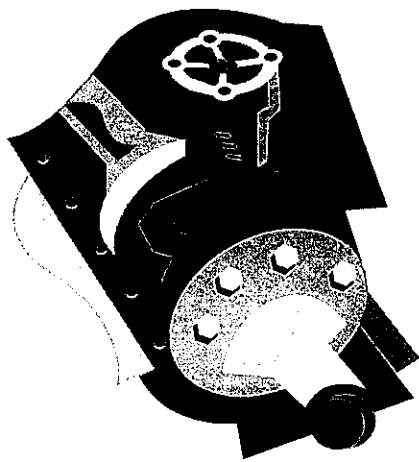
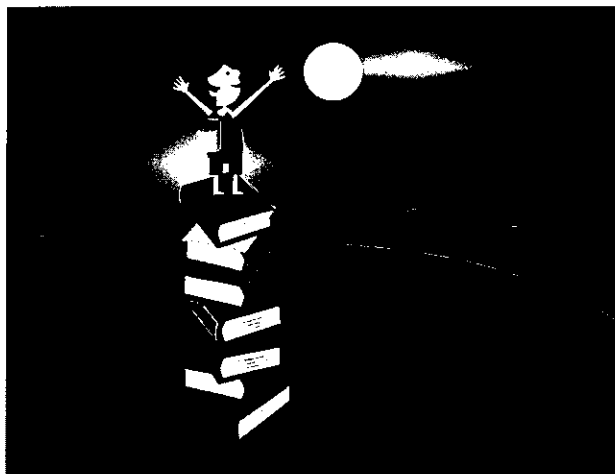
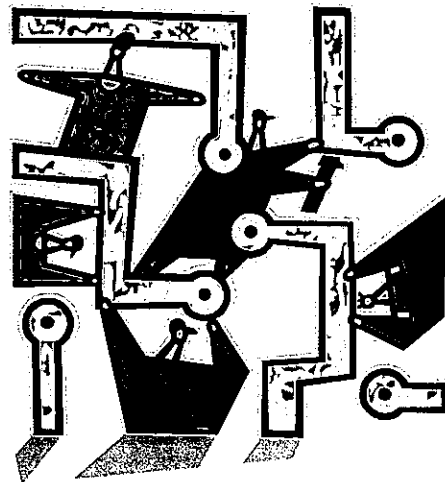


City Council
July 23, 2012
Monday



Special Meeting 4:00 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
Distributed by the City Clerk's Office -7/18/2012-rk



July ~ August 2012

Monday 23 rd	CITY COUNCIL Special Meeting 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.
Tuesday 24 th	WATER AND SEWER RATE TASK FORCE Special Meeting 5:15 p.m.
Wednesday 25 th	PORT AND HARBOR ADVISORY COMMISSION Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
Thursday 26 th	KACHEMAK DRIVE PATH COMMITTEE Meeting 5:30 p.m.
Wednesday 1 st	PLANNING COMMISSION Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
Thursday 2 nd	KAREN HORNADAY PARK COMMITTEE Meeting 5:30 p.m.
Tuesday 7 th	LIBRARY ADVISORY BOARD Meeting 5:00 p.m. WATER AND SEWER RATE TASK FORCE Worksession 5:15 p.m.
Thursday 9 th	PUBLIC ARTS COMMITTEE Meeting 5:00 p.m. PERMANENT FUND COMMITTEE Meeting 5:15 p.m.
Monday 13 th	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.
- 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

- JAMES C. HORNADAY, MAYOR – 12
- MARY E. (BETH) WYTHER, COUNCILMEMBER – 13
- FRANCIE ROBERTS, COUNCILMEMBER – 12
- BARBARA HOWARD, COUNCILMEMBER – 14
- DAVID LEWIS, COUNCILMEMBER – 14
- BRYAN ZAK, COUNCILMEMBER – 13
- BEAUREGARD BURGESS, COUNCILMEMBER – 12

**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.

**COWLES COUNCIL CHAMBERS
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov**



**SPECIAL MEETING
4:00 P.M. MONDAY
JULY 23, 2012**

MAYOR JAMES C. HORNADAY
COUNCIL MEMBER BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

**MEETING NOTICE
SPECIAL MEETING AGENDA**

- 1. CALL TO ORDER, 4:00 P.M.**
- 2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
- 3. NEW BUSINESS**
 - A. Memorandum 12-112**, From City Clerk, Re: Request for Executive Session Pursuant to AS 44.62.310 (c)(1) Matters, the Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Public Entity. (Update on Lawsuit: Hogan vs. City of Homer). City Attorney Wells will participate telephonically. Page 7
- 4. COMMENTS OF THE AUDIENCE**
- 5. ADJOURNMENT NO LATER THAN 4:50 P.M.**

Next Regular Meeting is Monday, August 13, 2012 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.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM 12-112

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL

FROM: JO JOHNSON, CMC, CITY CLERK 

DATE: JULY 17, 2012

SUBJECT: REQUEST FOR EXECUTIVE SESSION PURSUANT TO AS §44.62.310(C)(1), MATTERS, THE IMMEDIATE KNOWLEDGE OF WHICH WOULD CLEARLY HAVE AN ADVERSE EFFECT UPON THE FINANCES OF THE PUBLIC ENTITY. (UPDATE ON LAWSUIT: HOGAN 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 "Update on Lawsuit: Hogan vs. City of Homer" for the Special Meeting of July 23, 2012. This has been publicly and internally noticed since that time.

City Attorney Wells will participate telephonically.

RECOMMENDATION:

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

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



COMMITTEE OF THE WHOLE
5:00 P.M. MONDAY
JULY 23, 2012

MAYOR JAMES C. HORNADAY
COUNCIL MEMBER BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

MEETING NOTICE
COMMITTEE OF THE WHOLE AGENDA

- 1. CALL TO ORDER, 5:00 P.M.**
- 2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
- 3. Natural Gas Distribution Special Assessment District**
 - a. Memorandum 12-119 from City Attorney Klinkner Page 11
- 4. REGULAR MEETING AGENDA**
- 5. COMMENTS OF THE AUDIENCE**
- 6. ADJOURNMENT NO LATER THAN 5:50 P.M.**

Next Regular Meeting is Monday, August 13, 2012 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.

MEMORANDUM 12-119

TO: WALT WREDE
CITY MANAGER
CITY OF HOMER

FROM: THOMAS F. KLINKNER

RE: NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT DISTRICT

FILE NO.: 506,742.205

DATE: JULY 11, 2012

This memorandum discusses legal issues related to the use of a special assessment district ("District") to finance natural gas distribution facilities. For the purposes of this memorandum, I assume that the District will encompass the entire City of Homer.

1. *How Is the District Initiated?*

HCC 17.04.040(a) provides that a special assessment district may be initiated either by (1) a resolution approved by a three-fourths vote of the Council; or (2) petition signatures of the record owners of not less than one half in value of the real property in the proposed district. The three-fourths vote required to initiate the District is determined on the basis of the entire membership of the Council, including members disqualified from voting due to conflict of interest. Thus five affirmative votes on the question are required for the Council to initiate the District. In the event that initiation by resolution fails, there is the option of initiation by a petition signed by the owners of not less than one-half in value of property that is to be included in the District.

2. *What Properties Should Be Included in the District?*

Under AS 29.46.010(a), a property benefited by the improvement is included in the District. Benefited properties are included in the District even if they are exempt from real property taxation (e.g., properties owned by government agencies, churches, charitable organizations). A property is not benefited by the improvement if it cannot use the improvement, either at present or in the future. A property that is located so that it would be physically impossible to connect the property to the natural gas distribution system should be excluded from the District. Similarly, a property that is subject to permanent, legally enforceable restrictions on use (e.g., a conservation easement) that preclude its development with improvements that could use natural gas

service, should be excluded from the District. Properties that are to be excluded from the District should be identified in the City Manager's improvement plan.

3. *May Each Property In the District Be Assessed Equally?*

The assessment of each property in the District is to be proportional to the benefit that the property receives from the improvement.¹ The Council has broad discretion to determine whether a particular assessment method results in such proportionality. "If the apportionment of special assessments and the question of benefits are matters upon which reasonable men may differ, the determination by the municipal authorities will be sustained by the courts."² Thus, if the Council determines that equal assessments on each property in the District are proportional to the benefit that each property receives from the improvement, the City may adopt a "postage stamp" method of assessment, under which each benefited property is assessed the same amount for the natural gas distribution system.

The City has received an \$8,150,000 appropriation for a "South Peninsula Natural Gas Pipeline."³ The purpose of this appropriation is to finance the construction of a natural gas pipeline from Anchor Point to Kachemak City. The state-funded natural gas line within the City also will serve as part of the City's natural gas distribution system. Thus, it is appropriate to consider that state funding as part of the funding for the natural gas distribution system as a whole, and that funding may be applied to reduce the cost of the system that must be assessed against benefited properties.

4. *How Should the City Provide for the Cost of Borrowing over Multiple Construction Seasons, and before Assessments May Be Levied?*

Assessments are levied "[a]fter completion of the improvement."⁴ While the precise time that will be required to complete the natural gas distribution system in the City has not been determined, Enstar has indicated that completion of the system will require at least two construction seasons. It is expected that Enstar will charge the City for the cost of the construction that has been completed at the end of each construction system. In addition, although some properties will receive access to natural gas service as of the end of the first construction season, they cannot be assessed until the entire project has been completed. This situation raises the following issues:

- Can the City issue obligations backed by special assessments before the assessments have been levied?
- How will the City provide for the interest that accrues on the money it borrows before it levies assessments?

¹ AS 29.46.060(a); HCC 17.04.070(a).

² *Cit of Wasilla v. Wilsonoff*, 698 P.2d 656, 657-658 (Alaska 1985).

³ §1 Ch. 17 SLA 2012.

⁴ HCC 17.04.070(a).

- Should the City allocate the cost of interest on the amount that is borrowed to finance the first season's construction to properties that gain access to natural gas service by the end of that season, and if so, how can the City accomplish this allocation?

The City is authorized by state law to borrow in anticipation of the levying of special assessments, to finance the cost of a local improvement project.⁵ However, the City Code does not permit the City to issue special assessment bonds "prior to the expiration of the time period allowed for the payment of assessments without penalty or interest."⁶ Since it will be impractical for the City to undertake the natural gas distribution system project without the ability to borrow in anticipation of special assessments, I recommend amending the Code to conform to state law, by authorizing the City to issue bonds in anticipation of the levying of special assessments.

To provide for interest that accrues before assessments are levied on the money it borrows to finance the construction, the City's borrowing should be sized to provide funds to pay that interest. This is a common practice in financing revenue-producing assets. An alternative would be to defer the payment of interest on the borrowing until assessments have been levied, but lenders/investors are likely to find this alternative unattractive.

If the City determines that properties that gain access to natural gas service by the end of the first construction season receive a benefit that is not shared with other properties in the assessment district, it could elect to allocate the first year's interest expense to only the former category of properties. This would cause the assessments on those properties to be slightly larger than the assessments on the remaining properties. However, it also could be argued that all properties in the district benefit equally from the initial season's construction, so that the borrowing cost that is associated with that season should be shared equally.

5. What Security May the City Provide for Its Financing of Natural Gas Facilities?

The City may not pledge tax revenues to secure financing for the natural gas distribution system, because it will be owned by Enstar, a private company. Article IX, §9 of the Alaska Constitution authorizes a municipality to secure a borrowing with a pledge of its taxing power in the following terms:

No debt shall be contracted by any political subdivision of the state, **unless authorized for capital improvements** by its governing body and ratified by a majority vote of those qualified to vote and voting on the question. (Emphasis added)

⁵ AS 29.46.130(a).

⁶ HCC 17.08.010(a).

Under this constitutional provision, a city may issue general obligation bonds only for capital improvements. A bond-financed asset is not a capital improvement if it is given away to another entity.⁷ Because Enstar, and not the City, will own the natural gas distribution system, that system will not be a "capital improvement" that the City may pledge its taxing power to finance. This restriction would apply to bonds secured by a pledge of sales tax revenue as well as bonds secured by a pledge of the City's property tax, because the former still would be secured by a pledge of the City's taxing power. Although there is no Alaska decision on this issue, other jurisdictions have specifically rejected such a pledge of a bond issuer's sales tax revenue under similar constitutional debt limitations.⁸

Apart from a provision for interim borrowing that must be repaid by the end of the next fiscal year, the only exceptions to the capital improvement requirement in Article IX, §9 appear in Article IX, §11:

The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation. The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property, nor do they apply to refunding indebtedness of the State or its political subdivisions.

Thus, under Article IX, §11 the City may finance the natural gas distribution system with bonds secured by special assessments on the benefited property.⁹

However, the fact that the City may not *pledge* tax revenue to secure bonds issued to finance the natural gas distribution system does not preclude the City from using tax revenue to pay debt service on the bonds. The City could elect to use tax revenue to pay all or part of the debt service on the bonds, crediting those payments against assessment installments payable by owners of benefited properties. The levying of assessments in this case would provide a "back-up" source of revenue to pay the bonds in the event that tax revenues were insufficient.

6. Is Tax Exempt Financing Available for Natural Gas Facilities?

Tax exempt financing is not available to finance natural gas facilities that are to be owned by Enstar. Interest on bonds issued by state and local governments

⁷ *City of Juneau v. Hixson*, 373 P.2d 743, 748 (Alaska 1962); *Wright v. City of Palmer*, 468 P.2d 326, 329-330 (Alaska 1970).

⁸ *State v. Martin*, 384 P.2d 833, 843 (Wash. 1963); *Eakin v. State*, 474 N.E.2d 62, 66-67 (Ind. 1985); *Terry v. Mazur*, 362 S.E. 2d 904, 911 (Va. 1987).

⁹ See, *Weber v. Kenai Peninsula Borough*, 990 P.2d 611 (Alaska 1999) (special assessment district to finance natural gas facilities to be owned by Enstar serves a public purpose).

generally is excluded from gross income for federal income tax purposes.¹⁰ However, this exemption does not apply to a bond that is a "private activity bond" other than specific types of "qualified bond."¹¹ A bond is a private activity bond if two features are present. The first is "private business use," and the second is "private payment or security."¹² Bonds issued to finance natural gas facilities would meet the "private business use" test because the bond-financed facilities will be used in the trade or business carried on by Enstar, a private company. The bonds also would meet the private payment or security test because the debt service payments on the bonds will be derived from special assessments levied on the basis of benefit received from the same privately used bond-financed facilities.

Among the "qualified bond" exceptions to the disqualification of private activity bonds from tax exemption are bonds issued to finance facilities for the local furnishing of electric energy or gas.¹³ However the "local furnishing" of electric energy or gas is limited to furnishing solely within an area consisting of one city and one contiguous county, or two contiguous counties.¹⁴ The area being served is the furnishing utility's entire service area. The Enstar service area includes the Kenai Peninsula Borough, the Municipality of Anchorage and the Matanuska-Susitna Borough—an area encompassing more than two contiguous counties. Thus, bonds issued to finance Enstar facilities cannot be tax exempt as bonds issued to finance facilities for the local furnishing of gas.

7. *In Addition to Costs of Construction and Interest During Construction, Must the City Finance any Other Amounts?*

In addition to financing costs of constructing the natural gas distribution system, and interest that accrues before assessments are levied, lenders/investors likely will require that the City finance a reserve fund to secure the repayment of the bonds. The amount of such a reserve fund typically is equal to one year's debt service on the bonds, although it may vary depending on the requirements of lenders/investors. The reserve fund will remain in place while the bonds are outstanding, and often is applied to pay the last installments of debt service on the bonds. The reserve fund also may provide a mechanism for the earlier prepayment of bonds as described below.

8. *Are There Other Sources of Funds that Will Reduce the Amount of Special Assessments for the Natural Gas Distribution System?*

The Enstar tariff provides for the refunding of certain amounts that a customer must advance to pay the cost of a main extension, such as the natural gas distribution system in the City. The refunded amounts consist of (i) a portion of the construction cost that is reallocated upon connection of a customer located outside the special

¹⁰ I.R.C. §103(a).

¹¹ I.R.C. §103(b).

¹² I.R.C. §141(a).

¹³ I.R.C. §§141(e)(1)(A), 142(a)(8).

¹⁴ I.R.C. §142(f)(1).

assessment district within two years of completion of the improvement; and (ii) a "free main allowance" based on the estimated gas consumption of any customer that connects to the natural gas distribution system. Other municipalities that have levied special assessments to finance natural gas improvements for Enstar have deposited these refunds in a special account for the benefit of the assessed properties. When the amount of refunds that have been received, plus the amount in the reserve fund, is sufficient to (i) equalize the amount of each assessment that has been prepaid, by refunding a portion of each prepaid assessment that equals the unpaid principal of assessments paid in installments; and (ii) pay off the remaining bond principal plus accrued interest; the municipality has made those payments, and canceled the payment of unpaid, non-delinquent assessment installments. The availability of these refunds may reduce substantially the amount of the assessment that a property in the District is required to pay.

Please let me know if I may be of further assistance in this matter.

TFK/

CALL TO ORDER
PLEDGE OF ALLEGIANCE
AGENDA APPROVAL

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



REGULAR MEETING
6:00 P.M. MONDAY
JULY 23, 2012

MAYOR JAMES C. HORNADAY
COUNCIL MEMBER BETH WYTHER
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

REGULAR MEETING AGENDA

**Special Meeting 4:00 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

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 Special Meeting minutes of June 14 and June 25, 2012 and Regular Meeting minutes of June 25, 2012. City Clerk. Recommend adoption.

Page 23

6. VISITORS

- A. **Monte Davis**, Executive Director, Homer Chamber of Commerce, Proposed Economic Development Project, 10 minutes.

7. **ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS**

A. **Mayor's Recognition** – Phil Needham, Efforts and Work at Karen Hornaday Park Ball Fields. Page 53

B. **Mayor's Recognition** – City of Homer Sewer Treatment Facility Winner of the Great Alaska Energy Challenge for the Category “Biggest Change – Electricity” Page 55

C. Borough Report

D. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission
5. Port and Harbor Advisory Commission

8. **PUBLIC HEARING(S)**

A. **Ordinance 12-26**, An Ordinance of the City Council of Homer, Alaska, Amending Table 3 Permitted Sign Characteristics by Zoning District, Following Homer City Code 21.60.060, Signs on Private Property, to Permit Changeable Copy Signs for Institutional Uses Permitted in the RR, UR And RO Zoning Districts. Planning. Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012. Page 59

Memorandum 12-102 from City Planner as backup. Page 63

B. **Ordinance 12-27**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Community Coastal Impact Assistance Program (CIAP) Grant from the State of Alaska in the Amount of \$448,116 for the Beluga Slough Trail Reconstruction Project, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012. Page 81

Memorandum 12-104 from Public Works Director as backup. Page 85

- C. **Ordinance 12-28**, An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$30,000 from the Parks and Recreation Depreciation Reserve Fund for the Relocation of the Mariner Park Driveway Access. Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.
Page 113
Memorandum 12-105 from Public Works Director as backup. Page 117
- D. **Ordinance 12-29**, An Ordinance of the Homer City Council Amending Homer City Code Chapter 15.10.010 to Exclude Oscar Munson Subdivision Lot 34 from the Ocean Drive Loop Special Service District. Lewis/Wythe. Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012. Page 123
- E. **Ordinance 12-30**, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating a Legislative Grant in the Amount of \$8,150,000 for Construction of the Natural Gas Pipeline from Anchor Point to Homer and Kachemak City. City Manager. Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.
Page 145
9. **ORDINANCE(S)**
- A. **Ordinance 12-31**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Revolving Energy Fund, the Water and Sewer Depreciation Fund, and the Port and Harbor Depreciation Fund for Energy Upgrades and Improvements to Facilities and Authorizing the City Manager to Transfer Funds. City Manager/Finance Director. Recommended dates: Introduction July 23, 2012, Public Hearing and Second Reading August 13, 2012. Page 149
- B. **Ordinance 12-32**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 General Fund Balance by Allocating \$544,280 for Depreciation Reserves for the Years 2010 and 2011 to City Hall, Parks And Recreation, Planning, Airport Terminal, Library, Fire, Police, Public Works, Leased Properties, Fire, Police, And Public Works Fleet Depreciation Reserve Accounts and Authorizing the City Manager to Transfer Funds. City Manager/Finance Director. Recommended dates: Introduction July 23, 2012, Public Hearing and Second Reading August 13, 2012. Page 159
- C. **Ordinance 12-33**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Operating Budget, Including Appropriations to the General Fund and the Port and Harbor Fund and Funding New Projects from Various Reserve Accounts, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Finance Director. Recommended dates: Introduction July 23, 2012, Public Hearing and Second Reading August 13, 2012. Page 167
- Memorandum 12-113 from Systems Manager as backup. Page 173
Memorandum 12-114 from Port and Harbor Director as backup. Page 179
Memorandum 12-115 from Library Director as backup. Page 183
Memorandum 12-116 from Public Works Superintendent as backup. Page 187

Memorandum 12-024 from Public Works Director as backup.	Page 191
Memorandum 12-110 from Community and Economic Development Coordinator as backup.	Page 193
D. Ordinance 12-34 , An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating \$1,500.00 from the General Fund for an Open House Celebration for the Renovated City Hall. Roberts/Wythe. Recommended dates: Introduction July 23, 2012, Public Hearing and Second Reading August 13, 2012.	Page 197
E. Ordinance 12-35 , An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a State of Alaska Public Library Assistance Grant for FY 2013 in the Amount of \$6,500.00, with a Local Match of \$7,000.00 for Books and Library Materials, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Recommended dates: Introduction July 23, 2012, Public Hearing and Second Reading August 13, 2012.	Page 201
Memorandum 12-117 from Library Director as backup.	Page 205
F. Ordinance 12-36 , An Ordinance of the Homer City Council, Enacting Homer City Code Chapter 5.42 Prohibiting Sellers from Providing Customers with Disposable Plastic Shopping Bags. Lewis/Burgess. Recommended dates: Introduction July 23, 2012, Public Hearing and Second Reading August 13, 2012.	Page 209
G. Ordinance 12-37 , An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$15,000 from the Port and Harbor Reserve Fund for an Engineering Evaluation of the Existing Port and Harbor Building. City Manager/Port and Harbor Director. Recommended dates: Introduction July 23, 2012, Public Hearing and Second Reading August 13, 2012.	Page 215
Memorandum 12-121 from Port & Harbor Director as backup	Page 219
10. CITY MANAGER'S REPORT	
A. City Manager's Report	Page 223
B. Bid Report	Page 227
C. Games Report	Page 229
1. Alaska Marine Conservation Council	Page 231
D. Records Destruction Report	Page 235
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. Water and Sewer Rate Task Force

13. PENDING BUSINESS

14. NEW BUSINESS

15. RESOLUTIONS

- A. **Resolution 12-063**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Donation of Two Paintings, *Kittywake II* and *Life's A Beach*, by Homer Artist Gaye Wolfe. City Clerk/Public Arts Committee. Page 243

Memorandum 12-118 from Public Arts Committee as backup. Page 245
- B. **Resolution 12-064**, A Resolution of the City Council of Homer, Alaska, Expressing Support for a Municipal Harbor Facility Grant Application to the State of Alaska, Department of Transportation and Public Facilities (DOT&PF) in the Amount of \$4,206,000 for Ramp 3 Gangway and Approach, Harbor Floats Replacement and Upgrades to Electrical and Potable Water at System 5 and Authorizing the City Manager to Submit the Appropriate Documents. City Manager. Page 247
- C. **Resolution 12-065**, A Resolution of the City Council of Homer, Alaska, Expanding the Scope of Work for the Port and Harbor Improvement Committee to Develop a Plan to Resource Funds from Various Sources for the Purpose of Upgrading the Port and Harbor Building. City Clerk/Port and Harbor Advisory Commission. Page 249

Memorandum 12-121 from Port and Harbor Director as backup. Page 251

- D. **Resolution 12-066**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to Arno Construction of Homer, Alaska, in the Amount of \$5,880.00 for the Homer Airport Pressurized Sewer Service Line Replacement Project (Bald Mountain Air Sewer Service) and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director. Page 257

Memorandums 12-089 and 12-120 from Public Works Inspector as backup.

Page 259

- E. **Resolution 12-067**, A Resolution of the City Council of Homer, Alaska, Noting the Insufficiency of the Petition for Ocean Drive Loop Road Reconstruction and Paving Improvements. City Clerk. Page 265

- F. **Resolution 12-068**, A Resolution of the City Council of Homer, Alaska, Noting the Insufficiency of the Petition for Kachemak Drive Phase III Water and Sewer Improvement Special Assessment District. City Clerk. Page 293

- G. **Resolution 12-069**, A Resolution of the City Council of Homer, Alaska, Initiating a Special Assessment District to Provide a Natural Gas Distribution System in the City, and Authorizing the City Manager to Prepare a Proposed Improvement Plan. City Manager. Page 307

Memorandum 12-119 from City Attorney as backup.

Page 309

- H. **Resolution 12-070**, A Resolution of the City Council of Homer, Alaska, Approving a Main Extension Contribution in Aid of Construction Agreement Between the City of Homer and Enstar Natural Gas Company for Construction of a Natural Gas Main Extension from Anchor Point through Homer to the Eastern Boundary of Kachemak City and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Page 341

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, August 13, 2012 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 12-17 a Special Meeting of the Homer City Council was called to order on June 14, 2012 at 5:00 p.m. by Mayor James C. Hornaday 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, HOWARD (telephonic), LEWIS,
ROBERTS, WYTHE, ZAK

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER (telephonic)

Councilmember Howard has requested telephonic participation.

Mayor Hornaday called for a motion to allow Councilmember Howard to participate by phone.

WYTHE/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

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

The agenda was approved by consensus of the Council.

City Clerk Johnson provided the following notification to property owners in the district: Public Announcement on KBBI aired twice daily from Tuesday through Thursday; included in the meeting notice of Wednesday's newspaper; all property owners were emailed notice and called by phone or left a message with the exception of two, one who did not want to be notified and their was no answer on the other's residence.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

John Szajkowski, city resident, expressed concern with how the City spends its time and money. The Seawall has been a nine-year issue. He referenced Resolution 12-051, line 28, where some property owners asserted the City was responsible for maintaining the Seawall. The Army Corps of Engineers' (COE) permit declares the City is responsible for maintaining the Seawall. The COE issues and enforces permits; and is not subject to inducement or manipulation. Line 33 states the City will provide insurance. The City has declared they are not able to buy insurance. The spread sheet with properties and values is not accurate. The Szajkowski property assessment is inaccurate. He cautioned Council about voting on the resolution.

Findlay Abbott owns a lot with an unfinished building. The proposed mill rate will not take care of the problems that will come up. It is outrageous how much people will pay. There is damage all along the Seawall. Don't count on the COE changing the permit to put the problem over on to the landowners. It is a city project. The City put out the RFP, chose the engineer and chose the design. The neighbors were in favor of a different design from the engineers. The Department of Labor declared the Seawall as a city project for Davis/Bacon purposes. There is a solution already on the CIP: a coastal trail between Bishops Beach and Mariner Park. The trail will provide public access and a much loved new aspect for Homer. He advised Council to put armor rock on the city lots first instead of losing a lot of money.

Paul Hueper, city resident, referenced the letter to the COE. Four points were made to try to drop the Seawall completely. The Seawall is an LID (Local Improvement District) through and through. It started off as an LID, property owners signed on as an LID, and the City was never an agent for them. The City has never asked for extra taxation on a district. The LID goes in and the maintenance is taken care of by the City; no different than a sewer line or paved road. The Seawall is being taxed to property owners at various rates for the same exact wall. He will pay five times more than his neighbor. An LID is maintained by the City.

Don McNamara, city resident, recommended a trail on the beach and armor rock. Senator Begich said he would have some money if it could get on the CIP list. The COE said the City had to maintain the Seawall, not pay for it. The City could have drawn up a contract to fix the wall and taken it to the homeowners. Instead the City says it will throw some money in it and slap a bandaid on it and catch it the next time. The next time never comes. The City told the COE they would stay above the 19.5' tide line as that is what Fish and Wildlife demanded. Lot 40 was going to gain 20 ft. with the Seawall, but instead gained 40 ft. Horizontally the 2 ft. made a difference and put the Seawall at a greater risk for damage by letting it go lower in the tide line. Mr. McNamara showed Council pictures of the Seawall.

Mayor Hornaday called for a recess at 5:17 p.m. and reconvened the meeting at 5:21 p.m.

Janet Szajkowski, city resident, referenced the June 11 Action Agenda and Councilmember Wythe's comments expressing disappointment on reaching resolution on the mill rate that exposes the entire community to the expense of maintaining the Seawall. She asked if Council was under the impression that the money generated in the fall of 2012 be used for damages incurred November 2011. If so, she asked how far back the Council would go to recoup money for repairs that have already been made. The statement leaves it open as to how the money will be used and applied.

Donna Rae Faulkner, city resident, saw the LID as a great idea to buy a portion of the Seawall. They invested in 100 lineal ft., over a \$15,000 investment. They never allowed or expected the City to come on their property for repairs or expected the City to bill them for repairs to other people's private property. She is hoping for the good faith transfer of the COE permit to formalize their responsibility. The special service district is unfair and discriminatory.

Charles Davis, city resident, hopes Council takes the time to fix it right. From day one the project was screwed up. City government ignored knowledgeable people in the community and installed

a design that will not work. There must be a means to break up the ocean; the Seawall is not the way to solve it. We need a city-wide solution as there are all kinds of erosion and washing going on.

Angie Newby, city resident, commented all members of the LID should participate and none should be exempted. There may be a conflict with HCC Chapter 9 that ties the level of sales tax to the property tax levy not to exceed 6 mill. It was adopted by an election, not a governing body. Title 29 does allow the special service district tax differentiation. If Seawall property owners are taxed over 6 mill does that mean they will be sales tax exempt or does the electorate need to approve a higher mill levy? If there is a legal opinion regarding the taxation it should be shared with all property owners. The argument that the whole city would be subsidizing our property ignores that throughout the city there are examples of similar situations, including non-profits and port and harbor. Private enterprise has benefitted from these subsidies. They have paid their way to include a major court case that resulted in a big benefit to the City. Individually their assessments were over \$100,000, many people have paid it in full. Additionally, they incurred an additional \$40,000 as there was a significant cut into their property requiring them to build a secondary seawall. The COE permit stated the purpose was to protect private residential land and public roads and facilities. Many properties and facilities are at risk if the Seawall fails.

Councilmember Roberts commented on the lawsuit with Phukan and the City benefitting \$550,000. It is her understanding the settlement was divided among property owners to lower assessments.

Mrs. Newby answered the court settlement funds were applied to the \$100,000 assessments. The City gained through the property owners' lawsuit, not having to expend legal funds since they were not a participant in the suit. They were able to hold the engineers feet to the fire. The money went to the City in advance of the normal 20 years for a LID.

Councilmember Lewis asked if all the people along the Seawall were part of the suit. Mrs. Newby answered they were not. People chose not to participate in the legal expenses. It was their position the City should move quickly in the errors and omissions, but the City chose not to. The neighborhood got together in funding the legal effort with two properties choosing not to participate. The two properties did not get the benefit of the settlement. They were willing to risk both time and money on the legal action. They are not getting an extra special benefit from the two properties that did not. They did not recoup any legal expenses. They received a settlement from the original contract professional liability insurance policy.

Doug Alaniva, city resident, noted there were good points made that he hopes Council reviews. The City has been a part of the problem by things they have done during construction. When they got to Larry Goode's property the contractor was running out of materials. They went to Spenards and bought stuff that wasn't designed for the wall. They picked up and pulled in survey stakes 10 – 15 feet. Carey Meyer said he had to make the decision or the project would stop. He did not get a bill for 4 years after the wall was built. Brad Dickey and he have the two smallest sections. Although he thought his cost would be minimal he will pay twice as much. The plywood and rock used to fix the Seawall is already sinking in. The City needs to look at the fairness of the problems they have helped create.

