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**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 14-081

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
APPROVING A MEMORANDUM OF AGREEMENT BETWEEN
THE ALASKA DEPARTMENT OF TRANSPORTATION AND
PUBLIC FACILITIES (ADOT/PF) AND THE CITY OF HOMER
REGARDING HOMER FERRY TERMINAL IMPROVEMENTS AT
THE PIONEER DOCK.

WHEREAS, The Pioneer Dock is owned by the City of Homer and serves as the Alaska
Marine Highway System (AMHS) Homer Ferry Terminal pursuant to a 2001 Memorandum of
Agreement and a 2010 Lease and Relinquishment Agreement signed by the parties; and

WHEREAS, AMHS has access to funding and wishes to make capital improvements at
the Pioneer Dock which would improve dock access and berthing for ferry vessels making port
calls in Homer; and

WHEREAS, The City of Homer appreciates the economic and intermodal transportation
benefits associated with the AMHS presence in the community; and

WHEREAS, Improvements to the Pioneer Dock will benefit AMHS, the Port of Homer,
and the local economy at large; and

WHEREAS, DOT/PF and AMHS engineers and project managers have consulted with
the City regarding the design and functionality of the proposed improvements and
incorporated the City's comments and concerns where appropriate; and

WHEREAS, The City Administration has agreed to the scope and design of the
proposed improvements; and

WHEREAS, The City Administration and the City Attorney have reviewed the proposed
MOA and recommend approval.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves the
proposed Memorandum of Agreement between the Alaska Department of Transportation and
Public Facilities and the City of Homer regarding improvements to the Ferry Terminal at the
Pioneer Dock, a copy of which is attached and incorporated herein.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the final
document and to agree to minor amendments to the draft that are not substantive in nature.

46 PASSED AND ADOPTED by the Homer City Council on this 28th day of July, 2014.

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CITY OF HOMER

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MARY E. WYTHE, MAYOR

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53 ATTEST:

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JO JOHNSON, MMC, CITY CLERK

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59 Fiscal Note: N/A



MEMORANDUM OF AGREEMENT
Between
STATE OF ALASKA
Department of Transportation and Public Facilities

And
CITY OF HOMER
Regarding
Homer Ferry Terminal Improvements
State Project #68223

The State of Alaska, Department of Transportation and Public Facilities (DOT&PF) and the City of Homer, Alaska (City) enter this Memorandum of Agreement (Agreement). It becomes effective once executed by both parties.

RECITALS

WHEREAS, DOT&PF is responsible for the planning, design, and construction of state transportation facilities, AS 44.42.020;

WHEREAS, this Agreement concerns improvements to a state ferry terminal that forms part of the state highway system;

WHEREAS, state law authorizes DOT&PF to cooperate, coordinate, and enter agreements relating to highways with local government entities, AS 19.05.040(10), AS 44.42.020(a)(6);

WHEREAS, the City is a first class city and empowered to enter agreements with the State, AS 29.35.010(13);

WHEREAS, the City and DOT&PF (the Parties) entered a 2001 Memorandum of Agreement (2001 MOA) that resulted in construction of the Multi-Purpose Ocean Dock - commonly known as the "Pioneer Dock" - (Dock) at the Alaska Marine Highway System Ferry Terminal (Terminal) in Homer, Alaska;

WHEREAS, as stated in the 2001 MOA, the State of Alaska possesses a legal interest in the Dock;

WHEREAS, the Parties entered a 2010 Lease & Relinquishment Agreement (2010 Lease);

WHEREAS, the 2001 MOA and the 2010 Lease address rights and responsibilities of the Parties concerning the Dock and the Terminal;

WHEREAS, the Parties do not intend for this Agreement to affect the respective rights or responsibilities addressed in the 2001 MOA or the 2010 Lease except as (1) temporarily necessary to achieve the timely and successful completion of the project addressed in this Agreement (Project) and (2) identified in this Agreement;

WHEREAS, DOT&PF has budgeted funds for certain improvements to the Dock and the Terminal to be performed in the Project;

WHEREAS, the Parties will cooperate to achieve timely and successful completion of the Project;

WHEREAS, the Homer City Council has approved Resolution No. 14-081, which authorizes the City to enter this Agreement;

WHEREAS, the Parties wish to memorialize the key elements of their agreement concerning the Project and their respective rights and responsibilities in relation thereto;

NOW, THEREFORE, in consideration of the mutual undertakings addressed in this Memorandum, the parties agree as follows:

TERMS OF AGREEMENT

I. Incorporation

The Parties agree the foregoing Recitals are true and correct and incorporate them into this Agreement by reference.

II. Project Purpose and Scope

The purpose of this project is to improve access and berthing for the Alaska Marine Highway System (AMHS) ferry vessels in Homer. Anticipated project activities include the following:

- Refurbish four existing dock fender panels;
- Replace a fifth dock fender panel with a wrap-around panel and add two 24-inch diameter steel pin piles;
- Install four new dock fender panels to decrease spacing between existing fenders; each panel includes two 24-inch diameter steel pin piles (for a total of eight new 24" steel piles);
- Relocate existing catwalk and install new catwalk support structure that includes two 24-inch diameter steel piles;
- Modify fender panels on two existing mooring dolphins;
- Repair, replace, or provide new mooring bollard(s) on dock surface;
- Add a covered pedestrian walkway to east approach; and
- Conduct other assorted minor dock refurbishment measures above High Tide Line (HTL), as necessary.

Illustrative drawings of Project improvements are attached hereto as Exhibit 1.

III. Project Responsibilities

(A) DOT&PF's responsibilities include:

- (1) Review and approve the Project budget;
- (2) Prepare Plans, Specifications, and Estimate (PS&E) package;
- (3) Develop the Project with DOT&PF staff and/or contracted professional services;
- (4) Administer all aspects of Project procurement and resulting contracts;
- (5) Seek City comment on Project design and scheduling;
- (6) Pay all Project costs, fees, and expenses from appropriated Project monies;
- (7) Comply with applicable statute, regulations, codes, and standards regarding administration, design, and construction of the Project.

