities, transportation businesses, etc. This increase in business on the Spit would undoubtedly have a positive affect on the economy of the whole town. We are in a perfect location for this type of facility and there is definitely interest in both users and trades people to support

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☒ Yes ☐ No If yes, please list organizations: See above

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence? No

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis? Yes

If yes, is you use primarily: ☐ Commercial ☐ Recreational ☒ Both

Please include any additional information that may assist the Mayor in his decision:

I believe I have shown my committment to the encouragement of growth of marine trades in Homer by my membership in both Homer Marine Trades Association and being a member of the Port and Harbor Commission. I would definitely like to assist in the development of the infrastructure that is going to be so critical to our future.

When you have completed the form please review all the information and then click on the print button.

Print Form

CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM

JAN 16 2014

CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council Information packet.

Name: Mary E. (Beth) Wythe Date: Jan 15, 2014

Physical Address: 4301 West Hill Road City: Homer

Mailing Address: P. O. Box 1822 Zip Code: 99603

Phone: 907-235-3919 Work #: Cell #: 907-399-3919

Email Address: mewjcw@acsalaska.net

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
☐	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
☐	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2ND TUESDAY OF THE MONTH AT 6:00 P.M.
☐	LIBRARY ADVISORY BOARD	1ST TUESDAY OF THE MONTH AT 5:00 P.M.
☐	PARKS & RECREATION ADVISORY COMMISSION	3RD THURSDAY OF THE MONTH AT 5:30 P.M.
☐	PORT & HARBOR ADVISORY COMMISSION	4TH WEDNESDAY - JANUARY TO APRIL & SEPTEMBER TO DECEMBER AT 5:00 P.M. 4TH WEDNESDAY - MAY - AUGUST AT 6:00 P.M.
☐	PUBLIC ARTS COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:00 P.M.
☐	TRANSPORTATION ADVISORY COMMITTEE	3RD TUESDAY OF THE MONTH AT 5:30 P.M.
☐	PERMANENT FUND COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:15 P.M.
☐	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
☒	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	Public Safety Building Review Committee

I have been a resident of the City for 40 ☐ mos. ☒ yrs I have been a resident of the area for 40 ☐ mos. ☒ yrs.

I am presently employed as: HR Manager

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

Homer City Council - 8 years
Mayor - 18 months
Various City building committees

Have you ever served on a similar commission, committee, board or task force? Yes

If so when and where?

City of Homer
City Hall Expansion/Remodel
Port & Harbor Improvement Committee

When are you available for meetings? ☒ Weekly ☒ Monthly ☒ Bi-Monthly

I am interested in serving on the above because:

The need for new fire and police facilities has been identified on the capital improvement list for many years and given the length of time it takes to accomplish a project of this size, it is important to begin. Given that State funding may be available in the next few years the potential cost to the community may be reduced as well. Providing a better jail facility which may result in additional State funding is also something that needs to be taken fully into consideration.

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☐ Yes ☒ No If yes, please list organizations:

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence? ☐

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis? ☐

If yes, is you use primarily: ☐ Commercial ☐ Recreational ☐ Both

Please include any additional information that may assist the Mayor in his decision:

When you have completed the form please review all the information and then click on the print button.

Print Form

City of Homer
www.cityofhomer-ak.gov

Office of the City Manager
491 East Pioneer Avenue
Homer, Alaska 99603
citymanager@cityofhomer-ak.gov
(p) 907-235-8121 x2222
(f) 907-235-3148

Memorandum 14-014

TO: Mayor Wythe and Homer City Council
FROM: Walt Wrede
DATE: January 18, 2014
SUBJECT: City Representation at Board of Fisheries Meeting

At the last regular meeting, the City Council adopted Resolution 14-019 entitled " A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA OPPOSING ALASKA BOARD OF FISHERIES PROPOSALS 138, 139, 140, 142, AND 143 THAT CLOSE OR RESTRICT WATERS OF COOK INLET NEAR HOMER TO COMMERCIAL DRIFT FISHING".

During discussion, it was noted that these proposals, if adopted, would have a very detrimental impact upon Homer's commercial salmon fishermen and women, businesses that provide support to the fleet, and the Port and Harbor Enterprise Fund. There was agreement that it was important for the City to have a presence and provide testimony at the Board of Fisheries meetings which begin at the end of January. Council members requested an action item approving such travel for this agenda. The City Manager and/or members of the Port and Harbor Administration are available and prepared to represent the City.

RECOMMENDATION:
Authorize travel to Anchorage for the City Manager and / or his designee to represent the City at the Board of Fisheries meetings beginning at the end of January.

Fiscal Note: For CM, the cost of travel only. No hotel, vehicle, or per diem required. Two trips likely, estimated airfare cost $600.00.

Memorandum 14-021

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JANUARY 22, 2014

SUBJECT: TRAVEL AUTHORIZATION FOR COUNCILMEMBER ZAK TO ATTEND THE ALASKA MUNICIPAL LEAGUE WINTER LEGISLATIVE CONFERENCE IN JUNEAU, ALASKA, FEBRUARY 17 - 19, 2014.

Councilmember Bryan Zak would like to attend the Alaska Municipal League (AML) Winter Legislative Conference in Juneau, Alaska, February 17 – 19, 2014.

The AML is a voluntary, nonprofit, nonpartisan, statewide organization of 140 cities, boroughs, and unified municipalities, representing over 97 percent of Alaska's residents. Originally organized in 1950, the League of Alaska Cities became the Alaska Municipal League in 1962 when boroughs joined the League.

Meetings include board committees and meeting with Legislators.

Cost estimates for travel include round trip airfare from Homer to Juneau at $700 and room rates at $175.00 per night. Per diem is $58.00 per day, for three meals.

For FY 2014 Council budgeted $4,000 for transportation and $2,500 for subsistence. To date there have been no funds expended from Transportation Acct. No. 100.0100.5236, leaving a balance of $4,000; and no funds expended from Subsistence Acct. No. 100.0100.5237, with a balance of $2,500.00 remaining.

RECOMMENDATION:

Authorize Councilmember Zak to travel to Juneau to represent the City at the AML Winter Legislative Conference.

Fiscal Note: Mayor and Council 2014 Budget: 100.0100.5236 - Transportation: $34,000.00 and 100.0100.5237 - Subsistence: $2,500.00.

ALASKA MUNICIPAL LEAGUE
Alaska Conference of Mayors

217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

Alaska Municipal League/Alaska Conference of Mayors
Winter Legislative Conference
February 17-19, 2014
Baranof Hotel, Juneau, AK

Monday, February 17, 2014

1:00 – 5:00p.m.	AML Board Meeting	Treadwell Room

Tuesday, February 18, 2014

9:00 - 4:00 p.m.	Alaska Conference of Mayors Meeting	Treadwell Room

Wednesday, February 19, 2014

8:00 a.m.	Breakfast	Treadwell Room
8:30 – 11:45 a.m.	Legislative Meeting	Treadwell Room
12:00 – 1:15 p.m.	Lunch	Treadwell Room
1:30 – 4:00 p.m.	Legislative Meeting Continued	Treadwell Room
5:30 – 7:00 p.m.	AML Legislative Reception	Treadwell Room

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-05

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $500,000 from the Port and Harbor Enterprise Fund Depreciation Reserves for the Purpose of Providing the City's 25% Local Match for the New Port and Harbor Building.

Sponsor: City Manager

1. City Council Regular Meeting January 27, 2014 Introduction

    a. Memorandum 14-003 from Project Manager as backup

CITY OF HOMER
HOMER, ALASKA

City Manager

ORDINANCE 14-05

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2014 OPERATING BUDGET BY APPROPRIATING $500,000 FROM THE PORT AND HARBOR ENTERPRISE FUND DEPRECIATION RESERVES FOR THE PURPOSE OF PROVIDING THE CITY'S 25% LOCAL MATCH FOR THE NEW PORT AND HARBOR BUILDING.

WHEREAS, The Port and Harbor Building Task Force has been meeting regularly and working with staff and the architects on building design and cost control; and

WHEREAS, The Task Force has been looking for efficiencies and cost cutting measures and has settled on a design and estimated project cost that is reasonable given the City's budget and does not unduly compromise the building's attractiveness, function and utility; and

WHEREAS, The City Council was briefed on the current status of the project by the Chair of the Task Force and it discussed back-up Memorandum 14-003 with recommendations at its regular meeting on January 13, 2014; and

WHEREAS, The Architects have been instructed to proceed to 65% plans which will result in even more precise cost estimating; and

WHEREAS, The current estimated project budget is $2,296,772 of which $1,500,000 will come from a re-appropriated Legislative grant; and

WHEREAS, As part of the Legislative capital request, the City pledged to provide a local match of 25% or $500,000.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The City Council hereby amends the FY 2014 Operating Budget by appropriating $500,000 from the Port and Harbor Enterprise Fund Depreciation Reserve for the purpose of providing the City's 25% local match for the new port and harbor building as follows:

Transfer From:

Account	Description	Amount
456-380	Port and Harbor Depreciation	$500,000

Transfer To:

Account	Description	Amount
415-0935	Port and Harbor Building Project Account	$500,000

Section 2. This is a budget amendment ordinance only, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2014.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

YES:
NO:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form.

_____	_____
Walt Wrede, City Manager	Thomas F. Klinkner, City Attorney
Date: _____	Date: _____

Fiscal Note: Noted within ordinance.

City of Homer
www.cityofhomer-ak.gov

Public Works
3575 Heath Street
Homer, AK 99603
publicworks@cityofhomer-ak.gov
(p) 907- 235-3170
(f) 907-235-3145

Memorandum 14-003

TO Port and Harbor Building Task Force (PHBTF)
THROUGH: Bryan Hawkins - Harbormaster
FROM: Dan Nelsen – Project Manager
DATE: December 20, 2013
SUBJECT: Project Budget – New Harbormaster's Building

In December 2012, the design team looked at three alternatives regarding a new Harbormaster's building. The preferred alternative was the construction of a new facility (project cost is shown below as 2012 budget). In November 2013, a 25% design and budget was presented to the PHBTF (project cost is shown below as 2013 budget).

Recently, the design team has made significant progress in limiting the scope of the project and reducing the cost (project cost is shown below as 2014 budget). Attached are revised site plan, floor plan and building elevations.

	2014 Budget	2013 Budget	2012 Budget
Design	$180,000	$285,000	$214,000
Construction	$1,788,883	$3,040,925	$1,848,805
Inspection	$75,000	$90,000	$75,000
Furnishings	$30,000	$30,000	$30,000
City Admin	$24,000	$26,000	$24,000
1% for Art	$20,000	$30,000	$21,000
Contingency	$178,888	$410,525	$292,578
Total Cost	$2,296,772	$3,912,450	$2,505,383
Bldg Square Footage	4778	4778	5077
Bldg Cost/SF	$416	$722	$422
Bldg Const Only	$1,967,772	$3,451,450	$2,141,383
Total Project Cost	$2,296,772	$3,912,450	$2,505,383
Current Budget Authority	$2,000,000	$2,000,000	$2,000,000
Addn Funding Needed	$296,772	$1,912,450	$505,383

The new 2014 budget reflects a decrease in square footage from the original 2012 project; a decrease in the per square footage cost, a reduction in the overall project cost and a reduction in the need for additional funding beyond that currently authorized. This project will need additional funding above that currently authorized ($350,500).

The current project includes over-slope development, but the second floor has been removed, the maintenance shop size was reduced, and the administrative areas were decreased.

Further reductions in the cost of this project would most likely include elimination of over-slope development and building square footage reductions that would negatively impact current and future building functionality.

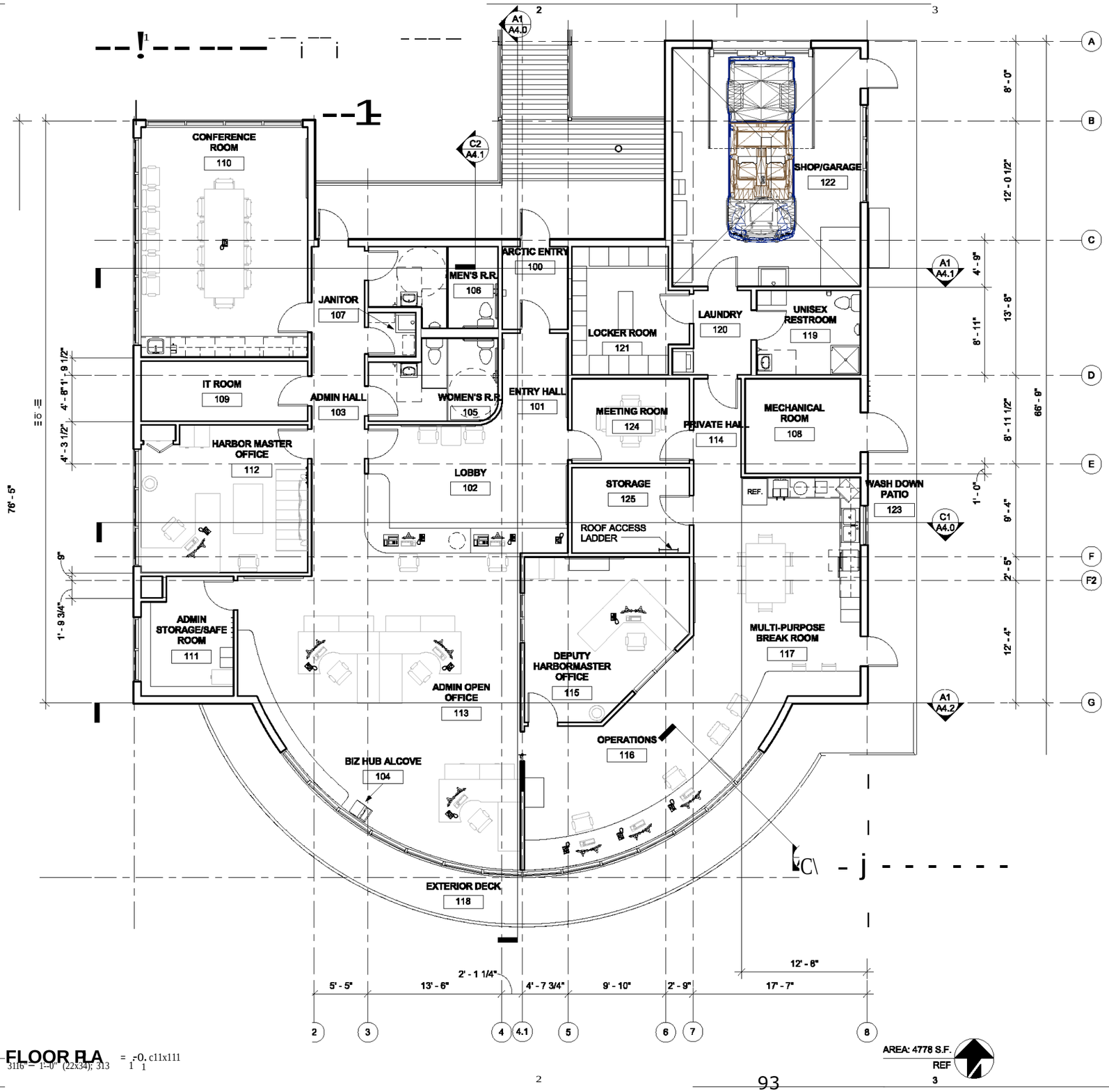
Recommendation: The Port and Harbor Building Task Force approve the budget for this project in the amount of $2,297,000 (as shown above), approve proceeding with 65% design based on this budget, and support the acquisition of the additional required funding.

NOT FOR CONSTRUCTION

PLOTTED 1/2 SCALE

11/19/2013 5:11:39 PM

C:\Users\Owner\Desktop\1325 HHMO (SD6).rvt



A1 / A2.0 FLOOR PLAN

3/16" = 1'-0" (22x34); 3/32" = 1'-0" (11x17)

FINAL REVISED 25% SET

11-19-2013

PROJECT: HOMER HARBOR MASTER'S OFFICE

CLIENT: CITY OF HOMER
HOMER, ALASKA 99603

Klauder & Company Architects, Inc.
606 Petersen Way
Kenai, AK 99611
Office: (907) 283-1919 Fax: (907) 283-0450
klauder@alaska.net

DESIGN BY:	PK
DRAWN:	SY
CHECKED:	PK
JOB NO:	1325
DATE:	11-19-2013

REVISIONS:

NO.	DATE

SHEET NUMBER

A2.0

SHEET CONTENTS

FLOOR PLAN

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-06

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $300,000 from the General Fund Balance for the Purpose of Providing a Loan to the Port and Harbor Enterprise Fund to Complete the Financing Package for the New Port and Harbor Building.

Sponsor: City Manager

1. City Council Regular Meeting January 27, 2014 Introduction

    a. Memorandum 14-003 from Project Manager as backup

CITY OF HOMER
HOMER, ALASKA

City Manager

ORDINANCE 14-06

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2014 OPERATING BUDGET BY APPROPRIATING $300,000 FROM THE GENERAL FUND BALANCE FOR THE PURPOSE OF PROVIDING A LOAN TO THE PORT AND HARBOR ENTERPRISE FUND TO COMPLETE THE FINANCING PACKAGE FOR THE NEW PORT AND HARBOR BUILDING.

WHEREAS, The Port and Harbor Building Task Force has been meeting regularly and working with staff and the architects on building design and cost control; and

WHEREAS, The Task Force has been looking for efficiencies and cost cutting measures and has settled on a design and estimated project cost that is reasonable given the City's budget and does not unduly compromise the building's attractiveness, function and utility; and

WHEREAS, The City Council was briefed on the current status of the project by the Chair of the Task Force and it discussed back-up Memorandum 14-003 with recommendations at its regular meeting on January 13, 2014; and

WHEREAS, The Architects have been instructed to proceed to 65% plans which will result in even more precise cost estimating; and

WHEREAS, The current estimated project budget is $2,296,772 of which $1,500,000 will come from a re-appropriated Legislative grant; and

WHEREA, As part of the Legislative capital request, the City pledged to provide a local match of 25% or $500,000; which it has done through adoption of Ordinance 14-05; and

WHEREAS, An additional $300,000 is needed to complete the building financing package and both the Task Force and the Administration recommend a loan from the General Fund Balance.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The City Council hereby amends the FY 2014 Operating Budget by appropriating $300,000 from the General Fund Balance for the purpose of providing a loan to Port and Harbor Enterprise Fund to complete the financing package for the new port and harbor building as follows:

Transfer From:

Account	Description	Amount
100-0100	General Fund Balance	$300,000

Transfer To:

Account	Description	Amount
415-0935	Port and Harbor Building Project Account	$300,000

Section 2. The term of the loan is five years, the first annual principal payment is January 15, 2015, and the annual interest rate is two percent (2%).

Section 3. This is a budget amendment ordinance only, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2014.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

YES:
NO:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form.

_____	_____
Walt Wrede, City Manager	Thomas F. Klinkner, City Attorney
Date: _____	Date: _____

Fiscal Note: Noted within ordinance.

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-07

An Ordinance of the City Council of Homer, Alaska, Amending the 2014 Operating Budget by Appropriating $34,089 from the Airport Reserve Fund for the Replacement of the Boilers at the Airport Terminal and Authorizing the City Manager to Execute All Appropriate Documents.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting January 27, 2014 Introduction

    a. Memorandum 14-022 from Public Works Director as backup

CITY OF HOMER
HOMER, ALASKA

City Manager/
Public Works Director

ORDINANCE 14-07

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE 2014 OPERATING BUDGET BY APPROPRIATING $34,089 FROM THE AIRPORT RESERVE FUND FOR THE REPLACEMENT OF THE BOILERS AT THE AIRPORT TERMINAL AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL APPROPRIATE DOCUMENTS.

WHEREAS, The City Council has authorized the expenditure of $20,084 to replace the burners on the Airport Terminal boilers as part of converting City facilities to natural gas; and

WHEREAS, The boilers that exist at the terminal are over 20 years old and replacing these boilers at the same time that the burners are being replaced will increase substantially the efficiency of the heating system and reduce maintenance costs; and

WHEREAS, The cost to replace both the burners and the boilers at the Airport Terminal will cost $54,173; and

WHEREAS, If both the burners and the boilers are replaced, the annual Terminal heating cost would be reduced by $27,000, the cost of the total conversion would be paid for within 2.04 years (see Memorandum 14-022).

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The FY 2014 Operating Budget is hereby amended by appropriating $34,089 from the Airport Reserve fund for the replacement of the boilers at the Airport Terminal.

Expenditure:

Account No.	Description	Amount
156-388 (Airport Reserve Fund)	Replacement of Boilers at the Airport Terminal	$34,089

Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2014.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

YES:
NO:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form.

_____	_____
Walt Wrede, City Manager	Thomas F. Klinkner, City Attorney
Date: _____	Date: _____

Fiscal Note: Noted within ordinance.

City of Homer
www.cityofhomer-ak.gov

Public Works
3575 Heath Street
Homer, AK 99603
publicworks@cityofhomer-ak.gov
(p) 907- 235-3170
(f) 907-235-3145

Memorandum 14-022

TO: Walt Wrede – City Manager

FROM: Carey Meyer – Public Works Director

DATE: January 22, 2014

SUBJECT: **Authorization to Replace Boilers – Airport Terminal**

The Airport Terminal is in the process of being converted to natural gas. The boilers that exist at the terminal are over 20 years old. Replacing these boilers at the same time that the burners are being replaced will increase substantially the efficiency of the heating system and reduce maintenance costs. The existing boilers that are reaching the end of their useful life would be replaced.

Replacement of both boilers and burners will cost $54,173. The Council has already authorized spending $20,084 to replace only the burners. An additional $34,089 would be needed to implement a complete conversion.

The old boilers operate at 50% efficiency. New boilers will operate at 97% efficiency.

If both the boilers and the burners are replaced:

Current average annual fuel cost to heat Terminal	$32,000
Proposed average annual fuel cost (complete conversion)	$ 5,000
Annual cost savings	$27,000

Benefit /Cost = $54,173/$27,000 = .49 (payback in 2 years)

The current balance in the Airport Reserve Fund is $73,000.

Recommendation:

The City Council pass an ordinance amending the 2014 Operating Budget by appropriating $34,089 from the Airport Reserve Fund for the replacement of the boilers at the Airport Terminal and authorizing the City manager to execute all appropriate documents.

CITY OF HOMER
HOMER, ALASKA

City Manager

RESOLUTION 14-022

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, APPROVING A NEW FIVE YEAR LEASE AT THE HOMER AIRPORT TERMINAL BETWEEN THE CITY OF HOMER AND ERA AVIATION , AND FINDING THAT IT IS IN THE PUBLIC INTEREST TO AWARD THE LEASE WITHOUT A COMPETITIVE BIDDING PROCESS.

WHEREAS, The current airport terminal lease between the City and Era Aviation expired on December 31, 2014 and the parties have been operating under a holdover clause while a new lease is negotiated; and

WHEREAS, Era Aviation has requested a new lease, lease negotiations have been successful, and both parties are ready to sign the new document; and

WHEREAS, The term of the lease is five years (a DOT/PF limitation) and the annual payment is $59,948.76 to be paid in equal monthly installments of $4,995.73; and

WHEREAS, Section 11.2 (F) of the adopted Lease Policies provides that the City Council may elect not to require a competitive bidding process for leases which have expired if it finds that it is in the best interest of the City to enter into a new lease agreement with the current lease and it makes such a finding by resolution; and

WHEREAS, The City Manager has evaluated the relevant facts to be considered in Section 11.2 (F) and recommends a new lease without competitive bidding due to Era's prior lease history, its financial and administrative capacity to comply with the terms and conditions of the lease agreement, and the substantial economic benefits that accrue to the community from having Era doing business in the Homer Airport Terminal; and

WHEREAS, The City Council reviewed the new lease agreement at its regular meeting on January 27, 2013.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council finds that it is in the public interest to award a new lease to Era Aviation without a competitive bidding process

because of its prior lease history and the large and diverse economic benefits Era brings to the community.

BE IT FURTHER RESOLVED that the Council hereby approves a new five year lease at the Homer Airport Terminal between the City and Era Aviation at a rate of $59,948.76 per year and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 27th day of January, 2014.

CITY OF HOMER

_____

MARY E. WYTHE, MAYOR

ATTEST:

_____

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: Annual lease revenues $59,948.76.

City of Homer
www.cityofhomer-ak.gov

Office of the City Manager
491 East Pioneer Avenue
Homer, Alaska 99603
citymanager@cityofhomer-ak.gov
(p) 907-235-8121 x2222
(f) 907-235-3148

Memorandum 14-015

TO: Mayor Wythe and Homer City Council

FROM: Walt Wrede

DATE: January 18, 2014

SUBJECT: New Lease / Era Aviation

Era Aviation's lease at the Airport Terminal expired on December 31, 2014. We have been operating in January under a holdover clause while a new lease is negotiated. Lease negotiations are complete and both parties are ready to sign the lease pending approval by the Homer City Council. The term of the lease is five years and the annual rent is $59,948.76 payable in equal monthly installments of $4,995.73. Both parties would prefer a longer term but we are limited to five years by DOT/PF which is the owner of the land under the terminal. In short, the City owns the airport terminal building and leases the underlying land from the State of Alaska. Era leases space inside the terminal from the City.

Section 11.2 (F) of the Lease Policies provides that the City Council may elect to not require a competitive bidding process for a lease which has expired if it finds that it is in the best interest of the City to enter into a new lease agreement with the current lessee. If it chooses to do so, it must make a finding by resolution. In making the finding, it must consider relevant facts which include, but are not limited to:

1. The lessee's past capital investment and binding commitment to future capital investment
2. The lessee's financial condition and prior lease history
3. The number of persons employed and the prospects for future employment
4. Tax revenues and other financial benefits to the City of Homer anticipated in the future if the lease is renewed
5. Consistency of the past use and intended future use with all applicable land use codes and regulations in the Comprehensive Plan and Overall Economic Development Plan
6. Other opportunities for use of the property that may provide greater benefits to the City of Homer
7. Other social, policy, and economic considerations as determined by the Council.

I have reviewed Era's request for a new lease and evaluated it based upon the considerations above. While these considerations are tailored for land leases and not a lease of space within a public building, they are still instructive and useful in this case. Era has made significant capital investments within the building and in new planes and equipment which have improved service to the community. Era has a very good prior lease history and it has the financial and

administrative capacity to comply with the terms of the lease agreement. The company employs many local residents and it has discussed expansion of its operations and leased area with the City. The company generates revenue through rent and sales taxes and the proposed use is consistent with an airport terminal located at a State airport. This lease is consistent with the Comprehensive Plan and Economic Development Plan. The community and economic benefits associated with Era doing business and serving the community from the Homer Airport Terminal are diverse and substantial. In my view, the benefits are obvious and do not need to be described in great detail here.

For the reasons articulated above, I recommend that the Council award a new lease to Era Aviation without a competitive bidding process. I think it is important to note that in addition to the reasons stated above, competitive bidding does not make sense in this case because there is no better use for the space to be leased. It is specifically designed and designated for air carriers. Second, there are very few competitors in the Alaska market right now and some question whether Homer has enough business to support two airlines. In short, it is unlikely that the City would receive another competitive bid. We have additional space for a second carrier (the area vacated by Grant Aviation) and we plan to issue an RFP for that space shortly.

RECOMMENDATION: Approve a new five year lease at the Airport Terminal for Era Aviation without a competitive bidding process.

Fiscal Note: Revenue: $59,948.76 annually.

HOMER AIRPORT TERMINAL
AIR CARRIER/TICKET COUNTER SUBLEASE

THIS SUBLEASE IS MADE this _____ day of _____, 201___, between the City of Homer, Sublessor, (hereinafter referred to as "City") a municipal corporation, whose address is 491 East Pioneer Avenue, Homer, Alaska 99603-7624 and Era Alaska (hereinafter referred to as "Sublessee") whose address 4700 Old International Airport Road, Anchorage, Alaska 99502. The City is the lessee in that certain Lease Agreement No.ADA-06600, recorded at Book 222, Pages 124-140 of the Books and Records of the Homer Recording District, Third Judicial District, State of Alaska, between the State of Alaska, Department of Transportation and Public Facilities ("DOT/PF" or "State of Alaska"), lessor, and the City of Homer, lessee, as amended by Supplement No. 1, dated, February 28, 2002, and as may be further amended from time to time (collectively, the "Base Lease") to which all the terms, covenants, and conditions of this Sublease are subject. Sublessee will fully comply with all covenants, provisions, conditions, and terms of that Base Lease.

CITY AND SUBLESSEE AGREE AS FOLLOWS:

1. DESCRIPTION. City subleases to Sublessee and Sublessee subleases from City the premises consisting of 1,380 square feet of space as more fully described and/or depicted on Exhibit "A" attached hereto (hereinafter referred to as the "Premises"), located in the Homer Airport Terminal Building (hereinafter referred to as the "Building") located on Lot 5A, Block 800, HOMER AIRPORT TRACTS according to the official plats on file with the State of Alaska, Department of Transportation and Public Facilities, Division of Aviation (hereinafter referred to as the "Property"), for the term, the rent, and subject to the covenants and conditions hereinafter provided. This Sublease confers no rights either with regard to the subsurface of the land below the floor level of the Premises or with regard to airspace above the ceiling of the Premises.

2. TERM. (a) The term of this Sublease shall commence on the 31st day of December, 2013, and shall end on the 31st day of December, 2018, unless sooner terminated as hereinafter provided.

(b) In any event, Sublessee may not occupy the Premises before DOT/PF consents to this Sublease in writing. If City is unable to deliver possession of the Premises by the date specified for the commencement of the term of this Sublease as a result of causes beyond its reasonable control, including without limitation any failure or delay in obtaining the consent of DOT/PF, City shall not be liable for any damage caused by failing to deliver possession, this Sublease shall not be void or voidable, and the term of this Sublease shall not be extended by the delay. The Sublessee shall not be liable for rent until City delivers possession of the Premises to Sublessee, but shall commence paying rent when City delivers possession.

3. RENT. Sublessee shall pay to City as annual rent, without deduction, setoff, prior notice or demand, the sum of $59,948.76, plus taxes, payable in monthly installments of $4,995.73, plus taxes, in advance on the first day of each month, commencing on the date the term of this Sublease commences. Monthly rent for the first month or portion of it shall be paid on the day the term commences.

Monthly rent for any partial month shall be prorated at the rate of 1/30th of the monthly rent per day. Rent not paid when due shall bear interest from the date when due at the rate of interest specified in AS 45.45.010(a) as now enacted or hereinafter amended. Rent shall be paid at the address set forth for City in the introductory paragraph of this Sublease, or as otherwise directed from time to time by notices from City.

4. <u>USE OF PREMISES.</u> Sublessee shall use the Premises for office space and ticket counter space for passenger or cargo transportation by air and related functions of aircraft operations and ticket sales and for no other use without City's consent. Sublessee shall be open for business not less than four hours per day, six days per week (excluding holidays). Sublessee agrees to comply with all federal, state and local laws, ordinances and regulations. Sublessee agrees to comply with the following rules and regulations and with such reasonable modifications thereof and additions thereto as City may hereafter from time to time make for the Building.

(a) Sublessee shall comply with all covenants, provisions, conditions, and terms of that certain Lease Agreement No. ADA-06600, recorded at Book 222, Pages 124-140 of the Books and Records of the Homer Recording District, Third Judicial District, State of Alaska, between the State of Alaska, Department of Transportation and Public Facilities ("DOT/PF" or "State of Alaska"), lessor, and the City of Homer, lessee, as amended by Supplement No. 1, dated February 28, 2002, and as may be further amended from time to time (collectively, the "Base Lease") to which all the terms, covenants, and conditions of this Sublease are subject. Sublessee will fully comply with all covenants, provisions, conditions and terms of that Base Lease. Sublessee shall not make or permit to be made any use of the premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of said Base Lease; nor will Sublessee commit any act, either by commission or omission, which would cause City to be in default of any covenant, provision, term or condition of the Base Lease. Sublessee hereby acknowledges receiving a copy of the Base Lease.

(b) Sublessee will not make any use of the Property or the Building, nor will Sublessee make or permit to be made any use of the Premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of this Sublease; which is forbidden by any federal, state or local law, ordinance or regulation; which may be dangerous to life, limb, or property; which would, in the reasonable judgment of City, in any way impair the character, reputation or appearance of the Building as an attractive and functional airport terminal building; or which would impair or interfere with or tend to impair or interfere with any of the services performed by City for the Property.

(c) Sublessee shall not exhibit, sell or offer for sale on the Premises or in the Building any article or thing except those articles and things reasonably connected with the stated use of the Premises set forth above by Sublessee without the advance consent of the City.

(d) Sublessee shall not display, inscribe, print, paint, maintain or affix in or about the Building or outside of the Premises any sign, notice, legend, direction, figure or advertisement, unless Sublessee shall first have obtained the consent of the City, and then only such names(s) and matter, and in such color, size, style, place and materials as shall first have been approved by City. City shall not unreasonably withhold prompt approval, but City's insistence on compliance with a

uniform signage plan shall not be deemed unreasonable.

(e) No additional locks or similar devices shall be attached to any door or window without City's consent. No keys for any door other than those provided by City shall be made. If more than two keys for one lock are desired, City will provide the same upon payment by Sublessee. All keys must be returned to City at the expiration or termination of this Sublease.

(f) Sublessee shall not overload any floor. City may direct, within reason, the time and manner of delivery, routing and removal, and the location, of safes and other heavy articles.

(g) Unless City gives consent, Sublessee shall not install or operate any steam or internal combustion engine, boiler, machinery, refrigerating or heating device or air conditioning apparatus in or about the premises, or carry on any mechanical business therein, or use the Premises for housing accommodations or lodging or sleeping purposes, or do any cooking therein, or use any illumination other than electric light, or use or authorize to be brought into the Building any inflammable fluid such as gasoline, kerosene, naphtha, and benzene, or any explosives, radioactive materials or other articles deemed extra hazardous to life, limb or property, except in a manner which would not violate any federal, state or local law, ordinance or regulation. Sublessee shall not use the Premises for any illegal or immoral purpose.

(h) The sidewalks, halls, passages, exits, entrances and stairways shall not be obstructed by Sublessee or used for any purpose other than for ingress to and egress from the Premises. No Sublessee and no employees or invitees of any Sublessee shall go upon the roof of the Building.

(i) Sublessee shall not use, keep or permit to be kept any foul, explosive or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner unreasonably offensive or objectionable to the City or other occupants of the Building by reason of noise, odors, and/or vibrations, or unreasonably interfere in any way with other tenants or those having business therein; nor shall any animals or birds be brought in or kept in or about the Premises or the Building, unless for purposes of air transport, and then only in containers designed for transport of such animals or birds. Sublessee shall be responsible for enforcing the requirement that all animals and birds shall be kept in containers while in the Premises or the Building. Sublessee shall make all repairs and conduct all cleaning necessary as a result of the presence of birds or animals in the Premises or the Building in connection with air transport.

(j) Sublessee shall see that the doors and windows, if openable, of the Premises, are closed and securely locked before leaving the Building and must observe with strict care and caution that all water faucets or water apparatus are entirely shut off before Sublessee or Sublessee's employees leave the Building, and that all electricity shall likewise be carefully shut off so as to prevent waste or damage.

(k) In the event of any default or carelessness in performing the duties imposed by this paragraph, Sublessee shall make good all resulting injuries or losses sustained by other sublessees or occupants of the Building and City. In addition to all other liabilities for breach of any covenant of this paragraph, the Sublessee shall pay to the City an amount equal to any increase in insurance premiums payable by the City or any other tenant in the building, caused by such breach,

but City shall have the burden of proving by a preponderance of the evidence that such increase is directly attributable to such breach.

5. <u>SECURITY DEPOSIT.</u> The Sublessee has deposit on file from previous Sublease. The sum of $7,651.06 (equal to fifteen percent, 15% of 2008 rent) as a security deposit for the performance by Sublessee of the provisions of this Sublease. If Sublessee is in default, City can use the security deposit, or any portion of it, to cure the default or to compensate City for all damage sustained by City resulting from Sublessee's default. Sublessee shall immediately upon demand pay to City a sum equal to the portion of the security deposit expended or applied by City as provided in this paragraph so as to maintain the security deposit in the sum initially deposited with City. Sublessee's failure to do so within five (5) days after demand by City shall be a default under this Sublease. If Sublessee is not in default at the expiration or termination of this Sublease, City shall return the security deposit to Sublessee. City's obligation with respect to the security deposit are those of a debtor and not those of a trustee or fiduciary. City may maintain the security deposit separate and apart from City's general funds or co-mingle the security deposit with City's general funds. City shall not be required to pay Sublessee interest on the security deposit. If City is required by law to maintain the security deposit in an interest bearing account, City shall be entitled to receive and retain the maximum amount permitted under applicable law as a bookkeeping and administrative charge.

6. <u>UTILITIES AND SERVICES.</u> City shall furnish to the Premises, at City's expense, except as otherwise provided in this Sublease, reasonable quantities of electricity and heat as required for Sublessee's use. City shall furnish water, sewer and garbage removal service to the Building, at City's expense; however, Sublessee shall be responsible for cleaning the Premises and taking its garbage to dumpsters provided for the Building. If City is required to construct new or additional utility installations including, without limitation, wiring, plumbing, conduits and mains, resulting from Sublessee's changed or increased utility requirements, Sublessee shall, on demand, pay to City the total cost of these items. City shall not be liable for failure to furnish utilities to the Premises when the failure results from causes beyond City's reasonable control, but in case of such failure City will take all reasonable steps to restore the interrupted utilities. Any such interruption of utilities shall never be deemed an eviction or disturbance of Sublessee's use and possession of the Premises, or any part thereof, or give Sublessee any right to abatement of rent, or otherwise relieve Sublessee from performance of any of Sublessee's obligations under this Sublease, except that Sublessee's obligation to pay rent shall be abated to the extent that any such interruption of the utilities exceeds fifteen (15) days. Sublessee shall pay for all telephone charges, including installation.

7. <u>CONDITION OF PREMISES.</u> Sublessee's taking possession of the Premises shall be conclusive evidence as against Sublessee that the Premises were in good order and satisfactory condition when Sublessee took possession, except as to latent defects. No promise of City to alter, remodel, repair or improve the Premises or the Building and no representation as to the condition of the Premises or the Building has been made by City to Sublessee, other than as may be contained in

this Sublease or in a separate written agreement. At the termination of this Sublease, the Sublessee shall return the Premises clean and in as good order and condition as when the Sublessee took possession, ordinary wear and tear accepted, failing which the City may restore the Premises to such

condition and the Sublessee shall pay the cost thereof on demand.

8. MAINTENANCE AND REPAIRS. City, at City's expense, shall maintain, in good condition, the structural parts of the Building which shall include only the foundation, bearing and exterior walls (excluding glass and doors to the Premises), subflooring, the unexposed electrical, plumbing and sewage systems, and the heating and ventilation system servicing the Premises. Sublessee, at Sublessee's expense, shall maintain, in good condition, the Premises, including, without limitation, all glass, doors to the Premises, electrical and plumbing fixtures, interior walls, signs and Sublessee's personal property.

9. PARKING AND SNOW REMOVAL. City shall designate a parking area for employees of the tenants of the Building, and Sublessee's employees shall park in the employee parking lot. No overnight parking of employee vehicles is allowed. City shall designate overnight parking areas for Sublessee's vans. City shall provide snow removal in the parking area.

10. ALTERATIONS. (a) Sublessee shall not make any alterations to the Premises without City's prior written consent, which shall not be unreasonably withheld. Requests for approval of alterations shall be made in writing and shall include three (3) copies of the plans and specifications. The City will approve or disapprove the proposed alterations within thirty (30) days. Approval of the alterations shall not constitute a building permit, nor shall a building permit constitute approval of the alterations. Any alterations (except Sublessee's trade fixtures) shall remain on and be surrendered with the Premises on expiration or termination of this Sublease, except that City can elect at any time to require Sublessee to remove any alterations that Sublessee has made to the Premises. If City so elects, Sublessee, at Sublessee's expense, shall restore the Premises to the condition designated by City in its election, before the last day of the term, or within thirty (30) days after notice of election is given, whichever is later. If Sublessee proceeds to make any approved alterations to the Premises as provided in this paragraph, Sublessee shall notify City no less than five (5) days prior to the commencement of the work.

(b) Sublessee shall make no improvements or construction without the prior approval of DOT/PF. Sublessee shall provide City with copies of such written approval(s) prior to commencement of any improvements or construction.

11. MECHANICS' LIENS. Sublessee shall pay all costs for construction done by it or caused to be done by it on the Premises as permitted by this Sublease. Sublessee shall keep the Premises, the Building, and the Property free and clear of mechanics' liens resulting from construction done by or for Sublessee. Sublessee shall have the right to test the correctness or the validity of any such lien only if, immediately on demand by City, Sublessee procures and records a lien release bond issued by a corporation authorized to issue surety bonds in the State of Alaska in an amount equal to one and one-half times the amount of the claim of lien. The bond shall meet the requirements of AS 34.35.072 and shall provide for the payment of any sum that the claimant may recover on the claim, plus interest, costs and attorney's fees.

12. INDEMNITY. (a) Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorneys' fees, arising out of any injury to or death of any person or damage to or destruction of property occurring to, in, on or about the Premises,

Building or Property, but only to the proportionate extent such damages, costs and fees may be caused by or contributed to by fault or other legal responsibility on the part of Sublessee, its employees, authorized representative, customers, invitees, or sublessees. Notwithstanding the preceding sentence, Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorney's fees, arising out of any injury to or death of any person or damage to or destruction of property arising out of and in the course of Sublessee's flight time, as defined in 14 CFR Section 1.1. Notwithstanding the first sentence of this paragraph, Sublessee shall not be liable to City or its insurers for, and Sublessee's obligation to protect, indemnify and hold City harmless shall not include any loss or damages, including costs and attorney's fees, covered and paid by City's fire insurance described in paragraph 16.

(b) Furthermore, Sublessee shall protect, defend, and indemnify and hold the State harmless to the same level and extent that the Sublessee would provide to the State if the Sublessee were a direct lessee of the State under the Base Lease.

13. <u>AVIATION LIABILITY, PUBLIC LIABILITY, PROPERTY DAMAGE, WORKERS' COMPENSATION, AND OTHER INSURANCE.</u> (a) Sublessee, at Sublessee's expense, shall maintain airline/aircraft/airport public liability insurance or its equivalent with a minimum limit of ONE MILLION DOLLARS ($1,000,000.00) per seat based on the largest seating capacity in an aircraft operated by Sublessee at the airport. Regardless of seat capacity or cargo configuration, the policy shall have a minimum limit of TEN MILLION DOLLARS ($10,000,000.00) for propeller aircraft and TWENTY MILLION DOLLARS ($20,000,000.00) for jet aircraft. Within thirty (30) days after signing this Sublease, Sublessee will make a written report to the City detailing each aircraft or type of aircraft operated by Sublessee at the airport. If the maximum seating capacity for any aircraft or type of aircraft operated by Sublessee is changed, Sublessee will report the change to the City and obtain any required insurance coverage before operating the aircraft at the airport.

(b) Sublessee, at Sublessee's expense, shall maintain comprehensive general liability insurance with a single combined liability limit of not less than ONE MILLION DOLLARS ($1,000,000.00) insuring against all liability of Sublessee, its employees, and authorized representatives, arising out of or in connection with Sublessee's use or occupancy of the Premises.

(c) All aviation and comprehensive general liability insurance policies shall insure performance by Sublessee of the indemnity provisions of paragraph 12; shall name City and DOT/PF as additional insureds; shall include a waiver of subrogation by the insurer against City and DOT/PF; and shall not contain any exclusion from coverage for Sublessee's liability for damages or loss incurred by City or DOT/PF because of their status as additional insureds.

(d) Sublessee, at Sublessee's expense, shall maintain workers' compensation insurance with policy limits not less than that required by statute.

(e) In addition to the foregoing, Sublessee must obtain and maintain such insurance covering the operations and activities of Sublessee to the same level and extent that Sublessee would be required to maintain if the Sublessee were the direct lessee of DOT/PF under the Base Lease. Sublessee must provide to DOT/PF, with a copy to City, such binders or certificates of insurance as may be required by DOT/PF to prove compliance with this subparagraph.

14. <u>USE OF HAZARDOUS SUBSTANCES</u>

(a) Sublessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Property by Sublessee or its authorized representatives, customers, invitees or sublessees, except for such Hazardous Material as is necessary or useful to Sublessee's lawful use of the Property.

(b) Any Hazardous Material permitted on the Property as provided in this paragraph, and all containers therefor, shall be handled, used, kept, stored and disposed of in a manner that complies with all laws or regulations applicable to any such Hazardous Material. Such Hazardous Material shall be handled only by properly trained personnel.

(c) Sublessee shall not discharge, leak or emit, or permit its authorized representatives, customers, invitees or sublessees to discharge, leak or emit, any material into the atmosphere, ground, sewer system or any body of water, if such material does or may, unlawfully pollute or contaminate the same, or may unlawfully adversely affect (i) the health, welfare or safety of persons, whether located on the Property or elsewhere, or (ii) the condition, use or enjoyment of the Property or any other real or personal property. The preceding sentence only applies to Sublessee's use of and operations on the Property.

(d) If any such discharge, leak, spill, emission, or pollution (referred to in subparagraph 14(c) above) occurs upon or from the Property during the Sublease term or any holdover, Sublessee will immediately notify City and all appropriate federal, state, and local authorities, and will act immediately to contain the spill, repair any damage, absorb and clean up the spill area and restore the Property to comply with the applicable portions of any federal, state, or local law or regulation then in effect.

(e) Sublessee hereby agrees that it shall be fully liable for all costs and expenses related to the handling, use, storage and disposal of Hazardous Material brought or kept on the Property by the Sublessee, its authorized representatives, customers, invitees and sublessees, and the Sublessee shall give immediate notice to the City of any violation or suspected violation of the provisions of subparagraphs 14(a), (b), (c) and (d).

15. <u>INDEMNITY FOR USE OF HAZARDOUS MATERIAL.</u> (a) Sublessee shall protect, indemnify and hold City and DOT/PF and their officers, officials, and other employees harmless from and against any claims, demands, penalties, fines, judgments, settlements, liabilities, losses, damages, costs and expenses (including, without limitation, attorney, consultant and expert fees, court costs and other litigation expenses) (individually and collectively, "Environmental Damages") arising out of or related to (i) the presence, disposal or release of any Hazardous Material (as defined in subparagraph (c) below) on or impacting the Property; and (ii) any bodily injury (including death) or property damage (real or personal) caused by such presence, disposal or release; but only to the proportionate extent such Environmental Damages shall have been caused by or contributed to by fault or other legal responsibility on the part of Sublessee or its employees, agents, customers, invitees or contractors.

(b) City shall protect, indemnify and hold Sublessee and its directors, officers, and other employees harmless from and against any Environmental Damages arising out of or related to (i) the

presence, disposal or release of any Hazardous Material on or impacting the Property; and (ii) any bodily injury (including death) or property damage (real or personal) caused by such presence, disposal or release; but only to the proportionate extent such Environmental Damages shall have been caused by or contributed to by fault or other legal responsibility on the part of City or its employees, agents, customers, invitees or contractors.

(c) For the purposes of paragraphs 14 and 15, "Hazardous Material" is defined as any substance that is toxic, ignitable, reactive, or corrosive that is regulated by any local government, the State of Alaska, or the United States government. "Hazardous Material" includes any and all material or substances that are defined as "hazardous waste", "extremely hazardous waste" or a "hazardous substance" pursuant to local, state or federal law, including without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder. "Hazardous Material" also includes, but is not restricted to, asbestos, polychlorobiphenyls ("PCB's") and petroleum and petroleum products.

16. <u>CITY'S FIRE INSURANCE.</u>

City shall, at City's expense, maintain on the Building a policy of fire and extended coverage insurance, with vandalism and malicious mischief endorsements, up to the full replacement value. The policy shall provide that any proceeds shall be made payable solely to City. The "full replacement value" of the Building to be insured under this paragraph shall be determined by the insurance company issuing the policy at the time the policy is initially obtained or subsequently renewed.

Sublessee shall not use the Premises for any purpose, nor do any acts in the Premises, which will increase the existing rate of insurance on the Building or cause the cancellation of any insurance policy covering the Building, or any part thereof, nor shall Sublessee sell, or permit to be kept, used or sold, on the Premises, any article, material or substance which may be prohibited by standard form fire and extended coverage insurance policies. Sublessee shall, at Sublessee's expense, comply with any and all requirements pertaining to the Premises of any insurance organization or company, necessary for the maintenance of fire and extended coverage insurance covering the Building. Sublessee agrees to pay to City as additional rent any increase in premiums on policies which may be carried by City covering damage to the Building by fire and the perils normally included in extended coverage, but only to the extent City proves by a preponderance of the evidence that such increase is directly attributable to Sublessee's breach of the first two sentences of this subparagraph. In event of nonpayment of such additional rent, City shall have all the rights and remedies provided in this Sublease in case of nonpayment of rent.

17. <u>OTHER INSURANCE MATTERS.</u> All insurance required to be carried by Sublessee under this Sublease and the Base Lease shall be issued by insurance companies authorized to do business in the State of Alaska with a financial rating of at least "A" as rated in the most recent edition of Best's Insurance Reports, or an equivalent rating; shall be issued as a primary policy; and shall contain an endorsement requiring twenty (20) days prior written notice from the insurance company to both parties and before cancellation or change in the coverage, scope or amount of any

policy. Sublessee shall furnish insurance certificates to City and DOT/PF at the commencement of the term of this Sublease, and on renewals. Sublessee shall promptly furnish copies of each policy to City and DOT/PF upon request.

18. TAXES AND ASSESSMENTS. City shall pay all general and special assessments. Sublessee shall pay all real estate taxes levied on Sublessee's interest in the Premises, Building or Property.

19. DESTRUCTION. If, during the term of this Sublease, the Premises or the Building are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable, City shall restore the Premises or the Building to substantially the same condition as they were in immediately before destruction, if the restoration can be made under the then existing laws and can be substantially completed within one hundred twenty (120) working days after the date of destruction. Such destruction shall not terminate this Sublease. If the restoration cannot be made in the time stated in this paragraph, either party shall have the right to terminate this Sublease by notice to the other party given at any time within thirty (30) days after the date of such destruction, or within thirty (30) days after it is determined that such restoration cannot be completed within the time stated, whichever is longer, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall have no right to terminate this Sublease. If the then existing laws do not permit the restoration, either party shall have the right to terminate this Sublease by notice to the other party given at any time within thirty (30) days after the date of such destruction.

If a portion of the Building other than the Premises shall be totally or partially destroyed from any cause such that in the reasonable opinion of the City the Building should be restored in such a way as to alter the Premises materially, City may terminate this Sublease by notice to Sublessee at anytime within thirty (30) days after the date of such destruction. In the event of giving effective notice pursuant to this paragraph, the term of this Sublease shall expire on the date thirty (30) days after the giving of such notice as fully and completely as if such date were set forth for the expiration of the term of this Sublease. If this Sublease is not so terminated, City shall restore the Premises and the Building within a reasonable time and this Sublease shall continue in full force and effect.

If City is required or elects to restore the Premises as provided in this paragraph, City shall not be required to restore alterations made by Sublessee, Sublessee's improvements, Sublessee's trade fixtures, and Sublessee's personal property, including without limitation, any panels, decoration, office fixtures, railing, ceiling, floor covering, partitions and the like, such excluded items being the sole responsibility of Sublessee to restore.

In case of destruction there shall be an abatement or reduction of rent, between the date of destruction and the date of completion of the restoration or the date of termination of this Sublease based on the extent to which the destruction interferes with Sublessee's use of the Premises, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall not be entitled to such abatement or reduction of rent.

If there is destruction to the Building that exceeds thirty-three and one-third percent (33 1/3%) of the then replacement value of the Building from any risk, City can elect to terminate this Sublease whether or not the Premises are destroyed. If, in the case of such destruction, Sublessee

reasonably determines that such destruction unreasonably interferes with its use and occupancy of the Premises, Sublessee can elect to terminate this Sublease by written notice to City.

20. CONDEMNATION. If, during the term of this Sublease, there is a taking by condemnation (including condemnation by City) of all or any part of the Premises or Building, the rights and obligations of the parties shall be as follows:

If there is a taking of all or any part of the Premises, the term of this Sublease shall forthwith cease and terminate as of the date of vesting of title in the condemnor, and the City is entitled to receive the entire award from the condemning authority except that portion, if any, of the award which may be attributable to the loss of the value of the Sublessee's business and Sublessee's leasehold interest, which is given the Sublessee by virtue of this Sublease.

21. DEFAULT. Each of the following shall be deemed a default by the Sublessee and a breach of the Sublease:

(a) A default in the payment of the rent and additional rents due hereunder for a period of ten (10) days from the due date for such payment.

(b) A default in the performance of any other term, covenant or condition on the part of the Sublessee to be kept, performed, or observed for a period of fifteen (15) days after service by City on Sublessee of a notice specifying the particular default or defaults, provided, however, that no default on the part of the Sublessee in the performance of work or acts required by it to be done, or conditions to be modified, shall be deemed to exist if steps shall have in good faith been commenced promptly by the Sublessee to rectify the same and shall be prosecuted to completion with diligence and continuity.

(c) The entry of a decree or order for relief by a court having jurisdiction in respect of the Sublessee in an involuntary case under the federal bankruptcy laws, as now or hereinafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of or for the Sublessee or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs.

(d) The commencement by the Sublessee of a voluntary case under the federal bankruptcy laws, as now constituted or thereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by it to the appointment of or taking possession of a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of or for the Sublessee or for any substantial part of its property, or the making by Sublessee of any assignment for the benefit of creditors, or the failure of the Sublessee generally to pay its debts as such debts become due, or the taking of corporate action by the Sublessee in furtherance of any of the foregoing.

(e) The taking possession of the property of Sublessee by any governmental office or agency pursuant to statutory authority for the dissolution or liquidation of the Sublessee.

(f) The vacation or abandonment of the Premises by Sublessee.

(g) The assignment or subletting of the Premises by Sublessee without the prior written consent of City and the State of Alaska.

22. <u>CITY'S REMEDIES IN EVENT OF DEFAULT.</u> In the event of any default by Sublessee under this Sublease, City shall have the following rights and remedies, which shall be cumulative and all in addition to any rights and remedies that City may be given by statute, common law or otherwise:

(a) Distrain for rent due.

(b) Reenter the Premises and take possession thereof and remove all signs, other evidence of tenancy, and all personal property of Sublessee from the Premises.

(c) Declare the term of this Sublease ended.

(d) Relet the Premises in whole or in part for any period equal to or greater or less than the remainder of the term of this Sublease.

(e) Collect any and all rents due or to become due from subtenants or other occupants of the Premises.

(f) If Sublessee shall at any time fail to make any payment or perform any other act on its part to be made or performed under this Sublease, City may, but shall not be obligated to, and without waiving or releasing Sublessee from any obligation under this Sublease, make such payment or perform such other act as may be reasonable in the circumstances, and in connection therewith to pay expenses and employ counsel.

All sums so paid by City and all expenses in connection therewith, together with interest thereon at the rate of twelve percent (12%) per year or the current maximum legal rate of interest, whichever is less, from the date of payment to the date of repayment, shall be deemed additional rent hereunder and payable at the time of any installment of rent thereafter becoming due and City shall have the same rights and remedies for the nonpayment thereof, or of any other additional rent, as in the case of default in the payment of rent.

(g) Restrain by injunction any violation or attempted violation, or compel by injunction the performance of any of the covenants, agreements or conditions or terms of this Sublease.

(h) Recover, whether this Sublease be terminated or not, from Sublessee, damages provided for below constituting of items (i) and (ii), or, at City's election in lieu of (ii), item (iii):

(i) reasonable attorney's fees and other expenses incurred by City by reason of the breach or default by Sublessee;

(ii) an amount equal to the amount of all rent and additional rents reserved under this Sublease, less the net rent, if any, collected by City on reletting the Premises, which shall be due and payable by Sublessee to City on the days on which the rent and additional rents reserved

in this Sublease would have become due and payable; that is to say, upon each of such days Sublessee shall pay to City the amount of deficiency then existing. Such net rent collected on reletting by City shall be computed by deducting from the gross rent collected all expenses incurred by City in connection with the reletting of the Premises, or any part thereof, including broker's commission and the cost of renovating or remodeling the Premises;

(iii) an amount to be due immediately on breach, equal to the amount, if any, by which the remaining rent due under this Sublease exceeds the fair and reasonable rental value of the Premises for the same period. In the computation of such damages the difference between any installment of rent thereafter becoming due and the fair and reasonable value of the Premises for the period for which such installment was payable shall be discounted to the date of such breach at the rate of eight percent (8%) per year. If the Premises, or any part thereof, be relet by City for the unexpired term of this Sublease, or any part thereof, before presentation of proof of damages, the amount of rent reserved upon such reletting, in the absence of evidence to the contrary, shall be deemed to be the fair and reasonable rental value for the Premises, or any part thereof, so relet during the term of such reletting.

(i) Reentry or reletting of the Premises, or any part thereof, pursuant to this paragraph 22 shall not be deemed a termination of this Sublease, unless expressly declared to be so by City. If this Sublease shall be deemed terminated, Sublessee's liabilities shall survive and Sublessee shall be liable for damages as provided above.

The enumeration of the default rights of City above are not intended to imply that they are mutually exclusive, nor that they are in lieu of any or all statutory, common law or other rights.

23. <u>BANKRUPTCY OR INSOLVENCY</u>.

(a) In the event that Sublessee shall file a petition, or an order for relief is entered against Sublessee, under Chapter 7 of the Bankruptcy Code, and the Trustee of Sublessee shall elect to assume this Sublease for the purpose of assigning the same, such election and/or assignment may only be made if all of the terms and conditions of subsections (c), (d) and (e) hereof are satisfied. If such Trustee shall fail to elect to assume this Sublease for the purpose of assigning the same within sixty (60) days after the order of relief, this Sublease shall be deemed to have been rejected. City shall be thereupon immediately entitled to exercise any remedies available to it under paragraph 25 of this Sublease, and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceedings shall survive.

(b) In the event that Sublessee files a petition for reorganization under Chapters 11 or 13 of the Bankruptcy Code or a proceeding filed by or against Sublessee under any other chapter of the Bankruptcy Code is converted to a Chapter 11 or 13 proceeding, and the Trustee of Sublessee or Sublessee as debtor-in-possession fails to assume this Sublease within sixty (60) days from the date of filing of the Petition or such conversion, the Trustee or debtor-in-possession shall be deemed to have rejected this Sublease. City shall be thereupon immediately entitled to exercise any remedies available to it under paragraph 22 of this Sublease, and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceedings shall survive. If the Trustee of Sublessee shall elect to assume this Sublease, such election may only be made if all of the terms and conditions of subsections (c) and (d) hereof are satisfied. If the Trustee of Sublessee shall

elect to assign this Sublease after assuming it, such assignment may only be made if all of the terms and conditions of subsections (e) hereof are satisfied.

(c) No election to assume this Sublease shall be effective unless in writing and addressed to City and unless, in City's reasonable business judgment, all of the following conditions, which City and Sublessee acknowledge to be commercially reasonable, have been satisfied:

(i) The Trustee or the debtor-in-possession has cured or has provided City adequate assurance (as defined hereunder) that:

(A) within ten (10) days from the date of such assumption the Trustee or debtor-in-possession will cure all monetary defaults under this Sublease; and

(B) within thirty (30) days from the date of such assumption the Trustee or debtor-in-possession will cure all non-monetary defaults under this Sublease, or if the non-monetary default requires more than thirty (30) days to cure, the Trustee or debtor-in-possession will within thirty (30) days commence and proceed with diligence and continuity to cure the non-monetary defaults under this Sublease.

(ii) The Trustee or the debtor-in-possession has compensated, or has provided to City adequate assurance (as defined hereunder) that within ten (10) days from the date of assumption City will be compensated for any pecuniary loss incurred by City arising from the default of Sublessee, the Trustee, or the debtor-in-possession as recited in City's written statement of pecuniary loss sent to the Trustee or debtor-in-possession.

(iii) The Trustee or the debtor-in-possession has provided City with adequate assurance of the future performance of each of Sublessee's obligations under this Sublease; provided, however, that the obligations imposed upon the Trustee or debtor-in-possession shall continue with respect to Sublessee after the completion of bankruptcy proceedings.

(iv) City has determined that the assumption of the Sublease will not breach any provision in any other Lease by which City is bound relating to the Property.

(d) For purposes of subparagraph (c), adequate assurance shall mean:

(i) City shall reasonably determine that the Trustee or the debtor-in-possession has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure City that the Trustee or debtor-in-possession will have sufficient funds to fulfill the obligations of Sublessee under this Sublease; and

(ii) an order shall have been entered segregating sufficient cash payable to City and/or there shall have been granted a valid and perfected first lien and security interest in property of Sublessee, Trustee or debtor-in-possession, acceptable as to value and kind to City, to secure City the obligation of the Trustee or debtor-in-possession to cure the monetary and/or non-monetary defaults under this Sublease within the time period set forth above.