RECONSIDERATION

Reconsideration issued by Councilmember Burgess - Resolution 12-051, A Resolution of the City Council of Homer, Alaska, Establishing a 2012 Mill Rate of 10.0264 Mills for the Ocean Drive Loop Special Service District. City Manager.

Mayor Hornaday called for a motion for the reconsideration of Resolution 12-051.

WYTHE/BURGESS – SO MOVED.

Councilmember Burgess commented we need a more long term solution to the Seawall. The City needs to bring in a larger group of people and identify the Seawall protects a larger group of people or say it is not our problem. The special service district is not the most appropriate tool. It does not equitably distribute the costs, which should be by linear footage of seawall.

VOTE: YES. ROBERTS, WYTHE, HOWARD, BURGESS, LEWIS

VOTE: NO. ZAK

Motion carried.

RESOLUTIONS

Resolution 12-051, A Resolution of the City Council of Homer, Alaska, Establishing a 2012 Mill Rate of 10.0264 Mills for the Ocean Drive Loop Special Service District. City Manager.

Motion on the floor from June 11: MOTION FOR THE ADOPTION OF RESOLUTION 12-051 BY READING OF TITLE ONLY.

WYTHE/ROBERTS - MOVED TO AMEND ALL REFERENCES TO THE MILL RATE OF 10.0264 TO READ 9.9893.

Amendments were made to the assessment roll to include the correct property assessment for the Szajkowski property and to add the Dickey property.

Mayor Hornaday called for a recess at 5:46 p.m. and reconvened the meeting at 5:56 p.m.

Finance Director Mauras made the revisions to the assessment roll.

Mayor Hornaday called for a recess at 5:58 p.m. and reconvened the meeting at 6:03 p.m.

WYTHE/ROBERTS - MOVED FOR A FRIENDLY AMENDMENT OF A MILL RATE OF 9.6283.

There was reconfiguration and the amended mill rate reflects the amendments.

Councilmember Zak will vote no as it is putting an assessment against property tax. This is like comparing apples to ball bearings. It is putting a bigger burden on people that have upgraded their lots. It shouts unfairness and he will vote no for anything that ties it to assessed value.

Councilmember Burgess echoed Councilmember Zak's comments; it is inequitable unless tied to maintenance based on linear footage.

Councilmember Roberts commented the City has contributed valiantly to many costs of the wall, including 14% for the original costs of the wall. The City has absorbed \$117,000 of the original cost of the wall (16%) because of two lots that have never paid any of their assessment. The City has paid for various maintenance items over the years, some costs not passed on to the owners. She has a hard time faulting the City and will be voting yes.

VOTE: (secondary amendment) YES. LEWIS, ROBERTS, WYTHER, HOWARD
VOTE: NO. ZAK, BURGESS

Motion carried.

Councilmember Lewis commented since he came on the City Council in 2008 he has heard nothing but the Seawall. People could not agree on their LID and he has heard what should have been done. Walt had a big meeting at the college with everyone but nothing seemed to come of it. A trail would be great if someone could come up with some money. For now it is the best solution for a bad problem.

VOTE: YES. LEWIS, ROBERTS, WYTHER, HOWARD
VOTE: NO. BURGESS, ZAK

Motion carried.

COMMENTS OF THE AUDIENCE

Charles Davis, city resident, told Council they are good at kicking the can down the road, but we still have the problem. Nothing has been solved. Now we are rushing the gas line project through. We better make sure all the details are worked out in the gas line project. None of the current council had anything to do with the Seawall; they took that on when they signed on to be our representatives. It is not the only neighborhood that has a problem; others will have the same problem. We need a solution.

Findlay Abbott commented when the Seawall was proposed he had calculated armor rock coverage. We could have had 7-10 ton rock delivered on the beach with \$30,000 to cover his lot. He built his building 75 ft. back from the cliff and it eroded 80 ft. The problem will get worse and there will be a major breakout. If the City would put armor rock on city land it would help everyone and would help to save the gravel. For \$100,000 we could stabilize the situation. Then go after highway funds for the coastal trail. He has offered to relinquish more than half of his land to the City for no cost if they will stabilize that shore. It will add to the amenities. The rock field on the hard pan is stable and goes way out. It starts at the Seawall at the 10 ft. tide land.

You put an armor rock protected trail and reclaim 5 or 10 acres for a public park at the corner of Lake Street and Ocean Drive Loop. Denying it and thinking the project is all right is wrong.

Doug Alaniva, city resident, asked Council to clarify if the money collected this year will pay for the break last year. There is only a temporary fix on the wall now and he wonders what will happen to the wall that was on last year's breakout. He wants to know what his responsibilities are. According to the COE the City is responsible for fixing it. There is no sheet metal, plastic, or steel in town in the event of a breakout. The City should have something set aside if something happens. The City let last year's repairs go so long it affected his property even more and cost him money out of pocket to repair his landing and stairs. He would like clarification on what his responsibilities are.

Donna Rae Faulkner, city resident, commented it is more than disappointing. They understood their maintenance responsibilities were lined out in 2001/2003 and they took them seriously. The COE has a decision to make too. It is the City's choice to make repairs just as it is their choice to do what they thought was the agreement. The City chose to make repairs to peoples properties and is charging her. They are trying to bill it through assessments and it is patently unfair and discriminatory in its application. The City chooses the repairs and then charges everyone. It was not their business to be involved in other people's property. An LID is shorter than a rental agreement. The SSD has so many unclarities. She hopes for a good faith transfer from the COE for their section of the wall and wished for clarity and peace.

John Szajkowski, city resident, expressed his disappointment that Council and the city management will continue to kick the can down the road. It has cost the City huge amounts of money with a recurring theme of saving the taxpayers at large from paying for this privately owned Seawall. It has been in the works for nine to ten years and is consuming hours of city time, dollars of city budgets, and personal time and we are no further now. He suggested the City Manager be given the task of coming up with a long-term solution on the Seawall. Since he is tripling his property tax to the City he asks for an accounting of the money. Property owners should get a monthly statement via email. His assessment is wrong, and all assessments are wrong to leave out the \$20,000 exemptions from the Borough for living in your home, \$150,000 exemptions for senior citizens. The \$30,000 target will not be met.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner had no comment.

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 Hornaday had no comment.

COMMENTS OF THE CITY COUNCIL

Councilmember Wythe commented Council is making decisions with the tools they have available. Council recognizes they are not perfect tools, but that is what they have to work with. There are timelines to meet with notification to the Borough required by June 15. The refund referenced was made to property owners when the district went away the first time. Council is trying diligently to arrive at the appropriate place for the City to be in this LID that constructed the wall. There has been a lot of time and energy with staff and Council trying to reach that place. We have to do every appropriate measure to protect the interests of the City as a whole. She does not want the property owners to feel Council is ignoring what they have said to them.

Councilmember Zak thanked the citizens that came out tonight. A lot of really good points were made about a future long term solution for the Seawall.

Councilmember Roberts reiterated Councilmember Wythe's remarks. There is a timeline for tomorrow for the tax assessment. She doesn't feel that the Seawall issue is resolved; a lot of things will come in the future.

Councilmember Burgess commented as many mistakes were made on both sides, Council is trying to address them with the tools they have. He does not support what Council did tonight. He hopes to solve this problem once and for all and put it behind us.

Councilmembers Howard and Lewis had no comment.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 6:25 p.m. The next Regular Meeting is Monday, June 11, 2012 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Special Meeting 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, CMC, CITY CLERK

Approved: _____

JO JOHNSON, CMC, CITY CLERK

7. ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 6:25 p.m. The next Regular Meeting is Monday, June 25, 2012 at 6:00 p.m., Special Meeting at 4:00 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.

Session 12-18 a Special Meeting of the Homer City Council was called to order on June 25, 2012 at 4:00 p.m. by Mayor James C. Hornaday 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, HOWARD, LEWIS, ROBERTS,
WYTHE, ZAK

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER (telephonic)

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

The agenda was approved by consensus of the Council.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

There were no public comments.

NEW BUSINESS

- A. **Memorandum 12-099**, From City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(C)(1 & 2), Matters, the Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Government Unit and Subjects that Tend to Prejudice the Reputation and Character of Any Person, Provided the Person May Request a Public Discussion. (City Attorney Contract/Update on Tony Neal vs. City of Homer re: Deed Restriction Ben Walters Park - Beluga Lake Ice Skating)

Mayor Hornaday called for a motion for the approval of the recommendations of Memorandum 12-099 for Executive Session to discuss City Attorney Contract/Update on Tony Neal vs. City of Homer re: Deed Restriction Ben Walters Park - Beluga Lake Ice Skating.

WYTHE/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. ROBERTS, WYTHE, ZAK, HOWARD, BURGESS, LEWIS

Motion carried.

Council adjourned to Executive Session at 4:03 p.m. and reconvened the meeting at 4:36 p.m.

Mayor Pro Tempore Wythe reported Council conferred with the attorney and staff and provided direction for the Neal case and now are prepared to proceed with our pending business Resolution 12-053.

PENDING BUSINESS

- A. **Resolution 12-053**, A Resolution of the City Council of Homer, Alaska, Extending the Contract for General Counsel Legal Services with the Firm of Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2013 in the Amount of \$11,000.00 per Month and Authorizing the Mayor to Execute the Contract. City Clerk.

Resolution 12-053(S), A Resolution of the City Council of Homer, Alaska, Extending the City Attorney Contract with Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2016 in the Amount of \$11,000.00 per Month through July 31, 2014 and \$11,550.00 per Month Thereafter, and Authorizing the Mayor to Execute the Contract. City Clerk.

Motion on the floor from June 11: MOTION FOR THE ADOPTION OF RESOLUTION 12-053 BY READING OF TITLE ONLY.

LEWIS/WYTHE – MOVED TO SUBSTITUTE RESOLUTION 12-053(S) FOR RESOLUTION 12-053.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

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

Motion carried.

COMMENTS OF THE AUDIENCE

There were no comments of the audience.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 4:39 p.m. The next Regular Meeting is Monday, July 23, 2012 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.

JO JOHNSON, CMC, CITY CLERK

Approved: _____

Session 12-19 a Regular Meeting of the Homer City Council was called to order on June 25, 2012 at 6:00 p.m. by Mayor James C. Hornaday 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, HOWARD, LEWIS, ROBERTS,
WYTHE, ZAK

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
CITY PLANNER ABBOUD
COMMUNITY & ECONOMIC DEVELOPMENT
COORDINATOR KOESTER
LIBRARY DIRECTOR DIXON
PORT AND HARBOR DIRECTOR HAWKINS

Council met for a Special Meeting from 4:00 p.m. to 4:39 p.m. and conducted an Executive Session to discuss City Attorney Contract/Update on Tony Neal vs. City of Homer re: Deed Restriction Ben Walters Park - Beluga Lake Ice Skating. Council adopted Resolution 12-053(S) to extend the City Attorney Contract with Birch, Horton, Bittner, Inc. From 5:00 p.m. to 5:41 p.m. Council met as a Committee of the Whole to discuss Regular Meeting Agenda items.

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 agenda was approved by consensus of the Council with the following changes: **CONSENT AGENDA** – Memorandum 12-100 from Kenai Peninsula Borough Deputy City Clerk, Re: New Liquor License for Pho & Thai Restaurant; **VISITORS- John Hays**, Climate Change; **CITY MANAGER’S REPORT** – Memorandum 12-110 from Community & Economic Development Coordinator, re: Update on Municipal Harbor Grant; Resolution 12-043 Capital Improvements in the Harbor; **RESOLUTIONS - Resolution 12-059(S)**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$2,228,412** for the Deep Water Dock Fender Replacement Project and Authorizing the City Manager to Execute the Appropriate Documents; Memorandum 12-109 from Public Works Director as backup; **Resolution 12-060(S)**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$525,912** for the Beluga Slough Trail Reconstruction Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director; Memorandum 12-108 from Public Works Director as backup.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Ray Kranich, city resident and past Councilmember and Planning Commissioner, was on the council at the time City Manager Wrede was hired. Mr. Kranich commented it was a pleasure to

serve with him through the Comprehensive Plan update and receive his input. During the interview process they used multi-part questions and Walt answered the first part, the second, and the third. He listens very well and understands things very well and can modify his position to fit with new information.

Dave Brann, city resident, Co-Chair of the Water Trail Association, and Parks and Recreation Advisory Commissioner, asked for support of Resolution 12-057. It is a strong voice for water safety and a strong economic factor for the future.

Robert Archibald, city resident and Parks and Recreation Advisory Commissioner, advocated for Resolution 12-057. Kachemak Bay does not have a real good track record for safety and the water trail will provide education about Kachemak Bay. There will be kiosks with information and educational items.

Jack Cushing, city resident and former mayor, commended City Manager Wrede on the excellent service he has provided to the citizens Homer. It is a hard job serving the community, Council, and employees and he does a fabulous job.

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 Regular Meeting minutes of June 11, 2012. City Clerk. Recommend adoption.
- B. **Memorandum 12-100**, from Deputy City Clerk, Re: New Liquor License for Pho & Thai Restaurant.
- C. **Memorandum 12-101**, from Mayor, Re: Appointment of Donald Stead and Reappointment of Roberta Highland to the Planning Commission.

Mayor Hornaday called for a motion for the approval of the recommendations of the consent agenda.

WYTHE/BURGESS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

A. **John Hay, Climate Change**

John Hay, 2007 Nobel Peace Prize winner from New Zealand, spoke on climate change. The islands of the Pacific are on the forefront of climate change. He is involved in a joint research program where communities in the Arctic are working with small island communities because of common factors they face. The rate of warming of the planet is shown to be fastest in the high latitudes of the northern hemisphere. Homer is on the front line as the community is based on natural resources. Natural resources are vulnerable to changes in environmental conditions. The recent decline of salmon runs is linked to what is happening in the ocean. The warming of the planet is impacting directly on subsistence and commercial fisheries. There is collective evidence happening all over, with the oceans vulnerable to the changes. The low runs in the south are now recovering. Ocean productivity declines and then recovers.

One major consequence is the sea level rise. It is not rising uniformly in Alaska. In Seldovia the sea level is falling due to the emergence of the land, or an isosthetic rebound. Over the last decades land has been emerging 1/3 inch per year, faster than the sea level is rising globally. Coastal erosion problems are accelerated in Homer due to natural causes, excavation of coastal material, and extraction to build the runway. The simple and obvious development decision is the need for construction material, but the material is an important part of coastal defenses. Removing that material can have detrimental effects to withstand the erosive power of the ocean. Intensity of storms and high latitude storms will increase. The whole atmospheric engine is speeding up to get rid of the surplus heat that is pumped into the oceans and atmosphere. Acceleration is more intense storm activity and high latitude storms that we are vulnerable to.

There are many dimensions of climate change. Climate change is a problem for the present rather than the future. Instead of having to build hard coastal defenses Mr. Hay asked us to think about developing more coastal vegetation, although it takes time to get the benefits from it. There are ecologically and environmentally friendly options. Homer's Climate Action Plan shows forethought to planning. Mr. Hay asked that we manage the current issues of climate change and think of the opportunities it will bring to Homer.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORTS

REPORT/COMMISSION

A. **Mayor's Recognition – City Manager Walt Wrede**

Mayor Hornaday read and presented the recognition to City Manager Wrede. Mr. Wrede was recognized as the longest serving city manager in the City's history, over 9 years.

Mayor Hornaday called for a recess at 6:32 p.m. to have cake and reconvened the meeting at 6:40 p.m.

B. **Mayor's Proclamation – July as Parks and Recreation Month**

Mayor Hornaday read and presented the proclamation to Parks and Recreation Advisory Commissioners Dave Brann and Robert Archibald. Angie Otteson, and Mike Illg, Community Recreation Coordinator were also present.

C. Letter from City Clerk: Re: Nicholas Schmitt as EDC representative on the Lease Committee.

D. Borough Report

Kenai Peninsula Borough Assemblyman Bill Smith reported bids opened for the Homer track project and the track will be built within budget. The Assembly approved accepting money from the State for the project. Also approved were the Diamond Creek Park fuel reduction project that will provide the public firewood this summer.

E. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission

Dave Brann, Parks and Recreation Advisory Commissioner, thanked the Mayor for the proclamation. The commission is an enthusiastic bunch that is working hard with lots on the table. They are pleased with the progress on the Mariner Park driveway change and the Spit trail. There will be work on the Beluga Slough Trail too. The commission is pleased with the Parks and Recreation staff. Angie goes above and beyond her duties. He encouraged everybody to think about the Adopt-a-Park program, with July being a good time to think of a park or trail to adopt. The commission is working on a recommendation for the HERC building; there is potential to make it a real community asset. The commission is pleased with the improvements at Karen Hornaday Park and they have more recommendations to make. As the budget process starts, the commission will recommend an increase in the Parks and Recreation maintenance budget. New restrooms will be maintained by Parks and Recreation staff. They would like to see maintenance start earlier in the spring and go later in the fall. The picnic shelter by Pier One Theatre is leaning and has become a liability issue. If we increase maintenance staff there will be more time to address those kinds of issues. The commission supports Ordinance 12-24(A) as it is written. During commission discussions of the ordinance alcohol became the biggest issue. Some members of the commission are interested in signs at all parks.

5. Port and Harbor Advisory Commission

PUBLIC HEARING(S)

- A. **Ordinance 12-21**, An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$12,000 from the Sewer Reserve Fund for the Replacement of the Bald Mountain Air Sewer Service. City Manager/Public Works Director. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

Memorandum 12-089 from Public Works Inspector as backup.

Councilmember Burgess recused himself due to a financial conflict of interest in his business dealings with Bald Mountain Air and vacated his seat.

Mayor Hornaday opened the public hearing. In the absence of public testimony, Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-21 by reading of title only for second and final reading.

WYTHE/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Burgess returned to his seat.

- B. **Ordinance 12-22**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 4.01.030, Definitions; Homer City Code 4.30.030, Application for Ballot; Homer City Code 4.30.050, Materials for Absentee Voting; Homer City Code 4.30.060, Issuance of Ballot by Mail or In Person; Homer City Code 4.30.070, Casting Absentee Ballot; Homer City Code 4.35.010, Review of Election Documents by Canvass Board; to Provide for Absentee Voting in City Elections by Electronic Transmission. City Clerk. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

Mayor Hornaday opened the public hearing. In the absence of public testimony, Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-22 by reading of title only for second and final reading.

LEWIS/WYTHE – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 12-23**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Alaska Department of Transportation (ADOT) Reimbursement of up to \$6,720.00 for Commercial Vehicle Enforcement Inspections and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

Memorandum 12-092 from Police Chief as backup.

Mayor Hornaday opened the public hearing. In the absence of public testimony, Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-23 by reading of title only for second and final reading.

WYTHER/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Ordinance 12-24(A)**, An Ordinance of the City Council of Homer, Alaska, Adopting Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule; and Homer City Code Chapter 19.20, Parks and Recreational Facilities; to Provide Regulations for the Use of City Parks and Penalties for Their Violation. City Manager. Introduction June 11, 2012, Referred to Parks and Recreation Advisory Commission, Public Hearing and Second Reading June 25, 2012.

Mayor Hornaday opened the public hearing. In the absence of public testimony, Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-24(A) by reading of title only for second and final reading.

LEWIS/WYTHER – SO MOVED.

WYTHER/LEWIS – MOVED TO AMEND LINES 65-67, PG. 110, REGARDING THE REMOVAL OF BEACH SAND; PROPOSE TO REPLACE THAT SECTION WITH A STATEMENT “NO PERSON MAY REMOVE ANY SOIL, ROCKS, STONES, TREES, SHRUBS, PLANTS, OR MATERIALS OR MAKE ANY EXCAVATION OF PRODUCTS

PLACED IN A PARK FOR THE PURPOSE OF LANDSCAPING OR PROPERTY IMPROVEMENT.”

Councilmember Wythe referenced the Beach Policy which regulates activity on the beaches. It would be redundant to include the language within the ordinance. People use sand from the beaches to sand their driveways. Councilmember Roberts concurred with the sand removal aspect, but would like to see a provision from removing plants from public parks.

Councilmember Lewis asked for a friendly amendment to add wild flowers and other indigenous plants.

City Clerk Johnson advised it was an expanded definition to add the flowers and would require a separate motion.

Councilmember Howard suggested adding “vegetation” to HCC 10.20.020 a.

VOTE: (amendment) NO. ROBERTS, WYTHER, ZAK, HOWARD, BURGESS, LEWIS

Motion failed.

WYTHER/ HOWARD – MOVED TO AMEND LINE 64 FOLLOWING NOTICE TO PLACE A COMMA, “VEGETATION” OR PLACARD IN A PARK AND STRIKE LINES 65 THROUGH 67.

There was no discussion.

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

Motion carried.

BURGESS/ROBERTS – MOVED TO AMEND LINE 40 FINE FOR PARK CLOSURE FROM \$300 TO \$75.

Councilmember Roberts suggested \$150 fine since \$75 may not be enough to quantify.

ROBERTS/WYTHER – MOVED TO AMEND TO \$150.

The cost of sending a police officer to the park was questioned. City Manager Wrede answered it would depend on how much time they spend there.

Councilmember Zak is not in favor of \$150, but will support a \$75 fine. He doesn't support park closures. The weather and seasons dictate when parks close. Where else can kids go when the parks are closed at 11 p.m. and it is still sunny? They go down to Pioneer Avenue.

Councilmember Wythe expressed opposition since it would cost more to enforce than the fine would amount to.

VOTE: YES. LEWIS, ROBERTS, BURGESS
VOTE: NO. WYTHE, ZAK, HOWARD

Mayor Hornaday broke the tie vote with a YES.

Motion carried.

BURGESS/ZAK - MOVED TO STRIKE LINES 77 AND 78.

Councilmember Burgess defended there are ordinances already in place where police officers can use their weapons and citizens cannot use their weapons except for defense of life and property.

VOTE: YES. BURGESS, WYTHE, ZAK, HOWARD
VOTE: NO. LEWIS, ROBERTS

Motion carried.

Councilmember Burgess expressed opposition to the City dictating park hours. In his research there was no municipal entity that he found where there was a correlation between vandalism of a public park and restricting hours at a public park. His concern is there are a limited number of things teenagers and young adults can do with their time. Citizens should have equal access to municipal facilities.

Councilmember Wythe explained the reason she asked for the City Manager to bring the ordinance forward was to address the Jack Gist Park. There is a genuine concern for the people whose property adjoins the park. They do not want people playing Frisbee in the back of their yard at midnight.

The City Manager has the authority to set restrictions on any public park. It was suggested the focus be made on Jack Gist Park.

Councilmember Roberts' understanding is the ordinance came forward so the Police Department would have a means to enforce problems at the park. The hours of operation will be when most people want to use it.

Councilmember Wythe noted there are currently no rules on the books regarding parks. The City Manager has the authority to the extent the Council directs.

BURGESS/ZAK – MOVED TO AMEND TO STRIKE LINES 95-99.

There was no discussion.

VOTE: YES. BURGESS, ZAK
VOTE: NO. HOWARD, LEWIS, ROBERTS, WYTHE

Motion failed.

VOTE: (main motion as amended)

VOTE: YES. HOWARD, LEWIS, ROBERTS, WYTHE

VOTE: NO. ZAK, BURGESS

Motion carried.

- E. **Ordinance 12-25**, An Ordinance of the Homer City Council Amending the Official Road Maintenance Map of the City of Homer by Adding a Portion of Ohlson Lane and West Bunnell Avenue as Urban Road; and a Portion of Mission Road as Rural Road. City Manager/Public Works Director. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

Mayor Hornaday opened the public hearing. In the absence of public testimony, Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-25 by reading of title only for second and final reading.

WYTHE/BURGESS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

- A. **Ordinance 12-26**, An Ordinance of the City Council of Homer, Alaska, Amending Table 3 Permitted Sign Characteristics by Zoning District, Following Homer City Code 21.60.060, Signs on Private Property, to Permit Changeable Copy Signs for Institutional Uses Permitted in the RR, UR And RO Zoning Districts. Planning. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Memorandum 12-102 from City Planner as backup.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-26 for introduction and first reading by reading of title only.

WYTHE/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 12-27**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Community Coastal Impact Assistance Program (CIAP) Grant from the State of Alaska in the Amount of \$448,116 for the Beluga Slough Trail Reconstruction Project, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Memorandum 12-104 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-27 for introduction and first reading by reading of title only.

LEWIS/WYTHE - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 12-28**, An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$30,000 from the Parks and Recreation Depreciation Reserve Fund for the Relocation of the Mariner Park Driveway Access. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Memorandum 12-105 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-28 for introduction and first reading by reading of title only.

LEWIS/HOWARD – SO MOVED.

Work on the driveway relocation will begin this summer. It will address pedestrian concerns on the Spit. Permitting is nearly done and the project has been approved by DOT.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Ordinance 12-29**, An Ordinance of the Homer City Council Amending Homer City Code Chapter 15.10.010 to Exclude Oscar Munson Subdivision Lot 34 from the Ocean Drive Loop Special Service District. Lewis/Wythe. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-29 for introduction and first reading by reading of title only.

LEWIS/WYTHE - SO MOVED.

Councilmember Burgess believes the overall intention of the ordinance makes good sense. The owners have honored the agreement. His concern is in the transfer of the Corps of Engineers (COE) permit. He asked if permitting was accounted for and if consideration was made for future owners.

City Manager Wrede answered he was hoping the COE would make their decision on the permit first so everything would fall in line. Don and Donna Rae presumably would have their own permit as would other property owners. Council doesn't have to wait for the COE permit although there may be good arguments for doing that. There may be impacts for property owners farther down the line. Don and Donna Rae are doing what the Council wants everyone to do. Going into this we were hoping the property owners would look at the Seawall as an all for one/one for all type of thing. It is like a piece of property owned in common, if damaged in one area you will see damage further down the line. Property owners could be upset with each other and suing each other. There are implications, but the McNamara's are doing what Council wants to see happen there.

VOTE: YES. WYTHE, ZAK, HOWARD, BURGESS, LEWIS, ROBERTS

Motion carried.

- E. **Ordinance 12-30**, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating a Legislative Grant in the Amount of \$8,150,000 for Construction of the Natural Gas Pipeline from Anchor Point to Homer and Kachemak City. City Manager. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Mayor Hornaday addressed conflicts of interest defined as an interest one holds personally, an interest of an immediate family member, or an interest of an organization with which one holds a position of management, or is an officer, director, trustee, employee, or the like.

A substantial financial interest is a financial interest that would result in a pecuniary gain or loss exceeding \$1000 in a single transaction or more than \$5000 in the aggregate in 12 consecutive months.

Mayor Hornaday ruled in the case of Councilmember Wythe that under HCC 1.18.020(e)(1)(iii), the financial interest of Councilmember Wythe's employer, Homer Electric Association, is attributed to Councilmember Wythe. He also finds that Homer Electric Association has a substantial financial interest in this matter, as the introduction of natural gas service in Homer will result in a pecuniary loss to Homer Electric Association of more than \$5000 in the aggregate in 12 consecutive months, as some HEA customers will substitute natural gas for electric power from HEA as their source of energy for space and water heating.

Mayor Hornaday advised his ruling may be overruled by a majority vote of the City Council pursuant to HCC 1.18.045(b). He asked if any member of the Council appealed his ruling.

Councilmember Burgess appealed the Mayor's ruling. In the absence of a second, the matter died due to lack of a second.

Mayor Hornaday commented although he would like to have a full council, Homer has a case that went to the Supreme Court on a conflict of interest. It was on a planning decision that was set aside.

Councilmember Wythe was excused from participation and vacated her seat.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-30 for introduction and first reading by reading of title only.

LEWIS/BURGESS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Wythe returned to her seat.

CITY MANAGER'S REPORT

A. City Manager's Report

1. Memorandum 12-110 from Community and Economic Development Coordinator, re: Update on Municipal harbor Grant.

Natural Gas Update

1. The Legislative Grant: This agenda contains an ordinance accepting and appropriating the legislative grant in the amount of \$8.16 Million for construction of the large transfer pipeline from Anchor Point to Homer and Kachemak City. I am bringing this to you a little early in order to make sure we can move as quickly as possible. The funds are not available until after July 1 and we do not yet have the grant agreement. We expect to have the grant agreement in hand before second reading on July 23. Katie has been working with the State Department of Commerce and we already have preclearance and approval on the items both the State and the Council were concerned about last time. You may recall that those issues included ownership of the improvements, liability, Davis-Bacon wages ETC. We are currently working with Enstar on a Main Extension Contribution In Aid of Construction Agreement and also on making sure everyone is on

the same page with respect to the documentation that will be needed for reimbursements. We expect to have a contract completed for review and approval on July 23 also.

2. Distribution System LID: At the Council's most recent workshop on the gas distribution system, I came away with the impression that there was general agreement that the City should initiate a Special Assessment District that encompassed the entire City. I wanted to take a moment to touch base with you again on that. I also wanted to confirm that unless I hear something different from Council, it is my intention now to prepare a resolution initiating the district with all of the supporting documentation attached at either the July 23 or August 13 meeting. Please let me know if Council has any misgivings about this because putting this package together will involve a huge amount of work and staff time. If Council wants us to go in a different direction, it would be good to know that now.
3. Communication Plan: Council has spoken often about engaging the public in a conversation about the distribution system and the pros and cons of the City providing low interest loans to property owners to finance construction of the mains. If Council wants me to move ahead with drafting a resolution initiating the Assessment District, we could use the time between now and then providing information to the public and soliciting comment. In addition to the usual methods of getting info out there and soliciting comment, I am thinking about an informal, non-binding, advisory poll that could be done on-line and through paper surveys provided at strategic locations. This might provide Council with an indication of the level of support that might exist for the City helping property owners get access to gas through attractive financing. I am interested in hearing what you think about that idea.

City Manager Wrede reported Katie Koester provided a report at the Committee of the Whole on the harbor grant.

He intends to bring a mid year budget amendment forward at the next meeting. It will ask for new software for the library, deal with the revolving energy fund, and a few other things.

City Manager Wrede is meeting with Enstar on Wednesday to talk about the contract. Council will receive and appropriate the grant money, and then we will enter into a contract to do the work. We are detailing the documentation so Enstar is paid and the City is reimbursed in a timely manner. At the last Worksession he had the impression Council wanted to proceed with an LID (Local Improvement District/Special Assessment District). There will be a lot of work to get the 4,000 lots lined out prior to the July 23rd meeting.

Council has said they want to engage the community in whether the City should get involved in providing financing so people can hook up to gas quickly. Website updates and articles will be used. An online poll is another method of getting feedback from the public. Councilmember Howard mentioned a vote would be a good idea. There is an option to do a vote by ballot. If Council passes a resolution to initiate an LID in July or August, that sets off a whole process. It will take about four months. There will be town hall meetings, public hearings, and all property owners will be notified. There could be a ballot question whether the City should get involved in financing. We could incorporate the ballot vote and still be ready for construction in the spring. Council has expressed concern about doing an LID and forcing everyone into it.

Councilmember Lewis supports an advisory vote as something online could be skewed one way or other.

Councilmember Roberts commented an online poll is not a bad idea. It gives a sense quickly, but is not very accurate.

Councilmember Howard is not in favor of advisory ballot measures as we run a high risk of disenfranchising the voter. If we can vote in the general election online we should be able to ask this question online. We should be able to apply the same process the electronic absentee ballot will follow.

Councilmember Burgess commented Nick Poolos, IT Manager, is capable of narrowing it down as to who is providing input online. An advisory vote may be problematic. It would be good to have everyone informed and on the same page and the LID process allows feedback by voting.

City Manager Wrede explained with an LID you are only engaging the property owners within the improvement district. With an advisory vote, everyone votes. It is a big difference.