(B) The City's responsibilities include:

- (1) Prompt review and comment on any matter that DOT&PF submits for the City's input;
- (2) In response to reasonable request, authorize DOT&PF and its contractors to conduct Project-related work on City property and provide DOT&PF with construction easements and such other accommodations as may be necessary to satisfy the needs of the Project; and
- (3) Ensure that use of the Dock and/or Terminal by the City and authorized persons does not conflict with or impede Project administration, Project scheduling, or Project-related activities of AMHS, DOT&PF, or Project contractors.

IV. Final Inspection

The City may participate in DOT&PF's final inspection of the Project. However, DOT&PF will determine when the Project reaches substantial completion. As used in this Agreement, "substantial completion" means the point at which:

- (A) The newly constructed dock improvements and any appurtenant structures, utilities, fencing, signage, markings, and safety/security features (Facility) are installed and completed, with the exception of minor punch list items;
- (B) AMHS and the public can safely and effectively use the Facility without further delays, impediments, or disruptions; and
- (C) DOT&PF's Project team issues a letter to the contractor acknowledging that the Project has reached substantial completion.

XII. Notification

When any written notice, request, direction, or other communication is necessary, the Parties will deliver it in person, by certified mail, or by email addressed to the party for whom it is intended, as follows:

DOT&PF: Regional Director
 DOT&PF, SE Region,
 6860 Glacier Hwy, MS-2506

Juneau, Alaska 99811-2506
Ph: 907/465-1762
Current addressee: al.clough@alaska.gov

City: City Manager
City of Homer
491 East Pioneer Ave.
Homer, AK 99603
Ph: 907/235-8121
Current addressee: Walt Wrede, citymanager@cityofhomer-ak.gov

XIII. Miscellaneous Provisions

(A) Each Party represents and warrants to the other that (i) it is duly organized, validly existing and in good standing under the laws under which it is organized; (ii) it has the power and authority to enter into this Agreement and to perform fully its obligations hereunder; (iii) the individual executing this Agreement on its behalf has the authority to do so; (iv) the obligations created by this Agreement, insofar as they purport to be binding on it, constitute legal, valid and binding obligations enforceable in accordance with their terms; and (v) it is under no contractual or other legal obligation that shall in any way interfere with its full, prompt and complete performance hereunder.

(B) This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns, if any.

(C) This Agreement shall not be construed as creating the relationship of principal-agent, master-servant, partnership, or joint venture between the Parties. Neither Party shall have authority to make any statements, representations, or commitments of any kind or to take any action that is binding on the other, except as explicitly provided herein or authorized by the other Party in writing.

(D) Neither Party may assign any portion of this Agreement or any benefits or rights arising under the Agreement without the written consent of the other.

(E) No supplement, modification, or amendment of this Agreement is binding unless executed in a writing signed by the authorized representative of the Party to be bound thereby. No provisions of this Agreement may be waived unless done in writing and signed by the authorized representative of the Party to be charged therewith. Waiver of any one provision shall not be deemed to be a waiver of any other provision.

(F) Waiver by a Party of any default by the other will not be deemed a waiver of rights concerning any subsequent default.

(G) The headings used in this Agreement are for convenience only and shall not be deemed to limit or affect any of the provisions of the Agreement.

(H) This Agreement shall not be construed as conferring any legal rights, privileges, or immunities or as imposing any legal duties or obligations on any person or persons other than the parties named in this Agreement.

(I) The City is not an intended beneficiary of any contracts between the DOT&PF and any contractors, subcontractors or consultants or any other third parties, and has no contractual rights with respect to such contracts or any provisions thereof, unless expressly stated otherwise.

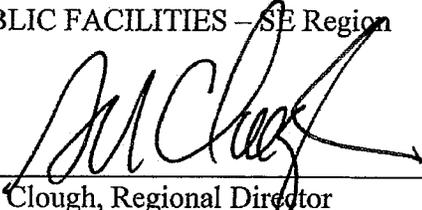
(J) This Agreement has been jointly negotiated and drafted by the parties, and both parties have had the ability and opportunity to consult with legal counsel prior to signature. The Agreement shall not be construed for or against either party.

(K) If a court of competent jurisdiction holds any portion of this Agreement invalid, the invalid portion will be severed and will not affect the validity of the remainder.

(L) The provisions of this MOA, the 2001 MOA and the 2010 Lease constitute the whole of the agreement between the Parties with respect their subject matter; no separate understandings or side agreements exist.

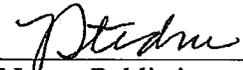
Dated: 8.4.2014

DEPARTMENT OF TRANSPORTATION
& PUBLIC FACILITIES – SE Region

By: 
Al Clough, Regional Director

SUBSCRIBED AND SWORN TO before me this 4th day of August, 2014.




Notary Public in and for Alaska
My commission expires: 2/1/2018

Dated: 8/5/14

CITY OF HOMER

By:  AUG. 5, 2014

SUBSCRIBED AND SWORN TO before me this 5 day of August, 2014.