(e) (i) If the Trustee or debtor-in-possession has assumed the Sublease pursuant to the terms and provisions of subparagraphs (a) or (b), for the purpose of assigning (or elects to assign) Sublessee's interest under this Sublease, to any other person, such interest may be so assigned only if City shall acknowledge in writing that the intended assignee has provided adequate assurance as defined in this subparagraph (e) of future performance of all of the terms, covenants and conditions of this Sublease to be performed by Sublessee.

(ii) For purposes of this subparagraph (e), adequate assurance of future performance shall mean that City shall have reasonably ascertained that each of the following conditions has been satisfied:

(A) the assignee has submitted a current financial statement audited by a certified public accountant which shows a net worth and working capital in amounts determined to be sufficient by City to assure the future performance by such assignee of Sublessee's obligations under this Sublease;

(B) if requested by City, the assignee shall have obtained guarantees in form and substance satisfactory to City from one or more persons whom City determines to be creditworthy;

(C) the assignee has submitted in writing evidence, satisfactory to City, of substantial business experience in business operations of the same kind and comparable size to the business contemplated under this Sublease; and

(D) City has obtained all consents or waivers from any third party necessary to permit such assignment under any lease or agreement by which City is bound.

(f) Neither Sublessee's interest in this Sublease, nor any lesser interest of Sublessee herein, shall pass to any Trustee, receiver, assignee for the benefit of creditors, or any other person or entity, or otherwise by operation of law under the laws of any state having jurisdiction of the person or property of Sublessee ("state law") unless City shall consent to such transfer in writing. No acceptance by City of rent or other payments from any such Trustee, receiver, assignee, person or other entity shall be deemed to have waived, nor shall it waive, the need to obtain City's consent or City's right to terminate this Sublease for any transfer of Sublessee's interest under this Sublease without such consent.

(g) In the event Sublessee shall be adjudicated insolvent pursuant to the provisions of any present or future insolvency law under state law, or if a receiver or Trustee of the property of Sublessee shall be appointed under state law by reason of Sublessee's insolvency or inability to pay its debts as they become due or otherwise, or if any assignment shall be made of Sublessee's property for the benefit of creditors under state law; then and in such event City may, at its option, terminate this Sublease and all rights of Sublessee hereunder without further obligation to Sublessee, by giving Sublessee written notice of the election to so terminate.

24. <u>SURRENDER OF POSSESSION</u>. If, after termination of this Sublease, Sublessee shall vacate the Premises without removing all of its property, any and all property that remains may be removed from the Premises by City and may be handled, removed or stored by City at the risk, cost and expense of Sublessee, and City shall in no event be responsible for the value, preservation or safekeeping thereof or for any loss or damage to Sublessee occasioned thereby. Sublessee shall pay to City, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in City's possession or under City's control. Any such property of Sublessee not removed from the Premises or retaken from storage by Sublessee within thirty (30) days after the end of the term of this Sublease or of Sublessee's right to possession of the Premises, however terminated, shall be conclusively deemed to have been forever abandoned by Sublessee and either may be retained by City as its property or may be disposed of in such manner as City may see fit.

25. <u>QUIET ENJOYMENT.</u> So long as Sublessee shall observe and perform the covenants and conditions contained in this Sublease, Sublessee shall, at all times during the term of this Sublease, peacefully and quietly have and enjoy possession of the Premises without any disturbance or hindrance by, from or through City, but subject to any rights of the State of Alaska in the Base Lease.

26. <u>ASSIGNMENT AND SUBLETTING.</u> (a) Sublessee shall not assign, hypothecate, or encumber its interest in this Sublease or in the Premises. Sublessee shall not sublease all or any part of the Premises, or allow any other person or entity (except Sublessee's authorized representatives) to occupy or use all or any part of the Premises without first obtaining City's written consent, which will not unreasonably be withheld, and the written consent of DOT/PF. No sub-sublessee may occupy the Premises before DOT/PF grants written consent. Any assignment, encumbrance or hypothecation of the Sublease is void, and any sub-sublease without such consent by the City and DOT/PF is voidable and, at City's election, shall constitute a default. No consent to any sublease shall constitute a further waiver of the provisions of this paragraph.

(b) Any proposed sublease must be submitted to the City for approval in three (3) copies, each bearing the original notarized signature of all parties. Each sublease shall be expressly subject and subordinate to the Sublease and the Base Lease and the rights of the City and DOT/PF respectively, and shall require the sublessee to assume the Sublessee's obligations hereunder and shall not release the Sublessee from liability hereunder. Each sublease shall be expressly terminable by City in its sole discretion at the end of the term of this Sublease. If approved by City, the proposed sublease will be forwarded to DOT/PF for approval. No consent to sublease is effective until given in writing by both the City and DOT/PF.

27. <u>RIGHTS RESERVED TO CITY.</u> City reserves the following rights:

(a) To name or to change the name of the Building.

(b) To install and maintain or to allow installation and maintenance of signs on the exterior or interior of the Building, excluding the interior of the Premises.

(c) To have pass keys to the Premises.

(d) To have access to the Premises for purposes of inspection upon reasonable prior notice.

(e) On reasonable prior notice to Sublessee, to exhibit the Premises to prospective tenants during the last six (6) months of the term of this Sublease, and to any prospective purchaser, mortgagee, or assignee of any mortgage on the Building and to others having a legitimate interest at any time during the term of this Sublease.

(f) At any time in the event of an emergency and otherwise at reasonable times, to take any and all measures, including inspections, repairs, alterations, additions, and improvements to the Premises or to the Building as may be necessary or desirable for the safety, protection or preservation of the Premises or the Building or City's interest, or as may be necessary or desirable in

the operation or improvement of the Building, or in order to comply with laws, orders and requirements of governmental or other authority.

28. ESTOPPEL CERTIFICATES. Either party shall at any time and from time to time upon not less than fifteen (15) days prior request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Sublease is unamended and in full force and effect (or, if there has been any amendment thereof, that the same is in full force and effect as amended and stating the amendment or amendments), that there are no defaults existing (or if there is any claimed default, stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance.

29. HOLDING OVER. If Sublessee remains in possession of the Premises after expiration of the term of this Sublease, or after the date in any notice given by City to Sublessee terminating this Sublease, such possession by Sublessee shall be deemed to be a month-to-month tenancy terminable on thirty (30) days notice given at any time by either party. The provisions of this paragraph do not exclude City's rights of re-entry or any other right under this Sublease.

30. SUBORDINATION OF SUBLEASE. The rights of Sublessee under this Sublease shall be and are subordinate at all times to the Base Lease and all ground leases and/or underlying leases, if any, now or hereafter in force against the Property and to the lien of any mortgage or mortgages now or hereafter in force against such leases and/or the Premises, and to all advances made or hereafter to be made upon the security thereof, and to all renewals, modifications, consolidations, replacements, and extensions thereof. This paragraph is self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Sublessee shall promptly execute such further instrument as may be reasonably requested by City. Sublessee, at the option of any mortgagee, agrees to attorn to such mortgagee in the event of a foreclosure sale or deed in lieu thereof.

31. NOTICES. All notices, demands and requests from one party to another shall be delivered in person or sent by mail addressed to the other party at the address set forth below, or at such other address as either party may notify the other in writing pursuant to this paragraph.

If to City:	If to Sublessee:
Airport Terminal Manager	
City of Homer	Chief Financial Officer
491 East Pioneer Avenue	Era Alaska
Homer, Alaska 99603-7624	4700 Old International Airport Road
Telephone: 907-235-8121x 2225	Anchorage, Alaska 99502
Facsimile: 907-235-3148	Telephone: 907-248-4422
E-mail: terminalmanager@cityofhomer-ak.gov	Facsimile: 907-266-8391
	E-mail:_____

Telephone, facsimile, and e-mail addresses are provided for informational purposes, and may not be used in lieu of mail or personal delivery for formal notices, demands, and requests.

32. WAIVER. No failure by either City or Sublessee to insist upon the strict performance by the other of any term, covenant or condition of this Sublease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such term, covenant or condition. No waiver of any breach or right, unless in writing, shall affect or alter this Sublease, but each and every term, covenant and condition of this Sublease shall continue in full force and effect with respect to any other then existing or subsequent breach.

The receipt and acceptance by City of delinquent rent shall not constitute a waiver of any other defaults; it shall constitute only a waiver of timely payment of the particular installment of rent involved. No act or conduct of City, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Sublessee before the expiration of the term of this Sublease. Only a notice from City to Sublessee shall constitute acceptance of the surrender of the Premises and accomplish a termination of the term of this Sublease.

33. SALE OR TRANSFER OF PREMISES. If City sells or transfers the Building or the Premises, on consummation of the sale or transfer, City shall be released from any liability thereafter accruing under this Sublease. If any security deposit or prepaid rent has been paid by Sublessee, City can transfer the security deposit or prepaid rent to City's successor and on such transfer City shall be discharged from any further liability in reference to the security deposit or prepaid rent.

34. MISCELLANEOUS PROVISIONS.

(a) Time is of the essence of each provision of this Sublease.

(b) This Sublease shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns, except as otherwise provided in the Sublease.

(c) This Sublease shall be governed by and construed and enforced in accordance with the laws of the State of Alaska.

(d) This Sublease contains all the agreements of the parties and cannot be amended or modified except by a written agreement signed by the parties hereto.

(e) It is understood and agreed that this Sublease shall not be binding until and unless all parties have signed it.

(f) If Sublessee is a corporation, Sublessee shall deliver to City and DOT/PF on execution of this Sublease a certified copy of a resolution of its board of directors authorizing the execution of this Sublease and naming the officers that are authorized to execute this Sublease on behalf of the corporation or other proof reasonably satisfactory to City and DOT/PF.

(g) Any litigation arising out of the performance of the parties under this Sublease, or its interpretation, shall be brought in the Superior Court for the State of Alaska, Third Judicial District at Homer.

(h) All provisions contained in this Sublease, whether covenants or conditions, shall be deemed to be both covenants and conditions.

(i) This Sublease may be executed in several counterparts, each of which shall be deemed an original and may be used as such, and such counterparts shall constitute but one and the same instrument.

35. NON-DISCRIMINATION. Sublessee covenants and agrees that discrimination on the grounds of race, color, religion, national origin, ancestry, age or gender will not be permitted against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal, state or local law. To the extent required by applicable law, regulation, or government contract, Sublessee shall furnish services on a fair, reasonable and not unjustly discriminatory basis, and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, however, that Sublessee may make reasonable and nondiscriminatory discounts, rebates and similar types of price reductions to volume purchasers. The Sublessee recognizes the right of the City to take any action necessary to enforce this covenant, including actions required pursuant to any federal, state or local law.

(a) This agreement is subject to requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, Subpart F. The concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.

(b) The concessionaire agrees to include the above statements in any subsequent concession agreement that it enters and cause those businesses to similarly include the statements in further agreements.

36. RADIO INTERFERENCE. At the City's request, Sublessee shall discontinue the use of any machine or device which interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

37. REGULATIONS. Sublessee agrees to abide by all reasonable regulations now or hereafter established by the City or DOT/PF, or both, concerning the use, operation and maintenance of the Premises, Building and the Property.

38. STATE DOT/PF APPROVAL. Pursuant to the terms of the Base Lease this Sublease shall not become effective until approved in writing by the State of Alaska, Department of Transportation and Public Facilities.

39. TERMINAL CHANGES AND IMPROVEMENTS.

(a) The Sublessee understands and agrees that the requirements of the Building as an airport terminal in such matters as passenger volume, freight volume, flight frequencies, aircraft size, operating procedures, efficient baggage handling and passenger movements, aircraft and vehicle parking requirements, etc., may from time to time change, sometimes substantially, and consequently

the City does hereby reserve the right and option to rebuild, remodel, relocate or otherwise effect such changes in the Premises and the Building. Sublessee agrees that upon thirty (30) days advance written notice given by City to relocate to new premises within the Building as may be reasonably assigned by City as deemed necessary or advisable; subject, however, to the conditions that the new premises shall be situated on the same floor in the Building and on the same concourse or hallway as the Premises, and further that the area of the new premises shall not be less than ninety percent (90%) of the area of the Premises unless Sublessee shall consent to a greater reduction.

(b) Sublessee shall receive no compensation but shall receive reimbursement of reasonable expenses for any such move required by City. Moreover, if the area of the new premises is less than the area of the Premises, rent shall be reduced by a fraction, the numerator of which is the difference between the area of the Premises and the area of the new premises and the denominator of which is the area of the Premises. During the term of this Sublease (not including any extensions or renewals thereof) the Sublessee shall not be required to pay any increased rent resulting from any such move required by City, even if the new premises are larger than or have a higher rental rate than the Premises.

(c) The Sublessee agrees that temporary inconveniences, such as noise, disturbances, traffic detours, moving, and the like, caused by or associated with the construction, remodeling, rebuilding, or relocation of the Premises or other portions of the Building shall not constitute a breach of quiet enjoyment of the Premises, nor shall they be grounds for an abatement of rental except in cases of interruption of the Sublessee's business or activities of longer than five (5) days in any calendar month in which case the rent shall be abated to the extent of 1/30th of the monthly rental per each day of interruption of the Sublessee's business or activity.

(d) In the event Sublessee is required to move to new premises, City will exert its best efforts to provide new premises comparable to the Premises but in the event Sublessee reasonably believes the move will have a substantially adverse effect on the activities or business of the Sublessee conducted in the Premises, the Sublessee may terminate this Sublease by giving written notice of termination to the City within thirty (30) days after the City has given the Sublessee the foregoing notice that the Sublessee must move.

40. <u>SPECIAL CONVENANTS</u>. Special Covenants including renewal and rent adjustment provisions, if any, are set forth in Exhibit “B” attached hereto and incorporated by reference in this Sublease.

IN WITNESS WHEREOF, City and Sublessee have signed this Sublease as of the day and year first above written.

ATTEST:

_____ _____

Jo Johnson, MMC, City Clerk Date

CITY:

CITY OF HOMER

_____

Walt Wrede, City Manager

SUBLESSEE:

ERA ALASKA

_____

Walter Dallis, Chief Financial Officer

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2014, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Walt Wrede, known to me to be the City Manager of the City of Homer, and he acknowledged to me that he was authorized to execute the foregoing document by authority granted him by the City of Homer for the uses and purposes therein set forth.

WITNESS my hand and notary seal the day and year first hereinabove written.

_____
Notary Public in and for Alaska
My Commission Expires:

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2014, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Walter Dallis, known to me to be the individual named in and who executed the foregoing document and he acknowledged to me that being duly authorized to do so he executed the foregoing document as the free and voluntary act and deed of Era Alaska, for the uses and purposes therein set forth.

WITNESS my hand and notary seal the day and year first hereinabove written.

_____
Notary Public in and for Alaska
My Commission Expires:

EXHIBIT A
HOMER AIRPORT TERMINAL
AIR CARRIER/TICKET COUNTER SUBLEASE

The legal description of the Premises is as follows:

Office area #108 and ticket area #107 (directly in front of office area #108), baggage make-up area (enplaning) directly behind office area #108. Office area #109. Cargo make-up area #129 and cargo counter area #128 (directly in front of cargo area #129). Baggage make-up area (deplaning) #115. Total area consisting of 1,380 square feet, in the Homer Airport Terminal Building, Homer Airport located in Township 6S, Range 13W, Seward Meridian, Section 21, Homer Recording District, Homer, Alaska, all situated on Lot 5A, Block 800, HOMER AIRPORT TRACTS according to the official plats on file with the State of Alaska, Department of Transportation and Public Facilities, Division of Aviation.

The attached drawing depicts the Premises being subleased and common areas of the Building used in common with other sublessees and City.

EXHIBIT B
HOMER AIRPORT TERMINAL
AIR CARRIER/TICKET COUNTER SUBLEASE
SPECIAL CONVENANTS

1. This Sublease does not include any right of renewal.

2. The annual rent provided for in paragraph 3 of the Sublease shall be adjusted annually on the first day of January 2015 and on the first day January of each year thereafter (each such day is a "Rent Adjustment Date") throughout the term and renewal terms, if any, of the Sublease as follows:

(a) The basis for computing the adjustment is the Consumer Price Index for All Urban Consumers (CPI-U) for Anchorage, Alaska, for All Items (1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Index published for the second half of the calendar year nearest, but preceding, the date of the commencement of the term of this Sublease is the "Beginning Index." The Index published for the second half of the calendar year nearest, but preceding, the Rent Adjustment Date is the "Extension Index." On the Rent Adjustment Date, the annual rent for the following year (until the next rent adjustment) shall be adjusted by increasing the initial annual rent stated in paragraph 3 of the Sublease by a percentage equal to the percentage of increase from the Beginning Index to the Extension Index. In no case shall the adjusted annual rent be less than the initial annual rent set forth in paragraph 3. Upon adjustment of the annual rent as provided in this Sublease, City shall promptly provide written notice to Sublessee stating the new annual rent, but its failure to do so will not relieve Sublessee of its obligation to pay the adjusted rent commencing as of the Rent Adjustment Date.

(b) If the Index is changed so the base year differs from that used as of the commencement of the term of this Sublease, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

3. In addition to the uses authorized in paragraph 4 of the Sublease, Sublessee is authorized to conduct aircraft fueling operations in conformance with the requirements of the Base Lease, as amended by Supplement No. 1. By conducting aircraft fueling operations, Sublessee, with respect to Sublessee's aircraft fueling operations, voluntarily assumes all responsibilities and liabilities assigned to the "Lessee" in Supplement No. 1, and further agrees to hold harmless, defend, and indemnity the City and DOT/PF from and against any and all losses, liabilities, damages, claims, costs, expenses and attorney fees, resulting from or arising out of Sublessee's aircraft fueling operations or its breach in performance of the obligations of the "Lessee" under Supplement No. 1, or both. Nothing contained in this paragraph shall be construed as any limitation of any other hold harmless, defense, or indemnity provision of the Lease, and in the case of any conflict between such provisions, the provision granting the greater protection to the City shall control.

HOMER RECORDING DISTRICT

MEMORANDUM OF SUBLEASE

CITY OF HOMER ("City"), whose mailing address is 491 East Pioneer Avenue, Homer, Alaska 99603, and **ERA ALASKA,** ("Sublessee"), whose mailing address is 4700 Old International Airport Road, Anchorage, Alaska 99502, entered a Sublease dated _____, 201____("the Sublease").

1. **Leased Premises.** Under the terms of the Sublease, City leases to Sublessee the premises consisting of 1,380 square feet of space as more fully described and/or depicted on Exhibit "A" attached hereto, located in the Homer Airport Terminal Building located on Lot 5A, Block 800, HOMER AIRPORT TRACTS, Homer Recording District, State of Alaska, according to the official plats on file with the State of Alaska, Department of Transportation and Public Facilities, Division of Aviation.

2. **Term of Lease.** The term of the Sublease commences on December 31, 2013 and terminates on December 31, 2018.

IN WITNESS WHEREOF, the parties to Sublease set their hands and seals the dates set forth below.

ATTEST:

_____ _____
Jo Johnson, CMC, City Clerk Date

CITY:
CITY OF HOMER

SUBLESSEE:
ERA ALASKA

_____ _____
Walt Wrede, City Manager Date

_____ _____
Walter Dallis, CFO Date

STATE OF ALASKA)
) **ss.**
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____ , 2014, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Walt Wrede, known to me to be the City Manager of the City of Homer, and he acknowledged to me that he was authorized to execute the foregoing document by authority granted him by the City of Homer for the uses and purposes therein set forth.

WITNESS my hand and notary seal the day and year first hereinabove written.

_____
Notary Public in and for Alaska
My Commission Expires:

STATE OF ALASKA)
) **ss.**
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2014, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Walter Dallis, known to me to be the individual named in and who executed the foregoing document and he acknowledged to me that being duly authorized to do so he executed the foregoing document as the free and voluntary act and deed of Era Alaska, for the uses and purposes therein set forth.

WITNESS my hand and notary seal the day and year first hereinabove written.

_____
Notary Public in and for Alaska
My Commission Expires:

CITY OF HOMER
HOMER, ALASKA

City Clerk/
Public Works Director

RESOLUTION 14-025

A RESOLUTION OF THE HOMER CITY COUNCIL AWARDING THE CONTRACT FOR THE HOMER HARBOR FACILITIES IMPROVEMENTS 2014 TO THE FIRM OF HARRIS SAND & GRAVEL, INC. OF VALDEZ, ALASKA, IN THE AMOUNT OF $4,834,748.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, In accordance with the Procurement Policy, the Invitation to Bid was advertised in the Homer News on November 21 and 27, 2013 and the Peninsula Clarion on November 24, 2013, and sent to two in-state plans rooms, and posted on the Clerk's home page; and

WHEREAS, Bids were due on December 20, 2013 and Addendum #2 was issued to extend the due date until January 16, 2014; and

WHEREAS, Four bids were received and after review the firm of Harris Sand & Gravel, Inc. of Valdez, Alaska was determined to be the lowest responsive bidder and found to be qualified to complete the work; and

WHEREAS, This award is not final until written notification is received by Harris Sand & Gravel, Inc. from the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves the contract award for the Homer Harbor Facilities Improvements 2014 to the firm of Harris Sand & Gravel, Inc. of Valdez, Alaska, in an amount not to exceed $4,834,748.00 and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 27th day of January, 2014.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: Harbor Float Replacement 415-0920 (GLA 01); Ramp #3 Replacement: 415-0920 (GLA 03).

Memorandum 14-020

To:	Walt Wrede, City Manager
From:	Dan Nelsen, Project Manager
Through:	Carey Meyer, PW Director
Date:	Tuesday, January 21, 2014
Subject:	**Award of Construction Contract** **Homer Harbor Facilities Improvements - 2014**

On January 16, 2014 bids were opened for the **Homer Harbor Facilities Improvements - 2014**. This work was advertised in the Homer News and the Peninsula Clarion during the month of November.

This project consists of the removal and reconstruction of the Ramp 3approach and gangway. The removal and replacement of "A" float from "E" to "K" float and the removal and replacement of "J", "R" and "S" floats. In conjunction with the float renovations there will be electrical and plumbing upgrades.

Four responsive bids were received from qualified firms. The bid results were totaled and the results are as follows.

Responsive Bidder's Names

Harris Sand & Gravel, Inc.	$ 4,834,748.00
Western Marine Construction, Inc.	$ 4,969,900.00
Jay-Brant General Contractors, LLC.	$ 5,741,283.00
Pacific Pile & Marine, LP.	$ 6,153,690.00
Engineer's Estimate	$ 7,059,280.00

The only local bidder was more than 5% of the lowest bid received, therefore, it does not apply.

Recommendation:

City Council pass a resolution awarding the construction contract for the Homer Harbor Facilities Improvements – 2014 in the amount of $4,834,748.00 to **Harris Sand & Gravel, Inc**. of Valdez, Alaska and authorizing the City Manager to execute all appropriate documents necessary to complete this project.

Fiscal Note: Account No.'s:

Harbor Float Replacement: 415-0920 (GLA 01)
Ramp #3 Replacement: 415-0920 (GLA 03)

NOV 15 2013

INVITATION TO BID
By the City of Homer, Alaska, for the
Homer Harbor Facilities Improvements - 2014

Sealed bids for the construction of the **Homer Harbor Facilities Improvements - 2014** will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **2:00 p.m. Friday, December 20, 2013**, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. **All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive.** Plan holder registration forms, and Plans and Specifications are available on line at http://www.cityofhomer-ak.gov/rfps

The project is funded 50% by the State Municipal Harbors Grant Program and 50% by local funds. The City's local bidder's 5% preference requirements do not apply; State prevailing wage rates will apply. The work includes, but is not limited to the following:

The project consists of removal and reconstruction of the Ramp 3 approach and gangway. The removal and replacement of "A" Float from "E" to "K" Float and the removal and replacement of "J", "R", and "S" Floats. In conjunction with the float renovations there will be electrical and plumbing upgrades.

Please direct all technical questions regarding this project to: Dan Nelsen, City of Homer, Public Works Department, 3575 Heath Street, Homer, Alaska, 99603, (907) 435-3141.

A mandatory pre-bid conference will be held on Wednesday, December 4th at 2:00 p.m. at the Harbormaster's Office, 4350 Homer Spit Road, Homer, Alaska, to answer any questions bidders may have.

Plan holder registration forms, and Plans and Specifications are available online at http://www.cityofhomer-ak.gov/rfps **All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive.** Hard copies can be obtained at the Office of the City Clerk upon payment of $250 per set ($280 for overnight delivery). City of Homer Standard Construction Specifications 2011 Edition (containing general contract provisions) may be downloaded from the City's website. All fees are non-refundable. The City of Homer reserves the right to accept or reject any or all bids, to waive irregularities or informalities in the bids, and to award the contract to the lowest responsive bidder.

Dated this 15th day of November, 2013.

CITY OF HOMER

Walt Wrede, City Manager

Homer News – November 21 and 27, 2013
Peninsula Clarion – November 24, 2013

Fiscal Note: 415-920 (GLA#1&3)

VISITORS

Kachemak Bay National Estuarine Research Reserve (KBNERR) Speaking Points

Designation of the Reserve:

- KBNERR was designated as Alaska's first and, only Research Reserve in 2002. Designation was initiated by members of the Homer community in coordination with ADF&G (Habitat Division) and the National Estuarine Research Reserve System (NERRS).
- KBNERR became the 22nd Reserve within the NERRS system, under the National Oceanic and Atmospheric Administration, and is the only sub-arctic NERR in the nation.
- All NERRS are made of partnership between NOAA & a state entity – in Alaska this partnership is ADF&G.
- KBNERR also has a Community Council that fosters dialogue about local coastal issues of concern and provides recommendations. Council members consist of local residents and agency representatives.
- KBNERR was originally managed under ADF&G's Habitat Division until 2003 when that Division was removed from ADFG (Murkowski administration). At that time KBNERR state partnership was transferred to the Sport Fish Division.

Contributions of the Reserve to Homer:

- Funding-KBNERR is an economic driver in the community & has an annual operating budget of nearly $2 million. This funding results in a significant # of local jobs, visiting professionals & expenditures within the community.
- Program outcomes- KBNERR partners with local NGO's, universities, state and federal agencies, which contribute additional grant funding totaling millions of dollars.
- These partnerships bring highly-skilled professionals to Homer, who contribute cutting-edge research and scientific understanding of Kachemak Bay and the surrounding landscape and waters.
- Examples of KBNERR research that has contributed directly to the City include: coastal bluff erosion, sea level rise and coastal uplift, and juvenile salmon nursery research.
- Facilities: KBRR was instrumental in the construction of AIOVC & the state rental agreement is crucial for operating the facility, which is an asset to the community & hosts 75,000 visitors each year. KBRR maintains 2 other facilities; bunkhouse utilized by numerous agencies, including NOAA, ADFG, State Parks, & National Park Service, and a laboratory and storage facility used by KBNERR staff and graduate students.
- KBNERR education programs at AIOVC reach over 3,500 people per year through highly successful public and K-12 programming.
- Through the Coastal Training Program, a NERR system initiative, KBNERR translates state of the art science in a unique approach that engages decision makers and improves coastal management.
- KBNERRs mission is broader than Sport Fish's mission of managing fishery resources for sustained yield, KBRR research, education, & coastal decision-maker programs include understanding of ecosystem processes & coastal change.

Issue- Need for New State Partner:

- Alaska Department of Fish and Game (ADFG), Division of Sport Fish is undergoing a period of sustained budget constraints associated with decreases to the State of Alaska General Funds.
- The General Fund is integral in providing non-federal match to the partnership and contributes ~30% of KBNERR's annual operating budget.
- While the General Fund outlook for fiscal year 2015 is uncertain, indications suggest a shortfall will be experienced that necessitate a cut to the General Fund contribution to the KBNERR budget.
- KBNERR is a federal-state partnership that is funded by NOAA (35%), ADFG (18%) and grants (competitive and non-competitive-47%).
- Thus, it is ADF&G Sport Fish Division's intent to alleviate fiscal stress by seeking a new state partner for KBNERR with a mission related to coastal and estuarine stewardship.

KBNERR Partner needs:

- A partner that would have the ability to maintain the current matching fund obligation of 50% of NOAA funding
- A partner with an aligned organizational mission, culture, and willingness to recognize the value of research, education, and coastal training programs & allows reasonable autonomy for KBNERR to broaden their funding base.
- A partner with the desire to maintain meaningful relationships within the community and commitment to the long-term value of seeing the KBNERR continue to grow and offer its service to Homer.

ANNOUNCEMENTS
PRESENTATIONS
BOROUGH REPORT
COMMISSION REPORTS

CITY OF HOMER
HOMER, ALASKA

MAYOR'S PROCLAMATION

Congenital Heart Defect Awareness Week

February 7 - 14, 2014

WHEREAS, Congenital heart defects are the most frequently occurring birth defect and the leading cause of birth defect related deaths worldwide; and

WHEREAS, Over a million families across America are facing the challenges and hardships of raising children with congenital heart defects; and

WHEREAS, Every year, 40,000 babies are born in the United States with congenital heart defects; and

WHEREAS, Some congenital heart defects are not diagnosed until months or years after birth; and

WHEREAS, Undiagnosed congenital heart conditions cause many cases of sudden cardiac death in young athletes; and

WHEREAS, Congenital Heart Defect Awareness Week provides an opportunity for families whose lives have been affected to celebrate life and to remember loved ones lost, to honor dedicated health professionals, and to meet others and know they are not alone.

NOW, THEREFORE, I, Mary E. Wythe, Mayor of the City of Homer, do hereby proclaim February 7 – 14, 2014 as:

Congenital Heart Defect Awareness Week

and encourage families to share experiences and information with the public and the media in order to raise public awareness about Congenital Heart Defects.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

Kate Crowley
P.O. Box 2862
Homer, AK 99603

January 15, 2014

Dear City Council,
I just wanted to write to you and let you know that ReCreate Rec and its members raised a grand total of $ 6,280 to put towards a Park and Rec needs assessment and the following people were contributors. I am excited about the needs assessment and hope that the communication lines stay open during this process of improving and meeting the needs of our community when it comes to recreation in all of its forms! Thanks for all of your hard work and dedication to Homer.
Sincerely,
Kate Crowley

Roberta Highland and Robert Archibald
Christopher and Ola Mullikin
Gus Van Dyke
Wendy and Micky Todd
Homer Little League
Mary Griswold
Lindianne Sarno and Bumpo Bremicker
Jennifer Dickson
Weatherly and Greg Bates
Diana Carbonell
Kathy Hill
Best Beginnings/Sprout Family Services
Mike and Cheryl Illg
Buck and Shelly Laukitis
Kathryn Crowley
Michelle and Shaun Hatton
Ted and Emilie Otis
Saundra Hudson and Chris Perk
Lee Roy and Janna Davis
Cissy Rockett
Justin and Rebekah Theriot
Patrick and Kate Henry
Sue Rennolds
Ross and Jennifer Fonkert
Bob Shavelson and Miranda Weiss

PUBLIC HEARING(S)

CITY OF HOMER

NOTICE OF PUBLIC HEARING

WEBBER SUBDIVISION
ROAD RECONSTRUCTION AND PAVING
SPECIAL ASSESSMENT DISTRICT

The Homer City Council will hear objections to the assessment roll for Webber Subdivision Road Reconstruction and Paving Special Assessment District on January 27, 2014 during a Regular City Council meeting at 6:00 p.m. The meeting will be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

All owners of record are welcome to attend and give testimony concerning errors or inequalities on their assessment. Written comments received prior to January 21, 2014 will be included in the City Council's packet as a part of the record.

Please take note, State Law provides that, "the validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation."

After public hearing, the City Council shall correct errors and inequalities in the roll and confirm the roll at the February 10, 2014 regular meeting. Time and method of payment shall then be fixed by resolution; payments may not be required sooner than sixty days after billing and may be paid in full or by other available terms.

Notice of hearing and assessment roll was mailed to owners of record on January 2, 2014. Questions concerning the assessment roll or hearing may be directed to the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603, phone (907) 235-3130, fax (907) 235-3143, email clerk@ci.homer.ak.us.

Dated this 2nd day of January, 2014

Jo Johnson, MMC, City Clerk

Account No. 160-774

Publish: Homer Tribune: January 22, 2014

CITY OF HOMER

NOTICE OF PUBLIC HEARING

CRITTENDEN DRIVE
ROAD RECONSTRUCTION AND PAVING
SPECIAL ASSESSMENT DISTRICT

The Homer City Council will hear objections to the assessment roll for Crittenden Drive Road Reconstruction and Paving Special Assessment District on January 27, 2014 during a Regular City Council meeting at 6:00 p.m. The meeting will be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

All owners of record are welcome to attend and give testimony concerning errors or inequalities on their assessment. Written comments received prior to January 21, 2014 will be included in the City Council's packet as a part of the record.

Please take note, State Law provides that, "the validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation."

After public hearing, the City Council shall correct errors and inequalities in the roll and confirm the roll at the February 10, 2014 regular meeting. Time and method of payment shall then be fixed by resolution; payments may not be required sooner than sixty days after billing and may be paid in full or by other available terms.

Notice of hearing and assessment roll was mailed to owners of record on January 2, 2014. Questions concerning the assessment roll or hearing may be directed to the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603, phone (907) 235-3130, fax (907) 235-3143, email clerk@ci.homer.ak.us.

Dated this 2nd day of January, 2014

Jo Johnson, MMC, City Clerk

Account No. 160-774

Publish: Homer Tribune: January 22, 2014

CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, CMC, Deputy City Clerk I for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for Webber Subdivision Road Reconstruction and Paving Special Assessment District; and Crittenden Drive Road Reconstruction and Paving Special Assessment District was distributed to the City of Homer kiosks located at City Clerk's Office, Captain's Coffee Roasting Co., Harbormaster's Office and Redden Marine on Friday, January 10, 2014 and that the City Clerk posted same on City of Homer Homepage on Thursday, January 9, 2014.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 10th day of January, 2014.

Renee Krause

Renee Krause, CMC, Deputy City Clerk I

CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING

Ordinances 14-01, 14-03, and 14-04
Crittenden Drive Road Reconstruction and Paving Special Assessment District
Webber Subdivision Road Reconstruction and Paving Special Assessment District

A **public hearing** is scheduled for **Monday, January 27, 2014** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Crittenden Drive Road Reconstruction and Paving Special Assessment District

Webber Subdivision Road Reconstruction and Paving Special Assessment District

Ordinances 14-01, 14-03, and 14-04 internet address:
http://www.cityofhomer-ak.gov/ordinances

Ordinance 14-01, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.78.010, Commission - Creation and Membership, to Make the Director of the Homer Chamber of Commerce an Ex Officio, Non-Voting Member of the Economic Development Advisory Commission. City Clerk/Economic Development Advisory Commission.

Ordinance 14-03, An Ordinance of the Homer City Council, Amending HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100, to Repeal the Exemption From City Sales Tax of Sales of Nonprepared Foods From September 1st Through May 31st; Amending HCC 9.16.010 to Dedicate a Sales Tax of One-Quarter Percent (.25%) to Fund a Parks and Recreation Department; and Submitting the Question of Repealing Such Sales Tax Exemption and Such Sales Tax Dedication to the Qualified Voters of the City at the October 7, 2014 Regular City Election. Burgess.

Ordinance 14-04, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $35,000 From the Port and Harbor Depreciation Reserves to Replace the Fish Grinder in the Fish Waste Grinding Facility. City Manager/Port and Harbor Director. Introduction January 13, 2014, Public Hearing and Second Reading January 27, 2014.

►►♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦◄◄

All interested persons are welcomed to attend and give testimony. Written testimony received by the Clerk's Office prior to the meeting will be provided to Council.

** Copies of proposed Ordinances, in entirety, are available for review at Homer City Clerk's Office. Copies of the proposed Ordinances are available for review at City Hall, the Homer Public Library, the City of Homer Kiosks at City Clerk's Office, Captain's Coffee, Harbormaster's Office, and Redden Marine Supply of Homer and the City's homepage -

http://clerk.ci.homer.ak.us. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us or fax 235-3143.

Jo Johnson, MMC, City Clerk

Publish: Homer News: January 23, 2014

CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, CMC, Deputy City Clerk for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for Webber Subdivision Road Reconstruction and Paving Special Assessment District; Crittenden Drive Road Reconstruction and Paving Special Assessment District; Ordinance 14-01, Amending Homer City Code 1.78.010, Commission – Creation and Membership, to Make the Director of the Homer Chamber of Commerce and Ex Officio, Non-voting Member of the Economic Development Advisory Commission; Ordinance 14-03, Amending Homer City Code 9.16.040, Repealing and reenacting Homer City Code 9.16.100, to Repeal the Exemption from City Sales Tax of Sales of Non-Prepared Foods from September 1st Through May 31st; Amending Homer City Code 9.16.010, to Dedicate a Sales Tax of One Quarter Percent (.25%) to Fund a Parks and Recreation Department; and Submitting the Question of Repealing Such Sales Tax Exemption and Such Sales Tax Dedication to the Qualified Voters of the City at the October 7, 2014 Regular City Election; and Ordinance 14-04, Amending the FY 2014 Operating Budget by Appropriating $35,000 from the Port and Harbor Depreciation Reserves to Replace the Fish Grinder in the Fish Waste Grinding Facility was distributed to the City of Homer kiosks located at City Clerk's Office, Captain's Coffee Roasting Co., Harbormaster's Office and Redden Marine on Friday, January 17, 2014 and that the City Clerk posted same on City of Homer Homepage on Thursday, January 16, 2014.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 17th day of January, 2014.

Renee Krause

Renee Krause, CMC, Deputy City Clerk I

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

January 2, 2014

Dear Property Owner:

Crittenden Drive Road Reconstruction and Paving Special Assessment District
Final Assessment Roll

Now that construction has been completed and Public Works has accepted the project, we are sending you the final assessment roll and public hearing notice for the road assessment district wherein you are listed as a record owner.

The Homer City Council has set **January 27, 2014** at **6:00 p.m.** as the time to hear objections to the final assessment roll. Homer City Code Section 17.04.080 states, "After the hearing the council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the council shall confirm the assessment roll by resolution. The city clerk shall record the resolution and confirmed assessment roll with the district recorder."

If you are unable to attend the hearing, written objections and or comments must be received no later than Tuesday, January 21, 2014 to be included in the City Council packet or no later than 11 a.m. on Monday, January 27, 2014 Council meeting day to be recorded as part of the record of the hearing.

If I can answer any questions for you about the hearing or assessments, please feel free to call me at 235-3130.

Sincerely,

Jo Johnson, MMC, City Clerk

Enc. Public Hearing Notice Crittenden Drive
Final Assessment Roll
Map

CITY OF HOMER

NOTICE OF PUBLIC HEARING

CRITTENDEN DRIVE
ROAD RECONSTRUCTION AND PAVING
SPECIAL ASSESSMENT DISTRICT

The Homer City Council will hear objections to the assessment roll for Crittenden Drive Road Reconstruction and Paving Special Assessment District on January 27, 2014 during a Regular City Council meeting at 6:00 p.m. The meeting will be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

All owners of record are welcome to attend and give testimony concerning errors or inequalities on their assessment. Written comments received prior to January 21, 2014 will be included in the City Council's packet as a part of the record.

Please take note, State Law provides that, "the validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation."

After public hearing, the City Council shall correct errors and inequalities in the roll and confirm the roll at the February 10, 2014 regular meeting. Time and method of payment shall then be fixed by resolution; payments may not be required sooner than sixty days after billing and may be paid in full or by other available terms.

Notice of hearing and assessment roll was mailed to owners of record on January 2, 2014. Questions concerning the assessment roll or hearing may be directed to the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603, phone (907) 235-3130, fax (907) 235-3143, email clerk@ci.homer.ak.us.

Dated this 2nd day of January, 2014

Jo Johnson, MMC, City Clerk

Account No. 160-774

Publish: Homer Tribune: January 22, 2014

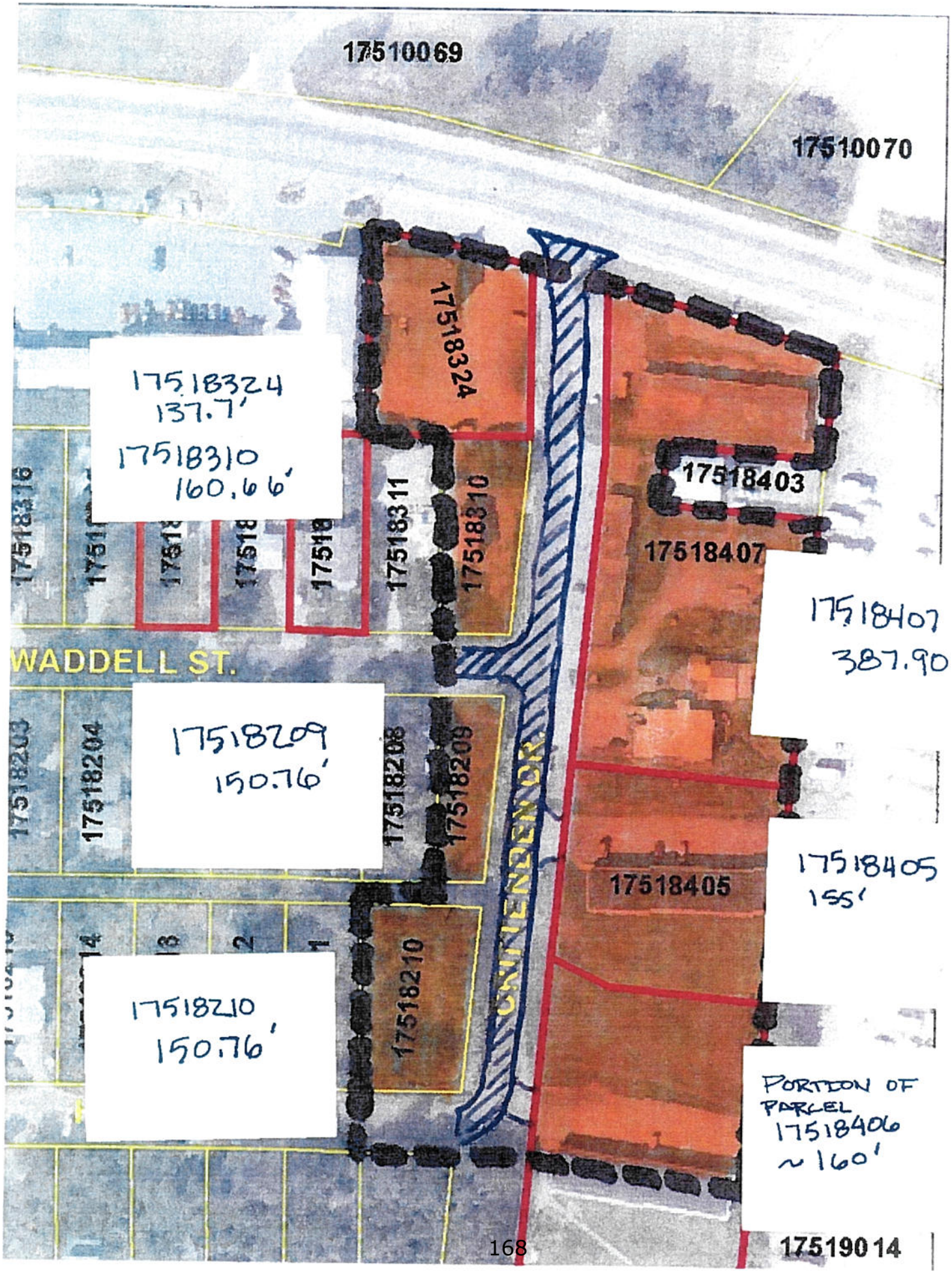
FINAL ASSESSMENT ROLL

PROJECT NAME: CRITTENDEN DRIVE ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT DATE: DECEMBER 27, 2013

Total Project Cost: $294,767
Abutting Property Owners Assessed $30 per front foot for gravel and $17 per front foot for paving: $61,230.66
Homer Accelerated Roads and Trails Program (HART) Share: $233,536.34

OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESSED PROPERTY OWNER SHARE OF ASSESSMENT
Clayton & Joan Ellington PO Box 833 Homer, AK 99603	Lot 8-A1, Webber Subdivision 175-183-24	$422,700	137.7	$6,471.90
Homer Hotels LLC 575 Sterling Hwy Homer, AK 99603	Lot 10-A, Webber Subdivision No. 7 175-183-10	$145,300	160.66	$7,551.02
Kyoko Haseo PO Box 1972 Soldotna, AK 99669	Lot 9 Block 2, Webber Subdivision 175-182-09	$35,100	150.76	$7,085.72
Virginia M. Harris 3945 Balchen Dr. Anchorage, AK 99517	Lot 10 Block 2, Webber Subdivision 175-182-10	$46,300	150.76	$7,085.72
Michael J. Warburton 3500 Crittenden Dr. Homer, AK 99603	Lot 2, Webber Subdivision No. 6 175-184-05	$430,800	155	$7,285.00
	Tract 1-A, Webber Subdivision No. 8 175-184-07	$457,600	387.90	$18,231.30
	Lot 3, Webber Subdivision No. 6 175-184-06	$650,300	160	$7,520.00

12/27/13 - jj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CRITTENDEN DR.
17518405
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17518210
150.76'
PORTION OF PARCEL
17518406
~160'
17519014

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

January 2, 2014

Dear Property Owner:

Webber Subdivision Road Reconstruction and Paving Special Assessment District
Final Assessment Roll

Now that construction has been completed and Public Works has accepted the project, we are sending you the final assessment roll and public hearing notice for the road assessment district wherein you are listed as a record owner.

The Homer City Council has set **January 27, 2014** at **6:00 p.m.** as the time to hear objections to the final assessment roll. Homer City Code Section 17.04.080 states, "After the hearing the council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the council shall confirm the assessment roll by resolution. The city clerk shall record the resolution and confirmed assessment roll with the district recorder."

If you are unable to attend the hearing, written objections and or comments must be received no later than Tuesday, January 21, 2014 to be included in the City Council packet or no later than 11 a.m. on Monday, January 27, 2014 Council meeting day to be recorded as part of the record of the hearing.

If I can answer any questions for you about the hearing or assessments, please feel free to call me at 235-3130.

Sincerely,

Jo Johnson, MMC, City Clerk

Enc. Public Hearing Notice Webber Subdivision
Final Assessment Roll
Map

CITY OF HOMER

NOTICE OF PUBLIC HEARING

WEBBER SUBDIVISION
ROAD RECONSTRUCTION AND PAVING
SPECIAL ASSESSMENT DISTRICT

The Homer City Council will hear objections to the assessment roll for Webber Subdivision Road Reconstruction and Paving Special Assessment District on January 27, 2014 during a Regular City Council meeting at 6:00 p.m. The meeting will be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

All owners of record are welcome to attend and give testimony concerning errors or inequalities on their assessment. Written comments received prior to January 21, 2014 will be included in the City Council's packet as a part of the record.

Please take note, State Law provides that, "the validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation."

After public hearing, the City Council shall correct errors and inequalities in the roll and confirm the roll at the February 10, 2014 regular meeting. Time and method of payment shall then be fixed by resolution; payments may not be required sooner than sixty days after billing and may be paid in full or by other available terms.

Notice of hearing and assessment roll was mailed to owners of record on January 2, 2014. Questions concerning the assessment roll or hearing may be directed to the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603, phone (907) 235-3130, fax (907) 235-3143, email clerk@ci.homer.ak.us.

Dated this 2nd day of January, 2014

Jo Johnson, MMC, City Clerk

Account No. 160-774

Publish: Homer Tribune: January 22, 2014

FINAL ASSESSMENT ROLL

PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT

DATE: DECEMBER 27, 2013

TOTAL PROJECT COST: $461,045
Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $90,685.56
Homer Accelerated Roads and Trails Program (HART) Share: $370,359.44

OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
Rex D. Kaufman PO Box 15362 Fritz Creek, AK 99603	Lot 1, Bluff Park No. 4 Harmon Porter Addn. 175-100-54	$222,500	166.2'	$7,811.40
Wilfred V. Jr. & Jacqueline J. Dentz 656 Waddell St. Homer, AK 99603	Lot 2, Bluff Park No. 4 Harmon Porter Addn. 175-100-55	$331,800	75.68'	$3,556.96
Kevin L. Gottlieb 1842 Bootlegger Cove Dr. Anchorage, AK 99501	Lot 3, Bluff Park No. 4 Harmon Porter Addn. 175-100-56	$369,200	75.0'	$3,525.00
John & Barbara Valensi 418 Mt. Vernon Dr. Council Bluffs, IA 51503	Lot 4, Bluff Park No. 4 Harmon Porter Addn. 175-100-57	$115,900	127.9'	$6,011.30
Charles A. Gibson & Deborah A. Poore 710 Waddell St. Homer, AK 99603	Lot 5, Bluff Park No. 4 Harmon Porter Addn. 175-100-58	$231,800	72.8'	$3,421.60
Thomas D. Renfrew & Carol L. Porter-Renfrew 645 Waddell St. Homer, AK 99603	Lot 8, Bluff Park No. 4 Harmon Porter Addn. 175-100-61	$265,700	155.8'	$7,322.60

12/27/13- jj

FINAL ASSESSMENT ROLL

PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT

DATE: DECEMBER 27, 2013

TOTAL PROJECT COST: $461,045
Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $90,685.56
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OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
Matthew Early 609 Waddell St. Homer, AK 99603	Lot 9, Bluff Park No. 4 Harmon Porter Addn. 175-100-62	$230,200	109.9'	$5,165.30
Kurt St. Jean 722 Waddell St. Homer, AK 99603	Lot 6A, Bluff Park Harmon Porter 1997 Addn. 175-100-64	$220,200	77.1'	$3,623.70
David K. & Jennifer A. Olsen PO Box 3944 Homer, AK 99603	Lot 7A, Bluff Park Harmon Porter 1997 Addn. 175-100-66	$196,000	109.1'	$5,127.70
John Phillip Rummery 579 Waddell St. Homer, AK 99603	Lot 2 Block 2, Webber Subdivision 175-182-02	$145,000	60.0'	$2,820.00
Danile B. Perry PO Box 572 Homer, AK 99603	Lot 4 Block 2, Webber Subdivision 175-182-04	$140,000	60.0'	$2,820.00
Kary B. Greeley 3430 Main St. Ste B2 Homer, AK 99603	Lot 5 Block 2, Webber Subdivision 175-182-05	$182,500	60.0'	$2,820.00

12/27/13- jj

FINAL ASSESSMENT ROLL

PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT

DATE: DECEMBER 27, 2013

TOTAL PROJECT COST: $461,045
Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $90,685.56
Homer Accelerated Roads and Trails Program (HART) Share: $370,359.44

OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
Kyoko Haseo PO Box 1972 Soldotna, AK 99669	Lot 6 Block 2, Webber Subdivision 175-182-06	$40,200	60.0'	$2,820.00
	Lot 7 Block 2, Webber Subdivision 175-182-07	$40,200	60.0'	$2,820.00
	Lot 8 Block 2, Webber Subdivision 175-182-08	$139,100	60.0'	$2,820.00
Homer Hotels, LLC 575 Sterling Hwy Homer, AK 99603	Lot 11-A, Webber Subdivision No. 7 175-183-11	$123,100	60.0'	$2,820.00
Leonard H. Van Sandt 2020 Campbell Pl. Anchorage, AK 99507	Lot 13-A, Webber Subdivision No. 7 175-183-13	$140,200	60.0'	$2,820.00
Stephen R. & Kathleen A. Boyle 544 Waddell St. Homer, AK 99603	Lot 14-A, Webber Subdivision No. 7 175-183-14	$126,500	60.0'	$2,820.00
John R. & Judith E. Johnson 236 W. Rezanof Dr. Kodiak, AK 99615	Lot 15-A, Webber Subdivision No. 7 175-183-15	$184,200	60.0'	$2,820.00
Laura L. Todd PO Box 688 Homer, AK 99603	Lot 16-A, Webber Subdivision No. 7 175-183-16	$96,200	60.0'	$2,820.00

12/27/13- jj

FINAL ASSESSMENT ROLL

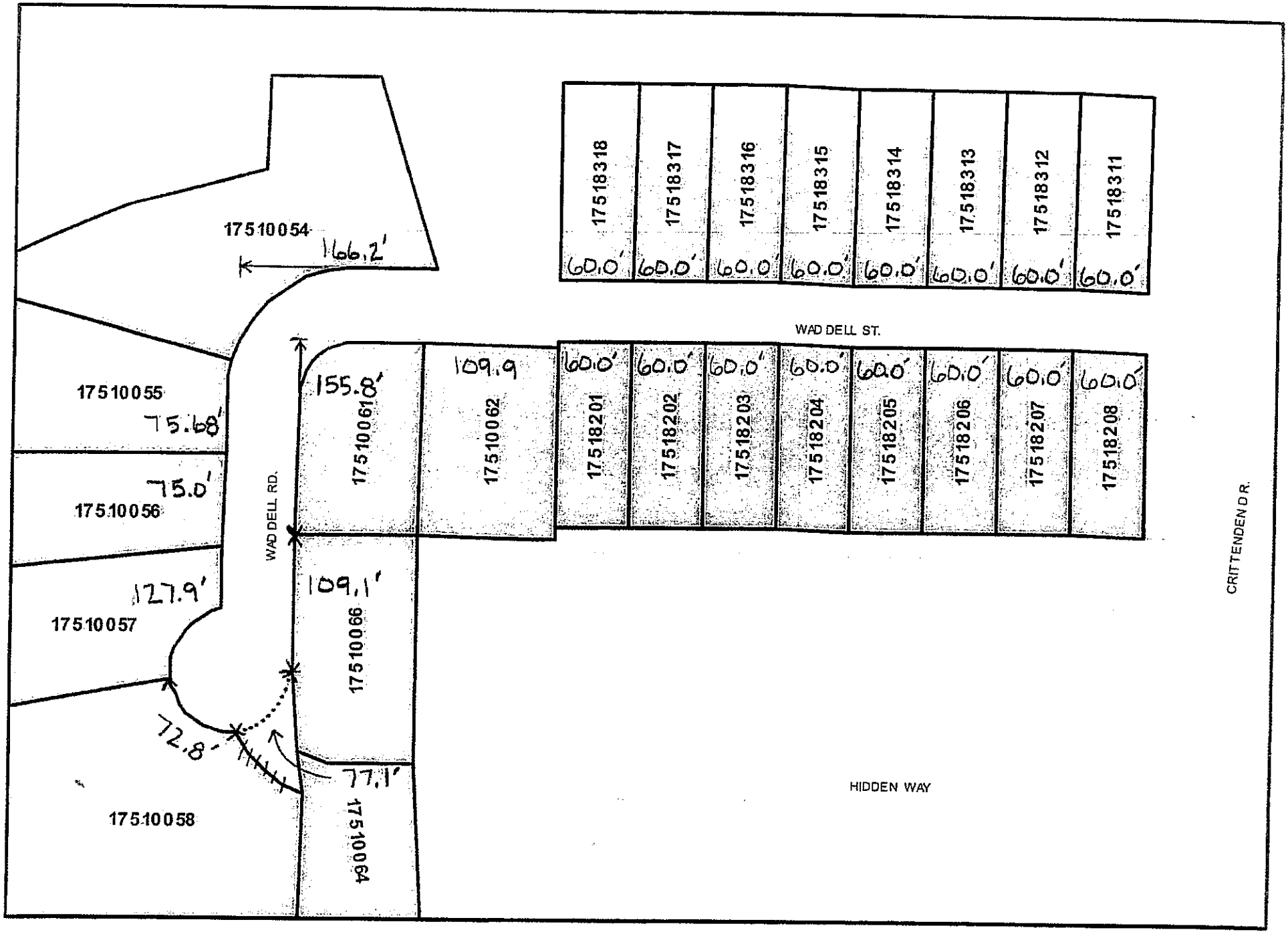
PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT

DATE: DECEMBER 27, 2013

TOTAL PROJECT COST: $461,045
Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $90,685.56
Homer Accelerated Roads and Trails Program (HART) Share: $370,359.44

OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
Michael C. & Rebecca B. Frye 580 Waddell St. Homer, AK 99603	Lot 17-A, Webber Subdivision 175-183-17	$221,100	60.0'	$2,820.00
Paul D. Gutzler 567 Waddell St. Homer, AK 99603	Lot 3 Block 2, Webber Subdivision 175-182-03	$141,500	60.0'	$2,820.00
Charles & Barbara Deal PO Box 2584 Homer, AK 99603	Lot 18-A, Webber Subdivision No. 7 175-183-18	$145,200	60.0'	$2,820.00
Douglas L. Tuttle & Barbara D. Kaun PO Box 3542 Homer, AK 99603	Lot 12-A, Webber Subdivision No. 7 175-183-12	$150,600	60.0'	$2,820.00
Claudia L. Carlson PO Box 124 Homer, AK 99603	Lot 1 Block 2, Webber Subdivision 175-182-01	$159,600	60.0'	$2,820.00

12/27/13- jj



Waddell Rd. & Waddell St. L.I.D.

0 25 50 100 150 200 Feet

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

January 7, 2014

Dear Property Owner:

Crittenden Drive Road Reconstruction and Paving Special Assessment District
Final Assessment Roll-CORRECTED

We are sending you the CORRECTED final assessment roll for the road assessment district wherein you are listed as a record owner. A recent notice issued included an incorrect final assessment amount. Please disregard that document.

The Homer City Council has set January 27, 2014 at 6:00 p.m. as the time to hear objections to the final assessment roll. Homer City Code Section 17.04.080 states, "After the hearing the council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the council shall confirm the assessment roll by resolution. The city clerk shall record the resolution and confirmed assessment roll with the district recorder."

If you are unable to attend the hearing, written objections and or comments must be received no later than Tuesday, January 21, 2014 to be included in the City Council packet or no later than 11 a.m. on Monday, January 27, 2014 Council meeting day to be recorded as part of the record of the hearing.

If I can answer any questions for you about the hearing or assessments, please feel free to call me at 235-3130.

Sincerely,

Jo Johnson, MMC, City Clerk

Enc. Final Assessment Roll - CORRECTED

FINAL ASSESSMENT ROLL

PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT

DATE: JANUARY 7, 2014

TOTAL PROJECT COST: $461,045
Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $61,601.16
Homer Accelerated Roads and Trails Program (HART) Share: $399,443.84

OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
Rex D. Kaufman PO Box 15362 Fritz Creek, AK 99603	Lot 1, Bluff Park No. 4 Harmon Porter Addn. 175-100-54	$222,500	166.2' (paving only)	~~$7,811.40~~ $2,825.40
Wilfred V. Jr. & Jacqueline J. Dentz 656 Waddell St. Homer, AK 99603	Lot 2, Bluff Park No. 4 Harmon Porter Addn. 175-100-55	$331,800	75.68' (paving only)	~~$3,556.96~~ $1,286.56
Kevin L. Gottlieb 1842 Bootlegger Cove Dr. Anchorage, AK 99501	Lot 3, Bluff Park No. 4 Harmon Porter Addn. 175-100-56	$369,200	75.0' (paving only)	~~$3,525.00~~ $1,275.00
John & Barbara Valensi 418 Mt. Vernon Dr. Council Bluffs, IA 51503	Lot 4, Bluff Park No. 4 Harmon Porter Addn. 175-100-57	$115,900	127.9' (paving only)	~~$6,011.30~~ $2,174.30
Charles A. Gibson & Deborah A. Poore 710 Waddell St. Homer, AK 99603	Lot 5, Bluff Park No. 4 Harmon Porter Addn. 175-100-58	$231,800	72.8' (paving only)	~~$3,421.60~~ $1,237.60
Thomas D. Renfrew & Carol L. Porter-Renfrew 645 Waddell St. Homer, AK 99603	Lot 8, Bluff Park No. 4 Harmon Porter Addn. 175-100-61	$265,700	155.8' (paving only)	~~$7,322.60~~ $2,648.60

01/07/14- rk

FINAL ASSESSMENT ROLL

PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT

DATE: JANUARY 7, 2014

TOTAL PROJECT COST: $461,045
Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $61,601.16
Homer Accelerated Roads and Trails Program (HART) Share: $399,443.84

OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
Matthew Early 609 Waddell St. Homer, AK 99603	Lot 9, Bluff Park No. 4 Harmon Porter Addn. 175-100-62	$230,200	109.9' (paving only)	~~$5,165.30~~ $1,868.30
Kurt St. Jean 722 Waddell St. Homer, AK 99603	Lot 6A, Bluff Park Harmon Porter 1997 Addn. 175-100-64	$220,200	77.1' (paving only)	~~$3,623.70~~ $1,310.70
David K. & Jennifer A. Olsen PO Box 3944 Homer, AK 99603	Lot 7A, Bluff Park Harmon Porter 1997 Addn. 175-100-66	$196,000	109.1' (paving only)	~~$5,127.70~~ $1,854.70
John Phillip Rummery 579 Waddell St. Homer, AK 99603	Lot 2 Block 2, Webber Subdivision 175-182-02	$145,000	60.0'	$2,820.00
Danile B. Perry PO Box 572 Homer, AK 99603	Lot 4 Block 2, Webber Subdivision 175-182-04	$140,000	60.0'	$2,820.00
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01/07/14- rk

FINAL ASSESSMENT ROLL

PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT

DATE: JANUARY 7, 2014

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Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $61,601.16
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OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
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	Lot 7 Block 2, Webber Subdivision 175-182-07	$40,200	60.0'	$2,820.00
	Lot 8 Block 2, Webber Subdivision 175-182-08	$139,100	60.0'	$2,820.00
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Leonard H. Van Sandt 2020 Campbell Pl. Anchorage, AK 99507	Lot 13-A, Webber Subdivision No. 7 175-183-13	$140,200	60.0'	$2,820.00
Stephen R. & Kathleen A. Boyle 544 Waddell St. Homer, AK 99603	Lot 14-A, Webber Subdivision No. 7 175-183-14	$126,500	60.0'	$2,820.00
John R. & Judith E. Johnson 236 W. Rezanof Dr. Kodiak, AK 99615	Lot 15-A, Webber Subdivision No. 7 175-183-15	$184,200	60.0'	$2,820.00
Laura L. Todd PO Box 688 Homer, AK 99603	Lot 16-A, Webber Subdivision No. 7 175-183-16	$96,200	60.0'	$2,820.00

01/07/14- rk

FINAL ASSESSMENT ROLL

PROJECT NAME: WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT DATE: JANUARY 7, 2014

TOTAL PROJECT COST: $461,045
Abutting Property Owners Assessed $30 per front foot for reconstruction and $17 per front foot for paving: $61,601.16
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OWNER/ADDRESS	LEGAL DESCRIPTION PARCEL NO.	ASSESSED PROPERTY VALUE	FRONT FOOTAGE	ASSESED PROPERTY OWNER SHARE OF ASSESSMENT
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Paul D. Gutzler 567 Waddell St. Homer, AK 99603	Lot 3 Block 2, Webber Subdivision 175-182-03	$141,500	60.0'	$2,820.00
Charles & Barbara Deal PO Box 2584 Homer, AK 99603	Lot 18-A, Webber Subdivision No. 7 175-183-18	$145,200	60.0'	$2,820.00
Douglas L. Tuttle & Barbara D. Kaun PO Box 3542 Homer, AK 99603	Lot 12-A, Webber Subdivision No. 7 175-183-12	$150,600	60.0'	$2,820.00
Claudia L. Carlson PO Box 124 Homer, AK 99603	Lot 1 Block 2, Webber Subdivision 175-182-01	$159,600	60.0'	$2,820.00

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-01

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.78.010, Commission—Creation and Membership, to Make the Director of the Homer Chamber of Commerce an Ex Officio, Non-Voting Member of the Economic Development Advisory Commission.