Councilmember Wythe referenced Bryan Hawkins report on the Daniel D incident. She commended the harbor staff for a great job that deserves recognition. Port and Harbor Director Hawkins reported \$5,200 will be billed out. The vessel is currently in the harbor incurring moorage. There will be additional costs for when the vessel was put on the beach on the east side.

B. Bid Report

CITY ATTORNEY REPORT

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. Water and Sewer Rate Task Force

PENDING BUSINESS

- A. **Resolution 12-050**, A Resolution of the City of Homer Authorizing the Initiation of a Special Service District in the Lillian Walli Estate Subdivision Identified as HM 0880017 T06S R14W S24 Lillian Walli Estate Subdivision Lots 39 - 42, and 51 -77, for the Purposes of Preparing the Lots Owned by the City of Homer for Sale and Further Residential Development. Wythe. (Postponed from May 29, 2012.)

Memorandum 12-106 from City Manager as backup.

Motion on the floor from May 29: MOTION FOR THE ADOPTION OF RESOLUTION 12-050 BY READING OF TITLE ONLY.

WYTHE/ROBERTS – MOVED TO FURTHER POSTPONE TO ALLOW STAFF TIME TO COMPLETE THEIR RESEARCH AND ADDITIONAL REQUEST THAT IT COMES BACK AS AN AMENDED RESOLUTION RECOMMENDING A TRADITIONAL LID PROCESS.

There are enough property owners within the subdivision that the improvement district will not need to be forced by Council.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

If not completed at Special Meeting:

- B. **Resolution 12-053**, A Resolution of the City Council of Homer, Alaska, Extending the Contract for General Counsel Legal Services with the Firm of Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2013 in the Amount of \$11,000.00 per Month and Authorizing the Mayor to Execute the Contract. City Clerk.

Resolution 12-053(S), A Resolution of the City Council of Homer, Alaska, Extending the City Attorney Contract with Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2016 in the Amount of \$11,000.00 per Month through July 31, 2014 and \$11,550.00 per Month Thereafter, and Authorizing the Mayor to Execute the Contract. City Clerk.

Resolution 12-053(S) was adopted at the Special Meeting.

NEW BUSINESS

RESOLUTIONS

- A. **Resolution 12-057**, A Resolution of the City Council of Homer, Alaska, Expressing Support for the Creation and Establishment of the Kachemak Bay Water Trail, a 125 Mile Water Trail that Inspires Exploration, Understanding and Stewardship of the Natural Treasure that is Kachemak Bay. Lewis/Parks and Recreation Advisory Commission.

Mayor Hornaday called for a motion for the adoption of Resolution 12-057 by reading of title only.

LEWIS/WYTHER – SO MOVED.
There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Resolution 12-058**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Renewal of the Special Services Contract for FY 2013 with the Alaska Department of Public Safety in the Amount of \$36,000.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief.

Memorandum 12-103 from Police Chief as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 12-058 by reading of title only.

WYTHER/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Resolution 12-059**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to _____, of _____, _____, in the Amount of \$ _____ for the Deep Water Dock Fender Replacement Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

Resolution 12-059(S), A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$2,228,412** for the Deep Water Dock Fender Replacement Project and Authorizing the City Manager to Execute the Appropriate Documents.

Memorandum 12-109 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 12-059 by reading of title only.

WYTHER/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

WYTHE/LEWIS - MOVED TO SUBSTITUTE RESOLUTION 12-059 FOR RESOLUTION 12-059(S).

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.

- D. **Resolution 12-060**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to _____, of _____, _____, in the Amount of \$_____ for the Beluga Slough Trail Reconstruction Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director. Page 277

Resolution 12-060(S), A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$525,912** for the Beluga Slough Trail Reconstruction Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

Memorandum 12-108 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 12-060 by reading of title only.

WYTHE/LEWIS - SO MOVED.

WYTHE/ROBERTS – MOVED TO SUBSTITUTE RESOLUTION 12-060 FOR RESOLUTION 12-060(S).

Councilmember Burgess asked if the bid amount was in line with what was reasonable.

City Manager Wrede answered there were three bidders and the numbers were close to what was expected.

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

Motion carried.

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

Motion carried.

- E. **Resolution 12-061**, A Resolution of the City Council of Homer, Alaska, Approving the Kenai Peninsula Borough School District Agreement for Joint Use of Equipment and Facilities for the Period July 1, 2012 through June 30, 2014, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager.

Mayor Hornaday called for a motion for the adoption of Resolution 12-061 by reading of title only.

WYTHE/LEWIS – SO MOVED.

Councilmember Roberts is glad to see the in-kind trade for clearing the ball fields. She asked if we were refunded if services exceed \$6,000.

City Manager Wrede answered the question came up and would be negotiable. Mr. Jones returned the agreement right before the packet deadline. We will give them an estimate for three fields, but it will be way over \$6,000. His understanding was we were talking about the upper field at the high school. The three fields would include the upper and lower fields at the high school and lower field at the Middle School. We are not committing to it, if the school district needs it they can ask.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- F. **Resolution 12-062**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Apply for and Accept Special Act Appropriations Project (SAAP) Funds in the Form of a Grant (45% Matching Requirement) in the Amount of \$485,000 for the Purpose of Completing Water Distribution/Storage Improvement Projects. City Manager/Public Works Director.

Memorandum 12-107 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 12-062 by reading of title only.

WYTHE/LEWIS - SO MOVED.

During the Committee of the Whole Councilmember Wythe had asked how the SAAP impacts the current holding with the water fund since the water and sewer fund is struggling. City Manager Wrede was not able to get the information. Rather than delaying the resolution it was decided City Manager Wrede would come back at the July 23rd meeting with the financial information.

City Manager Wrede explained the installation of a storage facility and water line would make distribution easier. People could hook up to the pipe. It will help with the circular flow from West Hill and East Hill, water quality, storage, and maintenance costs will decrease. If development happens in the Shellfish Avenue area this would help service that portion of town.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Beth Wythe, city resident, asked for reconsideration of her recusal. She regards the Mayor's position and the people that were here for the Worksession on the natural gas line. Her concern is there were many people here representing interests beyond the City of Homer. People were here that have more to gain both politically and financially than she personally has to gain or lose as an employee of Homer Electric Association. To bring that forward to Council was her primary interest in not being recused from discussion on the gas line. There are a lot of people concerned about the gas line for the surrounding areas of Homer, Kachemak City, and purposes beyond what the City of Homer residents will receive. It is inappropriate for Council to force members into an LID they are not willing to vote on. Our responsibility is to represent the citizens of this community, not the greater surrounding area. It was very political at the June 4th Worksession and we should not get caught up in the political drive of the greater surround area and lose focus on what is the benefit to the City of Homer for the gas line.

Donna Rae Faulkner, city resident, thanked Council, stating a huge weight was lifted off their shoulders. They will still continue to have Seawall issues, but this will affect their lives in so many positive ways. She thanked Council for listening and coming to this conclusion.

Don McNamara, city resident, thanked Council for their decision. He spent hours today reading over back pages of Council's actions on the Seawall and it was just the way Council had in mind that the citizens would take over the wall and maintain it.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner was not present

COMMENTS OF THE CITY CLERK

City Clerk Johnson congratulated Walt for making city history and wished the Council a pleasant four-week break.

COMMENTS OF THE CITY MANAGER

City Manager Wrede said thanks for the cake.

COMMENTS OF THE MAYOR

Mayor Hornaday told everyone to have a good summer.

COMMENTS OF THE CITY COUNCIL

Councilmember Wythe congratulated Walt. It has been 8 years of support and education for her sitting next to him at the table. She congratulated Roberta Highland for her reappointment and Don Stead for his appointment to the Planning Commission. She is hopeful that in the McNamara matter that Council's decision will restore the community's faith of the Council's ability to make micro and macro decisions. What is happening in the public and at the table is not the whole picture. Council can't always share all activities with the public, especially when there is legal action. Council has to rely on the community to know they are acting in their best interests at all times.

Councilmember Roberts echoed congratulations to Walt and issued a thank you and goodbye to Sharon Minsch.

Councilmember Howard said in her years as a city clerk she had many city managers, six in one year. She told Walt when he reaches 10 years she will nominate him for the City Manager Hall of Fame at the University of Kansas. She thanked Sharon Minsch who was appointed to the Planning Commission July 2006, selected as Chair of the Planning Commission July 2008, and served them until July 2012. Under Sharon's leadership the commission has traversed through tough waters to bring the various zones and related codes up to date and simplified for easier customer service. She asked Sharon to keep involved with the community.

Councilmember Burgess echoed congratulations to Walt. Sharon Minsch is the reason he is in the council seat now. It was going to the Planning Commission meetings that got him involved in the community. He thanked Sharon. He objected to the Mayor's ruling on Councilmember Wythe as she has a good attention to detail and pursuing matters with a fine tooth comb. As we move forward with the natural gas pipeline in negotiating the contracts the devil will be in the details. Although she won't be participating in the process he hopes we will still have her keen eye looking at the issues. That was his reasoning; not to disagree with the Mayor. Councilmembers Lewis and Zak had no comment.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 7:49 p.m. The next Regular Meeting is Monday, July 23, 2012 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.

JO JOHNSON, CMC, CITY CLERK

Approved: _____

VISITORS

**ANNOUNCEMENTS
PRESENTATIONS
BOROUGH REPORT
COMMISSION REPORTS**

**CITY OF HOMER
HOMER, ALASKA**

MAYOR'S RECOGNITION

**PHIL NEEDHAM
FOR HIS EFFORTS AND WORK
AT KAREN HORNADAY PARK BALL FIELDS**

WHEREAS, Phil Needham is recognized for taking the lead in coordinating and advocating for the upgrades to the Karen Hornaday Park ball fields and dugouts that are used every summer by the popular Homer Little League organization; and

WHEREAS, Phil has donated many hours of his time and effort by attending numerous city meetings, serving on the Karen Hornaday Park Committee, donating personal equipment and construction expertise, and recruiting volunteers to improve the fields and dugouts; and

WHEREAS, Phil has learned from field experts how to adequately improve the infields, enhance the grass, and even to come up with innovative ways to fertilize the fields with the use of a helicopter; and

WHEREAS, Phil has directed the filling of the infields, subcontracting of the new fence installation, and coordinated for the materials and construction of the new dugouts; and

WHEREAS, Phil continues to be an advocate for Homer Little League by seeking support, awareness, and funding opportunities to maintain and enhance the Karen Hornaday Park ball fields and dugouts.

WHEREAS, Phil is an incredible mover and gets things done as the ball fields will attest to.

NOW, THEREFORE, I, JAMES C. HORNADAY, Mayor of the City of Homer, Alaska, on behalf of the Homer City Council and the citizens do hereby recognize the tremendous efforts of Phil Needham for his dedication, support, and many personal and professional contributions to improve Karen Hornaday Park for children and families.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the official seal of the City of Homer, Alaska, on this 23rd day of July, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

**CITY OF HOMER
HOMER, ALASKA**

MAYOR'S RECOGNITION

**CITY OF HOMER SEWER TREATMENT FACILITY
WINNER OF THE GREAT ALASKA ENERGY CHALLENGE
FOR THE CATEGORY "BIGGEST CHANGE – ELECTRICITY"**

WHEREAS, The Great Alaska Energy Challenge was organized by Renewable Energy Alaska Project and sponsored by Alaska Housing Finance Corporation, and ran from October 2011 to March 2012; and

WHEREAS, The Great Alaska Energy Challenge focused on public facilities with the goal of raising awareness about energy efficiency and conservation, and saving the state and municipalities money; and

WHEREAS, The Great Alaska Energy Challenge is also part of a broader statewide effort to reduce energy costs by improving energy efficiency 15% by 2020 per capita and mandating energy efficiency retrofits on 25% of the state's public buildings; and

WHEREAS, Ten teams participated in the six-month long inaugural Challenge and there were four winners including Alaska Energy Authority in Anchorage, Palmer Junior Middle School, City of Homer Sewer Treatment Plant, and Cordova High School; and

WHEREAS, Combined energy efficiency and conservation efforts helped participants cut over \$40,000 compared to last year, and avoided emitting over 500,000 pounds of CO₂; and

WHEREAS, The City of Homer Sewer Treatment Plant was the winner for the category "Biggest Change – Electricity" by cutting their energy use by nearly a sixth over the last year, saving enough energy to power more than eight homes for one year.

NOW, THEREFORE, I, JAMES C. HORNADAY, Mayor of the City of Homer, Alaska, on behalf of the Homer City Council and the citizens do hereby recognize the City of Homer Sewer Treatment Facility as a winner of the First Ever Great Alaska Energy Challenge for the category "Biggest Change – Electricity".

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the official seal of the City of Homer, Alaska on this 23rd day of July, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

PUBLIC HEARING(S)

**CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING**

Ordinances 12-26, 12-27, 12-28, 12-29, and 12-30

A **public hearing** is scheduled for **Monday, July 23, 2012** 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.

Ordinance 12-26, 12-27, 12-28, 12-29, and 12-30 internet address:
<http://www.cityofhomer-ak.gov/ordinances>

Ordinance 12-26, An Ordinance of the City Council of Homer, Alaska, Amending Table 3 Permitted Sign Characteristics by Zoning District, Following Homer City Code 21.60.060, Signs on Private Property, to Permit Changeable Copy Signs for Institutional Uses Permitted in the RR, UR And RO Zoning Districts. Planning.

Ordinance 12-27, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Community Coastal Impact Assistance Program (CIAP) Grant from the State of Alaska in the Amount of \$448,116 for the Beluga Slough Trail Reconstruction Project, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director.

Ordinance 12-28, An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$30,000 from the Parks and Recreation Depreciation Reserve Fund for the Relocation of the Mariner Park Driveway Access. City Manager/Public Works Director.

Ordinance 12-29, An Ordinance of the Homer City Council Amending Homer City Code Chapter 15.10.010 to Exclude Oscar Munson Subdivision Lot 34 from the Ocean Drive Loop Special Service District. Lewis/Wythe.

Ordinance 12-30, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating a Legislative Grant in the Amount of \$8,150,000 for Construction of the Natural Gas Pipeline from Anchor Point to Homer and Kachemak City. City Manager.



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.

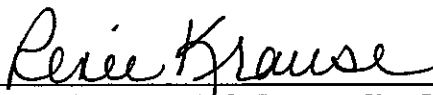
Jo Johnson, CMC, City Clerk

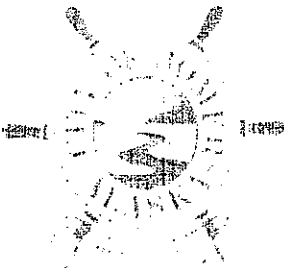
Publish: Homer News - July 19, 2012

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 Ordinance 12-26, Amending Table 3 Permitted Sign Characteristics by Zoning District, Following Homer City Code 21.60.060, Signs on Private Property, to Permit Changeable Copy Signs for Institutional Uses Permitted in the RR, UR And RO Zoning Districts; Ordinance 12-27, Accepting and Appropriating a Community Coastal Impact Assistance Program (CIAP) Grant from the State of Alaska in the Amount of \$448,116 for the Beluga Slough Trail Reconstruction Project; Ordinance 12-28, Amending the 2012 Operating Budget by Appropriating Up to \$30,000 from the Parks and Recreation Depreciation Reserve Fund for the Relocation of the Mariner Park Driveway Access; Ordinance 12-29, Amending Homer City Code Chapter 15.10.010 to Exclude Oscar Munson Subdivision Lot 34 from the Ocean Drive Loop Special Service District; and Ordinance 12-30, Accepting and Appropriating a Legislative Grant in the Amount of \$8,150,000 for Construction of the Natural Gas Pipeline from Anchor Point to Homer and Kachemak City at the City of Homer kiosks located at City Clerk's Office, Captain's Coffee Roasting Co., Harbormaster's Office, and Redden Marine Supply of Homer, on July 13, 2012 and that the Deputy City Clerk II posted same on City of Homer Homepage on July 13, 2012.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 13th day of July, 2012.


Renee Krause, CMC, Deputy City Clerk I



ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-26

An Ordinance of the City Council of Homer, Alaska, Amending Table 3 Permitted Sign Characteristics by Zoning District, Following Homer City Code 21.60.060, Signs on Private Property, to Permit Changeable Copy Signs for Institutional Uses Permitted in the RR, UR And RO Zoning Districts.

Sponsor: Planning

1. City Council Regular Meeting June 25, 2012
 - a. Memorandum 12-102 from City Planner as backup
2. City Council Regular Meeting July 23, 2012 Public Hearing and Second Reading
 - a. Memorandum 12-102 from City Planner as backup

**CITY OF HOMER
HOMER, ALASKA**

Planning

ORDINANCE 12-26

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING TABLE 3 PERMITTED SIGN CHARACTERISTICS BY ZONING DISTRICT, FOLLOWING HOMER CITY CODE 21.60.060, SIGNS ON PRIVATE PROPERTY, TO PERMIT CHANGEABLE COPY SIGNS FOR INSTITUTIONAL USES PERMITTED IN THE RR, UR AND RO ZONING DISTRICTS.

THE CITY OF HOMER ORDAINS:

Section 1. Table 3, Permitted Sign Characteristics by Zoning District, following Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

Table 3.														
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS(e)
Animated (b)	N	N	N	N	P	P	N	P	N	P	P	N	N	N
Changeable Copy (c)	N	N	N	PN	P	P	N	P	P	P	P	P	N	PH
Illumination Internal	N	N	N	P	P	P	N	P	P	P	P	P	N	N
Illumination External	N	N	N	P	P	P	P	P	P	P	P	P	N	PH
Neon (d)	N	N	N	N	P	P	N	P	P	P	P	P	N	N

Notes to Table 3

a. The INS column does not represent a zoning district. It applies to institutional uses permitted under the zoning code in the RR, UR and RO zoning districts. Institutional is defined as an established organization or corporation of a public, non-profit or public safety/benefit nature, *i.e.*, schools, churches and hospitals.

b. Animated signs may not be neon or change colors or exceed three square feet in area.

c. Changeable Copy signs must be wall or pole mounted, and may not be flashing.

d. Neon signs may not be flashing and may not exceed 32 square feet.

e. The PS column does not represent a zoning district. It applies to Public Signs permitted under the zoning code, in all zoning districts.

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

24 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
25 _____ 2012.

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CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:
NO:
ABSTAIN:
ABSENT:

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

Reviewed and approved as to form:

Walt E. Wrede, City Manager
Date: _____

Thomas F. Klinkner, City Attorney
Date: _____



City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-3106
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

MEMORANDUM 12-102

TO: Mayor Hornaday and Homer City Council
THRU: Walt Wrede, City Manager
FROM: Rick Abboud, City Planner
DATE: May 21, 2012
SUBJ: DRAFT ORDINANCE 12-XX, AMENDING HOMER CITY CODE HCC 21.60.060, TABLE 3, PERMITTED SIGN CHARACTERISTICS (ALLOWING INSTITUTIONAL SIGNS TO INCLUDE AN OPTION FOR USE OF A "CHANGEABLE COPY" FORMAT)

Introduction

In accordance with HCC 21.95.060 (d), the Planning Commission is submitting its written recommendation regarding a proposed legislative amendment submitted to them by petition. The petition was verified by the City Clerk and Planning Commission held a public hearing at their meeting on May 16, 2012. No other testimony was provided outside of the petitioner's.

Proposed Code Amendment

This is a legislative amendment would allow for all institutions (e.g. churches, schools and hospitals) located in the Rural Residential, Urban Residential, and Residential Office districts the option of using a "changeable copy" format for signage.

Planning Commission recommendation:

The Planning Commission voted 2 in favor of and 5 against the proposed ordinance.

Review by City Council

HCC 21.95.070, Review by City Council. After receiving the recommendations of the Planning Commission regarding an amendment proposal, the City Council shall consider the amendment proposal in accordance with the ordinance enactment procedures in the Homer City Code. The City Council may adopt the proposed amendment as submitted or with amendments, or reject the proposed amendment.

Attachments

1. Draft Ordinance 11-XX
2. Petition and application
3. Staff Report 12-21
4. PC minutes of 5-15-2012



City of Homer

Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-8121
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

STAFF REPORT PL 12-21

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: May 16, 2012
SUBJECT: Draft Ordinance 12-xx, Amending Homer City Code HCC 21.60.060,
Table 3, Permitted Sign Characteristics

GENERAL INFORMATION

The Paul Banks Elementary School PTA circulated a petition to change the sign code to allow changeable copy signs for institutions. Currently, when an institution such as a school is located in a residential district, the amount and type of signage is very limited. Institutions are allowed only 20 square feet of signage, and may not have a changeable copy sign. The petitioners have requested an amendment to the sign code, Table 3, to allow changeable copy signs.

The City of Homer Clerk's Office verified that the petition was signed by at least 50 voters registered to vote within city limits, as required by HCC 21.95.010(e).

Under HCC, "institutions" in the sign code are institutional uses permitted in the Rural, Urban and Residential Office zoning districts. Institutional is defined as an established organization or corporation to a public, non-profit, or public safety/benefit nature, i.e., schools, churches and hospitals. The proposed amendment would allow these institutions to have changeable copy signs, which are currently not allowed.

Planning Staff review per 21.95.040

The Planning Department finds that this amendment is consistent with the Comprehensive plan Goal 1, protecting community character. The changes will be reasonable to implement and enforce. It will promote the present and future public health, safety and welfare by helping to communicate institutional events using permanent signage, discouraging a proliferation of banners or other temporary sign measures. Finally, it has been reviewed by the City Attorney to be consistent with the intent and wording of the other provisions of Title 21.

STAFF COMMENTS/RECOMMENDATIONS:

Planning staff has reviewed the ordinance per 21.95.040 and recommends the Planning Commission conduct public hearing, and recommend approval to the City Council.

ATTACHMENTS

1. Draft ordinance
2. Petition

**CITY OF HOMER
HOMER, ALASKA**

Planning

ORDINANCE 12-

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING TABLE 3 PERMITTED SIGN CHARACTERISTICS BY ZONING DISTRICT, FOLLOWING HOMER CITY CODE 21.60.060, SIGNS ON PRIVATE PROPERTY, TO PERMIT CHANGEABLE COPY SIGNS FOR INSTITUTIONAL USES PERMITTED IN THE RR, UR AND RO ZONING DISTRICTS.

THE CITY OF HOMER ORDAINS:

Section 1. Table 3, Permitted Sign Characteristics by Zoning District, following Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

Table 3.														
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS(e)
Animated (b)	N	N	N	N	P	P	N	P	N	P	P	N	N	N
Changeable Copy (c)	N	N	N	PN	P	P	N	P	P	P	P	P	N	PH
Illumination Internal	N	N	N	P	P	P	N	P	P	P	P	P	N	N
Illumination External	N	N	N	P	P	P	P	P	P	P	P	P	N	PH
Neon (d)	N	N	N	N	P	P	N	P	P	P	P	P	N	N

Notes to Table 3

- a. The INS column does not represent a zoning district. It applies to institutional uses permitted under the zoning code in the RR, UR and RO zoning districts. Institutional is defined as an established organization or corporation of a public, non-profit or public safety/benefit nature, *i.e.*, schools, churches and hospitals.
- b. Animated signs may not be neon or change colors or exceed three square feet in area.
- c. Changeable Copy signs must be wall or pole mounted, and may not be flashing.
- d. Neon signs may not be flashing and may not exceed 32 square feet.
- e. The PS column does not represent a zoning district. It applies to Public Signs permitted under the zoning code, in all zoning districts.

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

[Bold and underlined added. Deleted language stricken through.]

23 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
24 _____ 2012.

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26 CITY OF HOMER
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31 JAMES C. HORNADAY, MAYOR
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33 ATTEST:

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36 _____
37 JO JOHNSON, CMC, CITY CLERK
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39 YES:

40 NO:

41 ABSTAIN:

42 ABSENT:

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44 First Reading:

45 Public Hearing:

46 Second Reading:

47 Effective Date:

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49 Reviewed and approved as to form:
50

51
52 _____
53 Walt E. Wrede, City Manager

54 Date: _____

Thomas F. Klinkner, City Attorney
Date: _____

[Bold and underlined added. Deleted language stricken through.]

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
MAY 16, 2012

A. Staff Report PL 12-21 Draft Ordinance 12-xx, Amending Homer City Code 21.60.060 Table 3, Permitted Sign Characteristics

Vanessa Fefelov, city resident, explained that the Paul Banks Elementary School PTA would like to put up a changeable copy sign near the schools entrance, similar to the one at the high school, where they could post their events, however changeable copy signs are not allowed in the zoning district. Many of her comments revolved around challenges they are encountering with size allowance and sign cost.

Chair Minsch opened the public hearing. There were no comments and the public hearing was closed.

The Commission discussed whether there were ways to work with the applicant regarding the size allowance and were reminded that the item advertised on the agenda is a code amendment to allow changeable copy signs for institutional uses in the rural residential, urban residential, and rural office districts.

The Commission took a break at 7:30 p.m. and the meeting resumed at 7:34 p.m.

VENUTI/SONNEBORN MOVED TO APPROVE THE DRAFT ORDINANCE AMENDING HCC 21.60.060 TABLE 3 PERMITTED SIGN CHARACTERISTICS AND FORWARD IT TO CITY COUNCIL FOR ADOPTION.

There were comments in favor of supporting a changeable copy sign at the school and that it is a benefit for the good of the community. Question was raised if there is a way to allow the signs for schools. City Planner Abboud explained that it raises issue with teaching institutions other than public schools, such as churches with schools. The point was raised that it isn't simply for the school, changeable copy signs would be allowed for all institutional uses the rural residential, urban residential, and residential office districts.

**VOTE: YES: VENUTI, ERICKSON
NO: BOS, MINSCH, HIGHLAND, SONNEBORN, DOLMA**

Motion failed.

PLAT CONSIDERATION

PENDING BUSINESS

A. Staff Report PL 12-22, Flag Lots

The Commission discussed how to proceed. They reviewed information provided by Borough Platting Officer Voeller and noted that they are interested in getting feed back from the local surveyors, the Fire Chief, and the Public Works Director. They acknowledged concerns about subdivisions in relation assessment districts, and challenges in working with engineers as there is cost to have drawings confirming a flag lot is a workable situation in relation to slope and grade. The reviewed the proposed regulation included in the staff report. They agreed to give more consideration to the 150 length of a shared driveway as there are some instances where a longer driveway may be necessary. They addressed removing the option to allow private roads to serve a certain number of dwellings. They were in concurrence regarding the other recommendations.

The Commission agreed to continue discussion at a future worksession.

Session 12-06, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 6:30 p.m. on May 16, 2012 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, DOLMA, ERICKSON, HIGHLAND, MINSCH, SONNEBORN, VENUTI

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN

APPROVAL OF AGENDA

The agenda was approved by consensus of the Commission.

PUBLIC COMMENT

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

None

RECONSIDERATION

ADOPTION OF CONSENT AGENDA

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

1. Approval of the May 2, 2012 minutes
2. Time Extension Requests
3. Approval of City of Homer Projects under HCC 1.76.030g
4. KPB Coastal Management Program Reports

The consent agenda was approved by consensus of the Commission.

PRESENTATIONS

REPORTS

- A. Staff Report PL 12-23, City Planner's Report

City Planner Abboud reviewed the staff report.

- B. Transportation Advisory Committee Report

Commissioner Highland

PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.



City of Homer Planning & Zoning
491 E Pioneer Ave, Homer AK 99603

Website //planning.ci.homer.ak.us
ph: 907-235-3106 fax: 907-235-3118

Code Amendment Request

For Staff Use Only

Received by:	Planning Commission Public Hearing Date:
Clerk's certification of fifty signatures:	HAPC approval or denial date:
	City Council action:

APPLICANT INFORMATION

Name: Paul Banks Elementary PTA Phone Number: 226-1801

Address: 1390 E. End Rd. Homer, AK 99603

Request: HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from an "N" = not allowed, to a "P" = allowed with a sign permit.

HCC 21.95.040 Planning Department review of code amendment requests:

a. Is the request consistent with the comprehensive plan and will further the specific goals and objectives of the plan?
<http://www.cityofhomer.ak.gov/planning/comprehensive-plan-2008-adopted-2010>

Yes. The PTA along with the school, intends to erect a tasteful school sign with wood beams and an artistic banner with a changeable letter sign mounted in between the beams.

b. Will the request be reasonable to implement and enforce?

Yes. The PTA & school administration will be sure to follow the amended sign ordinance.

c. Will the request promote the present and future public health, safety and welfare?

Yes. The proposed sign change will not present any health or safety risk and will promote a sense of community by communicating the school events with the town citizens.

d. Is the request consistent with the intent and wording of the other provisions of this title?

Yes.

RECEIVED

APR 23 2012

CITY OF HOMER
PLANNING ZONING

Petition

**HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from a "N" not
allowed to a "P" allowed with a sign permit.**

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City. MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.

Proposed amendment:
HCC 21.60.060(e)

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
Albee Solczynski	<i>Albee Solczynski</i>	P.O. Box 344, Homer, AK 99603	1580 Lincoln Dr. Homer, AK 99603
Wanessa Peltola	<i>Wanessa Peltola</i>	1005 N Lakeside Circle Homer, AK 99603	Same
Jacqueline McDaniel	<i>Jacqueline McDaniel</i>	555 Weddell St. Homer	Same
Jessie Davie	<i>Jessie Davie</i>	PO Box 2030 Homer, AK 99603	1640 East End Rd, Homer, AK 99603
Cathy Singlay	<i>Cathy Singlay</i>	PO Box 1968 Homer, AK	Glenn Road, Homer, AK 99603
Eric Peltola	<i>Eric Peltola</i>	4436 Shanna Homer	Same
Linda Peltola	<i>Linda Peltola</i>	136 E Bayview Ave. Homer	Same
David S. Peltola	<i>David S. Peltola</i>	136 E. Bayview Ave. Homer	Same
Amber Shadley	<i>Amber Shadley</i>	4053 Pennack St	Same

Petition

HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from a "N" not allowed to a "P" allowed with a sign permit.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the city. MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.