ANDREA BROWNING
Notary Public
State of Alaska
My Commission Expires
With Office

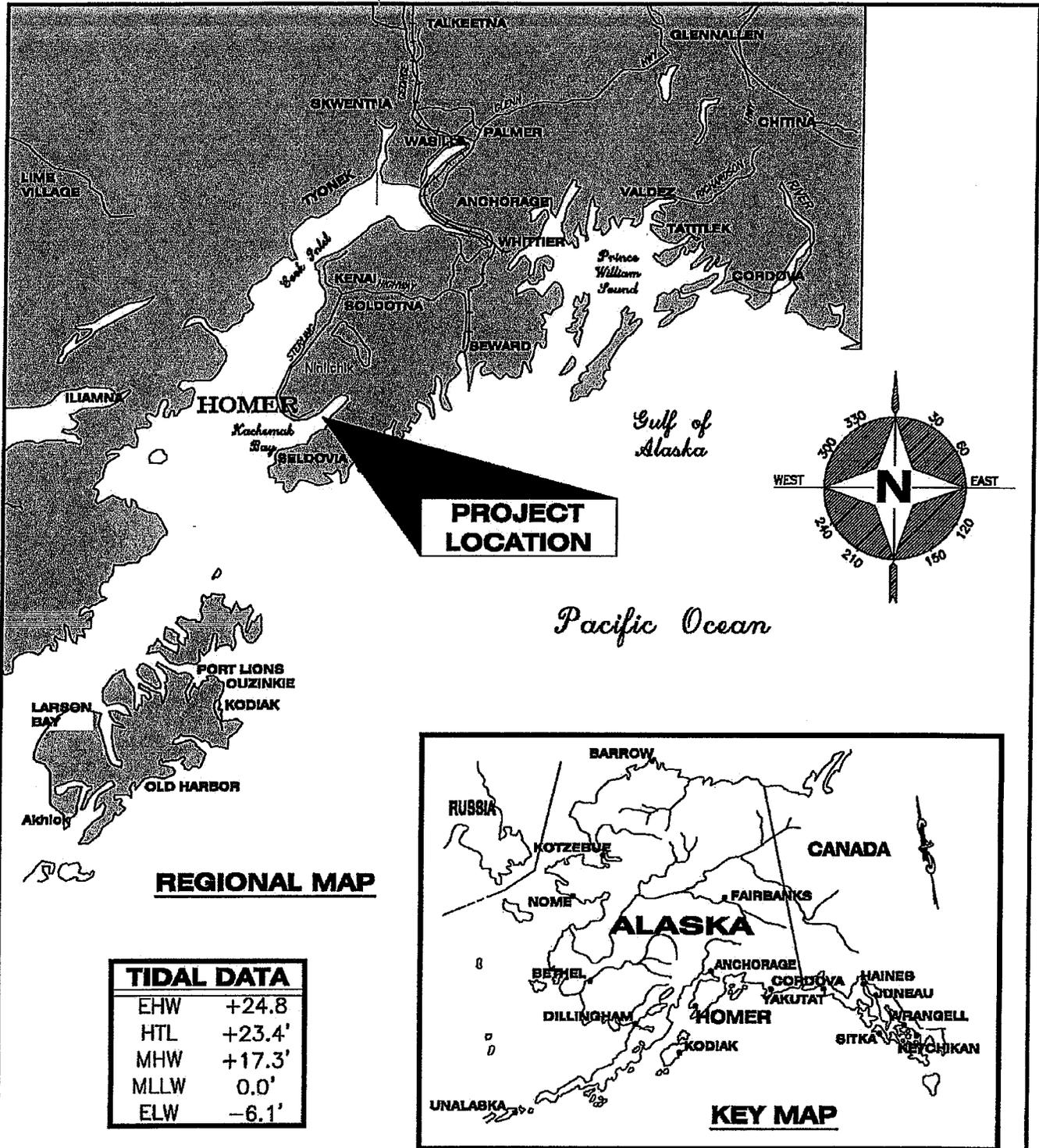
Andrea Browning
Notary Public in and for Alaska
My commission expires: w/ OFFICE

Acknowledgment of the Homer City Council

BE IT REMEMBERED that on the 28th day of July, 2014 at a regular meeting of the Homer City Council, the Council granted its approval of the foregoing instrument.