Sponsor: City Clerk/Economic Development Advisory Commission

1. City Council Regular Meeting January 13, 2014 Introduction

2. City Council Regular Meeting January 27, 2014 Public Hearing and Second Reading

    a. Memorandum 14-024 from Community and Economic Development Coordinator as backup

CITY OF HOMER
HOMER, ALASKA

City Clerk/Economic Development
Advisory Commission

ORDINANCE 14-01

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 1.78.010, COMMISSION—CREATION AND MEMBERSHIP, TO MAKE THE DIRECTOR OF THE HOMER CHAMBER OF COMMERCE AN EX OFFICIO, NON-VOTING MEMBER OF THE ECONOMIC DEVELOPMENT ADVISORY COMMISSION.

WHEREAS, Resolution 11-007(S)(A) adopted the Community Economic Development Strategy (CEDS); and

WHEREAS, The implementation table in the CEDS identifies the Homer Chamber of Commerce as one of the groups responsible for carrying out its implementation strategies; and

WHEREAS, The Economic Development Advisory Commission and Director of the Homer Chamber of Commerce have acknowledged the importance of communication between the City and Chamber to successfully carrying out the CEDS implementation strategies, as well as the two entities' cooperation in other areas to promote economic development for the community; and

WHEREAS, At its July 9, 2013 regular meeting the Commission introduced an amendment to its bylaws to make the Director of the Homer Chamber of Commerce an ex officio, non-voting member of the Commission, and approved the amendment at its November 12, 2013 regular meeting.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 1.78.010, Commission—Creation and membership, is amended to read as follows:

1.78.010 Commission--Creation and membership. a. There is created the City of Homer Economic Development Advisory Commission, referred to in this chapter as the Commission. Such Commission will be made up of seven members, who shall be nominated by the Mayor and confirmed by the City Council. A minimum of five commissioners shall reside within the corporate limits of the City of Homer and shall be registered voters in the Kenai Peninsula Borough or the City of Homer.

b. A Chairman and Vice-Chairman of the Commission shall be selected annually and shall be appointed from and by the appointive members.

c. The Mayor, the City Manager, ~~and~~ one Councilmember and the Director of the Homer Chamber of Commerce shall serve as consulting members of the Commission in addition to the seven appointive members, and may attend and participate in all meetings as consultants, but shall have no vote.

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2014.

CITY OF HOMER

_____

MARY E. WYTHE, MAYOR

ATTEST:

_____

JO JOHNSON, MMC, CITY CLERK

YES:
NO:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form.

_____ _____

Walt Wrede, City Manager Thomas F. Klinkner, City Attorney

Date: _____ Date: _____

Fiscal Note: N/A

City of Homer
www.cityofhomer-ak.gov

Administration
491 East Pioneer Avenue
Homer, Alaska 99603
(p) 907-235-8121 x2222
(f) 907-235-3148

Memorandum 14-024

TO: Honorable Mayor Wythe and Homer City Council

THROUGH: Walt Wrede, City Manager

FROM: Katie Koester, Community and Economic Development Coordinator

DATE: January 22, 2014

SUBJECT: Ordinance 14-01: Marine Trades Member on EDC

The Economic Development Advisory Commission has asked that an advisory seat for the Homer Chamber of Commerce Director be added to the Economic Development Advisory Commission. Ordinance 14-01 does this. In the past Council has discussed extending the same opportunity to the Homer Marine Trades Association (HMTA). The Association has considered this carefully and at their January 16, 2014 meeting passed a motion to request the Homer City Council create a non-voting seat on the Economic Development Advisory Commission for an HMTA representative. At the meeting, which I attended, it was discussed that there is a vacant regular seat on the Commission a member could apply for. HMTA preferred a seat that was dedicated, non-voting and advisory.

If the Council would like to add an advisory seat to the Economic Development Advisory Commission, I suggest the following amendments to Ordinance 14-01:

Line 30 following "meeting." Insert "; and

WHEREAS the Homer Marine Trades Association represents professionals and businesses in the marine trades that contribute to the economic vitality of the community; and

WHEREAS the work the Economic Development Commission does to promote economic development would benefit from the perspective and expertise of this industry."

Line 45 following "Councilmember" insert ", a representative of the Homer Marine Trades Association"

Amend the title to include the Homer Marine Trades Association member.

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-03

An Ordinance of the Homer City Council, Amending HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100, to Repeal the Exemption From City Sales Tax of Sales of Nonprepared Foods From September 1st Through May 31st; Amending HCC 9.16.010 to Dedicate a Sales Tax of One-Quarter Percent (.25%) to Fund a Parks and Recreation Department; and Submitting the Question of Repealing Such Sales Tax Exemption and Such Sales Tax Dedication to the Qualified Voters of the City at the October 7, 2014 Regular City Election.

Sponsor: Burgess

1. City Council Regular Meeting January 13, 2014 Introduction

    a. Memorandum 14-004 from City Attorney as backup

2. City Council Regular Meeting January 27, 2014 Public Hearing and Second Reading

    a. Memorandum 14-004 from City Attorney as backup
    b. Written public comments

CITY OF HOMER
HOMER, ALASKA

Burgess

ORDINANCE 14-03

AN ORDINANCE OF THE HOMER CITY COUNCIL, AMENDING HCC 9.16.040, AND REPEALING AND REENACTING HCC 9.16.100, TO REPEAL THE EXEMPTION FROM CITY SALES TAX OF SALES OF NONPREPARED FOODS FROM SEPTEMBER 1ST THROUGH MAY 31ST; AMENDING HCC 9.16.010 TO DEDICATE A SALES TAX OF ONE-QUARTER PERCENT (.25%) TO FUND A PARKS AND RECREATION DEPARTMENT; AND SUBMITTING THE QUESTION OF REPEALING SUCH SALES TAX EXEMPTION AND SUCH SALES TAX DEDICATION TO THE QUALIFIED VOTERS OF THE CITY AT THE OCTOBER 7, 2014 REGULAR CITY ELECTION.

WHEREAS, The voters of the Kenai Peninsula Borough ("Borough") approved Initiative Ordinance 2008-01 exempting sales of nonprepared foods from Borough sales tax from September 1st through May 31st; and

WHEREAS, The Borough adopted Ordinance 2008-28 authorizing cities within the Borough, including the City of Homer ("City"), to continue taxing sales of nonprepared foods during the period from September 1st through May 31st despite the exemption of sales of nonprepared foods from Borough sales tax during those months; and

WHEREAS, The City enacted Ordinance 08-32(S)(A-2) on December 8, 2008 exempting sales of nonprepared foods from City sales tax from September 1st through May 31st of each year; and

WHEREAS, The loss of sales tax revenues on the sale of nonprepared foods has had a substantial negative impact on funding for essential City services and has required the almost complete elimination of all non-essential City services; and

WHEREAS, It is in the best interest of the City and its residents to reinstate the sales tax on nonprepared foods at the full 4.5% rate on a year-round basis to provide funding for City services, and to dedicate .25% of the City sales tax to fund a parks and recreation department.

NOW, THEREFORE, THE CITY OF HOMER HEREBY ORDAINS:

Section 1. The City of Homer exercises the authority granted it under Kenai Peninsula Borough Ordinance 2008-28 to levy and collect a sales tax on nonprepared food items on a year-round basis notwithstanding Kenai Peninsula Borough Initiative Ordinance 2008-01.

Section 2. Homer City Code 9.16.010 is amended to read as follows:

9.16.010 Levied. a. A consumer's sales tax in the amount of two and three-quarters percent (2.75%) is levied by the City on all sales, rents and services within the City except as the same may be otherwise exempted by law.

b. An additional consumer's sales tax in the amount of three-quarters percent (3/4%) is hereby levied by the City of Homer on all sales, rents and services within the City except the same may be otherwise exempted by law, for the purpose of funding debt retirement of the sewer treatment plant improvements, and to the extent revenues from such tax exceed such debt retirement obligations, for the purpose of funding water and sewer systems.

c. An additional consumer's sales tax in the amount of three-quarters percent (3/4%) is hereby levied by the City of Homer on all sales, rents and services within the City except the same may be otherwise exempted by law, for the purpose of funding of street reconstruction improvements and related utilities, construction of new local roads, and construction of new local trails.

d. An additional consumer's sales tax in the amount of one-quarter percent (.25%) is hereby levied by the City of Homer on all sales, rents and services within the City except the same may be otherwise exempted by law, for the purpose of funding of a parks and recreation department.

Section 3. Homer City Code 9.16.040 is amended to read as follows:

9.16.040 Borough Provisions Adopted by Reference. **Except for provisions regarding exemption from sales tax, which are addressed in Section 9.16.100 of this chapter,** ~~T~~those sections of the Kenai Peninsula Borough Code of Ordinances applicable to the levy and collection of the sales tax described in this chapter are incorporated by this reference and made a part of this chapter as though fully set forth in this chapter.

Section 4. Homer City Code 9.16.100 is repealed and reenacted to read as follows:

9.16.100 Exemptions. a. Except as provided in (b) of this section, all sales, rentals, and services that are exempted from sales tax under the Kenai Peninsula Borough Code as amended from time to time shall be exempt from the sales tax levied by HCC 9.16.010.

b. Notwithstanding their exemption from Kenai Peninsula Borough sales tax, the following sales are subject to the sales tax levied by HCC 9.16.010:

1. Sales of nonprepared food items.

2. Sales exempted from Kenai Peninsula Borough sales tax that the Kenai Peninsula Borough by ordinance expressly authorizes the city to tax, and on which the city imposes a sales tax.

Section 5. The City shall submit the following proposition to the qualified voters of the City at the October 7, 2014, regular City election. The proposition must receive an affirmative vote from a majority of the qualified voters voting on the question to be approved.

PROPOSITION NO. ___
REPEAL OF SALES TAX EXEMPTION FOR NONPREPARED FOODS, AND DEDICATION OF .25% SALES TAX TO FUND A CITY PARKS AND RECREATION DEPARTMENT

Shall the exemption from City of Homer tax of sales of nonprepared food items at from September 1 through May 31 be repealed, and shall one-quarter percent (.25%) of the City sales tax be dedicated to fund a parks and recreation department?

Section 6. The proposition shall be printed on paper ballots and machine ballots, and the following words shall be added as appropriate next to an oval provided for marking the ballot for voting by hand or machine:

PROPOSITION NO. __

O Yes
O No

Section 7. Sections 2, 3 and 4 of this ordinance are of a permanent and general character and shall be included in the city code.

Section 8. Sections 1 through 4 and 7 of this ordinance shall become effective on January 1, 2015, but only if the proposition described in Section 5 is approved by a majority of the qualified voters voting on the proposition at the October 7, 2014, regular City election. The remaining sections of this ordinance shall become effective upon adoption.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this _____ day of _____, 2014.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

AYES:
NOES:
ABSTAIN:
ABSENT:

First Reading:
Public Reading:
Second Reading:
Effective Date:

Reviewed and approved as to form:

_____	_____
Walt Wrede, City Manager	Thomas F. Klinkner, City Attorney
Date: _____	Date: _____

Taxable Non-Prepared Food Items Study

Taxable Items	Indiana	Rhode Island	Iowa	Wisconsin	New Jersey	New York	Colorado	North Dakota	Texas	Minnesota	Maine	Kentucky
Almond bark	x	x	x	x	x	x		x	x	x		x
Baking chips, sweetened		x	x	x	x			x		x	x	x
Baking chocolate in the form of a bar, drop, or piece that contains a sweetener		x	x	x	x			x		x	x	x
Unsweetened baking chocolate in bars, pieces or chips			x					x				
Bar Mixes (Liquid) -Sweetened			x	x	x			x	x			x
Beer Nuts	x	x	x	x	x	x		x	x	x		x
Beer Nuts Party Mix	x	x	x	x	x	x		x	x	x		x
Beverage powders that are dietary supplements	x	x		x				x		x	x	x
Beverages, sweetened containing no milk products and containing 50% or less juice	x	x	x	x	x	x		x	x	x		x
Bottled water, unsweetened, plain						x			x		x	
Bottled water, sweetened	x	x	x	x	x	x		x	x	x	x	x
Breath mints	x	x	x	x	x	x		x	x	x	x	x
Butterscotch chips		x	x	x	x			x		x	x	x
Cake decorations that are candy	x	x	x	x	x	x		x	x	x	x	x
Candied fruits / glazed	x	x	x	x	x	x		x	x	x	x	x
Candy	x	x	x	x	x	x	x	x	x	x	x	x
Candy, chocolate	x	x	x	x	x	x	x	x	x	x	x	x
Candy unless product contains flour (e.g., Nestle Crunch) or requires refrigeration		x			x			x				
Candy and confectionery	x	x	x	x	x	x	x	x	x	x	x	x
Candy, dietetic	x	x	x	x	x	x	x	x	x	x	x	x
Candy apples	x	x	x	x	x	x		x	x	x	x	x
Caramels	x	x	x	x	x	x	x	x	x	x	x	x
Caramel apples	x	x	x	x	x	x		x	x	x	x	x

Taxable Non-Prepared Food Items Study

Taxable Items		Indiana	Rhode Island	Iowa	Wisconsin	New Jersey	New York	Colorado	North Dakota	Texas	Minnesota	Maine	Kentucky
Caramel corn		x	x	x	x	x	x		x	x	x	x	x
Cereal bars without flour		x	x						x		x		
Chewing gum		x	x	x	x	x	x	x	x	x	x	x	x
Chocolate chips			x	x	x	x			x		x	x	x
Chocolate chips and other flavored chips, if sweetened			x	x	x	x			x		x	x	x
Chocolate covered raisins		x	x	x	x	x	x		x	x	x	x	x
Chocolate covered nuts		x	x	x	x	x	x		x	x	x	x	x
Chocolate covered pretzels				x			x			x	x	x	
Chocolate-covered potato chips		x								x	x	x	
Coated candy		x	x	x	x	x	x		x	x	x	x	x
Cocktail mixes		x					x		x				
Cocktail mixes containing 50% or less fruit or vegetable juice		x	x	x	x		x		x	x	x		x
Coffee drinks that contain sweeteners, unless it also contains milk or a milk product					x								
Collins mixer							x						
Confections that are candy		x	x	x	x	x	x		x	x	x	x	x
Cracker jacks		x	x	x	x	x	x		x	x	x	x	x
Cranberry juice cocktails							x						
Deli items that are prepared food		x	x	x	x	x	x	x		x	x	x	x
Dietary supplements		x	x		x			x	x		x	x	x
Dietary supplements (including energy bars containing "supplemental facts" box)		x	x						x			x	x
Dietetic carbonated beverages		x	x	x	x	x	x	x	x	x	x	x	x
Dietetic soft drinks		x	x	x	x	x	x	x	x	x	x	x	x
Dried fruit with sweeteners		x	x	x	x	x	x		x	x	x	x	x
Energy bars unless product contains flour or requires refrigeration			x			x							
Flaked coconut w/sweetener		x	x	x		x							

Taxable Non-Prepared Food Items Study

Taxable Items		Indiana	Rhode Island	Iowa	Wisconsin	New Jersey	New York	Colorado	North Dakota	Texas	Minnesota	Maine	Kentucky
French burnt peanuts		x	x	x	x	x	x		x	x	x		x
Frozen yogurt													
Frozen fruitbars and/or novelty items													
Fruit drinks that contain a sweetener and and have 50% or less fruit juice by volume		x	x	x	x	x	x		x	x	x		x
Fruit drinks if product contains less than 70% real fruit juice							x						
Fruit nectars if product contains less than 70% real fruit juice							x						
Fruit punch if product contains less than 70% real fruit juice							x						
Fruit Roll-ups		x			x						x		x
Fruit snacks that contain a sweetener		x	x	x	x				x	x	x		x
Fudge		x	x	x	x	x	x	x	x	x	x	x	x
Gatorade			x			x	x		x		x		x
Gluten-free candy products		x											
Granola bars				x									
Granola bars that are sweetened, unless they contain flour			x		x	x							
Heated foods and beverages		x	x	x	x	x	x	x	x	x	x	x	x
Heath Bar bits		x	x	x	x	x			x		x	x	x
Herbal supplements											x	x	
Hi-C		x	x	x	x	x	x		x	x	x		x
Honey roasted and honey coated nuts		x	x	x	x	x	x		x	x	x		x
Honey roasted peanuts		x	x	x	x	x	x		x	x	x		x
Ice							x			x		x	
Ice blocks					x			x					
Ice cream													
Ice cubes							x						
Ice cream cones (hand dipped)						x	x			x			
Ice cream sundries													

Taxable Non-Prepared Food Items Study

Taxable Items	Indiana	Rhode Island	Iowa	Wisconsin	New Jersey	New York	Colorado	North Dakota	Texas	Minnesota	Maine	Kentucky
Ice cream sundries (less than 2 items per container)									x			
Ice pops, juice pops, popsicles that do not contain milk products or more than 50% fruit juice									x			
Iced tea (Liquid) sweetened					x							
Jordan almonds	x	x	x	x	x	x		x	x	x		x
Juices that contain sweeteners and 50% or less fruit or vegetable juice by volume	x	x	x	x	x	x		x	x	x		x
Kool-Aid			x			x			x			
Lemonade (liquid) sweetened	x	x	x	x	x	x		x	x	x		x
Licorice			x			x						x
Licorice w/o flour	x	x										
Liquid coffee (flavored)										x	x	
Maple sugar candy	x	x	x	x	x	x	x	x	x	x	x	x
Marshmallows	x	x	x	x	x	x		x	x	x	x	x
Mineral water						x					x	
MiO Liquid Water Enhancer						x						
Monster Energy Drink		x				x		x	x	x		x
Noncarbonated drinks made from milk derivatives or tea												
Nutritional snack bars											x	
Nuts that are candy, such as honey roasted cashews	x	x	x	x	x	x		x	x	x		x
Orange Crush	x	x	x	x	x	x	x	x	x	x	x	x
Peanut brittle	x	x	x	x	x	x		x	x	x	x	x
Peanuts that are candy, such as honey roasted peanuts	x	x	x	x	x	x		x	x	x		x
Popcorn that is candy, such as caramel corn (sweetener added)	x	x	x	x	x	x		x	x	x	x	x

Taxable Non-Prepared Food Items Study

Taxable Items	Indiana	Rhode Island	Iowa	Wisconsin	New Jersey	New York	Colorado	North Dakota	Texas	Minnesota	Maine	Kentucky
Popped corn (popped kettle and caramel)	x		x					x	x	x	x	
Popsicles												
Powerade		x				x		x	x	x		x
Powdered bartender mixers (not frozen)			x								x	
Powdered drink mixes that are dietary supplements	x	x		x				x		x	x	x
Prepared foods	x	x	x	x	x	x	x	x	x	x	x	x
Pretzels that are prepared food				x								
Pumpkins used for decoration					x							
Raisins that are candy, such as yogurt coated raisins	x	x	x	x	x	x		x	x	x	x	x
Red Bull		x				x		x	x	x		x
Rehydration solutions (Pedialyte, Ceralyte, Infalyte, etc.)								x		x		
Rockstar Energy Drink		x				x		x	x	x		x
Root beer	x	x	x	x	x	x	x	x	x	x	x	x
Salted nuts that are candy	x	x	x	x	x	x		x	x	x		x
Sandwiches that are prepared food	x	x	x	x	x	x	x	x	x	x	x	x
Seltzer (water)						x					x	
Sherbert												
Smartwater						x					x	
Soft drinks / carbonated pop	x	x	x	x	x	x	x	x	x	x	x	x
Sports/Energy drinks		x						x	x	x		x
Taffy apples	x	x	x	x	x	x		x	x	x		x
Tea (with "supplemental facts" label)								x		x	x	
Tea drinks that contain sweeteners	x	x	x	x	x			x	x	x	x	x
Trail mix with candy pieces								x				
Vegetable juice that contains a sweetener and 50% or less juice by volume	x	x	x	x	x	x		x	x	x		x

Taxable Non-Prepared Food Items Study

Taxable Items		Indiana	Rhode Island	Iowa	Wisconsin	New Jersey	New York	Colorado	North Dakota	Texas	Minnesota	Maine	Kentucky
Vichy water							x					x	
Vitaminwater							x					x	
Water, sweetened		x	x	x	x	x	x		x	x	x	x	x
Water, carbonated						x	x	x				x	
Yogurt covered raisins		x	x	x	x	x	x		x	x	x	x	x
Yogurt covered nuts		x	x	x	x	x	x		x	x	x	x	x
Yogurt, frozen													
Yoo Hoo							x						
5-Hour Energy			x				x		x	x	x		x

Location:
FOOD PRODUCTS; TAXATION;
Scope:
Background;

November 7, 2012 2012-R-0490

TAXES ON SOFT DRINKS OR CANDY

By: Rute Pinho, Associate Analyst

You asked which states impose a tax on soft drinks or candy. This report updates the information in OLR report 2002-R-1004.

SUMMARY

We identified four states (Arkansas, Tennessee, Virginia, and West Virginia) that levy an excise tax on soft drinks, but none that levy an excise tax on candy.

While most states do not impose excise taxes on candy or soft drinks, many tax these goods at a higher sales tax rate than other grocery food. Of the 46 jurisdictions (45 states and the District of Columbia) that impose a state sales tax, 32 exempt grocery food purchases from the sales tax and 7 tax such purchases at a reduced rate. Many of these 39 jurisdictions exclude candy or soft drinks from the definition of grocery food, thus making them taxable or subjecting them to the state's general sales tax rate. In all, 18 jurisdictions tax candy and 23 tax soft drinks at a higher rate than other groceries.

SOFT DRINK EXCISE TAXES

Four states (Arkansas, Tennessee, Virginia, and West Virginia) levy excise taxes on soft drinks. Table 1 below briefly describes each state's tax. The states vary in how they levy the tax. Arkansas and West Virginia base the tax on volume, while Tennessee and Virginia base it on gross receipts.

Table 1: State Excise Taxes on Soft Drinks

State	Tax Rate	Paid By
Arkansas	• $2 per gallon of soft drink or simple syrup • $0.21 per gallon of bottled or canned soft drink product or • $0.21 for each gallon produced by powders or base products	Distributors, manufacturers, and wholesale dealers on the first sale in Arkansas
Tennessee	1.9% of gross receipts derived from manufacturing, producing, or importing bottled soft drinks	Manufacturers, bottlers, and importers of bottled soft drinks
Virginia	Excise tax on gross receipts from soft drink sales as follows: • $50 if the gross receipts are $100,000 or less • $100 if the gross receipts are between $100,000 and $250,000 • $250 if the gross receipts are between $250,000 and $500,000 • $750 if the gross receipts are between $500,000 and $1,000,000 • $1,500 if the gross receipts are between $1,000,000 and $3,000,000 • $3,000 if the gross receipts are between $3,000,000 and $5,000,000 • $4,500 if the gross receipts are between $5,000,000 and $10,000,000 • $7,200 if the gross receipts are between $10,000,000 and $25,000,000 • $18,000 if the gross receipts are between $25,000,000 and $50,000,000 • $33,000 if the gross receipts exceed $50,000,000	Wholesalers and distributors of carbonated soft drinks
West Virginia	Excise tax on sales, handling, use, or distribution of bottled soft drinks and soft drink syrup in the state as follows: • $ 0.01 on each bottle of 16.9 ounces (1/2 liter) of bottled soft drink • $ 0.80 on each gallon of bottled soft drink syrup • $ 0 84 on each four liters of soft drink syrup • $ 0.01 on each ounce of dry mix used to make soft drinks	Manufacturers, distributors, wholesale dealers, retail dealers, or any other person who is the original consignee of any bottled soft drink or soft drink syrup

Source: Drenkard, Scott. "Overreaching on Obesity: Governments Consider New Taxes on Soda and Candy." *Tax Foundation*, October 2011; State tax department websites

TAXABILITY OF SOFT DRINKS AND CANDY ACROSS STATES

Of the 46 jurisdictions (45 states and the District of Columbia) that impose a state sales tax, 32 exempt grocery food purchases from the tax and 7 tax such purchases at a reduced rate. Many of these jurisdictions exclude candy or soft drinks from the definition of grocery food, thus making them taxable or subjecting them to the state's general sales tax rate. Table 2 indicates for each jurisdiction whether grocery food, candy, and soda are taxable.

Table 3 lists the jurisdictions that tax candy and soft drinks at a higher rate than grocery food. In all, 18 jurisdictions tax candy and 23 tax soft drinks at a higher rate than other groceries.

Table 2: Taxability of Groceries, Candy, and Soda Across Jurisdictions

T= Taxable, E= Exempt, RR = Reduced rate

Jurisdiction	*State Sales Tax Rate*	*Grocery Food*	*Candy*	*Soda*
Alabama	4%	T	T	T
Arizona	6.6%	E	E	E
Arkansas	6%	RR	RR	RR
California[1]	7.25%	E	E	T
Colorado	2.9%	E	T	T
Connecticut	6.35%	E	T	T
District of Columbia	6%	E	E	T
Florida	6%	E	T	T
Georgia	4%	E	E	E
Hawaii	4%	T	T	T

Idaho	6%	T	T	T
Illinois	6.25%	RR	T	T
Indiana	7%	E	T	T
Iowa	6%	E	T	T
Kansas	6.3%	T	T	T
Kentucky	6%	E	T	T
Louisiana	4%	E	E	E
Maine	5%	E	T	T
Maryland	6%	E	T	T
Massachusetts	6.25%	E	E	E
Michigan	6%	E	E	E
Minnesota	6.875%	E	T	T
Mississippi	7%	T	T	T
Missouri	4.225%	RR	RR	RR
Nebraska	5.5%	E	E	E
Nevada	6.85%.	E	E	E
New Jersey	7%	E	T	T

New Mexico	5.125%	E	E	E
New York	4%	E	T	T
North Carolina	4.75%	E1	T	T
North Dakota	5%	E	T	T
Ohio	5.5%	E	E	T
Oklahoma	4.5%	T	T	T
Pennsylvania	6%	E	E	T
Rhode Island	7%	E	T	T

Table 2: -Continued-

Jurisdiction	*State Sales Tax Rate*	*Grocery Food*	*Candy*	*Soda*
South Carolina	6%	E	E	E
South Dakota	4%	T	T	T
Tennessee	7%	RR	T	RR
Texas	6.25%	E	T	T
Utah[1]	5.95%	RR	RR	RR
Vermont	6%	E	E	E
Virginia[1]	5%	RR	RR	RR

Washington	6.5%	E	E	T
West Virginia	6%	RR	RR	T
Wisconsin	5%	E	T	T
Wyoming	4%	E	E	E

Source: CCH State Tax Guide, State tax department websites

[1]State rate includes mandatory, statewide, local add-on sales taxes: California (1%), Utah (1.25%), and Virginia (1%).

Table 3: States that Tax Candy and Soft Drinks at Higher Rates Than Groceries

Candy Taxed at Higher Rate		***Soft Drinks Taxed at Higher Rate***	
Colorado	New Jersey	California	New Jersey
Connecticut	New York	Colorado	New York
Florida	North Carolina	Connecticut	North Carolina
Illinois	North Dakota	District of Columbia	North Dakota
Indiana	Rhode Island	Florida	Ohio
Iowa	Tennessee	Illinois	Pennsylvania
Kentucky	Texas	Indiana	Rhode Island
Maine	Wisconsin	Iowa	Texas
Maryland		Kentucky	Washington
Minnesota		Maine	West Virginia
		Maryland	Wisconsin
		Minnesota	

RP:ts

26-Mar-13

State General Sales Tax Rates 2013

As of January 1, 2013

State	General Sales Tax Rate (%)	Exemptions for		
		Food [1]	Prescription Drugs	Nonprescription Drugs
Alabama	4.0	Taxable	Exempt	Taxable
Alaska		NO STATE SALES TAX		
Arizona	6.6 [5]	Exempt	Exempt	Taxable
Arkansas	6.0	1.5 [4]	Exempt	Taxable
California [3]	7.5	Exempt	Exempt	Taxable
Colorado	2.9	Exempt	Exempt	Taxable
Connecticut	6.35	Exempt	Exempt	Taxable
Delaware		NO STATE SALES TAX		
District of Columbia	6.0	Exempt	Exempt	Exempt
Florida	6.0	Exempt	Exempt	Exempt
Georgia	4.0	Exempt [4]	Exempt	Taxable
Hawaii	4.0	Taxable	Exempt	Taxable
Idaho	6.0	Taxable	Exempt	Taxable
Illinois	6.25	1.0	1.0	1.0
Indiana	7.0	Exempt	Exempt	Taxable
Iowa	6.0	Exempt	Exempt	Taxable
Kansas	6.3 [5]	Taxable	Exempt	Taxable
Kentucky	6.0	Exempt	Exempt	Taxable
Louisiana	4.0	Exempt [4]	Exempt	Taxable
Maine	5.0	Exempt	Exempt	Taxable
Maryland	6.0	Exempt	Exempt	Exempt
Massachusetts	6.25	Exempt	Exempt	Taxable
Michigan	6.0	Exempt	Exempt	Taxable
Minnesota	6.875	Exempt	Exempt	Exempt
Mississippi	7.0	Taxable	Exempt	Taxable
Missouri	4.225	1.225	Exempt	Taxable
Montana		NO STATE SALES TAX		
Nebraska	5.5	Exempt	Exempt	Taxable
Nevada	6.85 [5]	Exempt	Exempt	Taxable
New Hampshire		NO STATE SALES TAX		
New Jersey	7.0	Exempt	Exempt	Exempt
New Mexico	5.125	Exempt	Exempt	Taxable
New York	4.0	Exempt	Exempt	Exempt
North Carolina	4.75	Exempt [4]	Exempt	Taxable
North Dakota	5.0	Exempt	Exempt	Taxable
Ohio	5.5	Exempt	Exempt	Taxable
Oklahoma	4.5	Taxable	Exempt	Taxable
Oregon		NO STATE SALES TAX		
Pennsylvania	6.0	Exempt	Exempt	Exempt
Rhode Island	7.0	Exempt	Exempt	Taxable
South Carolina	6.0	Exempt	Exempt	Taxable
South Dakota	4.0	Taxable	Exempt	Taxable
Tennessee	7.0	5.25	Exempt	Taxable
Texas	6.25	Exempt	Exempt	Exempt
Utah	5.95 [4]	1.75 [4]	Exempt	Taxable
Vermont	6.0	Exempt	Exempt	Exempt
Virginia	5.0 [2]	2.5 [2]	Exempt	Exempt
Washington	6.5	Exempt	Exempt	Taxable
West Virginia	6.0	1.0 [6]	Exempt	Taxable
Wisconsin	5.0	Exempt	Exempt	Taxable
Wyoming	4.0	Exempt	Exempt	Taxable

Notes:
1. Some states tax food but allow a rebate or income tax credit to compensate poor households. They are HI, ID, KS, OK and SD.
2. Includes statewide 1.0% tax levied by local governments in Virginia.
3. California sales tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund.

4. Food sales subject to local taxes. Includes a statewide 1.25% tax levied by local governments in Utah.
5. Arizona sales tax rate is scheduled to decrease to 5.6% on June 1, 2013. Kansas sales tax rate is scheduled to decrease to 5.7% on July 1, 2013. Nevada sales tax rate is scheduled to fall to 6.5% on July 1, 2013.
6. West Virginia tax rate on food scheduled to decrease to 1% on July 1, 2012.

Source:
Federation of Tax Administrators March 2013
http://www.taxadmin.org/fta/rate/sales.pdf

State General Sales Tax Rates, 2012
(As of January 1, 2012)

State	State General Sales Tax Rate (%)	EXEMPTIONS		
		Food [1]	Prescription Drugs	Nonprescription Drugs
Alabama	4.0	Taxable	Exempt	Taxable
Alaska	NO STATE SALES TAX			
Arizona	6.6	Exempt	Exempt	Taxable
Arkansas	6.0	1.5 [4]	Exempt	Taxable
California [3]	7.25	Exempt	Exempt	Taxable
Colorado	2.9	Exempt	Exempt	Taxable
Connecticut	6.35	Exempt	Exempt	Taxable
Delaware	NO STATE SALES TAX			
District of Columbia	6.0	Exempt	Exempt	Exempt
Florida	6.0	Exempt	Exempt	Exempt
Georgia	4.0	Exempt [4]	Exempt	Taxable
Hawaii	4.0	Taxable	Exempt	Taxable
Idaho	6.0	Taxable	Exempt	Taxable
Illinois	6.25	1.0	1.0	1.0
Indiana	7.0	Exempt	Exempt	Taxable
Iowa	6.0	Exempt	Exempt	Taxable
Kansas	6.3	Taxable	Exempt	Taxable
Kentucky	6.0	Exempt	Exempt	Taxable
Louisiana	4.0	Exempt [4]	Exempt	Taxable
Maine	5.0	Exempt	Exempt	Taxable
Maryland	6.0	Exempt	Exempt	Exempt
Massachusetts	6.25	Exempt	Exempt	Taxable
Michigan	6.0	Exempt	Exempt	Taxable
Minnesota	6.875	Exempt	Exempt	Exempt
Mississippi	7.0	Taxable	Exempt	Taxable
Missouri	4.225	1.225	Exempt	Taxable
Montana	NO STATE SALES TAX			
Nebraska	5.5	Exempt	Exempt	Taxable
Nevada [5]	6.85	Exempt	Exempt	Taxable
New Hampshire	NO STATE SALES TAX			
New Jersey	7.0	Exempt	Exempt	Exempt
New Mexico	5.125	Exempt	Exempt	Taxable
New York	4.0	Exempt	Exempt	Exempt
North Carolina	4.75	Exempt [4]	Exempt	Taxable
North Dakota	5.0	Exempt	Exempt	Taxable
Ohio	5.5	Exempt	Exempt	Taxable
Oklahoma	4.5	Taxable	Exempt	Taxable
Oregon	NO STATE SALES TAX			
Pennsylvania	6.0	Exempt	Exempt	Exempt
Rhode Island	7.0	Exempt	Exempt	Taxable
South Carolina	6.0	Exempt	Exempt	Taxable
South Dakota	4.0	Taxable	Exempt	Taxable
Tennessee	7.0	5.5	Exempt	Taxable
Texas	6.25	Exempt	Exempt	Exempt
Utah	5.95 [4]	1.75 [4]	Exempt	Taxable
Vermont	6.0	Exempt	Exempt	Exempt
Virginia	5.0 [2]	2.5 [2]	Exempt	Exempt
Washington	6.5	Exempt	Exempt	Taxable
West Virginia	6.0	2 [6]	Exempt	Taxable
Wisconsin	5.0	Exempt	Exempt	Taxable
Wyoming	4.0	Exempt	Exempt	Taxable

Notes:

1. Some states tax food, but allow a rebate or income tax credit to compensate poor households. They are HI, ID, KS, OK and SD.
2. Includes statewide 1.0% tax levied by local governments in Virginia.
3. Tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund.
4. Food sales subject to local taxes. Includes a statewide 1.25% tax levied by local governments in Utah.
5. Nevada sales tax rate is scheduled to fall to 6.5% on July 1, 2013.
6. West Virginia tax rate on food scheduled to decrease to 1% on July 1, 2012.

Source:
Federation of Tax Administrators January 2012
http://www.taxadmin.org/fta/rate/sales.pdf

30-Mar-11

State General Sales Tax Rates, 2011

(As of January 1, 2011)

State	State General Sales Tax Rate (%)	EXEMPTIONS		
		Food [1]	Prescription Drugs	Nonprescription Drugs
Alabama	4.0	Taxable	Exempt	Taxable
Alaska	NO STATE SALES TAX			
Arizona	6.6	Exempt	Exempt	Taxable
Arkansas	6.0	2.0 [4]	Exempt	Taxable
California [3]	8.25	Exempt	Exempt	Taxable
Colorado	2.9	Exempt	Exempt	Taxable
Connecticut	6.0	Exempt	Exempt	Taxable
Delaware	NO STATE SALES TAX			
District of Columbia	6.0	Exempt	Exempt	Exempt
Florida	6.0	Exempt	Exempt	Exempt
Georgia	4.0	Exempt [4]	Exempt	Taxable
Hawaii	4.0	Taxable	Exempt	Taxable
Idaho	6.0	Taxable	Exempt	Taxable
Illinois	6.25	1.0	1.0	1.0
Indiana	7.0	Exempt	Exempt	Taxable
Iowa	6.0	Exempt	Exempt	Taxable
Kansas	6.3	Taxable	Exempt	Taxable
Kentucky	6.0	Exempt	Exempt	Taxable
Louisiana	4.0	Exempt [4]	Exempt	Taxable
Maine	5.0	Exempt	Exempt	Taxable
Maryland	6.0	Exempt	Exempt	Exempt
Massachusetts	6.25	Exempt	Exempt	Taxable
Michigan	6.0	Exempt	Exempt	Taxable
Minnesota	6.875	Exempt	Exempt	Exempt
Mississippi	7.0	Taxable	Exempt	Taxable
Missouri	4.225	1.225	Exempt	Taxable
Montana	NO STATE SALES TAX			
Nebraska	5.5	Exempt	Exempt	Taxable
Nevada [5]	6.85	Exempt	Exempt	Taxable
New Hampshire	NO STATE SALES TAX			
New Jersey	7.0	Exempt	Exempt	Exempt
New Mexico	5.125	Exempt	Exempt	Taxable
New York	4.0	Exempt	Exempt	Exempt
North Carolina	5.75	Exempt [4]	Exempt	Taxable
North Dakota	5.0	Exempt	Exempt	Taxable
Ohio	5.5	Exempt	Exempt	Taxable
Oklahoma	4.5	Taxable	Exempt	Taxable
Oregon	NO STATE SALES TAX			
Pennsylvania	6.0	Exempt	Exempt	Exempt
Rhode Island	7.0	Exempt	Exempt	Exempt
South Carolina	6.0	Exempt	Exempt	Taxable
South Dakota	4.0	Taxable	Exempt	Taxable
Tennessee	7.0	5.5	Exempt	Taxable
Texas	6.25	Exempt	Exempt	Exempt
Utah	5.95 [4]	1.75 [4]	Exempt	Taxable
Vermont	6.0	Exempt	Exempt	Exempt
Virginia	5.0 [2]	2.5 [2]	Exempt	Exempt
Washington	6.5	Exempt	Exempt	Taxable
West Virginia	6.0	3.0	Exempt	Taxable
Wisconsin	5.0	Exempt	Exempt	Taxable
Wyoming	4.0	Exempt	Exempt	Taxable

Notes:

1. Some states tax food, but allow a rebate or income tax credit to compensate poor households. They are HI, ID, KS, OK and SD.
2. Includes statewide 1.0% tax levied by local governments in Virginia.

3. Tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund. Rate scheduled to fall to 7.25% on July 1, 2011.

4. Includes a statewide 1.25% tax levied by local governments in Utah. Food sales subject to local taxes.
5. Nevada sales tax rate is scheduled to fall to 6.5% on July 1, 2011.

Source:

Federation of Tax Administrators (http://www.taxadmin.org/fta/rate/sales.pdf), February 2011

3-Mar-10

State General Sales Tax Rates, 2010

State	State General Sales Tax Rate (%)	EXEMPTIONS		
		Food	Prescription Drugs	Nonprescription Drugs
Alabama	4.0	Taxable	Exempt	Taxable
Alaska	NO STATE SALES TAX			
Arizona	5.6	Exempt	Exempt	Taxable
Arkansas [1]	6.0	2.0	Exempt	Taxable
California [2,3]	8.25	Exempt	Exempt	Taxable
Colorado	2.9	Exempt	Exempt	Taxable
Connecticut	6.0	Exempt	Exempt	Exempt
Delaware	NO STATE SALES TAX			
District of Columbia	6.0	Exempt	Exempt	Exempt
Florida	6.0	Exempt	Exempt	Exempt
Georgia [1]	4.0	Exempt	Exempt	Taxable
Hawaii [4]	4.0	Taxable	Exempt	Taxable
Idaho [4]	6.0	Taxable	Exempt	Taxable
Illinois	6.25	1.0	1.0	1.0
Indiana	7.0	Exempt	Exempt	Taxable
Iowa	6.0	Exempt	Exempt	Taxable
Kansas [4]	5.3	Taxable	Exempt	Taxable
Kentucky	6.0	Exempt	Exempt	Taxable
Louisiana [1]	4.0	Exempt	Exempt	Taxable
Maine	5.0	Exempt	Exempt	Taxable
Maryland	6.0	Exempt	Exempt	Exempt
Massachusetts	6.25	Exempt	Exempt	Taxable
Michigan	6.0	Exempt	Exempt	Taxable
Minnesota	6.875	Exempt	Exempt	Exempt
Mississippi	7.0	Taxable	Exempt	Taxable
Missouri	4.225	1.225	Exempt	Taxable
Montana	NO STATE SALES TAX			
Nebraska	5.5	Exempt	Exempt	Taxable
Nevada	6.85	Exempt	Exempt	Taxable
New Hampshire	NO STATE SALES TAX			
New Jersey	7.0	Exempt	Exempt	Exempt
New Mexico	5.0	Exempt	Exempt	Taxable
New York	4.0	Exempt	Exempt	Exempt
North Carolina [1]	5.75	Exempt	Exempt	Taxable
North Dakota	5.0	Exempt	Exempt	Taxable
Ohio	5.5	Exempt	Exempt	Taxable
Oklahoma [4]	4.5	Taxable	Exempt	Taxable
Oregon	NO STATE SALES TAX			
Pennsylvania	6.0	Exempt	Exempt	Exempt
Rhode Island	7.0	Exempt	Exempt	Exempt
South Carolina	6.0	Exempt	Exempt	Taxable
South Dakota [4]	4.0	Taxable	Exempt	Taxable
Tennessee	7.0	5.5	Exempt	Taxable
Texas	6.25	Exempt	Exempt	Exempt
Utah [1]	4.7	1.75	Exempt	Taxable
Vermont	6.0	Exempt	Exempt	Exempt
Virginia [3]	5.0	2.5	Exempt	Exempt
Washington	6.5	Exempt	Exempt	Taxable
West Virginia	6.0	3.0	Exempt	Taxable
Wisconsin	5.0	Exempt	Exempt	Taxable
Wyoming [4]	4.0	Exempt	Exempt	Taxable

Notes:
1. (Arkansas, Georgia, Louisiana, North Carolina, Utah) Food sales are subject to local sales tax.
2. (California) Sales tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund.
3. (California, Virginia) Tax rates includes statewide local tax of 1.0%.
4. (Hawaii, Idaho, Kansas, Oklahoma, South Dakota, Wyoming) Some states tax food, but allow a rebate or income tax credit to compensate low-income households.

Source:
Federation of Tax Administrators (http://www.taxadmin.org/fta/rate/sales.pdf), February 2010

4-Apr-08

State General Sales Tax Rates, 2008

State	State General Sales Tax Rate (%)	EXEMPTIONS		
		Food	Prescription Drugs	Nonprescription Drugs
Alabama	4.0	Taxable	Exempt	Taxable
Alaska	NO STATE SALES TAX			
Arizona	5.6	Exempt	Exempt	Taxable
Arkansas	6.0	3.0	Exempt	Taxable
California [1,2]	7.25	Exempt	Exempt	Taxable
Colorado	2.9	Exempt	Exempt	Taxable
Connecticut	6.0	Exempt	Exempt	Exempt
Delaware	NO STATE SALES TAX			
District of Columbia	5.75	Exempt	Exempt	Exempt
Florida	6.0	Exempt	Exempt	Exempt
Georgia [3]	4.0	Exempt	Exempt	Taxable
Hawaii [4]	4.0	Taxable	Exempt	Taxable
Idaho [4]	6.0	Taxable	Exempt	Taxable
Illinois	6.25	1.0	1.0	1.0
Indiana	6.0	Exempt	Exempt	Taxable
Iowa	5.0	Exempt	Exempt	Taxable
Kansas [4]	5.3	Taxable	Exempt	Taxable
Kentucky	6.0	Exempt	Exempt	Taxable
Louisiana [3]	4.0	Exempt	Exempt	Taxable
Maine	5.0	Exempt	Exempt	Taxable
Maryland [5]	6.0	Exempt	Exempt	Exempt
Massachusetts	5.0	Exempt	Exempt	Taxable
Michigan	6.0	Exempt	Exempt	Taxable
Minnesota	6.5	Exempt	Exempt	Exempt
Mississippi	7.0	Taxable	Exempt	Taxable
Missouri	4.225	1.225	Exempt	Taxable
Montana	NO STATE SALES TAX			
Nebraska	5.5	Exempt	Exempt	Taxable
Nevada	6.5	Exempt	Exempt	Taxable
New Hampshire	NO STATE SALES TAX			
New Jersey	7.0	Exempt	Exempt	Exempt
New Mexico	5.0	Exempt	Exempt	Taxable
New York	4.0	Exempt	Exempt	Exempt
North Carolina [3,6]	4.25	Exempt	Exempt	Taxable
North Dakota	5.0	Exempt	Exempt	Taxable
Ohio	5.5	Exempt	Exempt	Taxable
Oklahoma [4]	4.5	Taxable	Exempt	Taxable
Oregon	NO STATE SALES TAX			
Pennsylvania	6.0	Exempt	Exempt	Exempt
Rhode Island	7.0	Exempt	Exempt	Exempt
South Carolina	6.0	Taxable	Exempt	Taxable
South Dakota [4]	4.0	Taxable	Exempt	Taxable
Tennessee	7.0	5.5	Exempt	Taxable
Texas	6.25	Exempt	Exempt	Exempt
Utah	4.65	1.75	Exempt	Taxable
Vermont	6.0	Exempt	Exempt	Exempt
Virginia [2]	5.0	2.5	Exempt	Exempt
Washington	6.5	Exempt	Exempt	Taxable
West Virginia [7]	6.0	4.0	Exempt	Taxable
Wisconsin	5.0	Exempt	Exempt	Taxable
Wyoming [4,8]	4.0	Exempt	Exempt	Taxable

Notes:

1. (California) Sales tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund.
2. (California, Virginia) Tax rates include statewide local tax of 1.0%.
3. (Georgia, Louisiana, North Carolina) Food sales are subject to local sales tax.
4. (Hawaii, Idaho, Kansas, Oklahoma, South Dakota, Wyoming) Some states tax food, but allow a rebate or income tax credit to compensate low-income households.
5. (Maryland) Sales tax rate increased from 5.0% to 6.0% on 1/3/08.
6. (North Carolina) Sales tax rate is scheduled to increase to 4.5% on 10/1/08.
7. (West Virginia) Tax rate on food is scheduled to fall to 3.0% on 7/1/08.
8. (Wyoming) Food sales exempt through 6/30/08.

Source:
Federation of Tax Administrators (http://www.taxadmin.org/fta/rate/sales.html), March 2008.

3-Jul-07

State General Sales Tax Rates, 2007

State	State General Sales Tax Rate (%)	EXEMPTIONS		
		Food	Prescription Drugs	Nonprescription Drugs
Alabama	4.0	Taxable	Exempt	Taxable
Alaska	NO STATE SALES TAX			
Arizona	5.6	Exempt	Exempt	Taxable
Arkansas	6.0	Taxable	Exempt	Taxable
California [1,2]	7.25	Exempt	Exempt	Taxable
Colorado	2.9	Exempt	Exempt	Taxable
Connecticut	6.0	Exempt	Exempt	Exempt
Delaware	NO STATE SALES TAX			
District of Columbia	5.75	Exempt	Exempt	Exempt
Florida	6.0	Exempt	Exempt	Exempt
Georgia [3]	4.0	Exempt	Exempt	Taxable
Hawaii [4]	4.0	Taxable	Exempt	Taxable
Idaho [4]	6.0	Taxable	Exempt	Taxable
Illinois	6.25	1.0	1.0	1.0
Indiana	6.0	Exempt	Exempt	Taxable
Iowa	5.0	Exempt	Exempt	Taxable
Kansas [4]	5.3	Taxable	Exempt	Taxable
Kentucky	6.0	Exempt	Exempt	Taxable
Louisiana [3]	4.0	Exempt	Exempt	Taxable
Maine	5.0	Exempt	Exempt	Taxable
Maryland	5.0	Exempt	Exempt	Exempt
Massachusetts	5.0	Exempt	Exempt	Taxable
Michigan	6.0	Exempt	Exempt	Taxable
Minnesota	6.5	Exempt	Exempt	Exempt
Mississippi	7.0	Taxable	Exempt	Taxable
Missouri	4.225	1.225	Exempt	Taxable
Montana	NO STATE SALES TAX			
Nebraska	5.5	Exempt	Exempt	Taxable
Nevada	6.5	Exempt	Exempt	Taxable
New Hampshire	NO STATE SALES TAX			
New Jersey	7.0	Exempt	Exempt	Exempt
New Mexico	5.0	Exempt	Exempt	Taxable
New York	4.0	Exempt	Exempt	Exempt
North Carolina [3,5]	4.25	Exempt	Exempt	Taxable
North Dakota	5.0	Exempt	Exempt	Taxable
Ohio	5.5	Exempt	Exempt	Taxable
Oklahoma [4]	4.5	Taxable	Exempt	Taxable
Oregon	NO STATE SALES TAX			
Pennsylvania	6.0	Exempt	Exempt	Exempt
Rhode Island	7.0	Exempt	Exempt	Exempt
South Carolina [6]	5.0	3.0	Exempt	Taxable
South Dakota [4]	4.0	Taxable	Exempt	Taxable
Tennessee	7.0	6.0	Exempt	Taxable
Texas	6.25	Exempt	Exempt	Exempt
Utah	4.75	2.75	Exempt	Taxable
Vermont	6.0	Exempt	Exempt	Exempt
Virginia [2]	5.0	2.5	Exempt	Exempt
Washington	6.5	Exempt	Exempt	Taxable
West Virginia	6.0	5.0	Exempt	Taxable
Wisconsin	5.0	Exempt	Exempt	Taxable
Wyoming [4,7]	4.0	Exempt	Exempt	Taxable

Notes:
1. (California) Sales tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund.
2. (California, Virginia) Tax rates include statewide local tax of 1.0%.
3. (Georgia, Louisiana, North Carolina) Food sales are subject to local sales tax.
4. (Hawaii, Idaho, Kansas, Oklahoma, South Dakota, Wyoming) Some states tax food, but allow a rebate or income tax credit to compensate low-income households.
5. (North Carolina) Sales tax rate is scheduled to decrease to 4.0% on 7/1/07.
6. (South Carolina) Sales tax rate is scheduled to increase to 6.0% on 6/1/07, except for food.
7. (Wyoming) Food sales exempt through 6/30/08.

Source:
Federation of Tax Administrators (http://www.taxadmin.org/fta/rate/sales.html)

State General Sales Tax Rates, 2006

The general sales tax rates below represent the rates generally applicable to the retail sale of tangible personal property that is imposed by each state, exclusive of any special rates that may apply to specific categories of tangible personal property or any local sales and use taxes. Special rates and exemptions for food and drugs are also provided.

		EXEMPTIONS		
State	State General Sales Tax Rate (%)	Food	Prescription Drugs	Nonprescription Drugs
Alabama	4.0	Taxable	Exempt	Taxable
Alaska	NO STATE SALES TAX			
Arizona	5.6	Exempt	Exempt	Taxable
Arkansas	6.0	Taxable	Exempt	Taxable
California [1]	6.25	Exempt	Exempt	Taxable
Colorado	2.9	Exempt	Exempt	Taxable
Connecticut	6.0	Exempt	Exempt	Exempt
Delaware	NO STATE SALES TAX			
District of Columbia	5.75	Exempt	Exempt	Exempt
Florida	6.0	Exempt	Exempt	Exempt
Georgia [2]	4.0	Exempt	Exempt	Taxable
Hawaii [3]	4.0	Taxable	Exempt	Taxable
Idaho	5.0	Taxable	Exempt	Taxable
Illinois	6.25	1.0	1.0	1.0
Indiana	6.0	Exempt	Exempt	Taxable
Iowa	5.0	Exempt	Exempt	Taxable
Kansas	5.3	Taxable	Exempt	Taxable
Kentucky	6.0	Exempt	Exempt	Taxable
Louisiana [2]	4.0	Exempt	Exempt	Taxable
Maine	5.0	Exempt	Exempt	Taxable
Maryland	5.0	Exempt	Exempt	Exempt
Massachusetts	5.0	Exempt	Exempt	Taxable
Michigan	6.0	Exempt	Exempt	Taxable
Minnesota	6.5	Exempt	Exempt	Exempt
Mississippi	7.0	Taxable	Exempt	Taxable
Missouri [4]	4.225	1.225	Exempt	Taxable
Montana	NO STATE SALES TAX			
Nebraska	5.5	Exempt	Exempt	Taxable
Nevada	6.5	Exempt	Exempt	Taxable
New Hampshire	NO STATE SALES TAX			
New Jersey	6.0	Exempt	Exempt	Exempt
New Mexico	5.0	Exempt	Exempt	Taxable
New York	4.0	Exempt	Exempt	Exempt
North Carolina [2,5]	4.5	Exempt	Exempt	Taxable
North Dakota	5.0	Exempt	Exempt	Taxable
Ohio	5.5	Exempt	Exempt	Taxable
Oklahoma	4.5	Taxable	Exempt	Taxable
Oregon	NO STATE SALES TAX			
Pennsylvania	6.0	Exempt	Exempt	Exempt
Rhode Island	7.0	Exempt	Exempt	Exempt
South Carolina	5.0	Taxable	Exempt	Taxable
South Dakota	4.0	Taxable	Exempt	Taxable
Tennessee	7.0	6.0	Exempt	Taxable
Texas	6.25	Exempt	Exempt	Exempt
Utah	4.75	Taxable	Exempt	Taxable
Vermont	6.0	Exempt	Exempt	Exempt
Virginia	4.0	2.5	Exempt	Exempt
Washington	6.5	Exempt	Exempt	Taxable
West Virginia	6.0	5.0	Exempt	Taxable
Wisconsin	5.0	Exempt	Exempt	Taxable
Wyoming	4.0	Taxable	Exempt	Taxable

Notes:

1. (California) Sales tax may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund
2. (Georgia, Louisiana, North Carolina) Food sales are subject to local sales tax
3. (Hawaii) Sales tax for wholesalers/manufacturers is 0.5%
4. (Missouri) Sales tax will be reduced to 4.125% effective November 8, 2008
5. (North Carolina) Sales tax will be reduced to 4.0% effective July 1, 2007

General Note:

Local general sales/use taxes are not authorized or imposed in Connecticut, Indiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, Rhode Island, and West Virginia

Sources:

CCH Tax Research NetWork

Federation of Tax Administrators (http://www.taxadmin.org/fta/rate/sales.html)

Comparison of State and Local Retail Sales Taxes, 2004

	Food Items [1] Taxable (T) Exempt (E)	State Rate	Maximum Local Rate [2]	Maximum State/Local Rate [2]
Alabama	T	4	7	11
Alaska	T	---	7.00 [3]	7
Arizona	E	5.6	4.5	10.1
Arkansas	T	5.125	5.5	10.625
California	E	6	2.75	8.75
Colorado	E	2.9	7	9.9
Connecticut	E	6	---	6
District of Columbia	E	5.75	---	5.75
Florida	E	6	1.5	7.5
Georgia	E [4]	4	3	7
Hawaii	T*	4	---	4
Idaho	T*	6	3	9
Illinois	T**	6.25	3	9.25
Indiana	E	6	---	6
Iowa	E	5	2	7
Kansas	T*	5.3	3	8.3
Kentucky	E	6	---	6
Louisiana	E [4]	4	6.25	10.25
Maine	E	5	---	5
Maryland	E	5	---	5
Massachusetts	E	5	---	5
Michigan	E	6	---	6
Minnesota	E	6.5	1	7.5
Mississippi	T	7	0.25	7.25
Missouri	T **	4.225	4.5	8.725
Nebraska	E	5.5	1.5	7
Nevada	E	6.5	1	7.5
New Jersey	E	6	---	6
New Mexico	T	5	2.25	7.25
New York	E	4.25	4.5	8.75
North Carolina	E [4]	4.5	3	7.5
North Dakota	E	5	2.5	7.5
Ohio	E	6	2	8
Oklahoma	T	4.5	6	10.5
Pennsylvania	E	6	1	7
Rhode Island	E	7	---	7
South Carolina	T**	5	2	7
South Dakota	T*	4	2	6
Tennessee	T	7	2.75	9.75
Texas	E	6.25	2	8.25
Utah	T	4.75	2.25	7
Vermont	E	6	1	7
Virginia	T**	3.5	1	4.5
Washington	E	6.5	2.4	8.9
West Virginia	T	6	---	6
Wisconsin	E	5	0.6	5.6
Wyoming	T*	4	2	6

[1] Food purchased for consumption off-premises.
[2] Highest local rate known to be actually levied by at least one jurisdiction. Includes local taxes for general purposes and those earmarked for specific purposes (e.g. transit). Taxes applying only to specified sales (e.g. lodging or meals) are excluded.
[3] Alaskan cities and boroughs may levy local sales taxes from 1% to 6%.
[4] Food exempt from state tax, but subject to local taxes.
* Income tax credit allowed to offset sales tax on food.
** Food taxed at lower rate.
Source: Compiled by the Federation of Tax Administrators from various sources.

Comparison of State and Local Retail Sales Taxes, 2003

	Food Items [1] Taxable (T) Exempt (E)	State Rate	Maximum Local Rate [2]	Maximum State/Local Rate [2]
Alabama	T	4	6	11
Alaska	T	---	7.00 [3]	7
Arizona	E	5.6	3	8.6
Arkansas	T	5.125	4.75	9.875
California	E	6	2.5	8.5
Colorado	E	2.9	5.0 0	7.9
Connecticut	E	6	---	6
District of Columbia	E	5.75	---	5.75
Florida	E	6	1.5	7.5
Georgia	E	4	3	7
Hawaii	T*	4	---	4
Idaho	T*	5	3	8
Illinois	T**	6.25	3	9.25
Indiana	E	6	---	6
Iowa	E	5	2	7
Kansas	T*	5.3	3	8.3
Kentucky	E	6	---	6
Louisiana	T **[4]	4	5.5	9.5
Maine	E	5	---	5
Maryland	E	5	---	5
Massachusetts	E	5	---	5
Michigan	E	6	---	6
Minnesota	E	6.5	1	7.5
Mississippi	T	7	0.25	7.25
Missouri	T	4.225	4.125	8.35
Nebraska	E	5.5	1.5	7
Nevada	E	6.5	0.75	7.25
New Jersey	E	6	---	6
New Mexico	T	5	2.25	7.25
New York	E	4	4.5	8.5
North Carolina	E [4]	4.5	3	7.5
North Dakota	E	5	2.5	7.5
Ohio	E	5	2	7
Oklahoma	T	4.5	5.35	9.85
Pennsylvania	E	6	1	7
Rhode Island	E	7	---	7
South Carolina	T**	5	2	7
South Dakota	T*	4	2	6
Tennessee	T	7	2.75	9.75
Texas	E	6.25	2	8.25
Utah	T	4.75	2.25	7
Vermont	E	5	1	6
Virginia	T**	3.5	1	4.5
Washington	E	6.5	2.4	8.9
West Virginia	T	6	---	6
Wisconsin	E	5	0.6	5.6
Wyoming	T*	4	2	6

Notes

[1] Food purchased for consumption off-premises.