Proposed amendment:	HCC 21.60.060
---------------------	---------------

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
BEAN PETE D. WILSON	<i>Pete D. Wilson</i>	4676 Sylburn Rd Homer AK	Same
ATHENA EDEN	<i>Athena Eden</i>	Box 2456, Homer AK	Box Miller Lane
Kyesten Syth	<i>Kyesten Syth</i>	3958 Mattox Rd Homer	Same
John Coors	<i>John Coors</i>	235 Leeder	same
Sabrina Moffitt	<i>Sabrina Moffitt</i>	235 Lee Dr.	Same
Diantha Hulien	<i>Diantha Hulien</i>	4142 Mattox St Lot 8	Same
Christina Keple	<i>Christina Keple</i>	254 E. Danview Ave	Same
Carlene Spight	<i>Carlene Spight</i>	PO Box 2213 Homer AK 99603	
Larmer NGLETT	<i>Larmer NGLETT</i>	60210 BERR CREEK DR HOMER AK 99603	Same

Petition

HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from a "N" not allowed to a "P" allowed with a sign permit.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the city. MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
Dorel Bunker	<i>Dorel Bunker</i>	5873 April Place Homer, Ak	Same
Leanna Rainbird	<i>Leanna Rainbird</i>	2163 Fishbee Court Homer	Same
Andrea Ralle	<i>Andrea Ralle</i>	3059 Kachmak Dr Homer AK 99603 P.O. 2101	Same
Tamara (Kovale)	<i>Tamara Kovale</i>	P.O. Box 2536 Homer, AK 99603	3826 Lakeside Circle Homer, AK 99603
Bonnie Gregoire	<i>Bonnie Gregoire</i>	3705 East End Rd	Same
Sharon Schuit	<i>Sharon Schuit</i>	2505 Paradise Pl.	Same
Debra Turkington	<i>Debra Turkington</i>	Box 1181 Homer, AK 99603	8000 Coyote Way Homer, AK
Eric Benson	<i>Eric Benson</i>	PO Box 3424 Homer AK 99603	3927 Skedond St, Homer AK
Therese Prockler	<i>Therese Prockler</i>	295 E. Fairview Ave Homer, AK 99603	(same) Homer, AK 99603

Petition

HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from a "N" not allowed to a "P" allowed with a sign permit.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City. **MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.**

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
Jeri McLean	Jeri McLean	P.O. Box 2191 Homer, AK 99603	4478 East Hill, Homer, AK 99603
Karen Greiner	Karen Greiner	Homer, AK 99603	961 S. Lakeside Cir. Homer, AK 99603
Jennifer Ross	Jennifer Ross	P.O. Box 3805 Homer, AK 99603	249.6 Spruce Ln. Homer, AK 99603
Karen Weston	Karen Weston	P.O. Box 1692 Homer	2295 Mt. Augustine Dr.
Kelley Luck	Kelley Luck	4267 Shirley Ct. Homer	(same)
Dina Morrison	Dina Morrison	1224 Cook Way Homer	(same)
Mary Banne	Mary Banne	P.O. Box 1496 Homer, AK	1660 East End Road
Terresa Callahan	Terresa Callahan	1444 S. Lakeside Cir. Homer, AK P.O. Box 3805 Homer	582 Elderberry
Kristen Lary	Kristen Lary	P.O. Box 1937 Homer	Same

Petition

HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from a "N" not allowed to a "P" allowed with a sign permit.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City. MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
or Noreen O'Brien-Duggan	Noreen O'Brien-Duggan	PO Box 1698 Homer	3158 Lake St - Homer
or Jonach Bros #	[Signature]	PO Box 3109 Homer	1104 Ocean Dr Unit C, Homer
or Melissa Arno	[Signature]	P.O. Box 1614 Homer	1005 Skyline Dr
or Mikala Walker	Mikala Walker	PO Box 1658 Homer	1187 DeGraffenried Ct.
or Frankie Weber	Frankie Weber	4147 Mattox Rd Homer	Same -
or Kelsey Poole	Kelsey Poole	P.O. Box 257 Homer	850 Highland Dr.
or [Signature]	[Signature]	PO Box 1180 Homer	4738 Rochelle Rd.
or Day Veasey	Day Veasey	PO Box 3514 Homer	534 Hidden Way
or [Signature]	[Signature]	4530 Jade Dr.	4530 Jade Dr.

Petition

HCC 21.60.060, Table 3, Permitted Sign Characteristics.

To allow institutional changeable copy signs with a sign permit.

If approved, this would change Table 3, Column 5, Row 3 from a "N" not allowed to a "P" allowed with a sign permit.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City. MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.

Proposed amendment:
HCC 21.60.060(e)

Printed Name	Signature of Voter Registered in the City of Home	Mailing Address	Physical Address
Susan Webster		PO Box 3570	1500 Lincoln Drive
Amy Lower		3043 Poppy Cir	Same
Gail Edgerly		PO Box 1223	4075 Mattox
GLANDRA MAXINE		1100 Cottonwood Ln	"
Kathleen Gustafson		496 Bonanza	496 Bonanza
Esther Lowe		4604 Rochelle Rd.	"
Kate Crowley		PO Box 2862 Homer 99603	820 Jeffery Ave.
MONICA BROWN		164 MTN VIEW DR APT B	"
CORISSA MARTIN		502 Sandvics Ave Homer AK 99603	same

Petition

HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from a "N" not allowed to a "p" allowed with a sign permit.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the City. MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.

Proposed amendment	HCC 21.60.060(e)	Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
		Cheryl Ella	<i>[Signature]</i>	PO Box 2329, Homer	934 Larkspur Ct.
		Jennifer Dye	<i>[Signature]</i>	PO Box 1539 Homer	615 Day breeze "
		MICHAEL DYE	<i>[Signature]</i>	"	"
		Carrie Herndon	<i>[Signature]</i>	PO Box 2131 Homer	456 West Hill Rd
		Matt Stinoff	<i>[Signature]</i>	4604 Tamara St	Same
		Ian Pitman	<i>[Signature]</i>	4254 Suedland	same
		John Pittman	<i>[Signature]</i>	4004 Vedard Homer	Same
		Maryann Lora	<i>[Signature]</i>	PO Box 727 3985 Kachomak way	→
		Jason Pinsky	<i>[Signature]</i>	650 RANGVIEW AVE. HOMER	Same

Petition

HCC 21.60.060, Table 3, Permitted Sign Characteristics.
To allow institutional changeable copy signs with a sign permit.
If approved, this would change Table 3, Column 5, Row 3 from a "N" not allowed to a "P" allowed with a sign permit.

A specific proposal to amend the text of the zoning code will be considered by the Planning Commission and City Council if requested in writing and signed by fifty voters registered within the city. MY SIGNATURE MEANS I AM IN FAVOR OF THIS AMENDMENT.

Proposed amendment:
HCC 21.60.060(a)

Printed Name	Signature of Voter Registered in the City of Homer	Mailing Address	Physical Address
Ami Aparach	Ami Aparach	Same - 11	4105 white alder ct apt 4B
Consolation Var	Consolation Var	1473 East End Rd Homer AK	same
PATRICIA WILSON	Patricia Wilson	4178 Rachelle Horner, AK 99609	same
Jane Swain	Jane Swain	2090 Homer, AK	4815 West New Rd.
DARAY SWANSON	Daray Swanson	274 E. DANVIEW. HOM	SAME
Brandy Super	Brandy S Super	2991 Homer AK 99603	604 Rangelwin Ave.
Michael Super	Michael Super	P.O. Box 2991 Homer, AK 99603	604 Rangelwin Ave

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-27

An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Community Coastal Impact Assistance Program (CIAP) Grant from the State of Alaska in the Amount of \$448,116 for the Beluga Slough Trail Reconstruction Project, and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 25, 2012 Introduction
 - a. Memorandum 12-104 from Public Works Director as backup
 - b. Grant Agreement
 - c. Resolution 09-50

2. City Council Regular Meeting July 23, 2012 Public Hearing and Second Reading
 - a. Memorandum 12-104 from Public Works Director as backup
 - b. Grant Agreement
 - c. Resolution 09-50

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**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Public Works Director

ORDINANCE 12-27

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, ACCEPTING AND APPROPRIATING A COMMUNITY COASTAL IMPACT ASSISTANCE PROGRAM (CIAP) GRANT FROM THE STATE OF ALASKA IN THE AMOUNT OF \$448,116 FOR THE BELUGA SLOUGH TRAIL RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The City Council approved Resolution 09-50, expressed its support for a grant application to the Alaska Coastal Impact Assistance Program to reconstruct approximately 850 feet of the Beluga Slough Trail; and

WHEREAS, The State of Alaska Department of Commerce, Community, and Economic Development (DCCED) has awarded a grant to the City of Homer for the Beluga Slough Trail Reconstruction project in the amount of \$448,116; and

WHEREAS, The City's grant condition responsibilities have been met (design of the project is complete using HART funds, existing trail removal scheduled for later this summer by volunteers/Parks and Recreation staff).

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby accepts and appropriates a CIAP grant from the State of Alaska (DCCED) for FY 2012 in the amount of \$448,116 as follows:

Appropriation:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
151-772	CIAP Beluga Slough Reconstruction Grant FY 12	\$448,116

Section 2. The City Manager is authorized to execute the appropriate documents.

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

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of July, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

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53 ATTEST:

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58 JO JOHNSON, CMC, CITY CLERK

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61 YES:

62 NO:

63 ABSTAIN:

64 ABSENT:

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67 First Reading:

68 Public Hearing:

69 Second Reading:

70 Effective Date:

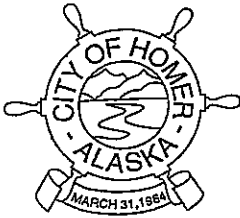
71
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74 Reviewed and approved as to form:

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77 Walt E. Wrede, City Manager

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79 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



CITY OF HOMER
PUBLIC WORKS
3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
FACSIMILE (907)235-3145

MEMORANDUM 12-104

TO: Walt Wrede, City Manager
FROM: Carey Meyer, Public Works Director
DATE: June 18, 2012
RE: **Beluga Slough Trail Reconstruction**
Authorization to Accept/Appropriate Funds

The City Council approved Resolution 09-50, expressed its support for a grant application to the Alaska Coastal Impact Assistance Program to reconstruct approximately 850 feet of the Beluga Slough Trail. The State of Alaska (Department of Commerce, Community, and Economic Development) has awarded a grant to the City of Homer for the Beluga Slough Trail Reconstruction project in the amount of \$448,116.

The City's grant condition responsibilities have been met (design of the project is complete using HART funds, existing trail removal scheduled for later this summer by volunteers/Parks and Recreation staff).

Construction of this project is expected to begin in early September. The project will be complete by October, 2012.

Recommendations: The City Council pass an ordinance accepting and appropriating a CIAP grant from the State of Alaska (DCCED) for FY 2012 in the amount of \$448,116.

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
 DIVISION OF COMMUNITY AND REGIONAL AFFAIRS



**Community Coastal Impact Assistance Program
 Grant Agreement**

Grant Agreement Number: 10-CIAP-017		Federal Award Number F12AF00204		Amount of Federal Funds: \$448,116	
CFDA: 15.668	Encumbrance AR	Lapse Date 31714	Project Title: Beluga Slough Trail Reconstruction to Restore Wetlands		
Grantee			Department Contact Person		
Name: City of Homer			Name: Sally Russell Cox		
Street/PO Box: 3575 Heath St			Title: Planner III		
City/State/Zip: Homer, AK 99603-7819			Street/PO Box: 550 W 7th Avenue, Suite 1640		
Contact Person: Carey Meyer, Public Works Director			City/State/Zip: Anchorage, AK 99501-3569		
Phone: (907) 435-3124	Fax: (907) 235-3145		Phone: (907) 269-4588	Fax: (907) 269-4066	
Email: cmeyer@ci.homer.ak.us			Email: sally.cox@alaska.gov		

AGREEMENT

The Alaska Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs (hereinafter 'Department') and City of Homer (hereinafter 'Grantee') agree as set forth herein.

Section I. The Department shall pay the Grantee for the performance of the project work under the terms outlined in this agreement. The amount of the payment is based upon project expenses incurred, which are authorized under this Agreement. In no event shall the payment exceed **\$448,116.00**.

Section II. The Grantee shall perform all of the work required by this Agreement.

Section III. The work to be performed under this agreement begins 03/01/12 and shall be completed no later than 03/01/14.

Section IV. The agreement consists of this page and the following:

ATTACHMENTS

- Attachment A: Scope of Work
- Project Description
 - Measurable Goals and Objectives
 - Budget
 - Schedule
 - Copies of Products
 - Project Management/Reporting
- Attachment B: Payment Method
 Attachment C: Standard Provisions

APPENDICES

- Appendix A: Audit Compliance
 Appendix B: Insurance
 Appendix C: State Laws and Regulations
 Appendix D: Special Requirements and Assurances for Federally Funded Projects

AMENDMENTS

Any fully executed amendments to this Agreement

Grantee		Department	
Signature		Signature	
Printed Name and Title Carey Meyer, Public Works Director		Printed Name and Title Scott Ruby, Division Director	
Date		Date	

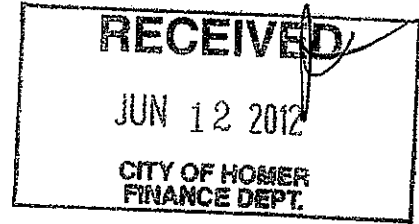


STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Sean Parnell, Governor
Susan K. Bell, Commissioner
Scott Ruby, Director

Division of Community and Regional Affairs
Grants Section

May 29, 2012



Carey Meyer, Director of Public Works
City of Homer
3575 Heath Street
Homer, AK 99603-7819

**RE: Community Coastal Impact Assistance Grant Agreement # 10-CIAP-017
Beluga Slough Trail Reconstruction to Restore Wetlands**

Dear Carey:

Enclosed for your file is a fully executed **Grant Agreement** for the above referenced project. Please review the grant agreement carefully and make certain that you understand the requirements for administration and reporting of the project.

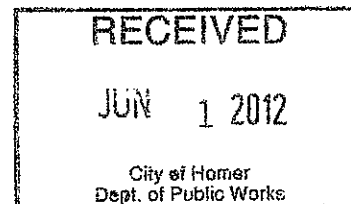
The first financial and progress reports for your project will be due in this office July 13, 2012. The financial and progress report forms will be provided electronically to you soon.

Please feel free to contact me if you have any questions regarding this grant agreement. I'd like to wish you every success as you proceed with this important community development activity.

Sincerely,

Jill Furbish
Grant Administrator II

Enclosure



6.

ATTACHMENT A Scope of Work

AWARD AUTHORITY

The Community Coastal Impact Assistance Program is part of the Alaska Coastal Impact Assistance Program, which is funded by the Federal Coastal Impact Assistance Program. Section 384 of the Energy Policy Act of 2005 (Act), which has created the Coastal Impact Assistance Program by amending Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. § 1356a Appendix A). Under the provisions of the Act, the authority and responsibility for the management of CIAP is vested in the Secretary of the U.S. Department of the Interior. Effective October 1, 2011 the Secretary has delegated this authority and responsibility to the Fish and Wildlife Service (USFWS), Wildlife and Sport Fish Restoration Program. The Catalog of Federal Domestic Assistance (CFDA) number is **15.668**. The Federal Award Number for this grant is **F12AF00204**. This award is not for research and development.

Effective July 1, 2009 pursuant to the provisions of SLA 2009, SB 75, Chapter 15, Section 39 (a)(3), Pages 79-80, and Lines 24-27; 2-5 these funds have been awarded through a public solicitation process.

PROJECT MANAGEMENT PLAN

In the length of this project, the City of Homer, hereafter the Grantee shall complete the following project: **Beluga Slough Trail Reconstruction to Restore Wetlands**.

PROJECT DESCRIPTION:

The Grantee has been awarded **\$448,116.00** for the purpose of restoring habitat and providing environmentally responsible visitor access to Beluga Slough by replacing 1,050 feet of pre-engineered surface supported trail with 850 of new elevated trail and 200 feet of gravel trail. Construction of the elevated portion of the proposed trail (pier supported trail with surface grating) will allow for the restoration of the damaged wetlands by not impeding sunlight and surface drainage under and immediately adjacent to the trail corridor. The new trail will be constructed as an 8-foot wide elevated walkway built on a foundation of helical piers, which are specifically designed for use in wetlands and other environmentally sensitive areas.

The Grantee agrees to conduct the following tasks and deliverables:

Task I: Complete trail construction

The Grantee will complete construction of 840 feet of 8-foot wide elevated trail (replacing failed plastic trail) plus 230 feet of new gravel trail. To accomplish this task the Grantee will secure signoff from the State Historic Preservation Office (SHPO), remove remaining sections of failed plastic trail, hire a qualified construction firm, purchase building supplies, construct the new trail; and take before, during, and after photos of the project.

Task I deliverables:

- SHPO approval
- Bid documents
- Trail construction contract (Commerce will review contract template before signing)
- "Before," "during," and "after" construction photos

Task II: Install trail signage

The Grantee's overall project will be complete with the installation of interpretive and regulatory signage at three locations. The Grantee will collaborate with USFWS on the design and wording of the signs; and installation will be performed by the contractor.

ATTACHMENT A Scope of Work

Task II deliverables:

- Receipt and installation of signage
- Photographs and narrative documenting completed trail project

Copies of all project deliverables are to be submitted to Commerce (Please refer to Copies of Products, page 3-4).

MEASURABLE GOALS AND OBJECTIVES:

The measurable objectives of this project are:

- *Remove existing surface-supported plastic trail – 680 feet.*
- *Complete 1070 feet of new trail, allowing regrowth of vegetation where the old plastic trail and dirt/mud trail used to be. (Some sign of regrowth should be visible before the end of the project year.)*
- *Install interpretive and regulatory signage.*
- *Accommodate thousands of trail users (including those on guided nature tours) with no adverse impact to the critical coastal wetlands and slough wildlife habitat.*

BUDGET:

Budget Categories	Budget
Personnel	0.00
Fringe Benefits	0.00
Travel	0.00
Equipment	0.00
Supplies ¹	\$15,000.00
Contractual ²	\$433,116.00
Construction	0.00
Other ⁷	0.00
Indirect Charges ⁸	0.00
TOTAL	\$448,116.00

¹ Covers the cost of supplies under \$5,000: interpretive signs

² Covers the cost for a construction contractor

ATTACHMENT A Scope of Work

SCHEDULE:

This award supports a Budget Period of March 1, 2012 through March 1, 2014.

Due Date ¹	Performance Measures/Deliverables
<i>Grant Reporting</i>	
03/01/2012	Grant start date
07/15/2012	Quarterly progress and financial reports due for report period: March 1-June 30, 2012
10/15/2012	Quarterly progress and financial reports due for report period: July 1-September 30, 2012
01/15/2013	Quarterly progress and financial reports due for report period: October 1-December 31, 2012
04/15/2013	Quarterly progress and financial reports due for report period: January 1-March 31, 2013
07/15/2013	Quarterly progress and financial reports due for report period: April 1-June 30, 2013
10/15/2013	Quarterly progress and financial reports due for report period: July 1-September 30, 2013
01/15/2014	Quarterly progress and financial reports due for report period: October 1-December 31, 2013
04/15/2014	Quarterly progress and financial reports due for report period: January 1-March 1, 2014
04/30/2014	Grant close out and Final Report
<i>Task I: Complete trail construction</i>	
06/2012	SHPO approval
05 - 06/21/2012	Construction bid documents developed and advertised
06/21/2012	Bid opening
06/25/2012	City council authorizes contract
07/06/2012	Contract documents are signed; City issues Notice to Proceed
10/2012	Take pictures of trail
08/2012	Purchase building supplies
09-10/2012	Conduct construction work, take pictures
10/31/2012	Trail construction is completed
<i>Task II: Install trail signage</i>	
09/2012	Purchase signage
10/31/2012	Trail signage is installed at 3 locations

¹The due date is the last day for submission of quarterly progress and financial reports.

Due dates for project tasks are provided as guidelines only, according to the anticipated project timeline.

COPIES OF PRODUCTS:

Interim Products (to accompany quarterly reports):

1. Send one (1) electronic copy to Commerce:

- SHPO approval
- Bid documents

ATTACHMENT A Scope of Work

- Trail construction contract
- "Before," "during," and "after" construction photos
- Receipt and installation of signage
- Photographs and narrative documenting completed trail project

To:

Sally Russell Cox, Planner
Division of Community and Regional Affairs
Department of Commerce, Community, and Economic Development
550 West 7th Avenue, Suite 1640
Anchorage, AK 99501-3569

PROJECT MANAGEMENT/REPORTING:

Program Manager: This project will be managed by the Grantee.

This project will be managed by the City, with signatory authority for execution of the grant agreement and subsequent amendments granted to the City Manager. The City Manager may delegate signatory authority for executing the grant agreement and amendments to others within the City government via the Signatory Authority Form. The City Manager may also designate financial and progress reporting, via the Signatory Authority Form. Such delegation is limited to others within the City government unless otherwise approved.

The Grantee must establish and maintain separate accounting for the use of this Grant. The use of Grant funds in any manner contrary to the terms and conditions of this Grant Agreement may result in the subsequent revocation of the grant and any balance of funds under the grant. It may also result in the Grantee being required to return such amounts to the State.

Reporting: The Grantee shall submit a CCIAP Progress (performance) Report and CCIAP Financial Report on the forms provided quarterly during the life of the Grant Agreement. Grant Financial and Progress Reports are due fifteen (15) days after the end of the quarter being reported. The final Financial and Progress Reports must be submitted within thirty (30) days following completion of the project. Under no circumstances will the Department release funds to the Grantee unless all required reporting is current.

The Progress Report may be submitted electronically. The Financial Report with original signature must be submitted by mail. Appropriate documentation for grant expenditures must be provided.

ACKNOWLEDGEMENT OF CIAP FUNDS FOR REPORTS, PRINTED FINDINGS, AND WEBSITES

Publications

The following language should be placed on the title page (which follows the cover page) on all reports and/or printed findings funded by the CIAP:

"This report (study, brochure, poster, etc.) is funded* with qualified outer continental shelf oil and gas revenues by the Coastal Impact Assistance Program, Fish and Wildlife Service, U.S. Department of the Interior."

* may be "in part"

Websites

A similar statement should be placed on the website created in full or in part with CIAP funds:

"This website is funded with qualified outer continental shelf oil and gas revenues by the Coastal Impact Assistance Program, Fish and Wildlife Service, U.S. Department of the Interior."

Attachment B Payment Method

1. Reimbursement Payment

Upon receiving and approving a Grantee's financial and progress reports, the Department will reimburse the Grantee for costs incurred during the reporting period, in accordance with this Grant Agreement. The Department will not reimburse without approved financial and progress reports, prepared and submitted by the Grantee on the forms provided by the Department. Before approving the financial/progress report for payment, the Department requires the Grantee to submit documentation of the costs reported (e.g., vendor billings, timesheets, payroll tax form).

2. Advance Payment

In most instances, the Department will make payment to a Grantee on a cost reimbursable basis. If cost reimbursement significantly inhibits the Grantee's ability to implement the project, the Department may advance to the Grantee an amount not to exceed a projected thirty (30) day cash need or twenty percent (20%) of the award amount, whichever is less.

Before the Department will issue an advance, the Grantee must submit a "Request for Advance Payment" form along with documentation of costs associated with the advance. The "Request for Advance Payment" form can be obtained from the Department electronically or in hard copy.

All advances will be recovered with the Grantee's next financial and progress report forms. Should earned payments during the terms of this Grant Agreement be insufficient to recover the full amount of the advance, the Grantee will repay the unrecovered amount to the Department when requested to do so by the Department, or at termination of the Grant Agreement.

3. Withholding of Ten Percent (10%)

The Department may withhold ten percent (10%) of the amount in Section I until the Department determines that the Grantee has satisfactorily completed the terms of this grant agreement, including demonstration that the required match contribution has been met and all required reporting.

Attachment C

Standard Provisions

Article 1. Definition

"Department" refers to the Department of Commerce, Community, and Economic Development within the State of Alaska.

Article 2. Indemnification

It is understood and agreed that this Grant Agreement is solely for the benefit of the parties to the Grant Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of the Grant Agreement.

The Grantee, its successors and assigns, will protect, save, and hold harmless the Department and the State of Alaska and their authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever by reason of the acts or omissions of the Grantee, its subcontractors, assigns, agents, contractors, licensees, invitees, employees, or any person whomever arising out of or in connection with any acts or activities authorized by this Grant Agreement. The Grantee further agrees to defend the Department and the State of Alaska and their authorized agents and employees in any litigation, including payment of any costs or attorney's fees for any claims or actions commenced thereon arising out of or in connection with acts or activities authorized by this Grant Agreement. This obligation shall not include such claims, costs, damages, or expenses which may be caused by the sole negligence of the Department or the State of Alaska or their authorized agents or employees, provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) the Department and the State of Alaska and their agents or employees, and (b) the Grantee, its agents or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Grantee, or Grantee's agents or employees.

Article 3. Legal Authority

The Grantee certifies that it possesses legal authority to accept grant funds under the State of Alaska and to execute the project described in this Grant Agreement by signing the Grant Agreement document. The Grantee's relation to the Department and the State of Alaska shall be at all times as an independent Grantee.

Article 4. Waivers

No conditions or provisions of this Grant Agreement can be waived unless approved by the Department in writing. The Department's failure to insist upon strict performance of any provision of the Grant Agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such a breach, shall not constitute a waiver of any right under this Grant Agreement.

Article 5. Access to Records

The Department and duly authorized officials of the State of Alaska shall have full access and the right to examine, excerpt, or transcribe any pertinent documents, papers, records, and books of the Grantee, and of persons or organizations with which the Grantee may contract, involving transactions related to the project and this Grant Agreement.

Article 6. Reporting Requirements

The Grantee, at such times and in such forms as the Department may require, shall furnish the Department with such periodic reports as it may request pertaining to the activities undertaken pursuant to this Grant Agreement, including the final close-out report, the costs and obligations incurred in connection therewith, and any other matters covered by this Grant Agreement.

Article 7. Retention of Records

The Grantee shall retain financial and other records relating to the performance of this Grant Agreement for a period of six years from the date when the final financial status report is submitted to the Department, or until final resolution of any audit findings, claims, or litigation related to the grant.

Article 8. Assignability

The Grantee shall not assign any interest in this Grant Agreement and shall not transfer any interest in the same (whether by assignment or notation).

Article 9. Financial Management and Accounting

The Grantee shall establish and maintain a financial management and accounting system that conforms to generally accepted accounting principles.

Article 10. Program Income

Program income earned during the award period shall be retained by the Grantee and added to the funds committed to the award and used for the purposes and under the conditions applicable to the use of the award funds.

Article 11. Amendments and Modifications

The Grantee or the Department may request an amendment or modification of this Grant Agreement. However, such amendment or modification shall not take effect until approved, in writing, by both parties.

Article 12. Recordkeeping

The Grantee agrees to keep such records as the Department may require. Such records will include information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. They will also include information pertaining to project performance and efforts to comply with the provisions of the Grant Agreement.

Article 13. Obligations Regarding Third-Party Relationships

None of the Work specified in this Grant Agreement shall be contracted by the Grantee without prior approval of the Department. No permission for subcontracting shall create, between the Department or the State of Alaska and the subcontractor, any contract or any relationship.

The Grantee shall remain fully obligated under the provisions of this Grant Agreement notwithstanding its designation of any third party or parties of the undertaking of all or any part of the project described herein. Any subcontractor that is not the Grantee shall be required by the Grantee to comply with all the provisions of this Grant Agreement.

The Grantee shall bind all subcontractors to each and every applicable Grant Agreement provision. Each subcontract for work to be performed with funds granted under this Grant Agreement shall specifically include a provision that the Department and the State of Alaska are not liable for damages or claims from damages arising from any subcontractor's performance or activities under the terms of the subcontracts.

Article 14. Conflict of Interest

No officer or employee of the Department; no member, officer, or employee of the Grantee or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such locality or localities who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Grant Agreement.

The Grantee shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this provision.

Article 15. Political Activity

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

Article 16. Notices

The Grantee shall comply with all public notices or notices to individuals required by applicable state and federal laws and shall maintain a record of this compliance.

Article 17. Prohibition Against Payment of Bonus or Commission

The assistance provided under this Grant Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval or concurrence under this contract provided, however, that reasonable fees of bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

Article 18. Termination by Mutual Agreement

This Grant Agreement may be terminated, in whole or in part, prior to the completion of contract project activities when both parties agree that continuation is not feasible or would not produce beneficial results commensurate with the further expenditure of funds. The Department will determine whether an environmental review of the cancellation is required under State and/or Federal law. The parties must agree on the termination conditions, including effective date and the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall make funds available to the Grantee to pay for allowable expenses incurred before the effective date of termination.

Article 19. Termination for Cause

If the Grantee fails to comply with the terms of this Grant Agreement, or fails to use the grant for only those purposes set forth herein, the Department may take the following actions:

- A. Suspension – After notice in writing by certified mail to the Grantee, suspend the grant and withhold any further payment or prohibit the Grantee from incurring additional obligations of grant funds, pending corrective action by the Grantee or a decision to terminate. Response must be received within fifteen (15) days of receipt of the written notice.
- B. Termination – Terminate the grant in whole or in part, at any time before the final grant payment is made. The Department shall promptly notify the Grantee in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Payments made to the Grantee or recoveries by the Department shall be in accordance with the legal rights and liabilities of the parties.

Article 20. Withdrawal of Funds

In the event funding from the state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant Agreement and prior to normal completion, the Department may terminate the agreement, reduce funding, or renegotiate subject to those new funding limitations and conditions. A termination under this article shall be implemented under the same conditions as a termination under Article 23 of this Attachment.

Article 21. Recovery of Funds

In the event of a default or violation of the terms of the Grant Agreement by the Grantee, the Department may institute actions to recover all or part of the project funds paid to the Grantee. Repayment by the Grantee of grant funds under this recovery provision shall occur within thirty (30) days of demand.

All remedies conferred on the Department by this agreement or any other instrument or agreement are cumulative, not exclusive, and may be exercised concurrently or consecutively at the Department's option.

Article 22. Disputes

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement that is not disposed of by mutual agreement shall be decided by the Department, which shall reduce its decision to writing and mail, or otherwise furnish a copy thereof, to the Grantee. The decision of the Department shall be final and conclusive.

This "Disputes" clause does not preclude the consideration of questions of law in connection with the decision provided for in the preceding paragraph provided that nothing in this Grant Agreement shall be construed as making final the decisions of any administrative official, representative, or board on a question of law.

Article 23. Jurisdiction

This Grant Agreement shall be governed by the laws and statutes of the State of Alaska. The venue of any suit hereunder may be in the Superior Court for the First Judicial District, Juneau, Alaska.

Article 24. Ownership of Project/Capital Facilities

The Department makes no claim to any capital facilities or real property improved or constructed with funds under this Grant Agreement and, by this grant of funds, does not and will not acquire any ownership interest or title to such property of the Grantee. The Grantee shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the Department and the State of Alaska harmless from any and all causes of action arising from the ownership and operation of the project.

Article 25. Site Control

If the grant project involves occupancy and use of real property, the grantee assures that it has the legal right to occupy and use such real property for the purposes of the grant, and further that there is legal access to such property.

Article 26. Insurance

The Grantee is responsible for obtaining any necessary liability insurance. In addition, the Grantee shall provide and maintain Workers' Compensation Insurance as required by AS 23.30 for all employees engaged in work under this Grant Agreement. The Grantee shall require any contractor to provide and maintain Workers' Compensation Insurance for its employees as required by AS 23.30. The Grantee shall require any contractor hired to work on the project be licensed, bonded and insured for at least the amount of the project and if appropriate provide and maintain Professional Liability Insurance.

Article 27. Subcontracts for Engineering Services

In the event that the Grantee subcontracts for engineering services, the Grantee will require that the engineering firm certify that it is authorized to do business in the State of Alaska. In the event that the engineering firm is also the project administrator, the Grantee shall require that the bond or insurance shall be for not less than the amount of the entire project.

Article 28. Governing Law

This grant agreement is governed by the laws of the State of Alaska. The Grantee shall perform all aspects of this project in compliance with appropriate laws and regulations. It is the responsibility of the Grantee to ensure that all permits required for the construction and operation of this project by the Federal, State, or Local governments have been obtained.

Article 29. Budget Flexibility

Notwithstanding the provisions of Article 11, Attachment C, the Grantee may revise the project budget in Attachment A without a formal amendment to this agreement. Such revisions are limited within each line item to a maximum of 10% of the line item or \$10,000, whichever is less, over the entire term of this agreement. Such budget revisions shall be limited to changes to existing budget line items. Budget revisions may not be used to increase any budget item for project administrative expenses. Changes to the budget beyond the limits authorized by this provision may only be made by a formal amendment to this agreement.

Article 30. Equal Employment Opportunity (EEO)

The Grantee may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood. The Grantee shall post in a conspicuous place, available to employees and applicants for employment, a notice setting out the provisions of this paragraph.

The Grantee shall state, in all solicitations or advertisements for employees to work on state funded projects, that it is an equal opportunity employer (EEO) and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

The Grantee shall include the provisions of this EEO article in every contract relating to this grant agreement and shall require the inclusion of these provisions in every agreement entered into by any of its contractors, so that those provisions will be binding upon each contractor and subcontractor.

Article 31. Public Purposes

The Grantee agrees that the project to which this grant agreement relates shall be dedicated to public purposes for its useful life. The benefits of the project shall be made available without regard to race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

If the Grantee is a non-municipal entity and if monies appropriated under this grant constitute the sole or principal funding source for the acquisition of equipment or facilities, the Grantee agrees that in the event a municipal corporation is formed which possesses the power and jurisdiction to provide for such equipment or facilities, the Grantee shall offer, without compensation, to transfer ownership of such equipment or facilities to the municipal corporation.