Dated: 8/05/14

[Signature]
Clerk, City of Homer



PROJECT PURPOSE:
FERRY TERMINAL IMPROVEMENTS

ADJACENT PROPERTY OWNERS:
STATE OF ALASKA
CITY OF HOMER

KEY & REGIONAL MAPS

APPLICATION BY:
STATE OF ALASKA
DEPT. OF TRANSPORTATION & PUBLIC FACILITIES
SOUTHEAST REGION

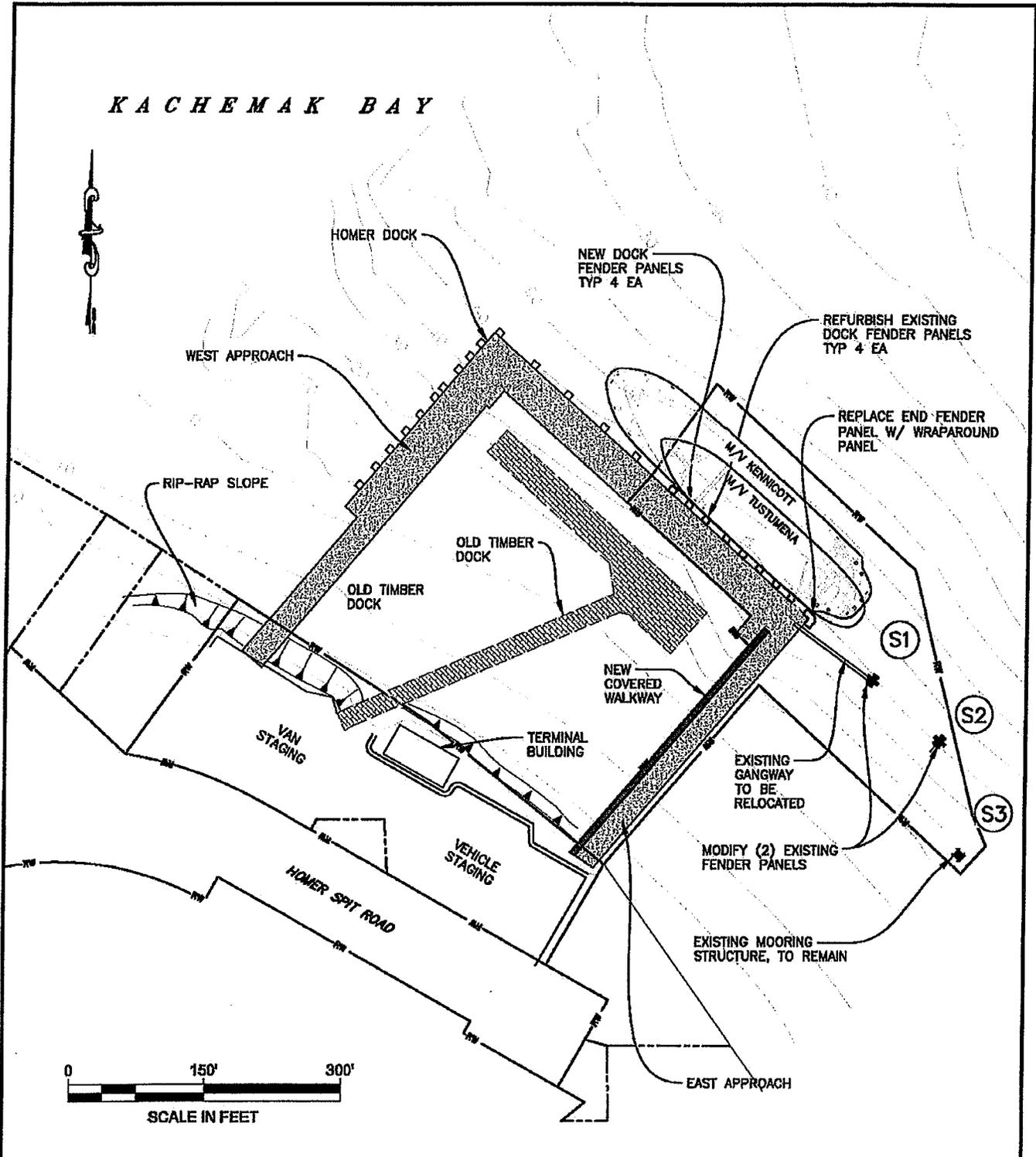
HOMER FERRY TERMINAL IMPROVEMENTS

PROJECT NO. 68223
AT: HOMER, ALASKA
LOCATED IN: T7S, R13W, SECTION 1
SEWARD MERIDIAN
LAT. 59° 38' 08.7" N
LONG. 151° 24' 33.6" W

DATE: MARCH 2014 SHEET 1 OF 6

LOWELL, DAVID H (DOT)

Q:\HOM\68223\MF\ENVIRONMENTAL\COE\68223 HOMER CITY DOCK COE_2-6.DWG



PROJECT PURPOSE:
 FERRY TERMINAL IMPROVEMENTS

ADJACENT PROPERTY OWNERS:
 STATE OF ALASKA
 CITY OF HOMER

SITE LAYOUT

APPLICATION BY:
 STATE OF ALASKA
 DEPT. OF TRANSPORTATION & PUBLIC FACILITIES
 SOUTHEAST REGION

HOMER FERRY TERMINAL IMPROVEMENTS
 PROJECT NO. 68223

AT: HOMER, ALASKA
LOCATED IN: T7S, R13W, SECTION 1
 SEWARD MERIDIAN
 LAT. 58° 36' 08.7" N
 LONG. 151° 24' 33.8" W

DATE: MARCH 2014 SHEET 2 OF 7

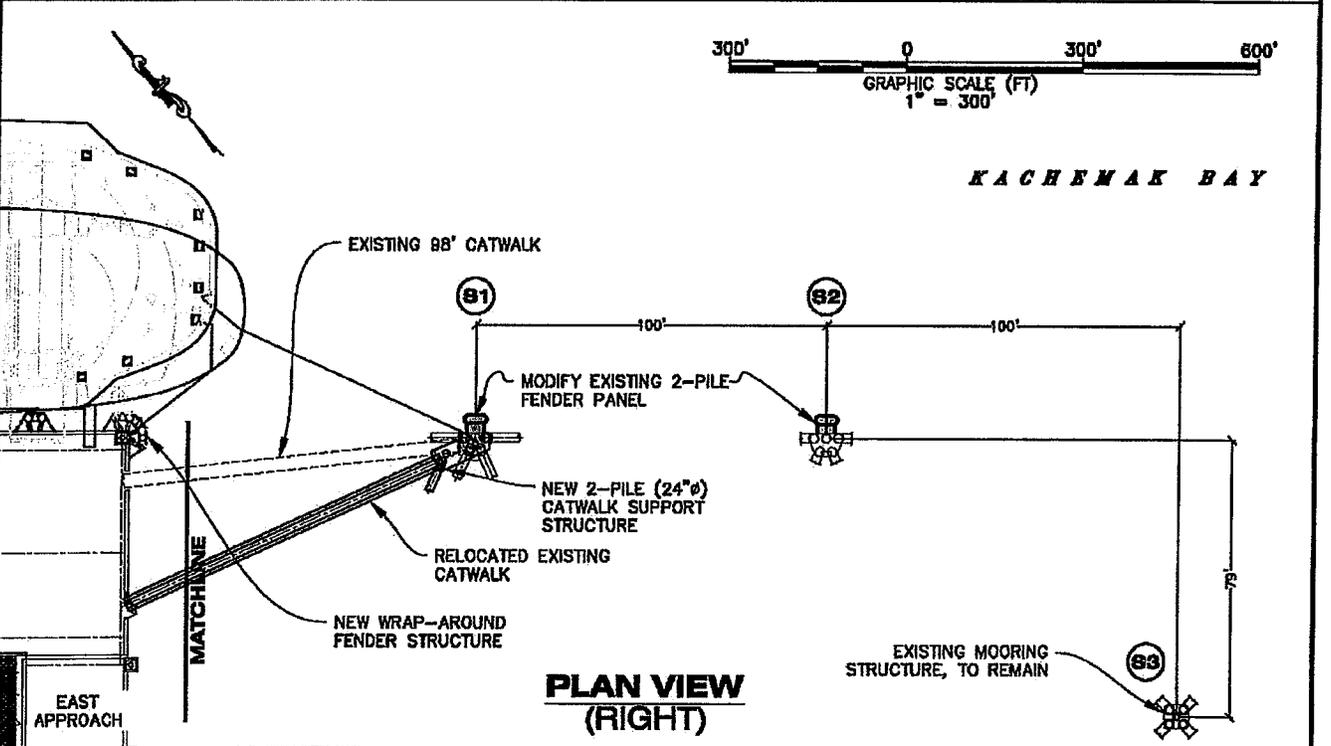
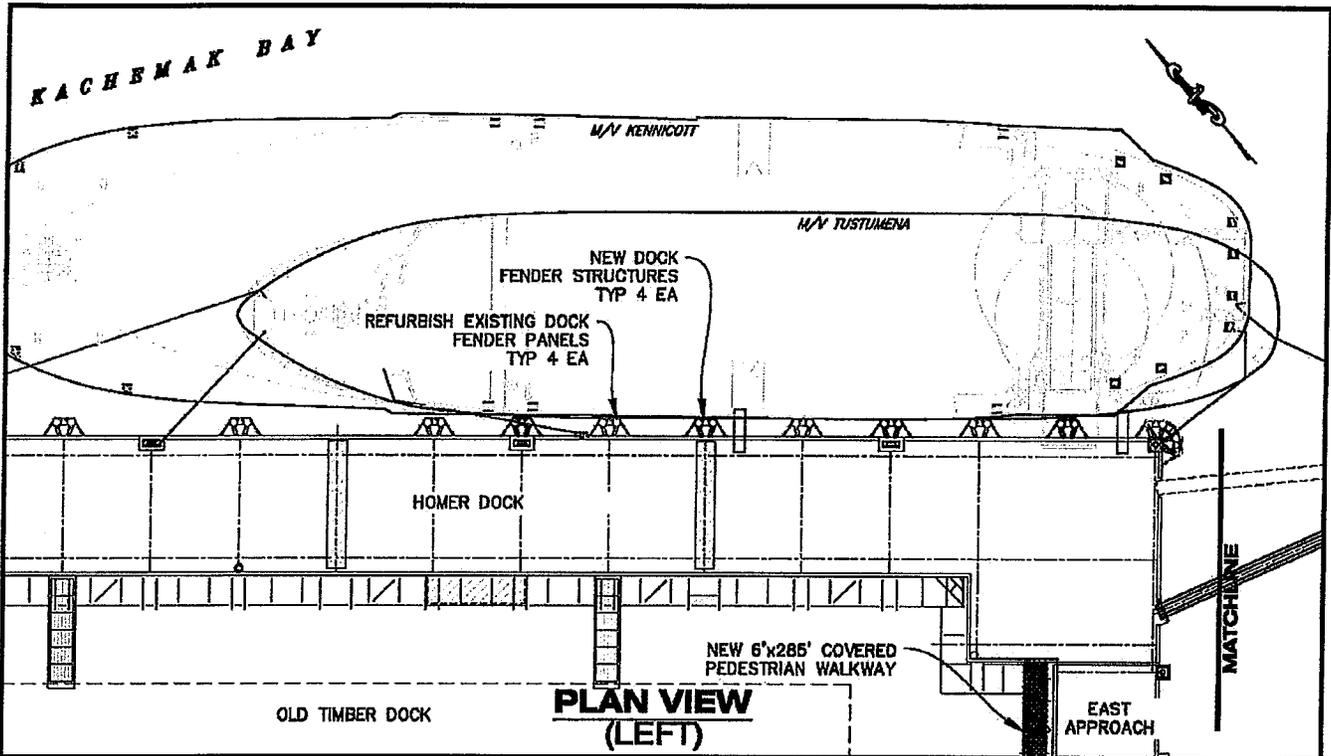
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Memorandum of Agreement:
Homer Ferry Terminal Improvements (Project #68223)