[2] Highest local rate known to be actually levied by at least one jurisdiction. Includes local taxes for general purposes and those earmarked for specific purposes (e.g. transit). Taxes applying only to specified sales (e.g. lodging or meals) are excluded.

[3] Alaskan cities and boroughs may levy local sales taxes from 1% to 6%.

[4] Food exempt from state tax, but subject to local taxes. In Louisiana, food will be exempt from state tax after 7/1/03.

* Income tax credit allowed to offset sales tax on food.
** Food taxed at lower rate.

Source: Compiled by the Federation of Tax Administrators from various sources.

Comparison of State and Local Retail Sales Taxes, 2000

	Food Items [1] Taxable (T) Exempt (E)	State Rate	Maximum Local Rate [2]	Maximum State/Local Rate [2]
Alabama	T	4	5	9
Alaska	T	—	6.00 [4]	6
Arizona	E	5.6	3	8.6
Arkansas	T	5.125	3	8.125
California	E	5.75	2.5	8.25
Colorado	E	2.9	4.5	7.4
Connecticut	E	6	—	6
District of Columbia	E	5.75	—	5.75
Florida	E	6	2.5	8.5
Georgia	E	4	3	7
Hawaii	T*	4	—	4
Idaho	T*	5	2	7
Illinois	T**	6.25	2.5	8.75
Indiana	E	5	—	5
Iowa	E	5	2	7
Kansas	T*	4.9	3	7.9
Kentucky	E	6	—	6
Louisiana	T [3]	4	5.5	9.5
Maine	E	5	—	5
Maryland	E	5	—	5
Massachusetts	E	5	—	5
Michigan	E	6	—	6
Minnesota	E	6.5	1	7.5
Mississippi	T	7	—	7
Missouri	T	4.225	4	8.225
Nebraska	E	5	1.5	6.5
Nevada	E	6.5	0.75	7.25
New Jersey	E	6	—	6
New Mexico	T	5	2.1875	7.1875
New York	E	4	4.5	8.5
North Carolina	E [5]	4	2	6
North Dakota	E	5	2	7
Ohio	E	5	2	7
Oklahoma	T	4.5	5.25	9.78
Pennsylvania	E	6	1	7
Rhode Island	E	7	—	7
South Carolina	T**	5	1	6
South Dakota	T*	4	2	6
Tennessee	T	6	2.75	8.75
Texas	E	6.25	2	8.25
Utah	T	4.75	2	6.75
Vermont	E	5	—	5
Virginia	T**	3.5	1	4.5
Washington	E	6.5	2.3	8.8
West Virginia	T	6	—	6
Wisconsin	E	5	0.6	5.6
Wyoming	T*	4	2	6

[1] Food purchased for consumption off-premises.

[2] Highest local rate known to be actually levied by at least one jurisdiction. Includes local taxes for general purposes and those earmarked for specific purposes (e.g. transit). Taxes applying only to specified sales (e.g. lodging or meals) are excluded.

[3] Exemption has been temporarily suspended for the state tax; food remains subject to local taxes.

[4] Alaskan cities and boroughs may levy local sales taxes from 1% to 6%.

[5] Food exempt from state tax, but subject to local taxes.

* Income tax credit allowed to offset sales tax on food.
** Food taxed at lower rate.

Source: "State Tax Guide," Commerce Clearing House, Inc.; Federation of Tax Administrators. Table was compiled by the Washington Dept. of Revenue. Updated 10/18/2001, from state websites and input from state revenue/tax agency responses.

Colorado

Colorado Department of Revenue
Taxpayer Service Division
01/12

FYI Sales 4
Taxable and Tax Exempt Sales of Food and Related Items

The following guidelines should be used to determine whether a food item is exempt from sales tax. Colorado's principal sales tax exemption guideline is based upon what can be purchased for home consumption with food stamps [U.S.C. section 2012 (g)] and WIC vouchers (WIC is the federal supplemental food program for women, infants and children.) (42 U.S.C. section 1786). Colorado statute also imposes other criteria, in addition to the food stamp/WIC guidelines. [Reg. 39-26-102.4.5]

FOOD PURCHASES EXEMPT FROM COLORADO SALES TAX
Exempt items eligible for purchase with food stamps or WIC vouchers include:

1. Food purchased for human consumption at home.
2. Seeds and plants which produce food for human consumption.
3. Food purchased with food stamps or WIC vouchers. (§39-26-707, C.R.S.)

FOOD AND RELATED ITEMS NOT EXEMPT FROM COLORADO SALES TAX
The Department of Agriculture guidelines prohibit the use of food stamps or WIC vouchers for the purchase of the following items. These items are sales **taxable:**

1. Nonfood items such as soaps, paper products and household supplies, grooming items and cosmetics, and food not for human consumption, such as pet and bird food.
2. Alcoholic beverages. (cooking wine, wine vinegar and , alcohol-filled candies are exempt.)
3. Cigarettes, tobacco and tobacco products.
4. Food to be eaten in the store, hot foods ready to eat and food marketed to be heated in the store.
5. Food preservation equipment and items.
6. Vitamins, dietary supplements, and medicines. (Prescription drugs are exempt under [Reg. 39-26-717.1])
7. Ice used for refrigeration.

ITEMS EXEMPT FROM TAX IF PURCHASED WITH FOOD STAMPS OR WIC VOUCHERS -- BUT TAXABLE WHEN PAID WITH CASH
The following items, if purchased with food stamps or WIC vouchers/checks are exempt from the 2.9% state sales tax, but are taxable if purchased with cash:

1. Carbonated water marketed in containers.
2. Soft drinks.
3. Chewing gum.
4. Candy
5. Seeds and plants to produce food for human consumption.
6. Prepared salads and salad bar items.
7. Cold sandwiches.
8. Deli trays.

Sales and purchases of food sold through vending machines are exempt from Colorado sales tax. Sales of hot and cold beverages in unsealed containers sold by vending machine are not exempt. [39-26-102(4.5), C.R.S.]

NOTE: Food used by a business or commercial entity, such as coffee or bottled water served to customers or employees, is subject to state sales tax.

In addition, all food and drink sold by the following establishments are taxable: restaurants, snack shops, carryout shops, pushcarts and other sellers of food and drink as specified in §39-26-104 (1) (e), C.R.S. However, meals sold by colleges in dormitories, by assisted living facilities to its residents, by private clubs to its members, and by restaurants at no cost or reduced cost to employees of restaurants and other such establishments are exempt.

DETERMINING WHETHER LOCAL TAX AND SPECIAL DISTRICT TAXES ARE DUE ON FOOD

Cities and counties have the option of taxing food. However, if they exempt food from sales tax they must use the same criteria as the state in determining which items are taxable and which are exempt. This includes home-rule cities that administer their own sales tax. Localities that elect to tax food still must exempt purchases made with food stamps or WIC vouchers.

To find out whether a city or county taxes food, retailers should refer to Colorado Sales/Use Taxes (DR 1002). This publication lists tax rate information for Colorado cities and counties and indicates which counties and statutory cities have a sales tax exemption for food. The publication can be obtained on our Web site at *www.TaxColorado.com* or the rates can be found through the Business button on Revenue Online at *www.Colorado.gov/RevenueOnline*. Contact home-rule cities directly to find out if they exempt food from sales tax.

Regional Transportation District (RTD) tax, and Scientific and Cultural Facilities District (CD) taxes are due on any food item sold within RTD/CD boundaries and that is subject to the state sales tax. (The boundaries of these three special districts encompass most of the seven-county Denver metropolitan area.) The DR 1002 provides boundaries and tax rates. If the item is not subject to state sales tax, RTD/CD taxes are not due.

The Rural Transportation Authority (RTA) tax is due on any food item sold within the RTA boundary, and that is subject to the state sales or use taxes. The DR 1002 will list the various RTA boundaries and tax rates.

All state sales tax and, if applicable, state-collected local and RTD/CD, or RTA taxes must be reported and remitted with the Retail Sales Tax Return (DR 0100).

Effective March 1, 2010 sales and purchases of nonessential food items and packaging provided with purchased food and beverage items are taxable at the state sales and use tax rate of 2.9%.

Nonessential articles or containers furnished in connection with sale of taxable food. On or after March 1, 2010, a retailer of food, meals, or beverages who purchases nonessential food items or nonessential containers or bags and furnishes the article or container to a consumer in connection with a taxable retail sale of food, meals, or beverages, must pay sales or use tax on the purchase of the nonessential article or container.

Nonessential articles and containers. An article or container is nonessential if it is primarily used for the convenience of the consumer and is not necessary to effectuate the sale of food.

Examples of nonessential articles or containers include, but are not limited to, non-reusable:
- utensils
- skewers
- napkins and towelettes
- bibs
- serving trays, platters, and dome lid covers to plates or platters
- placemats, tray liners, and tablecloths
- sacks
- grocery bags
- bags and bag ties for bulk grocery produce or bread
- carryout containers for leftover food sold for immediate consumption
- straws
- toothpicks
- stirring sticks
- cup sleeves
- portion dividers
- single-use baking dishes
- condiments, including ketchup, mustard, relish, and spices that are not incorporated into a prepared meal at the time it is transferred to the consumer but, rather, are provided separately from the transfer of the meal to the consumer, such as at a convenience counter. Another example of condiments provided separately from the meal are packets of ketchup placed in a bag that are given to the customer. Condiments sold as food for domestic home consumption (for example, condiment sales sold in grocery stores) are exempt from state sales and use tax.

Examples of essential articles or containers include, but are not limited to, non-reusable:
• plates, cups, or bowls (and lids for such items) on, or in which, unwrapped or unpackaged hot or prepared food and beverages are served to the consumer;
• Cups used in vending machines dispensing beverages;
• Disposable containers or packaging material* on, or in which, food is transferred to the consumer, including pizza delivery box, sleeve for French fries, buckets, clamshells or other containers if the retailer cannot transfer the food to the consumer without such article or container. However, a carryout container used by a consumer to carry leftover meals from the restaurant is not essential.
*packaging material used in a non-essential manner would be taxable. Example: butcher paper used as a table liner would not be considered an essential use.

Articles or containers not furnished to consumer. A retailer is liable for sales or use tax for its purchase, use, storage, or consumption of an article or container, regardless of whether it is essential to the consumer, if the article or container is not transferred to the consumer. An article or container is treated as transferred to the consumer if the food retailer makes the article or container available to consumers on the food retailer's premises. Examples of non-transferred articles include, but are not limited to:

- Reusable articles such as glassware, ceramic plates, cloth napkins, and silverware;
- Non-reusable articles the retailer uses to cook or store food, such as plastic storage wrap for storage, aluminum foil used primarily for cooking, food labels, single use baking dish, and cooking tray liners.

Taxable Food. Articles or containers that are essential to the consumer and, therefore, otherwise exempt under this regulation, are taxable to the food retailer if the purchase of the food by the consumer is not subject to tax. For example, a food retailer must pay tax on free beverage samples furnished in disposable paper cups and free food furnished with napkins or with disposable utensils. In such cases, there is no retail sale from the food retailer to the consumer and there is no tax due on the transfer of the free article to the consumer. However, the retailer is responsible to pay the tax on both the food and the container.

Separate charge for essential article or container. Sales of an article or container by a food retailer to a consumer is subject to tax, regardless of whether the article or container is essential to the consumer, if the food retailer separately states on the consumer's invoice a charge for such article or container or if the food retailer separately sells the article or container for a charge and not as part of a retail sale of food.

Example 1: A theater sells a canned beverage and cup for a single charge. Prior to March 1, 2010, the theater could purchase the cup from suppliers as an exempt wholesale purchase for resale. After March 1, 2010, the theater must pay sales or use tax on its purchase of cups from suppliers.

Example 2: Same facts as Example No. 1, except the theater sells non-reusable cups to consumers who do not also purchase a beverage. Theater may purchase such cups as an exempt wholesale purchase and must collect sales tax on the charge for the cup.

Example 3: Airport food retailer separately charges for food and disposable utensils used by the consumer. Retailer may purchase the utensils from suppliers as an exempt wholesale purchase for resale to consumer and must collect sales tax on the sale of utensils to the consumer.

Example 4: Food retailer sells plastic bottles or cups with beverage for a single charge, but the plastic bottle is designed for reuse by the consumer. Retailer may purchase the reusable bottle or cup from the supplier as an exempt wholesale purchase and collect sales tax from the consumer.

Who collects and remits this tax? The vendor or supplier of the items known to be nonessential (forks, napkins, lids, straws) is responsible for charging and remitting the sales tax. For those items that may be essential (paper plates used in the restaurant), then become nonessential (paper plates provided along with food already in containers), the restaurant/retailer using or providing those items is responsible for remitting use tax on those items.

INFORMATION BULLETIN #29

SALES TAX

FEBRUARY 2012

(Replaces Information Bulletin #29 dated January 2012)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the statutes, rules, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current statute and procedures related to the subject matter covered herein.

SUBJECT: Sales of Food

DIGEST: Moves two specific items from the taxable list to the nontaxable list of grocery items. The items conform to the listing approved by the Streamlined Sales Tax Governing Board.

EFFECTIVE DATE: February 1, 2012

REFERENCES: IC 6-2.5-1-11; IC 6-2.5-1-11.5; IC 6-2.5-1-12; IC 6-2.5-1-16; IC 6-2.5-1-20; IC 6-2.5-1-26; IC 6-2.5-1-28; IC 6-2.5-4-15; IC 6-2.5-5-20; IC 6-2.5-5-21; IC 6-2.5-5-21.5; IC 6-2.5-5-22; IC 6-2.5-5-35; IC 6-2.5-8-1

INTRODUCTION

Generally, the sale of food and food ingredients for human consumption is exempt from Indiana sales tax. Primarily, the exemption is limited to the sale of food and food ingredients commonly

referred to as "grocery" food. The purpose of this bulletin is to assist Indiana retailers in the proper application of this exemption.

A number of items sold by grocery stores, supermarkets, and similar type businesses are classified in this bulletin under the headings "Non-taxable Food Items" and "Taxable Grocery Items." These examples are for illustrative purposes and are not intended to be all-inclusive.

I. Non-taxable Food Items

Food is defined as substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste or nutritional value. The term does not include tobacco, alcoholic beverages, candy, dietary supplements, or soft drinks.

The Indiana sales tax does not apply to the sale of food and food ingredients listed below if sold unheated and without eating utensils provided by the seller:

- Baby food
- Bakery items (including bagels, bars, biscuits, bread, buns, cakes, cookies, croissants, Danish, donuts, muffins, pastries, pies, rolls, tarts, tortes, and tortillas)
- Baking chocolate (whether liquid, powder, or solid)
- Baking soda or other forms of leavening agents
- BBQ potato chips
- BBQ sunflower seeds
- Beverages containing at least 50% fruit or vegetable juice or containing milk, milk products, or milk substitutes
- Broths and bouillons (whether liquid, instant, freeze dried, or cubes)
- Canned fruits and vegetables
- Cereal and cereal products
- Cocoa
- Coconut (whether whole, shredded, processed, or raw)
- Coffee and coffee substitutes (beans, grounds, freeze dried, bags, and instant only)
- Condiments
- Cotton candy not prepared by seller
- Deli items when sold unheated by weight or volume as a single item
- Deli trays that contain only otherwise exempt items
- Eggs and egg products or substitutes
- Extracts and flavorings intended as cooking ingredients
- Fish and fish products (including all other forms of seafood)

- Flour (including barley, buckwheat, corn, rice, rye, soy, wheat, whole wheat, or other forms of milled grains or nuts)
- Food coloring
- Food sold by a seller whose primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries)
- Food sold by weight or volume as a single item
- Fritos Honey BBQ Flavor Twists
- Frosting in containers
- Frozen juice bars
- Fruit and fruit products (whether fresh, frozen, canned, or dehydrated); this excludes items on salad bars
- Gelatins (whether powdered or prepared)
- Gluten-free non-candy products
- Honey
- Ice
- Ice cream (including toppings and novelties)
- Icing in tubes
- Jams and jellies (including marmalades and preserves)
- Jell-O pudding
- Ketchup
- Kit Kat bars
- Lard
- Licorice w/flour
- Lightly salted rice cakes
- Marshmallow crème
- Meat and meat products (whether fresh, frozen, cured, canned, or dehydrated)
- Milk and milk products
- Mustard
- Nestle Crunch bars
- Nuts (including salted, but not chocolate- or candy-coated nuts)
- Oleomargarine
- Olive oil
- Peanut butter
- Pepper
- Pickles
- Pixie Stix
- Popsicles
- Powdered drink mixes (including sweetened)
- Pudding
- Relishes
- Salad dressings and mixes
- Salt
- Sandwich spreads
- Sauces
- Sherbets and sorbets
- Shortenings

- Snack chips and pieces (including corn chips, pig skins, potato chips, pretzels, and trail mixes)
- Soups
- Spices
- Sugar, sugar products, and sugar substitutes
- Syrups (including molasses and dietetic syrups and similar products)
- Tea (bags, leaves, or instant only)
- Trail mix
- Twix bars
- Unpopped popcorn (regular, caramel, or kettle)
- Vegetable oils
- Vegetables and vegetable products (whether fresh, frozen, canned, or dehydrated); this excludes items on salad bars
- Water

II. Taxable Grocery Items and Candy

The following grocery items and candy are subject to Indiana sales tax:

- Alcoholic beverages
- Almond bark
- Beer nuts party mix
- Breath mints
- Butterscotch chips
- Cake decorations
- Candy and confections
- Caramel apples
- Cereal bars w/o flour
- Chewing gum
- Chocolate chips
- Chocolate-covered nuts
- Chocolate-covered potato chips
- Cocktail mixes (dry or liquid)
- Cooking utensils
- Cracker Jacks
- Dietary supplements
- Dried fruit w/ sweetener
- Flaked coconut w/sweetener
- Fruit Roll-ups
- Gluten-free candy products
- Heath Bar bits
- Honey-roasted peanuts
- Licorice w/o flour
- Liver oils

- Lozenges
- Marshmallows
- Over-the-counter medicines
- Paper products
- Pet food and supplies
- Popped kettle and caramel corns
- Soap and soap products
- Soft drinks
- Tobacco and tobacco products
- Tonics
- Toothpaste and mouthwash
- Vending machine sales
- Vitamins

Food sold in a heated state or heated by the seller is taxable.

Two or more food ingredients mixed or combined by the seller for sale as a single item are taxable (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer so as to prevent food-borne illness).

Food that is sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws is taxable.

A. Candy

Candy is defined as preparations of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. The fact that these preparations contain ingredients that, if purchased separately, are considered exempt does not exempt these preparations. The term does not include any preparation that contains flour listed on the label or any preparation that requires refrigeration.

Baking chocolate and similar products that are intended for use in cooking will be considered exempt food within the meaning of this information bulletin. The method used in packaging, distributing, and displaying the product, including the kind and size of container used, will be considered in determining the primary use for which it is sold.

B. Soft Drinks

Soft drinks are defined as nonalcoholic beverages that contain natural or artificial sweeteners. The term does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent vegetable or fruit juice by volume.

C. Dietary Supplements

Sales of dietary supplements are subject to Indiana sales tax. The term *dietary supplements* means any product other than tobacco that:

(1) Is intended to supplement the diet;

(2) Contains one or more of the following ingredients:

(a) Vitamins
(b) Minerals
(c) Herbs or other botanicals
(d) Amino acids
(e) A dietary substance for use by humans to increase the total dietary intake
(f) Concentrates, metabolites, constituents, extracts, or a combination of any of the above ingredients

(3) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in the above form, is not represented as a conventional food and is not represented for use as a sole item of a meal or of the diet;

(4) Is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts" box found on the label and as required under 21 CFR 101.36.

Sales of food prescribed as medically necessary by a physician licensed to practice medicine in Indiana are exempt from the sales tax if dispensed by a registered pharmacist or sold by a licensed physician.

D. Prepared Food

(1) All food sold through a vending machine is subject to sales tax regardless of the type of food sold. The fact that the item qualifies as exempt food if sold in another manner does not make the purchase exempt if sold through a vending machine.

(2) All food items sold with eating utensils provided by the seller are taxable. Food shall be considered to be sold with eating utensils provided by the seller when the food is intended for consumption with the utensils provided. Taxable food therefore includes all food sold by an eating establishment that sells meals, sandwiches, or other food for consumption on or off the premises. Additionally, taxable food includes self-service food such as salad bars or drink islands. The presence of self-service utensils in a facility does not make otherwise exempt food taxable unless it is intended that the food be consumed with those utensils. Further, items provided solely pursuant to sanitary statutes or regulations and not for purposes of consumption do not qualify as utensils.

(3) All food items sold in a heated state are taxable. Food is also taxable if it was heated by the seller and is ready to eat without further cooking by the purchaser.

(4) Where two or more food ingredients are mixed or combined by the seller and then sold as a single food item, this item is taxable unless:

(a) The item is both sold in an unheated state by weight or volume as a single item and is sold without eating utensils,(e.g., potato salad);
(b) The item sold represents food that is only cut, repackaged, or pasteurized by the seller (e.g., vegetable trays); or
(c) The item sold contains raw animal foods that require cooking.

(5) Bakery items are not taxable unless they are

(a) Sold through a vending machine;
(b) Sold with eating utensils provided by the seller; or
(c) Sold in a heated state.

(6) Food items sold by a seller whose proper primary NAICS classification is 311 food manufacturing (except subsector 3118, bakeries) are not taxable unless they are

(a) Sold through a vending machine;
(b) Sold with eating utensils provided by the seller; or
(c) Sold in a heated state.

E. Unitary Transactions

When a taxable item is sold with a non-taxable food item where the food item is less than 50 percent of the total price, the entire purchase amount is subject to sales tax. If such items are separately priced and charged on the receipt, only the amount charged for the taxable item is subject to sales tax.

III. Coupons, Redemption Certificates, and Bottle Deposits

Coupons or redemption certificates received by the seller as payment or partial payment of merchandise are considered as cash if such coupons are redeemable to the seller and were not extended by the seller.

Charges for bottle deposits are not subject to sales tax and should be removed from the total on which sales tax is computed. The refunds of bottle deposits are not deductible when computing taxable receipts.

IV. Purchases by Retailers

Purchases by the retailer of merchandise for resale and of material for nonreturnable packaging of merchandise sold is exempt from sales tax.

Gifts and premiums given by a retailer are not purchases for resale, and such items are subject to the sales tax when purchased by the retailer. The retailer cannot purchase cash registers, equipment-cleaning supplies, cash register tapes, sales tickets, and other similar items exempt because the retailer is the final consumer of these items. The retail merchant must pay sales tax on all such items. Sales of merchandise to employees are subject to sales tax on the full final sales price.

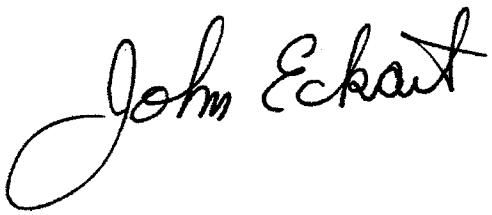
V. Registration and Record Keeping Requirements

All grocers and other general merchandise retailers are required to file an application for a registered retail merchant's certificate for each location. Upon application with the Department of Revenue and the payment of a $25 fee, a certificate will be issued that must be displayed on the premises at all times.

The certificate is valid for two years from the date of issue and will be renewed automatically if the retail merchant is not delinquent in remitting sales or withholding taxes. If the retail merchant's certificate is automatically renewed, there is no fee for the renewal.

If the retail merchant is delinquent in remitting sales or withholding taxes, the retail merchant will be notified by the Department at least 60 days before the expiration of the retail merchant's certificate.

Indiana retail merchants are required to keep adequate books and records for both taxable and nontaxable sales for a period of three years, plus the current year.



John Eckart
Commissioner

Iowa Sales Tax on Food

Foods for Human Consumption

The exempt status of the purchase of food is not solely determined by whether the food is eligible for purchase with Food Stamps. Under the Streamlined Sales Tax Project, many products are exempt from Iowa sales tax whether or not they are purchased with Food Stamps.

Food Stamp Purchases

When eligible food items are purchased using only Food Stamps, they are exempt from sales tax.

If a purchase is made using Food Stamps and cash, a retailer may choose to either (1) exempt the entire purchase of eligible food items, or (2) apply the value of the Food Stamps first to eligible food items that otherwise are taxable, charging no tax on the sale of those items while charging sales tax on any remaining items for which cash is paid. Call the US Department of Agriculture, Food and Nutrition Service at 515-284-4035 if you have questions about whether or not an item can be purchased with Food Stamps.

Once a retailer chooses one of these two methods, it applies to all sales by that retailer until the Department of Revenue is notified of a change.

Exempt Products

General Listing

Sales of the following types of food products for consumption off the premises of the retailer are exempt from tax. Remember that retailer-prepared food for immediate consumption, candy, candy-coated items, candy products, and certain beverages are taxable.

This list is intended to provide general understanding of the types of foods that are exempt.

- Bread and flour products
- Bottled water
- Cereal and cereal products, unless taxable as candy in the form of a bar
- Cocoa and cocoa products, unless taxable as candy
- Coffee and coffee substitutes
- Cooking ingredients
- Dietary substitutes and specialty foods
- Eggs and egg products
- Fish and fish products
- Food with ingredients eligible for purchase with Food Stamps
- Frozen foods
- Fruits / fruit products / fruit juices containing more than 50% fruit or vegetable juice
- Meats and meat products
- Milk and milk products, including packaged ice cream products
- Oleomargarine, butter, and shortening
- Snack foods, spices, condiments, extracts, and artificial food coloring
- Sugar, sugar products and substitutes, unless taxable as candy
- Tea
- Vegetables and vegetable products

Unique Categories of Exempt Foods

Most products can easily be classified either as food or food products or as nonfood items. However, certain items may be difficult to categorize. The following guidelines apply to some of the more unique categories of exempt foods. This list is not a complete list.

Ice

If specifically labeled for nonfood use, ice is taxable; otherwise, it is exempt from tax.

Specialty Foods

This category includes special foods, such as diabetic and dietetic, enriched or fortified foods, infant formulas, and certain foods commonly referred to as health food items or dietary replacements. This category includes Slim Fast, Carnation Instant Breakfast, Sustacal, Ensure, and Boost. Sales of these items are exempt.

NOTE: If the product is primarily used as a food or in preparing food, the sale is exempt. If used primarily for medicinal purposes as either a therapeutic agent or deficiency corrector, the sale is taxable.

Snack Foods

The sale of these products is generally exempt from sales tax. Typical examples are nuts, potato chips, popcorn, corn chips, and pretzels.

Snack food items are not taxable because they are eligible to be purchased with Food Stamps.

NOTE: Sales of candy, candy-coated items, candy products, and certain beverages often considered snacks are subject to sales tax unless Food Stamps are used.

Food Ingredients

Certain food items incorporated into foods are exempt. An example is pectin, commonly used as a base in making jams and jellies. Other examples are lard and vegetable oils.

Food Baskets

Food basket sales are exempt if the value of the exempt food items is greater than the value of the taxable items. The basket and other decorative items are usually taxable. If these types of items are clearly the most expensive part of the merchandise, the entire food basket is taxable.

Taxable Products

General Listing

The following general classifications of products are subject to tax:

- Alcoholic beverages
- Candy, candy-coated items, and candy products, including gum
- Certain beverages, including those with 50% or less fruit or vegetable juice
- Cosmetics
- Dietary supplements
- Chewing gum
- Health aids
- Household aids
- Paper products
- Pet foods and supplies
- Soaps and detergents
- Tobacco products
- Toiletry articles
- Tonics
- Vitamins and minerals

Vitamins, Minerals, and Food Supplements

Vitamins and minerals are supplements to food and food products. They do not replace food. Their sales are taxable. They cannot be purchased with Food Stamps because they occur naturally in food. This category includes products such as cod liver oil, which is used primarily as a source of vitamins A and D. Other similar items which are primarily used for medicinal purposes or as health aids are taxable.

Note: Sales of prescription drugs are exempt from tax.

Health Aids

Sales of products used primarily as health aids or therapeutic agents are generally taxable. These include aspirin, cough drops or syrups, and other cold remedies, antacids, and all patent medicines or other products used as health aids. Sales of any product used primarily for medicinal purposes are taxable.

Garden Seeds and Plants

Sales of seeds and plants used to produce food are subject to sales tax if the primary user/consumer of the produce is the buyer.

If the produce from the seeds and plants are grown by a commercial produce grower or truck gardener primarily for resale, then the sales of seeds or plants that produce food are exempt.

Examples of vegetable seeds and food-producing plants are tomato and green pepper plants; fruit trees; food-producing roots, bushes, and bulbs, such as asparagus roots and onion sets; seeds and plants used to produce spices for use in cooking foods.

Note: Pumpkins are exempt from Iowa sales tax. Inedible decorative gourds are taxable.

Candy, Candy-Coated Items and Candy Products

Candy and candy-coated products are taxable unless they contain flour.

Taxable Candy Examples

- candy, candy-coated items, and candy products include preparations normally considered to be candy
- fruits, nuts, or other ingredients in combination with sugar, chocolate, honey, or other natural or artificial sweeteners in the form of bars, drops, or pieces
- chewing gum
- unsweetened or sweetened baking chocolate in bars, pieces, or chips
- caramel wraps, caramel or other candy-coated apples or other fruit
- sweetened coconut
- hard or soft candies including jelly beans, taffy, licorice, and mints
- dried fruit leathers or other similar products prepared with natural or artificial sweeteners
- marshmallows
- ready-to-eat caramel corn, kettle corn, and other candy-coated popcorn
- granola bars
- candy breath mints
- mixes of candy pieces, dried fruits, nuts, and similar items when candy is more than an incidental ingredient in the product
- candy primarily intended for decorating baked goods

Exempt Examples, not considered candy

The following are not considered candy, and the sales of them are not subject to tax, unless taxable as prepared food.

- jams, jellies, preserves, or syrups
- frostings and other decorating ingredients
- dried fruits
- marshmallow cream
- breakfast cereals
- prepared fruit in a sugar or similar base
- ice cream, popsicles, or other frozen desserts covered with chocolate or similar covering
- unpopped caramel corn, kettle corn and other candy-coated popcorn
- cakes and cookies
- candy containing flour, unless the flour is added only to exclude its sale from tax
- cotton candy, unless taxable as prepared food
- crackers
- marzipan
- unsweetened coconut

Beverages

Taxable Beverage Examples

- carbonated and noncarbonated soft drinks, including but not limited to colas, ginger ale, near-beer, root beer, lemonade, orangeade
- all other drinks or punches with natural fruit or vegetable juice which contain 50 percent or less by volume natural fruit or vegetable juice; a typical example is Hi-C
- beverage mixes and ingredients intended to be made into taxable beverages; liquid or frozen, concentrated or non-concentrated, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned or unseasoned
- concentrates intended to be made into beverages which contain 50% or less by volume natural fruit or vegetable juice
- all alcoholic beverages
- sweetened naturally or artificially sweetened water

Exempt Beverage Examples

Unless sold as prepared food

- bottled water, including effervescent and noneffervescent water, soda water, mineral water (non sweetened)
- tea, coffee, (including bottled), unless sweetened or containing fruit/vegetable juice of 50 percent or less by volume
- milk and beverages that contain primary dairy products or ingredient bases, such as egg nog
- beverages that contain natural fruit or vegetable juice of more than 50% by volume (providing the container's label shows the percentage of natural fruit or vegetable juice)
- infant formula
- nondairy coffee creamers in liquid, frozen, or powdered form
- sugar or other artificial or natural sweeteners sold separately
- beverage in concentrate or mix form to be made into an exempt beverage, such as frozen orange juice or apple juice
- concentrates which when reconstituted are equivalent of more than 50% natural fruit or vegetable juices

- mixes intended to be mixed with milk or dairy products, such as Nestle's Quik
- specialty foods that are liquids or that are to be added to a liquid and that are intended to be a substitute in the diet of more commonly used food items are exempt, such as infant formulas

Prepared Foods

701—231.5(423) Sales of prepared food are subject to tax.

231.5(1) Prepared food.

a. "Prepared food" means any of the following:

1. Food sold in a heated state or heated by the seller, including food sold by a caterer or
2. Two or more food ingredients mixed or combined by the seller for sale as a single item or
3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport food.

The types of retailers who are generally considered to be offering prepared food for sale include restaurants, coffee shops, cafeterias, convenience stores, snack shops, and concession stands, including those at recreation and entertainment facilities. Other retailers that often offer prepared food include vending machine retailers, mobile vendors, and concessionaires operating facilities for such activities as education, office work, or manufacturing.

If food is sold for consumption on the premises of a retailer, the food is rebuttably presumed to be prepared food. "Premises of a retailer" means the total space and facilities under control of the retailer or available to the retailer, including buildings, grounds, and parking lots that are made available or that are available for use by the retailer, for the purpose of sale of prepared food and drink or for the purpose of consumption of prepared food and drink sold by the retailer. Availability of self-service heating or other preparation facilities or eating facilities such as tables and chairs, and knives, forks, and spoons, indicates that food, food products, and drinks are sold for consumption on the premises of the retailer and are subject to tax as sales of prepared food.

The following examples are intended to show some of the situations in which sales are taxable as sales of prepared food and drink.

Example A. A movie theater owner operates a movie theater and a concession stand in the lobby of the theater. There is not a separate area set aside for eating facilities. Sales of prepared food and drink through the concession stand are taxable.

Example B. As a convenience to employees, a manufacturer owns and operates several food and drink vending machines located on the premises of the plant. No separate seating or other facilities for eating are provided. Sales of prepared food and drink through the vending machines are taxable.

Example C. Mobile vendor units located throughout an office are operated by the owner of the business and are stocked with snack food priced to cover the cost of the items to the employer. No separate eating facilities are provided. Sales of prepared food through the mobile vendors are taxable.

Example D. An insurance company hires a caterer to run a cafeteria that provides food, at a low cost, to its employees. The insurance company also pays the caterer an amount, per month, that varies with the number of meals the caterer serves to provide this food service. The caterer does not lease the cafeteria premises; therefore, the premises remains under the control of the insurance company. In this case, the caterer sells the food in a space made "available to the retailer [caterer]," and the amount which the insurance company pays, on a monthly basis, to the caterer is presumed to be the taxable sales price from the sale of prepared food, as well as the amount paid by the employees to the caterer.

b. "Prepared food," for the purposes of this rule, does not include food that is any of the following:

1. Only cut, repackaged, or pasteurized by the seller.
2. Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the United States Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code, so as to prevent food-borne illnesses.
3. Bakery items sold by the seller that baked them. The term "bakery items" includes but is not limited to breads, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. Baked goods sold for consumption on the premises by the seller that baked them are sold exempt from tax.
4. Food sold in an unheated state as a single item without eating utensils provided by the seller which is priced by weight or volume.

231.5(2) Examples. The following are additional examples of foods that are or are not "prepared foods," the sales price of which is taxable.

MAINE

MAINE REVENUE SERVICES
SALES FUEL & SPECIAL TAX DIVISION
INSTRUCTIONAL BULLETIN NO. 12

GROCERS

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules.

The following instructions do not apply to retail locations that primarily sell prepared food. The Maine Sales and Use Tax Law provides that sales of prepared foods are taxable at 7%. All persons making sales of prepared food, regardless of the type of establishment, will charge 7% sales tax on all sales of prepared food and should refer to Instruction Bulletin No. 27, "Sales of Prepared Food."

1. EXEMPT SALES.

a. Nontaxable Items. There are several other categories of products that are ordinarily sold by grocers which are not subject to Maine sales tax. The following is a list of categories of items sold by grocers, sales of which are not subject to the tax. This list is not intended to be all-inclusive.

Grocery staples ordinarily consumed for human nourishment
Publications, such as newspapers or magazines, which are published on a regular schedule at least once in every three months;
Returnable containers when sold with the contents
Kerosene, dyed special fuel, or propane for home cooking or heating

b. Sales to Exempt Organizations. Sales of any kind to the federal government, the State of Maine and political subdivisions of the State of Maine are exempt from sales tax. When making sales to government agencies, no evidence of exemption is required other than the invoice of the seller indicating a sale to an exempt governmental entity. Sales to other states or foreign countries or their sub-divisions are **not** exempt from Maine sales tax.

The Maine Sales and Use Tax Law also provides exemptions for sales to various organizations such as hospitals, schools, regularly organized churches or houses of religious worship and a number of other types of organizations. Organizations that qualify for exemption must obtain exemption certificates from Maine Revenue Services in accordance with Rule 302, and sales

should be made tax-free to these organizations only when the purchaser furnishes a copy of its exemption certificate to the seller. The exemption does **not** apply to the clergy, staff or employees of exempt organizations.

Sales made to exempt organizations must be paid for by using a check, purchase order or credit card in the name of the exempt organization. Cash sales or sales paid for by personal checks cannot be exempted. Exemption certificates issued to these types of exempt organizations do not expire.

c. Sales For Resale. Occasionally a grocer may make sales to other registered sellers for resale. Sales for resale to a purchaser holding a valid resale certificate are not taxable. When making sales for resale, the grocer should obtain a copy of the purchaser's current resale certificate.

Sales for resale at casual sale, rather than in the regular course of business of a registered seller, are taxable. For example, the sale of soft drinks for resale by a church group at a bazaar, where the church group is not in the business of selling and is not registered under the Sales and Use Tax Law, is taxable.

d. Sales of Items Paid With Federal Food Stamps or WIC Purchases. Sales paid with federal food stamps or Women, Infants and Children, WIC, Special Supplemental Food Program food instruments distributed by the Department of Health and Human Services are exempt from sales tax. Items eligible for purchase with food stamps that are not otherwise exempt under current law include soft drinks, ice and cold sandwiches. When a retailer receives food stamps as partial payment toward a purchase, the dollar value of the food stamps must be applied first to otherwise taxable items, eligible to be purchased with food stamps, in order to determine what portion is exempt from sales tax.

EXAMPLE 1: A person purchases $50.00 worth of groceries. Payment is made using $40.00 of food stamps and $10.00 cash. The purchase includes $40.00 of eligible items broken down as follows:

$35.00 exempt items
$ 5.00 eligible taxable items

In this example the dollar value of the food stamps ($40.00) is first applied against the purchase of the eligible taxable items ($5.00). Thus the $5.00 of eligible taxable items would become exempt.

EXAMPLE 2: A person purchases $10.00 worth of groceries, all eligible to be purchased with food stamps. However, payment is made using $3.00 worth of food stamps and $7.00 cash. The purchase is broken down as follows:

$6.00 exempt items
$4.00 eligible taxable items

In this example the dollar value of the food stamps ($3.00) is first applied against the purchase of the eligible taxable items ($4.00). Thus only $3.00 of eligible taxable items would become exempt. The remaining $1.00 would still be taxable.

This exemption only applies to purchases paid for with federal food stamps or Women, Infants and Children, WIC, Special Supplemental Food Program food instruments distributed by the Department of Health and Human Services. Purchases paid for with stamps or vouchers issued by any other agency, such as municipal public assistance vouchers, are taxed in exactly the same way as purchases paid for with cash.

e. Seeing Eye Dogs. The sale of dog food and other goods that are essential for the care and maintenance of seeing eye dogs used to aid any blind person are exempt from tax. Copies of sales slips or invoices should be kept to support the exemption with the name of the blind person owning the seeing eye dog noted on the sales slip or invoice.

2. TAXABLE SALES.

a. Taxable Items. Most items sold by grocers that do not fall within the definition of "grocery staples" are subject to tax. In addition to items obviously not intended for human consumption, such as laundry and cleaning supplies and pet foods, the term "grocery staples" excludes water, alcoholic beverages, dietary supplements and substitutes, prepared food and nonprescription medicines. The following is a list of items commonly sold by grocers, sales of which are subject to the tax. This list gives examples and is not all-inclusive.

Agricultural Products
(except by a Commercial Farmer)
Fertilizer
Pesticides, Insecticides,
Fungicides, etc.
Seeds (All)
Seedlings (All)

Alcohol
Beer, including non-alcoholic
Liquor
Wine, including non-alcoholic

Bathroom & Paper Products
Bathroom Tissue
Diapers
Facial Tissues
Paper Napkins & Towels
Sanitary Napkins
Tampons
Toothpaste & Toothbrushes

Cleaning Supplies
Ammonia
Bleach
Cleansers
Detergents
Scouring Agents (steel wool, etc)
Scouring Powder (Comet, etc.)
Soap
Waxes & Polishes

Food Products
Candy (see (b) below)
Confections (see (b) below)
Fudge
Ice
Liquid Iced Tea or Coffee
(This includes flavored or with juice)
Soft Drinks
Water (all types)
Food Wrap Products
Aluminum Foil

Baggies
Plastic Wrap
Waxed Paper & Bags

Household Items
Air Fresheners
Brooms, Brushes, Mops, Sponges
Clothespins & Clothesline
Dyes
Light Bulbs
Matches
Trash Bags

Prepared Food
See (c.) below for discussion

Medical & Dietary Products
Ayds
Cod Liver Oil
Dietary Substitutes (Slimfast, etc.)
Dietary Supplements, in any form
Dressings & Bandages
Drugs, except prescription
Health & Beauty Aids
Non-prescription Medicines,
Tonics & Vitamins

Miscellaneous

Powdered Bartender Mixers
(Not Frozen)
Pet Supplies, including Bird Seed
Charcoal Briquettes
Tobacco Products,
Cigarettes & Cigars
Gourds
Videotape Sales & Rentals
Clothing
Safety Supplies
Seasonal Products
(except grocery staples)

b. Candy and Confections. In addition to what would traditionally be considered candy or candy bars, there are some products on the market which are difficult to categorize as either a "grocery staple" or a "confection". Following are some general guidelines that have been established in determining the taxability of such products. These guidelines are not intended to be all-inclusive.

Bars primarily containing candy or chocolate, such as Twix® bars and Kudo® bars or any "jelly-like" substance primarily containing sugar or corn syrup, such as Gummie Bears® and jelly beans will be considered candy and subject to tax. "Primarily containing" will be considered to be the first ingredient listed on the list of ingredients in the product. **Please note: Most** granola and snack bars (other than those listed above) that have been reviewed by Maine Revenue Services at this time seem to list granola, cereal, oats or fruit as the primary ingredient,and would not be considered candy. (This even includes some that are chocolate covered.) As for the "jelly-like" fruit snacks, if the primary ingredient is corn syrup, sugar or a sugar derivative, the product would be considered candy. If the primary ingredient is fruit, fruit juice or fruit extract the product would be considered a grocery staple.

Candy and confections include snack foods such as popcorn, potato chips, nuts, raisins, prêtzels, etc., that are coated with chocolate, yogurt, caramel or carob.
Nutritional snack bars, such as Power Bars®, Luna Bars®, Genisoy Bars®, Matrix® and Tiger Milk® bars, etc. are considered a dietary supplement and as such, subject to tax.

Candied and glazed fruit, fudge, chewing gum and breath mints are also considered confections subject to tax.

c. Prepared Food. Effective October 1, 2001, all sales of prepared food are subject to Maine sales tax at the rate of 7%.

The definition of "prepared food" contains three categories:

i. all meals served on or off the premises of the retailer

Any prepared sandwich, whether prepared by the retailer or someone else, is considered a "meal" and subject to 7% sales tax. Any food that is heated by the retailer and sold is considered to be a "meal" and subject to 7% sales tax. Also, meals that are prepared and sold and intended to be eaten in a cold state are considered "meals" and subject to 7% sales tax.

ii. all food and drink prepared by the retailer and ready for consumption without further preparation

This category would include:

- food served from self-serve areas such as salad bars and "coffee nooks"*
- food prepared for sale in a heated state regardless of cooling which may have occurred, such as pizza, pieces of chicken, or rotisserie chicken
- bakery items such as cookies, donuts, bagels, etc. that are **prepared by the retailer**, except for bulk sales of grocery staples. (See following discussion)
- Deli platters of cold cuts, cheeses, appetizers, finger rolls, and fruits or vegetables are considered to be prepared by the retailer.

All such sales is subject to tax at the rate of 7%.

*Food products made available by a retailer from a self serve food area designed to offer customers food for immediate consumption, that are not individually prepackaged for resale, are considered food prepared by the retailer and subject to tax at 7%.

iii. all food and drink sold by a retailer that is predominately in the business of selling food prepared by that retailer.

This category will not affect most grocers. If sales of prepared food is greater than 75% of total sales then the business would fall into this category and should refer to Instructional Bulletin 27 for more details.

The definition of "prepared food" excludes "bulk sales of grocery staples". "Bulk sales of grocery staples" are exempt regardless of the location from which they are sold. Some examples of food prepared by the retailer that qualify as bulk grocery staples are:

- pies, cakes, desserts and bread and bread products, except those packaged as a single serving
- donuts, muffins, pastries, cookies, etc. sold in quantities of 6 or more of like kind

- products sold from the "deli case", such as salads, luncheon meats and cheeses, except sandwiches and food prepared for sale in a heated state regardless of cooling which may have occurred prior to the sale
- ice cream packaged in quart or larger containers, maple syrup, jam, jellies, pickles, honey and spaghetti sauce

Fruit baskets are generally considered to be a "bulk sale of a grocery staple." This is true even if the basket may contain a minor number of otherwise taxable items, such as candy or small trinkets. If the fruit basket contains taxable items of significant value the seller must either collect sales tax on the price of the basket, or else separately and reasonably account for the taxable and nontaxable portions and collect tax on the taxable items.

3. PURCHASES BY GROCERS

a. Purchases for Resale. When a retailer purchases tangible personal property for resale, if the retailer holds a current valid resale certificate they should furnish the supplier with a copy of the resale certificate. The certificate will enable the retailer to purchase tangible personal property for resale without payment of sales tax. Only one certificate need be filed with each supplier to cover subsequent purchases. However, the retailer must state to the supplier whether the purchase is for resale or not and will be held responsible for the tax on any item purchased for resale but subsequently used by the retailer. **Purchasers who avoid payment of tax through deliberate misuse of resale certificates will be subject to prosecution.**

If the retailer does not have a current valid resale certificate then they must pay the sales tax to the supplier and if the items purchased are subsequently resold by the retailer then the retailer would take a credit for the tax paid to the supplier on a subsequent sales tax return filed with Maine Revenue Services.

b. Packaging Materials. Purchases by retailers of containers and packaging materials used to package the goods that they sell are not taxable. Grocers should purchase items such as paper or plastic bags, styrofoam trays and plastic wrap that will be used to package their products, and actually transferred to the customer who purchases the products, without payment of tax. The supplier should be furnished with a current valid resale certificate or if the retailer does not hold a current valid resale certificate then the retailer should furnish the supplier with an Exemption Certificate for Packaging Materials.

c. Withdrawals from Inventory. A retailer who takes taxable items from stock for personal or business use becomes liable for use tax based on the cost of the items. Withdrawals from inventory must be reported as taxable purchases on the Sales and Use Tax Return covering the period in which the withdrawal occurred.

4. CLASSIFIED PERMITS.

A "classified permit" establishes the percentages of sales of taxable and exempt commodities made by a retailer during a typical test period. A retailer who has been authorized to do so by the

State Tax Assessor may use the percentage of exempt sales established by the classified permit in lieu of maintaining an actual breakdown of sales of taxable and nontaxable commodities. Classified permits are ordinarily issued only to retailers whose cash registers lack the capacity to accurately separate taxable and nontaxable sales.

Any grocer who wishes to use a classified permit must apply to Maine Revenue Services for authorization to do so. Classified permits are not transferable upon the sale of a business. The new owner of a business must obtain a new classified permit even if the former owner had a classified permit. For further information regarding classified permits, the grocer should refer to Rule 313.

5. COUPONS.

a. Manufacturers' Coupons. When a customer presents a coupon issued by the manufacturer or producer of a certain item in full or partial payment of the sale price of that item, the value of the coupon allowed against the price of the item is a part of the taxable sale price of the item. If the item is subject to tax, the tax must be computed based on the entire selling price of that item including the value of the coupon.

EXAMPLE 1: A customer purchases a bag of dog food that ordinarily sells for $3.99. When paying for the dog food, the customer presents a coupon issued by the manufacturer of the dog food, good for fifty cents off the price of a bag of that company's dog food. The customer is charged $3.49 plus the 50 cent coupon. The tax on this sale is based on the selling price of $3.99.

b. Store Coupons. When a discount is allowed by the seller and actually taken by the purchaser, the amount of the discount is not included in the sale price of the item. In this situation, it makes no difference whether the customer is required to present a coupon issued by the seller in order to claim the discount.

EXAMPLE 2: A certain store includes in its newspaper advertisement a coupon good for 10% off the price of a package of light bulbs. The light bulbs are priced at $2.99 per package. A customer presents the store coupon when buying a package of the light bulbs and is charged $2.69. The tax due from that customer is based on the selling price of $2.69. A second customer purchases the same package of light bulbs but does not present the coupon and is charged the regular price of $2.99. The tax due from that customer is based on the selling price of $2.99.

6. ADDITIONAL INFORMATION.

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to:

MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
P.O. BOX 1065
AUGUSTA, ME 04332-1065
TEL: (207) 624-9693
TTY: (888) 577-6690

Or visit our website at www.maine.gov/revenue

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ATTACHMENT #1
Excerpts taken from 36 M.R.S.A.

36 §1752. Definitions

The following words, terms and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

3-B. Grocery staples. "Grocery staples" means food products ordinarily consumed for human nourishment.

"Grocery staples" does not include spirituous, malt or vinous liquors; soft drinks, iced tea, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection with bars or soda fountains; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; water, including mineral bottled and carbonated waters and ice; dietary substitutes; candy and confections; and prepared food.

8-A. Prepared food. "Prepared food" means:

A. Meals served on or off the premises of the retailer;

B. Food and drinks that are prepared by the retailer and ready for consumption without further preparation; and

C. All food and drinks sold from an establishment whose sales of food and drinks that are prepared by the retailer account for more than 75% of the establishment's gross receipts.

"Prepared food" does not include bulk sales of grocery staples.

10. Retailer. "Retailer" means any person who makes retail sales or who is required to register by section 1754-A or 1754-B or is registered under section 1756.

11. Retail sale. "Retail sale" means any sale of tangible personal property in the ordinary course of business for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property. "Retail sale" also means any sale of a taxable service in the ordinary course of business for any purpose other than for resale, except resale as a casual sale.

A. "Retail sale" includes:

(1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later; and

(2) Sale of products for internal human consumption to a person for resale through coin-operated vending machines when sold to a retailer whose gross receipts from the retail sale of tangible personal property derived through sales from vending machines are more than 50% of the retailer's

gross receipts. The tax must be paid by the retailer to the State. [1989, c. 871, §5 (new).]

B. "Retail sale" does not include:

(1) Any casual sale;

(2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;

(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;

(4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;

(5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more; or

(6) The sale, to a person engaged in the business of providing cable television services, of cable converter boxes for rental or lease; or

(7) The sale, to a person engaged in the business of renting furniture, or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105.

13. Sale. "Sale" means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase.

14. Sale price. "Sale price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

(1) Services which are a part of a retail sale; and

(2)All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise or with respect to fabrication services pursuant to warranty;

(3) The price of property returned or fabrication services rejected by customers, when the full price is refunded either in cash or by credit;

(4) The price received for labor or services used in installing or applying or repairing the property sold or fabricated, if separately charged or stated;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1; or

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B.

36 §1760. Exemptions

No tax on sales, storage or use shall be collected upon or in connection with:

3. Grocery staples. Sales of grocery staples.

5. Medicines. Sales of medicines for human beings sold on doctor's prescription.

12. Containers. Sale of returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

12-A. Packaging materials. Sales of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials to persons for use in packing, packaging or shipping tangible personal property sold by them or on which they

have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business that are transferred to the possession of the purchaser of that tangible personal property.

14. Publications. Sales of any publication regularly issued at average intervals not exceeding 3 months.

35. Seeing eye dogs. Sales of goods and services which are essential for the care and maintenance of seeing eye dogs which are used to aid any blind person.

54. Food stamp purchases. Sales of items purchased with federal food stamps or Women, Infants and Children, WIC, Special Supplemental Food Program food instruments distributed by the Department of Health and Human Services.

36 §1951-A. Collection of tax; report to State Tax Assessor

1. **Monthly report and payment.** Every retailer shall file with the State Tax Assessor, on or before the 15th day of each month, a report made under the pains and penalties of perjury on such form as the State Tax Assessor may prescribe that discloses the total sale price of all sales made during the preceding calendar month and such other information as the State Tax Assessor requires. The State Tax Assessor may permit the filing of returns other than monthly. The State Tax Assessor, by rule, may waive reporting nontaxable sales. Upon application of a retailer, the State Tax Assessor shall issue a classified permit establishing the percentage of exempt sales. The classified permit may be amended or revoked as to its classification whenever the State Tax Assessor determines that the percentage of exempt sales is inaccurate. The State Tax Assessor may for good cause extend for not more than 30 days the time for making returns required under chapters 211 to 225. Every person subject to the use tax shall file similar reports, at similar dates, and shall pay the tax or furnish a receipt for the same from a registered retailer.

36 Service Provider Tax

§ 2551 Definitions

21. Video media; video equipment. "Video media" means prerecorded magnetic tapes used for noncommercial playback of images and sound on video equipment, and other electronic audio and video media that provide for noncommercial interactive utilization by a person or persons, including digital video discs. "Video equipment" means equipment used to play video media, equipment used for recording images and sound for subsequent noncommercial playback and equipment used for noncommercial interactive utilization of electronic audio and video media.

Relevant Rules: #301 - Sales for Resale and Sales of Packaging Materials; #302 - Government Agencies, Exempt Organizations and Sales Thereto; #305 - Reports and Payments; #313 - Classified Permits; #322 - Sales of Food Products

MINNESOTA

Food and Food Ingredients

Also See Fact Sheets 102B, 102C, 102D and 102E

102A

Sales Tax Fact Sheet

Food and food ingredients are exempt. *Food* and *food ingredients* mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

Examples of nontaxable food and food ingredients

The following items are generally exempt. However, if any of these items are prepared by the seller, sold with eating utensils provided by the seller, or sold through vending machines, they are taxable.

- baking powder
- baking soda
- beverage powders (unless dietary supplement)
- bread
- cakes and cake icing
- cereals
- cereal bars with flour
- chip dip
- chips (potato, corn, etc.)
- cocoa
- coffee
- condiments
- cookies
- cooking oil
- dairy products
- dried fruit (without sweeteners)
- eggs
- fish
- flavorings
- flour
- food coloring
- frozen meals
- fruit juices (more than 50% juice)
- fruits
- gelatin
- granola
- gravies
- herbs (seasoning)
- ice cream, sherbet, and frozen yogurt, including prepackaged novelties
- ice cubes or blocks
- malted milk powder
- margarine
- meat
- nuts
- peanuts
- pies
- popcorn
- popsicles
- poultry
- pumpkins
- raisins
- relishes
- saccharin
- salad dressing
- salt
- sauces
- seasonings
- shortening
- spices
- spray candy
- sugar (including colored)
- sunflower seeds
- sweeteners
- tea (bags, leaves, or powdered)
- trail mix (prepackaged with candy)
- vegetables
- water

Taxable items

The exemption for *food and food ingredients does not include* candy, soft drinks, food sold through vending machines, prepared foods, alcoholic beverages, dietary supplements, and tobacco. Following is a list of items that are taxable because they fall into these subcategories that are specifically excluded from the food exemption. The taxable subcategory is noted in parentheses.

- baking chips, sweetened baking bars, candy-coated items (candy)
- beer (alcoholic beverage)
- beer nuts (candy)
- breath mints (candy)
- cake decorations (candy)
- cereal bars without flour
- dried fruit with sweeteners (candy)
- fruit drinks with 50% or less fruit juice (soft drink)
- gum (candy)
- herbal supplements (dietary supplement)
- honey roasted and honey coated nuts (candy)
- marshmallows (candy)
- party trays (prepared food)
- soda pop (soft drinks)
- sweetened baking bars or chips (candy)
- sweetened bottled water (soft drink)
- tea (with "supplement facts" label)
- tobacco products, except cigarettes which are not taxed at retail (tobacco)
- vitamins and minerals (dietary supplement)

Gift baskets and other combination packages (bundled transactions)

When a bundled transaction includes food and food ingredients special rules apply and the sale may or may not be taxable. The sale is taxable if:

1. the seller's purchase price of the taxable items in the transaction is more than 50% of the total purchase price of all of the items in the transaction, or
2. the seller's sales price of the taxable items in the transaction is more than 50% of the total sales price of the transaction.

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Phone: 651-296-6181 or toll-free 1-800-657-3777
Minnesota Relay (TTY) 711
Email: salesuse.tax@state.mn.us

Stock No. 2800102A, Revised 12/12

Sellers cannot use a combination of the purchase price and sales price when making the 50% determination for a transaction.

Use tax is due on the seller's cost of taxable items included in the bundle if:

1) the retail sale of the bundled transaction is not taxable, **and**

2) the seller's purchase price of all taxable items in the bundled transaction is more than $100.

Example 1. A grocery store assembles and sells fruit baskets. The store purchases the baskets for $5.00 each and puts a variety of fruit into each basket that cost the store $7.00 per basket. Each fruit basket is sold for $20.00. Sale of the fruit baskets are not taxable, because the taxable item (the basket) costs less than 50% of the total purchase price of all of the items in the transaction. The store does not owe use tax on the purchase of the fruit baskets, because the store's purchase price of the basket included in each sale is less than $100.00.

Example 2. A children's store makes gift packages for new parents. The package sells for $300.00 and includes baby formula and other nontaxable items along with a baby monitor and a car seat. The transaction qualifies for the 50% test because baby formula is a food or food ingredient. The store uses its purchase price of the items in the transaction to determine the taxable percentage of the sale. The store's purchase price of the nontaxable items in the gift package is less than 50% of the total purchase price of all the items in the package so the sale of the gift package is taxable. Since the retail sale is taxable, the store does not owe use tax on the taxable items included in the gift package.

Example 3. Same as Example 2, except that the store's purchase price of the taxable items in the package is less than 50% of the total purchase price of all the items in the package. However, the cost of the taxable items in the package is more than $100.00. In this situation, the sale of the gift package is not taxable, but the store owes use tax on their cost of all taxable items included in the gift package.

References

M. S. 297A.61, Subd. 3(d), Definitions
M. S. 297A.61, Subd. 31, Prepared food
M. S. 297A.61, Subd. 32, Soft drinks
M. S. 297A.61, Subd. 33, Candy
M. S. 297A.61, Subd. 34, Food sold through vending machines
M. S. 297A.61, Subd. 38, Bundled transaction
M. S. 297A.63, Subd. 1(d), Use of tangible personal property or taxable services
M. S. 297A.67, Subd. 2, Food and food ingredients
M. S. 297A.67, Subd. 32, Cigarettes
MN Rule 8130.4700, Prepared Food, Candy, and Soft Drinks
MN Rule 8130.4705, Food Sold with Eating Utensils

Fact sheets that may be of interest:

Candy, #102B
Soft Drinks and Other Beverages, #102C
Prepared Food, #102D
Dietary Supplements, #102E
Food Stamps, #115
Local Sales and Use Taxes, #164
Restaurants and Bars, #137
Vending Machines and Other Coin-Operated Devices, #158

Candy

Taxable Subcategory of Food—See Fact Sheet 102A

102B
Fact Sheet

Candy is taxable. The exemption for food products does not apply to candy. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces regardless of size. Candy does not include any preparation containing flour and must require no refrigeration.

Flour: Items that contain the word "flour," such as white, whole wheat, rice, corn, or brown flour, as an ingredient on the label are not taxable candy. Examples of items that contain flour that are not taxable include Kit Kats, Twix, Reese-Sticks, and licorice. Food ingredients such as soy or whey that are sometimes used in place of flour are not flour.

Refrigeration: If an item *requires* refrigeration, it is not candy. For example, Popsicles and ice cream bars require refrigeration so they are not taxable candy. However, these items are taxable if they are prepared food. See Fact Sheet #102D, Prepared Food, for more information.

Candy that does not *require* refrigeration is taxable even if it is sold frozen.

Sweeteners: Examples of sweeteners are corn syrup, dextrose, invert sugar, sucrose, fructose, sucralose, saccharin, aspartame, stevia, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, and artificial sweeteners.

Note: All food sold from vending machines, or food prepared by the seller, is taxable. Cotton candy is commonly thought of as candy, but it is not candy because it is not sold in the form of bars, drops or pieces. Cotton candy is taxable when prepared by the seller.