If the Grantee is a non-profit corporation that dissolves, the assets and liabilities from the grant project are to be distributed according to statutory law, A.S. 10.20.290 - 10.20.452.

Article 32. Operation and Maintenance

Throughout the useful life of the project, the Grantee shall be responsible for the operation and maintenance of any facility, equipment, or other items acquired under this grant.

Article 33. Assurance

The Grantee shall spend monies appropriated under this grant only for the purposes specified in this Grant Agreement.

Article 34. Current Prevailing Rates of Wage

Certain grant projects are constrained by the provisions of AS 36. PUBLIC CONTRACTS. To the extent that such provisions apply to the project which is the subject of this Grant Agreement, the Grantee shall pay the current prevailing rates of wage to employees as required by AS 36.05.010. The Grantee shall also require any contractor to pay the current prevailing rates of wage as required by AS 36.05.010.

Article 35. Severability

If any provision under this Grant Agreement or its application to any person or circumstance is held invalid by any court of rightful jurisdiction, this invalidity does not affect other provisions of the contract agreement which can be given effect without the invalid provision.

Article 36. Performance

The Department's failure to insist upon the strict performance of any provision of this Grant Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this Grant Agreement.

Article 37. Sovereign Immunity

If the Grantee is an entity which possesses sovereign immunity, it is a requirement of this grant that the Grantee irrevocably waive its sovereign immunity with respect to state enforcement of this Grant Agreement. The waiver of sovereign immunity, effected by a resolution of the entity's governing body, is hereby incorporated into this Grant Agreement.

Article 38. Audit Requirements

The Grantee shall comply with the audit guidelines under U.S. Office of Management and Budget Circular A-133.

Article 39. State or Federal Excluded Parties List Report

The grantee is responsible for ensuring that all sub-grantees or sub-contractors are not listed on the 'Excluded Parties List Report', either State or Federal, which identifies those parties excluded throughout the U.S. Government (unless otherwise noted) from receiving Federal contracts or certain subcontracts and from certain types of Federal financial and non financial assistance and benefits.

Article 40. Close-Out

The Department will advise the Grantee to initiate close-out procedures when the Department determines, in consultation with the Grantee, that there are no impediments to close-out and that the following criteria have been met or soon will be met:

- A. All costs to be paid with grant funds have been incurred with the exception of close-out costs and any unsettled third-party claims against the Grantee. Costs are incurred when goods and services are received or contract work is performed.
- B. The last required performance report has been submitted. The Grantee's failure to submit a report will not preclude the Department from effecting close-out if it is deemed to be in the State's interest. Any excess grant amount that may be in the Grantee's possession shall be returned by the Grantee in the event of the Grantee's failure to finish or update the report.
- C. Other responsibilities of the Grantee under this contract agreement and any close-out agreement and applicable laws and regulations appear to have been carried out satisfactorily or there is no further State interest in keeping the grant open for the purpose of securing performance.

Article 41. Americans with Disabilities Act of 1990

When applicable, the Grantee will comply with Title I-Employment of the Americans with Disabilities Act of 1990 (Public Law 101-336); in accordance with Title I of that Act, no covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment.

When applicable, the Grantee will comply with Title II-Public Services of the Americans with Disabilities Act of 1990 (Public Law 101-336); in accordance with Title II of the Act, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

A public entity's subgrantees or contractors must also comply with the ADA provisions. Grantees are responsible for assuring their compliance with the ADA.

Appendix A Audit Compliance

This is a federally funded program (CFDA 15.668) from the U.S. Department of Interior passed through the Alaska Department of Natural Resources. The objective of the Coastal Impact Assistance Program is to mitigate the impacts of Outer Continental Shelf (OCS) oil and gas activities.

These Community Coastal Impact Assistance Program Grant funds are subject to U.S. Office of Management and Budget Circular A-133, Audits of State and Local Governments.

Appendix B Insurance

Article 1. Insurance

Without limiting contractor's indemnification, it is agreed that the contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Contracting Officer prior to beginning work and must provide for a thirty (30) day prior notice of cancellation, non-renewal or material change. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the contractor's services.

- 1.1 Workers' Compensation Insurance:** The contractor shall provide and maintain, for all employees of the contractor engaged in work under this contract, Workers' Compensation Insurance as required by AS 23.30.045. The contractor shall be responsible for Workers' Compensation Insurance for any subcontractor who directly or indirectly provides services under this contract. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection is not less than \$100,000.00 per occurrence. Where applicable, coverage for all federal acts (i.e. USL & H and Jones Acts) must also be included.
- 1.2 Comprehensive (Commercial) General Liability Insurance:** With coverage limits not less than \$300,000.00 combined single limit per occurrence and annual aggregates where generally applicable and shall include premises-operations, independent contractors, products/completed operations, broad form property damage, blanket contractual and personal injury endorsements.
- 1.3 Comprehensive Automobile Liability Insurance:** Covering all owned, hired, and non-owned vehicles with coverage limits not less than \$100,000.00 per person/\$300,000.00 per occurrence bodily injury and \$50,000.00 property damage.
- 1.4 Professional Liability Insurance:** Covering all errors, omissions or negligent acts of the contractor, subcontractor or anyone directly or indirectly employed by them, made in the performance of this contract which result in financial loss to the State. Limits required are per the following schedule:

Contract Amount	Minimum Required Limits
Under \$100,000	\$100,000 per occurrence/annual aggregate
\$100,000 - \$499,999	\$250,000 per occurrence/annual aggregate
\$500,000 - \$999,999	\$500,000 per occurrence/annual aggregate
\$1,000,000 or over	Negotiable - Refer to Risk Management

Appendix C

State Laws and Regulations

Historic Preservation Act—AS 41.35

This chapter of the Alaska Statutes applies to public construction of any nature undertaken by the State, or by a governmental agency of the State, or by a private person under contract with or licensed by the State or a governmental agency of the State. The Department of Natural Resources must be notified if the construction is planned for an archaeological site. The department may stop the construction to determine the extent of the historic, prehistoric, or archaeological values.

Fire Protection—AS 18.70

This chapter of the Alaska Statutes requires the Department of Public Safety (the State Fire Marshal) to adopt regulations (currently in the form of Uniform Fire Code, as amended) establishing minimum standards for:

1. Fire detection and suppression equipment;
2. Fire and life safety criteria in commercial, industrial, business, institutional, or other public buildings used for residential purposes containing four or more dwelling units;
3. Any activity in which combustible or explosive materials are stored or handled in commercial quantities;
4. Conditions or activities carried on outside a building described in (2) or (3) likely to cause injury to persons or property.

Environmental Conservation—AS 46.03

This chapter of the Alaska Statutes applies to municipalities and could subject them to enforcement actions instituted by the Alaska Department of Environmental Conservation for air, land and water nuisances, and water and air pollution in a municipality of 1,000 or more, and may establish a local air pollution control program.

Permits and Environmental Procedures

The Alaska Department of Environmental Conservation (ADEC) regulates all activities in Alaska that might pollute the air, water or soil. There are dozens of ADEC permits related to constructing and operating public buildings. The law requires the following permits, including others designated by the commissioner. The following list is not intended to be all-inclusive.

Air Emissions Permit—AS 46.14.140, 18 AAC 50.030
Anadromous Fish Protection Permit—AS 41.14.870, 11 AAC 195.010
Authorization for Tidelands Transportation—AS 38.05.035, 11 AAC 51.015
Brine or Other Salt Water Waste Disposal Permit—AS 31.05.030
Burning Permit during Fire Season—AS 41.15.060, 11 AAC 95.410
Coal Development Permit—AS 27.21.030, 11 AAC 85.110
Critical Habitat Area Permit—AS 16.20.510, 05 AAC 95.420
Dam Construction Permit—AS 46.17.040, 11 AAC 93.171
Driveway Permit—AS 19.05.040, 17 AAC 10.020
Encroachment Permit—AS 19.25.200, 17 AAC 10.012
Miscellaneous State Land Use Permit—AS 38.05.035, 11 AAC 96.010
Mineral and Geothermal Prospecting Permits—AS 38.05.181, 11 AAC 82.100
Occupied Tide and Submerged Land—AS 38.05.820, 11 AAC 62.010
Open Burning Permit—AS 46.03.020, 18 AAC 50.065
Permit for Use of Timber or Materials—AS 38.05.110, 11 AAC 71.025
Permit to Appropriate Water—AS 46.15.040, 11 AAC 93.120
Pesticides Permit—AS 46.03.320, 18 AAC 90.300
Preferred Use Permit—AS 46.15.150, 11 AAC 93.240
Right-of-Way and Easement Permits—AS 38.05.850, 11 AAC 58.740
Solid Waste Disposal—AS 46.03.100, 18 AAC 60.200
Special Land Use Permit—AS 38.05.850, 11 AAC 58.210
State Game Refuge Land Permit—AS 16.20.050 - 16.20.060
State Park Incompatible Use Permit—AS 41.21.020, 11 AAC 18.010
Surface Oiling Permit—AS 46.03.740, 18 AAC 75.700
Surface Use Permit—AS 38.05.255, 11 AAC 86.600
Tide and Submerged Lands Prospecting Permit—AS 38.05.250, 11 AAC 62.700
Tidelands Permit—AS 38.05.035
Tidelands Right-of-Way or Easement Permit—AS 38.05.820
Utility Permit—AS 19.25.010, 17 AAC 15.011
Waste Water Disposal Permit—AS 46.03.100, 18 AAC 72.010
Water Well Permit—AS 31.05.030, 11 AAC 93.140

Appendix D

Special Requirements and Assurances for Federally Funded Projects to State, Local Governments, and Indian Tribal Governments

AUTHORITY

Section 384 of the Energy Policy Act of 2005 (Act), which has created the Coastal Impact Assistance Program by amending Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. § 1356a Appendix A). Under the provisions of the Act, the authority and responsibility for the management of CIAP is vested in the Department of the Interior (DOI).

In accepting Federal funds, the Grantee must comply with all applicable Federal laws, regulations, and policies. This Appendix D is not all-inclusive. Exclusion of any specific requirement does not relieve Grantees of their responsibility for compliance.

I. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

Administrative Requirements and Cost Principles for Assistance Programs The Grantee shall comply with the prescribed administrative requirements and cost principles for grants and cooperative agreements established in 43 CFR Part 12 subparts C, D, and E as well as the Office of Management and Budget (OMB) Circulars A-102, "Grants and Cooperative Agreements with State and Local Governments," and 2 CFR 225 (A-87) "Cost Principles for State, Local, and Indian Tribal Governments."

OMB A-133: Audits of States, Local Governments, and Non-Profit Organizations (1) Non-Federal entities that expend \$500,000 or more in Federal funds during a year in Federal awards are required to have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised by OMB Circular A-133, which is available at http://www.whitehouse.gov/omb/grants_circulars (2) Non-Federal entities that expend less than \$500,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, except as noted in A-133, § 215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO). (3) Allowable costs. Unless prohibited by law, the costs of audits made in accordance with the provisions of the OMB Circular A-133 are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles at 2 CFR 225 (A-87) "Cost Principles for State, Local, and Indian Tribal Governments" (4). Audits shall be made by an independent auditor in accordance with Generally Accepted Government Auditing Standards (GAGAS) covering financial audits. Additional audit requirements applicable to this agreement are found at 43 CFR 12.66. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.

2 CFR 1400: Nonprocurement Debarment and Suspension The Grantee shall comply with the DOI implemented policies and procedures for nonprocurement debarment and suspension found at 2 CFR Part 180 Subpart C, which requires the Grantee to include an award term or condition in lower-tier transactions. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) at 2 CFR 180 subpart C requires verification that the person with whom business is intended is not excluded or disqualified. The Grantee does this by: (a) Checking the Excluded Parties List System (<https://www.sam.gov/sam/>); or (b) Collecting a certification from that person; or (c) Adding a clause or condition to the covered transaction with that person.

43 CFR 18 (Appendix A): New Restrictions on Lobbying Certification for Contracts, Grants, Loans, and Cooperative Agreements (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. (3) The Grantee shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2 CFR 1401: Governmentwide Requirements for a Drug-Free Workplace (Financial Assistance) You, as the Grantee, must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of part 1401,

which adopts the government-wide implementation of 2 CFR part 182; sections 5152–5158 of the Drug-Free Workplace Act of 1988, Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707.

49 CFR 24: Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601) Federal agencies may not approve any grant unless the Grantee provides assurances that it will comply with the Act. Prices to be paid for lands or interests in lands must be fair and reasonable (except when the price is fixed by law, or when the lands are to be acquired at public auction or by condemnation and the value determined by the court). Persons displaced from their homes, businesses, and farms must receive relocation services, compensation, and fair equitable treatment.

The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)); Trafficking Victims Protection Reauthorization Act of 2003 (PL 108-193); Trafficking Victims Protection Reauthorization Act of 2005 (PL 109-164); President's Interagency Task Force To Monitor and Combat Trafficking in Persons (EO 13257) and Amending Executive Order 13257 To Implement the Trafficking Victims Protection Reauthorization Act of 2003 (EO 13333); and 2 CFR 175: Paragraph (g) of Section 106 of the Trafficking Victims Protection Act requires the following award term:

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR 1400 .

b. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

2 CFR Part 25: Universal Identifier and Central Contractor Registration Pursuant to the provisions of 2 CFR Part 25 Appendix A, no Grantee may receive a federal award until a DUNS number has been provided and is on file.

Grantees must maintain currency of their information in the CCR until submission of the final financial report required under this award or receive the final payment, whichever is later. This requires that the Grantee review and update the information at least annually after the initial registration, and more frequently if required by changes in the Grantee's information or another award term.

2 CFR 170: Reporting Subaward and Executive Compensation Information The Grantee ensures compliance with the reporting requirements as laid out by the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of Public Law 110–252, hereafter referred to as “the Transparency Act”.

43 CFR 12.2 (e): “Increasing Seat Belt Use in the United States” (Executive Order 13043, April 16, 1997) Recipients of grants/cooperative agreements and/or sub-awards are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

43 CFR 12.944: Contracting with Minority and Women-Owned Businesses It is a national policy to award a fair share of contracts to small and minority business firms. The DOI is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness.

- (a) The grantee and subgrantee shall take all necessary affirmative steps to assure that minority firms, women's business enterprises, small disadvantaged veteran-owned small businesses, and HUB Zone firms are used when possible.
- (2) Affirmative steps shall include:

- (i) Placing these qualified small business enterprises on solicitation lists;
- (ii) Assuring that these businesses are solicited whenever there are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by these small business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by these business enterprises;
- (v) Using the services and assistance of the DOI Office of Small and Disadvantaged Business Utilization (See <http://www.doi.gov/osdbu>), the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce as appropriate, and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

43 CFR 12 Subpart E: Buy American Act Requirements; Notice: Pursuant to Section 307(b) of the DOI and Related Agencies Appropriations Act, FY 2000, Public Law 106-113, please be advised of the following: In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in FY 2000 and thereafter, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

43 CFR 2: Freedom of Information Act (5 U.S.C. 552) Requires all Federal agencies to make available to the public for inspection and copying administrative staff manuals and staff instructions, official, published and unpublished policy statements, final orders deciding case adjudication, and other documents. Special exemptions have been reserved for nine categories of privileged material, including but not limited to confidential matters relating to National defense or foreign policy, law enforcement records, and trade or commercial secrets. The Act requires the party seeking the information to pay reasonable search and duplication costs.

Fair Labor Standards Act (29 U.S.C. 207) (29 CFR 510-794) The Fair Labor Standards Act (FLSA), which prescribes standards for the basic minimum wage and overtime pay, affects most private and public employment. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay.

Contract Work Hours and Safety Standards Act (40 U.S.C. 327) (29 CFR 5) If applicable, the Contract Work Hours and Safety Standards Act (CWHSSA) applies to federal service contracts and federal and federally assisted construction contracts over \$100,000. It requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. This Act also prohibits unsanitary, hazardous, or dangerous working conditions on federal and federally financed and assisted construction projects.

Anti-Kickback (Copeland) Act (40 U.S.C. § 276c and 18 U.S.C. § 874) (29 CFR 3.1) The Copeland "Anti-Kickback" Act generally prohibits federal contractors or subcontractors engaged in building construction or repair from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract and requires such contractors and subcontractors to submit weekly statements of compliance.

False Claims Act (31 U.S.C. § 3729 et seq.), provides that suits under this Act can be brought by the government, or a person on behalf of the government, for false claims under Federal assistance programs.

Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal government for money (including money representing grants, loans or other benefits).

As applicable, the Grantee shall comply with provisions of the **Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328)**, which limits the political activities of employees or officers of state or local governments whose principal employment activities are funded in whole or in part with Federal funds.

Patent Rights in Inventions Made with Federal Assistance (37 CFR 401) (35 U.S.C. 202-204) a Grantee may retain the entire right, title, and interest throughout the world to each subject invention. With respect to any subject invention in which the Grantee retains title, the Federal Government will have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

Metric Conversion Act of 1975, as amended and "Metric Usage in Federal Government Programs" (Executive Order 12770) All progress and final reports, other reports, or publications produced under this award shall employ the metric system of measurements to the maximum extent practicable. Both metric and inch-pound units (dual units) may be used if necessary during any transition period(s). However, the Grantee may use non-metric measurements to the extent the Grantee has

supporting documentation that the use of metric measurements is impracticable or is likely to cause significant inefficiencies to the Grantee.

II. NON-DISCRIMINATION REQUIREMENTS

43 CFR 17, Subpart A: Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and DOI implementing regulations published at 43 CFR Part 17, Subpart A which prohibits discrimination on the grounds of race, color, or national origin be excluded from participation in, be denied benefits or, or be otherwise subjected to discrimination under any programs or activities receiving Federal financial assistance. (1) Grantees may not, on the basis of race, color, or national origin, select, locate, or operate project facilities which will serve to exclude or limit opportunity for use or benefits. (2) Grantees shall make reasonable efforts to inform the public of opportunities provided by Federal Aid projects and shall inform the public that the projects are subject to Title VI compliance. (3) Though employment practices are not in themselves subject to Title VI, Title VI does apply to employment which may affect the delivery of services to beneficiaries of a federally assisted program. For the purpose of Title VI, volunteers or other unpaid persons who provide services to the public are included.

43 CFR 17, Subpart B: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) and DOI implementing regulations published at 43 CFR Part 17, Subpart B ensures that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (1) Grantees may not deny a qualified handicapped person the opportunity to participate in or benefit from Federal Aid project facilities or services afforded to others. (2) Grantees may not deny a qualified handicapped person the opportunity to participate as a member of a planning or advisory board. (3) The location of facilities shall not have the effect of excluding handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any Federal Aid project.

43 CFR 17, Subpart C: The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) (45 CFR Part 90) and DOI implementing regulations published at 43 CFR Part 17, Subpart C prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. However, a Grantee is permitted to take an action otherwise prohibited if the action reasonably takes into account age as a factor necessary to the normal operation or achievement of any statutory objective of a program or activity.

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et.seq.) (45 CFR 86) prohibits discrimination on the basis of sex in any education program receiving Federal financial assistance. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program receiving Federal financial assistance.

The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation.

Executive Order 11246 (41 CFR 60) "Nondiscrimination in Employment by Government Contractors and Subcontractors" The Grantee shall comply with this executive order that prohibits federal contractors and subcontractors and federally assisted construction contractors and subcontractors that generally have contracts that exceed \$10,000, or that will (or can reasonably be expected to) aggregate to more than \$10,000 in any 12-month period, from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin; and it requires them to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

III. ENVIRONMENTAL REQUIREMENTS

The following Federal environmental laws and Executive Orders may be applicable to specific CIAP projects. This list is not intended to be exhaustive.

National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) provides a national policy that encourages "productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man . . ." Requires that every proposed Federal action be examined to determine the effects (beneficial or adverse) it will have on the human environment and that the findings be considered in decisions regarding its implementation. Each action proposed for Federal funding must include an Environmental Assessment (EA), Environmental Impact Statement (EIS), or show that the proposed activity is covered by one or more categorical exclusions.

The Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.) The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of habitat of such species which is determined by the DOI, after consultation with the state, to be critical.

Fishery Conservation and Management Act (16 U.S.C. §1801 et seq.) The Magnuson-Stevens Fishery Conservation and Management Act (FCMA) is the governing authority for all fishery management activities that occur in Federal waters within the United States's 200 nautical mile limit, or the Exclusive Economic Zone (EEZ). A primary purpose of the FCMA is to conserve and manage the fishery resources off the U.S. coasts and U.S. anadromous species and Continental Shelf fishery resources. In 1996 Congress passed the Sustainable Fisheries Act (Public Law 104-297) which amended the FCMA and refined the focus of fisheries management by emphasizing the need to protect fish habitat. Specifically, the Act required that fishery management plans identify as essential fish habitat (EFH) those areas that are necessary to fish for their basic life functions.

Marine Mammal Protection Act (16 U.S.C. §1361 et seq.) The Marine Mammal Protection Act (MMPA) was enacted in 1972 to ensure that marine mammals are maintained at, or in some cases restored to, healthy population levels. The MMPA establishes a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and on the importing of marine mammals and marine mammal products into the United States.

The Rivers and Harbors Act (43 U.S.C. §403) Section 10 of the Rivers and Harbors Act of 1899 authorizes the U.S. Army Corps of Engineers (USACE) to regulate virtually all structures or work within navigable waters of the United States (see 33 CFR Part 328.3 for definition of navigable waters). Virtually all projects in navigable waters must comply with Section 10.

"Invasive Species" Executive Order 13112 preventing the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause.

"Floodplain Management", EO 11988, and "Protection of Wetlands", EO 11990, 42 FR 26951 (May 25, 1977) The Executive orders on floodplains and wetlands require Federal agencies to review proposed actions to ensure that there are no practical alternatives outside the floodplain or wetland, and to ensure that potential harm is minimized. If there are no practical alternatives to proposed projects in floodplains or wetlands, actions to minimize the adverse effects should be incorporated into the project plans.

The Clean Air Act, Clean Water Act, and Executive Order 11738, September 10, 1973, "Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal Contracts, Grants, or Loans". The Grantee shall comply with the Clean Air Act (42 U.S.C. §§ 7401 et seq.), Clean Water Act (33 U.S.C. §§ 1251 et seq.), and Executive Order 11738.

The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. §§ 1271 et seq.) The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals.

Animal Welfare Act of 1985 (7 U.S.C. 2131, et seq.) Requires the humane treatment of animals (exclusive of fish) used in research, experimentation, testing, and teaching. Grantees who use Federal Aid funds to conduct covered management or research or who engage in interstate shipment of animals should contact the local Animal and Plant Health Inspection Service (APHIS) office for instructions.

Executive Order 13186 "Migratory Birds" directs Federal agencies to incorporate bird conservation considerations into agency planning, including NEPA analyses; report annually on the level of take of migratory birds; and generally promote the conservation of migratory birds without compromising the agency mission.

Executive Order 13089 "Coral Reef Protection" requires Federal agencies whose actions may affect U.S. coral reef ecosystems to identify those actions and utilize their programs and authorities to protect and enhance the conditions of such ecosystems and, to the extent permitted by law, ensure that actions they authorize, fund, or carry out do not degrade the condition of that ecosystem.

Coastal Barriers Resources Act of 1982 (16 U.S.C. 3501), as amended by the Coastal Barrier Improvement Act of 1990 (P.L. 101-591) The purpose of the Acts are "...to minimize the loss of human life, wasteful expenditure of Federal revenues and damage to fish and wildlife, and other natural resources associated with coastal barriers..." Activities conducted within a unit of the Coastal Barrier Resources System must meet the requirements of section 6 of the Act.

Executive Order 12898, February 11, 1994: "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" This Executive Order requires that Federal agencies conduct their programs,

policies, and activities in a manner to ensure that individuals or populations are not excluded from participation in, or denied the benefits of, or subjected to discrimination under such programs, policies, and activities because of their race, color, or national origin.

Executive Order 12962 of June 7, 1995: "Recreational Fisheries" Federal agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities.

The Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. §§ 6901 et seq.) are to protect health and the environment and to conserve valuable material and energy resources by measures that include: providing technical and financial assistance to State and local governments and interstate agencies for the development of solid waste management plans (including resource recovery and resource conservation) to promote improved solid waste management techniques; prohibiting open dumping on land; assuring that hazardous waste is managed in a manner that protects human health and the environment; minimizing the generation and land disposal of hazardous waste by encouraging process substitution, materials recovery, properly conducted recycling and reuse, and treatment; and establishing a viable Federal-State partnership to carry out the purposes of the Act. This Act also provides that recipients of Federal funds give preference in their procurement programs to the purchase of recycled products pursuant to the U.S. Environmental Protection Agency guidelines. 40 CFR 247 provides implementing regulations as Comprehensive Procurement Guideline for Products Containing Recovered Materials for RCRA and Executive Orders 13514 "Federal Leadership In Environmental, Energy, And Economic Performance" and 13423 "Strengthening Federal Environmental, Energy, and Transportation Management."

IV. HISTORIC AND CULTURAL PRESERVATION REQUIREMENTS

Section 106 of the National Historic Preservation Act (16 U.S.C. 470) Federal agencies may not approve any grant unless the project is in accordance with national policies relating to the preservation of historical and cultural properties and resources.

CITY OF HOMER
HOMER, ALASKA

City Manager

RESOLUTION 09-50

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, EXPRESSING ITS SUPPORT FOR A CITY APPLICATION TO THE ALASKA COASTAL IMPACT ASSISTANCE PROGRAM (CIAP) TO RECONSTRUCT APPROXIMATELY 850 FEET OF THE BELUGA SLOUGH TRAIL.

WHEREAS, The Beluga Slough Trail, which connects the Alaska Islands and Ocean Visitor Center to Bishop's Beach Park, is one of the most heavily used trails in the Homer area; and

WHEREAS, The original plastic portions of the trail have created serious problems with the natural habitat, destroying plant life and interfering with tidal action; and

WHEREAS, Another section of trail has been removed entirely, leaving a muddy path; and

WHEREAS, Public safety is also a concern with the existing trail because of its slippery and uneven surface; and

WHEREAS, Reconstruction of the Beluga Slough Trail is identified as a community priority in the City's Capital Improvement Plan; and

WHEREAS, The Kenai Peninsula Borough has expressed support for the project and has pledged \$66,582 in Borough CIAP funds; and

WHEREAS, The U.S. Fish and Wildlife Service has expressed support for the project (which spans property owned by USFWS as well as the City of Homer) and has pledged in-kind support.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby expresses its support for a City grant application to the Alaska Coastal Impact Assistance Program to reconstruct approximately 850 feet of the Beluga Slough Trail.

BE IT FURTHER RESOLVED that the City of Homer will work closely with the U.S. Fish and Wildlife Service in accomplishing this project, which spans property owned by USFWS as well as the City of Homer; and

BE IT FURTHER RESOLVED that all preconstruction work for the project will be paid for or contributed by the City of Homer, with support from USFWS and the Kenai Peninsula Borough.

BE IT FURTHER RESOLVED that the CIAP Application is for the amount of \$406,000 and the local match (in-kind and cash) is \$118,850; a copy of the application project budget is attached and incorporated herein.

PASSED AND ADOPTED by the Homer City Council this 26th day of May, 2009.

CITY OF HOMER


JAMES C. HORNADAY, MAYOR

ATTEST


JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Local Match \$118,850; of which approximately \$60,000 is cash (HART)

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-28

An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$30,000 from the Parks and Recreation Depreciation Reserve Fund for the Relocation of the Mariner Park Driveway Access.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 25, 2012 Introduction
 - a. Memorandum 12-105 from Public Works Director as backup
 - b. Cost Estimate
 - c. Maps

2. City Council Regular Meeting July 23, 2012 Public Hearing and Second Reading
 - a. Memorandum 12-105 from Public Works Director as backup
 - b. Cost Estimate
 - c. Maps

CITY OF HOMER
HOMER, ALASKA

City Manager/
Public Works Director

ORDINANCE 12-28

AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
ALASKA, AMENDING THE 2012 OPERATING BUDGET BY
APPROPRIATING UP TO \$30,000 FROM THE PARKS AND
RECREATION DEPRECIATION RESERVE FUND FOR THE
RELOCATION OF THE MARINER PARK DRIVEWAY
ACCESS.

WHEREAS, The location of the access drive into Mariner Park (from Homer Spit Road) has received complaints regarding safety. Its proximity to the highway curve to the south of the park entrance creates sight distance problems (see Memorandum 12-105); and

WHEREAS, Moving the park entrance to the north would increase sight distances for vehicles coming off the Spit and for those entering and exiting the park. The new location would also provide pedestrians with a safer corridor to cross the highway.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The FY 2012 Operating Budget is hereby amended by appropriating not more than \$30,000 from the Parks and Recreation Depreciation Reserve Fund for relocating the driveway access into Mariner Park.

Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
156-385(Parks and Recreation Depreciation Reserve Fund)	Mariner Park Access Relocation	\$30,000

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 July,
2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

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52 ATTEST:

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56 JO JOHNSON, CMC, CITY CLERK

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60 YES:
61 NO:
62 ABSTAIN:
63 ABSENT:

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67 First Reading:
68 Public Hearing:
69 Second Reading:
70 Effective Date:

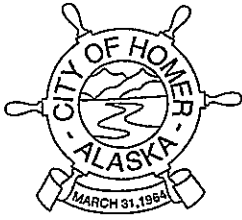
71
72
73 Reviewed and approved as to form:

74
75
76 Walt E. Wrede, City Manager

77
78 Date: _____
79

Thomas F. Klinkner, City Attorney

Date: _____



CITY OF HOMER
PUBLIC WORKS
3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
FACSIMILE (907)235-3145

MEMORANDUM 12-105

TO: Walt Wrede, City Manager

FROM: Carey Meyer, Public Works Director

DATE: June 19, 201

RE: **Relocation of Mariner Park Driveway Access
Request Authority/Funding to Move**

The location of the access drive into Mariner Park (from Homer Spit Road) has received complaints regarding safety. Its proximity to the highway curve to the south of the park entrance creates sight distance problems (see attached aerial photo). There have been vehicular and pedestrian accidents at this location.

Moving the park entrance to the north would increase sight distances for vehicles coming off the Spit and for those entering and exiting the park (see attached aerial photo and conceptual design drawing). The new location would also provide pedestrians with a safer corridor to cross the highway. The Parks and Recreation Commission and the Police Chief has expressed their concerns about this conflicting turning movement situation.