Exhibit 1
Page 2 of 7

LOWELL, DAVID H (DOT)

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PROJECT PURPOSE:
FERRY TERMINAL IMPROVEMENTS

ADJACENT PROPERTY OWNERS:
STATE OF ALASKA
CITY OF HOMER

PLAN VIEWS

APPLICATION BY:
STATE OF ALASKA
DEPT. OF TRANSPORTATION & PUBLIC FACILITIES
SOUTHEAST REGION

HOMER FERRY TERMINAL IMPROVEMENTS

PROJECT NO. 68223
AT: HOMER, ALASKA
LOCATED IN: T7S, R13W, SECTION 1
SEWARD MERIDIAN
LAT. 59° 38' 08.7" N
LONG. 151° 24' 33.6" W

DATE: MARCH 2014 SHEET 3 OF 7

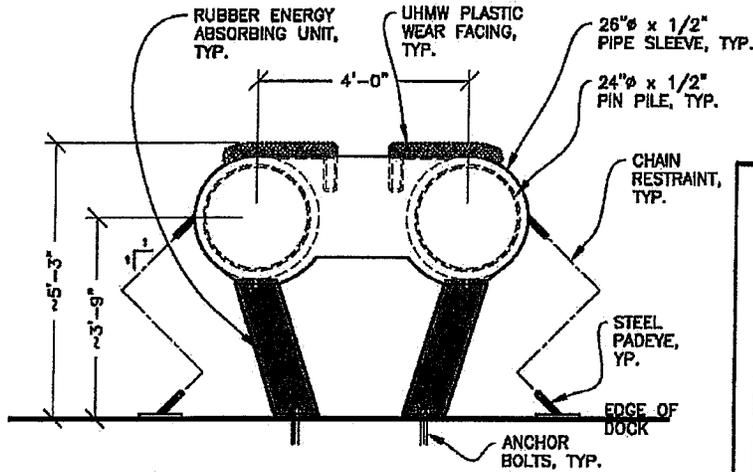
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Memorandum of Agreement:
Homer Ferry Terminal Improvements (Project #68223)

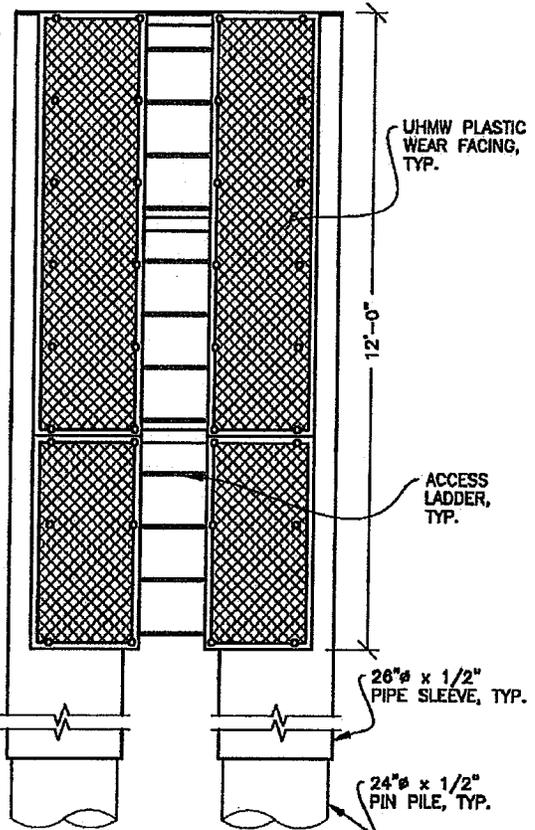
Exhibit 1
Page 3 of 7

LOWELL, DAVID H (DOT)