Examples of **taxable candy** include:

- almond bark
- breath mints
- breakfast and nutrition bars without flour
- candy bars
- chocolate chips
- chocolate-coated potato chips
- fruit roll-ups
- marshmallows
- caramel corn
- caramel apples
- chocolate or carob covered raisins, nuts, etc.
- sweet or semi-sweet cooking bars or chips
- gum
- honey roasted and honey coated nuts, beer nuts
- peanut brittle
- sugarless candy
- yogurt covered raisins, nuts, etc.

Brand names are shown for illustration purposes only and do not imply sole representation in any category.

References
M.S. 297A.61, Subd. 3(d), Definitions
M.S. 297A.61, Subd. 33, Candy
MN Rule 8130.4700, Prepared Food, Candy, and Soft Drinks

Fact sheets that may be of interest:
Food and Food Ingredients, #102A
Soft Drinks and Other Beverages, #102C
Prepared Food, #102D
Dietary Supplements, #102E
Restaurants and Bars, #137
Vending Machines and Other Coin-Operated Devices, #158

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Soft Drinks and Other Beverages

Taxable Subcategory of Food—See Fact Sheet 102A

102C
Sales Tax Fact Sheet

Soft drinks

Soft drinks are taxable. The exemption for food products does not apply to soft drinks. "Soft drinks" means nonalcoholic beverages in liquid form that contain natural or artificial sweeteners. "Sweeteners" includes corn syrup, dextrose, invert sugar, sucrose, fructose, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, and artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than 50 percent vegetable or fruit juice by volume.

Product labels should be reviewed to determine if the product falls within the guidelines of a taxable soft drink.

Taxable soft drinks include:
- bottled or canned water that contains sweeteners
- coffee and tea drinks that contain sweeteners
- fruit ades, drinks, or nectars that contain sweeteners and have 50 percent or less fruit juice or no fruit juice percent shown on label
- nonalcoholic beer or near beer, such as O'Doul's and Sharps (contains barley malt, a sweetener)
- Pedialyte
- sports drinks (Gatorade, Powerade, etc.)
- soda pop
- sparkling Catawba juice containing sweeteners and 50 percent or less fruit juice

Examples of nontaxable items:
- apple cider
- beverage powders or concentrates
- bottled or canned water that does *not* contain sweeteners
- coffee or tea beans, grounds, leaves, or powders
- nutritional drinks that contain milk or milk substitutes
- Frappuccino® (contains milk)
- fruit or vegetable juices that contain more than 50 percent juice by volume even if they contain sweeteners
- milk and drinks that contain milk

Bottled water. Unsweetened bottled water sold in any size container is exempt because it is a food product. This includes carbonated or non-carbonated water or flavored water if no sweetener is added. Delivery charges for nontaxable water are also exempt.

Bottled water is still taxable when sold through a vending machine or when the seller provides eating utensils.

Ice cubes, crushed ice, and ice blocks are not taxable. Dry ice is taxable because it is not intended for human consumption.

Alcoholic beverages

Beer and other alcoholic beverages are taxable. Alcoholic beverages are beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume. Beer, wine and liquor sold at an establishment licensed to sell any type of intoxicating liquor are subject to the general sales tax rate and any applicable local taxes. Vendors are also responsible for remitting the 2.5 percent gross receipts tax on sales of alcoholic beverages. For more information, refer to Fact Sheet 137, Restaurants and Bars.

Near beer, such as O'Doul's and Sharps is a soft drink because it contains a sweetener (barley malt). Near beer products are subject to the general sales and use tax rate and any applicable local taxes.

Note: Any of the beverages listed as exempt become taxable when sold from vending machines or served in glasses, cups or pitchers.

Brand names are shown for illustration purposes only and do not imply sole representation in any category.

References
M. S. 297A.61, Subd. 32, Soft Drinks
MN Rule 8130.4700, Prepared Food, Candy, and Soft Drinks

Fact sheets that may be of interest:
Food and Food Ingredients, #102A
Candy, #102B
Prepared Food, #102D
Dietary Supplements, #102E
Vending Machines and Other Coin-Operated Devices, #158

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NEW JERSEY

Grocery, Drug, and Household Items

Most items of food and drink purchased in a food store (supermarket, grocery store, produce market, bakery, etc.) are not subject to sales tax.

Food and food ingredients (exempt) means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. This term does not include tobacco, alcoholic beverages, candy, or soft drinks.

Dietary supplements (exempt) are any products required by the Federal government to be labeled as a dietary supplement, and that are identifiable by the "Supplement Facts" box on the label. Many items that are commonly marketed as health supplements, energy bars, or meal replacement bars do not fall within the definition of "dietary supplements." These items could be taxable as candy if they meet the definition below.

Candy (taxable) means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Any preparation containing flour or requiring refrigeration is not considered "candy."

Soft drinks (taxable) are nonalcoholic beverages in liquid form that contain natural or artificial sweeteners. Beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or more than 50% fruit or vegetable juice are not considered "soft drinks" and are not subject to sales tax.

Prescription drugs and over-the-counter (OTC) drugs are also exempt from tax provided there is a label identifying the product as a drug, such as a "Drug Facts" panel or a statement of active ingredients. The OTC drug exemption does not apply to any *grooming and hygiene product,* which means a soap or cleaning solution, shampoo, toothpaste, mouthwash, antiperspirant, suntan lotion, or sunscreen.

Diabetic supplies, prosthetic devices, durable medical equipment for home use, and mobility enhancing equipment are exempt from tax. Repair and replacement parts for such devices and equipment are also exempt.

Examples of "prosthetic devices" include: hearing aids, pacemakers, heart valves, prescription eyeglasses and contact lenses, artificial limbs. Examples of "durable medical equipment" include: bath and shower chairs, bed pans, raised toilet seats. Examples of "mobility enhancing equipment" include: canes, crutches, wheelchairs, wheelchair lifts, hand controls for vehicles.

The following is a list of items commonly found in a retail store, with an indication of whether the item is taxable (T) or exempt (E) from sales tax ***when sold to an individual consumer.***

Some items found on the list may become taxable if sold as prepared food. See the definition of *prepared food* on page 19. For additional information, see the Notice regarding food and food products. Food and beverages that are eligible to be purchased with food stamps are exempt from sales tax. Thus, taxable items such as candy and soft drinks are not subject to tax when purchased with food stamps.

Sales of disposable household paper products such as towels, napkins, toilet tissue, paper plates, and paper cups are exempt from sales tax. This exemption does *not* apply to the sale of disposable paper products for industrial, commercial, or other business use.

Acne Products:
- Creams or Lotions ..... E
- Cleansers or Soaps ..... T

Air Fresheners ..... T
Alcohol, Rubbing ..... E
Alcohol, Swabs and Pads ..... E
Alcoholic Beverages (prepackaged or by the drink) ..... T
Allergy Relief Products ..... E
Aluminum Foil ..... T
Ammonia ..... T
Anesthetics ..... E
Antacids ..... E
Antibiotics ..... E
Antifungals ..... E
Antihistamines ..... E
Antinauseants ..... E
Antiperspirants ..... T
Arch Supports ..... E
Arthritis Relievers ..... E
Artificial Tears ..... E
Aspirins and Combinations ..... E
Asthma Preparations ..... E
Astringents ..... E
Athlete's Foot Treatments ..... E
Baby Bath Soaps-Liquid, Bar ..... T
Baby Food ..... E
Baby Formulas ..... E
Baby Lotions ..... T
Baby Pants ..... E
Baby Powder ..... T
Baby Shampoos ..... T
Baby Wipes ..... E

Bags:
- Cloth, Plastic ..... T
- Paper *for household use* ..... E

Baked Goods ..... *

*Taxability depends on how product is sold. See *Prepared Foods,* page 19.

Baking Cups:
- Foil ..... T
- Paper *for household use* ..... E

Baking Powder ..... E
Baking Soda ..... E
Balloons ..... T
Bandages ..... T
Band Aids ..... T
Bar Mixes (Liquid):
- Sweetened ..... T
- Unsweetened ..... E

Bath Beads, Oils, Sachets ..... T
Bathing Caps ..... E
Bathroom Cleaners ..... T
Batteries ..... T
Batteries-Hearing Aid ..... E
Bed Linens ..... T
Bed Pans *for home use* ..... E
Bee Sting Relievers ..... E
Beverage Flavorings/Enhancers (liquid, concentrated) ..... E
Beverage Powders (Kool-Aid, lemonade, iced tea) ..... E
Beverage Syrups:
- Flavored ..... E
- Soda ..... E

Beverages, Sweetened:
- Containing milk, milk products, or milk substitutes (soy, rice, etc.) ..... E
- Containing more than 50% juice ..... E
- Containing no milk products and containing 50% or less juice ..... T

Beverages, Unsweetened ..... E
Bibs ..... E

Bird Food ..... T
Birth Control Preparations ..... E
Biscuits, Crackers ..... E
Blankets (except baby
receiving blankets) ..... T
Bleach-Liquid, Dry ..... T
Blistex® (medicated) ..... E
Blood Pressure Cuffs *for home use* ..... E
Books (except certain textbooks
approved by the school) ..... T
(see also *Newspapers, Magazines, and Books,* and *Digital Property,* page 20)
Bottled Water:
Unsweetened ..... E
Sweetened ..... T
Braces-Ankle, Knee ..... E
Bread and Rolls ..... E
Breast Cream ..... T
Breast Pump ..... T
Breast Shells, Bra Pads ..... E
Breath Freshener ..... T
Bubble Bath ..... T
Butane ..... E
Cake Mixes ..... E
Calling Cards, Telephone (prepaid):
Sale of Card ..... T
Additional Minutes ..... T
Camera Lens and Eyeglass Cleaner
Tissues ..... T
Candles ..... T
Candy ..... T
Taxable *unless* product contains
flour (e.g., Nestle Crunch) or
requires refrigeration
Canes ..... E
Canker Sore Preparations ..... E

Canned Goods:
Fruits ..... E
Meats, Fish (except pet food) ..... E
Milk ..... E
Soup ..... E
Vegetables ..... E
Car Wash and Wax ..... T
Carbonated Beverages (see *Beverages*)
Carpet Cleaners ..... T
Carpet Deodorizers ..... T
Castor Oil ..... E
Cat Food ..... T
CDs, Cassettes, DVDs ..... T
Cereal Bars ..... *
*Taxability depends on ingredients.
See *Candy,* page 5.
Cereals ..... E
Chapstick® (medicated) ..... E
Charcoal, Charcoal Briquets ..... E
Cheese, Cheese Spreads ..... E
Chewing Gum ..... T
Chewing Tobacco ..... T
Chips-Chocolate, Butterscotch, etc.
(for use in baking):
Sweetened ..... T
Unsweetened ..... E
Chips-Potato, Corn, etc. ..... E
Christmas Trees ..... T
Christmas Tree Skirts-Paper, Cloth ..... T
Cigarette Filters ..... T
Cigarette Papers ..... T
Cigarettes ..... T
Cigars ..... T
Cleaning Liquids, Powders ..... T
Clothes Lines ..... T
Clothes Pins ..... T
Clothing (see *Clothing and Footwear*, page 20)
Cocktail Onions, Olives ..... E
Cocktail Sauces ..... E

Cocoa, Instant ..... E
Cod Liver Oil ..... E
Coffee (beans, packaged, instant) ..... E
Coffee Filters-Paper *for household use* ..... E
Coffee Pot Cleaners ..... T
Cold Preparations and Remedies ..... E
Cold Sore Preparations ..... E
Combs ..... T
Computers: (see also *Services,* page 14)
  Computer Systems ..... T
  Hardware Components ..... T
  Prepackaged Software ..... T
Condiments (catsup, mustard, etc.) ..... E
Condoms ..... T
Confections (see *Candy*) ..... T
Constipation Products ..... E
Contact Lens Care Products,
  including saline solution ..... T
Contact Lens Cleaner, Solution ..... T
Contact Lenses (prescription) ..... E
Contraceptive Preparations ..... E
Cooking Wine ..... E
Copper Cleaner ..... T
Corn and Callus Pads ..... T
Corn and Callus Removers ..... E
Cornstarch ..... E
Cosmetics ..... T
Costumes ..... E
Cottonballs ..... T
Cough Preparations ..... E
Cream, Milk, Half and Half ..... E
Crepe Paper ..... T
Crutches ..... E
Cups:
  Paper *for household use* ..... E
  Plastic, Foam ..... T
Cuticle Remover ..... T
Dandruff/Seborrhea Shampoo ..... T
Decongestants ..... E
Decorations-Paper, Plastic ..... T
Dehydrated Food (hunting, etc.) ..... E
Dental Floss ..... T
Dental Rinse ..... T
Denture Adhesives, Preparations ..... T
Deodorants, Antiperspirants ..... T
Deodorizers-Room, Car, Carpet ..... T
Depilatories ..... T
Detergents ..... T
Diabetic Supplies:
  Glucometers ..... E
  Lancets ..... E
  Syringes ..... E
  Test Strips ..... E
Diapers (including disposable) ..... E
Diaper Liners ..... E
Diarrhea Aids ..... E
Digestive Aids ..... E
Digital Property
  (see *Digital Property,* page 20) ..... T
Dinnerware:
  Paper *for household use* ..... E
  Plastic, Foam ..... T
Dips (cheese, onion, etc.) ..... E
Dish Detergents ..... T
Disinfectants ..... T
Distilled Water ..... E
Diuretics ..... E
Dog Food ..... T
Doilies-Paper, Foil ..... T
Douches:
  Antiseptic, Anti-Infectious ..... E
  Cleaning, Deodorizing ..... T
Drain Openers, Cleaners ..... T
Drawer Liners ..... T
DVDs, CDs ..... T
Dyes ..... T
Ear Preparation, Ache Aids ..... E

Ear Syringes ..... E
Eczema Preparations ..... E
Eggs (fresh, dried) ..... E
Electrical Supplies ..... T
Energy Bars ..... *
*Taxability depends on ingredients.
See *Candy,* page 5.
Epsom Salt:
Garden Use ..... T
Medical Use (for humans) ..... E
Expectorants ..... E
Eye Preparations ..... E
Eyeglass Cleaner Tissues ..... T
Eyeglass Frames (fitted with corrective lenses) ..... E
Eyeglasses (corrective) ..... E
Fabric Softeners ..... T
Facial Cleansing Pads ..... T
Feminine Napkins, Tampons ..... E
Fever Blister Aids ..... E
Fiberglass Cleaner ..... T
Film, Film Processing ..... T
Firewood ..... E
First Aid Kits ..... T
First Aid Products:
Bandages ..... T
Healing Agents, Solutions, etc. ..... E
Fishing Bait ..... T
Flags:
State of New Jersey ..... E
United States of America ..... E
All Others ..... T
Flashlights ..... T
Flatware ..... T
Flea Collars ..... T
Floor Cleaners and Polishes ..... T
Floor Coverings ..... T
Floor Finishes (Wax) ..... T
Floor Wax Remover ..... T
Flowers ..... T
Food Coloring ..... E
Food Wraps:
Aluminum Foil ..... T
Paper Freezer Wrap *for household use* ... E
Plastic Storage Bags ..... T
Plastic Wrap ..... T
Waxed Paper *for household use* ..... E
Foot Care Preparations ..... E
Foot Deodorizers ..... T
Footwear (see *Clothing and Footwear*, page 20)
Formica Cleaners and Polishes ..... T
Freezer Packs (blue ice) ..... T
Frozen Foods (see also *Ice Cream)* ..... E
Fruit ..... E
Fruit Drinks (containing 50% or less juice) .. T
Fuels:
Charcoal ..... E
Charcoal Lighter ..... E
Cigarette Lighter Fluid ..... E
Fungicides ..... E
Furniture ..... T
Furniture Polishes and Cleansers ..... T
Fuses ..... T
Garbage Pails ..... T
Garden Supplies ..... T
Gatorade ..... T
Gelatin and Gelatin Desserts ..... E
Gift Certificates ..... E
Gift Wrap, Bows, Boxes, Tags ..... T
Glass Cleaners ..... T
Gloves ..... E
Granola Bars ..... *
*Taxability depends on ingredients.
See *Candy,* page 5.
Greeting Cards ..... T
Grenadine ..... E

Grip Tape ..... T
Guest Towels-Paper *for household use* ..... E
Hair Care Products:
- Brushes, Combs ..... T
- Conditioners ..... T
- Curler Papers ..... T
- Rinses ..... T
- Rogaine® ..... T
- Shampoos ..... T

Halloween Masks ..... T
Hand Cleaners ..... T
Hand Lotion ..... T
Hay Fever Aids ..... E
Headache Relief Aids ..... E
Health/Fitness Equipment (weights, exercise balls, steps, etc.) ..... T
Heating Pads ..... E
Hemorrhoid Treatments ..... E
H.I.V. Testing Kits (only when sample is sent to lab for analysis and report) ..... E
Hosiery, all types ..... E
Hot Chocolate, Instant ..... E
Hypodermic Syringes and Needles ..... E
Ibuprofen ..... E
Ice ..... E
Ice Buckets, Ice Chests ..... T
Ice Cream:
- Individually wrapped bars, sandwiches, popsicles, cones (single item or by the box) ..... E
- By the gallon or part thereof ..... E

Ice Cream Cones (hand-dipped) ..... T
Iced Tea:
- Liquid, sweetened ..... T
- Liquid, unsweetened ..... E
- Powder, sweetened or unsweetened ..... E

Icing/Frosting ..... E
Ingrown Nail Preparations ..... E
Insect Bite and Sting Preparations ..... E
Insecticides, Repellents ..... T
Instant Cocoa, Coffee, Tea ..... E
Insulin ..... E
Iodine, Tincture of ..... E
Itch, Rash Relievers ..... E
Jams and Jellies ..... E
Jewelry Cleaners ..... T
Juice Drinks:
- Containing 50% or less juice ..... T
- Containing over 50% juice ..... E

Keys ..... T
Laundry Soaps and Detergents ..... T
Lawn Bags ..... T
Laxatives ..... E
Leather Cleaners (saddle soap) ..... T
Leavening Agents ..... E
Lemonade:
- Liquid, sweetened ..... T
- Powdered ..... E

Lice Treatments (for humans) ..... E
Light Bulbs ..... T
Lighter Fluid ..... E
Linens ..... T
Liners (garbage can, shelf, etc.) ..... T
Lint Removers ..... T
Lip Balms (medicated) ..... E
Lipstick ..... T
Litter Box Liners ..... T
Lotions:
- Cleansing ..... T
- Moisturizing ..... T

Lunch Bags:
- Paper *for household use* ..... E
- Plastic ..... T

Lye ..... T

Magazines (or periodicals), qualified:
(see *Newspapers, Magazines, and Books,* page 20)
Sold as single copies (hard copies) ..... T
Sold as single copies (electronic) ..... E
Sold by subscription ..... E
Make-up ..... T
Make-up Remover ..... T
Maraschino Cherries ..... E
Marshmallow Fluff ..... E
Marshmallows ..... T
Matches ..... T
Meats ..... E
Medicines (for pets) ..... T
Menstrual Cramp Relievers ..... E
Metal Cleaners and Polishes ..... T
Mildew Remover ..... T
Milk (fresh, dried), Cream,
Half and Half ..... E
Mineral Oil ..... E
Mineral or Herbal Supplements
(in form of pills, capsules, etc.) ..... E
Mixes for Soups ..... E
Mixes for alcoholic beverages:
Powdered ..... E
Liquid, unsweetened ..... E
Liquid, sweetened (see *Beverages*)
Mops, Mop Handles ..... T
Motion Sickness Remedies ..... E
Mouthwash ..... T
Movies (see *Digital Property,* page 20) ..... T
Muscle Ache Relievers ..... E
Music (see *Digital Property,* page 20) ..... T
Nail Biting Deterrents ..... T
Nail Polish ..... T
Nail Polish Remover ..... T
Napkins, Table-Paper *for household use* ..... E
Nasal Sprays, Decongestants ..... E
Newspapers ..... E
Nicotine Gum ..... E
Nicotine Patch ..... E
Nursing Bottles, Nipples, Funnels ..... T
Nursing Pads-Paper ..... E
Nuts:
Unsweetened ..... E
Sweetened (see *Candy*)
Oil-Cooking, Salad ..... E
Olives ..... E
Oral Pain Relievers ..... E
Orthopedic Devices ..... E
Oven Cleaners ..... T
Oven Cooking Bags:
Paper *for household use* ..... E
Plastic or Aluminum ..... T
Ovulation Testing Kits ..... T
Oxygen ..... E
Paint Remover ..... T
Paper Bags *for household use* ..... E
Paper Goods (plates, towels, etc.)
for household use ..... E
Paperback Books ..... T
Pedialyte ..... E
Peroxide, Hydrogen (for medical use) ..... E
Pet Foods ..... T
Pet Shampoo ..... T
Pet Supplies ..... T
Petroleum Jelly ..... E
Pets ..... T
Pickles ..... E
Pies, Pie Crusts ..... E
Pillows ..... T
Place Mats:
Cloth and plastic ..... T
Paper *for household use* ..... E
Plants (including fruit, vegetable) ..... T
Plastic Items ..... T

Plates:
- Paper *for household use* ..... E
- Plastic, Foam ..... T

Poison Ivy and Oak Treatment Preparations ..... E
Polishing Cloths and Mitts ..... T
Popcorn:
- Popped, sweetener added ..... T
- Popped, no sweetener added ..... E
- Unpopped, any flavor ..... E

Powdered Beverage Mix ..... E
Pregnancy Testing Kits ..... T
Prescription Contraceptives ..... E
Prescription Drugs ..... E
Pre-Soaks, Laundry ..... T
Preserves ..... E
Pretzels (unheated) ..... E
Propane ..... E
Prosthetic Aids ..... E
Puddings ..... E
Pumpkins:
- Used for food ..... E
- Used for decoration ..... T

Rainhoods ..... E
Ringtones (see *Digital Property,* page 20) .... T
Rock Salt ..... T
Rogaine® ..... E
Rubber Gloves ..... E
Rug Cleaners and Shampoos ..... T
Rug Deodorizers ..... T
Salads (potato salad, coleslaw, etc.) ..... *
- *Taxability depends on how product is sold. See *Prepared Foods,* page 19.

Saliva Substitutes ..... E
Salt and Salt Substitutes ..... E

Sandwich Bags:
- Paper *for household use* ..... E
- Plastic ..... T

Sanitary Napkins, Tampons ..... E
Scouring Pads ..... T
Seeds (flower or vegetable) ..... T
Shampoos ..... T
Shaving Cream ..... T
Shelf Liners ..... T
Shoe Inserts (Odor Eaters) ..... E
Shoe Laces ..... E
Shoe Polish ..... T
Shoes (see *Clothing and Footwear,* page 20)
Shower Caps ..... T
Sinus Relievers ..... E
Skin Bleaches ..... T
Skin Irritation Relievers ..... E
Sleep Aids ..... E
Snuff ..... T
Soap ..... T
Soap Pads ..... T
Soup Mixes ..... E
Spaghetti ..... E
Spices ..... E
Sponges ..... T
Stain and Spot Remover ..... T
Starch:
- Corn ..... E
- Laundry ..... T

Static Remover ..... T
Stationery ..... T
Steel Wool ..... T
Stirrers (wood, plastic) ..... T
Straws:
- Paper *for household use* ..... E
- Plastic ..... T

Sugar and Sugar Substitutes ..... E
Sunburn Relief Products ..... E

Sunglasses ..... T
Sunscreens ..... T
Surgical Adhesive ..... T
Table Covers:
  Paper *for household use* ..... E
  Plastic ..... T
Tampons (and like products) ..... E
Tape ..... T
Tea (prepackaged, dry, or instant) ..... E
Tears, Artificial ..... E
Teething Lotions ..... E
Telephone Calling Cards (prepaid):
  Sale of Card ..... T
  Additional Minutes ..... T
Tenderizers ..... E
Thermometers (reusable) *for home use* ..... E
Tile Cleaners ..... T
Tissue (facial and toilet) *for household use* .. E
Tobacco ..... T
Toilet Bowl Cleaners ..... T
Toilet Bowl Deodorizers ..... T
Tooth Ache Relievers ..... E
Tooth Desensitizers ..... T
Tooth Polish ..... T
Toothbrushes ..... T
Toothpaste ..... T
Toothpicks ..... T
Towelettes *for household use* ..... E
Towels:
  Cloth ..... T
  Paper *for household use* ..... E
Trashbags and Liners ..... T
Undergarments, Disposable ..... E
Underpads, Disposable-Paper ..... E
Upholstery Cleaners ..... T
Vacuum Cleaner Bags:
  Cloth, Plastic ..... T
  Paper *for household use* ..... E
Vaporizer Tablets ..... T
Vaseline® ..... E
Vegetables ..... E
Vitamins ..... E
Wart Removers ..... E
Water:
  Unsweetened ..... E
  Sweetened ..... T
Water Conditioners ..... T
Water Pills ..... E
Water Repellent ..... T
Wax ..... T
Wax Remover ..... T
Waxed Paper *for household use* ..... E
Wheelchairs ..... E
Whipped Cream ..... E
Whiteners, Laundry ..... T
Wigs ..... T
Window Cleaning Liquids ..... T
Windshield Washer Solution ..... T
Wipes:
  Handi-Wipes (rayon) ..... T
Witch Hazel ..... E
Wool Washes ..... T
Wrapping Paper, Bows ..... T
Wraps:
  Foil, Plastic ..... T
  Paper *for household use* ..... E

NEW YORK

New York State
Department of
Taxation and Finance
Taxpayer Guidance Division

Tax Bulletin
Sales and Use Tax
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Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments

Introduction

Most food is exempt from sales tax. The exemption for food includes:

- food products;
- dietary foods;
- health supplements; and
- certain beverages.

Food must meet these conditions to be exempt from tax:

- it must be sold for human consumption;
- it must be sold unheated; and
- it must be sold in the same form and condition, quantities, and packaging as is commonly used by retail food stores.

These foods and beverages, however, are not exempt from tax:

- candy and confectionary;
- alcoholic beverages;
- soft drinks, fruit drinks, sodas, or similar beverages;
- heated or prepared meals (sandwiches, salad bars, etc.); and
- food or beverage sold for on-premises consumption.

Additional resources relating to sales of food and beverages (e.g., sales by restaurants, sales from vending machines, or sales of candy or sandwiches) are listed at the end of this bulletin.

Listings of taxable and exempt food and beverages

The charts below list some examples of taxable and exempt foods and beverages sold at retail food markets and similar establishments. (**Note:** Any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product.)

Exempt foods and beverages

Arnold Palmer Half & Half®
Artificial sweeteners
Baby food
Bakery products
Baking products
Beefamato®
Boost®
Bouillon cubes
Bread
Brownies
Butter
Cereals
Chicory
Chocolate (for cooking purposes only)
Clamato Juice Cocktail®
Cocoa
Coconut
Coffee
Coffee creamers
Condiments (e.g., salt, pepper)
Cookies
Crackers
Cupcakes
Dehydrated fruit
Dehydrated vegetables
Diet foods (but not diet candy)
Diet substitutes
Diet supplements
Doughnuts
Dressings
Eggs and egg products
Ensure®
Fats
Fish and fish products
Flavorings (e.g., vanilla or almond extract)
Flour
Food coloring
Frozen desserts
Frozen dinners
Fruit
Fruit juices containing 70% or more of natural fruit juice (unless carbonated)
Fruit Rollups®
Game (e.g., partridges, rabbits, wild turkeys)
Grain products
Granola bars
Gravies
Great Shakes®
Health bars
Health food
Health supplements
Herbs
Honey
Ice cream (prepackaged)
Iced coffee
Iced tea (frozen or liquid)
Iced tea mix
Instant breakfast mix
Jams (fruit preserves)
Jelling agents
Jellies
Ketchup
Lard
Leavening agents
Liquid diet products
Mayonnaise
Meats and meat products
Milk and milk products
Mustard
Non-stick cooking sprays
Nutrament®
Nuts and nut products (but not chocolate- or candy coated or honey-roasted nuts)
Oils (cooking, salad)
Oleomargarine
Olives
Ovaltine®
Peanut butter
Peanuts
Pepper
Popcorn
Potato chips
Poultry
Poultry products
Preservatives
Pretzels
Quik®
Relishes
Salad dressing mixes
Salad dressings
Salt
Sandwich spreads
Sauces
Seafood
Seasonings
Sesame seeds (for baking)
Sherbet
Shortening
Slim-Fast®
Soup
Spices
Starch (for cooking)
Start®
Sugar
Sugar substitutes
Sunflower seeds (sold for human consumption)
Syrups
Tang®
Tea
Vanilla extract
Vegetables
Vegetable juices
Vegetable oils
V8 Juice®
Vitamins
Yeast

Taxable foods and beverages

5-Hour Energy®
Beer
Bottled water
Candied apples
Candy and confectionery
Caramel-coated popcorn
Caramels
Carbonated beverages
Carbonated water
Chewing gum
Chocolate candy
Chocolate-coated nuts
Chocolate-coated pretzels
Coated candy
Cocktail mixes
Collins mixer
Cranberry juice cocktails
Dietetic candy
Dietetic carbonated beverages
Dietetic soft drinks
Fountain drinks (e.g., sodas, milkshakes, etc.)
French burnt peanuts
Fruit drinks [1]
Fruit nectars [1]
Fruit punch [1]
Fudge
Gatorade®
Glazed fruit
Hi-C®
Honey-roasted nuts
Ice
Ice cream cones (made to order)
Ice cream sodas
Ice cubes
Jordan almonds
Kool-Aid®
Lemonade
Licorice
Maple sugar candy
Mineral water
MiO Liquid Water Enhancer®
Monster Energy Drink®
Nuts (chocolate or candy coated)
Orange Crush®
Pet foods [2]
Powerade®
Red Bull®
Rockstar Energy Drink®
Seltzer (water)
Soft drinks
smartwater™
Vegetable plants (used to grow food)
Vegetable seeds (used to grow food)
Vichy water
vitaminwater™
Yoo Hoo®

Coupons and food stamps

For information about foods and beverages purchased with coupons or food stamps, see Tax Bulletin *Coupons and Food Stamps* (TB-ST-140).

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References and other useful information

Tax Law: Sections 1105(a); 1105(d); and 1115(a)(1)

Regulations: Sections 527.8 and 528.2

Publications:

Publication 750, *A Guide to Sales Tax in New York State*
Publication 840, *A Guide To Sales Tax For Drugstores and Pharmacies*

Bulletins:

Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments (TB-ST-65)
Candy and Confectionery (TB-ST-103)
Coupons and Food Stamps (TB-ST-140)
Dietary Foods and Health Supplements (TB-ST-160)
Food and Beverages Sold from Vending Machines (TB-ST-280)
Food and Food Products Sold by Food Stores and Similar Establishments (TB-ST-283)
Purchases by Restaurants, Taverns, and Similar Establishments (TB-ST-695)
Sales by Restaurants, Taverns, and Similar Establishments (TB-ST-806)
Sales Tax Credits (TB-ST-810)
Sandwiches (TB-ST-835)
Recordkeeping Requirements for Sales Tax Vendors (TB-ST-770)

[1] If product contains less than 70% real fruit juice.
[2] Pet food purchased for guide, hearing, and service dogs is exempt. See Tax Bulletin *Exemptions Relating to Guide, Hearing, and Service Dogs* (TB-ST-245).

New York State
Department of
Taxation and Finance
Taxpayer Guidance Division

Tax Bulletin
Sales and Use Tax
TB-ST-280
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Food and Beverages Sold from Vending Machines

Introduction

This bulletin provides information on the application of the sales tax to food and beverages sold from vending machines. It also explains how to compute the sales tax on vending machine sales.

Sales tax on food and beverages

Sales of food and beverages from vending machines are generally taxed in the same manner as sales of the same items in food stores. This means that generally:

- items that are taxable when sold in a food store are taxable when sold from a vending machine;
- items that are exempt from sales tax when sold in a food store are exempt when sold from a vending machine.

However, there are two exceptions to this general rule:

- hot beverages sold from a vending machine are always exempt;
- certain items that are taxable when sold by food stores are exempt when they are sold from a vending machine for 75 cents or less.

To learn more about taxable and exempt food, see Tax Bulletin *Food and Food Products Sold by Food Stores and Similar Establishments* (TB-ST-283).

Taxable food and beverages sold from vending machines

Examples of taxable food and beverage items include:

- sandwiches,
- food arranged on a plate or prepared and ready to eat,
- bottled water, and
- any food that is heated by or kept warm in the vending machine (including soup, but not including broth or any other hot beverage).

To learn more, see Tax Bulletins *Food and Food Products Sold by Food Stores and Similar Establishments* (TB-ST-283), *Sandwiches* (TB-ST-835), and *Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments* (TB-ST-65).

Food and beverages that are exempt when sold from a vending machine for 75 cents or less

Although the following items are taxable when sold by a store, they are exempt when sold for 75 cents or less from a vending machine:

- Candy and confectionery, including chocolate bars; chewing gum; honey-roasted nuts; and candy- or chocolate-coated nuts, popcorn, pretzels, etc. (see Tax Bulletin *Candy and Confectionery* (TB-ST-103) for a listing of these items); and

- Soda, pop, lemonade, sports drinks, fruit drinks containing less than 70% natural juice, and other soft drinks.

These items are taxable if sold from a vending machine for more than 75 cents. Bottle deposits are not included in the computation of the taxable amount and are not included in determining whether the item is sold for 75 cents or less.

Exempt food and beverages sold from vending machines

These items are exempt from sales tax when sold from a vending machine, regardless of their price (**note:** any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product):

- Unheated foods (other than sandwiches and other prepared foods), such as:
  - whole fruit (apples, pears, bananas, etc.);
  - cookies, donuts, pastries, cereal bars, granola bars, and diet bars;
  - pretzels, popcorn, potato chips, plain or salted nuts, and crackers;
  - ice cream, fruit bars, *Fruit Gushers®*, and fruit snacks;
  - single-serving cereal packets; and
  - canned foods.
- Unheated beverages, other than soft drinks, such as:
  - milk, chocolate milk, and diet shakes;
  - vegetable juices;
  - fruit drinks that contain 70% or more natural juice; and
  - iced tea and iced coffee.
- Hot beverages, including coffee, tea, cocoa, and broth.

To learn more, see Tax Bulletins *Food and Food Products Sold by Food Stores and Similar Establishments* (TB-ST-283), *Sandwiches* (TB-ST-835), and *Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments* (TB-ST-65).

Collecting and remitting the sales tax

If you are selling any taxable food or beverages, you must collect the sales tax. You also must register for sales tax purposes and file sales tax returns to remit the tax you collected.

To learn more, see the following Tax Guidance Bulletins:

- *Do I Need to Register for Sales Tax?* (TB-ST-175)
- *How to Register for New York State Sales Tax* (TB-ST-360)
- *Filing Requirements for Sales and Use Tax Returns* (TB-ST-275)

Computing sales tax on sales made from vending machines

If you are selling taxable food or beverages:

- include the amount of the sales tax in the selling price of the item, and
- use the sales tax rate in the local taxing jurisdiction where the machines are located.

To file your sales tax returns, you'll need to separate the amount of sales you made from the sales tax you collected. To do this, divide the total amount of your sales subject to sales tax (which will include the sales tax collected) by one plus the sales tax rate in the particular jurisdiction, expressed as a decimal.

Example: You operate some vending machines in Albany. Your total sales during the last sales tax period totaled $15,984. Of these sales, $9,624 was for sales subject to sales tax, including the tax collected. The sales tax rate in the local jurisdiction where

the machines are located is 8%. Expressed as a decimal, 8% is equal to .08. Add 1 to the rate, equaling 1.08. Use this number as the denominator in a fraction with $9,624 as the numerator.

$$\frac{\text{\$9,624 (taxable sales including sales tax collected)}}{\text{1.08 (sales tax rate plus 1)}} = \text{\$8,911.11 (taxable sales)}$$

The result of this computation is the amount of your taxable sales, $8,911.11. Report this amount on your sales tax return on the Albany County line in the *Taxable sales and services* column. To compute the sales tax due, multiply your taxable sales ($8,911.11) by the combined state and local tax rate (8%). In this example, the resulting tax due is $712.89. This is the amount of sales tax that you must report and pay with your periodic sales tax return.

You must repeat the computation for each local taxing jurisdiction where you operate vending machines, using the sales tax rate in that jurisdiction expressed as a decimal plus one, as described above. See Tax Bulletin *Sales Tax Rates, Additional Sales Taxes, and Fees* (TB-ST-825) for more information.

For a listing of sales tax rates see Tax Bulletin *Sales Tax Rate Publications* (TB-ST-820), or use the online Sales Tax Jurisdiction and Rate Lookup.

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References and other useful information

Tax Law: Sections 1105(a); 1105(d)(i)(3); and 1115(a)(1)

Bulletins:

Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments (TB-ST-65)
Candy and Confectionery (TB-ST-103)
Do I Need to Register for Sales Tax? (TB-ST-175)
Filing Requirements for Sales and Use Tax Returns (TB-ST-275)
Food and Food Products Sold by Food Stores and Similar Establishments (TB-ST-283)
How to Register for New York State Sales Tax (TB-ST-360)
Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments (TB-ST-525)
Sales Tax Rate Publications (TB-ST-820)
Sales Tax Rates, Additional Sales Taxes, and Fees (TB-ST-825)
Sandwiches (TB-ST-835)

New York State
Department of
Taxation and Finance
Taxpayer Guidance Division

Tax Bulletin
Sales and Use Tax
TB-ST-103
April 13, 2011

Candy and Confectionery

Introduction

Most sales of candy and confectionery are subject to sales tax. This bulletin outlines items that are considered candy and confectionery for sales tax purposes, as well as items that are not.

Candy and confectionery

Candy and confectionery includes candy of all types, and similar products that are regarded as candy or confectionery based on their normal use or marketing. *Candy and confectionery* also generally includes preparations of fruits, nuts, popcorn, or other products in combination with chocolate, sugar, honey, candy, etc. Some examples of candy and confectionery include (**note:** any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product):

- candy bars;
- chocolates;
- fruit, nuts, and popcorn covered with caramel, chocolate, honey, sprinkles, or other similar coatings;
- honey-roasted nuts;
- chewing gum;
- fudge;
- maple sugar candy;
- candy or chocolate covered marshmallows in decorative shapes (for example, *Peeps®*);
- mints;
- peanut brittle;
- cotton candy;
- licorice;
- dietetic candy; and
- candied apples.

Products that are not considered candy and confectionery

Candy and confectionery does not include:

- baked goods, including cupcakes, cookies, pretzels, donuts, and pastries, or any similar products such as granola or cereal bars;
- baking or cooking ingredients, such as candied fruitcake ingredients, chocolate chips or bars, and marshmallows of any size (other than the candy or chocolate covered marshmallows described above);
- maple sugar products, unless labeled *candy* or *confection* or advertised as *candy*; and
- dried fruit, including *Craisins®*, *Fruit Roll-Ups®*, or other similar snacks (unless coated or covered in candy, etc., as described above).

Packaging and marketing can determine tax status

In determining whether a product is taxable as candy or confectionery, or exempt as food, a number of factors are considered, including how the product is labeled, packaged, advertised, displayed, and sold. For example, pure maple sugar products are exempt as food unless displayed, labeled, or advertised as candy or confectionery. They are not candy merely because they are molded in the shape of a maple leaf or sold in individual quantities.

Candy purchased with coupons and food stamps

For information about sales tax on candy and other taxable foods purchased with coupons or food stamps, see Tax Bulletin *Coupons and Food Stamps* (TB-ST-140).

Exempt sales

Sales of candy and confectionery are not taxable if:

- the purchaser is exempt from sales tax and gives the seller a properly completed exemption certificate, or
- the candy or confectionery is sold from a vending machine for 75¢ or less.

Purchases for resale

Candy and confectionery may be purchased for resale without payment of tax provided the purchaser gives the seller a properly completed Form ST-120, *Resale Certificate*. Sales tax is collected when the product is resold at retail.

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References and other useful information

Tax Law: Sections 1105(a)(1); 1115(a)(1); 1115(ff); and 1132(c)(1)

Regulations: Section 528.2

Publications:

Publication 750, *A Guide to Sales Tax in New York State*

Bulletins:

Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments (TB-ST-65)
Coupons and Food Stamps (TB-ST-140)
Food and Beverages Sold from Vending Machines TB-ST-280)
Food and Food Products Sold by Food Stores and Similar Establishments (TB-ST-283)
Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments (TB-ST-525)
Recordkeeping Requirements for Sales Tax Vendors (TB-ST-770)

New York State
Department of
Taxation and Finance
Taxpayer Guidance Division

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Dietary Foods and Health Supplements

Introduction

In general, food and food products sold by food stores are not taxable. This includes products that are used as *dietary foods* and *health supplements*. This bulletin provides information on and gives examples of the types of products that qualify as dietary foods and health supplements, and also gives some examples of products that don't qualify.

Dietary foods and health supplements

Dietary foods include any food labeled for special dietary use by people. Dietary foods are intended to substitute for or supplement an ordinary diet, or substitute for natural foods. The label of a dietary food must have a statement describing the product's nutritional and dietary properties.

Health supplements, such as vitamins and minerals, are products that are intended to substitute for or supplement natural food in an ordinary diet.

If a product qualifies as a dietary food or health supplement, it's exempt from sales tax regardless of the form in which it's sold (i.e., sold as a solid, liquid, pill, or powder).

Carbonated beverages, sports drinks, and energy drinks don't qualify as dietary foods or health supplements. However, products that supplement and replenish the body after intense exercise may qualify as nontaxable dietary foods if they're labeled and sold as a nutritional shake, protein drink, or similar product. (**Note:** Any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product.)

Examples of products that are exempt[1]	Examples of products that are taxable
• antioxidant supplements • *Carnation® Instant Breakfast™* • *Ensure®* • fiber bars or wafers • health, energy or protein bars • herbal supplements • meal replacement mixes • mineral supplements • nutritional or protein powders • protein bars • *Slim-Fast®* • vitamins and multivitamins	• *5-Hour Energy®* • *Gatorade®* • *Monster Energy Drink®* • *Powerade®* • *Red Bull®* • *Rockstar Energy Drink®* • *smartwater™* • *vitaminwater™*

[1] *Pedialyte®* was found to be exempt from tax as a drug or medicine. See TSB-A-10(5)S.

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References and other useful information

Tax Law: Sections 1105(a); 1105(d); 1115(a)(1); and 1132(c)(1)

Regulations: Sections 527.8 and 528.2

Publications:

Publication 750, *A Guide to Sales Tax in New York State*
Publication 840, *A Guide To Sales Tax For Drugstores and Pharmacies*

Bulletins:

Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments (TB-ST-525)

New York State
Department of
Taxation and Finance
Taxpayer Guidance Division

Tax Bulletin
Sales and Use Tax
TB-ST-283
April 13, 2011

Food and Food Products Sold by Food Stores and Similar Establishments

Introduction

Generally, food and food products sold by food stores are exempt from sales tax. However, there are exceptions. This bulletin explains what kinds of food are subject to sales tax and which are exempt when sold by food stores and similar establishments, including supermarkets, grocery stores, convenience stores, etc. Additional resources relating to sales of food and beverages in other circumstances (e.g., sales by restaurants, sales from vending machines, or sales of candy or sandwiches) are listed at the end of this bulletin.

Exempt food and food products

The following items are examples of foods and food products that are exempt from sales tax, unless sold under the conditions described in this bulletin that would render them taxable. This list includes some, but not all, of the foods that may be sold without collecting sales tax. See also Tax Bulletin *Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments* (TB-ST-525). (**Note:** Any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product.)

- canned goods
- dairy products
- fruits
- vegetables
- meat, poultry, fish
- bakery products, including bread, rolls, donuts, cakes, and pies
- snack items such as potato chips, pretzels, popcorn, and corn chips (however, if any of these items are sugar-coated, chocolate-coated, or candy-coated, they are taxable)
- frozen foods, including frozen dinners or entrees
- baking ingredients, including baking chocolate
- cookies and snack cakes
- packaged salads sold by the pound
- granola and cereal bars
- dried fruits, including raisins and *Craisins®* (however, if any of these items are sugar-coated, chocolate-coated, or candy-coated, they are taxable)
- nuts, unless honey-roasted, chocolate, or candy-coated
- food coloring, food preservatives, and sweeteners
- *Fruit Gushers®*, *Fruit Roll-Ups®*, and fruit snacks
- baby food

Taxable sales of food

Generally, food sold at food stores is taxable when sold under any of the following conditions:

- it is sold heated;
- it is sold for consumption on the premises; or

- it has been prepared by the seller and is ready to be eaten, whether for on premises or off premises consumption.

Also, the following categories of food are taxable:

- sandwiches (whether heated or unheated),
- carbonated beverages,
- candy and confectionery, and
- pet foods.

Heated foods

All food that is sold in a heated state is taxable. This includes food that is cooked to order and food that is kept warm using heat lamps or other warming devices. Examples of these foods are:

- hot pizza, hot soup, hot rotisserie chicken, warm roasted nuts, and warm pretzels;
- fish cooked to order at the seafood counter; and
- food sold at a hot buffet in the store.

Food sold for consumption on the premises

Food sold that may be eaten at an eating area (i.e., an area with tables and seating) in the store or just outside the store is taxable. This includes food sold at a:

- restaurant or similar establishment,
- convenience store,
- coffee shop within the store,
- food court,
- salad bar or snack bar,
- concession stand, or
- hot or cold buffet.

Food prepared by the seller and ready to be eaten

Food that is prepared and arranged on a plate or platter by the seller, and that is ready to be eaten is taxable. It doesn't matter whether the food is sold to be eaten at the store or another place, or whether it's served hot or cold. *Ready to be eaten* means that the food is placed on an individual plate or container, or on a serving platter, and doesn't require any more preparation. Examples of this include:

- meals served on an individual plate,
- ice cream served on a cone or in a sundae,
- salads from self-serve salad bars, and
- meals prepared by the store at your request.

It also includes platters prepared by the store such as:

- cold cut platters,
- cookie platters,
- relish trays,
- fruit or vegetable platters,
- seafood platters, and
- sushi platters.

Food that is cooked by the store and then packaged and refrigerated, but not otherwise arranged on a plate or platter, is not taxable if sold for off-premises consumption. For example, a chicken roasted by a food store that is then cooled, packaged and sold from a refrigerated case is not taxable. However, any food that is sold in a heated state is taxable.

Sandwiches

Sandwiches are generally taxable, whether they are sold hot or cold. For additional information, see Tax Bulletin *Sandwiches* (TB-ST-835).

Candy and confectionery

Candy and confectionery are generally subject to sales tax. For specific information about candy and candy-coated foods, see Tax Bulletins *Candy and Confectionery* (TB-ST-103) and *Food and Beverages Sold from Vending Machines* (TB-ST-280).

Dietary foods

Most dietary foods are not taxable. For information about what foods are considered dietary, see Tax Bulletin *Dietary Foods and Health Supplements* (TB-ST-160).

Combinations of exempt food with a taxable item

When food that is exempt from tax is sold in combination with a taxable item for a single charge (such as cheese and a cutting board), the entire charge is subject to sales tax. Other examples are trail mix containing chocolate candy, and children's prepackaged lunches containing deli meat, crackers, and a candy bar sold for a single charge. Similarly, when food is sold in combination with heated food on plates or as meals for a single charge, the entire charge is taxable.

How food is sold determines whether sales tax applies to the sale

How food is presented when sold may determine whether the sale is taxable or exempt. The following table provides some examples of foods that are exempt in one form but subject to sales tax in another form.

Food	Exempt if	Taxable if
cold cuts	sliced and sold by weight	arranged on food platter
pizza	frozen, refrigerated, unheated	heated
hot dog	refrigerated (packaged)	served on a bun or heated
fish	sold unheated	heated or served in a sandwich
bread	sold by the loaf (whole or sliced)	served with a bowl of soup
bananas	sold whole, individually or by the bunch	peeled or sliced as part of a fruit platter
bagel	sold by quantity (whole or sliced)	toasted, buttered, or with cream cheese
salad mix	packaged in bag	from a self-serve salad bar or prepared and arranged on a plate
ice cream	sold in a container by weight (including hand-packed pints, quarts, etc.)	made-to-order cone or sundae
macaroni salad	packaged and sold by weight	served with a sandwich, served in a tray as a side dish or on a plate, or from a self-serve salad bar
chicken wings	sold unheated	sold heated

Exempt purchasers

Certain purchasers do not have to pay tax on their purchases, including food that may otherwise be taxable (e.g., purchases by an exempt organization). The purchaser must give the food vendor a properly completed certificate. See Tax Bulletin *Exemption Certificates for Sales Tax* (TB-ST-240).

Food purchased with coupons and food stamps

For information about sales tax on food purchased with coupons or food stamps, see Tax Bulletin *Coupons and Food Stamps* (TB-ST-140).

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Regulations: Sections 527.8 and 528.2

Publications:

Publication 750, *A Guide to Sales Tax in New York State*
Publication 840, *A Guide To Sales Tax For Drugstores and Pharmacies*

Memoranda:

TSB-M-06(15)S, *Supplemental Summary of Recently Enacted Legislation Affecting Sales and Use Taxes Effective in 2006*
TSB-M-86(18)S, *Taxable Status of Purchases from Self-Service Salad Bars*

Bulletins:

Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments (TB-ST-65)
Candy and Confectionery (TB-ST-103)
Coupons and Food Stamps (TB-ST-140)
Dietary Foods and Health Supplements (TB-ST-160)
Exemption Certificates for Sales Tax (TB-ST-240)
Food and Beverages Sold from Vending Machines (TB-ST-280)
Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments (TB-ST-525)
Purchases by Restaurants, Taverns, and Similar Establishments (TB-ST-695)
Sales by Restaurants, Taverns, and Similar Establishments (TB-ST-806)
Sales Tax Credits (TB-ST-810)
Sandwiches (TB-ST-835)
Recordkeeping Requirements for Sales Tax Vendors (TB-ST-770)

New York State
Department of
Taxation and Finance
Taxpayer Guidance Division

Tax Bulletin
Sales and Use Tax
TB-ST-140
March 26, 2010

Coupons and Food Stamps

When coupons and food stamps are used to make purchases, or when they are used in combination with cash or other forms of payment, it affects the way sales tax is computed. This bulletin explains:

- how sales tax is calculated when using manufacturers' coupons,
- how sales tax is calculated when using store-issued coupons, and
- how sales tax is calculated when food stamps are used to make purchases subject to sales tax.

A *coupon* is an instrument entitling the holder to a reduced purchase price based on the amount of the coupon. A coupon also includes customer "loyalty cards" which may include both manufacturer and store discounts. In general, there are two types of coupons: *manufacturers' coupons* and *store-issued coupons*. Although both reduce the final purchase price, they affect the amount subject to sales tax differently, and the tax is calculated differently for the two types of coupons. A store-issued coupon generally reduces the amount of sales tax due, while a manufacturer's coupon generally does not, as explained below.

Manufacturers' coupons

A manufacturer's coupon is a coupon imprinted with the abbreviation *Mfr.* or similar code to show that the discount is a manufacturer's promotion. When a customer uses a manufacturer's coupon, sales tax is due on the full price of the item, not on the discounted price. Since the seller will receive reimbursement from the manufacturer for the amount of the coupon, the actual selling price is not reduced, even though the amount paid by the purchaser is reduced. The amount of the coupon is part of the selling price of the item and is subject to tax if the item purchased is taxable.

Example: A customer purchases a taxable item that is being sold for $1.00 and uses a 25-cent manufacturer's coupon. The tax rate is 8%. The tax and amount due from the customer are computed as follows:

Selling price of the item	*$1.00*
Sales tax (.08 x $1.00)	*.08*
Subtotal	*$1.08*
Less amount of the manufacturer's coupon	*- .25*
Amount due from customer	*$ .83*

When a coupon does not show a manufacturer's discount but the seller is reimbursed by the manufacturer, the seller collects tax from the customer on the reduced price. However, the tax must be reported on the seller's return based on the full price of the item, without subtracting the amount of the coupon.

Store-issued coupons

Store-issued coupons also entitle a customer to a discount on the price of an item. These coupons are offered as incentives to customers to shop at the vendor's establishment, and the amount of the discount is not reimbursed by a third party. Since the seller will not

be reimbursed for the amount of the coupon, the actual amount received is reduced, and tax is calculated on the reduced price.

Example: A customer purchases a taxable item that is being sold for $1.00 and the customer uses a 25-cent store-issued coupon. The tax rate is 8%. The tax and amount due from the customer are computed as follows:

Selling price of the item	*$1.00*
Less amount of the store coupon	*- .25*
Subtotal	*$ .75*
Sales tax (.08 x $.75)	*.06*
Amount due from customer	*$ .81*

Double coupons

When a customer redeems a manufacturer's coupon, and the store also gives its own store discount equal to the amount of the manufacturer's coupon (double coupons), the tax is computed on the cost of the item, less the store discount.

Example: A customer purchases an item for $2.00 and uses a 50-cent manufacturer's coupon. The store matches the amount with its own 50-cent discount. The tax rate is 8%. The tax and amount due from the customer are computed as follows:

Selling price of the item	*$2.00*
Less: store discount (equal to the value of manufacturer's coupon)	*- .50*
Subtotal	*$1.50*
Sales tax (.08 x $1.50)	*.12*
Subtotal	*$1.62*
Less amount of the manufacturer's coupon	*- .50*
Amount due from customer	*$1.12*

Purchases using food stamps

Food stamps* can be used to purchase any food, food product, or nonalcoholic beverage intended for human consumption (eligible items). If a food or beverage item is ordinarily subject to sales tax, the purchase will be nontaxable if the item is purchased with food stamps. Some examples of items that are generally taxable, but not taxable when they are purchased with food stamps are:

- bottled water
- candy and confections (e.g., candy bars, lollipops, chewing gum, etc.)
- sandwiches
- fruit drinks containing less than 70% natural fruit juice
- fruit plants and seeds
- vegetable plants and seeds
- sodas (regular and dietetic)
- soft drinks (regular and dietetic)
- ice

*Beginning in 2008, the federal government food stamp program changed its name to the Supplemental Nutrition Assistance Program.

Purchases using food stamps with cash, credit cards, or debit cards

If a customer purchases taxable and nontaxable food stamp eligible items and pays with a combination of food stamps and cash, credit card, or debit card, the vendor must apply the food stamps to the eligible taxable items first, and then any remaining food stamps to the eligible nontaxable purchases.

Only the balance of the taxable purchases paid for with cash, credit card, or debit card is subject to tax.

Example: A customer purchases the following items in a grocery store (in each example, a T next to an item indicates that the purchase of that item is ordinarily subject to sales tax):

Bottled water - T	*$ 3.56*
Meat	*15.50*
Canned vegetables	*5.90*
Frozen vegetables	*3.78*
Diet soda - T	*3.89*
Potato chips	*2.09*
Fruit punch drink - T	*5.00*
Total purchases	*$39.72*
Taxable purchases	*$12.45*

The customer uses $20.00 in food stamps. The cashier must first apply the food stamps to the taxable purchases (bottled water, diet soda, and fruit punch drink). Since the total of these taxable items ($12.45) is less than the amount of food stamps given, ($20.00), no sales tax is due on this transaction.

Example: Assume the same facts as in the previous example, except that the customer uses $10.00 in food stamps. The tax rate is 8%. The tax and amount due from the customer are computed as follows:

Total purchases		*$39.72*
Taxable eligible purchases:		
Bottled water - T	*$ 3.56*	
Diet soda - T	*3.89*	
Fruit punch drink - T	*5.00*	
Total taxable purchases	*$12.45*	
Less: Food stamps	*-10.00*	
Balance subject to tax	*2.45*	
Sales tax (.08 x $2.45)		*.17*
Total amount due from customer		*$39.89*
(including $10.00 in food stamps)		

Purchases using coupons and food stamps with cash, credit card, or debit card

When a customer uses coupons, food stamps, and cash, or a credit card or debit card to purchase food and beverages, the vendor must complete the transaction as follows:

1. Total any taxable items that can be purchased with food stamps.

2. Subtract any store coupons that apply to the taxable items that are included in the total from step 1 above. This will lower the amount subject to tax.

3. Subtract the amount of food stamps used by the customer from the total computed in step 2 above. Any remaining balance is the amount of eligible food stamp purchases subject to sales tax.

4. Add any taxable items that cannot be purchased with food stamps to the total from step 3 above.

5. Calculate the sales tax due by multiplying the amount calculated in step 4 above by the sales tax rate.

6. Add the sales tax due to the total purchases.

7. Subtract all manufacturers' and store-issued coupons from the total computed in step 6 above.

This total is the amount due, including food stamps, that must be collected from the customer.

Example: A customer makes the following purchases in a grocery store:

Bottled water - T	*$ 3.56*
Diet soda - T	*3.89*
Potato chips	*2.09*
Fruit punch drink - T	*5.00*
Batteries - T	*6.97*
Canned fruit and vegetables	*16.98*
Fresh fruit and vegetables	*9.02*
Total purchases	*$47.51*

The customer gives the cashier a store coupon for $1.00 toward the purchase of the diet soda, and a manufacturer's coupon for 50 cents toward the purchase of the batteries. The customer pays $10.00 with food stamps and the balance with cash. The tax rate is 8%. The tax and amount due from the customer are computed as follows:

Calculation of sales tax:

Bottled water - T	*$3.56*		
Diet soda - T	*3.89*		
Fruit punch drink - T	*5.00*		
Subtotal	*$12.45*		
Less: store coupon for soda	*- 1.00*		
Total taxable food stamp eligible items		*$11.45*	
Less: food stamps		*-10.00*	
Subtotal:		*$1.45*	
Plus: Taxable ineligible items (batteries)		*+$6.97*	
Amount subject to sales tax		*$8.42*	
Sales tax (.08 x $8.42)		***$ .67***	

Total amount due from the customer:

Total purchases		*$47.51*	
Plus: Sales tax		*.67*	
Amount due before coupon deduction			*$48.18*
Less:			
Store coupon		*1.00*	
Manufacturer's coupon		*.50*	
			- 1.50
Amount due from customer			***$46.68***
(including $10.00 paid in food stamps)			

See also Tax Bulletin *Taxable Receipt* (TB-ST-860).

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References and other useful information

Tax Law: Sections 1101(b)(3) and 1115(k)

Regulations: Sections 526.5 and 528.27

Bulletins: *Taxable Receipt* (TB-ST-860)

NORTH DAKOTA

Guideline

Sales Tax
Grocery Stores, Convenience Stores & Delicatessens

Cory Fong
Tax Commissioner

February 2013

Food and Food Ingredients

Generally food and food ingredients sold for domestic home consumption qualifies for the sales tax exemption. While most grocery store sales of food and food ingredients are tax exempt, sales tax is due on prepared food for immediate consumption, gross receipts from sales of candy, chewing gum, soft drinks and other generally recognized soft drinks (including fruit drinks which contain 50% or less fruit juice). Bottled drinking water (including mineral, carbonated, and distilled water) is considered food and is exempt from tax. However, if the water contains natural or artificial sweeteners then it is considered a soft drink excluded from the definition of food and is taxable. Flavored water would be a food unless it also includes a natural or artificial sweetener. Ice is generally considered food and is generally not taxable, including ice sold by grocery, convenience, or similar stores.

Food Stamp Purchases

When purchases are made using Food Stamps or WIC food vouchers, no sales tax applies to such purchases.

Nontaxable Food Products

Baby food and formulas (including infant and adult formula)
Bakery items (including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, pies, tarts, muffins, bars, cookies, and tortillas)
Baking soda other forms of leavening agents
Beverages containing more than 50% fruit or vegetable juice or containing milk, milk products, or milk substitutes
Broths and bouillons
Cereal products (including unsweetened cereal bars with flour)
Cocoa and cocoa powdered drink mixes
Coconut (whether whole, shredded, sweetened, processed, or raw)
Coffee and coffee substitutes (beans, grounds, freeze dried, bags, and instant only)
Condiments and spices
Cooking oils
Deli items when sold unheated by weight or volume as a single item
Deli trays that only contain food items sold by weight or volume
Eggs and egg products or substitutes
Extracts and flavorings intended as a cooking ingredient
Fish and fish products (including all other forms of seafood)
Flour

Taxable Products

Alcoholic beverages
Almond bark
Aspirin
Baking ingredients (including baking chocolate in the form of bars, drops, or pieces)
Bird feed
Breath mints
Butterscotch chips
Cake decorations (edible)
Candy and confections
Canning supplies
Caramel apples
Cereal bars (sweetened and without flour)
Chewing gum
Chocolate covered nuts, candy coated nuts, and honey roasted nuts
Chocolate chips
Cigarettes and tobacco products
Cleaning products and supplies
Cocktail mixes (liquid)
Cooking utensils
Cosmetics
Cough drops
Cracker jacks
Dietary supplements (including energy bars containing "supplemental facts" box)

22062

Nontaxable Food Products (con't.)