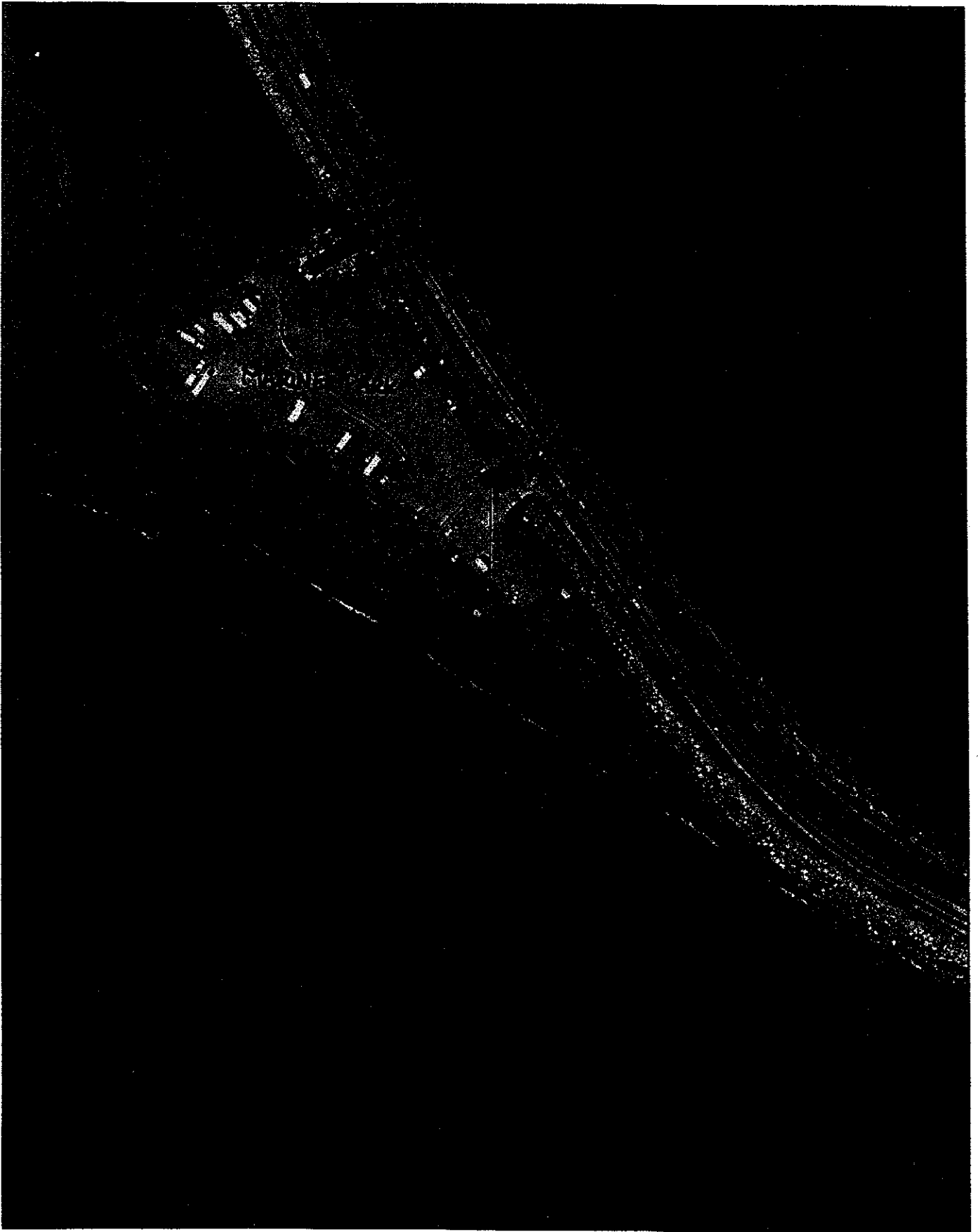
Attached is a cost estimate to relocate the driveway entrance. The cost is estimated to be \$30,000.

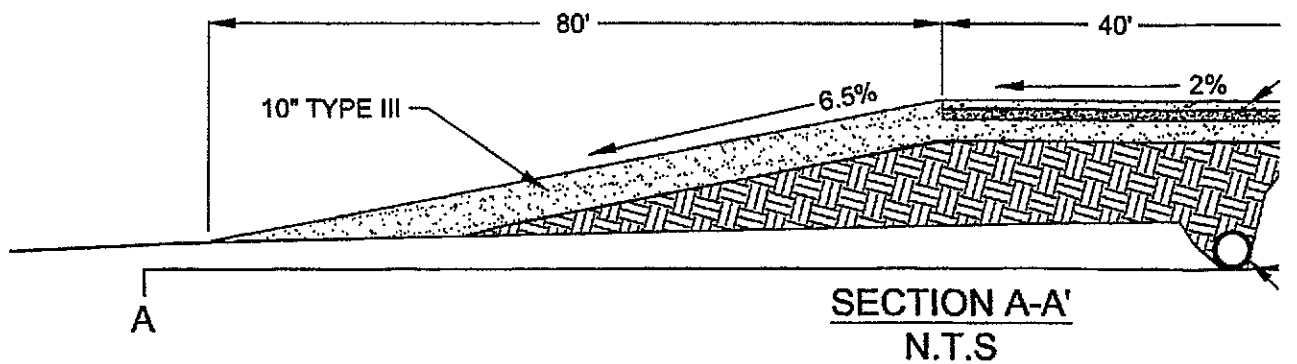
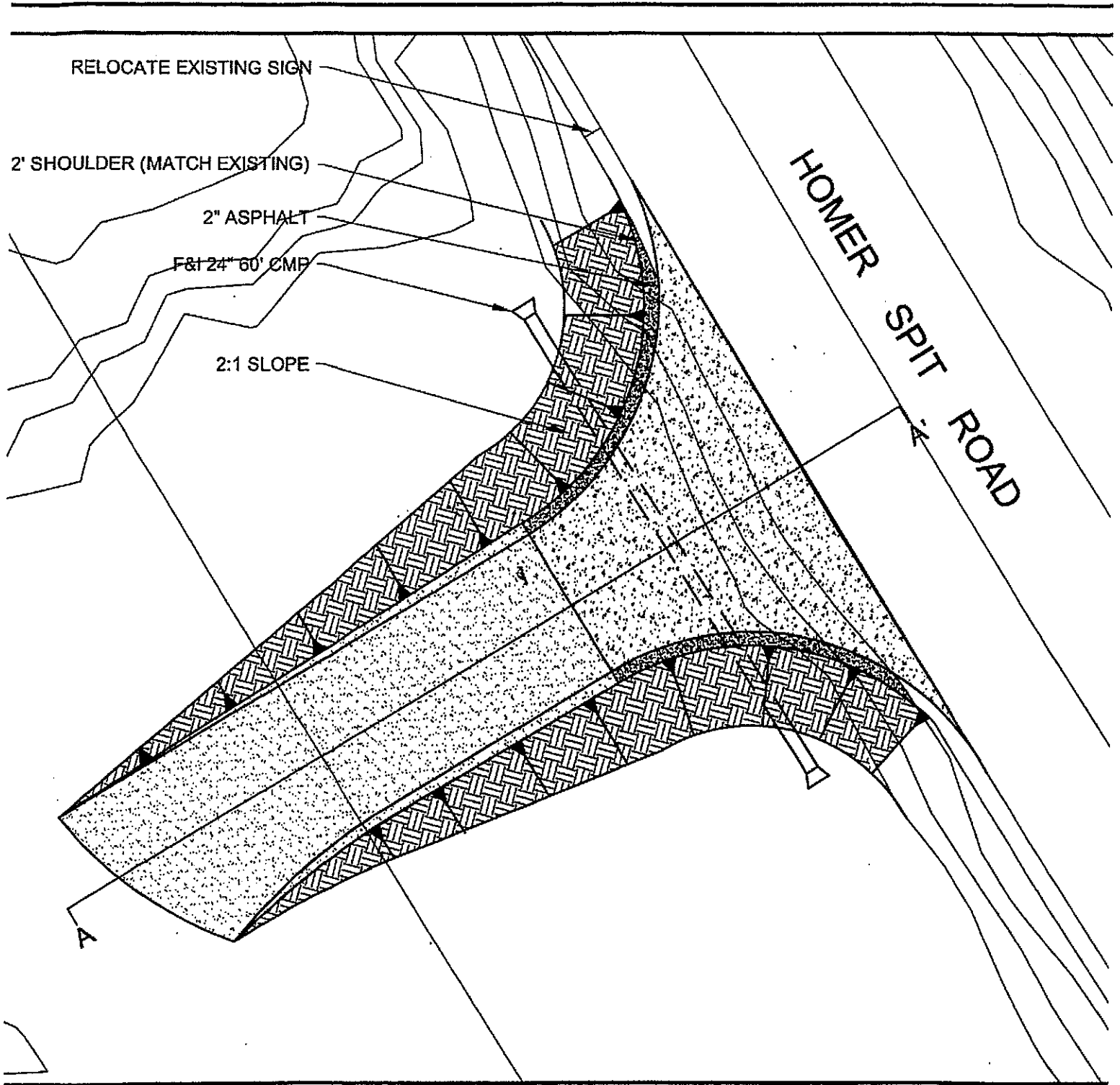
Recommendations: The City Council pass an ordinance amending the FY 12 operating budget and authorizing up to \$30,000 from the Parks and Recreation Depreciation Reserve Fund to relocate the entrance into Mariner Park and authorizing the City Manager to execute all appropriate documents necessary to complete the work.

Cost Estimate
 Mariner Park Driveway Relocation

Item of Work	Units	Quantity	Unit Price	Cost
Mob/Demob	LS	-	\$ 1,500.00	\$ 1,500
Construction Survey	LS	-	\$ 750.00	\$ 750
Grubbing	LS	-	\$ 1,000.00	\$ 1,000
Ditch Construction	LF	200	\$ 6.00	\$ 1,200
24" Culvert Install	LF	40	\$ 30.00	\$ 1,200
Import City Provided Dredge Spoils	CY	500	\$ 9.00	\$ 4,500
Furnish/Install Type III Classified Material	Tons	100	\$ 14.50	\$ 1,450
Sawcut Existing Pavement	LF	100	\$ 2.50	\$ 250
Furnish/Install 2" LC/AC Pavement	SF	1750	\$ 5.00	\$ 8,750
Topsoil/Seeding	SF	3750	\$ 0.60	\$ 2,250
Relocate Sign	EA	2	\$ 275.00	\$ 550
Remove Existing Driveway Approach	LS	-	\$ 4,500.00	\$ 4,500

Total Construction Cost	\$ 27,900
Contingency (10%)	\$ 2,100
Total Project Budget	\$ 30,000





ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-29

An Ordinance of the Homer City Council Amending Homer City Code Chapter 15.10.010 to Exclude Oscar Munson Subdivision Lot 34 from the Ocean Drive Loop Special Service District.

Sponsor: Lewis/Wythe

1. City Council Regular Meeting June 25, 2012 Introduction
 - a. Ordinance 11-49(S)
2. City Council Regular Meeting July 23, 2012 Public Hearing and Second Reading
 - a. Ordinance 11-29(S)
 - b. Written public comments

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**CITY OF HOMER
HOMER, ALASKA**

Lewis/Wythe

ORDINANCE 12-29

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING HOMER CITY CODE CHAPTER 15.10.010 TO EXCLUDE OSCAR MUNSON SUBDIVISION LOT 34 FROM THE OCEAN DRIVE LOOP SPECIAL SERVICE DISTRICT.

WHEREAS, The City by Ordinance 11-49(S) established the Ocean Drive Loop Special Service District ("District") for the purpose of funding the operation and maintenance of the seawall that had been constructed in the Ocean Drive Loop Bluff Erosion Control Improvement District; and

WHEREAS, The City holds a permit issued by the Army Corps of Engineers for the seawall; and

WHEREAS, Among the properties included in the District is Oscar Munson Subdivision Lot 34, owned by Donald T. McNamara and Donna Rae Faulkner (the "McNamaras"); and

WHEREAS, The McNamaras have applied to the Army Corps of Engineers for the transfer of the permit issued to the City for the part of the seawall that is located on Oscar Munson Subdivision Lot 34; and

WHEREAS, The McNamaras have operated and maintained the part of the seawall that is located on Oscar Munson Subdivision Lot 34 at their own expense, and have represented to the Army Corps of Engineers and the City that they intend to continue to do so; and

WHEREAS, The McNamaras have requested that the City exclude Oscar Munson Subdivision Lot 34 from the District.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 15.10.010, Ocean Drive Loop Special Service District established, is amended to read as follows:

15.10.010 Ocean Drive Loop Special Service District established. a. There is established a special service district within the City designated as the "Ocean Drive Loop Special Service District" for the purpose of providing special services to the properties in the Ocean Drive Loop Bluff Erosion Control Improvement/Assessment District that are not provided elsewhere in the City.

b. The Special Service District consists of the properties in the Homer Recording District that are described as follows:

~~Oscar Munson Subdivision Lot 34~~

- 47 Oscar Munson Subdivision Lot 35
- 48
- 49 Oscar Munson Subdivision Lot 36
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- 51 Oscar Munson Subdivision Lot 37
- 52
- 53 Oscar Munson Subdivision Lot 38
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- 55 Oscar Munson Subdivision Lot 39
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- 57 Oscar Munson Subdivision Lot 40
- 58
- 59 Oscar Munson Subdivision Lot 41
- 60
- 61 Oscar Munson Subdivision Lot 42
- 62
- 63 Oscar Munson Subdivision Lot 43
- 64
- 65 Oscar Munson Subdivision Lot 44
- 66
- 67 Oscar Munson Subdivision No. 18 Lot 45B
- 68
- 69 Oscar Munson Subdivision No. 18 Lot 45A
- 70
- 71 Tamian Subdivision Lot 1
- 72
- 73 A portion of T6S R13W Section 21, Beginning at corner of Sections 20, 21, 28,
74 and 29; thence N 64 degrees 10 minutes E a distance of 50.00 feet; thence S 64
75 degrees 10 minutes E a distance of 50.00 feet; thence E a distance of 35.00 feet;
76 thence N 0 degrees 05 minutes W a distance of 450.00 feet; thence W a distance
77 of 125.00 feet; thence S 0 degrees 05 minutes E a distance of 450.00 feet to the
78 point of beginning.
- 79
- 80 Seabreeze Subdivision Lot 5
- 81
- 82 Lake St ROW south of Ocean Drive Loop
- 83
- 84 Pedestrian Easement south of Ocean Drive Loop between Lots 37 and 38, Oscar
85 Munson Subdivision
- 86
- 87 Section 2. This Ordinance is of a permanent and general character and shall be included
88 in the City Code.
- 89
- 90 Section 3. This Ordinance is effective as of December 31, 2011.
- 91

92 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
93 _____ 2012.

94
95 CITY OF HOMER

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99 _____
100 JAMES C. HORNADAY, MAYOR

101 ATTEST:

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104 _____
105 JO JOHNSON, CMC, CITY CLERK

106
107 YES:
108 NO:
109 ABSTAIN:
110 ABSENT:

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112 First Reading:
113 Public Hearing:
114 Second Reading:
115 Effective Date:

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117 Reviewed and approved as to form:

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120 _____
121 Walt E. Wrede, City Manager

120 _____
121 Thomas F. Klinkner, City Attorney

122
123
124 Date: _____

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123
124 Date: _____

**CITY OF HOMER
HOMER, ALASKA**

City Manager, City Attorney

ORDINANCE 11-49(S)

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6 AN ORDINANCE OF THE HOMER CITY COUNCIL ADOPTING HOMER
7 CITY CODE CHAPTER 15.10, OCEAN DRIVE LOOP SPECIAL SERVICE
8 DISTRICT, TO CREATE A DIFFERENTIAL PROPERTY TAX ZONE TO
9 LEVY PROPERTY TAXES TO FUND SPECIAL SERVICES PROVIDED IN
10 THE DISTRICT.

11
12 WHEREAS, The City may by ordinance establish, alter, and abolish differential tax
13 zones to provide and levy property taxes for services not provided generally in the City, or a
14 different level of service than that provided generally in the City; and

15
16 WHEREAS, The City by Ordinance 06-53(S) established a differential tax zone known
17 as the Ocean Drive Loop Special Service District ("District") for the purpose of providing
18 special services to the properties in the Ocean Drive Loop Bluff Erosion Control Improvement
19 District that are not provided elsewhere in the City; and

20
21 WHEREAS, Ordinance 06-53(S) provided for the formation of an association of property
22 owners to receive and expend taxes levied in the District for the purpose of operating and
23 maintaining the seawall that had been constructed in the Ocean Drive Loop Bluff Erosion
24 Control Improvement District; and

25
26 WHEREAS, When no association of property owners formed as contemplated by
27 Ordinance 06-53(S), the Council enacted Ordinance 10-19, finding that it would be in the best
28 interest of the City to allow the owners of property in the District to determine among themselves
29 what collective arrangements, if any, to make for funding the operation of the seawall, and
30 abolishing the District; and

31
32 WHEREAS, Some property owners in the Ocean Drive Loop Bluff Erosion Control
33 Improvement District continue to assert that the City is responsible for maintaining the seawall,
34 and have induced the Army Corps of Engineers to require the City to repair damage to the
35 seawall under the terms of the permit the Corps issued to the City for the seawall; and

36
37 WHEREAS, Until the issue of the City's obligations under the Corps permit can be
38 resolved, it is necessary for the City to have a source of funds to pay costs of repairing the
39 seawall; and

40
41 WHEREAS, For the purpose of providing funds required to pay the cost of repairs to the
42 seawall, it is in the best interest of the City to immediately establish a new differential tax zone
43 known as the Ocean Drive Loop Special Service District for the purpose of providing special
44 services to the properties in the Ocean Drive Loop Bluff Erosion Control Improvement District
45 of a special kind and greater level of service than those provided generally in the City.
46

47 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
48

49 Section 1. Homer City Code Chapter 15.10, Ocean Drive Loop Special Service District,
50 is adopted to read as follows:

51 Chapter 15.10

52 OCEAN DRIVE LOOP SPECIAL SERVICE DISTRICT
53

54
55 Sections:

- 56
57 15.10.005 Definitions
58 15.10.010 Ocean Drive Loop Special Service District established
59 15.10.020 Property tax levy
60 15.10.030 Payment in lieu of taxes
61 15.10.040 Administration
62 15.10.050 Services authorized
63 15.10.060 Excess tax revenue
64

65 15.10.005 Definitions. As used in this chapter:

66
67 "*Improvement District*" means the Ocean Drive Loop Bluff Erosion Control
68 Improvement District previously established by the City as a local improvement district to
69 construct an erosion control seawall.
70

71 "*Operate*" and "*Operation*" with respect to the Seawall includes operation, maintenance,
72 repair, reconstruction, improvement, insurance, administration and other related or similar
73 activities conducted in the course of making and keeping the Seawall operational for its intended
74 erosion control purpose for the benefit of the properties in the Improvement District.
75

76 "*Seawall*" means the erosion control seawall constructed in the Improvement District.
77

78 "*Special Service District*" means the Ocean Drive Loop Special Service District
79 established under this chapter.
80

81 15.10.010 Ocean Drive Loop Special Service District established. a. There is established
82 a special service district within the City designated as the "Ocean Drive Loop Special Service
83 District" for the purpose of providing special services to the properties in the Ocean Drive Loop
84 Bluff Erosion Control Improvement/Assessment District that are not provided elsewhere in the
85 City.

86 b. The Special Service District consists of the properties in the Homer Recording
87 District that are described as follows:
88

89 Oscar Munson Subdivision Lot 34
90

91 Oscar Munson Subdivision Lot 35
92

- 93 Oscar Munson Subdivision Lot 36
- 94
- 95 Oscar Munson Subdivision Lot 37
- 96
- 97 Oscar Munson Subdivision Lot 38
- 98
- 99 Oscar Munson Subdivision Lot 39
- 100
- 101 Oscar Munson Subdivision Lot 40
- 102
- 103 Oscar Munson Subdivision Lot 41
- 104
- 105 Oscar Munson Subdivision Lot 42
- 106
- 107 Oscar Munson Subdivision Lot 43
- 108
- 109 Oscar Munson Subdivision Lot 44
- 110
- 111 Oscar Munson Subdivision No. 18 Lot 45B
- 112
- 113 Oscar Munson Subdivision No. 18 Lot 45A
- 114
- 115 Tamian Subdivision Lot 1
- 116
- 117 A portion of T6S R13W Section 21, Beginning at corner of Sections 20, 21, 28,
- 118 and 29; thence N 64 degrees 10 minutes E a distance of 50.00 feet; thence S 64
- 119 degrees 10 minutes E a distance of 50.00 feet; thence E a distance of 35.00 feet;
- 120 thence N 0 degrees 05 minutes W a distance of 450.00 feet; thence W a distance
- 121 of 125.00 feet; thence S 0 degrees 05 minutes E a distance of 450.00 feet to the
- 122 point of beginning.
- 123
- 124 Seabreeze Subdivision Lot 5
- 125
- 126 Lake St ROW south of Ocean Drive Loop
- 127
- 128 Pedestrian Easement south of Ocean Drive Loop between Lots 37 and 38, Oscar
- 129 Munson Subdivision

130
131 15.10.020 Property tax levy. a. The Special Service District shall be funded by a property
132 tax levied on the properties in the Special Service District. The City Council shall annually set
133 the mill levy pursuant to Section 9.04.040. The tax shall be assessed and collected as other real
134 property taxes levied by the City.

135 b. Any property tax levied for the purpose of funding the Special Service District shall be
136 excluded from the calculation of the mill rate contingency set forth in Section 9.16.020 for
137 purpose of determining whether the City's sales tax levy shall remain in effect.

138

139 15.10.030 Payment in lieu of taxes. In lieu of paying taxes on tax exempt property owned
140 by the City in the Special Service District, the City will annually appropriate money to the
141 district or perform in-kind services for the district equivalent in value to the amount of taxes that
142 would be levied on the City property if it were taxable.
143

144 15.10.040 Administration. The administration of this chapter is a function of the
145 Department of Administration.
146

147 15.10.050 Services Authorized. Revenue collected by the City under this chapter may be
148 appropriated and expended for the limited purpose of funding Operation of the Seawall for the
149 benefit of all properties in the Improvement District.
150

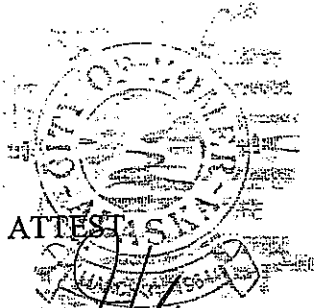
151 15.10.060 Excess tax revenue. If at any time the City Council determines Special Service
152 District tax revenues exceed the needs of the Special Service District, the City Council may
153 authorize a refund of the excess tax revenues collected under this chapter to the taxpayers in
154 proportion to amounts paid in by such taxpayers.
155

156 Section 2. This Ordinance is of a permanent and general character and shall be included
157 in the City Code.
158

159 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 23rd day of
160 January, 2012.
161

CITY OF HOMER


JAMES C. HORNADAY, MAYOR



168 ATTEST:

169 
170
171
172 JO JOHNSON, CMC, CITY CLERK
173

174 YES: 5

175 NO: 1

176 ABSTAIN: 0

177 ABSENT: 0
178

179 First Reading: 12/19/11

180 Public Hearing: 1/23/12

181 Second Reading: 1/23/12

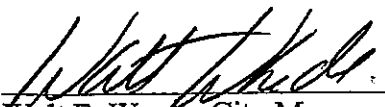
182 Effective Date: 1/24/12
183

184 Reviewed and approved as to form:

185

186

187

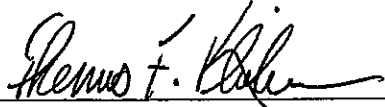
188 
Walt E. Wrede, City Manager

189

190 Date: 1/25/12

191

192


Thomas F. Klinkner, City Attorney

Date: 1-27-12

Jo Johnson

From: Donna Rae and Don [surfshack@acsalaska.net]
Sent: Friday, June 29, 2012 3:52 PM
To: 'Donna Rae and Don'; Bryan Zak; Beauregard Burgess; Francie Roberts; Department Clerk; Barbara Howard; David Lewis; Mary Wythe; Jo Johnson; Walt Wrede
Subject: Happy Independence Day - thank you again

Dear Honorable Mayor Hornaday, Homer City Council, Homer City Manager and Madame Clerk –

This is just a quick thank you and to try to let you know how much we are thinking of you and grateful for your passing ordinance 12-29. I don't know if you can imagine how wonderful it is for us to now sleep thru the night and not wake up worrying about the next phases of the seawall saga and whether or not we can take the stress/financial worries/unpredictabilities. We thought we were strong, but this whole thing really brought us to our knees. We are certainly breathing better and can feel the stress slowly leaving our bodies – and we will finish exhaling at your next meeting (counting on that going well too.).

We hope you know that we truly appreciate your having taken this huge weight off of our shoulders and honoring our original agreement with the City. We feel like we can really live here now! Yahoo! My Mom said that she is proud of you too (she and Dad helped make you cupcakes years ago...)! Thank you SO much for all of your listening over the years.

We hope that the Army Corps decision is a good one and that the City will feel relieved too!

Happy Independence Day!

We appreciate your support from the bottom of our hearts. God bless you.

Sincerely,

Don and Donna Rae

Donna Rae Faulkner and Don McNamara
811 Ocean Drive Loop, Homer, AK 99603

235-SURF or 299-SURF

Jo Johnson

From: Donna Rae and Don [surfshack@acsalaska.net]
Sent: Tuesday, June 26, 2012 10:32 AM
To: Bryan Zak; Beauregard Burgess; Francie Roberts; Department Clerk; Barbara Howard; David Lewis; Mary Wythe; Walt Wrede; Jo Johnson
Subject: A quick THANK YOU!

Thank you, Everyone!

Words can't really express how happy we are that we get to live here! Thank you for creating and passing the ordinance and for listening all those years.

Thank you for passing the ordinance now and not having us continue to worry.

We are finally able to exhale!

It is still sinking in.

We are tremendously grateful.

We'll see you at Farmers' Market!?!

Have a great summer break!!

Hallelujah!

Don and Donna Rae

Donna Rae Faulkner and Don McNamara
811 Ocean Drive Loop, Homer, AK 99603

235-SURF or 299-SURF

Jo Johnson

From: Donna Rae and Don [surfshack@acsalaska.net]
Sent: Monday, June 25, 2012 11:38 AM
To: Bryan Zak; Beauregard Burgess; Francie Roberts; Department Clerk; Barbara Howard; David Lewis; Mary Wythe
Cc: Walt Wrede; Jo Johnson
Subject: For any of you if you have any concerns about supporting us and Ordinance 12-29 today
Attachments: ArgusCity Seawall Meeting announced for June 4 2010.JPG

Dear Honorable Mayor Hornaday, Homer City Council members,

We more than hope that you can support Ordinance 12-29 tonight.

Bryan and Beau, we can appreciate your not supporting the ordinance/mil rate tax on the seawall – it is clearly inequitable and patently discriminatory in its application and certainly something that could be contested in court. We hope to never have to be a part in doing so.

From the Homer City Council Minutes: “Councilmember Burgess commented that coming into the discussion late he benefits from an outside perspective, but we are just slapping a bandaid on the issue. The real long term issue that needs to be figured out is does the City want to be responsible for defending land behind the wall, or does it not. Any haphazard solution that lets a tax base out of the situation is not in the interest of the taxpayers as a whole. Anything that punishes those in the district that are not exempt from the mill rate is unfair. He opposes any solution unless the costs can be evenly and equitably divided amongst the people on the Seawall.” Are we/citizens really just people that the City can use its authority to unfairly tap as a “tax-base” to you, Beau? We evidently got put on the SSD list because we were part of the LID, we have paid the assessment for our section of the seawall in full and our property has not cost the City anything nor have we received any “Special Services” from the City. This nightmare has cost us a great deal in terms of time and energy and without the remedy of Ordinance 12-29, it will cost a lot more!!! Letting us out does not punish others who the City is providing services to.*

**“the costs” you refer to are apparently (though the City has not yet clearly spelled out or documented and presented) costs that the City chose to incur to do work on some people’s private properties – we were not consulted in any way about those items/costs and do not agree that we should be paying for the City to do work on other people’s private properties. As we stated last year, we don’t believe that the City should have been doing this/setting this precedence to begin with – without easements, contracts, a fair/individualized billing mechanism.*

We believe that the LID was created to build the seawall (by lineal foot purchased).

There is documentation that each private property owner is responsible for maintaining the seawall on their private property, though the COE permit puts the City in the hot seat. According to Resolution 03-67, “noting Public Works acceptance of Ocean Drive Loop Bluff Erosion Control Improvement Project as Completed, noting that the property owners take ownership and maintenance responsibilities” the City finalize the assessment district roll and payment process and setting a public hearing (Aug 25, 2003) and Walt’s related memo about maintenance. We have kept our agreement with the City – and invested in over \$15,000 worth of repairs/maintenance/preventative maintenance – with the knowledge/awareness of our neighbors, Carey Meyer, and the Army Corps of Engineers. The City’s 2012 SSD does not provide for reimbursing us for any of those investments that we made (nor did we intend for an SSD to do so) – we should not be part of the SSD. The City should be defending the land behind the wall on the pieces of property that it owns and the private property owners defending their own – and if the Army Corps permit modification request is approved, that can easily be so.

We have attended every meeting invited to over the last decade about the seawall and spoken to the Council and others over the years...meeting at our home with Senator Begich and the neighbors, larger Argus Seawall Meeting (a.k.a. “5 year study” – attached to this e-mail FYI) and follow up meetings that the City sponsored and were facilitated by Heidi and Dan Chay in 2010 with lots of interested parties including geologists, Fish and Game/Fish and Wildlife, politicians, etc. We all found that the suggested longer term erosion solutions really require a lot of expensive research, analysis and engineering before proceeding and no one has come up with the money it takes for that...some council members attended some of those meetings, we remember you coming to some of them, Bryan (thank you.)

Questions to ask:

- Who owns the seawall which run across our property? We do. The Superior Court for the State of Alaska 3rd Judicial District at Anchorage made that ruling back in 2006.
- Since there was no senior exemption for the LID, is it fair to allow a senior exemption for the SSD? No.
- The LID was based on lineal footage of seawall purchased by each property owner, is it fair to now set up an SSD based on mil rate? No.
- What is the City's justification for a differential tax system among the seawall neighbors? And what purpose does it serve? Is it a legitimate purpose? Does it further the purpose of the seawall?
- Doesn't the City want people to invest in their properties/to improve them? The "tax" based on the assessment value does not give residents incentive, but may actually have the reverse effect of encouraging people to not maintain their properties and allow the value to decrease so that they will not have as high a tax to pay. What about our suggestion that the ordinance have an "opt out" upon transfer of the COE permit?

We really want and need out of this madness for SO many reasons. Help the City at least keep its agreement with us and support Ordinance 12-29.

We have been responsible from the start for our private property and don't want the general Fund to pick up our costs, nor should we be expected to pay for work we didn't agree to on other people's private properties. This is fair and common sense in our eyes. Release us from this worry.

We (and our family and friends) will be most grateful for your support.

We'll see you later today.

This has been such a long road. Please end this journey for us today. Thank you.

Donna Rae and Don

We're available to answer any questions or discuss this matter at any time at 299-SURF

-----Original Message-----

From: Donna Rae and Don [mailto:surfshack@acsalaska.net]

Sent: Friday, June 22, 2012 2:21 PM

To: 'Mayor@ci.homer.ak.us'; 'bhfish@gci.net'; 'roberts2@alaska.net'; 'davelyn@gci.net'; 'mewjcw@acsalaska.net'; 'BryanZak@aol.com'; 'Walt Wrede'; 'tassaradar4t@gmail.com'

Cc: 'Jo Johnson'; 'Tracey Tillion'

Subject: PLEASE support Ordinance 12-29 - and Who should be on an SSD roll? Some of our logical reasons that we ask you to support Ordinance 12-29

Dear Honorable Mayor Hornaday, Respected Members of the Homer City Council and Walt Wrede, We are more than hopeful in spirit to see that there Ordinance 12-29 on the agenda which would to remove our property from the SSD at the upcoming meeting. THANK YOU to Dave Lewis and Beth Wythe for sponsoring the ordinance. You can only imagine what it means to us.

We were indeed part of the LID that's purpose was to construct the seawall (a joint project rather than each private property doing what they can, as was/would be done without it, and is being done everywhere else along the shoreline.) We appreciate living here and don't want to regret having been part of the LID. Now the wall is up and the LID is completed (except in regards to the Army Corps permit.) We paid our LID assessment in full and have invested substantially in/maintained our seawall (at zero cost to the City), keeping our agreement with the City. We asked for the City and Army Corps to give us a formal good faith transfer of the section of the City's seawall permit on our private property and hope that will still happen. We have maintained honest and open communication with the City over the years to get things resolved. We've tried to be good natured about all this – cupcakes to get attention and all. Yet the stress has been and continues to be phenomenal but (we say with great faith) passing Ordinance 12-29 will end our madness and free up a great deal of time, worry and energy. We are counting on YOU!