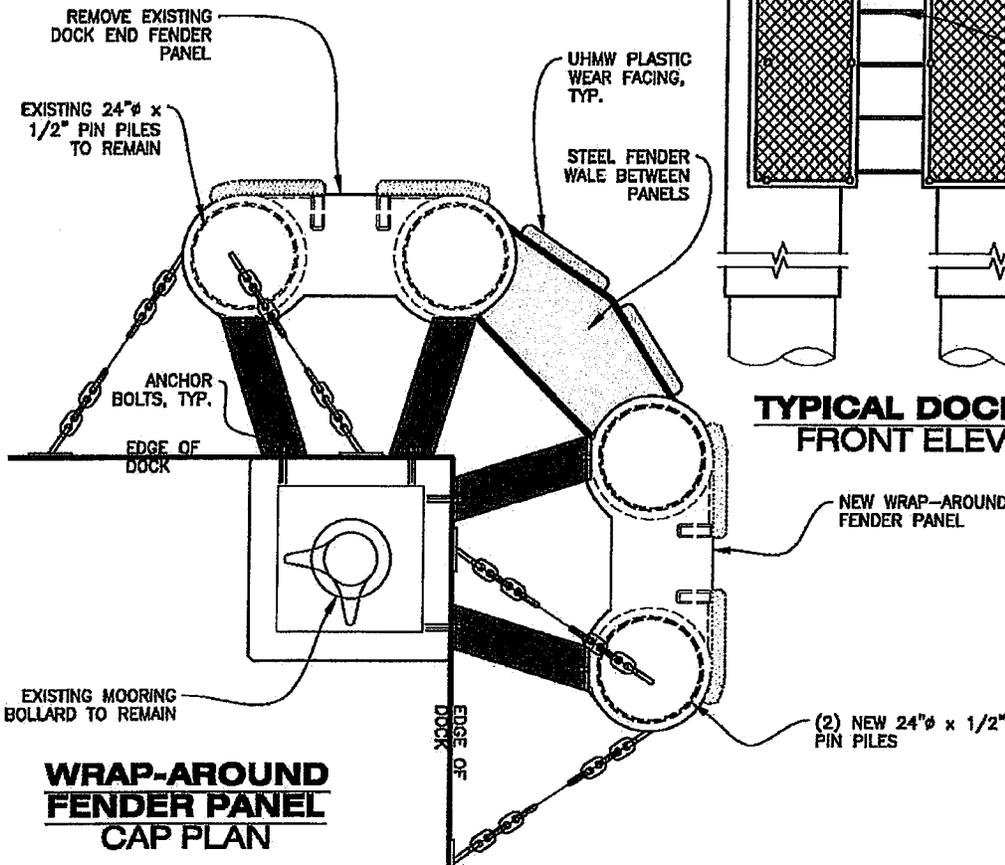
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**TYPICAL DOCK PANEL
CAP PLAN**



**TYPICAL DOCK PANEL
FRONT ELEVATION**



**WRAP-AROUND
FENDER PANEL
CAP PLAN**

PROJECT PURPOSE:
FERRY TERMINAL IMPROVEMENTS

ADJACENT PROPERTY OWNERS:
STATE OF ALASKA
CITY OF HOMER

DOCK FENDER PANELS

APPLICATION BY:
STATE OF ALASKA
DEPT. OF TRANSPORTATION & PUBLIC FACILITIES
SOUTHEAST REGION

HOMER FERRY TERMINAL IMPROVEMENTS

PROJECT NO. 68223
AT: HOMER, ALASKA
LOCATED IN: T7S, R13W, SECTION 1
SEWARD MERIDIAN
LAT. 59° 35' 08.7" N
LONG. 151° 24' 33.8" W