Food coloring
Food sold by a seller whose primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries)
Food sold by weight or volume as a single item
Frosting in containers
Frozen drink mix
Frozen foods and dinners
Fruit and fruit products (whether fresh, frozen, canned or dehydrated, excludes items on salad bars)
Gelatins (whether powdered or prepared)
Granola
Gravy and gravy mixes
Herbs (seasonings)
Honey
Ice
Ice cream (including toppings and novelties)
Jams, jellies and preserves
Ketchup
Licorice (with flour)
Marshmallow creme
Meat and meat products, including beef jerky
Meat seasoning
Milk and milk products
Mustard
Nuts (including salted, but not chocolate candied, or honey coated nuts)
Oleomargarine
Olive oil
Peanut butter
Pepper
Pickles
Popcorn (unpopped and flavored)
Popsicles
Powdered drink mixes (including sweetened)
Pudding/gelatin
Raisins
Relishes
Rice cakes (unsweetened)
Salad dressings and mixes
Salt
Sauces
Sherbets and sorbets
Shortenings
Soups
Soy products
Snack chips and pieces (including potato chips, corn chips, pork rinds, pretzels, and trail mixes without candy)
Sandwich spreads

Taxable Products (con't.)

Film and film processing
Flowers
Fruit juice containing 50% or less juice content
Garden seed
Ice used as a refrigerant and not sold at a grocery, convenience or similar store
Laundry products and supplies
Laxatives
Light bulbs
Lozenges
Magazines and books
Marshmallows
Over the counter medicine (nonprescription)
Paper and tin products
Party trays (prepared food not sold by weight or volume)
Personal hygiene products
Pet food
Plants
Popped corn (popped kettle and caramel)
Prepaid telephone calling cards
Prepared foods, including heated foods such as pizza, sandwiches, hot dogs, barbeques, bratwurst, nachos and cheese, sandwiches prepared by customer or at customer's request
Rehydration solutions (Pedialyte, Ceralyte, Infalyte, etc.)
Soap and soap products
Soft drinks
Sports/Energy drinks
Tonics
Toothpaste and mouthwash
Trail mix with candy pieces
Vegetable juice containing 50% or less juice content
Video rentals
Vitamins
Water softener salt
Water-sweetened (including artificially)

Food sold in a heated state or heated by the seller is taxable.

Food sold with eating utensils, provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws is taxable.

Nontaxable Food Products (con't.)
Sugar, sugar products, and sugar substitutes
Sunflower seeds (including flavored)
Syrups (including molasses and dietetic syrups and similar products)
Tea (bags, leaves, or instant only)
Vegetables and vegetable products (whether fresh, frozen, canned or dehydrated, excludes items on salad bars)
Vegetable oils
Water (including carbonated, distilled, and mineral)

Candy, Dietary Supplements, and Soft Drinks

Candy
Sales of candy are taxable, and are defined as preparations of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour or any item requiring refrigeration.

Dietary Supplements
Dietary Supplements are taxable, and means and product intended to supplement the diet. The easiest method for determining if a product is a dietary supplement subject to tax is to look for a product label containing a "supplemental facts" box. If the label contains a "nutrition facts" box, the product is regarded as a food and is exempt from tax.

Soft Drinks
Soft drinks are taxable, and include nonalcoholic beverages that contain natural or artificial sweeteners, pop and fruit drinks or fruit punches that are fifty percent (50%) or less juice by volume. Products that are not soft drinks are those containing milk or milk products, soy, rice, or similar milk substitutes, or that contain greater than fifty percent (50%) vegetable or fruit juice by volume.

The deposit, which may be required on returnable bottles or containers, is exempt from sales tax.

Prepared Food

Prepared foods remain subject to sales tax. Prepared food includes food sold in a heated state or heated by the seller, or food that is prepared by mixing or combining two or more food ingredients for sale as a single item, or food sold with eating utensils, such as plates, knives, forks, spoons, glasses, cups, napkins, or straws provided by the seller. Food sold in an unheated state by weight or volume as a single item is taxable only if sold with eating utensils.

All food sold and catered is regarded as prepared food subject to tax. Taxable food includes meals (heated by the seller) and self-service food such as that provided by salad bars and drink islands.

Bakery items are not taxable unless they are sold with eating utensils by the seller or sold in a heated state.

Vending Machine Receipts

Gross receipts from vending machines are always subject to sales tax. Therefore, sales of all food and food ingredients sold through a vending machine are subject to sales tax. For example, a piece of fruit or a bottle of unsweetened water is subject to sales tax when sold through a vending machine.

Discount Coupons

When a manufacturer, processor, or wholesaler issues a coupon entitling a purchaser to credit on the item purchased, tax is due on the total gross selling price.

Example: If a manufacturer, processor, or wholesaler issues a coupon entitling the holder to a credit allowance of one dollar on the purchase of its product from a retailer, sales tax is computed as follows:

Regular price	5.00
Sales tax at 5 percent	.25
Subtotal	5.25
Credit for coupon	1.00
Amount due from purchaser	4.25

When a retailer issues a coupon entitling the purchaser to a discounted price on an item and when the retailer received no reimbursement from a manufacturer, processor, or wholesaler, sales tax is due only on the discounted price.

Example: If a retailer issues a coupon entitling the holder to a credit allowance of one dollar on the purchase of a product, sales tax is computed by the retailer as follows:

Regular price	5.00
Credit for coupon	1.00
Subtotal	4.00
Sales tax at 5 percent	.20
Amount due from purchaser	4.20

Sales to Churches and Other Religious Organizations

Churches and other religious organizations are subject to sales and use tax in North Dakota and are required to pay sales tax on all items purchased for final use except for food and other items expressly exempt from North Dakota sales or use tax. These organizations must pay sales tax on maintenance supplies and any miscellaneous supplies for final use by the church or religious group.

Sales to Schools - Public and Private

Sales of food supplies and groceries to either a public or private school for the operation of a school lunch program are exempt from sales tax. Similarly, cleaning material and supplies, such as soap, bleach, disinfectant, paper towels, toilet tissue and similar items, are exempt when sold to either a public school or a private, nonprofit school or college.

Freight, Delivery, or Other Transportation Charges

Freight, delivery, and other transportation charges, including shipping and handling charges, are considered to be part of the selling price. If the sale is taxable, the freight, delivery, and other transportation charges are taxable. If the product being delivered is exempt from sales tax, then the freight, delivery, and other transportation charges are also exempt.

Delivery charges billed directly to the customer by the delivery services that are not making the sale of tangible personal property remain exempt from sales and use tax.

Purchases Subject to Tax

All stores are required to pay sales or use tax on purchases of equipment and supplies for their own use. Examples of these items include: cash registers, file cabinets, light bulbs, paper towels, cash register tapes. If these items are purchased from a North Dakota supplier, the North Dakota sales tax should be paid directly to the supplier. If these items are purchased from a supplier who fails to charge North Dakota sales tax or from a supplier who does not have a North Dakota sales and use tax permit, the buyer must include the cost of such purchases as "items subject to use tax" on the North Dakota sales and use tax return and remit use tax on those items to the Office of State Tax Commissioner.

Cleaning supplies and similar materials removed from inventory for store use are also subject to use tax.

Food and food products given as samples to consumers for consumption on the premises of a food store are exempt from sales and use tax. The disposable paper products and tableware used to provide the exempt samples to consumers are also exempt from sales and use tax. Samples or giveaways of pop and candy, continue to be subject to tax based upon the cost of the products to the food store and are to be included as "items subject to use tax" on the tax return.

RHODE ISLAND

Rhode Island Division of Taxation

Streamlined Sales Tax

State of Rhode Island
Division of Taxation
One Capitol Hill
Providence, RI 02908

IMPORTANT NOTICE FOR RETAILERS OF FOOD CANDY, SOFT DRINKS AND DIETARY SUPPLEMENTS

STREAMLINED SALES TAX
Effective January 1, 2007

The new law imposes sales tax on "candy", "soft drinks", "dietary supplements" and "prepared foods". This may result in a difference in the tax treatment of some items when compared to prior law. "Food and food ingredients" remain exempt from sales tax.

Food and Food Ingredients

Under the amended version of R.I.G.L. 44-18-30(9), the sale of **food and food ingredients purchased for human consumption are exempt from sales tax**. "Food and food ingredients" are defined as substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. This term does not include candy, soft drinks, dietary supplements, alcoholic beverages, tobacco, food sold through vending machines or prepared food.

Under the Streamlined legislation the following products (previously exempt) are now subject to sales and use tax:

Seeds and plants that ordinarily produce food for human consumption

Fertilizers (including limestone)

Insecticides and fungicides, seed inoculants and plant hormones

These items are exempt **if sold to farmers** that hold a valid exemption number with the State of RI.

The following items are **not included in the exemption** for food and food ingredients.

Candy

The exemption for food under R.I.G.L. 44-18-30(a) does not apply to "candy." "Candy" is defined as any "preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the forms of bars, drops, or pieces." The term "candy" does not include any preparation containing flour as an ingredient.

Because many products commonly categorized as candy contain flour, packaging labels must be examined to determine which items are deemed taxable candy or exempt food products. Examples of items exempt after January 1, 2007 include KitKats, Twix, some licorice, Nestle Crunch, and Milky Way.

The term "candy" does not include any preparation that requires refrigeration. If an item that would otherwise be included in the definition of "candy" above requires refrigeration under health regulations, it would be deemed an exempt food product.

Candy that does not require refrigeration is taxable even if sold as such. For example, a number of candy bars that are regularly marketed at room temperature in the candy aisle may also be found in the refrigerated section of a convenience store. These products are refrigerated for customer preference rather than as directed on the label. Therefore, these items are not exempt from sales tax.

Soft drinks

"Soft drinks" are subject to sales tax. Soft drinks are defined as nonalcoholic beverages that contain natural or artificial sweeteners. The term does not include beverages that contain milk or milk products (including soy, rice, or similar milk products) or greater than 50 percent vegetable or fruit juice by volume. Again, product labels must be examined.

Frozen, or powdered soft drink mixes are not deemed to fall within the definition of "soft drink", which must be in liquid form, and are therefore exempt as foods. This new definition may change the taxability of specific products, particularly in the area of non-carbonated beverages, which were all exempt under prior law.

Examples of taxable soft drinks:

- Naturally and artificially sweetened water
- Teas containing sweeteners
- Drinks labeled as containing 50 percent or less fruit or vegetable juice
- Sports drinks (Gatorade, PowerAde, etc.)
- Sodas (colas, root beer, artificially sweetened diet colas, ginger ales, etc.)

Examples of items that are deemed exempt food products, rather than taxable soft drinks:

- Unsweetened Water (regardless of carbonation)
- Fruit or vegetable juices that contain more than 50 percent juice by volume
- Nutritional drinks that contain soy (Ensure, Boost, etc.)
- Apple cider
- Beverage powders (Kool-aid, lemonade, sweetened iced tea)
- Frozen fruit juice concentrates (regardless of percentage of juice, product is not in beverage form)

Dietary Supplement

"Dietary supplement" means any product intended to supplement the diet required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts" box found on the label and as required pursuant to Federal law.

TEXAS

Grocery and Convenience Stores: Taxable and Nontaxable Sales

Susan Combs, Texas Comptroller of Public Accounts

NOVEMBER 2012

Food products (such as flour, sugar, bread, milk, eggs, fruits, vegetables and similar groceries) are not taxable.

Tax is due, however, on many other items sold by grocery and convenience stores, such as paper goods, pet care products, beauty and hygiene products, clothing and books, as well as many edible goods.

The following information provides guidance on the taxability of products sold by grocery and convenience stores.

Tax Rates

Retailers must collect state sales tax on all taxable items. Local sales tax for cities, counties, special purpose districts or transit authorities may also be due depending on the location of the store.

Discounts, Coupons, Gift Certificates and Rebates Deals

Discounts

Cash discounts are offers to customers that reduce an item's sales price. For example, a retailer may offer a customer a 10 percent discount on all purchases paid with cash. If the customer buys a taxable item marked at $150, the discounted price is $135 after the 10 percent discount of $15 is deducted. Tax is due on the final discounted sales price of $135.

Coupons

A coupon is a cash discount. If the product sold is taxable, the value of the coupon is subtracted from the sales price and tax should be collected on the resulting cost to the customer.

Gift Cards and Gift Certificates

Sales tax is not due on the sale of a gift card or certificate. When the gift card or certificate is redeemed for merchandise, either by the original purchaser or someone who may have received the card as a gift, the gift card or certificate is treated the same as cash given for the purchase of the item.

If the item purchased is taxable, sales tax is due on the full sales price including any amount paid with the use of the gift card.

Rebates

There are generally two types of rebates that may be available to purchasers: manufacturer's rebates and retailer rebates. Rebates are generally refunds of a portion of the sales price of an item. Most rebates are issued after a transaction occurs.

A mail-in manufacturer's rebate that is given after the sale does not reduce the sales price charged by the retailer to the customer because the rebate is given by a third party (the manufacturer) after the transaction between the retailer and purchaser has occurred.

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For example, a $250 camera comes with a $50 manufacturer's mail-in rebate offer. A customer buys the camera for $250 and mails in proof of purchase and any required documentation to receive the $50 rebate from the manufacturer.

The retailer must collect tax on the $250 sales price of the camera, the amount charged the customer.

A manufacturer's rebate that is deducted at checkout is treated as a cash discount. If a $250 camera has a $50 rebate taken at the time of sale, tax is due on the final selling price of $200.

A mail-in rebate from the retailer may be used to reduce the taxable sales price of the item when the rebate is processed and the refund is issued. In this scenario, the customer must pay tax on the original sales price of the item at the time the sale occurs (without deducting the amount of the rebate). When the seller subsequently processes the rebate request, it should also refund the proportionate amount of sales tax that was collected on the part of the sales price that was rebated to the customer.

For example, a customer buys software for $150 with an available mail-in rebate from the retailer of $25. The amount of tax due at the time the sale occurs is calculated on the sales price of $150. When the retailer rebates the $25, the retailer should also rebate the tax the customer paid on the $25. In this example, if the tax rate on the initial transaction was 8.25 percent, the total tax due at the time the sale occurred is $12.38. When the rebate is processed, the amount the retailer should refund is $27.06 which equals the $25 rebate plus $2.06 (25 x .0825) in state and local tax.

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Taxable Items

Beer and Wine
Tax is due on beer and wine.

Candy and Gum
Candy and gum are taxable. Candy is any confection made of natural or artificial sweeteners and includes bars, gum, drops and taffy. Candy also includes items such as nuts, chips, hard pretzels, popcorn, raisins and other fruits that are coated with chocolate, yogurt, caramel or similar sweet flavorings.

Products used exclusively for cooking, such as chocolate bits and cake sprinkles, are not candy.

Ice
Tax is due on ice and dry ice.

Ice Cream and Popsicles
Ice pops, juice pops and popsicles that do not contain milk products or more than 50 percent fruit juice are taxable. These items are taxable regardless of how many are in a package.

Tax is also due on ice cream sundries, including sherbet and frozen yogurt, sold in individual units, including ice cream, sherbet and frozen yogurt served on cones; in cups or dishes; ice cream sandwiches, bars, sticks, specialties or similar ice cream sundries and half pints of ice cream, sherbet or frozen yogurt.

Tax is not due on pre-packaged ice cream sundries that contain two or more items, or on popsicles that contain more than 50 percent juice. For example, prepackaged boxes containing two or more ice cream sandwiches, sherbet push-up pops or ice cream cones are not taxable. (In the past, pre-packaged ice-cream products were only exempt from tax if the package included six or more items.)

Whole ice cream cakes, whole ice cream pies and ice cream, sherbet and frozen yogurt sold in pint containers or larger are not taxable, unless the seller provides plates or other eating utensils.

Soft Drinks and Energy Drinks
Soft drinks are taxable. Soft drinks are carbonated and non-carbonated, non-alcoholic beverages that contain natural or artificial sweeteners, and include flavored waters.

Soft drinks also include canned, bottled, frozen or powdered drinks and drink mixes, including

all ades and punches that do not contain more than 50 percent vegetable or fruit juice by volume. Soft drinks do not include beverages that contain milk or milk products; soy, rice or similar milk substitutes; or juices that contain more than 50 percent vegetable or fruit juice by volume. The term also does not include unflavored water, spring water, sparkling water or mineral water.

Energy drinks, sports drinks and naturally or artificially sweetened electrolyte drinks are taxable as soft drinks, unless they contain milk, milk products, soy, rice or similar milk substitutes; or juices that contain more than 50 percent vegetable or fruit juice by volume; or are labeled with a Supplements Facts panel.

Energy drinks labeled with a Nutrition Facts panel that contain milk or more than 50 percent fruit or vegetable juice by volume are food, as defined in Rule 3.293. A drink meeting the definition of food is not taxable unless sold in an individual-sized container of eight ounces or less (such as a juice box or half-pint carton of milk) by a seller who provides eating facilities (seats/tables); or sold ready for immediate consumption such as with a meal or served in a cup or glass or with a straw, if eating facilities are not provided.

An "individual-sized beverage" is a bottle or carton of a half-pint (8 ounces) or less. Bottles or cartons greater than a half-pint, that are more than 50 percent fruit or vegetable juice by volume, or that contain milk, milk products or milk substitutes, are exempt from sales and use tax when sold by a retailer providing eating facilities, unless sold ready for immediate consumption.

Supplement Facts Panel or Labeled as Dietary Supplement

Dietary supplements are exempt from Texas sales and use tax. Therefore, if an item, such as an energy drink meets the definition of a dietary supplement, it is not subject to sales tax even if it is sold ready for immediate consumption or by a place of business with eating facilities.

A dietary supplement is defined in Texas Tax Code 151.313 as a product that:

- contains one or more vitamins, minerals, herbs or botanicals, amino acids, or substances that supplement the daily dietary intake;
- is not represented as food or the sole item of a meal or the diet; and
- is labeled "dietary supplement" or "supplement."

Photo Processing
Tax is due on film processing, including processing performed at self-use kiosks, negatives, prints, pictures-on-disk, slides, enlargements, retouching services and similar items.

Rentals
Rentals of DVDs, videos, video players, floor-cleaning equipment or similar property are taxable.

Cigarettes and Tobacco Products
Sales tax is due on cigarettes, cigars and all other tobacco products.

Books and Magazines
Books, comics and magazines are taxable.

Phone Cards
For Texas tax and fee purposes, there are two types of phone cards: telephone prepaid calling cards and prepaid wireless telecommunications

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service cards. Both types of cards are subject to sales tax.

A telephone prepaid calling card is a card or other item, including an access code, that represents the right to access telecommunications services, other than prepaid telecommunications services as defined in Rule 3.344(a) (9), through multiple devices, regardless of the network providing direct service to the device used, for which payment is made in incremental amounts and before the call or transmission is initiated. For example, a calling card that allows a user to access a long distance telecommunications network for the purpose of making international calls through a pay phone is a telephone prepaid calling card. Sales tax is collected on telephone prepaid calling cards.

A prepaid wireless telecommunications service card is a card, PIN number, access code or similar device that allows a user to access only a specific wireless network, or that is intended for use with a specific user account or device (e.g., to add more minutes to an existing account). For example, a card that allows a purchaser to "add minutes" to a cell phone is a prepaid wireless telecommunications service card.

Sales of prepaid wireless telecommunications service cards and devices are subject to the Prepaid Wireless 9-1-1 Emergency Services Fee in addition to sales tax. The amount of the fee is 2 percent of the retail price on the sale of prepaid wireless telecommunications service, which includes phones, cards and other wireless telecommunications devices. The fee is collected from the customer at the time of the sale in addition to sales tax.

Prepared Food

Prepared food is taxable.

Prepared food includes:

- all food (except bakery items sold without eating utensils) sold in a heated state;
- hot drinks such as cocoa, coffee and tea;
- all cold drinks, except water, sold in a cup or glass or with a straw;
- all food sold on a plate, in a bowl or with eating utensils; and
- all sandwiches (unless sold frozen).

Prepared food also includes any item created at the store by mixing or combining two or more food ingredients that is offered for sale by weight or volume as a single item such as salad, salsa, pesto and hummus. Tax is not due, however, on items that are typically reheated prior to eating (e.g., macaroni and cheese) or on food that has merely been cut, repackaged or pasteurized such as fruit or vegetable trays.

Foods "sold in a heated state" as listed above are items that are cooked by the seller and sold hot such as barbecued beef, fried or rotisserie chicken, French fries, chili and soup. The term also includes foods that are sold frozen or cold if the seller heats them for the purchaser. Tax is not due on such foods, however, if the store simply has a microwave on the premises that the purchaser can use to heat the food. For example, no tax is due on the sale of a frozen burrito if the purchaser uses a microwave in the store to heat the burrito before consumption. Tax is due, however, if the seller heats the burrito for the purchaser.

Dining Area

If a store has eating facilities, sales tax is due on individual-sized packages of snack items such as chips, crackers, and peanuts; individual-sized servings of beverages such as milk or juice, when sold at a register located in or adjacent to the dining area or where ready-to-eat food or beverages are sold. For example, a grocery store that sells hot fried chicken in an area with tables and chairs should collect tax on individual-sized bags of chips sold in the dining area, but should not collect tax on individual sized bags of chips sold at the main registers used primarily to sell groceries.

Eating facilities include tables, benches, booths and chairs. Individual-sized packages of beverages are those that are eight ounces or less. Individual-sized packages of snack items are those that are less than five ounces,

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but do not include cookies or other bakery items. Bakery goods, such as doughnuts and cookies, are only taxable if sold with a plate or eating utensils. If a store doesn't have eating facilities, sales tax should not be collected on chips, crackers, peanuts, juice, milk or similar items, even if sold in individual-sized packages.

A combination business that contains a restaurant, deli, fast-food franchise or similar operation in part of the building and a convenience store in the other part must collect tax on individual servings of snack items and drinks sold at the register located in the restaurant area of the store, regardless of whether there are eating facilities in that area. Sales of such items at the register located in the convenience store side of the building, however, are only taxable if the store has eating facilities.

Nontaxable Items

While the list below is not all-inclusive, it illustrates the types of products that are not subject to sales tax.

Bakery Items
Tax is not due on bakery items such as cookies, doughnuts, bread and tortillas, unless sold with eating utensils.

Coffee, Tea and Milk Products
Tax is not due on coffee, tea or milk products, unless sold in a heated state or in a cup or glass or with a straw.

Newspapers
To be nontaxable, newspapers must be printed on newsprint, distributed at intervals of four weeks or less, sold for an average price of $1.50 or less per day over a 30-day period and must provide general interest news and advertisements. Publications that do not meet all of these criteria are taxable.

Lone Star Card - Food Stamps
Anything that can be bought legally with the Lone Star Card is not taxable. For example, candy, soft drinks and ice are usually taxable, but are nontaxable if bought using the Lone Star Card. If a customer buys milk, fruit, bread, soft drinks and candy and pays with the Lone Star Card and cash, the Lone Star Card should first be used to pay for the soft drinks and candy. In other words, sales tax is not due on the candy and soft drinks as long as they are purchased with the Lone Star Card.

Over-the-Counter Drugs and Medicines
Over-the-counter drugs and medicines that are required by the Food and Drug Administration (FDA) to be labeled with a Drug Facts panel are not taxable. For more information, see *Sales Tax Exemptions for Over-the-Counter Drugs and Medicines* (Publication 94-155).

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Examples of Taxable Items

- adhesive tape
- alarm clocks
- ale
- aluminum foil
- ammonia
- ammunition
- appliances
- automotive items (oil, transmission fluid, antifreeze, etc.)
- baby care products (oil, lotion, powder, etc.)**
- baby clothing
- bags
- baskets
- batteries
- beauty supplies
- beer
- birdseed (except wild birdseed)
- bleach
- books
- breath mints
- brooms
- brushes
- bubble bath
- calendars
- cameras
- candles
- candy*
- canning supplies
- carbonated beverages*
- cards
- cassette tapes
- charcoal briquettes
- charcoal lighter fluid
- Christmas trees and decorations
- cigarettes
- cigarette lighters
- cleaners
- clothespins
- clothing
- coffee pots
- cologne
- contact lens care items***
- cosmetics
- costumes
- cotton balls***
- cough drops**
- dental floss
- detergent
- deodorant (not including antiperspirant)
- deodorizers
- diapers
- diluted juices (50 percent or less fruit juice)*
- dishcloths and towels
- dishes
- disinfectant
- distilled spirits
- drinks (soft drinks – canned, bottled, frozen or powdered, including all ades and punches)*
- dye
- eating utensils
- electrical supplies
- electronic equipment
- eyeglasses
- fabric softeners
- fertilizer
- film
- fishing tackle
- firearms
- flashlights
- floor wax
- flower seeds
- flowers
- flyswatters
- freezer paper and tape
- furniture
- fuses
- garbage bags
- garden supplies
- gift wrap
- glassware
- gum
- hair care products (shampoo, spray, conditioner, etc.)
- hair coloring
- hairpins and accessories
- hammers
- hardware
- housewares
- ice
- ice chests
- ice cream salt
- ice cream sundries (sold individually; not taxable when sold in packages of two or more)
- insecticides
- irons
- jars
- jewelry
- keys
- kitchenware
- laundry detergent and additives
- lawn chairs
- light bulbs
- liquor
- lotions**
- lubricants
- lye
- matches
- magazines
- mops, mop handles and mop heads
- mothballs and spray
- motor oil
- mousetraps
- movies
- nails
- notebooks
- nuts (candy-coated)*
- nursery stock (except annual vegetable plants)
- paper items (all)
- paraffin
- peat moss
- pencils and pens
- perfume
- pet food
- pet supplies
- photo processing
- pictures and frames
- pipes
- plastic items
- poisons
- polish
- popsicles
- popcorn (when candy-coated or sold hot in the store)
- pots and pans
- powder (face, body and cleaning)
- prophylactics
- razors and blades
- rental items
- ribbons
- sandwiches (except frozen)
- sandwich bags
- school supplies
- scouring pads
- shaving cream and lotion
- shampoo and rinses
- shoelaces
- silverware
- snuff
- socks
- soap and detergent
- soft drinks (carbonated and non-carbonated)*
- sponges
- sports equipment
- sprays
- starch
- stationery and cards
- sunglasses
- tape (packaging)
- tape recorders
- thread and sundries
- toilet tissue
- tools
- toothbrushes
- toothpaste (non-fluoride)**
- toothpicks
- toys
- tobacco products
- towels
- videotape (sales and rentals)
- watches and clocks
- water softeners
- water softener salt
- wax removers
- whisk brooms
- wine
- wire
- water (when flavored)

* Unless purchased with food stamps or the Lone Star Card

** Unless required by the FDA to be labeled with a Drug Facts panel or sold to an individual with a prescription

***Unless the customer presents an exemption certificate stating that the cotton balls will be used exclusively for wound care

Examples of Nontaxable Items

Baby Products
- baby food – canned, packaged, etc.
- milk – canned, dry, etc.
- formula
- medicated products

Bakery Items – fresh, canned, or frozen
- biscuits
- bread
- cakes
- cookies
- croutons (plain and seasoned)
- dinner rolls
- doughnuts
- pies
- pizza crusts
- soft pretzels
- tortillas

Baking Supplies
- almond paste, marzipan
- baking chocolate (blocks and chips)
- cake mixes
- canned fillings
- cookie mixes
- cooking oils, shortening and lard
- cornmeal
- dried fruits
- edible cake decorations (sprinkles, confetti, etc.)
- flour
- food coloring (liquid, gel and powdered)
- icing and icing mixes
- leavening agents (baking powder, baking soda, yeast)
- marshmallows
- molasses
- muffin mixes
- nuts (not candy-coated)
- seasonings (salt, pepper, herbs, spices, etc.)
- spices
- sugar
- sugar substitutes
- syrups

Condiments and Spices
- catsup
- herbs
- mayonnaise
- mustard
- pickle relish
- pickles
- salad dressings (mixes or bottled)
- salsas (canned and fresh)
- sauces and liquid seasonings (fresh, canned and bottled)
- spices
- vinegar

Dairy Products
- butter and margarine
- cheese and cheese foods, including cottage cheese and cream cheese
- cream (whipping, half and half, heavy, etc.)
- creamers
- lactose-reduced milks and dairy products
- milk and milk substitutes (canned and dry)
- sour cream
- yogurt

Beverages
- coffee (beans, ground and instant)
- coffee flavorings (powdered and liquid)
- fruit and vegetable juices (more than 50 percent fruit or vegetable juice, canned, bottled or frozen)
- meal replacements
- tea (including herbal teas)
- water (carbonated or non-carbonated, non-flavored)

Eggs and Egg Substitutes
- egg substitutes (fresh and frozen)
- fresh eggs

Grains and Pasta
- beans
- cereals
- granola (bulk and packaged)
- pastas (fresh, canned and dried)
- pasta mixes
- rice
- spaghetti

Ice Cream, Ice Cream Substitutes and Ice Cream Sundries
- frozen yogurt
- ice cream (pint or larger containers)
- ice cream sundries (ice cream bars, ice cream sandwiches, etc. sold in prepackaged units containing two or more sundries. Popsicles that are not ice cream sundries are taxable regardless of the quantity in a package unless the popsicles are more than 50 percent juice.)
- sherbet

Meat, Poultry and Fish
- canned meats
- dried meats
- deli meats
- fresh and frozen beef, poultry, pork and fish
- lunch meats
- meat substitutes
- sausages

Nutritional Supplements (product must contain a Supplement Facts panel)
- herbal products
- mineral products
- vitamins

Over-the-Counter Drugs and Medicines (When required by the FDA to be labeled with a Drug Facts panel)
- acne treatment products
- allergy treatment products
- analgesics
- antacids
- antibacterial personal care items (hand sanitizer, wipes, soap
- antibiotic topical ointment
- anti-diarrhea and anti-nausea products
- anti-fungal products
- antihistamines
- antiperspirants
- antiseptic sprays, creams and lozenges
- cold remedies
- cough suppressants
- dandruff products
- expectorants
- head lice treatments
- hemorrhoid treatments
- insect bite treatments
- laxatives
- nicotine gum or patches and smoking cessation aids
- pain relievers (aspirin, ibuprofen, acetaminophen)
- sedatives and sleep aids
- sunscreen
- toothache treatments

Examples of Nontaxable Items *(cont.)*

Produce
- canned fruits and vegetables
- dried fruits and vegetables
- fresh fruits and vegetables (bulk, wrapped or packaged)
- frozen fruits and vegetables

Other Categories
- frozen meals
- meal replacements (bars, powders and drinks)
- packaged mixes for beef, fish, pork and poultry
- packaged mixes for vegetables, beans and rice
- sauces (pasta, tomatoes, garlic)
- soups (canned, dry mix or frozen)

Snacks
- breakfast bars
- chips
- crackers
- granola bars
- nuts (not candy-coated)
- popcorn
- pretzels
- protein, nutrition or sports bars (unless labeled and marketed as candy)
- snack mix
- trail mix
- yogurt bars

Wound Care Items
- adhesive bandages(including strip adhesive bandages, large adhesive bandages and butterfly closures)
- corn cushions
- gauze rolls and pads
- liquid bandage products
- medical tape

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Automotive Oil Fee
Battery Fee
Boat and Boat Motor Sales Tax
Customs Broker
Fireworks Tax
Mixed Beverage Tax
Off-Road, Heavy-Duty Diesel Equipment Surcharge
Oyster Fee
Sales and Use Taxes
Telecommunications Infrastructure Fund

1-800-531-5441
Cement Tax
Inheritance Tax
Local Revenue
Miscellaneous Gross Receipts Taxes
Oil Well Servicing Tax
Sulphur Tax

1-800-531-5441, ext. 3-3630
WebFile Help

1-800-252-1381
Bank Franchise
Franchise Tax

1-800-252-7875
Spanish

1-800-531-1441
Fax on Demand (Most frequently requested Sales and Franchise tax forms)

1-800-252-1382
Clean Vehicle Incentive Program
Manufactured Housing Tax
Motor Vehicle Sales Surcharge, Rental and Seller-Financed Sales Tax
Motor Vehicle Registration Surcharge

1-800-252-1383
Fuels Tax
IFTA
LG Decals
Petroleum Products Delivery Fee
School Fund Benefit Fee

1-800-252-1384
Coastal Protection
Crude Oil Production Tax
Natural Gas Production Tax

1-800-252-1387
Insurance Tax

1-800-252-1385
Coin Operated Machine Tax
Hotel Occupancy Tax

1-800-252-1386
Certificates of Account Status/Good Standing
Officer and Director Information

1-800-862-2260
Cigarette and Tobacco

1-888-4-FILING (1-888-434-5464)
TELEFILE: To File by Phone

1-800-252-1389
GETPUB: To Order Forms and Publications

1-800-654-FIND (1-800-654-3463)
Treasury Find

1-800-321-2274
Unclaimed Property Claimants
Unclaimed Property Holders
Unclaimed Property Name Searches 512-463-3120 in Austin

1-877-44RATE4 (1-877-447-2834)
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KENTUCKY

Kentucky Sales Tax Facts

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Each edition of the Department of Revenue sales and use tax newsletter seeks to provide taxpayers with assistance in the filing of returns and the application of sales tax laws and regulations. The contents of this informational bulletin shall not take precedence over any existing laws or regulations of the commonwealth. Your comments and suggestions are welcomed. Please help us serve you better.

STREAMLINING KENTUCKY'S SALES TAX CODE–PART II

This issue is the second in a series highlighting the upcoming changes to Kentucky's sales and use tax law resulting from the Streamlined Sales and Use Tax Act enacted by the 2003 Kentucky General Assembly as part of House Bill 293. This Kentucky legislation is part of a nationwide effort by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration so that Main Street merchants as well as remote sellers can more easily comply with the tax requirements of the various jurisdictions into which their products are sold. At this time there are 42 states and the District of Columbia actively participating in the Streamlined Sales Tax Project. The changes for Kentucky discussed below will take effect July 1, 2004.

Exempt Grocery Food

The current sales and use tax exemption for food items under KRS 139.485 has been in effect since 1972. Many states have a sales and use tax exemption for food primarily to relieve the tax burden on those who spend a relatively large portion of their income on grocery food. However, the definition of what constitutes food for tax purposes is different in every state, and many of the administrative rules developed over time regarding this issue in Kentucky are difficult to apply and need updating to address current sales and consumption patterns in the market place. The changes to this statute take effect July 1, 2004, and apply the uniform definition structure adopted by the Streamlined Sales Tax Project.

The complete new version of KRS 139.485 can be found at *www.lrc.state.ky.us/krs/139-00/485.pdf*. Under this amendment, the term food and food ingredients means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Excluded from the exempt food and food ingredients are the subcategories of (a) alcoholic beverages, (b) tobacco, (c) candy, (d) dietary supplements, (e) soft drinks, and (f) prepared food. Each of these subcategories is defined as well to provide clear direction on what products do not constitute exempt food and food ingredients. Below is a further discussion of some of these terms to illustrate the application of the new guidelines.

Candy

Candy means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include: 1) any preparation containing flour; or 2) any item requiring refrigeration. This definition should make it easier to determine when a product fits the candy definition and falls outside the exempt food category. Items that previously seemed to be in a gray category between exempt cookies and taxable candy now belong outside the candy definition if they contain flour as a labeled ingredient. Also, ice cream fits the food category even when including sugar, honey, or other *candy* ingredients because of the required refrigeration. Examples of common products within the candy category are chewing gum, candy bars, marshmallows, breath mints, caramel corn, chocolate or carob covered raisins, honey roasted nuts, fruit roll-ups, etc.

Soft Drinks

Soft drinks mean nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume. There are obviously many products on the market that sell as fruit or vegetable juices; however, to meet the definition of food these products must contain more than 50 percent vegetable or fruit juice. Beverages that contain less than the required threshold belong in the nonexempt soft drink category. One major effect of adopting this guideline is the reclassification of unflavored bottled water into the nontaxable food category. By combining a broad general definition with specific exclusions, the soft drink definition includes a wide variety of beverages beyond just carbonated beverages. Other examples of taxable soft drinks are coffee and tea drinks, sports drinks, and fruit ades.

Prepared Food

Creating a *prepared food* definition addresses the entire gamut of questions involving deli sales by grocers, bulk food issues, baked goods, and restaurant sales. The law taking effect July 1, 2004, defines prepared food as follows:

1. Food sold in a heated state or heated by the retailer;
2. Two or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer; eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food borne illnesses; or
3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

However, *prepared food* shall not include the following items if sold without eating utensils provided by the seller:

1. Food sold by a seller whose proper primary North American Industry Classification System (NAICS) classification is manufacturing in sector 311 (food manufacturing), except subsector 3118 (bakeries); or
2. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

The overall impact of the prepared food definition is to clarify that in general food items prepared and sold by the seller to the consumer are taxable. The preparation by the seller may occur where the food is sold or at another location. All products sold in a heated state are taxable. Prepared food includes items that were heated by the seller and are ready to eat without further cooking by the purchaser. Food shall be considered sold with eating utensils provided by the seller when food is intended for consumption with the utensils the seller provides. Therefore, food sold by businesses that sell meals such as restaurants, caterers, sandwich shops, snack bars, concession stands, etc., suitable for consumption on or off the premises comes under the nonexempt prepared food category regardless of the temperature or quantity of the product sold. Examples of taxable food prepared by the seller with or without eating facilities are rotisserie chicken, sandwiches, party trays, salads, meatloaf, casseroles, and salad bar products.

However, food items sold by a retailer whose primary NAICS classification is 311 food manufacturing, excluding subsector 3118, are not taxable prepared food unless sold with eating utensils. In the case where a manufacturer packages eating utensils with the food but is not the direct retailer of the food items, the product is not a taxable prepared food. The category of eating utensils does not include packaging merely used to transport food products. Also, the new language provides an exclusion from the prepared food category for bakery items. Therefore, cakes, pies, donuts, and other pastry items prepared and sold by the grocer or stand-alone bakery items are exempt, provided the baked goods are not sold with eating utensils supplied by the seller. This guideline applies regardless of the quantity or serving size of baked goods sold (no more six donut rule!).

Other Categories

All food items sold through vending machines remain taxable regardless of the subcategory classification. Also, sales of alcoholic beverages and tobacco products subject to Kentucky sales and use tax are unchanged with the adoption of the Streamlined Sales Tax definitions. Food or food products purchased for human consumption through the food stamp program administered by the U.S. Department of Agriculture are exempt as well.

Sourcing Sales Transactions

Sourcing rules provide guidelines on determining the location of the sale so that retailers can determine which jurisdiction's tax to charge. You may access the new sourcing guidelines codified under KRS 139.105 at *www.lrc.state.ky.us/krs/139-00/105.pdf.* This statute takes effect on July 1, 2004. In many states sales tax is due on both the state and local levels; however, since Kentucky has only a state-based sales and use tax, sourcing issues primarily relate to multi-state transactions. For example, what tax should an out-of-state retailer charge for products delivered to a customer in Kentucky? The commonwealth currently treats the retail sale of products into the state as subject to Kentucky tax. Kentucky's adoption of the new sourcing rules will not change the taxability of products delivered into the state because the new guidelines merely confirm our existing destination-based sourcing for sales of tangible personal property and taxable services. In addition, the new statute includes the sourcing of telecommunications services, some of which were previously addressed in the current version of KRS 139.100, under the discussion of service address in subsection four. Since every state participating in the Streamlined Sales Tax Project must adopt these sourcing rules, this change represents tremendous progress in developing uniformity and simplicity in the administration and compliance of both state and local sales and use taxes.

If the Streamlined Sales and Use Tax Act affects your business in these areas, make applicable changes to your accounting and reporting records and systems by the July 1, 2004, effective date. Also, watch for additional highlights of these significant legislative reforms in upcoming issues of ***Kentucky Sales Tax Facts***. If you need further assistance with any of these topics, contact the Department of Revenue, Sales and Use Tax Branch at (502) 564-5170 or via e-mail at *KRCWebResponseSalesTax@ky.gov*.

This newsletter is intended to provide practical information to assist persons in fulfilling their sales and use tax obligations to the commonwealth. To submit additional questions or suggestions for future topics, please write to: *Kentucky Sales Tax Facts*, Sales and Use Tax, Station 53, P.O. Box 181, Frankfort, KY 40602-0181 or call (502) 564-5170, fax (502) 564-2041, Web site *www.revenue.ky.gov*.

Ernie Fletcher, Governor
Commonwealth of Kentucky

Robbie Rudolph, Secretary
Finance and Administration Cabinet

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139.485 Exemption of food items -- Definitions.

(1) Except as otherwise provided, the terms "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of food and food ingredients for human consumption.

(2) The term "food and food ingredients" as used in subsection (1) of this section means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not include:

(a) Alcoholic beverages;

(b) Tobacco;

(c) Candy;

(d) Dietary supplements;

(e) Soft drinks; and

(f) Prepared food.

(3) For purposes of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume;

(b) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;

(c) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" shall not include:

1. Any preparation containing flour; or

2. Any item requiring refrigeration;

(d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

1. Contains one (1) or more of the following dietary ingredients:

a. A vitamin;

b. A mineral;

c. An herb or other botanical;

d. An amino acid;

e. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;

2. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

3. Is required to be labeled as a dietary supplement, identifiable by the

"Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36;

(e) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume;

(f) "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment;

(g) "Prepared food" means:

1. Food sold in a heated state or heated by the retailer;
2. Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food-borne illnesses; or
3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws;

(h) Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold without eating utensils provided by the seller:

1. Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or
2. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(4) Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines or nonmechanical self-service vending systems shall be subject to the tax imposed by this chapter.

Effective: Ju1y 1, 2007

History: Amended 2007 Ky. Acts ch. 141, sec. 10, effective July 1, 2007. -- Amended 2003 Ky. Acts ch. 124, sec. 22, effective July 1, 2004. -- Amended 1994 Ky. Acts ch. 65, sec. 17, effective July 15, 1994. -- Created 1972 Ky. Acts ch. 62, Pt. I, sec. 1, effective October 1, 1972

more than 50 percent vegetable or fruit juice by volume."

Natural and artificial sweeteners include corn syrup, dextrose, invert sugar, sucrose, fructose, sucralose, saccharin, aspartame, stevia, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, maltitol, and agave.

Soft drinks are beverages that are in liquid form and do not include items that are not in liquid form such as powdered fruit drinks, powdered teas, and frozen drink concentrates.

Water and tea that contain sweeteners are soft drinks, unless they contain more than 50% fruit or vegetable juice by volume.

Water and tea that are unsweetened are not soft drinks, even if carbonated or flavored.

III. SALES AND PURCHASES BY GROCERY STORES

A. Sales and Purchases of Inventory Items

Grocers purchase and resell many different types of products. Certain products which are sold are not subject to Wisconsin sales tax, while other products are subject to Wisconsin sales tax. In addition, sales of products which are usually not subject to Wisconsin sales tax (e.g., donuts), are subject to Wisconsin sales tax if the product meets the definition of "prepared food" as described in Part II.D.4. on pages 12 through 14.

The following sections explain the Wisconsin sales and use tax treatment of the sales and purchases of inventory items.

1. Sales of Inventory Items by Grocers

Sales of items described in Part I.D.1. through 4. on page 7 are subject to Wisconsin sales tax, unless a specific exemption applies. There are three common reasons that sales made by grocers may not be subject to Wisconsin sales tax. The reasons are:

(a) The grocer is selling products which qualify for the exemption for "food and food ingredients" that are for human consumption.

(b) The grocer is selling products to organizations which are exempt from Wisconsin sales tax (e.g., churches, federal governmental agencies, any federally recognized American Indian tribe or band in Wisconsin, Wisconsin state and local governmental agencies) and the organization provides the grocer with either:

(1) A certificate of exemption, indicating the organization's certificate of exempt status (CES) number (**Note:** In lieu of obtaining a certificate of exemption, the grocer may record the CES number on its copy of the bill of sale), or

(2) For federal and Wisconsin (state and local) governmental agencies, which includes public school districts, an exemption certificate indicating the governmental entity's CES number or a purchase order or similar written document from the governmental agency.

(c) The grocer is selling products to customers who provide the grocer with an exemption certificate claiming an exemption from Wisconsin sales and use tax (e.g., resale).

Food and Food Ingredients for Human Consumption

Exempt Food and Food Ingredients and Beverages: An exemption from Wisconsin sales and use tax is provided for all "food and food ingredients" except "candy," "dietary supplements," "prepared food," and "soft drinks." The following examples of food and food ingredients are exempt from Wisconsin sales tax, ***provided they do not meet the definition of "candy," "dietary supplements," "soft drinks," or "prepared foods."***

Apple cider, sweet	Desserts and toppings
Baby food	Dinners, frozen
Bakery goods	Donuts
Baking powder and soda	Dressings
Barbecue sauces	Dried fruits, unsweetened
Berries	Dried milk products
Beverage powders	Eggs
Beverages that contain milk	Fish and fish products
Biscuit mix	Flavoring extracts
Bottled water, unsweetened	Flour
Bouillon cubes	Food coloring
Bread and rolls	Frosting not sold in the form of bars, drops, or pieces
Breakfast pastries	Frozen desserts
Brownies	Frozen fruit juices
Butter	Frozen fruits and vegetables
Cake mixes	Frozen pizza
Cakes, prepared, mixes, and snack-type	Frozen TV dinners
Canned foods	Fruit
Catsup	Fruit juices that contain more than 50% fruit juice by volume
Cereal and cereal products	Garlic
Cheese	Gelatin
Chicken	Granola bars that contain flour
Chip dip	Gravy extracts and mixes
Chips, potato, corn, and similar items	Grits
Chocolate, unsweetened or not sold in form of bars, drops, or pieces	Hash
Citrus fruits	Honey
Cocoa	Ice cream bars and similar products
Coffee beans, grounds, freeze dried, and coffee substitutes	Ice cream in cones
Coffee drinks that contain no sweeteners or that contain a milk or milk product	Ice cubes
Condiments	Jams
Cones and ice cream cups	Jellies
Cookies and crackers	Juices that contain more than 50% fruit or vegetable juice by volume
Cooking oils	Ketchup
Cream	Lobster
Dairy products	Luncheon meats
Deli items	Macaroni

Exempt Food and Food Ingredients and Beverages (cont'd)	
Malted milk powder	Rice
Maraschino cherries not including chocolate covered cherries	Rolls and biscuits
Margarine	Salad dressing
Marshmallow creme	Salt and salt substitutes
Marshmallows that contain flour	Salted nuts
Mayonnaise	Sardines
Meal	Seafood
Meat and meat products	Seasonings
Meat extracts and tenderizers	Sherbet
Melons	Shortening
Milk and milk products	Soup
Mustard	Spaghetti products
Noodles	Spices
Nuts	Spreads
Oil, cooking, salad	Sugar
Oleomargarine	Sweeteners
Olives	Syrup
Pancake mix	Tea bags, leaves or instant
Pasta	Tea and ice tea beverages that are not sweetened
Peanuts	Trail mix with candy
Peanut butter	Turkey
Pectins	Vanilla and vanilla extract
Pepper	Vegetable juices that contain more than 50% juice by volume
Pickles	Vegetables
Pie and pie fillings	Vinegar
Pie crust and mixes	Waffle mix
Popcorn, popped or unpopped	Water, carbonated, unsweetened
Popsicles	Water, flavored, unsweetened
Potato chips	Water, unsweetened
Potato salad	Yeast
Poultry and poultry products	Yogurt and yogurt bars, cones, and sundaes
Powdered drink mixes	
Preserves	
Pretzels	
Puddings	
Raisins	
Ravioli	
Relishes	

Taxable Food and Food Ingredients and Beverages: There are many foods, food ingredients, and beverages sold in grocery stores that are subject to Wisconsin sales tax.

The following examples of products (including sales from vending machines) are subject to Wisconsin sales and use tax:

Alcoholic beverages	Dried fruit with sweeteners
Anti-acid products	Fermented malt beverages
Aspirin	Flowers
Baking chips, sweetened	Fruit drinks that contain a sweetener and have 50% or less fruit juice by volume
Baking chocolate in the form of a bar, drop, or piece that contains a sweetener	Fruit snacks that contain a sweetener
Beer	Ginseng sold as a dietary supplement
Beverage powders that are dietary supplements	Granola bars that are sweetened, unless they contain flour
Bottled water, sweetened	Gum
Breath mints	Heated foods and beverages
Cake decorations that are candy	Honey roasted and honey coated nuts
Candied fruits	Ice blocks
Candy	Intoxicating liquor
Candy apples	Juices that contain sweeteners and 50% or less fruit or vegetable juice by volume
Caramel apples	Lozenges
Caramel corn	Marshmallows
Chewing gum	Nuts that are candy, such as honey roasted cashews
Chocolate chips and other flavored chips, if sweetened	Peanuts that are candy, such as honey roasted peanuts
Chocolate covered raisins and nuts	Popcorn that is candy, such as caramel corn
Cocktail mixes containing 50% or less fruit or vegetable juice	Potato salad that is prepared food
Cod liver oil	Powdered drink mixes that are dietary supplements
Coffee drinks that contain sweeteners, unless it also contains milk or a milk product	Prepared foods
Confections that are candy	Pretzels that are prepared food
Cough drops	Raisins that are candy, such as yogurt coated raisins
Deli items that are prepared food	Root beer
Dietary supplements	Salted nuts that are candy
Distilled spirits	Sandwiches that are prepared food
	Seeds for planting
	Soft drinks
	Taffy apples
	Tea drinks that contain sweeteners
	Tonics
	Vegetable juice that contains a sweetener and 50% or less juice by volume
	Vitamins
	Water, sweetened
	Yogurt covered raisins and nuts

Taxable Food and Food Ingredients and Beverages (cont'd)

Prepackaged Food Combinations

If a combination of taxable and nontaxable products that are distinct and identifiable, one or more of which is a food or food ingredient, are packaged together and:

(1) More than 50% of the retailer's purchase price or sales price as determined by the seller (but not a combination of both) of the products in the package are attributable to products that are subject to Wisconsin sales or use tax, the total sales price of the package is subject to Wisconsin sales or use tax.

(2) 50% or less of the retailer's purchase price or sales price as determined by the seller (but not a combination of both) is attributable to products that are subject to Wisconsin sales or use tax, the total sales price of the package is exempt from Wisconsin sales or use tax.

Example: A grocery store sells a package that contains crackers, meat, cheese, candy, and a soft drink. The grocery store purchased the package from Company. Of the grocery store's purchase price and selling price, 75% is attributable to the meat, cheese, and crackers (exempt products) and 25% is attributable to the candy and soft drink (taxable products). Since neither the retailer's purchase price nor selling price of the

taxable products is greater than 50% of the retailer's purchase price or sales price of products that are subject to Wisconsin sales or use tax, the entire sales price of the package is exempt from Wisconsin sales or use tax.

Fruit and Vegetable Juices and Drinks, Soft Drinks, Beer, Wine, and Liquor Sales

Fruit and Vegetable Juices and Drinks Exempt From Sales Tax: Sales of fruit and vegetable juices and drinks that contain more than 50% fruit or vegetable juice by volume, are exempt from Wisconsin sales tax. In addition, powders and frozen concentrates used to make fruit and vegetable juices or drinks are exempt from Wisconsin sales or use tax since they are not in liquid form and therefore do not meet the definition of "soft drink."

Fruit and Vegetable Juices and Drinks Subject to Wisconsin Sales Tax: Sales of fruit and vegetable juices and drinks which are not more than 50% fruit or vegetable juice by volume are subject to Wisconsin sales tax, unless they contain milk or milk products or soy, rice, or similar milk substitutes.

Soft Drinks: Sales of beverages that contain less than 0.5% alcohol by volume and which contain a natural or artificial sweetener are subject to Wisconsin sales or use tax. To be considered a beverage, the product must be sold in liquid form. However, if the beverage contains milk or milk products, soy, rice, or similar milk substitutes, or more than 50% vegetable or fruit juice by volume, it is not subject to Wisconsin sales or use tax as a soft drink. It may, however, be subject to Wisconsin sales or use tax if it meets the definition of prepared food or dietary supplement.

Beer, Wine, and Liquor Sales: Sales of beer, wine, and liquor are subject to Wisconsin sales and use tax as sales of alcoholic beverages if they are suitable for human consumption and contain 0.5% or more alcohol by volume. However, "cooking wines" are exempt from Wisconsin sales or use tax. **Note:** Non-alcoholic beers may be taxable as soft drinks if they contain a sweetener.

What about sales of other items?

For specific information about sales of other foods and food ingredients, and beverages sold by grocery stores, see the following sections of this publication:

- "Bakery Sales and Purchases" on page 20,
- "Catering Sales and Purchases" on page 26,
- "Deli Sales and Purchases" on page 28,
- "Meat Department Sales and Purchases" on page 35, and
- "Vending Machine Sales and Purchases" on page 39.

Taxable Sales of Non-Food Items

A grocer's sales of non-food items (except as provided in the following section titled "Exempt Sales of Non-Food Items"), are subject to Wisconsin sales tax, unless the customer can claim an exemption (e.g., nonprofit, government, resale). Examples of non-food items sold by grocers that are subject to tax include, but are not limited to:

- Appliances, bakeware, and utensils, such as can openers, clocks, pots and pans, spoons, forks, and knives
- Auto supplies, such as oil, anti-freeze, cleaners, lubricants, and light bulbs
- Baby care supplies, such as diapers, wipes, pacifiers, bottles, and rattles
- Beauty supplies, such as make-up, hair spray, nails, nail polish, perfume, bobby pins, rollers, and jewelry
- Cameras, film, and other photography supplies
- Canning and freezing supplies, such as jars, lids, wrapping paper, and tape
- Cigars, cigarettes, tobacco, and lighters
- Cleaning supplies, such as wax, polishes, mops, brooms, pails, sponges, gloves, soap, laundry detergent, bleach, ammonia, bowl and drain cleaners, and air fresheners

- Electrical supplies, such as flashlights, bulbs, batteries, and fuses
- Garbage cans, bags, and wastebaskets
- Greeting cards, gifts, and wrapping paper
- Grilling supplies, such as charcoal, charcoal starter, rotisseries, and matches
- Grocery bags (disposable or reusable)
- Hardware supplies, such as nails, screws, nuts, bolts, paint and paint supplies, steel wool, and sandpaper
- Hygiene products, such as soap, shampoo, combs, deodorant, shaving cream, and razors
- Lawn and garden supplies, such as tools, hoses, fertilizers, flowers, seeds, and insect and pest control products
- Medical supplies and first aid products, such as aspirin, band-aids, cough drops, rubbing alcohol, ointments, and suntan lotion
- Music and video supplies, such as records, tapes, CD's, and head cleaners
- Office and school supplies, such as pens, pencils, crayons, note pads, binders, stationery, tape, glue, rubber bands, scissors, paper clips, staples, and staplers
- Paper and plastic products, such as napkins, paper towels, paper plates, and plastic utensils
- Pet food and supplies, such as collars, flea and tick spray, dog biscuits, and pet toys
- Reading materials such as books, magazines, and periodicals (newspapers are exempt from Wisconsin sales tax)
- Toiletries such as toilet paper, facial tissue, bubble bath, toothbrushes, and feminine hygiene products
- Toys and games, such as balls, board games, and dolls
- Water softener salt and conditioners
- Wearing apparel, linens, clothing, gloves, washcloths, hosiery, zippers, sewing supplies, thread, shoelaces and polish, sunsunglasses, stockings, and watches

Exempt Sales of Non-Food Items

A grocer's sales of non-food items which are exempt from Wisconsin sales tax and for which an exemption certificate is not needed include, but are not limited to:

- Newspapers
- Fuel for motor vehicles subject to tax under Chapter 78, Wis. Stats.
- Prescription drugs
- Durable medical equipment for home use
- Mobility-enhancing equipment
- Prosthetic devices
- United States and Wisconsin flags

2. Purchases of Inventory Items by Grocers

A grocer's purchases of items which are going to be resold may be made without Wisconsin sales and use tax. The grocer may be required to provide its supplier with an exemption certificate claiming resale.

Exemption Certificate Not Required - Items that qualify for the exemption for food and food ingredients for human consumption may be purchased by the grocer without Wisconsin sales and use tax and without issuing an exemption certificate. The listing on page 16 (*Exempt Food and Food Ingredients and Beverages*) shows examples of these items.

Exemption Certificate Required - Certain foods and food ingredients, and non-food items which a grocer purchases and resells, may be purchased without Wisconsin sales and use tax if the grocer provides the supplier with an exemption certificate claiming resale. The listing on page 17 (*Taxable Food and Food Ingredients and Beverages*) shows examples of these items. (**Note:** The products identified in the section titled "Exempt Sales of Non-

Food Items" may be purchased without tax and without the issuance of an exemption certificate claiming resale.)

B. Bakery Sales and Purchases

1. Sales by Bakeries

The taxability of bread, cakes, cookies, donuts, rolls, and other foods commonly made by bakeries and sold by the bakery or in grocery stores depends on whether the items are sold "heated" or otherwise meet the definition of prepared food or candy as defined in Part II. on pages 8 through 15. See Table 1 on page 21. Table 1 applies to sales of bakery items by a bakery or a grocery store regardless of whether the bakery or grocery store made the bakery items or purchased the bakery items already made from a third party.

Note: In order to determine the proper Wisconsin sales and use tax treatment of the sale of bakery items using Table 1, you must start at Question 1 in the table and stop at the first description that accurately describes the transaction in question and indicates "Taxable" or "Not Taxable."

Table 1 assumes the following:

- The item being sold is a food or food ingredient that does **not** meet the definition of candy, dietary supplement, or soft drink as explained in Part II.A., B., and E. on pages 8 to 9 and 14 to 15.
- The retailer's North American Industry Classification System (NAICS) code is not manufacturing under subsector 311, except for bakeries and tortilla manufacturing under industry group 3118.
- The package does not contain a utensil placed in it by a person other than the retailer.
- The item is not a product that is only sliced, repackaged, or pasteurized by the grocery store.
- The product does not contain meat, fish, poultry, or any food containing them in raw form that requires further cooking by the consumer to prevent food-borne illnesses.

For sales of food and food ingredients that are not covered by Table 1, see Appendix I.

Table 1		
Retail Sales of Bakery Products by Grocery Stores		
Instructions: Start at question 1 and work your way down this table. Stop when you get to the first "taxable" or "not taxable" answer that applies. See assumptions on previous page.		
1. Is the bakery product sold heated?[1]	**Yes→**	Taxable
No ↓		
2. Is the grocer's customary practice to physically give or hand a utensil to the customer?[2, 3]	**Yes→**	Taxable
No ↓		
3. Are plates, bowls, glasses, or cups necessary to receive the bakery product made available to the customer?	**Yes→**	Taxable
No ↓		
4. Are utensils made available by the retailer to the purchaser?[2, 4]	**No→**	Not Taxable
Yes ↓		
5. Are there 4 or more servings packaged as one item and sold for a single price? [5]	**Yes→**	Not Taxable
No ↓		
6. Are grocer's sales of prepared food 75% or less? [6]	**Yes→**	Not Taxable
	No→	Taxable

Notes to Table 1:

1. "Sold heated," as used in Table 1, means sold at a temperature higher than the air temperature of the room or place where the products are sold.

2. "Utensils" includes plates, bowls, knives, forks, spoons, glasses, cups, napkins, and straws.

3. If the grocer's customary practice is to physically give or hand the utensil to the customer, the sale by the grocer is a sale of prepared food even if the customer does not receive the utensil.

4. Utensils are "made available" to the customer if the customer can select a utensil at their own discretion, rather than having the retailer physically hand or give the customer a utensil.

5. For purposes of determining if 4 or more servings are packaged together for sale as a single item, the serving size is based on the label of each of the items sold and if there is no label, the serving size is based on the retailer's reasonable determination.

6. To determine if the retailer's sales of prepared foods are more than 75% of its sales of foods and food ingredients, see Part II.D.4.(b) on pages 13 to 14.

The following examples illustrate how to determine whether an item is "prepared food." All of the answers presume that the item is not subject to tax as candy, a dietary supplement, or a soft drink.

Example 1 - Donut "To Go" – Not Prepared Food: Bakery sells one donut "to go" for $0.75 to Customer. Bakery's sales of prepared food, as determined in Part II.D.4.(b) on pages 13 to 14, are 75% or less of all of its sales of food and food ingredients. Bakery's customary practice when it sells donuts "to go" is to sell the donuts without physically giving or handing napkins or other utensils to the customer. Plates, bowls, glasses, or cups are not necessary for the customer to receive the donut. Although the donut was made by Bakery, it does not meet the definition of prepared food provided in Part II.D. on pages 10 through 14, because (1) it is not sold heated, (2) Bakery's customary practice is not to physically give or hand utensils to its customers with donuts that are sold "to go," (3) plates, bowls, glasses, or cups are not necessary for the customer to receive the donut; and (4) Bakery's sales of prepared food, as determined in Part II.D.4.(b) on pages 13 to 14, are 75% or less of all of its sales of food and food ingredients. Since the donut does not meet the definition of prepared food, the sale of the donut is not subject to Wisconsin sales or use tax, regardless of whether Bakery makes utensils available to its customers.

Example 2 - Donut and Coffee "To Go": Same as *Example 1*, except that Bakery also sells a hot cup of coffee for $1.00 to Customer along with the donut. The sale of the donut is not subject to tax as explained in *Example 1*. The hot coffee is prepared food and the sale of it is subject to Wisconsin sales or use tax.