Did you read the recent article in the Homer Tribune *Who owns the seawall – city or residents?* Unacknowledged in that article is the fact that the City and most of those in the original LID went to court and a judge decided that the seawall was indeed owned not *just* by the City but by each (private and municipal) property owner – each having paid for and owning the lineal footage on their own property.

We had thought that the Mayor had said that the City was not to spend money on the private properties on the seawall, yet the City (we assume) motivated by its permit with the Corps and encouraged by private property owners who want the City to take care of their private property) did work on private property without easements or contracts with the property owners. As far as we can tell, the City of Homer did this with no apparent forethought or appropriate billing mechanism – so after the fact, the City passed an ordinance to collect money thru property taxes.

The current seawall SSD ordinance and its assessment is patently unfair and discriminatory in application (though we do not want to bring it to court) - but

if the City is going to be doing work on private properties, the SSD roll should truly only be for those properties along the seawall who:

1. **Have requested and/or received and expect to continue to receive special services from the City since the wall was erected** (i.e. repair/maintenance services.) The City *chose* to spend money and do work on other private properties...and the City should not then punish *us* for that.
2. **Intend hold the City of Homer responsible for all maintenance and repair of the seawall forever** because of the City's ill-fated COE permit, their interpretation of an "LID" and possibly other reasons.
3. **Have not requested a good faith transfer of the Army Corps permit.**

We do not fit the criteria above at all – and we support the City's request to the Army Corps for modification of the permit. We have a clear and documented history of having responsibly taken care of the seawall section that the LID allowed us to purchase on our private property. WE have never requested/received/do not want any "special services" from the City. Years ago we told Troy Jones/East End Services not to come onto/touch the seawall on our private property and he/his company has not.

It appears that we may be the only ones who have never had the City/its contractor do any work/spend any money on our property after the seawall was constructed, we have invested thousands of dollars in our section without reimbursement – and no credit to us for such expenditures is part of the SSD. We didn't ask for reimbursement - but we didn't expect the City to make repairs on other people's private property and bill us for that either!! Ordinance 12-29 will remedy this. We realize that a lot rests on the Army Corps of Engineers' decision about the City's modification of the permit - and our request for a good faith transfer that we hope that the City completes/completed and submitted to the Army Corps (though the Corps won't decide on it until after they decide on the City's request for modification.).

We respectfully ask again that the City keep its agreement with us and permanently omit us from the current/any future SSD roll thru Ordinance 12-29.

We are especially thankful for council members supporting this request and we appreciate that the City has a tangled mess to deal with. This will untangle us and relieve the City of some of what the Army Corps may want to hold the City responsible for...

Please don't punish us for it, end our torture, keep the City's agreement with us, and please pass Ordinance 12-29.

If for any reason you have concerns about supporting this ordinance, we would surely appreciate hearing from you by phone or e-mail and address those concerns. We believe that our reasoning and the ordinance are logical, fair, and reasonable. We really do not want to move or litigate. **Please take this huge weight off of our shoulders and honor our original agreement.**

Thank you SO much for all of your listening over the years. We hope that this passes and we can live in Homer in peace and contribute to our wonderful community. We'll see you Monday. Enjoy your weekend! Thank you for your consideration – we appreciate your support from the bottom of our hearts.

Sincerely,
Don and Donna Rae

Donna Rae Faulkner and Don McNamara
811 Ocean Drive Loop, Homer, AK 99603
questions/be of service.)

235-SURF or 299-SURF (Call if we can answer

Jo Johnson

From: Donna Rae and Don [surfshack@acsalaska.net]
Sent: Friday, June 22, 2012 2:50 PM
To: Department Clerk; Barbara Howard; Francie Roberts; David Lewis; Mary Wythe; Bryan Zak; Walt Wrede; Beauregard Burgess
Cc: Jo Johnson; 'Tracey Tillion'
Subject: PLEASE support Ordinance 12-29 - and Who should be on an SSD roll? Some of our logical reasons that we ask you to support Ordinance 12-29

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We realize that a lot rests on the Army Corps of Engineers’ decision about the City’s modification of the permit - and our request for a good faith transfer that we hope that the City completes/completed and submitted to the Army Corps (though the Corps won’t decide on it until after they decide on the City’s request for modification.).

We respectfully ask again that the City keep its agreement with us and permanently omit us from the current/any future SSD roll thru Ordinance 12-29.

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Thank you SO much for all of your listening over the years. We hope that this passes and we can live in Homer in peace and contribute to our wonderful community. We’ll see you Monday. Enjoy your weekend! Thank you for your consideration – we appreciate your support from the bottom of our hearts.

Sincerely,

Don and Donna Rae

Donna Rae Faulkner and Don McNamara
811 Ocean Drive Loop, Homer, AK 99603
questions/be of service.)

235-SURF or 299-SURF (Call if we can answer

Jo Johnson

From: Donna Rae and Don [surfshack@acsalaska.net]
Sent: Friday, June 22, 2012 3:15 PM
To: Department Clerk
Subject: We are hoping that you support Ordinance 12-29!

Dear Mayor Hornaday –

We are really counting on your support of Ordinance 12-29 excluding us from the seawall Special Service District. We know that you may not vote unless there is a tie, but we hope that you support this ordinance.

We really believe that our perspective is logical, reasonable and we can't imagine being able to live here with the terms of the SSD, no actual "special services" to our seawall section, no consideration/reimbursement for the *thousands* that we have invested in the seawall on our property over the years, and others have totally neglected their sections (i.e. having even the most basic bolts, lumber, plates, missing), no predictability or control over our finances/the work done, having such big fall expenditures as we start up our farm business, etc. We don't want to move or litigate, but if our property is included in the current SSD, it would give us no other reasonable choice (this is truly not a threat to you/the City, but the SSD is very threatening to us/our finances/future...) What would you do if you were us (perhaps you see an alternative we don't?)

Ordinance 12-29 seems to be our only real hope...

We would really appreciate hearing from you – especially if you have any reservations about excluding us from the roll – and you can let us know what parts of our perspective you don't share/understand. We thank you for your excellent service to Homer.

Someday we hope to have you take a look at my nana's old 4 string banjoline! We need to get it restored a bit and strung, but it is pretty cool and it would be fun to play!

Enjoy all this beautiful sunshine – and thank YOU for your consideration and all of the kindnesses (moments of extra time/patience) and listening to us over the years. It has been a long process with lots of ups and downs – probably for all of us. Hopefully Ordinance 12-29 will end this torturous nightmare for us and we can come to you about other more fun and serving issues in the future! We'll see you Monday.

Warmly and sincerely,
Donna Rae and Don
299-7873 or 235-7873

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-30

An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating a Legislative Grant in the Amount of \$8,150,000 for Construction of the Natural Gas Pipeline from Anchor Point to Homer and Kachemak City.

Sponsor: City Manager

1. City Council Regular Meeting June 25, 2012 Introduction
2. City Council Regular Meeting July 23, 2012 Public Hearing and Second Reading

1 CITY OF HOMER
2 HOMER, ALASKA

City Manager

3
4 ORDINANCE 12-30

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
7 ALASKA ACCEPTING AND APPROPRIATING A
8 LEGISLATIVE GRANT IN THE AMOUNT OF \$8,150,000 FOR
9 CONSTRUCTION OF THE NATURAL GAS PIPELINE FROM
10 ANCHOR POINT TO HOMER AND KACHEMAK CITY.

11
12 WHEREAS, The City of Homer has advocated for natural gas service in the community
13 for many years because it would stimulate the economy, lower the cost of living, and provide a
14 cleaner burning fuel consistent with the adopted Climate Action Plan; and

15
16 WHEREAS, The Alaska Legislature included \$8.15 Million in the FY 2013 State Capital
17 Budget for construction of a natural gas pipeline from Anchor Point to Homer and Kachemak
18 City; and

19
20 WHEREAS, The City Council wishes to accept the grant, appropriate the funds, and
21 contract for construction of the pipeline as quickly as possible.

22
23 NOW, THEREFORE, BE IT ORDAINED by the City of Homer:

24
25 Section 1. The Homer City Council hereby accepts and appropriates a Legislative Grant
26 in the amount of \$8.15 Million for construction of a natural gas pipeline from Anchor Point to
27 Homer and Kachemak City as follows:

28
29 Revenue:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-778	Legislative Grant / Gas Pipeline	\$8,150,000

30
31
32
33 Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-778	Legislative Grant / Gas Pipeline	\$8,150,000

34
35
36
37 Section 2. The City Manager is authorized to execute all appropriate documents
38 associated with the grant.

ORDINANCE(S)

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-31

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Revolving Energy Fund, the Water and Sewer Depreciation Fund, and the Port and Harbor Depreciation Fund for Energy Upgrades and Improvements to Facilities and Authorizing the City Manager to Transfer Funds.

Sponsor: City Manager/Finance Director

1. City Council Regular Meeting July 23, 2012 Introduction
 - a. 2012 Mid Year Budget Amendments
 - b. Ordinance 11-02(S)(A)

CITY OF HOMER
HOMER, ALASKA

City Manager/
Finance Director

ORDINANCE 12-31

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2012 REVOLVING ENERGY FUND, THE WATER AND SEWER DEPRECIATION FUND, AND THE PORT AND HARBOR DEPRECIATION FUND FOR ENERGY UPGRADES AND IMPROVEMENTS TO FACILITIES AND AUTHORIZING THE CITY MANAGER TO TRANSFER FUNDS.

WHEREAS, The Energy projects were completed in accordance to Ordinance 11-02(S)(A). Certain projects were paid for through the AEA Grant, the balance was paid using THE Revolving Energy Fund & Depreciation Reserves. These funds were to be paid back in accordance to the payback period (or the period of time that is was determined for the City to recover the costs of the project through energy savings.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby appropriates to the Revolving Energy Fund as follows:

Payback to Energy Fund

<u>Account</u>	<u>Description</u>	<u>Loan Amount</u>	<u>Payback Period (yrs.)</u>	<u>2012 Payback</u>
100-149	Airport HVAC	22.00	1.4	15.71
100-160	Police Lighting Upgrades	121.00	6.0	20.17
100-160	Police HVAC Improvements	21.00	6.2	3.39
100-149	Airport Terminal Lighting	85,631.00	8.1	10,571.73
100-170	Public Works Piping Insulation	1,064.00	8.1	131.36
Pay to Fund 151-718				10,742.35
200-400	Raw Water Pump Station Motor Upgrade	6,284.00	13.4	468.96
Pay to Fund 151-718				468.96

47	<u>Account</u>	<u>Description</u>	<u>Loan</u>	<u>Payback</u>	<u>2012</u>
48			<u>Amount</u>	<u>Period (yrs.)</u>	<u>Payback</u>
49					
50	200-500	Sewer Trtmt Pump Motor	1,350.00	4.7	287.23
51	200-500	Sewer Trtmt Lighting Upgrade	65,318.00	8.6	7,595.12
52	200-500	Sewer Trtmt Lagoon			
53		Solar Aerator	103,953.00	8.7	11,948.62
54	Pay to 151-718				19,830.97
55					
56	400-600	Homer Harbor Lighting	29,294.00	8.9	3,291.46
57	Pay to Fund 151-718				3,291.46
58					
59	<i>Summary:</i>				
60		Payback from General Fund to Energy Fund			10,742.35
61		Payback from Water Fund to Energy Fund			468.96
62		Payback from Sewer Fund to Energy Fund			19,830.97
63		Payback from Port & Harbor Fund to Energy Fund			<u>3,291.46</u>
64					34,333.74
65	Payback to Depreciation Reserves				
66					
67	200-400	Raw Pump Station			
68		Pump Upgrade	166,089.00	13.4	12,394.70
69	Pay to Fund 256-378				12,394.70
70					
71	200-500	Sewer Treatment Lagoon			
72		Solar Aerator	6,843.00	8.7	786.55
73	Payback to 256-379				786.55
74					
75	400-600	Homer Harbor Lighting	126,845.00	8.9	14,252.25
76	Payback to Fund 151-718				14,252.25
77					
78	<i>Summary:</i>				
79		Payback from Water Fund to Depreciation Reserves			12,394.70
80		Payback from Sewer Fund to Depreciation Reserves			786.55
81		Payback from Port & Harbor to Depreciation Reserves			<u>14,252.25</u>
82					27,433.50

83

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

85 codified.

86

87 ENACTED BY THE HOMER CITY COUNCIL this ___ day of _____, 2012.

88

89

90

91

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

92
93
94
95
96
97 ATTEST:
98
99

100
101 _____
JO JOHNSON, CMC, CITY CLERK
102
103

104 YES:

105 NO:

106 ABSENT:

107 ABSTAIN:
108

109 First Reading:

110 Public Hearing:

111 Second reading:

112 Effective Date:
113

114 Reviewed and approved as to form:
115

116
117 _____
Walt Wrede, City Manager
118

119 Date: _____
120
121
122
123

Thomas F. Klinkner, City Attorney

Date: _____

CITY OF HOMER

2012 - Mid-year Budget Amendments

Pay Back to Energy Fund

Funding Source		Loan Amount	Payback Period	2012 Payback
100-149	Airport HVAC Improvement	22.00	1.4	15.71
100-160	Police Station Lighting Upgrade	121.00	6.0	20.17
100-160	Police Station HVAC Improvements	21.00	6.2	3.39
100-149	Airport Terminal Lighting	85,631.00	8.1	10,571.73
100-170	Public Works Piping Insulation	1,064.00	8.1	131.36
Pay to Fund 151-718				10,742.35

200-400	Raw Water Pump Station Motor Upgrade	6,284.00	13.4	468.96
Pay to Fund 151-718				468.96

200-500	Sewer Treatment Plant Pump Motor	1,350.00	4.7	287.23
200-500	Sewer Treatment Plant Lighting Upgrade	65,318.00	8.6	7,595.12
200-500	Sewer Treatment Plant Lagoon Solar Aerat	103,953.00	8.7	11,948.62
Pay to Fund 151-718				19,830.97

400-600	Homer Harbor Lighting	29,294.00	8.9	3,291.46
Pay to Fund 151-718				3,291.46

Summary:

Payback from General Fund to Energy Fund	10,742.35
Payback from Water Fund to Energy Fund	468.96
Payback from Sewer Fund to Energy Fund	19,830.97
Payback from Port & Harbor Fund to Energy Fund	3,291.46
	<u>34,333.74</u>

Pay Back to Depreciation Reserves

Funding Source		Loan Amount	Payback Period	2012 Payback
200-400	Raw Water Pump Station Motor Upgrade	166,089.00	13.4	12,394.70
Pay to Fund 256-378				12,394.70
200-500	Sewer Treatment Plant Lagoon Solar Aerat	6,843.00	8.7	786.55
Pay to Fund 256-379				786.55
400-600	Homer Harbor Lighting	126,845.00	8.9	14,252.25
Pay to Fund 151-718				14,252.25

Summary:

Payback from Water Fund to Depreciation Reserves	12,394.70
Payback from Sewer Fund to Depreciation Reserves	786.55
Payback from Port & Harborto Depreciation Reserves	14,252.25
	<u>27,433.50</u>

Note: Energy Projects were completed in accordance to Ordinance 11-02(S)(A). Certain projects were paid for through an AEA Grant, the balance was paid using Energy Fund & Depreciation Reseves. These funds were to be paid back in accordance to the payback period (or the period of time that it was determined for the City to recover the costs of the project through savings).

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Public Works Director

ORDINANCE 11-02(S)(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2011 OPERATING BUDGET BY APPROPRIATING FUNDS OF \$131,335 FROM THE HARBOR RESERVE AND \$172,932 FROM THE WATER/SEWER RESERVE TO ESTABLISH A BUDGET FOR THE IMPLEMENTATION OF THE ENERGY CONSERVATION MEASURES IN THE RESPECTIVE LOCATIONS AND REQUIRE THAT THE SAVINGS FROM THESE LOCATION IMPROVEMENTS WOULD BE RETURNED TO THE RESERVE FUNDS.

WHEREAS, In March of 2010, Ordinance 10-14, the Homer City Council created a Revolving Energy Fund to provide a long term source of funding for energy efficiency projects in City facilities and that seed money for the fund be provided by transferring assets from existing depreciation reserve accounts; and

WHEREAS, In June 2010, Ordinance 10-28(S), the Homer City Council accepted and appropriated a grant of \$227,800.00 from the Alaska Energy Authority for the Energy Audits & Energy Conservation Measure Project that provided a total budget of \$542,800; and

WHEREAS, Siemens Industry, Inc. was selected (through the RFP process) as the most qualified firm to complete this energy use evaluation/conservation measure implementation project and began work in September 2010; and

WHEREAS, Siemens has completed the facility evaluations and has identified projects totaling \$795,191 that have reasonable payback timeframes and would reduce annual energy costs by \$99,179 (See Memorandum 11-007(S) prepared by Public Works); and

WHEREAS, An additional \$304,267 would be necessary to complete the recommended energy efficiency improvements not provided for by the available grant or revolving loan funding; and

WHEREAS, The additional funds needed are for sewer and harbor infrastructure energy conservation measures and the Water/Sewer and Harbor Reserves have the funds to complete these projects.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby amends the FY 2011 Operating Budget by appropriating funds of \$131,335 from the Harbor Reserve and \$172,932 from the Water/Sewer Reserve for the purpose of completing the Energy Audits & Energy Conservation Measure Project and establishes the budget for the project in the amount of \$847,067 requiring that the savings from the location improvements be returned to the Reserve Funds.

Expenditures:

<u>Acct #</u>	<u>Description</u>	<u>Amount</u>
151-718	AEA Grant	\$ 227,800
620-375	Energy Revolving Loan Fund	\$ 315,000
456-380	Harbor Reserve Account	\$ 131,335
256-378	Water/Sewer Reserve Account	<u>\$ 172,932</u>
		\$ 847,067

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

ENACTED BY THE HOMER CITY COUNCIL this 15 day of February, 2011.



CITY OF HOMER

James C. Hornaday
JAMES C. HORNADAY, MAYOR

J. Johnson
JO JOHNSON, CMC, CITY CLERK

YES: 4
NO:
ABSTAIN: 0
ABSENT: 0

First reading: 1/10/11
Public hearing: 1/24/11
Second reading: 2/15/11
Effective date: 2/16/11

Reviewed and approved as to form:
Walt E. Wrede
Walt E. Wrede, City Manager

Thomas F. Klinkner
Thomas F. Klinkner, City Attorney

Date: 2/24/11

Date: 3-1-11

Fiscal Note: Fiscal information included in body of Ordinance.

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-32

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 General Fund Balance by Allocating \$544,280 for Depreciation Reserves for the Years 2010 and 2011 to City Hall, Parks And Recreation, Planning, Airport Terminal, Library, Fire, Police, Public Works, Leased Properties, Fire, Police, And Public Works Fleet Depreciation Reserve Accounts and Authorizing the City Manager to Transfer Funds.

Sponsor: City Manager/Finance Director

1. City Council Regular Meeting July 23, 2012 Introduction
 - a. 20112 Mid Year Budget Amendments
 - b. Resolution 06-100

CITY OF HOMER
HOMER, ALASKA

City Manager/
Finance Director

ORDINANCE 12-32

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2012 GENERAL FUND BALANCE BY ALLOCATING \$544,280 FOR DEPRECIATION RESERVES FOR THE YEARS 2010 AND 2011 TO CITY HALL, PARKS AND RECREATION, PLANNING, AIRPORT TERMINAL, LIBRARY, FIRE, POLICE, PUBLIC WORKS, LEASED PROPERTIES, FIRE, POLICE, AND PUBLIC WORKS FLEET DEPRECIATION RESERVE ACCOUNTS AND AUTHORIZING THE CITY MANAGER TO TRANSFER FUNDS.

WHEREAS, The City's General Fund Reserve for FY 2011 increased by \$1,125,890; and

WHEREAS, Due to budget constraints for the years of 2010 and 2011 Depreciation Reserves were not set aside; and

WHEREAS, Pursuant to Resolution 06-100 which requires the City to attain a cash balance in depreciation reserve accounts equal to 40% of depreciable capital assets, it is sensible financial management to allocate the depreciation funds for FY 2010 and FY 2011.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby appropriates to the City Hall, Parks and Recreation, Planning, Airport Terminal, Library, Fire, Police, Public Works, Leased Properties, and the Fire, Police, and Public Works Fleet Depreciation Reserves as follows:

<u>Account</u>	<u>Description</u>	<u>Amount</u>	
		<u>2010</u>	<u>2011</u>
Revenue:			
156-384	City Hall Reserves	10,000	10,000
156-385	Parks & Recreation	20,000	20,000
156-387	Planning	10,000	10,000
156-388	Airport Terminal	15,000	15,000
156-390	Library	15,000	15,000
156-393	Fire	30,000	30,000
156-394	Police	30,000	30,000
156-395	Public Works	50,000	50,000
156-396	Leased Properties	10,000	10,000
152-381	Fire Fleet	15,000	15,000
152-382	Police Fleet	15,000	15,000
152-383	Public Works Fleet	52,140	52,140

47	Expenditure:		
48	<u>Account</u>	<u>Description</u>	<u>Amount</u>
49			
50	100-100-5990	General Fund Balance	(\$544,280)

51
52 Section 2. The City Manager is authorized to execute the appropriate documents.

53
54 Section 3. This is a budget amendment ordinance, is temporary in nature, and shall not be
55 codified.

56
57 ENACTED BY THE HOMER CITY COUNCIL this ___ day of _____, 2012.

58
59 CITY OF HOMER

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63 _____
64 JAMES C. HORNADAY, MAYOR

65
66
67
68 ATTEST:
69 _____
70 JO JOHNSON, CMC, CITY CLERK

71 YES:
72 NO:
73 ABSENT:
74 ABSTAIN:

75
76 First Reading:
77 Public Hearing:
78 Second reading:
79 Effective Date:

80
81 Reviewed and approved as to form:

82
83
84 _____
85 Walt Wrede, City Manager

83
84 _____
85 Thomas F. Klinkner, City Attorney

86 Date: _____

86 Date: _____

CITY OF HOMER

2012 - Mid Year Budget Amendment(s)

1) 2011 Increase in General Fund Balance \$1,125,890.

For 2010 and 2011, Depreciation Reserves were not set aside. This Budget Amendment sets aside amount equal to what was set asided in 2012 for both years.

From 100-100-5990 to:

		<u>2010</u>	<u>2011</u>	<u>Total</u>
156-384	City Hall Reserves	10,000	10,000	
156-385	Parks & Recreation	20,000	20,000	
156-387	Planning	10,000	10,000	
156-388	Airport Terminal	15,000	15,000	
156-390	Library	15,000	15,000	
156-393	Fire	30,000	30,000	
156-394	Police	30,000	30,000	
156-395	Public Works	50,000	50,000	
156-396	Leased Properties	10,000	10,000	
152-381	Fire Fleet	15,000	15,000	
152-382	Police Fleet	15,000	15,000	
152-383	Public Works	52,140	52,140	
		<u>272,140</u>	<u>272,140</u>	<u>544,280</u>

**CITY OF HOMER
2013 OPERATING BUDGET**

FUND: 100 GENERAL FUND COMBINING STATEMENT

FUND BUDGET:	FY 2009 Actual	FY 2010 Actual	FY2011 Actual	FY2012 Adopted Budget	FY2013 Primary Budget	FY2014 Budget Projection	FY2015 Budget Projection
REVENUE							
Property Taxes	\$ 2,934,631	\$ 2,960,163	\$ 2,922,280	\$ 2,844,472	\$ -	\$ -	\$ -
Sales & Use Taxes	4,336,888	4,463,546	4,763,805	4,451,802	-	-	-
Permits & Licenses	21,472	22,965	25,040	24,900	-	-	-
Fines & Forfeitures	16,065	15,551	17,460	15,500	-	-	-
Use of Money & Property	28,333	15,308	31,680	16,000	-	-	-
Revenues from Other Agencies	1,406,136	1,252,709	1,629,064	1,334,469	-	-	-
Charges for Services	910,175	529,636	483,462	527,725	-	-	-
Other Revenue	65,342	19,317	32,722	10,000	-	-	-
Airport	165,781	166,666	168,569	179,885	-	-	-
Total General Fund Revenue	\$9,884,823	\$9,445,860	\$10,074,081	\$9,404,753	\$0	\$0	\$0
Transfers from other Funds							
Charges to Other Funds	1,490,832	1,251,184	1,259,098	1,470,794	-	-	-
Total Transfer from other Funds	1,490,832	1,251,184	1,259,098	1,470,794	-	-	-
Total Revenues & Transfers	\$11,375,655	\$10,697,044	\$ 11,333,179	\$ 10,875,547	\$ -	\$ -	\$ -
Expenditures							
* Personnel	7,356,074	7,096,592	7,094,872	7,146,151	-	-	-
Operations & Maintenance	3,098,282	2,664,500	2,829,910	3,108,845	6,352	6,479	6,609
Capital Outlay	93,433	-	-	-	-	-	-
Debt Service	121,813	106,670	99,824	99,824	99,824	101,820	103,856
Total Operating Expenditures	10,669,603	9,867,762	10,024,606	10,354,820	106,176	108,299	110,465
Operating Surplus before Transfers	706,052	829,282	1,308,573	520,727	(106,176)	(108,299)	(110,465)
Operating Transfers To:							
370 Animal Shelter Depreciation Reserve	-	-	-	-	-	-	-
384 City Hall Depreciation Reserve	4,647	-	-	10,000	10,000	10,200	10,404
385 Parks & Recreation Res.	12,000	-	-	20,000	20,000	20,400	20,808
387 Planning Projects Reserve	8,000	-	-	10,000	10,000	10,200	10,404
388 Airport Terminal Depreciation Reserve	6,035	-	-	15,000	15,000	15,300	15,606
390 Library Depreciation Reserve	6,035	-	-	15,000	15,000	15,300	15,606
393 Fire Depreciation Reserve	21,726	-	-	30,000	30,000	30,600	31,212
394 Police Depreciation Reserve	21,726	-	-	30,000	30,000	30,600	31,212
395 PW Depreciation Reserve	40,616	-	-	50,000	50,000	51,000	52,020
396 Leased Property Depreciation Sustainability (AML Account)	24,140	-	-	-	-	-	-
Watershed Land Acquisition(Ord 09-0)	124,115	-	-	-	-	-	-
380-383 Fleet Allocation Reserve	50,000	-	-	82,140	82,140	83,783	85,459
367 Public Arts Reserve	-	-	-	5,000	5,000	5,100	5,202
369 Seawall Maintenance Reserve	13,000	10,000	10,000	10,000	10,000	10,200	10,404
174-732 Junk Cars	-	10,000	-	-	-	-	-
Arctic Winter Games - Ord 05-24	-	-	-	-	-	-	-
Animal Control Debt	52,754	45,372	60,136	52,754	52,754	52,754	52,754
360 Leave Cash Out Bank	138,222	114,602	112,547	113,352	113,352	115,619	117,931
Total Operating Transfers:	523,018	179,974	182,683	443,246	443,246	451,056	459,022
Total Expenditures & Operating Transfers	11,192,620	10,047,736	10,207,289	10,798,066	549,422	223,918	228,396
Total Deficit/Surplus	183,034	649,308	1,125,890	77,481	(549,422)	(223,918)	(228,396)
Beginning Fund Balance	4,467,355	4,650,389	5,299,698	6,425,588	6,503,069	5,953,647	5,729,729
Ending Fund Balance	4,650,389	5,299,698	6,425,588	6,503,069	5,953,647	5,729,729	5,501,333
Fund Balance Adjustment (PERS)							
Available Fund Balance	\$ 4,650,389	\$ 5,299,698	\$ 6,425,588	\$ 6,503,069	\$ 5,953,647	\$ 5,729,729	\$ 5,501,333

**CITY OF HOMER
HOMER, ALASKA**

Wythe

RESOLUTION 06-100

A RESOLUTION OF THE HOMER CITY COUNCIL EXPRESSING ITS INTENT AND DESIRE REGARDING FUTURE BUDGET APPROPRIATIONS TO DEPRECIATION RESERVE ACCOUNTS AND THE CASH BALANCES IN THOSE ACCOUNTS.

WHEREAS, Maintaining healthy cash balances in depreciation reserve accounts is good fiscal policy because it provides security in the event emergency appropriations are needed and allows the City to repair and replace aging and outdated buildings and equipment as needed and on schedule, and

WHEREAS, Over the past ten years, the City has experienced relatively tight budgets and as a result, has been forced to limit contributions to depreciation reserve accounts, defer needed maintenance expenditures, and defer procurement of new equipment, and

WHEREAS, Over the past two budget cycles, the City Council has made a concerted effort to increase contributions to depreciation reserve accounts in response to new GASB 34 guidelines and the fact that the City's buildings and equipment are aging and in need of repair and replacement, and

WHEREAS, In recent budget discussions, the City Council has identified increased contributions to depreciation reserve accounts and maintaining healthy cash balances in those accounts as a top fiscal priority.

NOW THEREFORE BE IT RESOLVED, That the Homer City Council finds that increasing appropriations to depreciation reserve accounts (building and fleet reserves) and gradually growing the cash balances in those accounts is sound fiscal policy and a worthy goal, and

BE IT FURTHER RESOLVED, That the Council hereby establishes a goal of gradually, over ten years, attaining a cash balance in depreciation reserve accounts equal to 40% of depreciable capital assets (excluding land), and

BE IT FURTHER RESOLVED, That the goal established above shall apply to all General Fund, Port and Harbor Enterprise Fund, and Water and Sewer Enterprise Fund depreciation reserve accounts.

PASSED AND APPROVED by the Homer City Council this 14th day of August, 2006.

ATTEST:
MARY L. CALHOUN, CMC, CITY CLERK

CITY OF HOMER
JAMES C. HORNADAY, MAYOR

Fiscal Note: Grow Cash Balances in All Depreciation Reserve Accounts to approximately 35 Million within 10 years.

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-33

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Operating Budget, Including Appropriations to the General Fund and the Port and Harbor Fund and Funding New Projects from Various Reserve Accounts, and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Finance Director

1. City Council Regular Meeting July 23, 2012 Introduction
 - a. 2012 Mid year Budget Amendments – General Fund
 - b. Memorandum 12-113 from Systems Manager as backup
 - c. 2012 Mid year Budget Amendments – Port and Harbor
 - d. Memorandum 12-114 from Port and Harbor Director as backup
 - e. 2012 Mid year Budget Amendments – Reserve Accounts
 - f. Memorandum 12-115 from Library Director as backup
 - g. Memorandum 12-116 from Public Works Superintendent as backup
 - h. Memorandum 12-024 from Public Works Director as backup
 - i. Memorandum 12-110 from Community and Economic Development Coordinator as backup

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager/
4 Finance Director

5 ORDINANCE 12-33
6

7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
8 ALASKA, AMENDING THE FY 2012 OPERATING BUDGET,
9 INCLUDING APPROPRIATIONS TO THE GENERAL FUND
10 AND THE PORT AND HARBOR FUND AND FUNDING NEW
11 PROJECTS FROM VARIOUS RESERVE ACCOUNTS, AND
12 AUTHORIZING THE CITY MANAGER TO EXECUTE THE
13 APPROPRIATE DOCUMENTS.
14

15 WHEREAS, The City's expenses increased the first half of FY 2012; and
16

17 WHEREAS, The City Manager and Department Directors believe it is in the best interest
18 of the City to increase the FY 2012 operating budget to account for these increases.
19

20 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
21

22 Section 1. The Homer City Council hereby appropriates to the General Fund from the
23 fund reserve and to the Port and Harbor Fund, from the port and Harbor Reserve Fund as
24 follows:
25

26	General Fund	279,560.00
27	Port and Harbor Fund	5,000.00

28
29 Section 2. The Homer City Council hereby amends the Library Reserve Fund, Public
30 Works Reserve Fund, Water and Sewer Reserve Fund, and the Port and Harbor Reserve Fund for
31 the following additional projects as follows:
32

33	Library Software	
34	156-390 Library Reserves	31,750.00
35		
36	Steam/Boiler Unit	
37	156-390 Public Works Reserves	16,666.66
38	256-378 Water Reserves	16,666.67
39	256-379 Sewer Reserves	<u>16,666.67</u>
40		50,000.00

41		
42	Design & Engineering for harbor improvement projects	
43	456-380 Port and Harbor Reserves	235,000.00
44		

45 Section 3. The City Manager is authorized to execute the appropriate documents.
46

47 Section 4. This is a budget amendment ordinance, is temporary in nature, and shall not be
48 codified.

49
50 ENACTED BY THE HOMER CITY COUNCIL this ___ day of _____, 2012.

51
52 CITY OF HOMER

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54
55
56 JAMES C. HORNADAY, MAYOR

57 ATTEST:

58
59
60 JO JOHNSON, CMC, CITY CLERK

61
62
63
64 YES:

65 NO:

66 ABSENT:

67 ABSTAIN:

68
69 First Reading:

70 Public Hearing:

71 Second reading:

72 Effective Date:

73
74 Reviewed and approved as to form:

75
76
77 Walt Wrede, City Manager

Thomas F. Klinkner, City Attorney

78
79 Date: _____

Date: _____

80
81
82
83

CITY OF HOMER
2012 - Mid year Budget Amendment(s)

General Fund:

Operating Expense	Department	2012 Budget	Expenses through 6/30/12	Budget Amendment Request	Justification
Overtime (5105)					
100-120	Finance	2,500.00	8,446.04	7,500.00	Required due to staffing shortages
100-149	Airport	2,050.00	2,855.61	4,000.00	Winter Weather - Harsh Winter
100-161	Dispatch	34,070.00	27,849.12	22,000.00	Required due to staffing shortages
100-171	General Maintenance	1,700.00	2,418.84	3,100.00	Winter Weather - Harsh Winter
100-174	Winter Roads	11,400.00	32,713.48	20,000.00	Winter Weather - Harsh Winter
100-176	Motor Pool	1,000.00	1,245.77	1,300.00	Winter Weather - Harsh Winter
Fuel (5203)					
100-114	Leased Property	28,000.00	27,001.57	28,000.00	Boys & Girls Club not considered at Budget Time
100-145	Library	26,014.00	18,885.82	10,000.00	Cost increased in 2011, not captured in 2012 Budget
100-149	Airport	24,000.00	20,746.09	16,000.00	Cost increased in 2011, not captured in 2012 Budget
100-171	General Maintenance	14,000.00	7,831.98	2,000.00	Harsh Winter
100-176	Motor Pool	90,660.00	70,974.36	50,000.00	Harsh Winter
Veh/Boat Maint (5207)					
100-176	Motor Pool	120,000.00	85,173.79	25,000.00	Unexpected heavy equip. maintenance
Bldg & Ground Maint (5209)					
100-145	Library	500.00	5,125.00	3,560.00	
100-171	General Maintenance	10,000.00	10,491.54	5,000.00	Window Replacement & Office Imp
Prof & Spec Svcs (5210)					
100-170	Public Works	2,000.00	1,856.67	1,700.00	Additional Licensing Requirements
Rents & Leases (5214)					
100-174	Winter Roads	15,000.00	12,925.00	10,000.00	Snow Hauling Truck Rental
Communications (5215)					
100-130	Planning	400.00	392.07	400.00	Costs increased in 2011, not captured in 2012 Budget
100-140	City Hall	15,000.00	12,293.64	15,000.00	
100-145	Library	2,617.00	3,068.98	3,400.00	
100-170	Public Works	20,000.00	12,580.04	5,000.00	
Electric (5217)					
100-114	Leased Property	9,000.00	9,824.85	10,000.00	Boys & Girls Club not considered at Budget Time
100-145	Library	23,742.00	14,004.35	6,300.00	Cost increased in 2011, not captured in 2012 Budget
100-171	General Maintenance	23,000.00	13,011.35	3,000.00	Cost increased in 2011, not captured in 2012 Budget
Tools/Equipment (5231)					
100-176	Motor Pool	3,000.00	4,614.32	2,000.00	Specialty tools needed for newer vehicles and equipment
Computers & Related (5233)					
100-113	Information System	15,000.00	2,488.99	15,000.00	Tablet Purchase (See Back up Information)
Snow Removal (5244)					
100-140	City Hall	3,500.00	5,535.00	6,500.00	Increased due to winter conditions
100-145	Library	6,280.00	5,610.00	3,800.00	Increased due to winter conditions

279,560.00



City of Homer

Office of the Systems Manager
491 East Pioneer Avenue
Homer, Alaska 99603-7645

Fax: (907) 235-3148
Telephone: (907) 435-3156
E-mail: npoolos@ci.homer.ak.us

MEMORANDUM 12-113

DATE: 7/16/2012

TO: HOMER CITY COUNCIL

FROM: NICK POOLOS, SYSTEMS MANAGER

THROUGH: REGINA MAURAS, FINANCE DIRECTOR

SUBJECT: ALLOCATE \$14,310 FOR THE PURCHASE OF TABLET DEVICES

Per Council's direction, following the Council Work Session on April 16, 2012; Nick Poolos, Jo Johnson, and Walt Wrede evaluated several tablets in the Homer Public Library's collection. The 10" tablet form factor provided a screen large enough to easily read emails and view council packets, while still being a lightweight highly portable device.

Per the recommendations from the City Attorney, the Mayor and Council should be reading, responding and composing email from a City provided device. In the subsequent discussions at the June 13th meeting, Council raised concerns over the cost of purchasing tablets for their own use versus extending City IT resources support to the Mayor and Council's personal computing devices. The overall cost for the software licenses and staff time to support each personal device came to \$338.60 the first year and \$125.00 reoccurring every year after, or a cost of \$713.60 for 3 years. Any change to the makeup of Council would bring a new personal device which would incur the full \$338.60 cost for the first year of the new device.

The other use of a tablet device would be for accessing the Council Packet thus saving the cost of printing, assembling, and distributing the main packet and supplemental packet materials. The council packet is produced, with an average cost of \$14.50 per copy, 23 times per year. The cost of printing, assembling and duplicating the supplemental packet materials is another \$9.27 per copy. The yearly cost of producing the packet materials is \$546.71 (\$333.50 for the main packet and \$213.21 for the supplemental materials) per copy.

Given the costs of producing the paper packet, extending the tablet program to the department heads also makes fiscal sense. Purchasing 20 tablets and accessories at a total cost of \$14,309 (\$715.49 per tablet) would allow for City Departments to full participate in the paperless council meetings.

By going to a digital packet, the City will save \$8,479 over three years and \$23,238 over five years. Also, paper reduction for Council Meetings aligns with the City's Climate Action Plan.

RECCOMENDATION: Allocate the funds to purchase 20 tablets.

Cost Savings available through Tablet Purchase

Year	No Tablet Purchase		Tablets Purchased		Tablet Savings	
	Initial Costs	Ongoing Costs	Tablet Purchase	Accidental Damage	Total	Total
Year 1	Initial Costs personal devices	\$2,380	Tablet Purchase	\$14,310	\$14,360	-\$5,725
	Council Packet Production	\$4,921	Accidental Damage	\$50		
	Department Copies	\$1,334				
Year 2	Personal Devices ongoing Cost	\$875	Accidental Damage	\$50	\$14,410	\$1,542
	Council Packet Production	\$5,068				
	Department Copies	\$1,374				
Year 3	Personal Devices ongoing Cost	\$901	Accidental Damage	\$600	\$15,010	\$8,479
	Council Packet Production	\$5,220				
	Department Copies	\$1,415				
Year 4	Personal Devices ongoing Cost	\$928	Accidental Damage	\$500	\$15,510	\$15,742
	Council Packet Production	\$5,377				
	Department Copies	\$1,458				
Year 5	Personal Devices ongoing Cost	\$956	Accidental Damage	\$500	\$16,010	\$23,238
	Council Packet Production	\$5,538				
	Department Copies	\$1,501				

Notes:

- 1) Staff costs were projected to increase at 3% per year, consumable costs were assumed to be static
- 2) No accounting was made for a change in Council membership a new member will incur the initial \$340 cost their first year

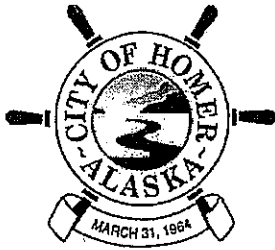
CITY OF HOMER

2012 - Mid year Budget Amendment(s)

Port & Harbor

			Expenses through 6/30/12	Budget Amendment Request
Operating Expenses: Department		2012 Budget		
400-611-5258	P&H Maintenance	10,000.00	7,789.04	5,000.00

Funding to come from: 456-380 Port & Harbor Reserves



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

MEMORANDUM 12-114

TO: HOMER CITY COUNCIL
CC: CITY MANAGER WALT WREDE
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER *BH*
DATE: JULY 11, 2012
SUBJECT: MID-YEAR 2012 BUDGET AMENDMENTS

Due to an increased amount of spalling damage to the concrete float system's walking surface over the past two winters, Port Maintenance has had to step up their efforts in the float repair category. There is a total of 164,195 square feet of floats in the harbor, of which 102,906 square feet are made of concrete.

Through much research and hands-on trials, we believe that we have found a method and product that gives us the best to-date results for repairing the chuck holes in the concrete float walking surfaces. Port Maintenance has surveyed all the float systems and has been working through a prioritized "worst" to "not too bad yet" repair list.

Port Maintenance's 2012 float repair account 400-611-5258 was budgeted for \$10,000.00. At the mid-year mark, this line item had been expended. These types of repairs must be done during the summer months due to the fact that the materials used for repair require curing without freezing. The effect of simply waiting for the next budget cycle for funding is that we would not be able to address this spalling issue until next year's spring/summer season.

Recommendation

Approve the transfer of \$5,000.00 from the Port and Harbor Reserves 456-380 to Port Maintenance float/ramp repair account 400-611-5258 for the purposes of continuing these repairs in 2012.

CITY OF HOMER

2012 - Mid year Budget Amendment(s)

RESERVE ACCOUNTS

Library Software

Funding from:

156-390	Library Reserves	31,750.00
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Steam/Boiler Unit

\$50,000

Funding from:

156-390	Public Works Reserves	16,666.66
256-378	Water Reserves	16,666.67
256-379	Sewer Reserves	16,666.67
		<u>50,000.00</u>

Design & Engineering for harbor improvement projects:

Funding from:

456-380	Port & Harbor Reserves	235,000.00
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MEMORANDUM 12-115

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL

THRU: REGINA MAURAS, FINANCE DIRECTOR

FROM: ANN DIXON, LIBRARY DIRECTOR AND NICK POOLOS, SYSTEMS MANAGER

DATE: JULY 16, 2012

SUBJ: BUDGET REQUEST TO PURCHASE NEW LIBRARY SOFTWARE

Many services offered at Homer Public Library (HPL) are managed by automation software, known as an Integrated Library System (ILS). This software handles core functions such as circulation, cataloging, acquisitions, and reports.

The product used by the Library since 2006 is called Symphony and is produced by the SirsiDynix company. Though it was likely the best choice at the time it was purchased, technology has changed considerably in the last six years. Symphony has drawbacks, including cost, that limit the Library's ability to provide optimal service to the public, create efficient staff workflows, and adapt to ongoing changes in technology in a cost-effective manner.

Symphony is designed for large libraries with separate departments for various functions and for library systems comprised of multiple branches. Its complexity is cumbersome for a mid-sized stand-alone library such as HPL, where one person is the Interlibrary Loan "department" and where staff members perform numerous types of library tasks. The system often complicates workflows for staff and does not offer much flexibility. The various function modules do not integrate smoothly with each other. The reports function is daunting and time-consuming.

The current system is not particularly user-friendly for patrons, either, despite the efforts of library staff to improve the public access catalog for patrons. Many people ask for help searching the library catalog. We know that others, who don't ask, leave without finding what they are looking for. This system does not effectively display and integrate all the different types of resources a library these days has available – books, audiobooks, DVDs, magazines, online databases, e-books, and other electronic materials – which further hinders people's searches for information.

The Library's webpages are the most actively used portion of the City's website. Increasingly the public is coming to the Library website from mobile devices. Another drawback to the current system is the difficulty integrating new technologies, such as social media and mobile devices.

Even trying to set up e-mail notification for overdue materials has proved frustrating.

In addition to these technical problems, the current ILS system is expensive and costs more each year. Last year's increase of \$781 was typical, from \$11,318 in FY2011 to \$12,099 in FY2012. As well, the built-in fee structure prevents us from making improvements in workflow efficiency and service to the public. For example, there is an additional license fee for a module to enable electronic ordering which would be more efficient than our current procedures. These modules cost \$3000 to \$6000 to initially license and cost \$300 to \$600 annually thereafter. A fee would also be charged, approximately \$1800 for an additional license, to set up a "station" (circulation computer) in the children's room so we could check out materials there during children's programs or designated hours when a children's librarian would be available to help patrons.

Finally, technical support is often difficult to obtain and leaves the issue unresolved or only correctable with an additional cost.

Library staff and the IT director have investigated numerous options and determined that a more responsive, more efficient, less expensive system can be put into place. After extensive research we have chosen an open-source software product called Evergreen, with technical support from Equinox. It offers the flexibility, integration, and affordability we are seeking. The system is currently being used at the Haines Public Library, as well as the King County Library system around Seattle, and more than 800 other libraries worldwide. The initial expense of \$33,660 includes start-up costs that will be paid back within three to four years through significant savings on annual fees.

The new system should be adequate for at least 5 years. At that time the Library will have saved more than \$25,000 over our current system. It is realistic to expect the new system to last longer than 5 years, garnering additional savings of at least \$13,000 per year. Furthermore, this system will allow the Library to better serve the public, staff to work more efficiently, and improve access to all the types of resources available through the Library.

It is desirable to purchase the software and begin the conversion process before the end of this fiscal year. A typical conversion project takes 4 to 6 months to complete. It is essential to accomplish this task during the winter months, when staff has more time available to work on special projects than during the busy summer season. We will need to start in November or early December in order to be functioning smoothly before the May 1 renewal date for Sirsi and before the summer rush begins. This time frame also works well with updates and projects already scheduled by the IT director with other departments.

RECOMMENDATION: Approve funds from the library reserve account totaling \$33,660 for the installation, migration, and support of new Integrated Library System software.

Comparison of Costs for Evergreen and Sirsi Symphony Over 5 Years

	Evergreen	Evergreen Total	Sirsi	Sirsi Total	Evergreen Savings
Year 1					
Initial Cost	\$29,400	\$33,660	\$4,500	\$16,599	-\$17,061
Annual Support Fee	\$4,260		\$12,099		
Year 2					
Annual Support Fee	\$4,686	\$38,346	\$13,309	\$29,908	-\$8,438
Year 3					
Annual Support Fee	\$5,155	\$43,501	\$14,640	\$44,548	\$1,047
Year 4					
Annual Support Fee	\$5,670	\$49,171	\$16,104	\$60,651	\$11,481
Year 5					
Annual Support Fee	\$6,237	\$55,408	\$17,714	\$78,366	\$22,958

Notes:

- 1) Annual Fees for both vendors calculated with a 10% Increase per year
- 2) Sirsi Annual Fee for Year 1 is based off 2012 fee plus 10%
- 3) Sirsi Year 1 calculations assume purchase of Electronic Ordering module and additional circulation station, based on FY 2011 quote



**CITY OF HOMER
PUBLIC WORKS DEPARTMENT**

Jan C. Jonker, Superintendent
3575 Heath St.
Homer, Alaska 99603

Telephone: (907)235-3170
Fax: (907)235-3145

EMAIL : jjonker@ci.homer.ak.us

MEMORANDUM 12-116

To: Walt Wrede, City Manager
From: Jan Jonker, Public Works Superintendent *JCS*
Thru: Carey Meyer, PW Director
Date: Wednesday, July 11, 2012
Subject: New Steamer / Boiler Unit

As you recall, last winter our steam boiler malfunctioned and was destroyed beyond repair. At that time, due to the lengthy lead time for a new unit, we located a used one in Canada and made this purchase. This was a stop gap purchase which needed to be made expeditiously and we had discussed and planned to order a new boiler unit this summer.

Steam Boiler Unit

We have requested and received two price quotes from certified vendors for this equipment, one being in Canada. The quotes are;

- | | | |
|--------------------------------------------------|--------------------|---------------|
| • Industrial Boiler & Controls, Inc., Anchorage | \$43,816.00 | FOB Homer |
| • GenTex Oilfield Manufacturing, Alberta, Canada | \$38,500.00 | w/no shipping |
| Estimated shipping from Alberta to Homer is | <u>\$ 3,000.00</u> | |
| Total GenTex quote w/shipping | \$41,500.00 | |

It is also noted on the quotes that Industrial Boiler unit will be delivered 90 days ARO and GenTex unit is 14-16 weeks ARO. Industrial Boiler is also the designated area dealer for this equipment and provides sales & service in Alaska.

Additional Appurtenances – (\$4,710.00)

We will also need to purchase two Steam Hose reels for this unit @ \$1,105.00 each as well as purchase some materials to fabricate a steel skid for this unit which will be built in house. Estimated materials for the skid is \$2,500.00.

Recommendation: Approve up to \$50,000 for this procurement. Cost to be split equally between PW Reserve, Water Reserve & Sewer Reserve accounts.



Industrial Boiler & Controls, Inc.

106 E. Dowling Road, Suite B
P.O. Box 91418
Anchorage, Alaska 99509-1418
(907) 562-2827

VAPOR POWER INTERNATIONAL

QUOTATION
12-13638

City Of Homer
Homer Alaska

July 3, 2012

Attention;
Levi
Fax 907-235-3145

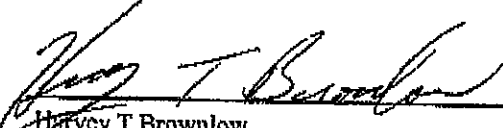
<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>UNIT PRICE</u>
1	1	Vapor Steam Generator Model No. 4992-4BT 40 BHP, 1,380 lbs/hr from and at 212° F 300 psi design, 250 psi max operating No. 2 Oil Fired - Includes 2 instruction manuals - Prime mover by others - Tachometer drive and display, not mounted	\$ 43,816.00

PRICE:
-All prices are F.O.B. Franklin Park, Illinois – freight paid to Homer, Alaska
-Standard warranty is 12 months from startup or 18 months after shipment, whichever comes first. Warranty is for parts only and does not include labor.

TERMS:
With order 50% of unit price
30 days after ship date 50% of unit price

Note: Any changes to these standard Terms of Payment will require Vapor Credit Department approval.

DELIVERY: 90 days after receipt of an approved purchase order


Harvey T Brownlow
President

Industrial Boiler & Controls, Inc. Representative

PRICES QUOTED ABOVE ARE CURRENTLY IN EFFECT, AND ARE FIRM FOR 90 DAYS FROM DATE OF THIS QUOTATION. PREVIOUS QUOTATIONS ON THIS EQUIPMENT ARE VOIDED BY THIS QUOTATION, ALL PRICES ARE SUBJECT TO ADDITION OF ANY APPLICABLE SALES, USE OR SIMILAR TAXES.

N: word/ibc/proposal/12-13638/htb

Jan Jonker

From: Joe De Wit <jdewit@gentex.ca>
Sent: Tuesday, July 10, 2012 12:27 PM
To: Jan Jonker
Cc: Tony Carlson
Subject: RE: Steamer

Hey Jan,

A budgetary price for the 4992-4BT with mechanical controls is \$38,500.00 USD. This price does not include shipping to Alaska. At this time delivery is roughly 14-16 weeks upon placement of the order. If you have any other questions please let me know.

THX

Joe

GenTex Oilfield Manufacturing Inc.
Joe de Wit
Sales Representative (Canada & United States)
Phone: (403) 341-4155
jdewit@gentex.ca

From: Jan Jonker [<mailto:JJonker@ci.homer.ak.us>]
Sent: 07/09/2012 9:47 AM
To: Joe De Wit
Subject: RE: Steamer

Hi Jo-

Am looking to purchase a NEW boiler and need a quote amount for budget request.

Looking for Vapor Steam Generator, Model No. 4992-4BT with mechanical controls. Can you provide me with a budget number so I can get this going through our political process.

Hope your summer is going well.

Mr. Jan C. Jonker, Superintendent
City of Homer, DPW
3575 Heath St.
Homer, AK 99603
907-235-3170



CITY OF HOMER
PUBLIC WORKS
3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
FACSIMILE (907)235-3145

MEMORANDUM 12-024

TO: Walt Wrede, City Manager
FROM: Carey Meyer, Public Works Director
DATE: February 7, 2012
RE: **Steamer Equipment Replacement**

In January, the equipment inside the steamer truck malfunctioned and melted down. The accident occurred on an unusually bitter cold morning; an autopsy concluded that the probable cause of death was a frozen water/fuel regulator that allowed the boiler to continue to be heated even though there was no longer any water in the boiler.

The availability of this equipment is critical to providing thawing service to the community. The equipment is used to steam hydrants (several times a winter to minimize frost heaving and hydrant failure), open frozen sewer lines, thaw blocked culverts and open frozen ditches. It is especially vital during breakup. Although Public Works was able to borrow a steamer from ADOT for one day, our hydrant steaming, ditch opening and culvert thawing operations have come to a standstill. Significant damage to public infrastructure and private property could result if thawing capabilities are not available.

Public Works has contacted vendors that supply new skid mounted steaming equipment. The delivery of new equipment is 8-10 weeks out, and will require significant research to determine which one best meets our needs. The expected cost of a new steamer unit is \$40,000 – \$50,000

A reconditioned steam unit is available in Alberta Canada; the only one Public Works has been able to locate. The cost of this unit is \$24,775.01 (plus \$2,500 shipping).

Public Works mechanics have attempted to repair the steamer utilizing parts from the steamer unit surplused in 2003. This attempt has failed.

At this time, Public Works believes that purchasing the used steamer unit is the only way to acquire the critical equipment necessary to meet our immediate needs. Based on the implications of not having thawing capacities, Public Works will evaluate and make future recommendations regarding the purchase of a new steamer unit, so that the community has redundant thawing capabilities.

Recommendations: The City Council pass an ordinance approving the purchase of a used steamer unit and authorizing the City manager to execute all necessary documents. The cost should be split equally between the PW Reserve, Water Reserve and Sewer Reserve accounts.



**CITY OF HOMER
CITY HALL**

MEMORANDUM 12-110

To: Mayor Hornaday and City Council
 From: Katie Koester, Community and Economic Development Coordinator
 Through: Walt Wrede, City Manager
 Date: June 25, 2012
 Subject: Update on Municipal Harbor Grant

The purpose of this memo is to update the Mayor and Council on the information listed in Resolution 12-043 authorizing the City Manager to issue revenue bonds for the required 50% match portion of the Municipal Harbor Facility Grant Program.

- 1) **Updated total estimate for Harbor Improvement Projects.** Resolution 12-043 lists the total amount for the three harbor improvements projects (Replacing Ramp 3 and Harbor Floats and System 5 Upgrades), as \$9,094,000. The latest estimate from the engineer is \$9,119,000 (a \$25,000 difference).
- 2) **Do not bond for Denali Commission Waterfront Improvement Grant required local match.** Resolution 12-043 includes the Denali Commission Waterfront Improvement Project required local match of \$110,000 in the bond sale. This grant is for the design and engineering phase of replacing Ramp 3 and Harbor Floats and System 5 upgrades. The City needs to have this phase of the project done before the bond sale to finish the harbor improvement projects on schedule. The Municipal Harbor Grant requires the construction of all projects to be complete 18 months after notice of award. Projects need to be closed out December 2014 for the current application cycle. The recommendation is to not bond for the match and come up with the \$110,000 from a combination of reserves and cruise ship passenger vessel pass through funds from the Borough (\$32,000).
- 3) **Backing out design and engineering costs from the Harbor Improvement Projects.** Design and Engineering expenses are ineligible for the Municipal Harbor Grant Program and cannot be included in the application. Furthermore, that phase of the project needs to be complete by the time the Municipal Harbor Grant funds are awarded to keep the project on schedule.

Project	PnD February Estimate	Design and Engineering	Construction Only Total	50% Construction
Ramp 3	\$795,000	\$62,000	\$733,000	\$366,500
Harbor Float Replacement	\$7,353,000	\$570,000	\$6,783,000	\$3,391,500
System 5	\$971,000	\$75,000	\$896,000	\$448,000
TOTAL	\$9,119,000	\$707,000	\$8,412,000	\$4,206,000

The Denali Commission grant will cover over half the design and engineering expenses. The City needs to come up with \$235,000 (including local match for Denali Commission grant) for the remainder. This cannot be included in a bond because of timing issues. The recommendation is that these funds come from reserves. An amendment to the current budget will come before you next meeting (July 23rd) reflecting this change.

Design and Engineering	
Denali Commission	\$440,000
KPB CPV funds	\$32,000
City of Homer (Reserves)	<i>\$235,000</i>
TOTAL	\$707,000

- 4) **Remove Load and Launch Ramp from the Municipal Harbor Grant Application.** Alaska Department of Fish and Game (ADF&G) has identified federal funds to replace the Load and Launch ramp, a 3.5 million dollar project. The City is expected to come up with a 25% match for the construction portion of the project (\$787,500). The City may not use the Load and Launch Ramp federal grant funding as a match for the Municipal Harbor Grant because:
- a. The city does not have solid proof of funding for the grant application (such as an award letter). ADF&G is unsure when the funding will come through for this project.
 - b. It is unlikely the Load and Launch Ramp can be completed in the 18 month time frame the Municipal Harbor Grant requires (by December 2014).

The City may consider bonding for the entire \$787,500 local match for the construction phase of the Load and Launch Ramp. This would increase the amount the City needs to bond for to just shy of \$5 million. Resolution 120943 authorizes the City to bond for up to 5 million dollars.

Bond Sale	
50% Construction \$ for 3 Projects	\$4,206,000
Load and Launch Ramp	\$787,500
TOTAL	<i>4,993,500</i>

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**CITY OF HOMER
HOMER, ALASKA**

Howard, Lewis, Wythe

RESOLUTION 12-043

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, ACCEPTING AND APPROVING RECOMMENDATIONS SUBMITTED BY THE PORT AND HARBOR IMPROVEMENT COMMITTEE REGARDING CAPITAL IMPROVEMENTS IN THE HARBOR AND THE FUNDING THEREOF AND AUTHORIZING THE CITY MANAGER TO PREPARE THE DOCUMENTS NECESSARY FOR GRANT FUNDING, A REVENUE BOND SALE, AND THE FEE ADJUSTMENTS NECESSARY TO SERVICE THE BONDS.

WHEREAS, The Homer City Council created the Port and Harbor Improvement Committee through adoption of Resolution 11-60; and

WHEREAS, The Committee scope of work included identifying priority port and harbor capital projects that could be financed through the sale of revenue bonds and to prepare a "revenue bonding plan"; and

WHEREAS, The Committee has held meetings on a regular basis since August of 2011, reviewed and analyzed relevant information and facts, prepared a proposal as a basis for public discussion, conducted public outreach activities, and prepared a final recommendation to the Council; and

WHEREAS, The Committee recommends that the City prepare grant applications and sell bonds for the following projects at a total cost of \$9,094,000 (includes Denali Grant contribution of \$330,000); the City would fund one half of the amount (\$4,547,000 plus \$110,000 (City's 25% match requirement of the Denali Grant of \$440,000) for a total of \$4,657,000 through the sale of revenue bonds:

- Ramp 3 Gangway and Approach
- Harbor Float Replacement
- System 5 Upgrades
- Load and Launch Ramp; and"

41 WHEREAS, The Committee recommends that the Council bond for a full \$5 Million so
42 that unforeseen contingencies and increases in the costs of construction and materials can be
43 addressed; and

44
45 WHEREAS, The Committee recommends that the following fees be increased in order to
46 generate the revenue needed to service the bonds and increase contributions to the depreciation
47 reserves:

- 48 • Fuel Wharfage
- 49 • Moorage
- 50 • Ice
- 51 • Dockage

52
53 WHEREAS, Detailed information on the proposed projects, fee increases, and bond
54 payments is included in the attached Memorandum 12-076 from the Committee.

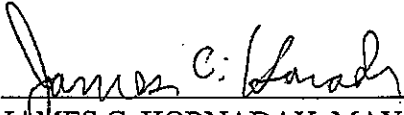
55
56 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby accepts
57 and approves the recommendation provided by the Port and Harbor Improvement Committee as
58 described in Memorandum 12-076, a copy of which is attached and incorporated herein; and

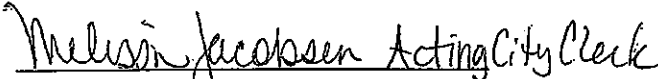
59
60 BE IT FURTHER RESOLVED that the Council authorizes the City Manager to begin
61 implementing these recommendations by preparing the documents necessary for a grant
62 application, bond sale application, and the necessary resolutions to adjust the fee schedule and
63 Port and Harbor Tariff.

64
65 PASSED AND ADOPTED by the Homer City Council this 14th day of May, 2012.

66
67 CITY OF HOMER



68
69
70 
71 JAMES C. HORNADAY, MAYOR

72
73
74
75 
76 JO JOHNSON, CMC, CITY CLERK

77
78
79 Fiscal Note: Bond debt: \$4,274,500.00.

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-34

An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating \$1,500.00 from the General Fund for an Open House Celebration for the Renovated City Hall.

Sponsor: Roberts/Wythe

1. City Council Regular Meeting July 23, 2012 Introduction

1 CITY OF HOMER
2 HOMER, ALASKA

Roberts/Wythe

3
4 ORDINANCE 12-34
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
7 ALASKA, AMENDING THE 2012 OPERATING BUDGET BY
8 APPROPRIATING \$1,500.00 FROM THE GENERAL FUND
9 FOR AN OPEN HOUSE CELEBRATION FOR THE
10 RENOVATED CITY HALL.
11

12 WHEREAS, The City Council of Homer, Alaska, adopted Resolution 10-82 and
13 Ordinances 11-04 and 11-47 authorizing the remodeling of the Homer City Hall; and
14

15 WHEREAS, The renovation project has been completed and the Public Arts Committee
16 is planning an open house on August 20, 2012 to invite members of the public for refreshments
17 and to see the changes to the building; and
18

19 WHEREAS, The amount of \$1,500.00 will be allocated from the General Fund to
20 purchase refreshments for the Open House Celebration on August 20, 2012.
21

22 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
23

24 Section 1. The Homer City Council hereby appropriates \$1,500.00 for the Open House
25 Celebration for the renovated Homer City Hall as follows:
26

27 Expenditure:
28

<u>Account</u>	<u>Description</u>	<u>Amount</u>
100-140-5210	Open House Celebration City Hall	\$1,500.00

29
30
31

32 Section 2. This is a budget amendment ordinance, is temporary in nature, and shall not be
33 codified.
34

35 ENACTED BY THE HOMER CITY COUNCIL this ___ day of _____, 2012.
36

37 CITY OF HOMER
38

39
40
41 _____
42 JAMES C. HORNADAY, MAYOR

43 ATTEST:
44

45 _____
46 JO JOHNSON, CMC, CITY CLERK

47 YES:
48 NO:
49 ABSENT:
50 ABSTAIN:
51
52 First Reading:
53 Public Hearing:
54 Second reading:
55 Effective Date:
56
57 Reviewed and approved as to form:
58
59 _____
60 Walt Wrede, City Manager
61
62 Date: _____
63

Thomas F. Klinkner, City Attorney

Date: _____