DATE: MARCH 2014 SHEET 4 OF 7

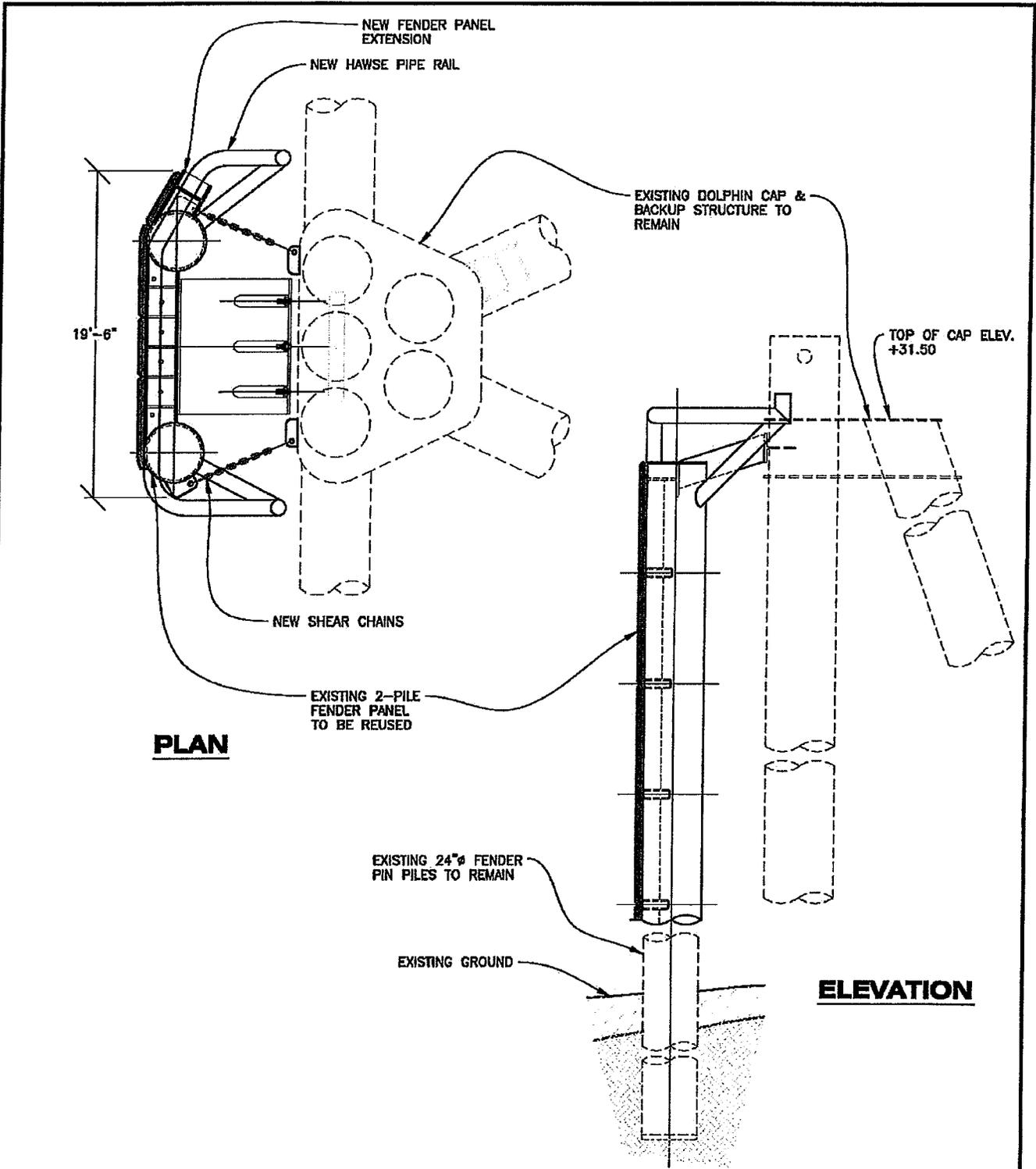
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Memorandum of Agreement:
Homer Ferry Terminal Improvements (Project #68223)

Exhibit 1
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LOWELL, DAVID H (DOT)

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PROJECT PURPOSE:
FERRY TERMINAL IMPROVEMENTS

ADJACENT PROPERTY OWNERS:
STATE OF ALASKA
CITY OF HOMER

NEW DOLPHIN FENDER PANEL

APPLICATION BY:
STATE OF ALASKA
DEPT. OF TRANSPORTATION & PUBLIC FACILITIES
SOUTHEAST REGION

HOMER FERRY TERMINAL IMPROVEMENTS
PROJECT NO. 68223

AT: HOMER, ALASKA
LOCATED IN: T7S, R13W, SECTION 1
SEWARD MERIDIAN
LAT. 58° 38' 08.7" N
LONG. 151° 24' 33.6" W

DATE: MARCH 2014 SHEET 5 OF 7

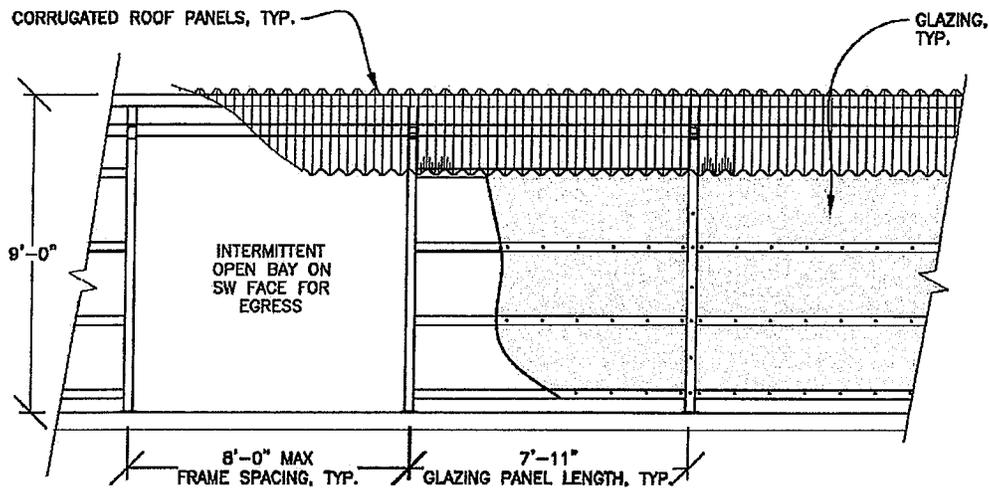
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Memorandum of Agreement:
Homer Ferry Terminal Improvements (Project #68223)

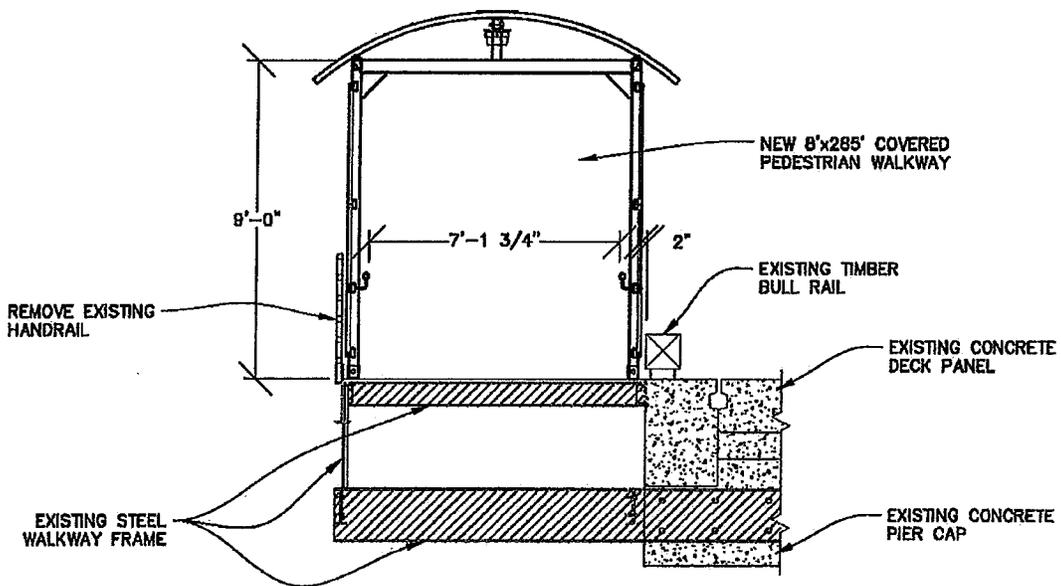
Exhibit 1
Page 5 of 7

LOWELL, DAVID H (DOT)

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SIDE ELEVATION



FRONT ELEVATION

PROJECT PURPOSE:
FERRY TERMINAL IMPROVEMENTS

ADJACENT PROPERTY OWNERS:
STATE OF ALASKA
CITY OF HOMER

NEW COVERED WALKWAY

APPLICATION BY:
STATE OF ALASKA
DEPT. OF TRANSPORTATION & PUBLIC FACILITIES
SOUTHEAST REGION

HOMER FERRY TERMINAL IMPROVEMENTS
PROJECT NO. 68223

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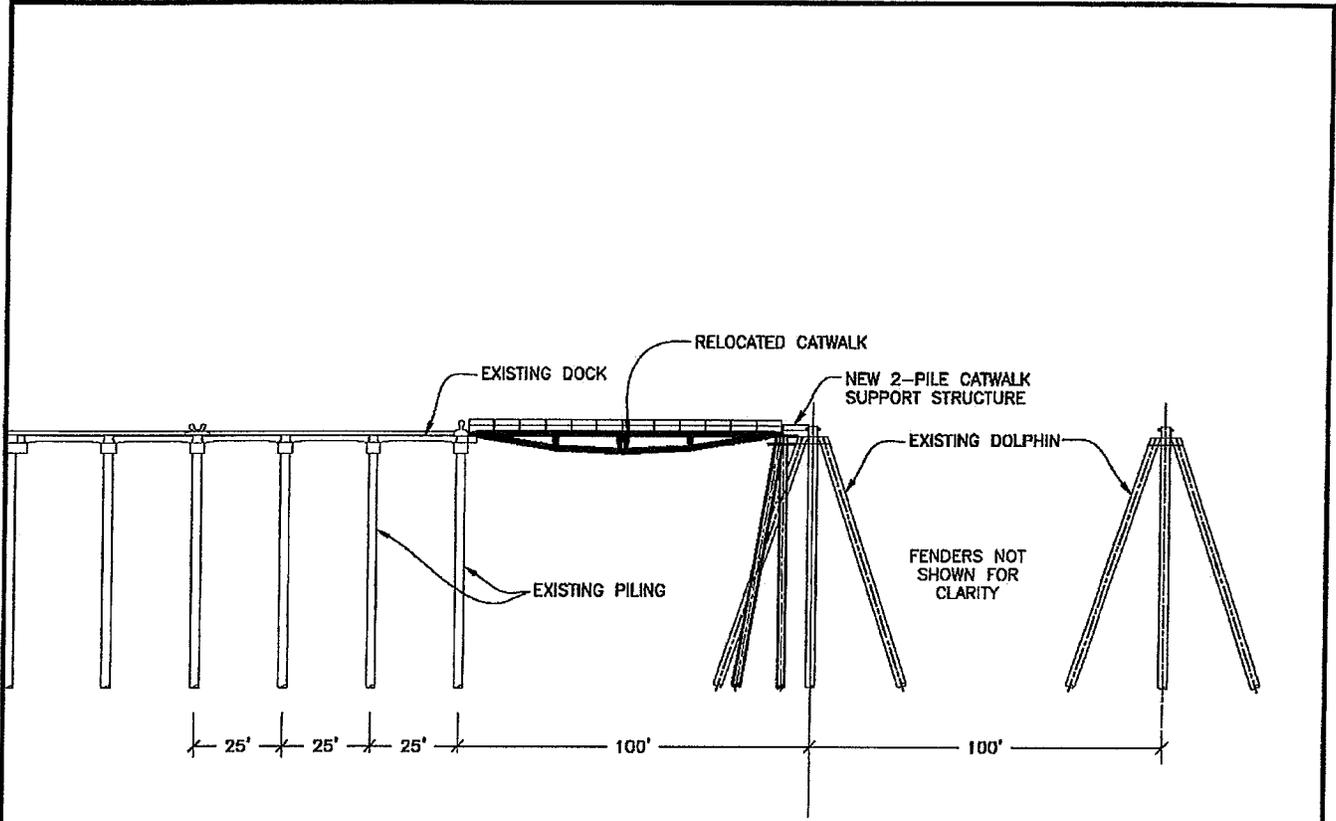
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Memorandum of Agreement:
Homer Ferry Terminal Improvements (Project #68223)

Exhibit 1
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LOWELL, DAVID H (DOT)

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ELEVATION

<p>PROJECT PURPOSE: FERRY TERMINAL IMPROVEMENTS</p> <p>ADJACENT PROPERTY OWNERS: STATE OF ALASKA CITY OF HOMER</p>	<p>CATWALK ELEVATION</p> <p>APPLICATION BY: STATE OF ALASKA DEPT. OF TRANSPORTATION & PUBLIC FACILITIES SOUTHEAST REGION</p>	<p>HOMER FERRY TERMINAL IMPROVEMENTS PROJECT NO. 68223</p> <p>AT: HOMER, ALASKA LOCATED IN: T7S, R13W, SECTION 1 SEWARD MERIDIAN LAT. 59° 36' 08.7" N LONG. 151° 24' 33.6" W</p> <p>DATE: MARCH 2014 SHEET <u>7</u> OF <u>7</u></p>
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Wednesday, January 29, 2014 9:37:03 AM

Memorandum of Agreement:
Homer Ferry Terminal Improvements (Project #68223)

Exhibit 1
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