Example 3 - Donut and Coffee Eaten at Bakery – Prepared Food: Same as *Example 1*, except that the donut is sold to be eaten at the bakery. Bakery's customary practice when selling donuts to be eaten at its bakery is to physically give or hand its customers a napkin along with the donuts purchased. The sale of the donut and hot coffee are subject to Wisconsin sales or use tax because they meet the definition of prepared food. The coffee meets the definition of prepared food because it is sold heated. The donut meets the definition of prepared food, because Bakery's customary practice when it sells donuts to be eaten at the bakery is to physically give or hand its customer a napkin or other utensil along with the donut.

Example 4 - Donut "To Go" - Prepared Food: Bakery sells one donut "to go" for $0.75 to Customer. Bakery's sales of prepared food, as determined in Part II.D.4.(b) on pages 13 to 14, are 75% or less of all of its sales of food and food ingredients. Bakery's customary practice when it sells donuts "to go" is to physically give or hand napkins or other utensils to its customers with the donuts. Plates, bowls, glasses, or cups are not necessary for the customer to receive the donut. Since Bakery's customary practice when it sells donuts "to go" is to hand its customers napkins along with the donuts, Bakery's sale of the donut to Customer is the sale of prepared food and subject to Wisconsin sales or use tax. The sale to Customer is subject to tax even if Customer does not receive a napkin along with the donut, since Bakery's customary practice when it sells donuts "to go" is to physically give or hand its customers napkins or other utensils.

Example 5 - Donut and Coffee Eaten at Bakery: Same as *Example 4*, except that the donut is sold to be eaten at the bakery and Bakery sells a cup of hot coffee for $1.00 to Customer along with the donut. Bakery's customary practice when selling donuts to be eaten at its bakery is to sell the donuts to its customers without physically giving or handing them napkins or other utensils along with the donuts purchased. However, napkins and other utensils are made available to customers. The hot coffee is prepared food and the sale of it is subject to Wisconsin

sales or use tax. The sale of the donut is not subject to Wisconsin sales or use tax since it does not meet the definition of prepared food provided in Part II.D. on pages 10 through 14, because (1) it is not sold heated, (2) Bakery's customary practice is not to physically give or hand utensils to its customers who purchase the donut sold to be eaten at the bakery, (3) plates, bowls, glasses, or cups are not necessary for the customer to receive the donut; and (4) Bakery's sales of prepared food, as determined in Part II.D.4.(b) on pages 13 to 14, are 75% or less of all of its sales of food and food ingredients.

Example 6 - Donut and Carton of Milk - Prepared Food: Bakery sells one donut (single serving) for $0.75 and a carton of milk (single serving) for $.50 to Customer "to go." Bakery's sales of prepared food, as determined in Part II.D.4.(b) on pages 13 to 14, are **more than 75%** of all of its sales of food and food ingredients. Bakery's customary practice when it sells donuts and cartons of milk "to go" is to sell the donuts and milk to its customers without physically giving or handing them napkins or other utensils. However, napkins and other utensils are made available to customers. Plates, bowls, glasses, or cups are not necessary for the customer to receive the donut or milk. The sale of the donut as well as the sale of the carton of milk are subject to tax as sales of prepared food because (a) Bakery's sales of prepared foods, as determined in Part II.D.4.(b) on pages 13 to 14, are more than 75% of all of its sales of food and food ingredients and (b) Bakery makes utensils available to its customers.

2. Purchases by Bakeries

Machinery and Equipment - Bakeries are considered to be manufacturers for Wisconsin sales and use tax purposes and, therefore, may purchase certain machinery and equipment without Wisconsin sales and use tax. The machinery and equipment must be used **exclusively and directly** in the manufacturing process to qualify for the exemption from Wisconsin sales and use tax. For such exempt items, the bakery should provide the supplier with either the *Wisconsin Sales and Use Tax Exemption Certificate* (Form S-211) or another exemption certificate claiming the appropriate manufacturing-related exemption.

Example - Purchases of Equipment Used in Manufacturing Process: Bakery purchases a mixer which will be used exclusively and directly in manufacturing donuts. Bakery must provide the supplier with an exemption certificate (Form S-211) or another exemption certificate claiming the appropriate manufacturing-related exemption to purchase the mixer without Wisconsin sales and use tax.

The manufacturing process of a bakery begins with the removal of the ingredients from storage ***and*** generally ends with the removal of the baked products from the pans or receptacles. However, the manufacturing process also includes the packaging of the baked goods in bags, boxes, etc., if the baked goods have not been stored or displayed prior to packaging them.

Example 1 - Packaging Not Part of Manufacturing Process: Bakery manufactures donuts. Once the donuts are manufactured, they are placed in a display case where customers choose which donuts they would like to purchase. As the donuts are selected, they are placed in a box. The packaging of the donuts, as described above, is not part of the manufacturing process. As a result, the machinery and equipment used to package the donuts does not qualify for the manufacturing exemption. However, the packaging materials themselves (e.g., boxes, bags) are exempt from Wisconsin sales and use tax

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-04

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating $35,000 from the Port and Harbor Depreciation Reserves to Replace the Fish Grinder in the Fish Waste Grinding Facility.

Sponsor: City Manager/Port and Harbor Director

1. City Council Regular Meeting January 13, 2014 Introduction

    a. Memorandum 14-005 from Port and Harbor Director as backup

2. City Council Regular Meeting January 27, 2014 Public Hearing and Second Reading

    a. Memorandum 14-005 from Port and Harbor Director as backup
    b. Memorandum 14-017 from Port and Harbor Director as backup

CITY OF HOMER
HOMER, ALASKA

City Manager/
Port and Harbor Director

ORDINANCE 14-04

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2014 OPERATING BUDGET BY APPROPRIATING $35,000 FROM THE PORT AND HARBOR DEPRECIATION RESERVES TO REPLACE THE FISH GRINDER IN THE FISH WASTE GRINDING FACILITY.

WHEREAS, The City owns and manages a fish waste grinding facility on Fish Dock Road that processes and pumps approximately two million pounds of fish waste annually back into the bay; and

WHEREAS, The fish grinder is an essential piece of equipment at the facility, and after 14 years of service is in need of replacement; and

WHEREAS, A replacement fish grinder and installation of a new hydraulic-driven Autio grinder will cost $35,000.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The City Council hereby appropriates and transfers $35,000 from the Port and Harbor Depreciation Reserve Funds for the purchase and installation of a new fish grinder as follows:

Transfer From:

Account	Description	Amount
456-380	Port and Harbor Depreciation Reserve Funds	$35,000

Section 2. This is a budget amendment ordinance only, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2014.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

YES:
NO:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form.

_____ _____
Walt Wrede, City Manager Thomas F. Klinkner, City Attorney

Date: _____ Date: _____

City of Homer
www.cityofhomer-ak.gov

Port and Harbor
4350 Homer Spit Road
Homer, AK 99603
port@cityofhomer-ak.gov
(p) 907-235-3160
(f) 907-235-3152

Memorandum 14-005

TO: MAYOR BETH WYTHE & HOMER CITY COUNCIL

THROUGH: WALT WREDE, CITY MANAGER

FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER

DATE: JANUARY 2, 2014

SUBJECT: REPLACEMENT OF THE CITY-OWNED FISH WASTE GRINDER

The City owns and manages a fish waste grinding facility, located on Fish Dock Road directly across from the Ice Plant. The fish grinder is connected to the City's fish waste outfall line facility, which picks up the waste from the grinder and pumps the effluent out into the bay at the terminus by the Pioneer Dock. Approximately 2 million pounds of fish waste, comprising of sport and commercial fish carcasses, is ground and pumped through the system annually.

All the grinder and outfall activities are permitted through ADEC. This permit outlines strict criteria for these activities, such as particulate size, sampling/ recording, and required annual dive surveys. The City is responsible for all reporting and compliance in order to maintain our outfall permit. The Fish Factory and Auction Block both have outfall use agreements with the City, which allows them to discharge into the City's outfall system under our permit. The City has managed the fish grinder facility in the past under a memorandum of agreement with the Fish Factory, who supplies the trained personnel to operate and perform some of the required maintenance on the machinery.

The fish grinder is an essential piece of equipment to our sport, commercial, and charter fish operations on the Spit. This equipment gets heavy use, and after 14 years of service my staff and I recommend that it is time to replace the grinder unit. In truth, there is no backup plan for handling the volume of fish carcasses we receive if the fish grinder were to break down for an extended period of time. It is our fear that the unit will not withstand another busy season and should be replaced during the slow season before it becomes an emergency.

Harbor Staff researched a multitude of price and availability options and determined that, from a cost/benefit standpoint, purchasing a direct replacement unit is the best option that we can recommend. Staff estimates the project cost to purchase and install a new hydraulic-driven Autio grinder in the fish grinder shed is $35,000.00.

Recommendation

Staff recommends appropriating monies from the Port and Harbor Reserves for the purchase and installation of a new hydraulic-driven Autio grinder.

Fiscal Note: $35,000.00 from Port and Harbor Reserves 456-380

City of Homer
www.cityofhomer-ak.gov

Port and Harbor
4350 Homer Spit Road
Homer, AK 99603
port@cityofhomer-ak.gov
(p) 907-235-3160
(f) 907-235-3152

Memorandum 14-017

TO: MAYOR BETH WYTHE & HOMER CITY COUNCIL

CC: WALT WREDE, CITY MANAGER

FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER BH

DATE: JANUARY 17, 2014

SUBJECT: JUSTIFICATION FOR A SOLE SOURCE PROCUREMENT OF A NEW FISH GRINDER

During the previous City Council meeting on January 13, 2014, Council approved the first reading of Ordinance 14-04 for the purchase of a new fish grinder. At that time, Council also requested staff provide further information and justification for our recommendation in time for the second reading of this ordinance.

The Homer Harbor's fish grinder is a specialized piece of equipment supplied by only a few manufacturers. The type, quality, and recommended uses of such equipment vary, and our needed use for grinding fish requires a high level of power and capacity.

One of the challenges that staff faces when administering a request for proposals is that we are not allowed to inform potential bidders that an opportunity to bid exists when we are advertising. The concern behind this restriction is that staff may not act ethically, or may just notify their favorite vendors/manufactures of the bid opportunity. This leaves staff in a quandary when attempting to buy a product that is not locally available. We have seen many cases like this, when advertised RFP's receive no responses due to lack of local support for that product, and then staff must contact all known manufactures anyways for quotes.

The decision not to advertise an RFP was based on research that Harbor staff conducted while looking into replacing the fish grinder. Because there is a minimal need for such specialized equipment in Homer and no known vendors to supply this equipment, we concluded that there would be very little chance of any responses to an RFP. On further investigation, we found that most of these machines are sold directly from the manufacturers and there are no vendors/dealers on the West Coast. This information means we are able to buy from the manufacturers directly and save any markup costs. Regarding shipping costs, regardless of if we purchase locally or from the contiguous U.S., we would still be required to cover the shipping costs to get the equipment up to Homer.

Harbor staff found four models that we felt were suitable and requested price and availability quotes. Next, we investigated the possibility of upgrading to a different type of grinder that could possibly reduce man hours. We also spoke to Mike McCune, owner of The Fish Factory, for his input. Mike has been in the fish processing business for his entire career and has many contacts throughout the West Coast that are in the same business. The Fish Factory is also the company that the City has contracted to run the fish grinder since it was first installed in 2000.

We learned through Mike that dog fish sharks and skate are particularly difficult to grind because of their rough sandpaper-like skin. Processors who work with these species report that they "wear out the grinder's metal-working surfaces," causing a much shorter life span of their grinder equipment. Many of these processors use a double grinder method where they line up a "muncher/ shredder" machine ahead of the more traditional grinder like we currently

use. This method, of course, doubles the machinery and maintenance costs. Because of this information I will recommend that processors who want to venture into the dog fish and skate market, plan to dispose of this waste themselves as the City cannot take on this added expense, in both equipment and labor.

Our grinder operation was designed to handle primarily halibut and salmon, and it has done well for the past 14 years. It was sized correctly for the job in the beginning, and after staffs' review we feel confident that a direct replacement of the existing equipment is still the right choice. A direct replacement will also save installation costs as no fabrication changes to the feed tables will be required.

Recommendation

Staff recommends Council authorizes the sole source purchase of a new fish grinder from Autio Company in Astoria, Oregon.

ORDINANCE(S)

CITY MANAGER'S REPORT

City of Homer
www.cityofhomer-ak.gov

Office of the City Manager
491 East Pioneer Avenue
Homer, Alaska 99603
citymanager@cityofhomer-ak.gov
(p) 907-235-8121 x2222
(f) 907-235-3148

MANAGER'S REPORT
January 27, 2014

TO: MAYOR WYTHE / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

NOTE: Some of these items appeared in the last report. I have updated them and brought them back in case the Council wanted to discuss.

1. Natural Gas Conversions: City Hall, the Library, the Public Works building, the Sewer Treatment Plant, and the Animal Shelter are all converted, hooked up, and being heated with natural gas. The two new restrooms downtown are also connected. The remainder of the buildings on the approved list for conversion will be done in phase II, probably late summer or early fall this year. We have taken another look at converting the Fire Hall and may want to discuss that further.
2. Airport Terminal Gas Conversion: The Airport Port Terminal was also scheduled to be converted to natural gas this month. However, that project has been slowed a bit while PW looks at another approach. The mechanical room at the terminal is rather small. It turns out that adding new jets to the furnace there makes it almost impossible to get in and do any work. The boiler is already 20 years old and may need increased maintenance going forward. We are considering the purchase of a new boiler instead of converting the old one. The new boilers are close to 100 percent efficient, they are so small that they can be mounted on the wall, and of course, you have a boiler that you can expect to last many years. If we went this route, we would have to request another $20,000 from the Council, but I think it would be worth it. Even though more investment would be required upfront, the payback period is still just a little over a year and the City ends up with a new and much more efficient boiler. Much depends on whether we can sell or find a use for the jets we already purchased. Carey and Dan are working on that now.
3. Downtown Restrooms: The new downtown restrooms are undergoing final inspection and they will be ready for use shortly. By far, most of the feedback we have gotten is that they look really attractive and will add to downtown. The downtown business owners have been requesting public restrooms for many years and it is finally a reality. Many business owners have expressed how happy they are about this and we are receiving inquires about when they will be open. We anticipate that the restroom at WKFL park will receive more use in the winter than the one by Bartlett St. They will be really popular during parades and special events. Right now the tentative plan is to keep just one door open in each restroom

during the winter months. After a few months, we should have better information about usage patterns and maintenance and operations costs.

4. Harbor Construction Projects: This agenda contains a resolution awarding a construction contract for the replacement of Ramp 3 and several floats in the harbor. You may recall that this work was paid for by a 4.2 Million State grant and $4.2 Million in bond sale revenue. Here is the good news. All of the bids came in under the engineers estimate and the two lowest, from very reputable companies, came in approximately $2 Million under the estimate. Carey has double checked the bids and he and Bryan have talked to the engineers who did the cost estimate to look for discrepancies. So, there are decisions to be made about what to do. We are currently checking with the granting agency, the Municipal Bond Bank, our attorney's, and others to see what the possibilities are, from borrowing less and returning some grant money to using the money for other projects. Bryan is compiling a list of other projects on the CIP list that these funds could be used for. We would be very happy to discuss this situation in detail at the meeting. Right now, we are leaning toward recommending that we add a change order to the construction contract to replace additional floats on the CIP List and provide them with water and electric. Bryan would like to design a new float to accommodate the 60' by 60" fishing vessels that are becoming more common in the fleet. This could generate additional revenue for the Enterprise Fund. The advantages of going this route include 1) save on mobilization costs, 2) save on engineering and design costs, 3) approval from funding agencies is easier because we are simply expanding the existing project scope rather than adding new, completely different projects, and 4) we can move quickly. Remember that the State grant money must be expended within 18 months.
5. Skyline Drive Fire Station: As you know, the City has many construction projects underway, soon to be completed, or in the planning stages. It is really hard to keep all of those balls in the air and I am constantly amazed and appreciative of the job that Carey, Bryan, and Dan do in that regard. I really don't believe we could keep up this pace and get as much done as we are if the Council had not seen the wisdom in hiring a new project manager several years ago. One of the projects that is flying under the radar a little is the new Fire Station on Skyline Drive. I just wanted to mention that this project is also moving ahead. Engineering and design is complete and I signed the Public Notice / Request for Construction Bids this week. Hopefully we will receive good bids and construction will commence this spring or summer.
6. Parks and Recreation Needs Assessment: Work has begun on the Parks and Recreation Needs Assessment. Based upon the conversation the Council had at the last meeting (move fast, form a committee administratively, use the Parks and Recreation Commission) and the discussion the Parks and Recreation Commission had at its meeting on January 16, I have formed the small working group/steering committee. The first meeting is Thursday, January 23, at 5;30. It is a seven member Committee. Not all of the names have been finalized at the time this was written but the seats include Community Recreation Program, ReCreate Rec, Chair of the Parks Commission, MAPP, Homer Council on the Arts, Voices for Business, and the Homer Hockey Association. The first meeting will be organizational in nature and will include meeting schedule, work plan, etc. The Parks and Recreation Commission will be involved at key points, approve work products, hold public hearings do public outreach, and make recommendations to the Council.

7. GC/CM Proposal Receipt Log: At the last meeting the Council approved creation of a GC/CM Committee to oversee the new public safety building project. You may recall that the City has already solicited proposals which were due January 21. Evaluating the proposals is one of the first tasks the Committee will do. Attached is the Proposal Receipt Log. You can see that we got a good response. I am pleased to see a good response from local firms.
8. Citizen's Academy: Katie is working very hard on setting up the Citizens Academy. The Academy is scheduled to begin February 20. We appreciate the helpful input from Council member Howard. Attached is a memorandum from Katie on this topic and she will be available to discuss it at the meeting.
9. Compensation Parity Studies: At the last workshop on employee compensation, the Council requested copies of recent parity studies conducted by other municipalities. Andrea has obtained these documents and I believe they will take up several hundred pages in your packet. Sorry! Andrea is also doing a report for you which summarizes and consolidates this mass of information so it is easier to digest. Because of the executive session, it is likely that we won't have too much time to talk about this on Monday night. Another workshop will probably have to be scheduled if the Council wants to dive into this in any detail.
10. Sound System in Council Chamber: You will recall that the sound system, the mikes, the teleconference connection, and everything associated with it was a disaster at the last meeting. Further, the reception at KBBI was awful as well. Nick is looking into this in detail and will provide you with a report and some recommendations, probably at the next meeting.
11. Critical Habitat Legislation: Katie and Linda Anderson are making great progress with building consensus and crafting legislation that would remove the Homer Port and Harbor from the Kachemak Bay Critical Habitat Area. We have received lots of help from the Planning Department, Bryan Hawkins, ADF&G, and DNR. The legal description of the new boundaries is being prepared by DNR and will be included in legislation that will be introduced shortly. Special thanks go to Representative Seaton, Senator Micciche, and the Speaker of the House, Mike Chenault.
12. Spit Parking Lot: At the last meeting, during public comments, a citizen mentioned that he thought HART funds should not have been used to construct a parking lot on the Spit. That is a fair point and may warrant additional discussion. You will recall that Council recently approved design of a parking lot extension adjacent to the existing parking lot at the Seafarer's Memorial. We told you at the time that using HART funds for this might be a stretch and that other sources of funding were available if Council wanted to discuss it. In short, we have used HART money for parking lots in the past. We have received legal guidance that constructing parking lots was probably OK if the parking lot has a direct nexus to a trail. In other words, it was the jumping off point for a trail, access point, or it was obvious that everyone parked there to use the trail. We did this most recently with the parking lot improvements at Bishops Beach (paving) because it is a jumping off point for the Beluga Slough Trail, the new trail to be built on Charles Way, and the new pedestrian lanes in Old Town. I think we may have also used HART funds for improvements and expansion at the Spit Trail Parking Lot on Kachemak Drive. The parking lot expansion at the Seafarers Memorial will clearly be used by folks using the new and extended Spit Trail and the trail extension to Coal Point. However, it is across the street and a block away from

the trail and it will also be used by folks patronizing local businesses. So, let us know if you want to discuss this one further.

13. Chief Painter Accepted into FEMA Academy: Fire Chief Bob Painter has been accepted into the National Emergency Management Executive Academy. This program is a collaborative effort between FEMA's Emergency Management Institute and prominent programs at higher education institutions offering a cutting edge curriculum that support the advancement of the emergency management profession and its executive leadership. Collaborators include Harvard University, the University of Hawaii-National Disaster Preparedness Training Center, U.S Navy Post graduate School, Center for Homeland Defence and Security, and Texas A&M Engineering and Extension Service. Only 40 applicants were selected nationwide. The course is held in Emmitsburg Maryland in four week long sessions spread over the entire year. Congratulations to Bob. This training will serve the community well and we are fortunate to have someone as qualified as Bob in this position.
14. Wastewater Agreement with Kachemak City: This agenda contains a resolution approving a new wastewater agreement between the City of Homer and Kachemak City. This agreement has not been updated since it was originally signed in 1988. The new version is mostly an update and removes much of the language that is no longer relevant; especially all of language having to do with construction of the new sewer treatment plant and the sewer lines in Kachemak City. One thing of particular note is that the draft agreement says the baseline average for gallons put into the system is 2,500 instead of 3,500. You will recall that this was a big issue for Kachemak City when the new water and sewer rate fee schedule was approved. Since the fee schedule was approved, we have spent more time talking to Kachemak City about this and we are pretty certain that the average monthly number of gallons placed into the collection system is significantly less than 3,500. There are many reasons for this including the fact that everyone either hauls water or has it delivered. People who do that tend to be much more conservation minded. Also, the demographics there are changing. Kids are grown up and moving out, the population is aging, and many residences have only two occupants. The new rate model was based primarily upon consumption. Keeping that in mind, it seems inconsistent with the intent of the model to charge people for more than they are actually using. Installing meters is problematic for a variety of reasons and measuring how much water people use is complicated because it is delivered, hauled, collected by roof cistern systems, and obtained via wells. 2,500 gallons seems like a reasonable number. The available evidence seems to suggest that the average is probably less than that. Another reason for dropping the number to 2,500 is that Kachemak City residents do not have the ability to shut off their meters and pay less during the months that they are away and are not putting anything into the system. They pay the full amount whether they are home or not. We recommend changing the amount to 2,500. If Council agrees, we will have to amend the fee schedule. The estimated fiscal impact is about $27,000.
15. The Finance Department has been awarded a Certificate of Achievement for Excellence in Financial Reporting for their comprehensive annual financial report for the fiscal year ending December 31, 2012. This certificate is well deserved by the dedicated staff in the Finance Department.

ATTACHMENTS

1. Public Safety Building Proposal Log
2. Letter of Support to UAA RE: Hydrokinetic Study Proposal
3. Letter for Certificate of Achievement for Excellence in Financial Reporting

CITY OF HOMER

Proposal Receipt Log: **GC/CM Design & Construction Services New Public Safety Bldg.**
Due Date and Time: **January 21, 2014 @ 2 p.m.**
City Clerk's Office

Proposal NO.	Bidder Name and Address	
1.	Dawson Construction, Inc. PO Box 30920 Bellingham, WA 92882	Rcvd 1/20/14 mj 9:45 a.m.
2.	Blazy Construction 36130 Kenai Spur Hwy Soldotna, AK 99669	Rcvd 1/21/14 mj 10:25 a.m.
3.	Watterson Construction Co. 6500 Interstate Cir. Anchorage, AK 99518	Rcvd 1/21/14 mj 11:40 a.m
4.	Cornerstone General Contractors 5050 Cordova At. Anchorage, AK 99503	Rcvd 1/21/14 mj 12:24 pm
5.	Jay-Brant General Contractors 460 Grubstake Ave. Homer, AK 99603	Rcvd 1/21/14 mj 12:27 pm
6.	Steiner's North Star Construction PO Box 1708 Homer, AK 99603	Rcvd 1/21/14 mj 12:28 pm
7.	UIC 6700 Arctic Spur Rd. Anchorage, AK 99518	Rcvd 1/21/14 rk 1:27 pm

Staff Member Comments:_____

City of Homer
www.cityofhomer-ak.gov

Office of the City Manager
491 East Pioneer Avenue
Homer, Alaska 99603
citymanager@cityofhomer-ak.gov
(p) 907-235-8121 x2222
(f) 907-235-3148

January 16, 2014

Dr. Mark A Johnson, Professor of Oceanography
Institute of Marine Science
School of Fisheries and Ocean Sciences
University of Alaska Fairbanks

RE: Coastal SEES Collaborative Research: Environmental Impact of Marine Hydrokinetic Energy Extraction on Coastal Ocean – A Multiscale, Integrated Physical–Ecological Modeling Framework

Dear Dr. Johnson:

The City of Homer would like to express support for the proposal put forward by you and your colleges to study the potential effects of marine hydro-kinetic devices on the marine environment of Cook Inlet.

The communities surrounding Cook Inlet have the opportunity to benefit from harnessing the extreme tides in our region for power generation. The dynamics and consequences of utilizing hydrokinetic energy must be understood in order for those benefits to be realized. The proposed project would build on existing research in the lower Cook Inlet and better prepare developers of marine hydrokinetic devices to handle the challenges and opportunities of the extreme tides in Cook Inlet.

The City of Homer recognizes the economic and strategic benefit to Cook Inlet being on the forefront of this emerging technology. The City is working with government and industry to develop a tidal energy generation incubator at the Homer Deep Water Dock. Scientists, students, and industry would be invited to test small scale marine hydrokinetic devices in a known and easily accessible environment. Understanding the device's impact on current, sediment transport, marine mammals and fish would be key information for developers interested in our site.

The City of Homer acknowledges the value of the proposed research and encourages the National Science Foundation's favorable consideration.

Sincerely,

Walt Wrede
City Manager

Government Finance Officers Association
203 N. LaSalle Street - Suite 2700
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

January 7, 2014

Laurie Moore
Acting Finance Director
City of Homer
491 East Pioneer Avenue
Homer AK 99603

Dear Ms. Moore:

We are pleased to notify you that your comprehensive annual financial report (CAFR) for the fiscal year ended December 31, 2012, qualifies for a Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

Each entity submitting a report to the Certificate of Achievement review process is provided with a "Summary of Grading" form and a confidential list of comments and suggestions for possible improvements in its financial reporting techniques. Your list has been enclosed. You are strongly encouraged to implement the recommended improvements into the next report and submit it to the program. If it is unclear what must be done to implement a comment or if there appears to be a discrepancy between the comment and the information in the CAFR, please contact the Technical Services Center (312) 977-9700 and ask to speak with a Certificate of Achievement Program in-house reviewer.

Certificate of Achievement program policy requires that written responses to the comments and suggestions for improvement accompany the next fiscal year's submission. Your written responses should provide detail about how you choose to address each item that is contained within this report. These responses will be provided to those Special Review Committee members participating in the review.

When a Certificate of Achievement is awarded to a government, an Award of Financial Reporting Achievement (AFRA) is also presented to the individual(s) or department designated by the government as primarily responsible for its having earned the Certificate. Enclosed is an AFRA for:

Finance Department, City of Homer

Your Certificate of Achievement plaque will be shipped to you under separate cover in about eight weeks. We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. A sample news release has been enclosed. We suggest that you provide copies of it to local newspapers, radio stations and television stations. In addition, details of recent recipients of the Certificate of Achievement and other information about Certificate Program results are available in the "Awards Program" area of our website, www.gfoa.org .

A current holder of a Certificate of Achievement may include a reproduction of the award in its immediately subsequent CAFR. A camera ready copy of your Certificate is enclosed for that purpose. If you reproduce your Certificate in your next report, please refer to the enclosed instructions. A Certificate of Achievement is valid for a period of one year. To continue to participate in the Certificate of Achievement Program it will be necessary for you to submit your next CAFR to our review process.

In order to expedite your submission we have enclosed a Certificate of Achievement Program application form to facilitate a timely submission of your next report. This form should be completed and sent (postmarked) with three copies of your report, three copies of your application, three copies of your written responses to the program's comments and suggestions for improvement from the prior year, and any other pertinent material with the appropriate fee by June 30, 2014.

Your continued interest in and support of the Certificate of Achievement Program is most appreciated. If we may be of any further assistance, please contact Delores Smith (dsmith@gfoa.org or (312) 578-5454).

Sincerely,
Government Finance Officers Association

Stephen J. Gauthier, Director
Technical Services Center

SJG/ds

Government Finance Officers Association
203 N. LaSalle Street - Suite 2700
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

01/07/2014
NEWS RELEASE

For Information contact:
Stephen Gauthier (312) 977-9700

(Chicago)--The Certificate of Achievement for Excellence in Financial Reporting has been awarded to **City of Homer** by the Government Finance Officers Association of the United States and Canada (GFOA) for its comprehensive annual financial report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

An Award of Financial Reporting Achievement has been awarded to the individual(s), department or agency designated by the government as primarily responsible for preparing the award-winning CAFR. This has been presented to:

Finance Department, City of Homer

The CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

The GFOA is a nonprofit professional association serving approximately 17,500 government finance professionals with offices in Chicago, IL, and Washington, D.C.

Government Finance Officers Association

Certificate of Achievement for Excellence in Financial Reporting

Presented to

City of Homer
Alaska

For its Comprehensive Annual
Financial Report
for the Fiscal Year Ended

December 31, 2012

Executive Director/CEO

The Government Finance Officers Association of the United States and Canada

presents this

AWARD OF FINANCIAL REPORTING ACHIEVEMENT

to

Finance Department

City of Homer, Alaska

The award of Financial Reporting Achievement is presented by the Government Finance Officers Association to the individual(s) designated as instrumental in their government unit achieving a Certificate of Achievement for Excellence in Financial Reporting. A Certificate of Achievement is presented to those government units whose annual financial reports are judged to adhere to program standards and represents the highest award in government financial reporting.

Executive Director

Date January 7, 2014

City of Homer
www.cityofhomer-ak.gov

Administration
491 East Pioneer Avenue
Homer, Alaska 99603
(p) 907-235-8121 x2222
(f) 907-235-3148

Memorandum 14-023

TO: Honorable Mayor Wythe and Homer City Council

THROUGH: Walt Wrede, City Manager

FROM: Katie Koester, Community and Economic Development Coordinator

DATE: January 22, 2014

SUBJECT: Citizens Academy

The purpose of this memo is to update Council on the planning for the City of Homer Citizens Academy.

Dates for the Academy are Thursday evenings 5:30-8:00 pm from February 20 to March 27th with a graduation ceremony at City Council on April 14.

Registration begins Monday, January 27th and is open for three weeks until Monday, February 17. Class size will be limited to 15 participants with a couple of overflow spots for staff, media or Council members. Nonresidents are welcome to apply, however the City Clerk will verify residency and priority will be given to City of Homer residents. The Academy will be advertised in the local papers, online and on the radio. Interested applicants can get more information and register online at the City of Homer homepage (www.cityofhomer-ak.gov).

Department Directors have been flexible and accommodating in scheduling the Academy and are excited about the opportunity to showcase their departments. Seven individuals have already expressed an interest in participating in the Academy before any advertising effort.

Please let your friends and colleagues know about this opportunity to get an in-depth look at the how the City of Homer operates.

Enc.

City of Homer Citizens Academy Agenda
Registration Form: City of Homer Citizens Academy (copy of online form)
City of Homer 2014 Citizens Academy Frequently Asked Questions
Poster Advertising Citizens Academy (reduced from 11x17)

City of Homer Citizens Academy Agenda

Thursdays 5:30-8:00pm February 20 through March 27

Certification Ceremony April 14

1) Thursday February 20, 2014. 5:30 -8pm. City Hall Cowles Council Chambers. 491 E. Pioneer Avenue.

5:30 – Overview and Welcome
5:45 – Office of the City Manager
6:45 – Break/Dinner
7:00 – Office of the City Clerk
8:00 – End of Day. Submit Evaluation

2) Thursday, February 27, 2014. 5:30-8pm. Harbormaster's Office. 4350 Homer Spit Road.

5:30 – Welcome and Tour of Harbormaster's Office
5:45 – Load on bus. Maintenance Shop for Dinner/Overview
6:15 – Port and Harbor Facilities Tour: DWD, Pioneer Dock, Fish Dock/Ice Plant, Overview of Facility Improvements Underway
8:00 – Wrap up at Harbormaster's Office. Submit Evaluation.

3) Thursday, March 6, 2014. 5:30-8pm. Homer Public Library. 500 Hazel Avenue.

5:30 – Library
6:30 – Break/Dinner
6:45 – Personnel
7:30 – Information Technology
8:00 – End of Day. Submit Evaluation

4) Thursday, March 13, 2014. 5:30-8pm. Homer Public Works. 3575 Heath Street.

5:30 – Community Recreation
5:45 – Public Works
6:45 – Break/Dinner
7:00 – Water/Sewer Treatment (tour of Sewer Treatment Facility)
8:00 – Wrap up. Submit Evaluation. Sign up for Water Treatment Tour

5) Thursday, March 20, 2014. 5:30-8pm. City Hall Cowles Council Chambers. 491 E. Pioneer Avenue.

5:30 – Homer Volunteer Fire Department.
6:30 – Break/Dinner
6:45 – Homer Police Department
8:00 – End of Day. Submit Evaluation. Sign up for tour of Police Station/Fire Hall

6) Thursday March 27, 2014. City Hall Council Chambers. 491 E. Pioneer Avenue Lower Entrance.

5:30 – Planning Department
6:40 – Break/Dinner
6:50 – Finance Department
8:00 – End of Day. Submit Evaluation

1) Monday April 14, 2014. City Hall Council Chambers. 491 E. Pioneer Avenue Lower Entrance.

6:00 – City Council Regular Meeting. Certification Ceremony. Cake with Council, guests, and public.

Registration Form: City of Homer Citizens Academy

Unpublished
Left
CategoriesForms, Permits, and Applications

Thank you for your interest in the City of Homer Citizens Academy.

Registration is limited to 15 participants and will be reserved on a first come basis. Although nonresidents are welcome to apply, the City Clerk will verify residency and priority will be given to City of Homer residents. Meetings will be held Thursday evenings from February 20 through March 27 from 5:30-8:00pm with a certification ceremony at City Council on Monday, April 14. Attendance is mandatory: participants must attend 5 out of the 6 classes to certificate. Photos taken during the program may be used by the City. Please enter a valid email address. Unless requested otherwise, most communication regarding the Academy will occur via email.

Registration closes February 17 at 5:00pm
Name: *
Mailing Address: *
Physical Address: *
Home Phone:
Cell Phone:
E-mail Address: *
Emergency Contact (Name and Phone): *

Physical Limitations (academy will include tours):

Dietary Restrictions:
What do you hope to get out of the Citizens Academy:

Source URL (retrieved on *2014-01-22 14:07*):
http://www.cityofhomer-ak.gov/citycouncil/registration-form-city-homer-citizens-academy

City of Homer 2014 Citizens Academy

Frequently Asked Questions (FAQ)

What is the City of Homer Citizen's Academy? It is a free program created to increase and develop citizen's knowledge of how the City operates. Citizens will learn the complexities involved with running a municipality.

Why was the Academy created? To provide residents with an inside look at city government and provide the education, skills, and interest for members of the public to serve on city commissions, committees, and City Council.

How do I register? Register online at www.cityofhomer-ak.gov

Who can participate in the Academy? The Academy is open to the public, however, because of space limitations priority will be given to City of Homer residents.

When is the Academy? The Academy consists of six consecutive Thursday evening sessions from 5:30pm to 8:00pm. Sessions begin February 20, 2014 and end March 27, 2014 with a graduation ceremony during City Council on April 14, 2014. Additional tours of City facilities will be available but not mandatory.

What materials are provided? You will be provided with a binder at the beginning of the Academy. Materials will be given to you to add to your binder as the different departments present.

What do I do at the beginning of each class? When you arrive sign in and pick up an evaluation form. There is a lot to cover and the program will start on time, it is best to arrive a few minutes early to get situated.

Will food be provided? Yes. Simple fare and refreshments will be provided. There is a section on the registration form to note dietary restrictions and we will do our best to accommodate.

Where are the classes held? The classes will be held at various City facilities. Information on the classes will be included in each participant's acceptance letter along with a agenda for each class.

What do I wear to class? Dress is casual. In some instances you will be asked to wear warm clothing and/or comfortable shoes for tours of facilities.

May I bring a guest or relative? Due to space limitations participants may not bring guests to classes; however they are strongly encouraged to bring guests to the certification ceremony.

What do I do if I need to miss a class? Participants are allowed to miss one of the 6 sessions.

What if I still have more questions? Contact Katie Koester at kkoester@ci.homer.ak.us / 907.435.3101

City of Homer Citizens Academy

A behind the scenes look at how the City of Homer operates

Thursday Evenings
5:30pm-8:00pm
February 20 - March 27th
Certification Ceremony April 14th

Space is limited. Spots will be held on a first come first serve basis.
Registration closes Monday, February 17th at 5:00pm.

For more info, including online registration, visit:
www.cityofhomer-ak.gov

Memorandum

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JANUARY20, 2014

SUBJECT: GAMES REPORT

We have received notification of a 2014 Gaming Permit Application by the following entities:

Homer Animal Friends

RECOMMENDATION:

Informational only.

Fiscal Note: Revenues.

JAN 09 2014 PM01:06 RC

Alaska
2014 Gaming Permit Application

826

Organization Information

Federal EIN	If renewing, enter gaming permit #	Phone Number	Fax Number
720127477	1076	(907)235-7729	

Organization Name	Website Address
Homer Animal Friends	www.homeranimals.com

Mailing Address	City	State	Zip Code
PO Box 2300	Homer	AK	99603

Entity Type (check one)

- [x] Corporation
- [ ] Partnership
- [ ] Association

Organization Type (check one) for definitions see AS 05.15.690 and 15 AAC 160.995.

- [x] Charitable
- [ ] Civic or service
- [ ] Dog mushers' association
- [ ] Educational
- [ ] Fishing derby association
- [ ] Fraternal
- [ ] Labor
- [ ] Municipality
- [ ] Nonprofit trade association
- [ ] Outboard motor association
- [ ] Police or fire department
- [ ] Political
- [ ] Religious
- [ ] Veterans
- [ ] IRA/Native Village

[ ] Yes [ ] No **Does the organization have 25 or more members, as defined in your articles of incorporation or bylaws, who are Alaska residents?**

Members in Charge of Games

Members in charge must be natural persons and active members of the organization or employees of the municipality and designated by the organization. Members in charge may not be licensed as an operator, be a registered pull-tab vendor or an employee of a vendor for this organization. If more than one alternate, attach a separate sheet.

Primary Member First Name	M.I.	Primary Member Last Name
Lynn	R	Kee

Social Security Number	Email
	Lmcgreevy78@yahoo.com

Daytime Phone Number	Mobile Number
(907)756-7760	(907)299-2617

Home Mailing Address	City	State	Zip Code
39068 Whitney St.	Anchor Point	AK	99556

Has the primary member passed the test? [x] Yes [ ] No — Permit # under which test was taken: 1076

Alternate Member First Name	M.I.	Alternate Member Last Name
Patricia		Boone

Social Security Number	Email
	dpboone@acs.alaska.net

Daytime Phone Number	Mobile Number
(907)235-3779	(907)299-2925

Home Mailing Address	City	State	Zip Code
PO Box 3779	Homer	AK	99603

Has the alternate member passed the test? [x] Yes [ ] No — Permit # under which test was taken: 1076

Legal Questions

These questions must be answered, If you answer Yes to either question, see instructions.

[ ] Yes [x] No Does any member of management or any person who is responsible for gaming activities have a prohibited conflict of interest as defined by 15 AAC 160.954?

[ ] Yes [x] No Has any member of management or any person who is responsible for gaming activities ever been convicted of a felony, extortion, or a violation of a law or ordinance of this state, or another jurisdiction, that is a crime involving theft or dishonesty, or a violation of gambling laws?

We declare, under penalty of unsworn falsification, that we have examined this application, including any attachments, and that, to the best of our knowledge and belief, it is true and complete. We understand that any false statement made on the application or any attachments is punishable by law. By our signatures below we, the primary member, the alternate member, and if applicable, the manager of games, agree to allow the Department of Revenue to review any criminal history we may have, in accordance with 15 AAC 160.934.

	Printed Name	Date
Primary Member In Charge's Signature: Lynn Kee	Lynn Kee	12-25-13
President or Other Officer's Signature (see instructions): Robyn Smith	Robyn Smith	12-25-13
Alternate Member In Charge's Signature: Patricia Boone	Patricia Boone	12-1-13
Manager of Games Signature: Janet M Higley	JANET M HIGLEY	12-25-13

DEPARTMENT USE ONLY

Validation #

Date Stamp

One copy of the completed application must be sent to the nearest municipality or borough.
See instructions for mandatory attachments.

Pay online with OTIS at *www.tax.alaska.gov* or make check payable to State of Alaska. New applicants must pay by check.

Permit Fee

The permit fee is based on the 2013 estimated gross receipts. Check the appropriate box.

[ ] New applicant	$20
[x] $0 - $20,000	$20
[ ] $20,001 - $100,000	$50
[ ] $100,001 or more	$100

826

Mail to: Alaska Department of Revenue, PO Box 110420, Juneau AK 99811-0420

2014 Alaska Gaming Permit Application

826

Gaming Permit #	Organization Name
1076	Homer Animal Friends

Facility-Based Games (self-directed) If more than two facilities, attach a separate sheet.

Facility Name	Physical Address	City	State	Zip Code
			AK	

Facility Type (check one)	Game Type (check all that apply)
☐ Owned ☐ Leased ☐ Donated	☐ Bingo ☐ Raffle ☐ Pull-tabs ☐ Animal classic (chicken)* ☐ Animal classic (rat race)* ☐ Special draw raffle ** ☐ Calcutta pool**

Facility Name	Physical Address	City	State	Zip Code
			AK	

Facility Type (check one)	Game Type (check all that apply)
☐ Owned ☐ Leased ☐ Donated	☐ Bingo ☐ Raffle ☐ Pull-tabs ☐ Animal classic (chicken)* ☐ Animal classic (rat race)* ☐ Special draw raffle ** ☐ Calcutta pool**

Area-Based Games If more than two areas, attach a separate sheet. *restricted game type **see instructions for mandatory attachments

Area	Game type (check all that apply)
Homer	☒ Raffle ☒ Contest of skill ☐ Fish derby ☐ Dog musher' contest ☐ Classic/ Other (specify) _____
	☐ Raffle ☐ Contest of skill ☐ Fish derby ☐ Dog musher' contest ☐ Classic/ Other (specify) _____

Manager of Games Required only for self-directed pull-tabs and bingo.

Manager First Name	MI	Manager Last Name	Social Security Number	Daytime Phone Number

Home Mailing Address
City

Vendor Information Attac

Bar or Liquor Store Name
Bar or Liquor Store Name
Bar or Liquor Store Name
Bar or Liquor Store Name
Bar or Liquor Store Name

HOMER ANIMAL FRIENDS
PO BOX 2300
HOMER, AK 99603-2300

2613
89-5/1252 5467
0016237609

12/27/13 Date

Pay to the Order of State of Alaska $ 20.00

Twenty & 00/100 Dollars

Security Features Details on Back.

WELLS FARGO Wells Fargo Bank, N.A. Alaska wellsfargo.com

For _____ Janet M Higley MP

⑆125200057⑆ 0016237609⑈ 02613

GUARDIAN SAFETY® BLUE

Operator Information

Designate operator who will conduct activities on the organization's behalf. Attach signed operating contract(s). If more than one operator, attach a separate sheet.

Operator License #	Operator	Facility Name	Game Type(s)	
Physical Address		City	State	Zip Code

Multiple-Beneficiary Permittee Information (MBP)

Designate the MBP with which the organization has signed a partnership or joint venture agreement.

MBP Permit #	MBP Name	Facility Name	Game Type(s)	
Physical Address		City	State	Zip Code

Dedication of Net Proceeds Describe in detail how the organization will use the net proceeds from gaming activities.

Proceeds will go towards the funding of our spay/neuter program. Proceeds will also go toward funding the animal shelter and the emergency vet care fund.

826

CITY ATTORNEY REPORT

COMMITTEE REPORTS

PENDING BUSINESS

CITY OF HOMER
HOMER, ALASKA

City Clerk/Economic Development
Advisory Commission

RESOLUTION 13-116

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE ECONOMIC DEVELOPMENT ADVISORY COMMISSION BYLAWS TO INCLUDE THAT THE DIRECTOR OF THE HOMER CHAMBER OF COMMERCE MAY SERVE AS A NON-VOTING, EX-OFFICIO MEMBER OF THE COMMISSION.

WHEREAS, The Community Economic Development Strategy (CEDS) was adopted via Resolution 11-007(S)(A); and

WHEREAS, The implementation table in the CEDS identifies the Homer Chamber of Commerce as one of the groups responsible for carrying out the implementation strategies; and

WHEREAS, The Economic Development Advisory Commission and Director of the Homer Chamber of Commerce have acknowledged the importance of communication between the City and Chamber as key to being successful in carrying out these strategies, as well as other areas the entities can work together to promote economic development for the community; and

WHEREAS, The Commission introduced the amendment at their July 9, 2013 regular meeting and approved their amendment at a second meeting on November 12, 2013 in accordance with their bylaws.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby amends the Economic Development Advisory Commission Bylaws to include that the Director of the Homer Chamber of Commerce may serve as a non-voting, ex-officio member of the Commission.

PASSED AND ADOPTED by the Homer City Council this 9th day of December, 2013.

CITY OF HOMER

_____

MARY E. WYTHE, MAYOR

ATTEST:

_____

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

Memorandum 13-165

TO: MAYOR WYTHE AND CITY COUNCIL MEMBERS

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

DATE: NOVEMBER 14, 2013

SUBJECT: ECONOMIC DEVELOPMENT ADVISORY COMMISSION BYLAW AMENDMENT TO TO INCLUDE THAT THE DIRECTOR OF THE HOMER CHAMBER OF COMMERCE MAY SERVE AS A NON-VOTING, EX-OFFICIO MEMBER OF THE COMMISSION.

At the November 12, 2013 regular meeting of the Economic Development Advisory Commission, Commissioners reviewed the draft resolution 13-xxx amending the EDC bylaws to include the Director of the Homer Chamber of Commerce as a non-voting, ex-officio member of the Commission and voted unanimously to forward it to the City Council for adoption.

Pursuant to the Commissions bylaws the bylaw amendment was introduced at their July 9th regular meeting, and noticed a second time at the September 9th regular meeting.

Recommendation:

Adopt Resolution 13-116 to amend the Economic Development Advisory Commission bylaws.

City of Homer
www.cityofhomer-ak.gov

Administration
491 East Pioneer Avenue
Homer, Alaska 99603
(p) 907-235-8121 x2222
(f) 907-235-3148

Memorandum 14-024

TO: Honorable Mayor Wythe and Homer City Council

THROUGH: Walt Wrede, City Manager

FROM: Katie Koester, Community and Economic Development Coordinator

DATE: January 22, 2014

SUBJECT: Ordinance 14-01: Marine Trades Member on EDC

The Economic Development Advisory Commission has asked that an advisory seat for the Homer Chamber of Commerce Director be added to the Economic Development Advisory Commission. Ordinance 14-01 does this. In the past Council has discussed extending the same opportunity to the Homer Marine Trades Association (HMTA). The Association has considered this carefully and at their January 16, 2014 meeting passed a motion to request the Homer City Council create a non-voting seat on the Economic Development Advisory Commission for an HMTA representative. At the meeting, which I attended, it was discussed that there is a vacant regular seat on the Commission a member could apply for. HMTA preferred a seat that was dedicated, non-voting and advisory.

If the Council would like to add an advisory seat to the Economic Development Advisory Commission, I suggest the following amendments to Ordinance 14-01:

Line 30 following "meeting." Insert "; and

WHEREAS the Homer Marine Trades Association represents professionals and businesses in the marine trades that contribute to the economic vitality of the community; and

WHEREAS the work the Economic Development Commission does to promote economic development would benefit from the perspective and expertise of this industry."

Line 45 following "Councilmember" insert ", a representative of the Homer Marine Trades Association"

Amend the title to include the Homer Marine Trades Association member.

CITY OF HOMER ECONOMIC DEVELOPMENT ADVISORY COMMISSION

BYLAWS

Section 1**.** History/Membership/Record Keeping

The City of Homer Economic Development Advisory Commission was established in 1993 with those powers and duties as set forth in Title 1, Chapter 78, of the Homer City Code. (Ordinance 93-15(S)(A). The Commission was inactivated January 24, 2000 at EDC request on January 11, 2000. Council reactivated the Commission on February 27, 2006 via Resolution 06-20. The Commission is established to act in an advisory capacity to the City Manager and the City Council in areas of economic development within the City.

The Homer Economic Development Advisory Commission consists of seven voting members; no more than two (2) members may be residents from outside the city limits. Members shall be nominated by the Mayor and confirmed by the City Council to serve 3-year staggered terms. In addition to the seven members who make up the voting body, one Homer area high school student and one City Council member may also be appointed as non-voting members. The Mayor, City Manager, ~~and/or~~ City Planner, **and/or the Director of the Homer Chamber of Commerce** may serve as non-voting ex-officio members of the Commission.

Permanent records or minutes shall be kept of the proceedings of the regular monthly meetings. The minutes will record the vote of each member upon every question. Every decision shall be filed in the office of the City Clerk and shall be public record open to inspection.

Section 2. The duties and responsibilities of the Commission are:

A. Act in an advisory capacity to the City Manager and the City Council on the overall economic development planning for the City of Homer.

B. Provide ongoing review and evaluation of the City of Homer Comprehensive Economic Development Strategy (formerly known as the Overall Economic Development Plan) and formulate recommendations for revision. Revisions, amendments and extensions of the Comprehensive Economic Development Strategy (CEDS) may be adopted by the City Council after consideration and report by the Commission.

C. Collect and analyze data relevant to economic development to evaluate existing community resources.

D. Formulate and develop the overall long range economic development goals of the residents of the City of Homer through public hearing process.

E. Identify specific alternatives or projects to accomplish the City's objectives and recommend priorities.

F. Review recommendations of the Homer Advisory Planning Commission to encourage a business-friendly environment in Homer.

G. Promote public interest in overall economic development.

H. Make inquiries regarding matters related to economic development.

I. Collaborate with other City of Homer advisory bodies, the Homer Chamber of Commerce, Kenai Peninsula Economic Development District, and Kenai Peninsula Tourism Marketing Council in activities of mutual interest.

Section 3. The Economic Development Commission will abide by the following rules and guidelines:

A. Existing Alaska State Law, Borough Code, and Homer City Code, where applicable.

B. Robert's Rules of Order, current version, in so far as this treatise is consistent with Homer City Code.

C. Decision Making

1. Quorum: Four commission members shall constitute a quorum. At least four affirmative votes are required for the passage of any action of the Commission and shall constitute the meaning of "majority vote." The final vote on a motion may be expressed through roll call or by unanimous consent ("no objection").

2. Voting: All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain.

3. Abstentions: All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain. A motion to excuse a member from voting shall be made prior to the call for the question to be voted upon. A member of the Commission requesting to be excused from voting may make a brief, oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate. A member may not be permitted to abstain except upon the unanimous consensus of members present. A member may not explain a vote, may not discuss the question while the roll call vote is being taken and may not change his/her vote thereafter.

4. Consensus: The Commission may, from time to time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members, may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

5. Notice to Reconsider: A member of the Commission who voted on the prevailing side on any issue may provide notice of reconsideration within 48 hours from the time the original action was taken. The Chair or Vice-Chair shall notify staff of the reconsideration.

6. Conflict of Interest: A member of the Commission shall disqualify himself/herself from participating in any official action in which he/she has a substantial financial interest per HCC 1.12. The member shall disclose any financial interest in the topic before debating or voting. The member cannot participate in the debate or vote on the matter, unless the Commission determines the financial interest is not substantial. Following the Chair's announcement of the agenda item, the Commissioner should state that he/she has a conflict of interest. Once stated, the member should distance himself/herself from all

motions. The Commission must move and vote on whether or not there is a conflict of interest. At this time a motion shall be made by another Commissioner restating the disclosed conflict. Once the motion is on the floor, the Commissioner can disclose his/her financial interest in the matter and the Commission may discuss the conflict of interest. A vote will then be taken. An affirmative vote excuses the Commissioner and he/she takes a seat in the audience or remains nearby. Upon completion of the agenda item, the Commissioner will be called back to join the meeting.

D. Communication with Mayor & Council and City Manager

1. Any recommendation the Commission may have regarding economic development is to be directed to the City Council through the City Manager. Recommendations of the Commission concerning policy issues may be sent directly to the Council upon request of the Commission.

2. Any report or recommendation made in response to a specific request from the City Council shall be made directly to the Council, unless otherwise directed by the Council.

E. Meetings/Agendas:

1. Regular meetings will take place on the second Tuesday of each month at 6:00 p.m.

2. Items may be added to the Regular Meeting agenda at the request of staff, the Commission as a whole, or individual commissioners. Agenda deadline is the Wednesday of the week preceding the meeting date at 5:00 p.m. Packets should be available by end of day on the Thursday following the agenda deadline.

3. After the agenda deadline, the commission may, through majority vote, add or remove agenda items at the beginning of a meeting during "Approval of the Agenda." Added items shall be for discussion purposes only; no action may be taken.

4. Special Meetings, Worksessions, and Public Forums may be called by the Chair or a majority of the Commission. Worksessions and Public Forums do not require a quorum. However, no action may be taken at a worksession or forum; items on the agenda are for discussion only.

F. The general order of business during a Regular Meeting shall be as follows:
(Information in parentheses need not appear on the agenda. Time limits do not include optional question/answer period. The Chair, with concurrence of the body, may adjust the time limit.)

1. Call to Order

2. Approval of Agenda

3. Public Comments Regarding Items on the Agenda. (3 minute time limit per person)

4. Reconsideration (Vote on reconsideration with item placed under pending business for reconsideration of action by the Commission.)

5. Approval of Minutes

6. Visitors (Scheduled visitors who have been invited to give a presentation will be allotted no more than 20 minutes per presentation. For unscheduled visitors, the Chair will set a time limit of no more than 5 minutes per person. Topics should be relevant to the role of the Commission as an advisory body.)

7. Staff & Council Report/Committee Reports/Borough Reports (Written reports are to be provided by packet deadline. Time limit for oral reports not to exceed 5 minutes.)

8. Public Hearing (3 minute time limit per person.)

9. Pending Business (Items that have been carried over from previous meeting**,** postponed, reconsidered, tabled, etc.)

10. New Business

11. Informational Materials (No action may be taken on these matters; they may be discussed only.)

12. Comments of the Audience (3 minute time limit per person.)

13. Comments of the City Staff

14. Comments of the Council member

15. Comments of the Chair

16. Comments of the Commission.

17. Adjournment/Next Regular Meeting (Also state any additional meetings to be scheduled. All Regular Meetings will be held in the Homer City Hall, Cowles Council Chambers.)

G. Duties and Powers of the Officers:

A Chair and Vice-Chair will be selected annually (November meeting) by the voting members. The Chair will preside at all meetings of the Commission, call special meetings in accordance with the by-laws, sign documents of the Commission, see that all actions and notices are properly taken, and summarize the findings of the Commission for the official record. The Vice-Chair will perform all duties and be subject to all responsibilities of the Chair in his/her absence, disability or disqualification of office. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed, to complete the unexpired term. A new Vice-Chair will be elected at the next regular meeting. It is the responsibility of the Chair to advise the City Clerk regarding any and all non-regular meetings within a timely manner to meet Code requirements for advertisement/publication.

H. Vacancies:

A Commission appointment is vacated under the following conditions and upon the declaration of vacancy by the Commission. The Commission shall declare a vacancy when the person appointed:

1. fails to qualify to take office within 30 days after his/her appointment;

2. resigns and the resignation is accepted;

3. is physically or mentally unable to perform the duties of his/her office;

4. misses three consecutive regular meetings unless excused; or

5. is convicted of a felony or of an offense involving a violation of his/her oath of office.

I. Amendment of Bylaws:

The by-laws may be amended at any meeting of the Commission with five affirmative votes, provided that notice of said proposed amendment is given to each member in writing. The proposed amendment shall be introduced at one meeting and action shall be taken at the next Commission meeting. The amendment shall be presented in the form of a Resolution by the City Council and shall be forwarded to the City Council through the City Clerk at the earliest possible date.

(These Bylaws were approved by the Homer City Council on August 25, 2008 via Resolution 08-89.)

CITY OF HOMER
HOMER, ALASKA

City Manager

RESOLUTION 14-008

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, APPROVING A NEW INTERGOVERNMENTAL WASTEWATER AGREEMENT BETWEEN THE CITY OF HOMER AND KACHEMAK CITY.

WHEREAS, The City of Homer owns, operates, and maintains the sewer treatment plant and all of the wastewater collection infrastructure, including pipes and related equipment within Kachemak City; and

WHEREAS, Kachemak City desires to continue to partner with Homer for wastewater collection and treatment to maintain the public health and safety of the greater Homer area; and

WHEREAS, The City of Homer wishes to continue this cooperative relationship because it is in the best interest of the utility and the community at large; and

WHEREAS, Homer has the staff, equipment, and management capability to operate and maintain the waste water collection system in the area, including service to Kachemak City; and

WHEREAS, The existing Intergovernmental Agreement, adopted by the parties in 1988, needs to be updated to reflect current conditions; and

WHEREAS, The two Cities have finalized a draft of a new Intergovernmental Agreement on wastewater and the draft was reviewed by the Homer City Council at its regular meeting on January 13, 2014.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council finds that continued cooperation and partnership with Kachemak City on wastewater collection and treatment is in the best interest of the greater Homer area.

BE IT FURTHER RESOLVED that the Homer City Council hereby approves the new Intergovernmental Wastewater Agreement between the City of Homer and Kachemak City; a copy of which is attached and incorporated herein.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 13h day of January, 2014.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

INTERGOVERNMENTAL AGREEMENT

WASTEWATER UTILITY

BETWEEN THE CITY OF HOMER AND KACHEMAK CITY

JANUARY 1, 2014

WHEREAS, Kachemak City ("Kachemak") desires to continue to partner with the City of Homer ("Homer") for wastewater collection and treatment to maintain the public health and safety of the greater Homer area; and

WHEREAS, Homer operates the public wastewater collection and treatment system and owns and maintains the pipes and related facilities; and

WHEREAS, Homer has the staff, equipment, and management capability to operate and maintain the wastewater collection and treatment system, involving service to Kachemak;

WHEREAS, The existing Intergovernmental Agreement, adopted by the parties in 1988, needs to be updated to reflect current conditions.

NOW THEREFORE, in consideration of the mutual covenants to be kept and performed, and other good and valuable considerations, the sufficiency of which is acknowledged, the following is agreed to between parties.

ARTICLE 1 – DEFINITIONS

1.1 Category (1) Improvements – Any improvements to the Wastewater Collection and Transportation System other than normal maintenance and replacement which benefit only either Kachemak or Homer. The prorata share of the local share capital costs is one hundred percent (100%) allocated to the community that receives the benefit.

1.2 Category (2) Improvements – Those improvements to the wastewater collection and transportation system other than normal maintenance and replacement which benefit both Kachemak and Homer such as existing and future trunk sewers in the East End area servicing both communities. The allocation of costs to Kachemak will be based on the Zone Connect Fee method (zones that are added will be paid for by the benefited community).

1.3 Category (3) Improvements – Those improvements to Homer's wastewater treatment facilities required by regulatory authorities. The allocation of the local share of these

costs is based on the estimated total wastewater contributions to the facility by each community in the year the improvement is made plus a calculation of projected growth and increase in utility customers in each community for the next 20 years, prepared by a qualified third party consultant.

1.4 Category (4) Improvements – Those improvements to Homer's treatment facilities required to provide additional capacity. The allocation of the local share of these costs is based on a calculation of projected growth and increase in utility customers in each community for the next 20 years, prepared by a qualified third party consultant

1.5 Local Share – That portion of capital costs specifically assigned to one zone or to one municipality.

1.6 Capital Costs – The costs associated with the installation or acquisition of improvements, equipment and property including planning, engineering and design, construction, purchase of equipment and materials, supervision of construction, reasonable administration and interest on borrowed money during construction.

1.7 Payments by Kachemak City – Payment of Kachemak's prorata capital costs, as called for in this Agreement, may be either direct transactions between Kachemak and Homer or funds made available to Homer on behalf of Kachemak from third party agencies, including the Environmental Protection Agency and the State of Alaska Department of Environmental Conservation in the form of matching grants or legislative appropriations.

ARTICLE II – OBLIGATIONS OF KACHEMAK CITY

2.1 Kachemak shall provide capital funding for one hundred percent (100%) of the cost of all Category (1) Improvements within Kachemak.

2.2 Kachemak shall pay to Homer its share of the costs determined in 1.2, 1.3 and 1.4 above. These improvements should become part of the overall capital rate structure, i.e. depreciation.

2.3 Kachemak shall adopt as City of Kachemak ordinances, the appropriate existing and future rules and regulations relating to sewer operations and use constraints that are contained in Title 14 of the City of Homer code of ordinances.

2.4 Kachemak shall provide all easements and rights of way required to construct, operate, and maintain sewer improvements within Kachemak's corporate boundaries.

2.5 Kachemak City will collect user fees from utility customers within its boundaries and remit payments to the City of Homer in one lump sum each month. Payment of user fees due

Homer shall be paid monthly on or before the fifteenth day of the month following the month for which service was rendered. Payment of the full amount due Homer will be made by Kachemak regardless of the fact that Kachemak may or may not have collected user fees from individual users residing within Kachemak.

2.6 At Homer's request, Kachemak shall serve as a clearinghouse for all service connection requests, collecting all appropriate fees from requesting customers and pay all fees due to Homer.

2.7 Kachemak shall coordinate all privately funded sewer improvements within Kachemak with Homer and the owner/ developer.

ARTICLE III – OBLIGATIONS OF HOMER

3.1 Homer shall provide capacity in any future improvements to Homer's collection, transportation and treatment facilities to provide continued service for the existing and future needs of Kachemak. Future needs of Kachemak City will be projected by a qualified third party consultant and be based upon a 20 year window, or expected life of the improvement.

3.2 Homer will continue to assume responsibility for ownership, maintenance, and repair of the wastewater collection system in Kachemak City and for the pumping of private septic tanks on properties connected to the wastewater system.

3.3 Homer shall conduct periodic rate studies, at the Wastewater Utility's expense, to establish fair and equitable rates for all users of Homer's Wastewater Utility. The rate study shall be performed under contract to Homer by an independent consultant that is well qualified and recognized in the field of utility rate analysis. Further, management of the consultant's engagement shall be by a management team that includes at least one representative appointed by the Kachemak City Council and no more than two individuals appointed by the Homer City Council. The group membership can by expanded by mutual consent of the parties. Included in the rate study will be an evaluation of costs for the operation and maintenance of Kachemak's Wastewater Collection System, taken as a whole. This evaluation will include, but not be limited to, in consideration of:

1) the periodic pumping and treatment of septage from the receiver tanks,

2) the routine discharge of pretreated wastewater from the system,

3) reduced operations and maintenance resulting from the type and nature of the Kachemak system, and

4) the lower than average per capita flow from Kachemak users.

3.4 The City of Homer shall establish wastewater fees for Kachemak City as part of its regular, annual, water and wastewater fee schedule approval process. The fee associated with septic tank pumping shall be based upon the bidding process provided in Homer's procurement code. The wastewater commodity charge shall be based upon an estimated average of 2,500 gallons per month for residential use. This baseline estimated average can be adjusted as new information becomes available.

3.5 Homer shall charge to Kachemak for any customer classification user fees that are equal to the same fee charge to a Homer customer of the same class. Further, Homer shall reduce all user charges for Kachemak customers to adjust for debt service, sinking funds or any other means of financing capital improvements. The result of this requirement is to charge Kachemak customers for the administration, operation, maintenance and depreciation expense of the utility only. Kachemak will be responsible for its own capital costs as in 1.3 and 1.4.

3.6 Homer shall provide the planning, engineering, design, contract for construction, construction administration and construction surveillance for all necessary current and further improvements including those within Kachemak's corporate boundaries.

3.7 Homer shall own, operate, maintain, repair, replace and keep whole all improvements required to service Kachemak including those located within Kachemak's corporate boundaries.

NOTICES:

All notices shall be sent to both parties as follows:

City Manager
City of Homer
491 East Pioneer Avenue
Homer, Alaska 99603

City Mayor
Kachemak City
P.O. Box 958
Homer, Alaska 99603

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the dates hereinbelow set forth.

CITY OF HOMER **DATE:**

_____ _____

WALT WREDE, City Manager

CITY OF KACHEMAK **DATE:**

_____ _____

PHILEMON MORRIS, Mayor

ACKNOWLEDGMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on the ____ day of _____, 2014, by WALT WREDE, City Manager of the City of Homer, on behalf of the City of Homer.

_____
Notary Public in and for Alaska

My Commission Expires:_____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on the ____ day of _____, 2014, by PHILEMON MORRIS, Mayor of the City of Kachemak, on behalf of the City of Kachemak.

_____
Notary Public in and for Alaska

My Commission Expires:_____

NEW BUSINESS

RESOLUTIONS

CITY OF HOMER
HOMER, ALASKA

City Manager

RESOLUTION 14-021

A RESOLUTION OF THE HOMER CITY COUNCIL APPROVING AN ECONOMIC DEVELOPMENT AND TOURISM MARKETING AGREEMENT BETWEEN THE CITY OF HOMER AND THE HOMER CHAMBER OF COMMERCE.

WHEREAS, The adopted FY 2014 Operating Budget contains an appropriation and transfer of $51,000 to the Homer Chamber of Commerce; and

WHEREAS, The appropriated funds are located within the Economic Development Budget because the City views the Chamber as a contractor that is providing marketing and other economic development services; and

WHEREAS, In previous years, the Council has discussed whether it should ask the Chamber if it was willing and able to expand its marketing and economic development efforts to other sectors of the Homer economy; and

WHEREAS, It is common and appropriate for there to be a contract or formal agreement between the City and a business or organization providing contracted services; and

WHEREAS, The City and the Chamber of Commerce have collaborated on a Draft Economic Development and Tourism Marketing Agreement which formalizes the relationship between the parties and expands the Chamber's marketing and economic development efforts to other sectors of the economy; and

WHEREAS, The Agreement makes it clear that marketing is what the Chamber is staffed for and does best and that the bulk of its expanded economic development effort will be marketing additional sectors of the economy and Homer generally as a great place to live and establish your business; and

WHEREAS, The Homer City Council reviewed the Draft Economic Development and Tourism Marketing Agreement at its regular meeting on January 27, 2014.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves the Economic Development and Tourism Marketing Agreement between the City of Homer and the Homer Chamber of Commerce; a copy of which is attached and incorporated herein.

PASSED AND ADOPTED by the Homer City Council this 27th day of January, 2014.

CITY OF HOMER

_____

MARY E. WYTHE, MAYOR

ATTEST:

_____

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

Homer Chamber & Visitor Center Economic Development & Tourism Marketing Agreement

This Agreement is made effective January 1, 2014 by the Homer Chamber of Commerce, whose address is 201 Sterling Highway, Homer, AK 99603, herein referred to as the 'Chamber," a nonprofit 501 (c)(6) corporation, and the City of Homer, whose address is 491 E. Pioneer Avenue, Homer, AK 99603, herein referred to as the "City."

WHEREAS, the City has designated the Chamber as the lead marketing entity of the Homer community and the recipient of public funds which are to be utilized and expended for the promotion of the City of Homer economic development and tourism marketing, and

WHEREAS, the Chamber can best accomplish this mission most efficiently by focusing its energies on marketing the city and managing the marketing activities, and

WHEREAS; The City has determined that it is most efficient and cost effective to contract with the Chamber for marketing services instead of attempting to perform that function itself; and

WHEREAS, the Chamber is an organization whose mission is to promote and support a diversified economy for a positive business and living environment for its members and the greater Homer area. The Chamber accomplishes that mission by marketing the City of Homer as a destination for conferences, economic development, tourism in general as an economic development strategy for the community at large and its supporting members, specifically, and

WHEREAS, the Chamber has acquired the resources, facilities, and personnel with the specialized skills to conduct tourism and economic development marketing programs to attract and serve new businesses and visitors of all types.

NOW, THEREFORE, the parties, each in consideration of the promise herein agree as follows;

1. The City hereby engages the Chamber to market business and industry development and tourism for the City of Homer. The term of this Agreement shall initially be three (3) years, unless notice of termination of the Agreement is given pursuant to paragraph 7 hereof.

2. The Chamber accepts the engagement and shall diligently promote such businesses by producing marketing, sales promotion, and publicity programs including:

A. Sales calls to potential convention, tradeshow, and conference prospects;

B. Participation in regional advisory committees engaged in business and industry development issues;
C. Exhibits at various conference shows and special events as deemed necessary by the Chamber to promote economic development and the visitor industry;
D. Conducting Homer familiarization tours and product development tours and activities;
E. Oversight of certain special community-wide events currently being held in the City of Homer as noted in annual addendum;
F. Hosting prospective meeting planners and other clients in the city to promote business and industry development and the tourism industry;
G. Development, production, and distribution of promotional sales material;
H. Providing community and visitor information and assistance;

3. The Chamber shall conduct economic development and tourism industry promotion to aid the City in achieving their mission to increase customers coming to Homer, and attracting new business and industry to Homer by conducting programs including:

   a) Work closely with the City EDC to develop a Relocation campaign targeted at Internet entrepreneurs, or individuals who can work from home for larger companies;
   b) Tourism marketing, sales, and promotion campaigns;
   c) Generic advertising of the community's assets and tourism attractions;
   d) Market cooperatively with the Chamber's members to the mutual benefit of its members and the City;
   e) Produce by itself, or by contract, brochures, visitors guides, maps, and other publications useful to economic development and tourism visitors;
   f) Promote economic development and tourism via electronic media;
   g) Operate a Visitor Information Center to serve visitors;
   h) Work with other community groups and non-profits (such as the Arts) to market the broad quality of life aspects of living in Homer;
   i) Work with other business sectors not necessarily Chamber members (such as Marine Trades) to promote the unique services that exist in Homer.

4. For the promotion and marketing services rendered by the Chamber to the City for the community-at-large, the City shall pay to the Chamber, subject to appropriation, the amounts as detailed in an annual addendum as referenced in paragraph 5 hereof.

5. The Chamber will annually, by October 1 of each year, provide a marketing workplan and budget ("Marketing Plan and Budget") outlining anticipated expenditures to conduct the aforementioned services on behalf of the City and the community. The Marketing Plan and Budget is a part of this Agreement and will compare the prior year's plan with actual results. The initial Marketing Plan and Budget is attached hereto and incorporated into this Agreement. The City will assist the Chamber with approval of each Marketing Plan and Budget through the annual budget approval process of the City.

6. The Chamber shall utilize and dedicate all such funds received from the City for the promotion of economic development and tourism in the Marketing Plan.

7. This Agreement may be terminated by either party serving upon the other six months prior written notice of termination of the Agreement. This Agreement is binding upon both parties and shall inure to the benefit of their successors in interest. If the City terminates this agreement, the City agrees to pay for expenses already incurred at the time of notification of termination.

8. The Chamber is an independent contractor in the performance of any work under this Agreement, and neither the Chamber nor its employees, members or volunteers shall be an employee or agent of the City.

9. The Chamber shall defend, indemnify and hold harmless the City, its officials, employees, agents and contractors from any and all liability (including attorney fees) or claims for damages, including personal injuries, environmental damage, death and property damage arising out of or resulting from the Chamber's use of the City's funds or the Chamber's actions taken pursuant to this Agreement, including the Chamber's employees, assignees, contractors, agents or the public.

10. Prior to disbursement of any funds by the City, the Chamber shall procure and maintain, at the Chamber's sole cost and expense, comprehensive commercial general liability insurance with limits of liability of not less than TWO MILLION DOLLARS ($2,000,000) for all injuries and/or deaths resulting to any one person and ONE MILLION DOLLARS ($1,000,000) limit from any one occurrence. The Chamber will add the City to its generally liability insurance as an Additional Insured.

11. In addition to the insurance described in paragraph 11, the Chamber shall maintain, at the Chamber's sole cost and expense, workers' compensation insurance as required under Alaska law and owned and non-owned automobile liability insurance with limits of liability of not less than ONE HUNDRED THOUSAND DOLLARS ($100,000) per occurrence combined single limit for bodily injury and property damage, and FIVE HUNDRED THOUSAND ($500,000) total agregate.

12. All insurance policies shall provide for thirty (30) days' notice of cancellation and/or material change to be sent to the City. All such policies shall be written by insurance companies legally authorized or licensed to do business in Alaska and acceptable to the City (Best's Rating B+ or better). The City shall be listed as an additional insured. Upon execution of the contract, the Chamber shall furnish certificates evidencing that it has procured the insurance required herein. The minimum insurance requirements under this Agreement shall not act to limit the Chamber's liability for any occurrence and shall not limit the Chamber's duty to defend and indemnify the City for claims related to this Agreement.

IN WITNESS THEREFORE, the parties hereto executed the Agreement by duly authorized offices respectively.

By:_
Jim Lavrakas / Homer Chamber, Executive Director

By:_
Walt Wrede / City of Homer, City Manager

ATTEST:

_____ _____
Jo Johnson, City Clerk Date

2014 MARKETING PLAN WITH ANTICIPATED BUDGET PERCENTAGES:

Information below describes the Homer Chamber of Commerce's planned use of the $50,000 from the City for advertising, marketing, and economic development.

Specific core programs using these funds are:

1. Winter King Salmon Tournament
2. Kachemak Bay Shorebird Festival
3. Jackpot Halibut Derby
4. Taste of Homer

New Initiatives using these funds are
(APPROX. 10% Of Budget):

1. Work closely with the City EDC on a new branding and HCOC-centered website redesign for "Make Homer Home" program to replace outdated, ineffective, packet-based program currently used.
2. "Fishing Hole" marketing campaign
3. Anchorage 4th Avenue presence
4. Small Boat Harbor webcam

Use of City payment to the Chamber was broken down as follows:

1. Local Advertising (**APPROX. 20%**):
    a. Newspapers
    b. Public Radio
    c. Commercial Radio
2. State-wide Advertising (**APPROX. 40%**):
    a. Magazines
    b. Newspaper
    c. Travel Guides
    d. Radio
    e. Online
3. Marketing (**APPROX. 30%**):
    a. Three travels shows
    b. Anchorage television
    c. Develop video for advertising

2014 Special Community-wide Events:

1. Winter Carnival
2. Cleanup Day
3. Get to Know Homer
4. Garden Club Plant Sale
5. Lemonade Day
6. Fourth of July Parade
7. Christmas Tree Lighting
8. Community Forums (legislative, candidate, information)
9. Chamber luncheons & Business After Hours (formerly “Mixers”)

CITY OF HOMER
HOMER, ALASKA

City Clerk/
Public Arts Committee

RESOLUTION 14-023

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, APPROVING AND ACCEPTING THE DONATION OF A LIFE-SIZE BRONZE BUST OF BROTHER ASAIAH BATES BY AN ANONYMOUS DONOR AND CREATED BY HOMER ARTIST LEO VAIT FOR PERMANENT PLACEMENT IN WKFL PARK.

WHEREAS, The City of Homer Municipal Art Collection has few pieces that commemorate the contributions of prominent citizens; and

WHEREAS, Brother Asaiah was widely known for his calm, quiet manner; equal and respectful treatment of all persons; served as a member of City Council; was a regular contributor to the local newspapers and attended many city and public meetings on numerous issues and concerns; and

WHEREAS, The donor wishes to remember all that Brother Asaiah gave to the community in the form of a life-size bust created out of bronze and commissioned local artist Leo Vait who personally knew Brother Asaiah and having completed the required application for donation; and

WHEREAS, The Public Arts Committee has reviewed the requests for donation to the City of Homer and recommended that the City Council approve and accept the donation and incorporate it into the Municipal Art Collection.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, hereby approves and accepts the life-size bronze bust of Brother Asaiah from an anonymous donor and created by Homer artist Leo Vait and incorporates it into the City's artwork collection.

BE IT FURTHER RESOLVED the City Council authorizes permanent placement of the sculpture on top of the large rock in WKFL Park on Pioneer Avenue, Homer, Alaska, for the enjoyment of all resident and visitors.

PASSED AND ADOPTED by the Homer City Council this 27th day of January, 2014.

CITY OF HOMER

_____
MARY E WYTHE, MAYOR

ATTEST:

_____

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

Memorandum 14-016

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: PUBLIC ARTS COMMITTEE

THROUGH: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JANUARY 13, 2014

SUBJECT: ACCEPTANCE OF DONATION OF ARTWORK – BRONZE BUST OF BROTHER ASAIAH

BACKGROUND
Local artist Leo Vait was commissioned to create and sculpt a life-size bust of "Brother Asaiah". Mr. Files and Ms. Martha Anderson are acting as local representatives for the person wishing to remain unrecognized and or anonymous.

The WKFL Park was donated by Brother Asaiah to the city. Within the selected location there is a rock with a dedication plaque and it is here that the proposed bronze bust would be placed. It is intended to be a permanent placement and will be attached by the appropriate means.

All required documents have been submitted and copies are included for your review.

At a special meeting on January 9, 2014 the Public Arts Committee deliberated and heard public testimony against the idea of a sculpture and or placement in WKFL Park. Following is the excerpt from the minutes of their discussion and ensuing motion:

NEW BUSINESS
A. Donation of Commissioned Artwork for Placement within WKFL Park

1. *Gift Proposal Form*
2. *Pictures of Proposed Art Donation*
3. *Resume of Artist*
4. *Artist Previous Works*
5. *Photos of Asaiah Bates*
6. *Letters of Support*

Vice Chair Miller read the title into the record. Ms. Krause noted this started with an inquiry from Ms. Otteson.

Ms. Otteson stated that she was contacted regarding the commissioned sculpture, stating that approval was desired before further work was done on the sculpture and submittal to the foundry. Ms. Otteson felt that it should go before the Parks and Recreation Advisory Commission since it was being requested to be placed in a city park. She contacted Ms. Krause who notified her about the process in place for donating works of art to the city.

Chair Newby expressed appreciation for Ms. Otteson and the City Manager for their support of the protocols; she stated that she received emails with photos from Mr. Will Files.

Discussion ensued on the cost of the artwork and what the procedure was regarding the donation application. Chair Newby provided a summary explanation on the background of the application and recalled the donation of the bench as a memorial for the Eagle Lady. Vice Chair Miller stated that it still did not explain the process on what the committee should do now. Ms. Aplin stated that while the idea of the donation is acceptable, it is apparent that the venue may not be acceptable.

Commissioner Lowney was permitted to offer her comment stating that this item was on the Parks and Recreation Commission agenda next week and she believed that due to the conflict on the appropriateness of the suggested placement in WKFL Park that they provide more opportunity for the public to weigh in, she further opined that she understood the concern expressed by Mr. Landfield regarding the overcrowding of the park but she had less concern on that since it would be installed on top of an existing rock, technically it is not taking up space.

The committee discussed the need for further opportunity for a public hearing; that Brother Asaiah was a very unassuming man; why this project needed fast tracking through the process and making a quick decision. The committee expressed concern on the venue being appropriate. It was determine that Council was the appropriate forum to get the word out to the public.

Vice Chair Miller requested a motion. Ms. Krause requested a few minutes to draft the appropriate motion for the committee.

APLIN/NEWBY - MOVED TO RECOMMEND THAT THE DONATION OF THE SCULPTURE WOULD BE ACCEPTABLE TO ADD TO THE MUNICIPAL ART COLLECTION HOWEVER THERE IS A QUESTION REGARDING THE LOCATION BEING APPROPRIATE AND THEREFORE RECOMMEND CITY COUNCIL HOLD A PUBLIC HEARING ON THE ISSUE. FURTHERMORE, THE COMMITTEE WOULD ALSO RECOMMEND CITY COUNCIL INCLUDE THE RECOMMENDATION FROM THE PARKS AND RECREATION ADVISORY COMMISSION REGULAR MEETING ON JANUARY 16, 2014 IN THEIR DELIBERATIONS.

There was no further discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

RECOMMENDATION:

Hold a public hearing to obtain more public input on the acceptance and placement of a life-size bronze bust of Brother Asaiah in WKFL Park.

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

Memorandum 14-018

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: PARKS AND RECREATION ADVISORY COMMISSION

THROUGH: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JANUARY 21, 2014

SUBJECT: ACCEPTANCE AND PLACEMENT OF BRONZE BUST OF BROTHER ASAIAH

BACKGROUND
At a regular meeting on January 16, 2014 the Parks and Recreation Advisory Commission heard public testimony for and against placement of a sculpture of Brother Asaiah in WKFL Park. The Commission recommended forwarding a recommendation of support that further opportunity for public comment was needed in the form of a public hearing.

Below is an excerpt from the meeting minutes of the January 16, 2014 regular meeting regarding that discussion.

NEW BUSINESS
A. Recommendation for Support of Placement of Commissioned Sculpture in WKFL Park

Chair Steffy read the title into the record and inquired if more discussion was needed on the subject or if there were additional comments from the commissioners.

Commissioner Brann commented on the statements and comments received on both sides of the issue and he believed a continued discussion would be appreciated. He agreed that no one wanted to fight about the decision but a good discussion would be valuable to making a decision. He appreciated people coming tonight.

Chair Steffy opined on the memorialization of an individual and the contrasts between what the individuals want and what the individual being memorialized might have wanted done. He further stated that there are two questions to ask –
1. Are you memorializing the individual for the sake of the individual?
2. Are you memorializing the individual for the sake of the people he influenced.

Chair Steffy stated he believed the commission heard that during the public comments tonight. He opined that it would be appropriate for a public hearing to be held by City Council regarding this issue to get more public input on the placement. Chair Steffy requested a motion.

LOWNEY/BRANN - MOVED TO SUPPORT THE ACCEPTANCE OF THE DONATION OF THE ART PIECE TO THE CITY COLLECTION BUT RECOMMEND A PUBLIC FORUM TO FURTHER DISCUSS THE PLACEMENT ON THAT PIECE.

Chair Steffy stated he will attend that meeting to answer any questions regarding the Commission recommendation.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

RECOMMENDATION:

Hold a public hearing to obtain more public input on the placement of a bronze bust of Brother Asaiah.

MUNICIPAL ART COLLECTION
GIFT PROPOSAL APPLICATION

PLEASE TYPE OR PRINT CLEARLY AND MAKE YOUR RESPONSES COMPLETE AND THROUGH.

DATE 16 December 2013

CONTACT PERSON Will Files and Martha Ellen **TITLE**

ORGANIZATION IF APPLICABLE

ADDRESS 59835 Tern Ct **CITY** Homer **STATE** AK **ZIP** 99603

PHONE 907 299-2990 **FAX** **CELL**

EMAIL will@wfiles.us

TELL US WHY YOU WISH TO DONATE THIS ARTWORK TO THE CITY OF HOMER? Brother Asaiah left his body in the year 2000. Newcomers have not experienced his presence first hand, and sometimes even we sourdoughs forget. I give this statue to renew his loving spirit. Our world is as challenged today as Brother Asaiah's prophetic vision observed years ago. My wish is that this great work of art, depicting his pain, peace, joy and transcendant love, can rekindle that loving spirit which Brother gave to us in our "Cosmic Hamlet By The Sea". What better place than the WKFL Park.

PROPOSED ARTWORK

TITLE OF ARTWORK Brother Asaiah

ARTIST(S) NAME Leo Vait

YEAR COMPLETED 2014 **DIMENSIONS** approximately 3 feet high

MATERIALS USED TO CREATE ARTWORK bronze

PHYSICAL DESCRIPTION OF THE PROPOSED PIECE–
A life size bronze bust of Brother Asaiah, bound by an iron rod into the existing large rock in front of the present gazebo.

NARRATIVE DESCRIPTION OF THE PROPOSED ARTWORK - TELL US THE STORY BEHIND THE PIECE OR SIGNIFICANCE -
Brother Asaiah captured the spirit of our times, respecting all religious and political views. He was a catalyst for peace and reconciliation at City Council meetings, and throughout our city.
the donor of this bronze bust, saw Brother Asaiah transmute his own anger and pain, devoting his life to love and service in Homer. wants to rekindle the life and spirt of this beloved Homerite.

IS THE PROPOSED PIECE ONE OF A KIND? yes IS THE PIECE PART OF A SERIES, LIMITED OR OTHERWISE? No

IF SO, AN EDITION OF HOW MANY?_____ IS THE PIECE COMPLETED? No IF NOT WHEN IS THE EXPECTED COMPLETION DATE? May 2014

WHAT IS THE CURRENT CONDITION OF THE PIECE? It is currently in maquette form, waiting for a go ahead decision from the City of Homer, the Public Arts Commission, and the Parks and Rec Commission.

PROPOSED SITE OR LOCATION

DO YOU HAVE A SITE(S) IN MIND FOR THE PLACEMENT OF THE ARTWORK? IF SO WHERE? WKFL Park in the City of Homer - on top of the ROCK in the park

IS THIS A CITY OWNED PROPERTY IF NOT WHO OWNS THE PROPERTY? City owned

WHAT IS THE RATIONALE FOR SELECTING THIS/THESE LOCATION(S)? Brother Asaiah donated the WKFL Park to the City of Homer, and had the large rock placed there.

ARE YOU AWARE OF ANY PERMITS OR PERMISSIONS THAT MAY BE REQUIRED? No permit required, but will seek support of City of Homer and the Public Arts Commission

TECHNICAL SPECIFICATIONS

DESCRIBE HOW THE ARTWORK IS CONSTRUCTED OR MADE. PLEASE INCLUDE ANY DOCUMENTATION AT THE END OF THIS APPLICATION. In his Homer studio, Leo Vait will sculpt Asaiah life-size from the waist up, using plasticine clay. It will then be molded and processed for a bronze pour.

HOW IS THE ARTWORK TO BE PROPERLY INSTALLED? It will be installed on the "WKFL rock" using stainless steel bolts designed for use in concrete.

DOES THE PIECE REQUIRE ELECTRICITY, PLUMBING OR OTHER UTILITY HOOKUPS? Would like to install a spot light to illuminate the sculpture, mounted on the gazebo (solar??).

WHO WILL BE INSTALLING THE ARTWORK? Leo Vait and friends

WHAT IS THE EXPECTED LIFETIME AND STAYING POWER OF THE MATERIALS USED IN CREATING THE PIECE?
2,000 years

WHAT MAINTENANCE IS REQUIRED AND HOW OFTEN?
None

PLEASE IDENTIFY ANY SPECIFIC MAINTENANCE PROCEDURES AND OR EQUIPMENT AND THE ASSOCIATED COSTS:
N/A

WHAT PRECAUTIONS HAVE BEEN TAKEN TO GUARD AGAINST VANDALISM IF ANY?
Bronze is extremely durable! Illumination would guard against vandalism (the spotlight).

WHAT STEPS HAVE BEEN TAKEN TO ASSURE THIS PIECE WILL NOT PRESENT A SAFETY HAZARD?
Concrete and a bolting system will secure the sculpture permanently.

BUDGET

PROJECT MANAGEMENT FEES	$0	**INSURANCE**	$0
ARTIST'S FEES	$8,000	**UTILITY HOOKUP**	$0
PURCHASE PRICE	$6,500	**DELIVERY**	$1,000
PERMITS	$0	**INSTALLATION**	$0
STRUCTURAL ENGINEERING	$0	**SIGNAGE**	$500
SITE PREPARATION	$1,000	**RECOGNITION**	$
OTHER COSTS NOT LISTED	$1,500	**DESCRIPTION**	spot light, etc

DATE PIECE WAS LAST APPRAISED? N/A

WHAT IS THE VALUE OF THE PIECE OR ESTIMATED MARKET VALUE IF NO APPRAISAL WAS DONE? $18,500

TIMELINE

WHAT IS THE TIMELINE FOR THE COMPLETION OR INSTALLATION OF THE PIECE? IDENTIFY THE DIFFERENT STAGES AND DATE GOALS TO PREPARE THE PIECE FOR DONATION
maquette preparation - December 1, 2013
Gift Proposal Application - December 15, 2013; Public Arts Commission - January 9, 2014
Parks and Rec Commission - by January 16, 2014; Homer City Council - January 27, 2014
Life size plasticine clay bust complete - February 15, 2014; Foundry casts sculpture - April 30, 2014; I

RESTRICTIONS

ARE THERE ANY KNOWN COVENANTS, REQUIREMENTS OR RESTRICTIONS THAT COME WITH THE PIECE?
NO

WHAT EXPECTATIONS DO YOU HAVE FOR THE CITY OF HOMER IN ACCEPTING THIS ARTWORK?
Provide space in Park.

COMMUNITY INVOLVEMENT

WAS THERE ANY COMMUNITY OR USER INVOLVEMENT IN SELECTING THE RECOMMENDED LOCATION?
Public Arts and Parks and Rec Commissions

PLEASE INCLUDE ANY LETTER(S) OF SUPPORT FOR THE PROJECT OR PROPOSED DONATION.

APPLICANT MUST SUBMIT THE FOLLOWING SUPPORTING DOCUMENTATION WITH THIS APPLICATION.

X **AN RESUME OR BIO FROM THE ARTIST WHO CREATED OR WILL CREATE THE ARTWORK.**

X **FIVE TO TEN IMAGES OF PAST WORK FROM THE ARTIST. THESE CAN BE PHOTOGRAPHS.**

X **THREE TO FIVE CLEAR IMAGES OF THE PROPOSED ARTWORK**

_____ **SCALE DRAWING/MODEL OF THE PROPOSED ARTWORK**

_____ **IF YOU HAVE A SITE(S) IN MIND PLEASE INCLUDE PHOTO AND DESCRIPTION OF THE SITE(S) AND A SCALED DRAWING OF THE PROPOSED ARTWORK IN THE RECOMMENDED LOCATION.**

_____ **A COPY OF A FORMAL APPRAISAL IF AVAILABLE**

_____ **TECHNICAL SPECIFICATIONS, MAINTENANCE MANUAL OR DRAWINGS/RECOMMENDATION FROM STRUCTURAL ENGINEER.**

APPLICATIONS ARE TO BE SUBMITTED TO:

THE CITY OF HOMER

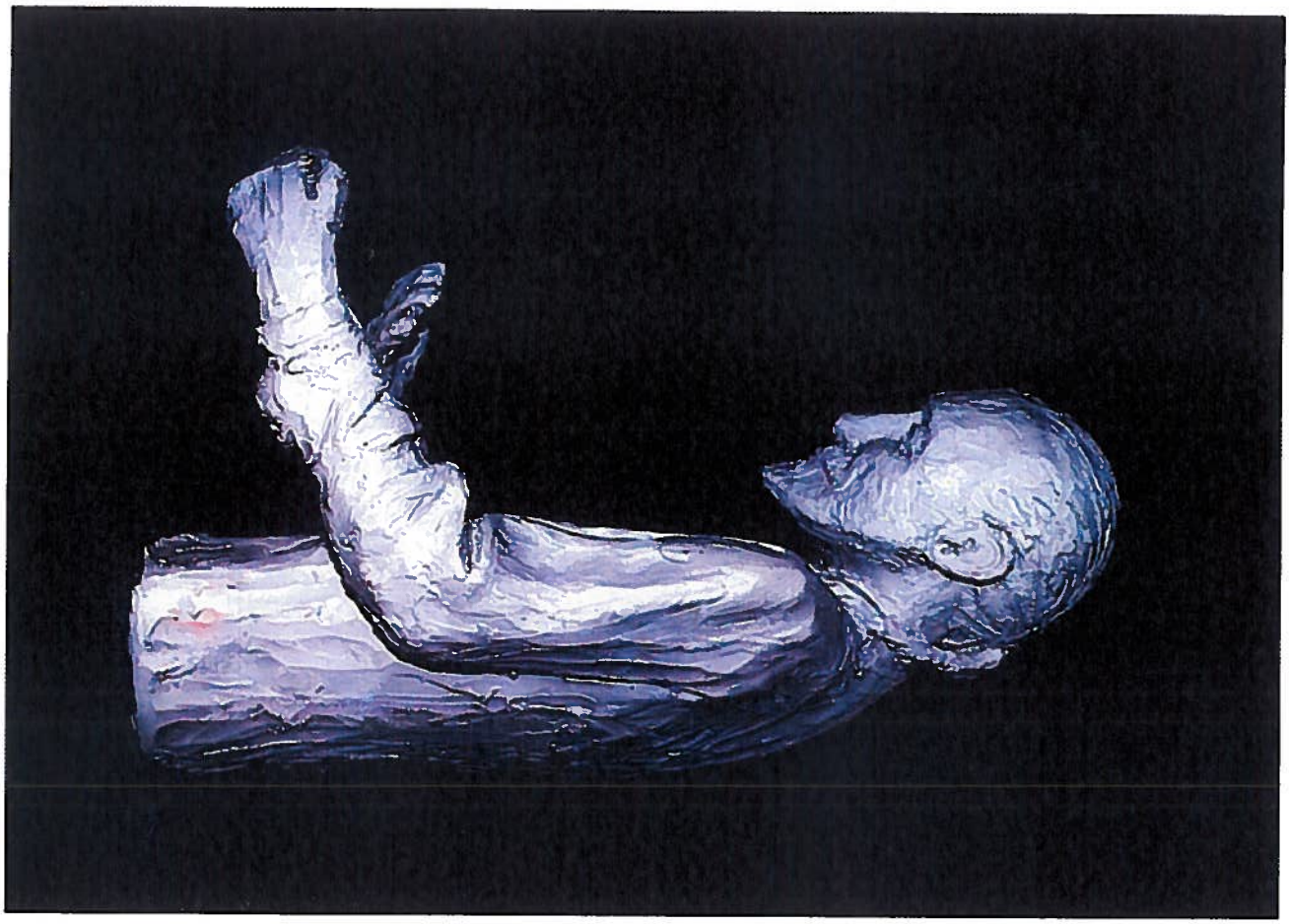
CITY CLERKS OFFICE

491 E. PIONEER AVENUE

HOMER, AK 99603

OR YOU MAY SUBMIT VIA FAX AT 907-235-3143 TO SUBMIT VIA EMAIL PLEASE SEND TO clerk@ci.homer.ak.us

IF YOU HAVE ANY QUESTIONS PLEASE FEEL FREE TO CONTACT THE CLERK'S OFFICE AT 235-3130.



Leo Vait

leovait@gmail.com

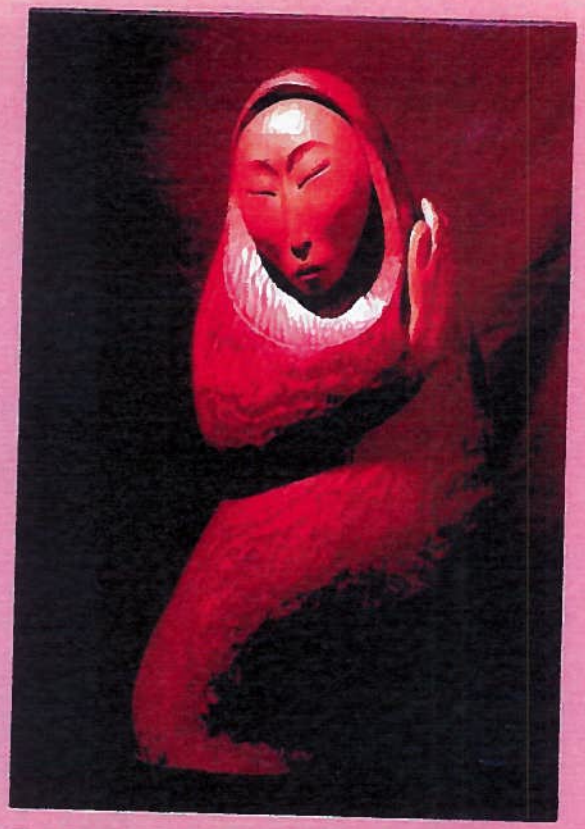
907.399.8025

Attending Southern Oregon University as an art major until 1975, I supported myself as a stonemason. Two years later, I started exhibiting painting, jewelry, and sculpture, using various mediums. Today my work has been shown in Oregon, Washington, and Alaska with the following notable purchases and/or commissions:

- Homer's Pratt Museum: one watercolor, two wood sculptures, and an installation piece to one of their exhibits
- Alaska State Council on the Arts: *Bone Music*, a major steel and concrete sculpture, located outside the Atwood Building in Anchorage. (2006 under the 1% for the Arts program)
- Kachemak Bay Campus, Homer: sign constructed of steel, wood, and concrete, located in the outside entryway

Over the last several years, my art has leaned toward functional commissions: fireplaces, doors, countertops, walkways, and furniture. Now, floating into those fabled "golden years," I have returned to exploring the human body through drawing, painting, and sculpture, an ancient human interest.

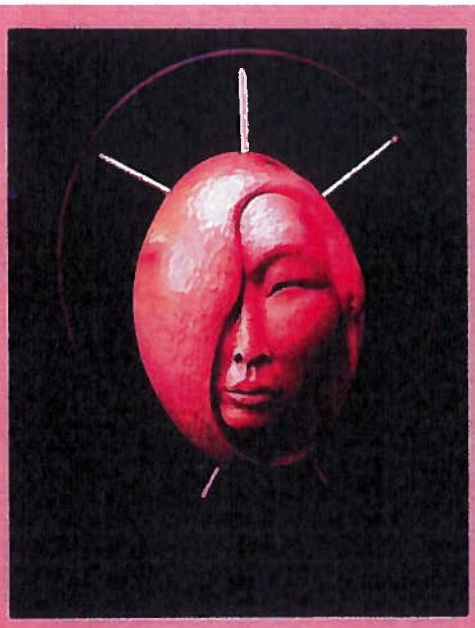
VAIT
IST



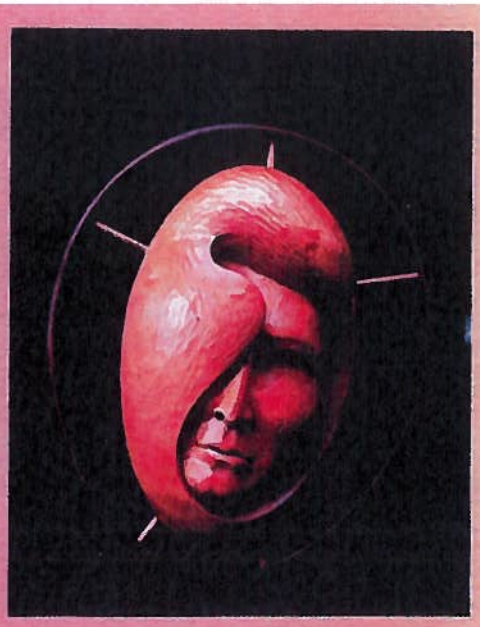
From the Seal Dance '86
30" X 14"
Yellow/Red Cedar
from the collection of:
The Pratt Museum

"Bone Music"
13' H x 15' W
welded steel · 2005

"Cindy"
lifesize
Clay '99



Heart of Crane '85
19" X 16"
Birch/Cedar
from the collection of:



Heart of Eagle '85
19" x 16"
Birch/Cedar
from the collection of:


Wisdom
Knowledge
W
K
F
L
Faith
Love
Joy to the World
for Thinking, Loving
and Understanding
The W.K.F.L. Park
is Dedicated to
The Great Spirit of Life


95 11 22

To: Whom It May Concern

From: James C Hornaday
Mayor Ex Officio
City of Homer

Date: 15 December 2013

Subject: Support for Brother Asaiah sculpture in WKFL Park

This letter is in support of a bronze bust of Brother Asaiah to be mounted on the rock in the WKFL Park. I understand it will be designed and built by local artist, Leo Vait. Brother Asaiah was a much beloved Homer character who was able to bring the various Homer groups together. His favorite saying was: "The kingdom of heaven is within you."

James C. Hornaday
Box 2489 Homer, AK

December 18, 2013

To Whom It May Concern,

When Mayor of Homer, 1996-2004, I always appreciated the presence of Brother Asaiah at Homer's City Council meetings. As with any governing body, there are struggles and triumphs, while opposing views and policies are hashed out in public. Whatever the issue, no matter the length of the meeting, Brother Asaiah stayed with us and the community to the end when he would thank everyone for their good work. He became an "ambassador of peace" summing up the issues with positive tolerance and humanitarian advocacy. All eyes and spirits turned to him for his wisdom, knowledge, faith, and love.

In the middle of this town is a small park that brings all walks of life and all forms of activism. Gatherings are allowed with respect and reverence for freedom of speech through peaceful assembly. It is only appropriate that Brother Asaiah's influence over this community be honored by an artist-rendered likeness to be placed on the large solid rock in WKFL Park which Brother donated to the City of Homer.

Sincerely,

Jack Cushing

CITY OF HOMER
HOMER, ALASKA

City Clerk/
Public Arts Committee

RESOLUTION 14-024

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AWARDING THE CONTRACTS FOR PARK SIGNAGE TO HANDPAINTED DESIGNS BY DAN COE OF ANCHOR POINT, ALASKA, IN THE AMOUNT OF $1,650.00 FOR JEFFREY PARK, BAYVIEW PARK, AND LOUIE'S LAGOON; TO LOST THINGS DESIGNS OF HOMER, ALASKA, IN THE AMOUNT OF $1,360.00 FOR THE JACK GIST PARK; AND APPROVING THE UNIFORM SIGN DESIGN CRITERIA AS STANDARDS FOR ALL CITY PARKS, TRAILS, BEACHES, AND RECREATIONAL AREAS.

WHEREAS, The Public Arts Committee (PAC) and the Parks and Recreation Advisory Commission (PRC) have worked toward the goal of implementing a standard uniform sign design criteria for city parks, trails, beaches, and recreational areas and created a joint Committee to determine the criteria; and

WHEREAS, In accordance with the Procurement Policy a Fax/Email Quote Request was submitted to local vendors with a due date of December 19, 2013; and

WHEREAS, Two quotes were received and reviewed by the Committee who in turn recommends awarding portions of the project to to both bidders.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, awards the contracts for park signage to Handpainted Designs by Dan Coe of Anchor Point, Alaska, in the amount of $1,650.00 for Jeffrey Park, Bayview Park, and Louie's Lagoon and to Lost Things Designs of Homer, Alaska, in the amount of $1,360.00 for Jack Gist Park.

BE IT FURTHER RESOLVED that the City Council approves the Uniform Sign Design Criteria developed by the Public Arts Committee and the Parks and Recreation Advisory Commission and establishes the standards for all city parks, trails, beaches, and recreational areas, as shown in attachment A.

PASSED AND ADOPTED by the Homer City Council this 27th day of January, 2014.

CITY OF HOMER

_____
MARY E WYTHE, MAYOR

ATTEST:

_____

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: $3,010 budgeted PAC account 156-0367.

City of Homer
www.cityofhomer-ak.gov

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
(p) 907-235-3130
(f) 907-235-3143

Memorandum 14-019

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: PARKS AND RECREATION ADVISORY COMMISSION

THROUGH: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JANUARY 21, 2014

SUBJECT: UNIFORM SIGNAGE DESIGN AND AWARD

BACKGROUND
As a courtesy to the Parks and Recreation Advisory Commission, Committee Chair Newby requested the proposals received on the uniform design be presented for consideration and recommendation from the commission.

This was brought before the commission by Parks Maintenance Coordinator Angie Otteson who served as a member of the joint committee during her report at the regular meeting on January 16, 2014.

No formal motion was made by the commission however they did express agreement with the decision made by the Public Arts Committee.

RECOMMENDATION:

No action required. Informational in nature.

Fax / Email Back Quote

Design, Construct and Install Signage for City Parks

Pre-Bid Site Visit Optional –
Thursday, December 5, 2013 2:00 PM
Meet at City Hall Cowles Council Chambers

Quote Due – Thursday, December 19, 2013, 4:30 PM
(Fax quote to City Clerk's Office – 235-3143)
or
(Email quote to rkrause@ci.homer.ak.us)

Anticipated NTP– January 15, 2014

Work to be Completed By – May 31, 2014

Hope you are interested in attending pre-bid site visit and providing a quote to complete the work described herein.

No bid, performance, or payment bond required. No prevailing wages rates or certified payroll required if contract amount is less than $25,000

Questions?

Call Renee Krause at 235-8121 ext 2224

Fax / Email Quote Form

City of Homer
Public Arts Committee and Parks & Recreation Advisory Commission
"Parks & Recreation Areas Uniform Signage Project"

Scope of Work – This work includes Attachment A and Attachment B and the following:

- Design, Construct and Install signage for the entrance or placement as directed in another visible location within the selected parks for placement of a three (3) foot wide by two (2) feet high sign using a Maritime Color palette, recycled or natural materials, Times New Roman or similar font Not to Exceed Two Thousand ($2,000) Dollars for the following parks:
    - Jeffrey Park on Ben Walters Lane in front of the Mental Health Facility
    - Bayview Park at the intersection of Main Street and Bayview Avenue
    - Louie's Lagoon on the Homer Spit, access is before the house boat
- Design, Construct and Install signage for the entrance or placement as directed in another visible location within the selected park for placement of a five (5) foot wide by four (4) foot high sign using a Maritime Color palette, recycled or natural materials and the Times New Roman font or similar Not to Exceed One Thousand ($1000) Dollars
    - Jack Gist Park on Adams Drive off of East End Road across from Williams Street
    - This park has been designated as a "unique" city park
- Provide and install approved methods of anchoring/posts appropriate for each location.
- Provide recommended maintenance schedule and instructions for materials used.
- Work will take place during normal business hours.
- All existing structures and infrastructure will have to be protected during construction.
- Contractor to provide all necessary equipment and materials to complete the project.
- Contractor will be expected to have Liability Insurance and Automobile Insurance at a Minimum.
- Jobsite will have to be clean and safe at the end of work day.
- All work shall be coordinated through City of Homer Parks Maintenance Coordinator Angie Otteson.

1) Base Bid

$_____ $_____
Lump Sum Price in Words Price in Numbers

Name of Company _____

Address of Company _____

_____

Signature of Company Representative _____

Printed Name of Company Representative _____

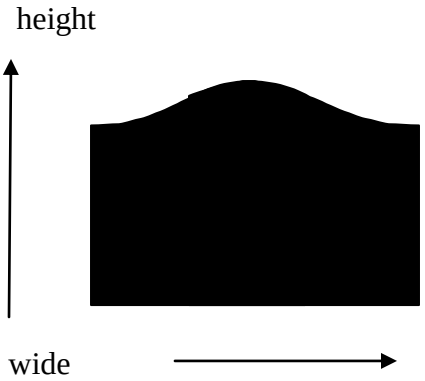
Phone # _____

Attachment A

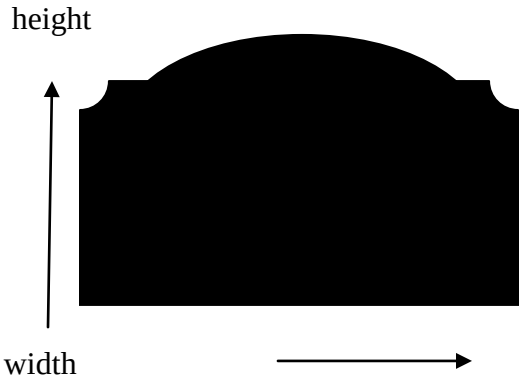
The following must be included or used in the design or construction process.

Preferred Sign shape(s) are shown below:

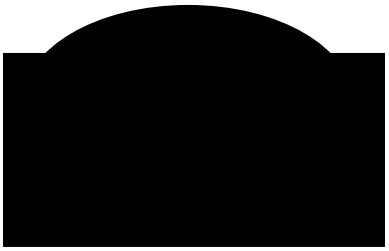
Shape 1



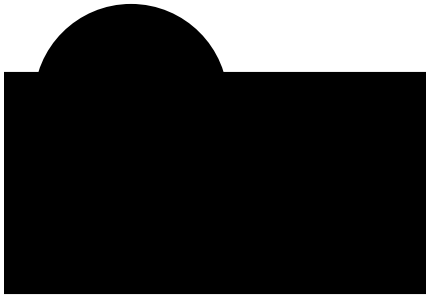
Shape 2



Shape 3



Shape 4



The shape of the sign selected will be used as a standard for all city parks, beaches and recreational areas in the future except those designated as unique. These signs will be three (3) feet in width by two (2) feet in height.

Those parks designated as unique would have a sign that is four (4) feet in height by five (5) feet in width and would reflect the usage, exceptional vista, or unique aspect/history of the park. These signs could have the same or different shape than the chosen uniform shape.

Attachment B

Below are samples of a Marine Color Palette. As with nature this can vary by tonality and is up to the discretion of the designer/artist/painter

Color Palette: Marine/Sea

Design Must Include New City Logo

Design must in include the following language within the sign design or can be located on the back

"Public Art Dollars at Work"

Renee Krause

From: Dan Coe <dcoes11@gmail.com>
Sent: Tuesday, December 17, 2013 11:40 PM
To: Renee Krause
Subject: Parks Signs Quote and proofs from Dan Coe
Attachments: bayview_proof.jpg; jeff_proof.jpg; louie_proof.jpg; jack_proof.jpg; side_detail.jpg; quote.pdf

Attached are proofs to scale along with a quote.
All signs will be hand painted on 2-sided MDO board with 1.5"x5.5" stringers attached to the back. No screws or hardware through the front of the signs.
The posts will be 5.5"x5.5" pressure treated and buried 4' underground with a cement foot at the base.
These signs are designed to last 20 years and guaranteed for 5 years against pealing, fading or materials failure.
This guarantee does not include vandalism or act of God.
I will be happy to sign any additional paperwork or answer any questions if interested.

--
Dan Coe
www.handpainteddesign.com
435-7299 (voice/text)

Handpainted - design · signs · art *by Dan Coe*
36765 Spruce Circle Rd., Anchor Point, AK 99556
907-435-7299 dcoes11@gmail.com www.handpainteddesign.com

Quote

Attention:	Renee Krause	Project Title:	Park Signs
Title:	CMC Deputy City Clerk	Project Description:	
Company Name:	City of Homer	P.O. Number:	
Address:			
City, State Zip Code:	Homer, AK 99603	Term:	
Date:	12/17/13		

Description	Quantity	Unit Price	Cost
"Bayview" sign 3'x2' painted 1-side 3/4"MDO			$375.00
Post and installation (5.5"x5.5")	1		$175.00
"Jeffery" sign 3'x2' painted 1-side 3/4"MDO			$375.00
Post and installation (5.5"x5.5")	1		$175.00
"Louie's" sign 3'x2' painted 1-side 3/4"MDO			$375.00
Post and installation (5.5"x5.5")	1		$175.00
"Jack Gist" sign 5'x4' painted 1-side 3/4"MDO			$950.00
Posts and installation (5.5"x5.5")	2		$400.00
		Subtotal	$3,000.00
	Tax	7.50%	TE
		Total	$3,000.00
		Deposit	$0.00
		Total Due	**$3,000.00**


CITY OF HOMER ALASKA
Bayview Park
6 foot
tall
person


CITY OF HOMER ALASKA
Jeffery Park
6 foot
tall
person


CITY OF HOMER ALASKA
Louie's Lagoon
6 foot
tall
person


CITY OF HOMER ALASKA
Jack Gist
Park
6 foot
tall
person


6 foot
tall
person

Renee Krause

From: Lost Things <lostthingsdesigns@yahoo.com>
Sent: Thursday, December 19, 2013 2:11 PM
To: Renee Krause
Subject: Park & Recreation Areas Uniform Signage Project
Attachments: JackGistPark.jpg; JeffreyPark.jpg; QuoteForm-LostThingsDesigns.pdf; BayviewPark.jpg; louieslagoon.jpg; LostThingsDesigns-P&RAreaUniformSignageProject.pdf

Renee,
I've attached Lost Things Designs proposal for the Parks & Recreation Areas Uniform Signage Project. There should be 4 images, and two .pdf documents attached. Please let me know that you received this email and if you need any additional info.
Thanks for considering us for this project.
Tracy Early
Lost Things Designs
907-299-8800

Lost Things

D E S I G N S

Specializing in reclaimed wood signs & home decor

609 Waddell St.
Homer, AK 99603
Phone: 907-299-8800; 208-874-2854
Email: lostthingsdesigns@yahoo.com

Prepared For:
Parks & Recreation Areas Uniform Signage Project
Attn: Renee Krause
City of Homer
Public Arts Committee and Parks & Recreation Advisory Commission

Invoice

Date
12-19-2013

Quantity	Item	Description	Unit Price	Total
1	*Custom Signage	Jeffery Park Sign on Ben Walters, size 3' wide by 2' high	$ 380	$380
1	*Custom Signage	Bayview Park Sign on Main Street, size 3' wide by 2' high	$380	$380
1	*Custom Signage	Louie's Lagoon on Homer Spit, size 3' wide by 2' high	$380	$380
1	*Custom Signage	Jack Gist Park on Adams Drive, size 5' wide by 4' high	$1000	$1000
5	Installation	**Installed by Beachy Construction	$ 360	$1800
		*All signs will be made out of reclaimed wood. Wood type to be determined based on availability at time of construction. All signs should be resealed periodically to protect against weathering.		
		**Installed sonotube posts in ground to depth of 4', utilizing BigFoot anti-heaving system. Bracket 4"x4" brown treated post to sonotube. Install posts to desired sign height. Secure sign to posts using lag-style screws.		
			Total Proposal	$3940.00
			Balance Total	$3940.00

Fax / Email Quote Form

City of Homer
Public Arts Committee and Parks & Recreation Advisory Commission
"Parks & Recreation Areas Uniform Signage Project"

1) Base Bid

$ Three thousand nine-hundred forty + NO/100

Lump Sum Price in Words

$ 3940.00

Price in Numbers

Name of Company Lost Things Designs

Address of Company 609 Waddell St.

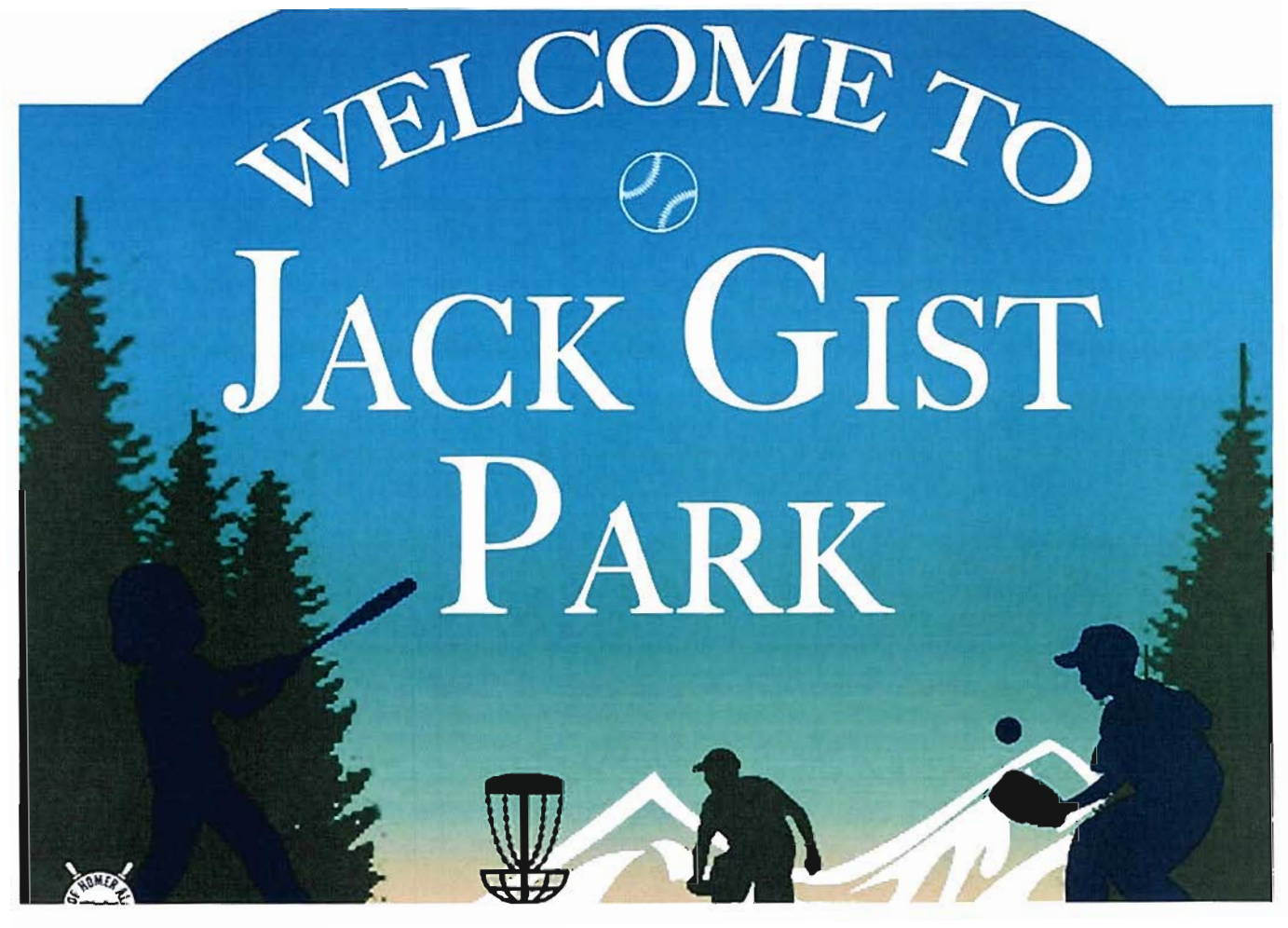
Homer, AK 99603

Signature of Company Representative

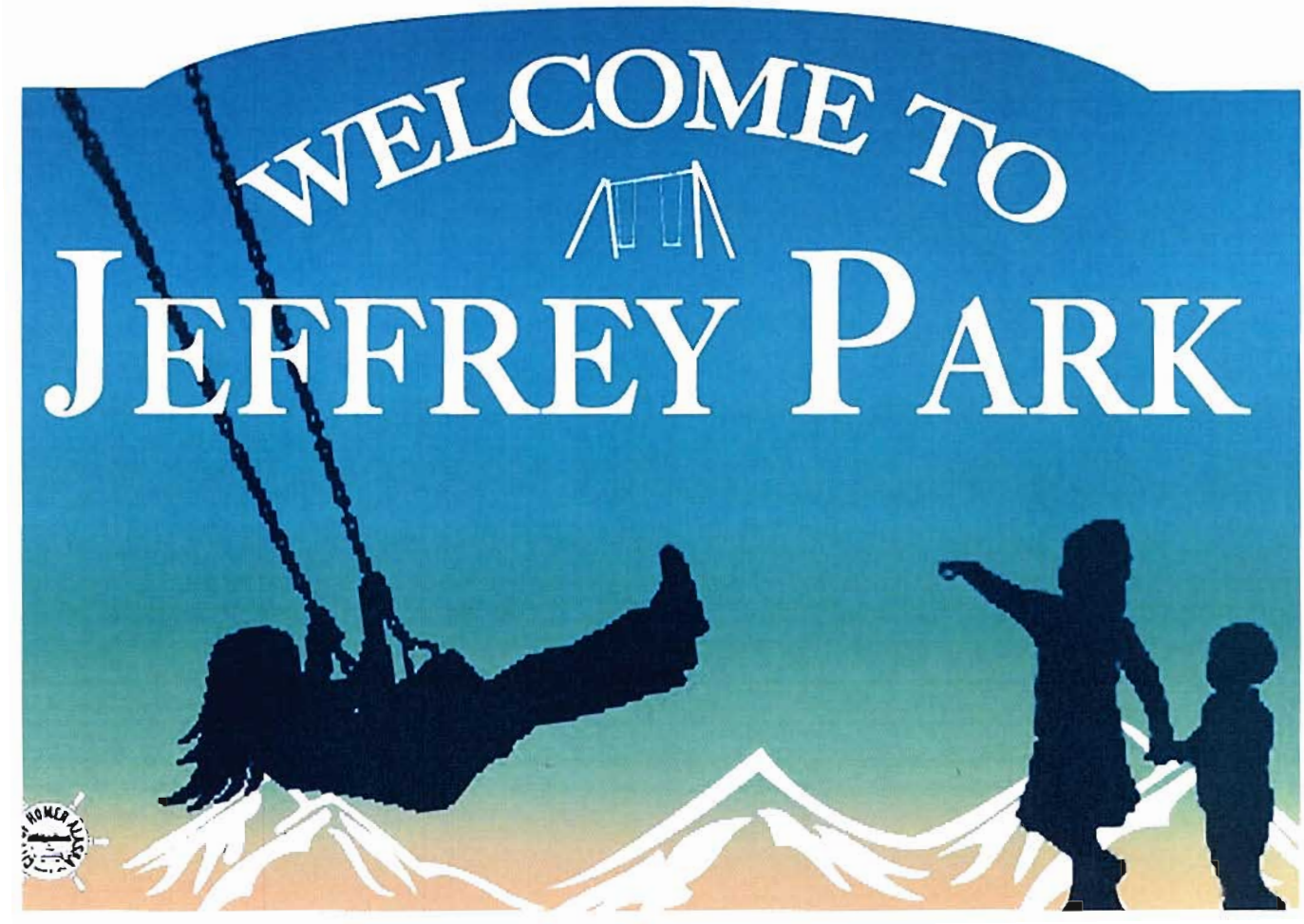
Printed Name of Company Representative Tracy Earty

Phone # 299-8800 Fax#

Email # lostthingsdesigns@yahoo.com


WELCOME TO
JACK GIST
PARK


WELCOME TO
LOUIE'S
LAGOON


WELCOME TO
JEFFREY PARK


WELCOME TO
BAYVIEW PARK
CITY OF HOMER ALASKA

COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT