

City Council  
October 15, 2012  
Monday



Special Meeting 6:00 P.M.



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

Produced and  
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**CALL TO ORDER**  
**PLEDGE OF ALLEGIANCE**  
**AGENDA APPROVAL**



COWLES COUNCIL CHAMBERS  
491 E. PIONEER AVENUE  
HOMER, ALASKA  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)



**SPECIAL MEETING**  
**6:00 P.M. MONDAY**  
**OCTOBER 15, 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, 6:00 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. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**
4. **NEW BUSINESS**
  - A. Oath of Office administered to the Newly Elected Officials. Page 5
  - B. **Memorandum 12-157**, from City Clerk, Re: Selection/Appointment of Mayor Pro Tempore for 2012/2013. Page 13
  - C. **Ordinance 12-46**, An Ordinance of the City Council of Homer, Alaska, Appropriating Funds in the Amount of \$50,165 from the General Fund Balance to Carry Out the Requirements of Homer City Code Title 17 Entitled Improvement Districts and to Implement a Public Information Strategy Related to the Proposed Natural Gas Special Assessment District. City Manager. Page 15  
  
Memorandum 12-159 from City Manager as backup. Page 19
5. **RESOLUTIONS**
  - A. **Resolution 12-086**, A Resolution of the City Council of Homer, Alaska, Approving the Assignment of the City Land Lease on Lot 88-1, Dated October 27, 2003, from William Tener, dba South Central Radar, to Mark and Laura Zeiset. Page 21

- B. **Resolution 12-087**, A Resolution of the Homer City Council Adopting the 2013-2018 Capital Improvement Plan and Establishing Capital Project Legislative Priorities for Fiscal Year 2014. Page 75

Memorandum 12-158 from Public Arts Committee as backup.

Page 77

6. **COMMENTS OF THE AUDIENCE**
7. **COMMENTS OF THE CITY ATTORNEY**
8. **COMMENTS OF THE CITY CLERK**
9. **COMMENTS OF THE CITY MANAGER**
10. **COMMENTS OF THE MAYOR**
11. **COMMENTS OF THE CITY COUNCIL**
12. **ADJOURNMENT**

Next Regular Meeting is Monday, October 22, 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**





# NEW BUSINESS



## **OATH OF OFFICE**

**I, MARY E. WYTHER, having been duly elected to the Office of the Mayor for the City of Homer, Alaska, for a term of office to expire October 2014, in compliance with Title 29, of the Alaska Statutes, and Homer City Code do hereby solemnly affirm to defend and support the Constitution of the United States, the Constitution of the State of Alaska, and the Ordinances of the City of Homer, and do pledge to honestly, faithfully, and impartially perform all duties of the office which I am about to enter, according to law, and therein do equal right and justice to all, so help me God.**

**In Witness Whereof, I hereunto set my hand this 15<sup>th</sup> day of October, 2012.**

\_\_\_\_\_  
**MARY E. WYTHER**

**ATTEST:**

\_\_\_\_\_  
**JO JOHNSON, CMC, CITY CLERK**



## OATH OF OFFICE

I, BEAUREGARD BURGESS, having been duly elected to the Office of Councilmember for the City of Homer, Alaska, for a term of office to expire October 2015, in compliance with Title 29, of the Alaska Statutes, and Homer City Code do hereby solemnly affirm to defend and support the Constitution of the United States, the Constitution of the State of Alaska, and the Ordinances of the City of Homer, and do pledge to honestly, faithfully, and impartially perform all duties of the office which I am about to enter, according to law, and therein do equal right and justice to all, so help me God.

In Witness Whereof, I hereunto set my hand this 15<sup>th</sup> day of October, 2012.

BEAUREGARD BURGESS

ATTEST:

JO JOHNSON, CMC, CITY CLERK



## OATH OF OFFICE

I, **FRANCIE ROBERTS**, having been duly elected to the Office of Councilmember for the City of Homer, Alaska, for a term of office to expire October 2015, in compliance with Title 29, of the Alaska Statutes, and Homer City Code do hereby solemnly affirm to defend and support the Constitution of the United States, the Constitution of the State of Alaska, and the Ordinances of the City of Homer, and do pledge to honestly, faithfully, and impartially perform all duties of the office which I am about to enter, according to law, and therein do equal right and justice to all, so help me God.

In Witness Whereof, I hereunto set my hand this 15<sup>th</sup> day of October, 2012.

---

**FRANCIE ROBERTS**

**ATTEST:**

---

**JO JOHNSON, CMC, CITY CLERK**





**CITY OF HOMER**

**CERTIFICATE OF INCUMBENCY**

**I, Jo Johnson, duly appointed, qualified and sworn to be City Clerk for the City of Homer, hereby certify that on the date of this certificate of incumbency, the following described persons have held and now hold the following described offices since the following described dates and that their terms of office are as follows:**

**MAYOR**

**Mary E. (Beth) Wythe                      10/2012 – 10/2014**

**COUNCILMEMBERS**

**Francie Roberts                              10/2006 – 10/2015**

**Barbara Howard                             04/2008 - 10/2014**

**David G. Lewis                              10/2008 – 10/2014**

**Bryan Zak                                      10/2008 – 10/2013**

**Beauregard Burgess                        04/2012 – 10/2015**

**CITY CLERK**

**Jo Johnson                                     02/2007 – Indefinite**

**CITY MANAGER**

**Walt Wrede                                    02/2003 – Indefinite**

**FINANCE DIRECTOR**

**Regina Mauras                                01/2006 – Indefinite**

**Dated at Homer, Alaska this 15<sup>th</sup> day of October, 2012.**

---

**Jo Johnson, CMC, City Clerk**



# 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 12-157

TO: MAYOR AND HOMER CITY COUNCIL

FROM: JO JOHNSON, CMC, CITY CLERK 

DATE: OCTOBER 10, 2012

SUBJECT: SELECTION/APPOINTMENT OF MAYOR PRO TEMPORE FOR  
2012/2013

Per Homer City Code Section 1.24.080, Mayor's absence: At the first meeting of the Council following certification of the municipal election each year, there shall be appointed a Mayor Pro Tempore, by majority vote of Council, to act as Mayor during the Mayor's temporary absence or disability.

Pursuant to Council's Operating Manual: A Mayor Pro Tem shall be elected by the majority of the Homer City Council. The term of the Mayor Pro Tem shall be until the call for election by the Homer City Council of a New Mayor Pro Tem. The Mayor Pro Tem shall, in the absence of the Mayor, act as Mayor of the City of Homer as though they themselves had taken the Oath of Office of Mayor with all duties, responsibilities and powers of the Office of the Mayor of the City of Homer.

By tradition the Council has elected a new Mayor Pro Tem at the same annual meeting when newly elected officials are sworn in. The Mayor Pro Tem, when acting in that capacity, does not lose the privilege or duty to vote as a Councilmember.

Pursuant to Council's Operating Manual: Council Seat - Customarily the selection is by seniority. Senior members may choose a different seat prior to the junior members being seated. The Mayor Pro Tempore shall have first seating choice and then the Senior Councilmembers and so on and so forth. (Resolution 04-89.)

Secret Ballots are provided for your convenience and to be used as you deem necessary.

### RECOMMENDATION:

\_\_\_\_\_ is selected/appointed as Mayor Pro Tempore for the City of Homer for 2012/13.

After Council selects the Mayor Pro Tempore he/she may have first seat choice, including remaining where he/she is currently seated.

Fiscal Note: NA



**ORDINANCE REFERENCE SHEET**  
**2012 ORDINANCE**  
**ORDINANCE 12-46**

An Ordinance of the City Council of Homer, Alaska, Appropriating Funds in the Amount of \$50,165 from the General Fund Balance to Carry Out the Requirements of Homer City Code Title 17 Entitled Improvement Districts and to Implement a Public Information Strategy Related to the Proposed Natural Gas Special Assessment District.

Sponsor: City Manager

1. City Council Special Meeting October 15, 2012 Introduction
  - a. Memorandum 12-159 from City Manager as backup.



**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**ORDINANCE 12-46**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, APPROPRIATING FUNDS IN THE AMOUNT OF \$50,165 FROM THE GENERAL FUND BALANCE TO CARRY OUT THE REQUIREMENTS OF HOMER CITY CODE TITLE 17 ENTITLED IMPROVEMENT DISTRICTS AND TO IMPLEMENT A PUBLIC INFORMATION STRATEGY RELATED TO THE PROPOSED NATURAL GAS SPECIAL ASSESSMENT DISTRICT.

WHEREAS, Resolution 12-69 initiated the proposed Natural Gas Distribution System Special Assessment District; and

WHEREAS, Title 17 of the Homer Municipal Code entitled "Improvement Districts" contains requirements for preparing assessment rolls, certified mailings, neighborhood meetings, public hearings, and other activities that require staff time and financial resources; and

WHEREAS, The proposed special assessment district contains approximately 3,800 parcels and compliance with the code will require funding above and beyond the existing budget; and

WHEREAS, A proposed project of this magnitude and complexity requires that as much factual information as possible be disseminated so that the affected property owners and the general public can make informed decisions; and

WHEREAS, It is appropriate and necessary to appropriate funds, above and beyond the existing operating budget to adhere to the requirements of Title 17 and to provide the public with useful information through multiple venues and outlets.

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

Section 1. The Homer City Council hereby appropriates \$50,165 from the General Fund Balance for the purpose of complying with the requirements of Title 17 and implementing a public information strategy as follows:

41 Expenditure:

42 <u>Account No.</u>	42 <u>Description</u>	42 <u>Amount</u>
43 151.798	43 Title 17 Tasks / Public Information	43 \$50,165

44  
45 Section 2. The funds appropriated in the preceding section shall be used for things like  
46 advertising, mailing, publications, web hosting, professional cost estimating, and temporary  
47 staffing and a proposed budget is contained in Memorandum 12-159, a copy of which is attached  
48 and incorporated herein.

49  
50 Section 3. This ordinance is a budget amendment only, is not of a permanent nature, and  
51 shall not be codified.

52  
53 ENACTED BY THE HOMER CITY COUNCIL this \_\_\_ day of \_\_\_\_\_, 2012.

54  
55 CITY OF HOMER

56  
57  
58 \_\_\_\_\_  
59 JAMES C. HORNADAY, MAYOR

60  
61 ATTEST:

62  
63  
64 \_\_\_\_\_  
65 JO JOHNSON, CMC, CITY CLERK

- 66 YES:
- 67 NO:
- 68 ABSENT:
- 69 ABSTAIN:

- 70 First Reading:
- 71 Public Hearing:
- 72 Second reading:
- 73 Effective Date:

74  
75  
76  
77  
78 Reviewed and approved as to form:

79  
80 \_\_\_\_\_  
81 Walt Wrede, City Manager

82 \_\_\_\_\_  
83 Thomas F. Klinkner, City Attorney

84 Date: \_\_\_\_\_

Date: \_\_\_\_\_



## MEMORANDUM 12-159

**TO:** Mayor Wythe and Homer City Council  
**FROM:** Walt Wrede  
**DATE:** October 9, 2012  
**SUBJECT:** Budget for Natural Gas Special Assessment District

As you know, the Council recently adopted Resolution 12-69 which initiated the Natural Gas Distribution System Special Assessment District. Title 17 of the Homer City Code contains provisions for the Special Assessment District review and approval process that require significant staff time and financial resources; especially for a proposed special assessment district this large, expensive, and complex. The requirements include, but are not limited to preparation of special assessment rolls, certified mailings, neighborhood meetings, public hearings and advertising. This effort requires a separate budget and appropriation above and beyond the existing operating budget.

In addition, the Council has stated that it is important to undertake a large public information effort for this project, given its size, complexity, cost, and potential impacts on the community. It is important for the City to disseminate as much factual information as possible about the proposed assessment district so that affected property owners and the public at large can make informed decisions.

The proposed budget which follows is intended to cover the work associated with the special assessment district that will take place between September 1, 2012 and March 1, 2013. This will take the Council through the entire special assessment review and decision making process required by the Code. A different budget will be needed if the assessment district is approved, a contract is signed with Enstar, and we proceed to construction. These costs will eventually be recouped through the administration fee when assessments are paid but they are real costs that must be addressed right now.

This budget contains a temporary employee (up to six months) to assist with work in the Clerk's office, money for professional construction cost estimating, money for web hosting, advertising, supplies, mailing, flyers, and so on. Some of these line items are a little fat (advertising for example) to provide for unanticipated circumstances. For example, new information may emerge in the next few months or issues may come up that have not been adequately addressed or explained. It is important to have the flexibility to supplement information if needed through things like inserts in the newspaper.

### Proposed Budget

Temporary Staff	\$14,000
Consulting /Cost Estimating	\$10,000

Flyer (printing, mailing, images)	\$3,500
Web Hosting	\$1,000
Printing	\$ 300
Advertising	\$5,500
Mailing (certified mail)	\$13,365
Supplies (paper, envelopes, etc)	\$2,000
Food / Custodial Services	<u>\$ 500</u>
<b>TOTAL</b>	<b>\$50,165</b>

**RESOLUTION(S)**



1 CITY OF HOMER  
2 HOMER, ALASKA

City Manager

3  
4 RESOLUTION 12-086

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER,  
7 ALASKA, APPROVING THE ASSIGNMENT OF THE CITY  
8 LAND LEASE ON LOT 88-1, DATED OCTOBER 27, 2003,  
9 FROM WILLIAM TENER, DBA SOUTH CENTRAL RADAR,  
10 TO MARK AND LAURA ZEISET.

11  
12 WHEREAS, William Tener, dba South Central Radar, wishes to sell his business to Mark  
13 and Laura Zeiset; and

14  
15 WHEREAS, As part of this transaction, the buyer has requested assignment of the land  
16 lease and all of the leasehold interest in the property pursuant to the provisions of Chapter 14 of  
17 the Property Management Policy and Procedures (Lease Policy) and Section 8.01 of Mr. Tener's  
18 existing lease; and

19  
20 WHEREAS, The buyer has formally applied for assignment and has stated that the  
21 financing for acquisition of the business is dependent upon assignment of the lease and extension  
22 of the lease term; and

23  
24 WHEREAS, The current lease term expires in November of 2013 and the buyer has  
25 requested a new term of 15 years with two 2.5 year options; and

26  
27 WHEREAS, Section 14.4 of the Lease Policy provides that leases may be assigned as  
28 part of the sale of a business on the leased property and that a business may apply to extend the  
29 term of the lease to allow the continuance of the business and to secure financing for the  
30 purchase; and

31  
32 WHEREAS, The Lease Committee considered the request for assignment at its meeting  
33 on October 11<sup>th</sup> and recommends approval subject to certain stipulations.

34  
35 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves  
36 and authorizes the assignment of the City land lease for Lot 88-1 dated October 27, 2003 from  
37 William Tener, dba South Central Radar, to Mark and Laura Zeiset.

38  
39 BE IT FURTHER RESOLVED that the term of the lease shall be amended to 15 years  
40 beginning November 1, 2012 with two 2.5 years options.

41 BE IT FURTHER RESOLVED that the lease shall be subject to the requirement that an  
42 "as-built" survey be conducted, potential encroachment issues resolved, and that the required  
43 corporate documentation be provided after the LLC described in the application is formed.

44  
45 PASSED AND ADOPTED by the Homer City Council this 15<sup>th</sup> day of October, 2012.

46  
47 CITY OF HOMER

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50  
51 MARY E. WYTHE, MAYOR

52 ATTEST:

53  
54  
55  
56 JO JOHNSON, CMC, CITY CLERK

57  
58 Fiscal Note: Annual lease revenue \$8,703.12.  
59

## STAFF REPORT

### SOUTH CENTRAL RADAR LEASE ASSIGNMENT

October 11, 2012

Lot 88-1

TO: Lease Committee

From: Walt Wrede

#### Introduction

Mr. William Tener, dba South Central Radar is in the process of selling his business to Mark and Laura Zeiset. As part of this transaction, the buyer and seller have requested that the land lease (Lot 88-1) and all of the leasehold interest in the property be assigned to the buyer, pursuant to the provisions contained in Chapter 14 of the City Lease Policies and Section 8.01 of Mr. Tener's current lease. Mark and Laura Zeiset have made a formal application for the assignment of the lease. The current lease is dated October 27, 2003 and it expires on November 1, 2013. The buyers have requested that if assigned, the term of the lease be amended to include a fifteen year term with two 2.5 year options. All other terms, including allowable uses and rent would remain the same.

The current lease is an "assignable lease" as defined in Section 14.2 (A) of the Lease Policies. Section 14.4 of the Lease Policies provides that leases may be assigned as part of the sale of a business on the leased property. That section also states that the business may apply to extend the term of the lease to allow the continuation of the business and to secure financing for the purchase. Financing for the purchase of this business is contingent upon the lease being assigned and the term extended.

#### Lease Application

An applicant for assignment of a lease must go through the lease application process similar to if they were applying for a new lease in response to an RFP. The standards for determining whether a lease application is complete and responsive appear in Chapter 5 of the Lease Policies entitled "Lease Application Process." A review of the application for completeness and responsiveness was conducted by Andrea Browning on October 1, 2012. In short, with the exception of certain items which must necessarily be provided later, we found the application to be complete and responsive. A copy of the review checklist is attached for your review.

#### Proposal Evaluation

The Criteria for evaluating lease proposals appears in Chapter 6.2 (B) of the Lease Policies. Following is a discussion of each standard.

Compatibility with neighboring uses and consistency with applicable land use regulations including the Comprehensive Plan.

South Central Radar operates a marine electronic and repair shop and it provides important services to the vessels in the Homer Harbor and vessels calling at the Port of Homer. The applicant proposes to purchase the business and provide the same and expanded services. The land use and business activity of South Central Radar is compatible with neighboring uses. This type of business is appropriately located immediately adjacent to the harbor. South Central Radar is located in the Marine Industrial Zoning District and the use is consistent with permitted uses in the district. There is a possible encroachment issue regarding a deck and the utility easement on the harbor side of the building. This will be resolved with an as-built survey and possible mitigation measures by the owners after the sale is complete and a lease is signed.

The development plan including all proposed phases and timetables.

The applicant proposes to buy an existing business and continue to operate it as it is currently being operated. There are no immediate plans for further development on the property. The applicant does anticipate expanded services and products.

The proposed capital investment.

The applicant is not proposing new capital investment at this time in terms of building expansions or new development on the parcel beyond what already exists there. However, the applicant is obtaining financing to acquire an existing business and the building which houses it. The applicant proposes to continue that business, expand it, and enter into a lease that could extend up to 20 years. While that is not a capital investment per se, it is a very significant economic investment and a long term commitment to the City of Homer.

Experience of the applicant in the proposed business or venture.

Although the applicants do not have direct experience in this particular type of business, their cumulative experience and education gives us the impression that they are very capable of successfully operating this business and satisfying their obligations under the lease. Mark Zeiset has five years of experience working for an electrical company that also sells and installs security cameras. He has experience setting up computer networks and is certified on the installation and configuration of software, servers, radios, and cameras. He has completed three years of the Alaska Electrical Apprenticeship program and will soon complete the fourth. He is experienced in dealing with electrical equipment vendors of all types. Laura Zeiset has a Bachelors degree in accounting and currently works for a real estate company. She will focus on the financial side of the business. Laura was born and raised in Homer and she is familiar with many of the company's current and potential clients.

Financial capacity or backing of the applicant including credit history, prior lease history, assets that will be used to support the proposed development.

The applicants have provided personal financial information that has been reviewed by the staff. It is not included in the packet for privacy reasons. The staff understands that the personal assets are enough for the applicants to qualify for a loan from the lending institution for the acquisition of this



business. The lending institution will also make the determination if the assets and profitability of the business justifies the loan, including the applicant's ability to satisfy the terms of the lease.

The number of employees anticipated.

As noted above, the applicants intend to continue operating an existing business. The business is likely to have three employees to start and perhaps take on additional employees during busy months or as the business expands.

The proposed rental rate.

The applicant proposes to pay the same rental rate Mr. Tener is currently paying which is based upon appraisal and fair market rent provisions contained in the Lease Policies and the existing lease.

Other financial impacts such as tax revenues, stimulation or related or spin-off economic development, or the value of improvements left behind upon termination of the lease.

South Central Radar provides a valuable service to the Homer fleet. Vessels call up Homer to take advantage of these services. This business attracts business to the Homer harbor and it is clear that other business in the harbor benefit as result. The business generates sales and property taxes although exact figures were not available at the time this report was written.

Other long term social and economic development.

South Central Radar provides a valuable service to the fleet and it helps implement a number of the port and harbor development goals contained in the City's Comprehensive Economic Development Strategy (CEDS). One of the City's goals is the development of an economy that provides local young people opportunities to stay and raise their families here. The applicants have deep Homer roots and they are looking to move back, operate a successful business, and make a life for themselves here.

**RECOMMENDATION:** Recommend that the Homer City Council approve the assignment of the land lease on Lot 88-1 from William Tener to Mark and Laura Zeiset or the LLC that will be formed once all transactions are completed. Recommend that the term be amended to start anew with a 15 year base term and two 2.5 year options. The existing rental rate should apply. Recommend that the lease include stipulations that an "as-built" survey be completed, that potential encroachment issues be resolved, and that all of the information not included in the lease application, including insurance documentation and LLC incorporation papers be provided.





**CITY OF HOMER  
PROPERTY MANAGEMENT  
LEASE APPLICATION CHECKLIST**

Applicant Name: Mark. Zeiset – South Central Radar

Date Application Received: September 26, 2012

**CHAPTER 5: LEASE APPLICATION PROCESS**

**5.1: POLICY**

- A. It is the policy of the City of Homer to provide for a streamlined, standardized, and easily understood lease application process. A full and complete application packet shall be provided to all applicants. Applicants must be qualified under Section 18.08.50 of the Homer City Code:
  - (a) a natural person and is responsible, meaning the applicant has sufficient skill, experience and financial capability to perform all the obligations of the lessee under the proposed lease; and
  - (b) a person who is at least nineteen years of age; or
  - (c) a group, association or corporation which is authorized to conduct business under the laws of the State of Alaska. (Ord. 92-10 (part), 1992). 183 (Homer 06/04)
  
- B. The City administration will provide for pre-application meetings with all potential applicants to provide relevant information on things like land use regulations, lease policies, the permitting process, and other relevant topics.

**5.2 PROCEDURES**

**A. A responsive lease application / proposal shall include:**

- 1. A completed application form provided by the City

<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>INCOMPLETE</b>
------------	-----------	------------	-------------------

**NOTES:**

- 2. Any applicable fees

<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>INCOMPLETE</b>
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**NOTES:**

3. A clear and precise narrative description of the proposed use of the property

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

**NOTES:**

South Central Radar is already well-established business in Homer area. They sell marine electronics and provide repair and installation services for commercial fishing and various marine vessels. These uses are compatible and consistent with neighboring uses in the area and are consistent with the Spit Comprehensive Plan and other applicable land use regulations.

4. A specific time schedule and benchmarks for development

YES	NO	N/A	INCOMPLETE
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**NOTES:**

Purchasing already established business; this criteria typically utilized to grade new development on vacant land. Mr. Zeiset did state in his proposal that he plans on growing South Central Radar by building a website for the business, as well as offering satellite phone rental. Mr. Zeiset also plans to sell security cameras, so customers have the ability to utilize remote viewing of their vessels via smart phones or laptops.

5. A proposed site plan drawn to scale that shows at a minimum property lines, easements, existing structures and other improvements, utilities, and the proposed development including all structures and their elevations, parking facilities, utilities, and other proposed improvements.

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

**NOTES:**

6. Any other information that is directly pertinent to the proposal scoring criteria contained herein

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

**NOTES:**

Mr. Zeiset has worked for an electrical company for the past five years, which sells and installs security cameras, and sets up computer networks. He is certified in installation and configuration for numerous radios, software, and security cameras. He has completed three years of the Alaska electrical apprenticeship through Alaska Vocation Technical College and plans to complete his 4<sup>th</sup> year. Mr. Zeiset's wife, Laura has a Bachelor's degree in accounting from UAA, and has worked for a real estate company managing their accounting, and other general office work.

7. All other **required attachments** requested on the application form including, but not limited to, the following documentation: applicant information, plot plan, development plan, insurance, proposed subleases, environmental information, agency approvals and permits, fees, financial information, partnership and corporation statement, certificate of good standing issued by an entity's state of domicile, and references.

- Applicant information
- Plot Plan
- Development Plan
- Insurance
- Proposed Subleases
- Environmental Information
- Agency approvals and permits
- Financial Information (Financial Statement **REQUIRED**, Surety, bankruptcy, pending litigation are situational.
- Partnership information and a copy of the partnership agreement OR
- Corporation information and a copy of the Articles of Incorporation and Bylaws
- Certificate of good standing issued by the entity's state of domicile
- Appropriate References (Total of 4 persons or firms with whom the applicant or its owners have conducted business transactions with during the past three years. Two references must have knowledge of your financial management history (One of which **MUST** be your principal financial institution) and two must have knowledge of your business expertise).

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

**NOTES:**

Mr. Zeiset informed the City Manager's office that he has applied for a small business loan, but it will not be granted until the acquisition of South Central Radar is complete, ideally closing by the end of October. The City was advised that the terms of the lease will allow Mr. Zeiset to be approved for the loan. Upon closing Mr. Zeiset will acquire the necessary insurance and certifications required for sublease. Given that South Central Radar is already operating and in good standing, the City has no reason to believe that Mr. Zeiset will have difficulty obtaining necessary certifications.

8. Any other information required by the solicitation or request for proposals.

YES	NO	N/A	INCOMPLETE
-----	----	-----	------------

**NOTES:**

Application review completed by Andrea Browning on October 1, 2012.



**City of Homer-Lease Application/Assignment Form**

**Directions:**

1. Please type.
2. Please submit this application form to the City Clerk's Office, 491 Pioneer Avenue, Homer, Alaska 99603.
3. Please answer all questions on this form, or put "N/A" in the space if it is non applicable.

<b>Applicant Name:</b> Social Security No.s	Mark A. Zeiset Jr. 191-62-5152
<b>Mailing Address:</b>	PO Box 221093
<b>City, State, ZIP code:</b>	Anchorage, AK 99522
<b>Business Telephone No.</b>	907-351-1610(cell) or 907-235-8008(office)
<b>Representative's Name:</b>	n/a
<b>Mailing Address:</b>	n/a
<b>City, State, ZIP code:</b>	n/a
<b>Business Telephone No.</b>	n/a
<b>Property Location:</b>	4406 Homer Spit Road South Central Radar
<b>Legal Description:</b>	KPB#18103431 L88-1 of the Homer Spit Subdivision #2 amended
<b>Type of Business to be placed on property:</b>	Marine Electronic Retail and Repair Facility
<b>Size of Buildings to be placed or leased:</b>	40'x50'
<b>Duration of Lease requested:</b>	10 years
<b>Options to re-new:</b>	2 – 5 year terms
<b>Special lease requirements:</b>	n/a
<b>Number of parking spaces required, per code:</b>	6 – per plot plan

**The following materials must be submitted when applying for a lease of  
City of Homer real property**

1.	<b>Plot Plan</b>  See Attached	<b>A drawing of the proposed leased property showing:</b> <input checked="" type="checkbox"/> Size of lot - dimensions and total square footage. – to scale, please. <input checked="" type="checkbox"/> Placement and size of buildings, storage units, miscellaneous structures planned – to scale, please. <input type="checkbox"/> Water and sewer lines – location of septic tanks, if needed. <input checked="" type="checkbox"/> Parking spaces – numbered on the drawing with a total number indicated – please refer to Homer City Code _____																		
2.	<b>Development Plan</b>  Will use property and buildings as currently used by South Central Radar.	<input checked="" type="checkbox"/> <u>List the time schedule from project initiation to project completion, including major project milestones.</u> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Dates</th> <th style="text-align: left;">Tasks</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table> For each building, indicate: <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Building Use</th> <th style="text-align: left;">Dimensions and square footage</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table>	Dates	Tasks	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	Building Use	Dimensions and square footage	_____	_____	_____	_____
Dates	Tasks																			
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Building Use	Dimensions and square footage																			
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3.	<b>Insurance</b>  Will provide prior to close of sale.	<input checked="" type="checkbox"/> Attach a statement of proof of insurability of lessee for a minimum liability insurance for combined single limits of \$1,000,000 showing the City of Homer as co-insured. Additional insurance limits may be required due to the nature of the business, lease or exposure. Environmental insurance may be required. If subleases are involved, include appropriate certificates of insurance.																		
4.	<b>Subleases</b>  n/a	<input checked="" type="checkbox"/> Please indicate and provide a detailed explanation of any plans that you may have for subleasing the property. The City of Homer will generally require payment of 25% of proceeds paid Lessee by subtenants. Refer to chapter 13 of the Property Management Policy and Procedures manual.																		
5.	<b>Health Requirements</b> Will use property and buildings as currently used by South Central Radar.	<input checked="" type="checkbox"/> Attach a statement documenting that the plans for the proposed waste disposal system, and for any other necessary health requirements, have been submitted to the State Department of Environmental Conservation for approval. Granting of this lease shall be contingent upon the lessee obtaining all necessary approvals from the State DEC.																		
6.	<b>Agency Approval</b> Will use property and buildings as currently used by South Central Radar.	<input checked="" type="checkbox"/> Attach statement(s) of proof that your plans have been inspected and approved by any agency which may have jurisdiction of the project; i.e. Fire Marshall, Army Corps of Engineers, EPA, etc. The granting of this lease shall be contingent upon lessee obtaining approval, necessary permits, and/or inspection statements from all appropriate State and/or Federal agencies.																		



7.	<b>Fees</b>	<p><u>All applicable fees must be submitted prior to the preparation and/or execution of a lease.</u></p> <p><input checked="" type="checkbox"/> <b>Application fee - \$30.00.</b> Covers costs associated with processing the application.</p> <p><input checked="" type="checkbox"/> <b>Lease fee - \$300.00.</b> Covers the costs of preparing and processing the actual lease.</p> <p><input type="checkbox"/> <b>Assignment fee - \$250.00.</b> Covers the costs of preparing and processing the lease transfer.</p>								
8.	<p><b>Financial Data</b></p> <p>Currently a Sole Proprietorship, in the process of setting up an LLC. Attached is a Personal Financial Statement.</p>	<p>Please indicate lessee's type of business entity:</p> <p><input checked="" type="checkbox"/> Sole or individual proprietorship.</p> <p><input type="checkbox"/> Partnership.</p> <p><input type="checkbox"/> Corporation.</p> <p><input type="checkbox"/> Other – Please explain: _____</p> <hr/> <p><input checked="" type="checkbox"/> <b>Financial Statement</b> – Please attach a financial statement showing the ability of the lessee to meet the required financial obligations.</p> <p><input checked="" type="checkbox"/> <b>Surety Information</b> – Has any surety or bonding company ever been required to perform upon your default or the default of any of the principals in you organization holding more than a 10% interest</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach a statement naming the surety or bonding company, date and amount of bond, and the circumstances surrounding the default or performance.</p> <p><input checked="" type="checkbox"/> <b>Bankruptcy information</b> - Have you or any of the principals of your organization holding more than a 10% interest ever been declared bankrupt or are presently a debtor in a bankruptcy action?</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach a statement indicating state, date, Court having jurisdiction, case number and to amount of assets and debt.</p> <p><input checked="" type="checkbox"/> <b>Pending Litigation</b> – Are you or any of the principals of your organization holding more than a 10% interest presently a party to any pending litigation?</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. If yes, please attach detailed information as to each claim, cause of action, lien, judgment including dates and case numbers.</p>								
9.	<p><b>Partnership Statement</b></p> <p>n/a</p>	<p><input checked="" type="checkbox"/> <u>If the applicant is a partnership, please provide the following:</u></p> <p><b>Date of organization:</b> _____</p> <p><b>Type:</b> <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership</p> <p><b>Statement of Partnership Recorded?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Where _____ When _____</p> <p><b>Has partnership done business in Alaska?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Where _____ When _____</p> <p><b>Name, address, and partnership share. If partner is a corporation, please complete corporation statement.</b></p> <p>Limited/  <table border="0"> <tr> <td><u>General</u></td> <td><u>Name</u></td> <td><u>Address</u></td> <td><u>Share %</u></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> </p>	<u>General</u>	<u>Name</u>	<u>Address</u>	<u>Share %</u>				
<u>General</u>	<u>Name</u>	<u>Address</u>	<u>Share %</u>							



<p><b>11. Applicant References</b></p>	<p>Please list four persons or firms with whom the Applicant or its owners have conducted business transactions with during the past three years. Two references named shall have knowledge of your financial management history, of which at least one must be your principal financial institution. Two of the references must have knowledge of your business expertise.</p> <p>_____</p> <p>Name: <u>Kelley Mears</u>  Firm: <u>Wells Fargo SBA Lending</u>  Title: <u>Vice President</u>  Address: <u>2975 NW Lucus Ct. Bend OR 97701</u>  Telephone: <u>541-388-8453</u>  Nature of business association with Applicant: <u>Applicant's Small Business Loan Officer</u></p> <p>Name: <u>Joe Saunders</u>  Firm: <u>TecPro</u>  Title: <u>CEO</u>  Address: <u>816 E Whitney Dr. Anchorage AK 99501</u>  Telephone: <u>907-348-1800</u>  Nature of business association with Applicant: <u>Applicant's Current Boss</u></p> <p>Name: <u>Brian Headdings</u>  Firm: <u>Victory Bible Camp</u>  Title: <u>Chief of Operations</u>  Address: <u>64741 S Victory Rd. Sutton AK 99674</u>  Telephone: <u>907-745-4203</u>  Nature of business association with Applicant: <u>Advisor</u></p> <p>Name: <u>Rick and Nan Porter</u>  Firm: _____  Title: _____  Address: <u>PO Box 2172 Homer AK 99603</u>  Telephone: <u>907-235-7394</u>  Nature of business association with Applicant: <u>Applicant's In-Laws - Have knowledge of the schooling completed and knowledge of our financial situation.</u></p>
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I hereby certify that the above information is true and correct to the best of my knowledge.

Signature:

Date:

Mark A. Zeit Jr.

7-26-12



56865 BARBLEY LANE

235-8008

LOT 88-1 Replat of Lot 83 Sec 36+36 Twp 68 S. R1+2 of 75 Range 13W 5M

Parcel 18103431

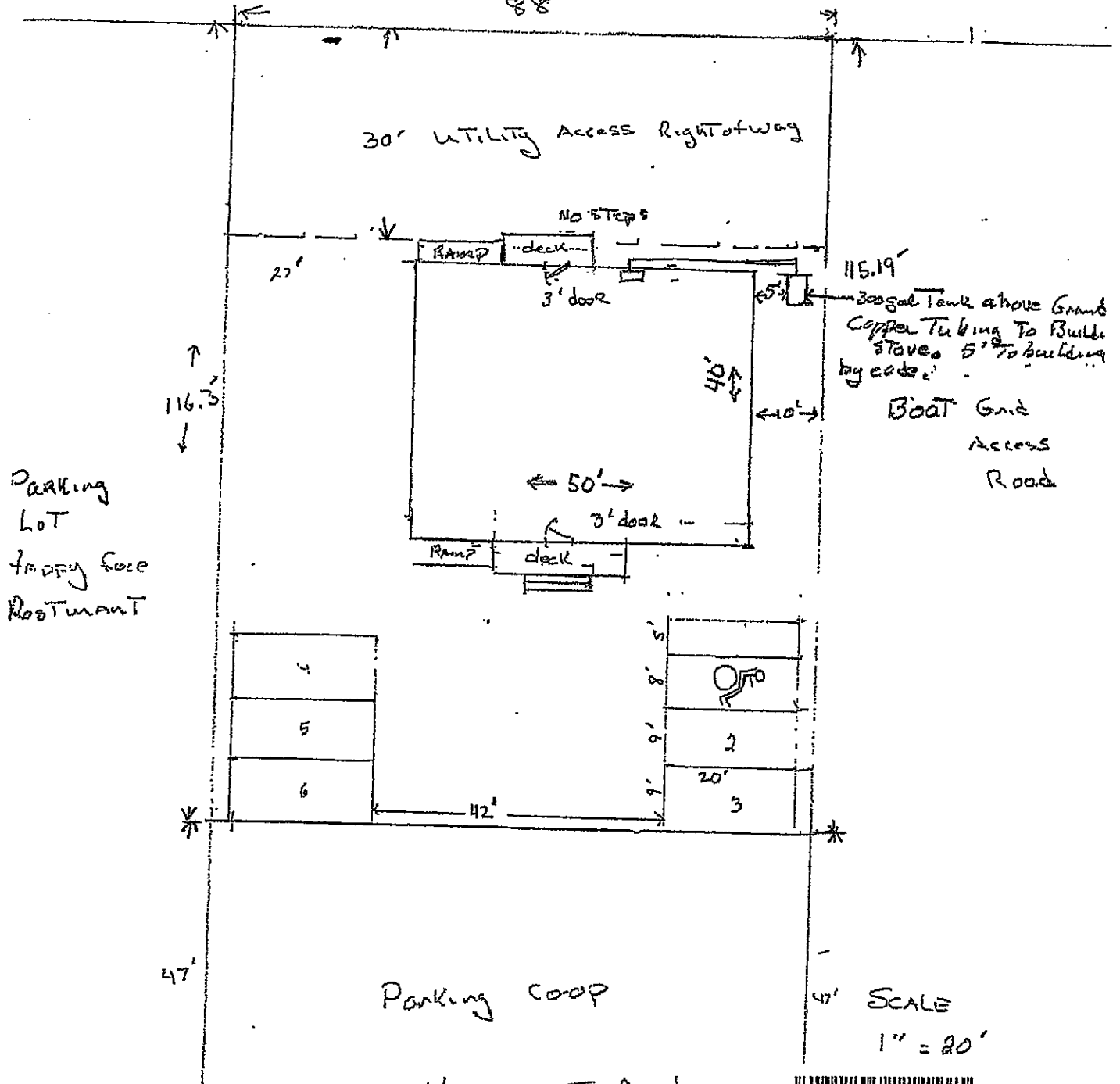
4406 Horner Spit Road

FC Plan Review NO. 2004A-169



OVER SLOPE Horner Boat Harbor  
88'

30' UTILITY Access Right of Way





## South Central Radar

08/22/2012

Since 1975, South Central Radar has been operating as a marine electronic and repair shop located in Homer, Alaska. Homer is famous for the Homer Spit, a four and a half mile, natural spit of land extending into Kachemak Bay. The spit has port facilities, a "Fishing Hole," campgrounds, numerous shops, hotel, fishing charters and other attractions. Commercial fishing remains one of Homer's major economies. Homer catches more halibut than any other port in the world, earning the name "Halibut Capital of the World." South Central Radar is open year round, Monday through Friday, 9:00am to 5:00pm.

The South Central Radar sells marine electronics, provides repairs and installation services for commercial fishing boats, charter boats, tug boats, oil-support ships, and sport and recreation vessels. The business sells the following equipment: GPS, satellite and VHF radios, navigation systems, autopilots, depth sounders, compasses, navigational charts, antennas, and satellite phones. In addition, the business has a wide variety of cables, parts, accessories, etc., to assist the boat owner in making repairs and upgrades. South Central Radar does not have any competitors in the area. The nearest retail competitors are in Anchorage, about 200 miles from Homer, and Dutch Harbor, about 750 miles away. The nearest repair and installation competitor is Seward, 160 miles away. Customers can order the equipment off the Internet.

Mark and Laura Zeiset will be owning and managing South Central Radar together. Mark will be in charge of the retail, installation and repair part of the company. For the past five years he has worked for an electrical company, who also sells and installs security cameras, and sets up computer networks. Being a job foreman, Mark has experience talking to customers, ascertaining their needs, creating accurate quotes and completing the job in a professional, timely manner. He also has experience working directly with electrical and telecom vendors. Mark has been certified in installation and configuration for Milestone software, Pivot 3 servers, Esteem radios, and Mobotix IP security cameras. He also has completed 3 years of the Alaska electrical apprenticeship through Alaska Vocational Technical College and plans on completing the 4<sup>th</sup> year. Mark also has a construction background, with experience in operating heavy equipment, custom home building, log home building, masonry work, framing, and roofing.

Laura has her associates and bachelor degree in Accounting from the University of Alaska, Anchorage. Recently Laura has worked for a real estate company doing their accounting, answering phones, and general office work. She is looking forward to helping the current bookkeeper run the accounting system and helping the company stay profitable. She is also going to help Mark run the retail side of the business. Laura grew up in Homer, so she knows many of the fishermen who use South Central's services.

South Central Radar currently does not have a web site. Mark and Laura plan on building one. Most boat harbors in Alaska supply wireless internet, so there is potential for online growth. Another business opportunity is satellite phone rental. The nearest business renting satellite phones is 200 miles away. Mark and Laura are also going to incorporate selling security cameras. With a camera, a customer will have the ability to view his boat on his smart phone or lap top from across the country.

Mark and Laura will be able to use their knowledge and skills to keep South Central Radar a growing business and an asset to the community of Homer, Alaska.







**2003-005627-0**

Recording Dist: 309 - Homer

11/3/2003 2:45 PM Pages: 1 of 34

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**LEASE AND SECURITY AGREEMENT**

**BETWEEN**

**South Central Radar**

**AND THE**

**CITY OF HOMER, ALASKA**

October 27, 2003

*ALASKA*

*2003/11/03*

## LEASE AND SECURITY AGREEMENT

THIS LEASE AND SECURITY AGREEMENT ("Lease") is made this 28<sup>th</sup> day of October, 2003, between the CITY OF HOMER, 491 East Pioneer Avenue, Homer, Alaska 99603, a municipal corporation organized under the laws of the State of Alaska, hereinafter referred to as "Landlord" and William J. Tener, DBA South Central Radar, hereinafter referred to as "Tenant".

Landlord and Tenant agree as follows:

### 1. PROPERTY

#### 1.01. Property

Subject to the terms, covenants, conditions, rights and obligations set forth in this Lease, Landlord leases to Tenant and Tenant leases from Landlord the following described property:

KPB # 18103431 Lot 88-1 of the Homer spit subdivision #2 amended,  
Homer Recording District, State of Alaska

The parcel contains approximately 10,235 ± square feet and is referred to herein as the "Property."

#### 1.02. Quiet Enjoyment, Restrictions, Easements, Etc.

Landlord covenants and agrees that Tenant, upon paying the rent and other charges herein provided for and observing and keeping the covenants, conditions and terms of this Lease on Tenant's part to be kept or performed, shall lawfully and quietly hold, occupy and enjoy the Property during the term of this Lease without hindrance or molestation, subject, however, to the rights and reservations expressed in the U.S. or State patent to the Property, the existing easements for roads, gas, electric, water, sewer and other utility lines, restrictions of record and to encroachments ascertained by physical inspection of the Property.

#### 1.03. Property Accepted "As Is"

Tenant acknowledges that it has inspected the Property and accepts the same "as is" and without reliance on any representations or warranties of Landlord, its agents, servants, or employees as to the physical condition of the Property, including, but not limited to, subsurface and soil conditions, the presence of any hazardous waste as defined in paragraph 16.03, or as to the habitability or fitness of the Property for any particular purpose.

#### 1.04. No Subsurface Rights

This Lease confers no mineral rights or rights with regard to the subsurface of the land below the level necessary for the use of the Property as stated in this Lease. Landlord makes no warranty or representation as to whether the Property is open or closed to mineral claims or leases under state or federal law.



## 2. TERM

### 2.01. Lease Term

The term of this Lease is for 10 years (the "Term"), and shall commence on November 1, 2003 (the "Commencement Date") and end on November 1, 2013.

Tenant agrees to construct and operate a Marine Electronics retail and repair facility on the property.

### 2.02 Renewal Options

Tenant shall have the right to renew this Lease for 2 additional, consecutive 5 year periods ("Renewal Terms"), provided:

(a) that Tenant shall exercise its option to renew not more than one year and not less than 120 days prior to the last day of the Term or Renewal Term of this Lease;

(b) that Tenant is not materially in default of any term or condition of this Lease and has not made an assignment or subletting of this Lease or any interest in the Property except as permitted under this Lease;

(c) that Tenant shall exercise its option to renew only by sending written notice thereof in accordance with the provisions of paragraph 17.17 of this Lease;

(d) that Tenant shall exercise only one renewal option per Term or Renewal Term, i.e. Tenant shall not be entitled to exercise more than one renewal option during each period of time described in subparagraph (a); and

(e) that at the time of exercise of the option the Tenant is still operating a Marine Electronics retail and repair facility on the Property.

### 2.03. Hold-Over

If Tenant shall hold-over after the expiration of the term of this Lease such tenancy shall be from month to month, terminable upon 30 days written notice given by either party at any time, subject to all the terms, covenants and conditions of this Lease, and shall not operate as a renewal or extension of this Lease.

### 2.04. Surrender of Possession

Upon expiration of the term of this Lease, whether by lapse of time or otherwise, Tenant shall promptly and peaceably surrender the Property, and all buildings and improvements thereon, except as provided in paragraph 6.01. Tenant agrees to execute, acknowledge and deliver to Landlord a proper instrument in writing, releasing and quitclaiming to Landlord all right, title and interest of Tenant in and to the Property and such buildings and improvements that will remain thereon under paragraph 6.01.



### 3. RENT, TAXES, ASSESSMENTS AND UTILITIES

#### 3.01. Rent

(a) Rent. Tenant agrees to pay to Landlord an annual rent of \$6,960 (the "Base Rent"), payable monthly in advance in equal installments of \$580.00, plus tax, the first monthly payment being due on November 1, 2003, and subsequent monthly payments are due on the first day of each calendar month thereafter. Rent shall be payable at the office of the City Manager, 491 East Pioneer Avenue, Homer, Alaska 99603-7645, or at such other place as Landlord may designate in writing. Delinquent rent shall bear interest at the rate set forth in AS 45.45.010(a) as now enacted or hereinafter amended.

(b) Appraisal of Property. For purposes of paragraph 3.01(c), the appraised market rent will be based on the fair market rental value of the property, as if privately owned in fee simple, and shall not include the value of buildings or improvements placed on the Property (with exception of utilities). The cost of the appraisal shall be paid by Tenant, but if Tenant fails to do so, Landlord may pay the cost of the appraisal in which case the amount paid shall become additional rent immediately due and payable under this Lease. The fair market rental value shall be determined by a qualified real estate appraiser selected by mutual agreement of Landlord and Tenant. The appraiser's determination of fair market rent shall be conclusive between the parties.

(c) Periodic Appraised Adjustment of Rent. The annual rent shall be adjusted on January 1, 2009 and on January 1, every five years thereafter ("the "rent adjustment date") and every five years thereafter to equal the reappraised market rent of the Property. The market rent shall be determined by appraisal as set forth in paragraph 3.01(b) not less than six months before the rent adjustment date. Tenant is responsible for appraisal costs.

(d) Annual Rent Adjustment. The rent shall be adjusted on the first day of January, 2005, and on the first day of January every year thereafter (each such day being a "Rent Adjustment Date") throughout the Term and all Renewal Terms as follows:

The base for computing the Annual Rent Adjustment is the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, for All Items (1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"). The Index published for the month of January, 2000 is (the "Beginning Index"). The Index published for the month nearest, but preceding, the Rent Adjustment Date shall be the "Extension Index". On each Rent Adjustment Date the Base Rent shall be increased from the Base Rent on the Commencement Date by a percentage equal to the percentage increase from the Beginning Index to the Extension Index. In no case shall the rent be reduced because of a decrease in the Index. Landlord will promptly provide written notice to Tenant of the adjustment of the Base Rent, but its failure to do so will not relieve Tenant of the obligation to pay the adjusted Base Rent commencing as of the Rent Adjustment Date.

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



### **3.02. Tenant to Pay Taxes**

Tenant agrees to pay prior to delinquency and directly to the taxing authorities in which the Property is located a applicable real property taxes levied or assessed upon or against the Property and all buildings and improvements thereon during the term of this Lease. Tenant further agrees to pay prior to delinquency and directly to the taxing authorities in which the Property is located all applicable personal property taxes on personal property situated on the Property and placed thereon by Tenant, its agents, servants, or employees. Tenant further agrees to pay prior to delinquency any other taxes for which it may be liable. Tenant shall, within thirty (30) days after any such tax, assessment or other charge, whether or not constituting a lien on the Property, shall become due and payable, produce and exhibit to Landlord satisfactory evidence of payment thereof.

Tenant acknowledges that it is subject to and will pay applicable municipal taxes, including property tax on Tenant's leasehold interest in the Property.

### **3.03. Tenant to Pay Assessments**

Tenant during the term of this Lease agrees to pay directly to the public authorities charged with collection thereof any and all assessments levied on the Property for any part or all of the costs of any public work or improvement assessed according to benefit found by the levying authority to accrue therefrom to the Property, provided, however, that if an option is given to pay such assessment(s) in installments, Tenant may elect to pay the same in installments, and in such case Tenant shall be liable only for such installments as shall become due during the term of this Lease. Landlord warrants and represents that there are currently no outstanding assessments levied on the Property for any part or all of the cost of any public work or improvement constructed by Landlord.

### **3.04. Proration of Taxes and Assessments**

If Tenant's obligation to pay taxes or assessments commences or ends during a tax year by reason of commencement or termination of this Lease, such taxes or assessments shall be prorated between Landlord and Tenant.

### **3.05. Contest**

Tenant shall have the right to contest any taxes or assessments that Tenant is obligated to pay under paragraphs 3.02 or 3.03 of this Lease. Such proceedings shall, if instituted, be conducted promptly at Tenant's own expense and free from all expense to Landlord. Before instituting any such proceedings, Tenant shall pay under protest any such taxes or assessments, or shall furnish to Landlord a surety bond written by a company acceptable to Landlord or other security acceptable to Landlord, sufficient to cover the amount of such taxes or assessments, with interest for the period that such proceedings may reasonably be expected to take, and costs, securing the payment of such taxes or assessments, interest and costs in connection therewith when finally determined. Notwithstanding the furnishing of any such bond or security, Tenant shall pay any such taxes or assessments at least thirty (30) days before the time when the Property or any part thereof, might be forfeited. The proceedings referred to in this paragraph 3.05 shall include appropriate appeals from any order or judgments therein, but all such proceedings shall be begun as soon as reasonably possible after the imposition or assessment of any such taxes or assessments and shall be prosecuted to final adjudication promptly. In the event of any reduction, cancellation or discharge,



Tenant shall pay the amount that shall be finally levied or assessed against the Property or adjudicated to be due and payable, and if there shall be any refund payable by the governmental authority with respect thereto, Tenant shall be entitled to receive and retain the same, subject, however, to apportionment as provided in paragraph 3.04 of this Lease. Landlord, at Landlord's option, may, but shall not be obligated to, at Landlord's own expense contest any such taxes or assessments, which shall not be contested as set forth above, and, unless Tenant shall promptly join with Landlord therein, Landlord shall be entitled to receive and retain any refund payable by any governmental authority with respect thereof.

### **3.06. Tenant to Pay Utility Charges**

Tenant shall pay or cause to be paid all charges for gas, oil, electricity, water, sewer, heat, snow removal, refuse removal and any and all other utilities or services used upon the Property throughout the term of this Lease, including any connection fees.

### **3.07. Tenant to Pay for City Services Related to the Property or to Tenant's Operations**

(a) Tenant shall pay for all services provided by the City of Homer which are related to the Property or to Tenant's operations, including but not limited to Port and Harbor services, whether incurred by Tenant, or any business entity owned in whole or in part by Tenant or by one or more partners of Tenant.

(b) Tenant shall pay for wharfage, crane use, ice, and other Port and Harbor services at the rates published in the Port and Harbor of Homer Terminal Tariff, which is subject to change from time to time. In the event the City of Homer changes the method of establishing or publishing any or all such rates, then Tenant shall pay for such services at the rates so established by such changed method. Tenant further agrees to provide the City of Homer with the necessary information to determine wharfage, crane use, ice and other Port and Harbor services.

### **3.08. Additional Rent and Landlord's Right to Cure Tenant's Default**

All costs and expenses that Tenant assumes or agrees to pay pursuant to this Lease shall, at Landlord's election, be treated as additional rent, and in the event of nonpayment, Landlord shall have all rights and remedies provided in this Lease in the case of nonpayment of rent or of a breach of condition, at Landlord's election. If Tenant shall default in making any payment required to be made by Tenant or shall default in performance of any term, covenant or condition of this Lease on the part of Tenant to be kept, performed or observed that shall involve the expenditure of money by Tenant, Landlord at Landlord's option may, but shall not be obligated to, make such payment, or, on behalf of Tenant, expend such sum as may be necessary to keep, perform or observe such term, covenant or condition, and any and all sums so expended by Landlord, with interest thereon at the legal rate of interest from the date of such expenditure until repaid, shall be, and shall be deemed to be, additional rent and shall be repaid by Tenant to Landlord, on demand, provided, however, that no such payment or expenditure by Landlord shall be deemed a waiver of Tenant's default, nor shall it affect any remedy of Landlord by reason of such default.



### 3.09 Security Deposit

Upon execution of this Lease, Tenant shall deposit with Landlord 10% of the annual rent, \$ 700.00; as security for the performance of Tenant's obligations under this Lease. Landlord shall invest the security deposit in an interest bearing account in Landlord's name, subject to Tenant's approval, which will not be unreasonably withheld. If Tenant is in default with respect to any covenant or condition of this Lease, including but not limited to the payment of rent, Landlord may apply all or any portion of the security deposit, including interest earned thereon, to the payment of any sum in default or any damage suffered by Landlord as result of the default, or any sum which Landlord may be required to incur by reason of Tenant's default. Tenant shall upon demand deposit with Landlord the amount so applied so that Landlord shall have the full deposit on hand at all times during the Term or Renewal Term of this Lease. If Tenant has fully complied with all of the covenants or conditions of the Lease, the Landlord shall remit to the Tenant the security deposit, including any interest on deposit, within thirty days after the expiration or termination of this Lease. On each Rent Adjustment Date, the principal amount of the security deposit shall be adjusted to ten percent of the annual rent, after making the adjustment under paragraph 3.01. Within 30 days of notification of the adjustment of the rent, Tenant shall deposit with Landlord the amount of the increase in the security deposit.

### 4. GRANT OF SECURITY INTEREST

To secure Tenant's obligation for payment of rent and all other sums agreed to be paid by Tenant under this Lease, Tenant hereby grants to Landlord a lien and security interest in the following collateral: (1) all security deposits or other monies owing from Landlord to Tenant (as collateral in the possession of the secured party); (2) all insurance proceeds from any policy insuring the Property or improvements thereon against environmental contamination or pollution; (3) all compensation payable to Tenant as a result of eminent domain proceedings or a transfer in lieu thereof; and (4) all rents from Tenant's subletting of all or a part of the Property. Said lien and security interest shall be in addition to Landlord's liens provided by law.

This Lease shall constitute a security agreement under the Uniform Commercial Code as enacted in Alaska ("UCC"), and Landlord shall have all rights and remedies afforded a secured party under the UCC. Tenant shall execute, as debtor, such financing statement or statements as Landlord may now or hereafter reasonably request further evidencing said security interest.

### 5. USE AND CARE OF THE PROPERTY

#### 5.01. Use

Except as otherwise provided herein, Tenant may use the premises to construct and operate a Marine Electronics retail and repair facility and related activities. Tenant shall use the premises for no other purposes without the Landlord's written consent, which consent shall not be unreasonably withheld. Tenant shall not use the property for any unlawful purpose and shall comply with all applicable statutes, laws and ordinances during the entire term of the lease and any extension or renewal thereof. Should Tenant cease to operate a



Marine Electronics retail and repair facility on the property, Landlord may, as one of its remedies, terminate this Agreement upon thirty days written notice.

Construction of the new Marine Electronics retail and repair facility must commence within one year of the date of this Agreement and be completed within one year. A site development plan shall be attached hereto as Exhibits C and D.

Should Tenant cease to operate a Marine Electronics retail and repair facility on the property, Landlord may terminate this Agreement upon thirty days written notice of its intention to do so.

#### **5.02. Care of the Property**

Tenant at its own cost and expense shall keep the Property and all buildings and improvements that at any time may be situated thereon in good condition and repair during the term of this Lease, ordinary wear and tear excepted. The Property shall always be kept by Tenant neat, clean and free of litter.

#### **5.03. Restoration or Removal of Damaged Buildings and Improvements**

Except as provided in paragraph 6.02, in the event any buildings or improvements situated on the Property by Tenant are damaged or destroyed by fire, earthquake, tsunami, or other casualty, Tenant shall at Tenant's expense restore the same to good and tenable condition or shall remove the same as soon as is reasonably possible, but in no event shall the period of restoration exceed eighteen (18) months nor shall the period of removal exceed forty-five (45) days.

#### **5.04. Property Returned to Previous Condition**

At the termination of this Lease, Tenant shall remove all debris and return the Property clean and in as good order and condition as when the Tenant took possession, failing which Landlord may restore the Property to such condition and Tenant shall pay the cost thereof on demand.

#### **5.05. Access Rights of Landlord**

Landlord, its agents, servants, or employees, shall have the right to enter into and upon the Property and all buildings or improvements situated thereon upon reasonable notice to Tenant and during normal business hours (defined as 9 a.m. to 5 p.m. Monday through Friday, except for holidays as defined in paragraphs 17.06 of this Lease) for the purpose of inspecting the Property and all buildings and improvements situated thereon for compliance with the terms of this Lease.

#### **5.06. Nuisances Prohibited**

Tenant shall immediately remove from the Property any abandoned or junk vehicles, buildings, improvements, equipment, machinery or fixtures. Tenant shall not permit any nuisance or public nuisance to exist or to be created or maintained on the Property. Tenant agrees that any nuisance or public nuisance as defined by the Homer City Code, or any other code or regulations incorporated therein or otherwise adopted by ordinance or resolution of the City of Homer, may, after fifteen (15) days written notice to Tenant or after four (4) hours





notice in writing, by telephone, facsimile, or in person to Tenant if Landlord makes a written finding that such nuisance or public nuisance constitutes a threat of imminent harm to public health, safety or welfare, be removed by Landlord without Tenant's further permission, with use of force if necessary, and without incurring any civil or criminal liability therefore, all the costs of such removal to be paid by Tenant to Landlord as additional rent under the terms of this Lease. This paragraph shall not be construed as any limitation on any other legal rights or remedies available to the City of Homer to abate any nuisance or to prosecute any violation of the Homer City Code.

#### **5.07. Compliance with Laws**

Tenant shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting Tenant's activities on the Property or any buildings or other improvements that may be situated thereon.

#### **5.08. Radio Interference**

At Landlord's request, the Tenant shall discontinue the use of any machine or device that interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

#### **5.09. Signs**

Tenant shall be entitled to erect signs upon the Property that comply with the local sign ordinance. City Planning Department approval is required prior to the erection of any sign on the Property.

#### **5.10 Garbage Disposal**

Tenant is responsible for removing all garbage generated by Tenant's business to a Kenai Peninsula Borough solid waste facility or transfer station. Tenant shall not use the Landlord's Homer Spit garbage disposal facilities.

#### **5.11 Reserved**

#### **5.12 Fish Dock Use Permit**

Before using the City of Homer Fish Dock, Tenant shall obtain from the Landlord a Fish Dock Use Permit. Tenant shall continue to have a current Fish Dock Use Permit in force for so long as Tenant intends to use the Fish Dock.

### **6. IMPROVEMENTS**

#### **6.01. Ownership of Buildings and Improvements**

(a) Any and all buildings, fixtures, and improvements of any nature whatsoever constructed or maintained on the Property by Tenant shall be and remain the property of Tenant at all times during the Term and any Renewal Terms and may be removed or replaced by Tenant, subject, however, to the obligations concerning the Required Improvements set forth in paragraph 6.02.



(b) Upon the expiration or termination of the Lease, all buildings, improvements, and fixtures shall remain upon the Property and shall be surrendered with the Property to Landlord, unless Landlord elects to require the removal of any or all of such property. Should Landlord require that buildings, improvements, and fixtures, or any part of them, be removed, Tenant shall remove the same at its expense and repair or pay Landlord the cost of repairing any damage resulting therefrom. Approximately 60 days prior to the Tenant's scheduled vacation of the Property, Landlord and Tenant shall meet to decide what items shall be removed and what items shall remain.

#### 6.02. Development Requirements

(a) Tenant shall at Tenant's sole expense commence construction of the new Marine Electronics retail and repair facility within one year of the date of this Agreement and be completed within one additional year. The proposed site plan and floor plans are attached as **Exhibit C** and **Exhibit D**, respectively. Tenant shall at all times during the Term and any Renewal Term keep and maintain the Required Improvements, or their equal, as the minimum development on the Property.

(b) Tenant warrants that it has not entered into this Lease for the purpose of speculation, but in order to fully develop the Property with such Required Improvements and to operate it for Tenant's proposed operations. Tenant's promise to timely construct the Required Improvements and operate on the Property is a major and material consideration to Landlord in granting this Lease.

(c) In the event the Required Improvements are damaged or destroyed by fire, earthquake, tsunami or other casualty, Tenant shall, at Tenant's expense, restore or replace the same to good and tenable condition as soon as is reasonably possible, but in no event shall the period of restoration or replacement exceed 12 months. Modifications to the Required Improvements will be allowed only if approved by Landlord, whose approval will not be unreasonably withheld. If such damage or casualty to the Required Improvements occurs within three years of the end of the Term or any Renewal Term, Tenant may, in lieu of restoring or replacing the Required Improvements, terminate this Lease by giving written notice of termination to Landlord within 120 days after such damage or casualty.

#### 6.03. Construction Prerequisites

No construction on the Property, including the Required Improvements, shall be commenced unless the following events have occurred:

(a) Not less than 30 days prior to the intended start of construction, Tenant shall submit to Landlord for its approval preliminary plans and specifications and an application for a City of Homer zoning permit. The preliminary plans and specifications shall show the layout of proposed buildings and other improvements, ingress and egress, dimensions and locations of utilities, and drainage plan. Tenant shall also certify that the preliminary plans and specifications satisfy the capital investment requirements of paragraph 6.02. Landlord shall not unreasonably disapprove preliminary plans and specifications. Approval or disapproval shall be communicated in the manner provided for notices, and disapproval shall be accompanied by specification of the grounds for disapproval.

(b) Tenant shall prepare final working plans and specifications substantially conforming to preliminary plans previously approved by Landlord, submit them to the



appropriate governmental agencies for approval, and deliver to Landlord one complete set as approved by the governmental agencies. Changes from the preliminary plans shall be considered to be within the scope of the preliminary plans if they are not substantial or if they are made to comply with suggestions, requests, or requirements of a governmental agency or official in connection with the application for permit or approval.

(c) Not less than five days prior to the commencement of any construction, Tenant shall give written notice of intent to commence construction and furnish to Landlord proof that all applicable federal, state, and local permits have been obtained or applications therefor have been submitted to the appropriate governmental agency.

(d) Not less than five days prior to the commencement of any construction, Tenant shall furnish to Landlord certificates of insurance in the amounts and for the purposes specified in paragraphs 11.01 through 11.04 of this Lease.

(e) Tenant shall from time to time deliver to Landlord satisfactory proof that workers' compensation insurance has been procured to cover all persons employed in connection with the construction. Upon notice to Tenant of any deficiency in workers' compensation coverage, such deficiency shall be cured immediately, and no work will be performed on the project until Tenant has provided Landlord satisfactory proof that proper workers' compensation insurance is in place.

(f) On completion of the improvements, Tenant shall give Landlord notice of all changes in plans or specifications made during the course of the work. Landlord acknowledges that it is common practice in the construction industry to make numerous changes during the course of construction on substantial projects. Changes that do not substantially alter plans and specifications previously approved by Landlord do not constitute a breach of Tenant's obligations.

(g) At any time and from time to time, Tenant may, but is not obligated to, construct or otherwise make new improvements on any part or all of the Property and to demolish, remove, replace, alter, relocate, reconstruct, or add to the existing improvements in whole or in part, provided Tenant is not then in default under any condition or provision of this Lease and provided the improvements following the work are at least equal in value to any improvements as they were before the being demolished, removed, replaced, altered, relocated, reconstructed, modified, or changed. All salvage shall belong to Tenant. Once the work is begun, Tenant shall with reasonable diligence prosecute to completion all construction of improvements, additions, or alterations.

#### **6.04. As-Built Survey**

Within thirty (30) days after completion of construction of any improvements on the Property involving construction, alteration, addition, removal or demolition of the foundation, structure, utility services, ingress and egress, or any major changes, of all or any part of any structure on the Property, Tenant shall provide Landlord with three (3) copies of an as-built survey of the Property prepared by a registered professional surveyor, showing the location of all improvements on the Property, including underground utilities, pipelines, and pre-existing improvements.



## 6.05 Definitions

As used in this Article 6 of this Lease, the following terms and phrases shall have the meanings given here, unless the context requires otherwise:

"Complete" and "Completion" mean that construction is finished and the improvement is fully operational and ready for occupancy or use for its intended purpose, including, but not limited to, the receipt of any applicable certificate of occupancy and other applicable permits, licenses, certificates, or inspection reports necessary to the improvement's legally authorized use. The existence of a contractor's punch list of items to be performed to finish the construction shall not prevent the improvement from being Complete if the improvement otherwise meets the requirements of this definition.

"Excusable Delay" means delay due to strikes, act of God, inability to obtain labor or materials, governmental requirements, such as laws and requirements of any governmental authority having jurisdiction over the improvements or over any permits or licenses needed for Tenant's proposed operations, removal of Hazardous Materials discovered at any time after the Commencement Date, enemy action, civil commotion, fire, unusual inclement weather, unavoidable casualty or similar causes beyond the reasonable control of Tenant.

## 6.06 Extensions of Time for Completion of Required Improvements

An extension of the time to Complete the Required Improvements shall be granted for any event of Excusable Delay if Tenant has commenced construction in a timely manner and is proceeding diligently to complete construction.

7. RESERVED

8. ASSIGNMENT

### 8.01. Assignment or Sublease Without Consent Generally Prohibited

Tenant shall not voluntarily assign, encumber or sublease its interest in this Lease or in the Property without first obtaining Landlord's consent. Any assignment, encumbrance or sublease without Landlord's consent shall be voidable and, at Landlord's election, shall constitute a default. Any request for Landlord's consent shall be made to Landlord in writing at least thirty (30) days prior to the proposed effective date of the assignment, encumbrance or sublease. No consent to any assignment, encumbrance or sublease shall constitute a further waiver of the provisions of this paragraph. Any assignment effected pursuant to this paragraph 8.01 shall require the assignee to assume the Tenant's obligations hereunder. An assignment shall not release the Tenant from liability hereunder unless specifically so provided in writing and approved by Landlord. Tenant shall promptly deliver to Landlord a copy of any instrument or shall promptly notify Landlord of any unwritten agreement, that assigns, encumbers or subleases the Property. Landlord's consent to assign, encumber or sublease the Property shall not be withheld unreasonably.



## 8.02. Change of Ownership

If Tenant is a partnership or limited liability company, a withdrawal or change, voluntary, involuntary or by operation of law, of any partner(s) or member(s) owning twenty-five percent (25%) or more of the entity, or the dissolution of the entity, shall be deemed a voluntary assignment under paragraph 8.01. If Tenant is a corporation, any dissolution, merger, consolidation or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock of Tenant, or the sale of twenty-five percent (25%) of the value of the assets of Tenant, shall be deemed a voluntary assignment under paragraph 8.01. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least twenty-five percent (25%) of the total combined voting power of all classes of Tenant's capital stock issued, outstanding and entitled to vote for the election of directors. As to a corporation the stock of which is traded through an exchange or over the counter, a sale or other transfer of a controlling percentage of the capital stock of such a Tenant corporation will not be deemed to be a voluntary assignment. Attached as **Exhibit A** is a schedule describing the method of organization of Tenant, each owner of Tenant, and the percentage of ownership of each owner. **Exhibit B** is a conformed copy of a resolution authorizing Tenant to enter into this lease and authorizing the undersigned officer to execute the Lease on behalf of Tenant.

## 8.03. Costs of Landlord's Consent to be Borne by Tenant

Tenant shall pay Landlord's reasonable costs, including attorney's fees, incurred by Landlord in connection with any request by Tenant for Landlord to consent to any assignment or subletting by Tenant.

## 9. PROHIBITION OF LIENS

Tenant shall not suffer or permit any liens, including without limitation, mechanic's or materialmen's liens, to be recorded against the Property. If any such liens shall be recorded against the Property, Tenant shall cause the same to be removed, or, in the alternative, if Tenant in good faith desires to contest the same, Tenant shall be privileged to do so, but in such case Tenant hereby agrees to indemnify and save Landlord harmless from all liability for damages occasioned thereby and shall, in the event of a judgment or foreclosure of such liens, cause the same to be discharged and removed prior to any attempt at execution of such judgment. Nothing contained in this Lease shall be construed to be a waiver of the provisions of AS 09.38.015(c), as may be amended from time to time.

## 10. INDEMNITY

### 10.01. Indemnity Generally

Tenant agrees to protect, indemnify and hold Landlord harmless from and against any and all liability arising from acts or omissions of any person and of any nature whatsoever occurring on or relating to the Property, causing injury to, or death of persons, or loss of, or damage to, property, and from any expense, including attorneys fees, incidental to the defense of and by Landlord therefrom, excepting only liability arising from the sole negligence of Landlord. If any action or proceeding is brought against Landlord by reason of any such occurrences, Landlord shall promptly notify Tenant in writing of such action or proceeding.



## **10.02. Indemnity For Emergency Service Costs**

Without limiting the generality of paragraph 10.01, in the event of a major fire or other emergency, Tenant shall reimburse Landlord for the cost of providing fire fighting and other emergency service to Tenant or the Property, or elsewhere if the fire or emergency requiring response arises from or is related to the use of the Property or Tenant's operations. For purposes of this paragraph, a major fire or other emergency is one that requires more than five hours of effort by the Homer Department of Public Safety or its successors.

## **11. INSURANCE**

### **11.01. Liability Insurance**

(a) Tenant shall at all times carry at its expense public liability insurance covering Tenant's operations and the Property in an amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence to protect against liability for bodily injury, death or property damage that might arise from the construction, occupancy or use of the Property and the operations conducted on, from or related to it. Such insurance shall include coverage for comprehensive general liability; bodily injury and property damage liability; premises and operations liability, including underground, products and completed operations; broad form property damage liability; blanket contractual liability; personal injury liability; and comprehensive automobile liability including without limitation bodily injury and property damage and all owned, hired, and nonowned automobiles. Such insurance policy or policies shall be additionally endorsed to provide sudden and accidental pollution coverage arising out of activities or events taking place on or adjacent to the Property.

(b) Tenant shall at all times carry, at its expense, environmental remediation and environmental impairment liability insurance, including sudden and accidental coverage and gradual pollution coverage. Such coverage shall also include clean-up cost coverage associated with any activity by Tenant or others on, from, or related to the Property. Tenant shall maintain limits of liability of ONE MILLION DOLLARS (\$1,000,000.00) for any one accident or occurrence. Environmental impairment liability insurance shall extend to loss arising as a result of: (i) liability of others assumed by Tenant under contract or agreement; or (ii) clean-up operations; or (iii) activities performed by or on behalf of Tenant while Tenant has care, custody, possession, or control of vessels, equipment, people, supplies, products or materials upon which Tenant performs actions; or (iv) the work or services or products furnished, used or handled in connection with Tenant's operations contemplated pursuant to this Lease.

### **11.02. Worker's Compensation and Employer's Liability Insurance**

Tenant, during the term of this Lease, shall carry at its expense Worker's Compensation Insurance as required by statute and Employer's Liability Insurance.

### **11.03. Named Insured, Notice to Landlord, and Waiver of Subrogation**

All insurance policies required to be maintained by Tenant under paragraph 11.01 shall name Landlord, and its officers, employees and agents, as additional insured, but shall not contain any exclusion from coverage for Tenant's liability for damages or loss incurred by



Landlord because of Landlord's status as an additional insured. All policies issued under paragraph 11.01 shall contain a waiver of any subrogation rights any insurer might have against Landlord. All policies issued under paragraphs 11.01 or 11.02 shall contain an agreement by the insurers to provide at least thirty (30) days prior written notice to Landlord of cancellation, expiration or substantial changes in policy conditions and coverage. Tenant shall furnish insurance certificates and copies of all such insurance policies to Landlord promptly after the issuance thereof.

#### **11.04. Fire and Extended Coverage Insurance**

Tenant may at its own expense and in its own name obtain insurance against loss or damage by fire and such other risks as it determines to cover buildings, equipment, inventory, fixtures, personal property and improvements made to the Property by Tenant subsequent to Tenant's taking possession of the Property under this Lease.

#### **11.05 Required Endorsements and Authorization**

In addition to, and without limiting the requirements of paragraphs 11.01 through 11.04, Tenant shall at all times maintain and give to the Landlord, for Landlord's benefit, current insurance endorsements substantially in the form of Exhibit E and Exhibit F. Tenant shall also grant Landlord permission to obtain copies of insurance policies from all insurer's providing required coverage to Tenant by executing an authorization substantially in form of Exhibit G. Tenant shall, from time to time, execute and deliver to Landlord such additional authorizations (Exhibit G) that Landlord may request.

### **12. CONDEMNATION**

#### **12.01. Condemnation**

In the event the Property, or any part thereof or interest therein, shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Landlord and Tenant in the award or consideration for such transfer and the effect of the taking or transfer upon this Lease shall be as provided in this Article 12.

#### **12.02. Total Taking**

If all of the Property is taken or so transferred, this Lease and all the right title and interest thereunder of Tenant shall cease on the date title to the Property vests in the condemning authority.

#### **12.03. Partial Taking - Termination of Lease**

In the event the taking or transfer of part of the Property leaves the remainder of the Property in such location, or in such form, shape or reduced size, or so inaccessible as to be not effectively and practicably usable in the opinion of the Tenant for the purpose of operation thereon of Tenant's business, then this Lease and all of the right, title and interest thereunder of Tenant shall cease on the date title to the Property vests in the condemning authority, and the condemning authority enters into possession.



#### **12.04. Partial Taking - Continuation of Lease**

In the event the taking or transfer of a part of the Property leaves the remainder of the Property in such location and in such form, shape or size, or so accessible as to be effectively and practicably usable in the opinion of Tenant for the purpose of operation thereon of Tenant's business, this Lease shall terminate and end as to the portion of the Property so taken or transferred as of the date title to such portion vests in the condemning authority and the condemning authority enters into possession, but shall continue in full force and effect as to the portion of the Property not so taken or transferred. If there is a partial taking and this Lease is not terminated, then the annual rent payable under this Lease shall abate for the portion of the Property taken in the proportion that such portion bears to all of the Property.

#### **12.05. Compensation**

If any compensation is payable as a result of eminent domain proceedings or a transfer in lieu thereof, Landlord and Tenant shall each make a claim against the condemning or taking authority for the amount of any damage incurred by or done to them respectively, and Tenant shall make no claim against Landlord for damages for termination of the leasehold or interference with Tenant's business. Neither Tenant nor Landlord shall have any rights in or to any award made to the other by the condemning authority; provided, that in the event of a single award to Landlord that includes specific damages for loss of Tenant's leasehold interest separately awarded in the eminent domain proceeding and not as a part of the damages recoverable by Landlord, Landlord shall transmit such separately awarded damages to Tenant.

### **13. DEFAULT**

#### **13.01. Default**

Each of the following events shall be deemed an event of default by the Tenant under this Lease and a breach of the terms, covenants and conditions of this Lease:

(a) A default in the payment of the rent and additional sums due under this Lease, or any part thereof, for a period of ten (10) days from the due date for the payment of such rent or additional sums.

(b) A default in the performance of any other term, covenant or condition on the part of the Tenant to be kept, performed or observed for a period of fifteen (15) days after Landlord give to Tenant a written notice specifying the particular default or defaults; provided, however, that any default on the part of Tenant in the performance of work or acts required to be done, or conditions to be modified, shall be deemed to be cured if steps shall have been taken promptly (and in no event later than thirty (30) days after such notice has been given) by Tenant to rectify the same and shall be prosecuted to completion with diligence and continuity.

(c) The use of the Property or buildings and improvements thereon for purposes other than those enumerated herein, to which Landlord has not given its written consent.

(d) The abandonment of the Property by Tenant. If the Property is deserted or Tenant does not use the Property for the purposes stated in paragraph 5.01 for 12 months or more, it shall be deemed abandoned, even if Tenant continues to pay rent.





(e) Tenant making an assignment for the benefit of creditors, filing a petition in bankruptcy, petitioning or applying to any tribunal for the appointment of a custodian, receiver, or any trustee for it or a substantial part of its assets, or commencing any proceedings under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or the filing of any such petition or application, or the commencing of any such proceeding against it, in which an order for relief is entered or which remains undismissed for a period of 30 days or more; or Tenant by any act or omission indicating its consent to, approval of, or acquiescence in any such petition, application, or proceeding or order for relief or the appointment of a custodian, receiver, or any trustee for it or any substantial part of any of its properties, or the suffering of any such custodianship, receivership, or trusteeship to continue undischarged for a period of 30 days or more.

(f) Tenant being generally unable to pay its debts as such debts become due.

(g) Tenant having concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay, or defraud its creditors or any of them, or making or suffering a transfer of any of its property that may be fraudulent under any bankruptcy, fraudulent conveyance, or similar law; or suffering or permitting, while insolvent, any creditor to obtain a lien upon any of its property through legal proceedings or distraint that is not vacated within 30 days from the date thereof.

### 13.02. Landlord's Remedies

In the event of any default by Tenant as recited in paragraph 13.01 of this Lease, Landlord shall have all of the below-enumerated rights and remedies, all in addition to any rights and remedies that Landlord may be given by statute, common law or otherwise. All rights of Landlord shall be cumulative, and none shall exclude any other right or remedy. Landlord's rights and remedies include the following:

(a) Landlord may declare the term of this lease ended by written notice to Tenant. Upon termination of this Lease, Tenant shall surrender possession and vacate the Property immediately, and deliver possession thereof to Landlord, and Tenant hereby grants to Landlord full and free license to enter into and upon the Property in such event with or without process of law and to repossess Landlord of the Property and to expel or remove Tenant and any others who may be occupying or within the Property and to remove any and all property therefrom, using such force as may be necessary, without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without relinquishing Landlord's right to rent or any other right given to Landlord hereunder or by operation of law.

(b) Landlord may by written notice declare Tenant's right to possession of the Property terminated without terminating this Lease. Upon such termination of Tenant's right to possession, Landlord shall have all the rights to repossess the Property and remove Tenant and Tenant's property that are enumerated in paragraph 13.02 (a).

(c) Landlord may relet the Property in whole or in part for any period equal to or greater or less than the remainder of the term of this Lease, for any sum that Landlord may deem reasonable, except as provided in (e) of this paragraph.

(d) Landlord may collect any and all rents due or to become due from subtenants or other occupants of the Property.



(e) Landlord may recover, whether this Lease be terminated or not, from Tenant, damages provided for below consisting of items (i), and (ii), or, at Landlord's election in lieu of (ii), item (iii):

(i) actual attorney's fees and other expenses incurred by Landlord by reason of the breach or default by Tenant; and

(ii) an amount equal to the amount of all rent and additional sums reserved under this Lease, less the net rent, if any, collected by Landlord on reletting the Property, which shall be due and payable by Tenant to Landlord on the several days on which the rent and additional sums reserved in this Lease would have become due and payable; that is to say, upon each of such days Tenant shall pay to Landlord the amount of deficiency then existing. Such net rent collected on reletting by Landlord shall be computed by deducting from the gross rent collected all expenses incurred by Landlord in connection with the reletting of the Property, or any part thereof, including broker's commission and the cost of renovating or remodeling the Property or the buildings or improvements thereon, provided, however, Landlord must take diligent effort in reletting the Property to obtain a rental rate as close to or above that required of Tenant under this Lease or else Landlord will not have access to the remedy set out in this subparagraph 13.02(e)(ii); or

(iii) an amount to be due immediately on breach, equal to the difference between the rent and the fair and reasonable rental value of the Property for the same period. In the computation of such damages the difference between any installment of rent thereafter becoming due and the fair and reasonable value of the Property for the period for which such installment was payable shall be discounted to the date of such breach at the rate of eight percent (8%) per year.

(f) Reentry or reletting of the Property, or any part thereof, shall not be deemed a termination of this Lease, unless expressly declared to be so by Landlord.

(g) If this Lease shall be deemed terminated, Tenant's liabilities shall survive and Tenant shall be liable for damages as provided in this paragraph 13.02.

### **13.03. Assignment of Rents to Landlord**

Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under the Lease, all rent from any subletting of all or a part of the Property as permitted by this Lease, and Landlord, as assignee and attorney-in-fact for Tenant or a receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligation under this Lease, except that, until the occurrence of an act of default by Tenant, Tenant shall have the right to collect such rent.



**14. Reserved**

**15. REMOVAL OF TRADE FIXTURES, EQUIPMENT, AND MACHINERY UPON EXPIRATION OR TERMINATION OF LEASE**

**15.01 Removal Upon Expiration**

Trade fixtures, machinery, equipment, and other items of personal property owned by Tenant shall be considered Tenant's property at all times during this Lease and shall be removed by Tenant at its own expense from the Property upon the expiration of the Term or Renewal Term of this Lease, unless Landlord gives written consent to allow such property to remain on the Property. If the removal of Tenant's trade fixtures, machinery, equipment and other items of personal property causes injury or damage to the Property, including buildings or improvements that will remain on the Property, Tenant shall repair such injury or damage or pay Landlord the full amount to repair the same. In the event Tenant, without Landlord's written consent, fails to remove such property on or before the expiration of this Lease, the Landlord may, at its election, immediately (a) declare all or any part of the property abandoned, in which case title to such property shall vest in Landlord, or (b) to the extent Landlord does not elect to declare it abandoned and take title to such property, Landlord may, in any manner that it sees fit, remove, store, destroy, or otherwise dispose of the property at the Tenant's expense and without liability to Tenant for any loss, damage, value, or other compensation claimed by Tenant as a consequence.

**15.02 Removal After Early Termination**

In the event this Lease terminates for any reason before the scheduled expiration of the Term or Renewal Term of this Lease, Tenant shall within one month after such early termination date remove Tenant's trade fixtures, machinery, equipment and other items of personal property, unless Landlord gives written consent to allow such personal property to remain on the Property. If the removal of Tenant's trade fixtures, machinery, equipment and other items of personal property causes injury or damage to the Property, including buildings or improvements that will remain on the Property, Tenant shall repair such injury or damage or pay Landlord the full amount to repair the same. On or before the end of such one month period, Tenant may extend the time for removal of such personal property for an additional one month upon written notice to Landlord accompanied by payment of rent for the entire two month period following the early termination date at 125% of the then current monthly rental rate. Acceptance of such rent shall not extend the term of the Lease nor create a month-to-month tenancy. In the event Tenant fails to remove such property within one month after the early termination of this Lease, or within two months if Tenant elects to extend by giving timely notice and paying rent, the Landlord may, at its election, immediately (a) declare all or any part of the property abandoned, in which case title to such property shall vest in Landlord, or (b) to the extent Landlord does not elect to declare abandoned and take title to such property, Landlord may, in any manner that it sees fit, remove, store, destroy, or otherwise dispose of the property at the Tenant's expense and without liability to Tenant for any loss, damage, value, or other compensation claimed by Tenant as a consequence.



## 16. HAZARDOUS MATERIALS

### 16.01. Use of Hazardous Materials on the Property

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

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

(c) Tenant shall not discharge, leak or emit, or permit to be discharged, leaked or emitted, any material into the atmosphere, ground, sewer system or any body of water, if such material (as reasonably determined by the Landlord, or any governmental authority) does or may, pollute or contaminate the same, or may adversely affect (i) the health, welfare or safety of persons, whether located on the Property or elsewhere, or (ii) the condition, use or enjoyment of the Property or any other real or personal property.

(d) If any discharge, leak, spill, emission, or pollution of any type occurs upon or from the Property during the Lease term or any holdover, Tenant will immediately notify Landlord and all appropriate federal, state, and local authorities, and will act immediately to contain the spill, repair any damage, absorb and clean up the spill area and restore the Property to comply with the applicable portions of any federal, state, or local law or regulation then in effect.

(e) Tenant hereby agrees that it shall be fully liable for all costs and expenses related to the handling, use, storage, and disposal of Hazardous Material brought or kept on the Property by the Tenant, its authorized representatives, customers, invitees and sublessees, and the Tenant shall give immediate notice to the Landlord of any violation or potential violation of the provisions of subparagraphs 16.01 (a), (b), (c) and (d).

### 16.02. Indemnification of Landlord

Any other provisions of the Lease to the contrary notwithstanding, Tenant shall defend, indemnify and hold harmless Landlord and its authorized representatives, from and against any claims, demands, penalties, fines, judgments, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorney, consultant and expert fees, court costs and litigation expenses) of whatever kind of nature, known or unknown, contingent or otherwise, arising out of or in any way related to: (a) the presence, disposal, release, or threatened release of any such Hazardous Material that is on, from, or affecting the Property, soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Material; (c) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Material; and/or (d) any violation of any laws applicable thereto. However, this paragraph shall apply only if the acts giving rise to the claims, demands, penalties, fines, expenses: (i) occur in whole or in part during the term of this Lease; or (ii) are proximately caused in whole or in part by the occupancy of, use of, operations on, or actions on the Property by Tenant or its employees, agents, customers,



invitees or contractors. The provisions of this paragraph shall be in addition to any other obligations and liabilities Tenant may have to Landlord at law or equity and shall survive the termination of this Lease.

### **16.03. Hazardous Material Defined**

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

## **17. GENERAL PROVISIONS**

### **17.01. Estoppel Certificates**

Either party shall at any time and from time to time upon not less than thirty (30) days prior written request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Lease is unamended and in full force and effect (or, if there has been any amendment thereof, that the same is in full force and effect as amended and stating the amendment or amendments), that there are no defaults existing, (or, if there is any claimed default, stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance.

### **17.02. Conditions and Covenants**

All the provisions of this Lease shall be deemed as running with the land, and shall be construed to be "conditions" as well as "covenants", as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

### **17.03. No Waiver of Breach**

No failure by either Landlord or Tenant to insist upon the strict performance by the other of any term, covenant or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such terms, covenants or conditions. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

### **17.04. Attorney's Fees**

(a) If Landlord is involuntarily made a party defendant to any litigation concerning this Lease or the Property by reason of any act or omission of Tenant, or if Landlord is made a party to any litigation brought by or against Tenant without any fault on the part of Landlord, then Tenant shall pay the amounts reasonably incurred and expended by Landlord,



including the reasonable fees of Landlord's agents and attorneys and all expenses incurred in defense of such litigation.

(b) In the event of litigation between Landlord and Tenant concerning enforcement of any right or obligation under this Lease, the non-prevailing party shall reimburse the prevailing party for the attorney's fees reasonably incurred and expended by the prevailing party in the litigation.

**17.05. Time of Essence**

Time is of the essence of the Lease and of each provision.

**17.06. Computation of Time**

The time in which any act provided by this Lease is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or a holiday, and then it is also excluded. The term "holiday" shall mean all holidays as defined by the statutes of Alaska.

**17.07. Successors in Interest**

Each and all of the terms, covenants and conditions in this Lease shall inure to the benefit of and shall be binding upon the successors in interest of Landlord and Tenant.

**17.08. Entire Agreement**

This Lease contains the entire agreement of the parties with respect to the matters covered by this Lease, and no other agreement, statement of promise made by any party that is not contained in the Lease shall be binding or valid.

**17.09. Governing Law and Venue**

This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Alaska. Any action or suit arising between the parties in relation to or in connection with this Lease, or for the breach thereof, shall be brought in the Third Judicial District of the State of Alaska.

**17.10. Partial Invalidity**

If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void or enforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such provisions are considered by Tenant to be integral to Tenant's use of the Property for the purposes stated herein in which case Tenant will have the authority to terminate this Lease upon thirty (30) days written notice to Landlord.

**17.11. Relationship of Parties**

Nothing contained in this Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant and neither the method of



computation of rent, nor any other provision contained in this Lease nor any acts of the parties, shall be deemed to create any relationship between Landlord and Tenant other than the relationship of Landlord and Tenant.

#### **17.12. Interpretation**

The language in all parts of this Lease shall in all cases be simply construed according to its fair meaning and not for or against Landlord or Tenant as both Landlord and Tenant have had opportunity for the assistance of attorneys in drafting and reviewing this Lease.

#### **17.13. Number and Gender**

In this Lease, the neuter gender includes the masculine and the feminine, and the singular number includes the plural; the word "person" includes corporation, partnership, firm or association wherever the context so requires.

#### **17.14. Mandatory and Permissive**

"Shall", "will" and "agrees" are mandatory; "may" is permissive.

#### **17.15. Captions**

Captions of the paragraphs of this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

#### **17.16. Amendment**

This Lease is not subject to amendment except in writing executed by all parties hereto.

#### **17.17. Delivery of Notices - Method and Time**

All notices, demands or requests from one party to another shall be delivered in person or be sent by (i) mail, certified or registered, postage prepaid, or (ii) facsimile transmission (accompanied by reasonable evidence of receipt of the transmission and with a confirmation copy mailed by first class mail no later than the day after transmission) to the addresses stated in paragraph 17.18 and shall be deemed to have been given at the time of delivery or, if mailed, three (3) days after the date of mailing.

#### **17.18. Notices**

All notices, demands and requests from Tenant to Landlord shall be given to Landlord at the following address:

City Manager  
City of Homer  
491 East Pioneer Avenue  
Homer, Alaska 99603  
Facsimile: (907) 235-3148



All notices, demands or requests from Landlord to Tenant shall be given to Tenant at the following address:

William Tener  
South Central Radar  
4406 Homer Spit Rd  
Homer, Alaska 99603  
Facsimile: 907-235-8009

**17.19 Change of Address or Agent**

Each party shall have the right, from time to time, to designate a different address or different agent for service of process by notice given in conformity with paragraph 17.17.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the dates hereinbelow set forth.

**Landlord:**

**CITY OF HOMER**

Date: 10/29/2003

By Walt Wrede  
Walt Wrede,  
City Manager

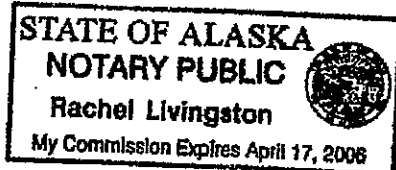
Date: 10 28 2003

**Tenant:**  
By William J. Tener  
William J. Tener

**ACKNOWLEDGMENTS**

STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT ) ss.

The foregoing instrument was acknowledged before me on Oct. 29<sup>th</sup>, 2003, by Walt Wrede, City Manager of the City of Homer, on behalf of the City of Homer.

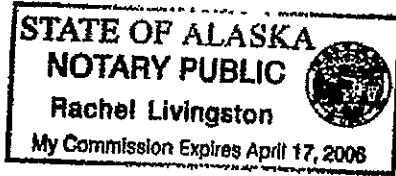


Mary Cathoun  
Mary Cathoun, AAE/CMC, Homer City Clerk  
My Term Expires: 4-17-06



STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT ) ss.

The foregoing instrument was acknowledged before me on Oct. 28<sup>th</sup>  
2003, by William J. Tener.



Rachel Livingston  
Notary Public in and for Alaska  
My Commission Expires: 4-17-06

Return to  
City of Homer  
Clerk's Office  
491 E Pioneer Avenue  
Homer, AK 99603

**EXHIBIT A**

**SCHEDULE OF ORGANIZATION, OWNERS,  
PERCENTAGE OF OWNERSHIP**

South Central Radar is organized under the laws of the State of Alaska. The partners and their percentage of ownership are as follows:

**PERCENTAGE OF OWNERSHIP**

Name:	William J. Tener	100%
Address:	4406 Homer Spit Rd	
	Homer, AK 996603	

**EXHIBIT B**

**CONFORMED COPY OF RESOLUTION AUTHORIZING LEASE  
AND AUTHORIZING TO SIGN ON BEHALF OF TENANT**

**Sole Proprietorship not required**



**EXHIBIT C**  
**SITE PLANS**

[South Central Radar]

28 of 31



28 of 34  
2003-005627-0

56865 Bradley Lane

235-8008

Lot 88-1 Replat of Lot 83 Sec 36+36 Twp 68 S of 75 Range 13W 5M

Parcel 18103431

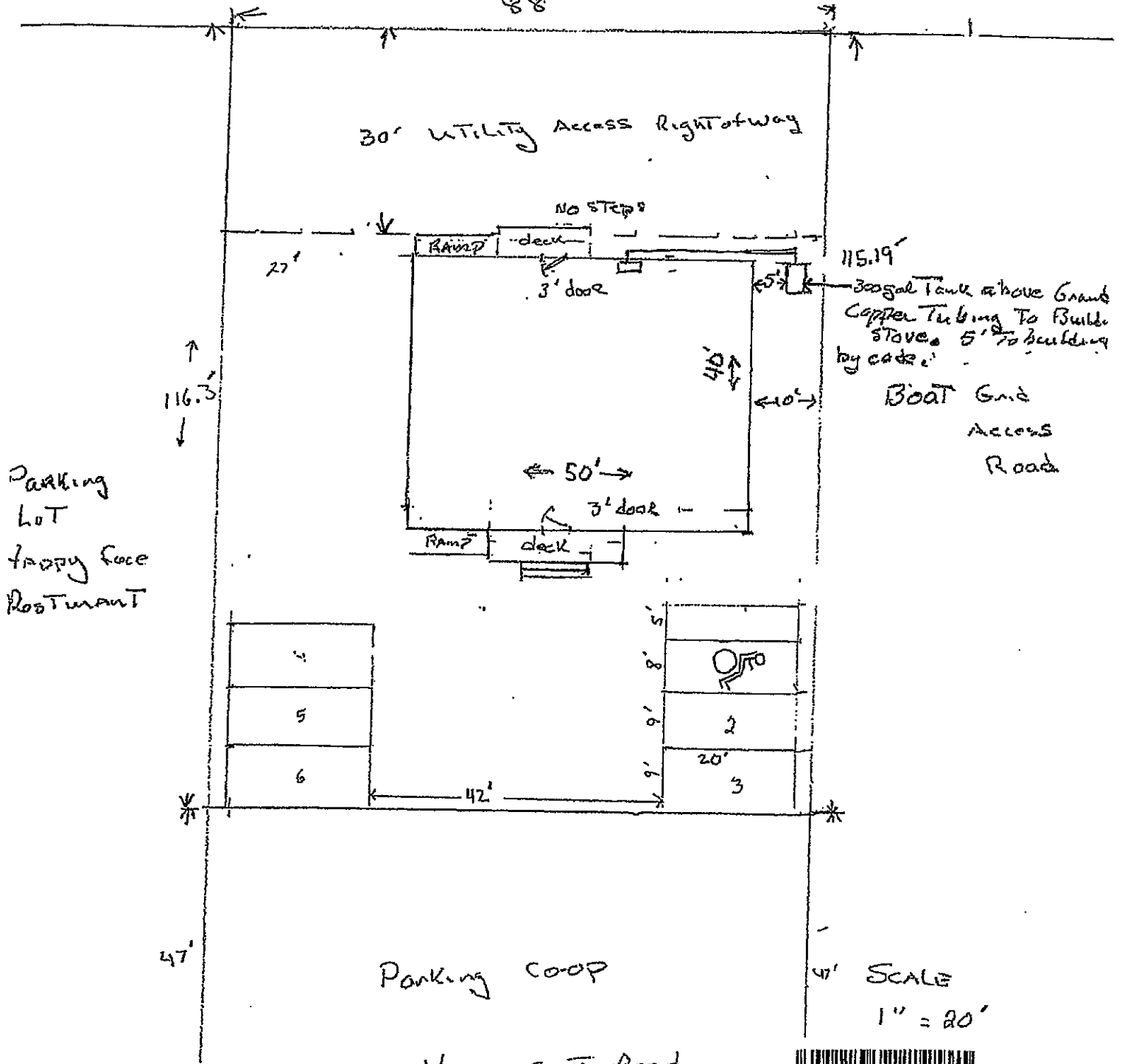
4406 Homer Spit Road

FC Plan Review No. 2004A-169

OVER SLOPE Homer Boat Harbor  
88'



30' UTILITY Access Rightofway



Parking  
Lot  
Trophy Case  
Restaurant



29 of 34

2003-005627-0



**EXHIBIT D**  
**FLOOR PLANS**

[South Central Radar]

29 of 31



31 of 34

2003-005627-0

**EXHIBIT E**  
**GENERAL LIABILITY INSURANCE ENDORSEMENT**





**EXHIBIT F**  
**WORKER'S COMPENSATION/EMPLOYER'S LIABILITY**  
**ENDORSEMENT**



**EXHIBIT G**

**PERMISSION TO OBTAIN INSURANCE POLICIES**

The City of Homer is hereby granted permission to request and obtain copies of

\_\_\_\_\_ (A Permittee@) insurance policies from its broker/insurance carrier, \_\_\_\_\_

\_\_\_\_\_ (A broker/insurance carrier@)

It is understood that the Permittee may revoke this permission at any time by written notice to its broker/insurance carrier and to City of Homer; however, such revocation shall constitute a default of this lease from the City of Homer.

By: Wendy Garcia

By: Walt Kelly

Date: 10 - 28 - 03



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**CITY OF HOMER  
HOMER, ALASKA**

Mayor/City Council

**RESOLUTION 12-087**

A RESOLUTION OF THE HOMER CITY COUNCIL ADOPTING THE 2013-2018 CAPITAL IMPROVEMENT PLAN AND ESTABLISHING CAPITAL PROJECT LEGISLATIVE PRIORITIES FOR FISCAL YEAR 2014.

WHEREAS, A duly published hearing was held on September 24, 2012 in order to obtain public comments on capital improvement projects and legislative priorities; and

WHEREAS, It is the intent of the City Council to provide the Governor, the State Legislature, State agencies, the Alaska Congressional Delegation, and other potential funding sources with adequate information regarding the City's capital project funding needs.

NOW, THEREFORE BE IT RESOLVED by the City Council of Homer, Alaska, that the "City of Homer Capital Improvement Plan 2013-2018" is hereby adopted as the official 6-year capital improvement plan for the City of Homer.

BE IT FURTHER RESOLVED that the following capital improvement projects are identified as priorities for the FY 2014 State Legislative Request:

1. Port and Harbor Building
2. Harbor Improvement Revenue Bond Projects
3. Skyline Fire Station
4. Pratt Museum New Facility and Site Redesign
5. Homer Education and Recreation Center Upgrades
6. Homer Tidal Energy Incubator Project
7. Harbor Entrance Erosion Control
8. Fire Engine 4 and Tanker 2 Refurbishment
9. Public Safety Building
10. Barge Mooring Facility
11. Kachemak Drive Rehabilitation/Pathway
12. Resurface Fish Dock
13. Brush/Wildland Firefighting Truck
14. Marine Ways Large Vessel Haulout Facility
15. Fishing Lagoon Improvements

BE IT FURTHER RESOLVED that projects for the FY 2014 Federal Legislative Request will be selected from this list.

BE IT FINALLY RESOLVED that the City Manager is hereby instructed to advise appropriate State and Federal representatives and personnel of the City's FY 2014 capital project priorities and take appropriate steps to provide necessary background information.

49 PASSED AND ADOPTED by a duly constituted quorum of the City Council for the City of  
50 Homer on this 15<sup>th</sup> day of October, 2012.

51

CITY OF HOMER

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JAMES C. HORNADAY, MAYOR

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58 ATTEST:

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JO JOHNSON, CMC, CITY CLERK

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63

64 Fiscal Note: N/A

65

# Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, Deputy City Clerk II  
Renee Krause, Deputy City Clerk I



491 E. Pioneer Avenue  
Homer, Alaska 99603-7624  
(907) 235-3130

(907) 235-8121  
Extension: 2227  
Extension: 2224

Fax: (907) 235-3143  
Email: [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us)

## MEMORANDUM 12-158

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**TO:** MAYOR HORNADAY AND CITY COUNCIL  
**THROUGH:** KATIE KOESTER, COMMUNITY AND ECONOMIC DEVELOPMENT COORDINATOR  
**FROM:** PUBLIC ARTS COMMITTEE  
**DATE:** SEPTEMBER 28, 2012  
**RE:** CAPITAL IMPROVEMENT RECOMMENDATIONS

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### Background:

At a Special Meeting on September 25, 2012 the Public Arts Committee discussed and voted on a recommendation to include the following Baycrest Hill Overlook Gateway Project for the 2013-2018 Capital Improvement Plan.

### RECOMMENDATION

City Council to Approve and Include the 2013-2018 Capital Improvement Plan and in the Top 15 Projects submitted in the Legislative request for funding.





## BAYCREST OVERLOOK GATEWAY PROJECT

**PROJECT DESCRIPTION & BENEFIT:** The Homer Public Arts Committee has designated the Baycrest Hill Overlook as one of the major elements of the Gateway Project, which entails enhancing Visitor and resident experiences at the entrances to Homer. The other Gateways are the Homer Airport and the Homer Port.

Everyone who has driven to Homer remembers the first time they came around the corner on the Sterling Highway and saw the breathtaking panorama of Kachemak Bay. For many that was the same moment they made the decision to become part of this diverse, eclectic, energetic community. In the 1990's visionaries at Alaska Department of Transportation and Public Facilities constructed the current pullout during the Sterling Highway reconstruction effort. However, the current site does not adequately meet the goals of the Gateway Program.

The project will consist of three phases:

- 1) Interpretive Signage, benches and picnic areas.
- 2) Enhanced landscaping.
- 3) New restrooms and paving upgrades.

Improving the landscaping and comfort of Baycrest Overlook will inspire locals and visitors and enhance this phenomenal setting. Interpretive signage will tell the story of Homer and the surrounding communities and highlight the phenomenal natural resources of Kachemak Bay. Improvements to the overlook will spur economic development, welcoming everyone and encouraging commerce and trade in a community dedicated to unique and natural quality of life experiences.

**PLANS & PROGRESS:** The first Gateway Project was undertaken in 2009. A collaborative effort with the City of Homer Public Arts Committee, City of Homer Airport Manager, City of Homer Public Works Director, Alaska State Parks, National Park Service, Kachemak Research Reserve and U.S. Fish and Wildlife created a beautiful diorama highlighting the wealth of public and private resources available to everyone who comes to Kachemak Bay.

This group plus representatives from Alaska Department of Fish and Game, Alaska Department of Transportation, Pratt Museum, Homer Chamber of Commerce, Kachemak Bay Conservation Society and Homer Garden Club have come together to work on the Baycrest Overlook Gateway Project.

Six thousand dollars has been designated to the design phase from the State and the City of Homer. Design, development, and locations for welcome and interpretive signage should be completed by early spring 2013. Public Arts Committee meetings on the project are ongoing and a public comment meeting was held on September 18, 2012.

Cost: \$250,000 (Signage/benches: \$100,000; Landscaping: \$75,000; Restrooms and paving: \$75,000).

Schedule: 2013 Priority Level:



proposed new project





## Jo Johnson

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**From:** ANGIE NEWBY [angienewby@alaska.com]  
**Sent:** Thursday, September 27, 2012 7:17 AM  
**To:** Department Clerk  
**Subject:** PAC CIP request  
**Attachments:** ATT02603.htm; Baycrest Overlook Gateway Project.pdf

Jim, I am sorry to not be making this request in person but I know time is of the essence right now as you consider your recommendations for the City CIP list. The Public Arts Committee would appreciate your support for our request to be in the top 15 rating on the City CIP list.

I apologize for the late submission, but it is a direct result of a very productive Stakeholders meeting Monday where we have all committed to fast tracking the Baycrest Hill Gateway project. Under the planning leadership of Alaska State Parks, the members of the Public Art Committee, along with our stakeholder partners at State Parks, ADF&G, Kachemak Bay Research Reserve, National Park Service, Homer Chamber of Commerce, Kachemak Bay Conservation Society and the Homer Garden Club all view the Baycrest as our "entry jewel" welcoming residents home and inspiring new visitors to explore our Kachemak Bay communities.

Installation of new interpretive signage, new restrooms and revitalized landscaping will be not only visually and educationally rewarding but also be a new and key component reflecting our quality of life here in Homer and have a direct positive economic impact for our community.

We have segmented our overall request so that it will be very attractive to legislators looking for "smaller" projects to fund. it will also be a one time request so that it can move quickly and productively. Please add this to your priority list and feel free to call me with any questions regarding the project. we appreciate your support.

Angie Newby, CCIM, CRS  
Owner/Broker  
Homer Real Estate  
PO Box 997  
Homer, AK 99603  
907 235-5294 - Office  
907 235-5223 - Fax  
907 299-1514 - Cell  
[angienewby@alaska.com](mailto:angienewby@alaska.com)  
<http://www.homerrealestate.com>





Please bring your colored copies  
of the 2013-2018 Capital Improvement  
Plan & FY 2014 Legislative Requests  
to the meeting.

(from the September 10<sup>th</sup> packet)



Saturday, September 15, 2012

TO: Mayor Hornaday and Homer City Council Members:

My letter is to request that you place the Pratt Museum's "Building Project" **high** on the City of Homer's Capital Improvement Plan priority list. It is my understanding that this placement would raise the prominence of this community's museum project to such a degree that it could be considered for funding at the State Level. That would be a financial answer to a prayer!

As a former Director on the Homer Senior Center Board, I can't tell you how wonderful our Museum is for our Seniors (many who have been Pioneers in the building and integrity of Homer. The Museum Staff's inter-relations with our Seniors is amazing; between educational programs, exhibit talks and tours, giving our Seniors a true sense of worth and value, that their lives made a difference. How awesome is that!

I've seen first hand the wonder in the eyes of children as they see, touch, feel on school visits. I've seen so many families come together learning and sharing as they explore and experience the Museums offerings.

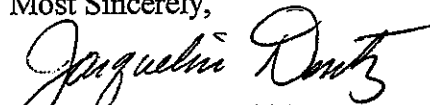
As a business owner in Homer, I recommend a trip to the Pratt to our visitors. In twelve (12) years I have received nothing but extremely positive feed back on how great the Museum is and how glad they were that they had the opportunity to spend time there.

I live in Homer, because of our State of the Art Hospital, our wonderful Senior Programs, our amazing Library, and as President of the Patrons of the Pratt Society, my Love of our Culture, Art and History blending within the walls of our museum, which is a constant inspiration and renewal for me!

The Pratt "building project" is very important to the City of Homer, because it will provide a State of the Art facility to serve our community and our visitors well into the future. The Pratt is an economic engine for the community and a source of informal learning for all people of all ages.

I so appreciate the devotion, time and energy all of you give as Mayor and Council Members. I Thank You also for being the driving force for our fabulous and unique Hamlet by the Sea! We truly are an awesome CITY!

Most Sincerely,

  
Jacqueline Dentz, Citizen

Cc: Diane Converse, Manager - Pratt Museum  
Michele Miller, Development Director - Pratt Museum  
Keren Kelley, Executive Director - Homer Senior Center

## Jo Johnson

---

**From:** michaelandpeggy@acsalaska.net  
**Sent:** Friday, September 14, 2012 4:38 PM  
**To:** Jo Johnson  
**Subject:** Pratt Museum Project

Dear Mayor Hornaday and City Council Members,

This message supports the placement of the Pratt Museum's building project near the top of the City of Homer's Capital Improvement Plan (CIP) priority list. As we, my wife and I, understand it, this placement would raise the prominence of this community's museum project to such a degree that it would be considered for funding at the state level.

This project is important to the City of Homer because it will provide a state of the art facility to serve our community and our visitors well into the future. This kind of facility will act as one of Homer's main attractions, bringing not only tourists, but others wishing to establish businesses in the kind of community that supports a facility such as the new Pratt Museum.

Over the last 10 years, my wife and I have not only supported the museum financially, but as volunteers, and I have served as a member of the board of directors and as an active and continuing committee member. We have every intent of continuing this level of support into the foreseeable future, but we need your help bringing the new museum project to completion.

Even before we formally moved to Homer, we were museum members. We appreciated the natural history displays, the displays that revealed the cultural history of our area, and though we are not major backers of the local art community, we have come to appreciate the contribution they make through the shows at the museum.

We do not know of another place in this part of Alaska that gives one the opportunity to experience this area's past and present in an environment that fosters learning and communion with the land, the sea, and the people the way the Pratt does.

The bottom line is that we need a new building. The existing one will cost more to bring up to today's standards than it will cost to build a new facility. A new facility will bring more interest from outside the community in terms of tourism and the business associated with it. A new facility will improve the museum's ability to continue to act as a repository for all of the historical and cultural items that it keeps for the community. To bring this to fruition, we need the help of the Council. We need you to place this project near, if not at the very top, of our city's CIP priority list.

Thank you for your attention in this matter.

Sincerely,

Michael and Peggy Craig

2373 Mount Augustine Dr. / PO Box 2317

Homer, AK 99603

## Jo Johnson

---

**From:** John Lancaster [john.chiefstew@gmail.com]  
**Sent:** Friday, September 14, 2012 1:43 PM  
**To:** Jo Johnson  
**Subject:** Michele Miller mmiller@prattmuseum.org

Dear Mayor Hornaday and City Council Members,

I am writing you this message in support of the Pratt Museum's building project being placed near the top of the City of Homer's Capital Improvement Plan (CIP) priority list. As I understand it, this placement would raise the prominence of our community's museum project to such a degree that it would be considered for funding at the state level.

This project is important to the City of Homer because it will provide a state of the art facility to serve our community and our visitors well into the future . Thank you very much for your sserious consideration of the important issue. I look forward to learning what decisions are made soon.

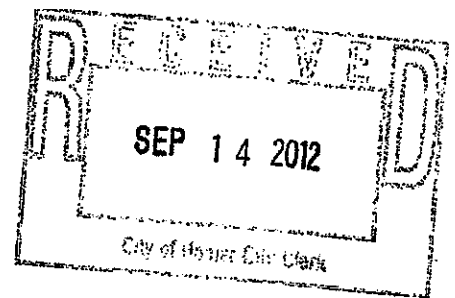
Sincerely,

John O Lancaster

PO Box 3251

Homer, AK. 99603

September 14, 2012



Dear Mayor Hornaday and City Council Members,

This message supports the placement of the Pratt Museum's building project near the top of the City of Homer's Capital Improvement Plan (CIP) priority list. As I understand it, this placement would raise the prominence of this community's museum project to such a degree that it would be considered for funding at the state level.

This project is important to the City of Homer because it will provide a state of the art facility to serve our community and our visitors well into the future.

I could enumerate all the reasons the Pratt is important to Homer, but you know all of them since you already support this wonderful endeavor to preserve the history of Homer and provide an educational setting for our students at all levels as well Alaska visitors and visitors from far and wide.

Years ago when I lived in Kenai, I came to the Pratt, marveled at this gem of a resource and never missed a chance to walk through its doors, gaze in wonder, smell the activity, watch this museum grow and think about the people and effort behind this great little museum. I'd walk through the garden and rejoice that native plants graced the grounds, cared for and loved for others to enjoy. I wondered about a city that cared this much for its history and spirit.

Now I live here, double rainbows over the spit and all, and my love and appreciation have grown as each year the council supports the Pratt. Bravo, to the all of you! Put it near the top of the CIP. It deserves this vote, and feel good about forward vision for the city.

Sincerely,  
Flo Larson



## Jo Johnson

---

**From:** Rebecca Boone [rboone@kpbsd.k12.ak.us]  
**Sent:** Thursday, September 13, 2012 5:17 PM  
**To:** Jo Johnson  
**Subject:** Pratt Museum building project

Dear Mayor & city Council Members,

I am so hoping that the Pratt Museum's building project receives top priority in Homer's Capital Improvement Plan. People of all ages and from all walks of life enjoy and learn from their exhibits and programs. I am proud that Homer has a museum that innovatively showcases our community's past and present.

Field trips to the Pratt are treasured by the students because the staff puts so much thought and planning into their programs. Just imagine how those programs will be enhanced with additional space for classes and collections.

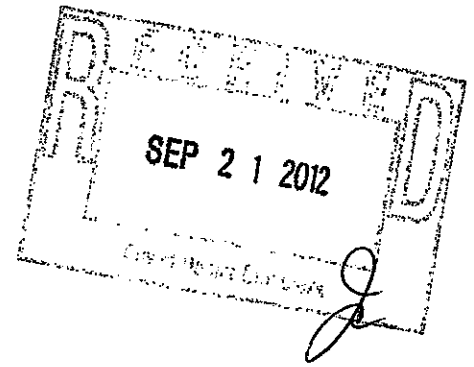
My children have visited the museum since they were of preschool age, and my daughter looked forward to bringing her own children to the museum as well. It's a welcoming place that incorporates many varied activities that engage the participants in learning. Many great things become old hat, but with additional funding, the museum can continue to remain an inspirational place for learning.

Sincerely,

Rebecca Boone

September 21, 2012

re; Letter of Support for the Pratt Museum



Dear Mayor Hornaday and City Council Members,

I am writing to support placement of the Pratt Museum's building project high on the City of Homer's Capital Improvement Plan (CIP) priority list during upcoming budget deliberations. Placement of the Museum project on the City's CIP is necessary for the project to be considered for State funding - an effort I wholeheartedly support.

As you know, the Pratt has long been an important resource for our community and fills a necessary role as keeper of our shared historical legacy. It supplements our educational system and is a crucible for discussion of important community issues.

The Pratt is also a vital component in our small economic engine. Financially important in its own right, the Pratt is also a key visitor / tourist destination. Equally, it is a lure to relocating families - most of whom aggressively compare communities on non-economic criteria - before deciding to move.

Simply put - the Pratt helps maintain Homer's reputation as a unique, shining example of what small Alaskan communities *could* be - but often are not.

However, the Pratt's ability to deliver first-class programming, maintain its collections and meet our community's needs is eroding. The existing facility served us well in the past, but cannot do so in the future. I strongly support Pratt reconstruction / redevelopment, high placement of the Pratt project on the City's CIP list, and hope you will as well.

Sincerely,

Philip W. Alderfer

cc: Michelle Miller, Pratt Museum

## Jo Johnson

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**From:** Miranda Weiss [mirandaweiss@gmail.com]  
**Sent:** Friday, September 21, 2012 8:33 AM  
**To:** Jo Johnson  
**Cc:** Michele Miller  
**Subject:** Letter to Mayor and Council Members for Monday's City Council mtg

Jo,

Can you please include the email below in the packets (or as a lay down) for the City Council meeting on Monday?

I'm sorry I missed the deadline to have it in hardcopy in the packets--I've been out of state and just returned home yesterday.

Thanks,  
Miranda Weiss

Dear Mr. Mayor and City Council Members,

I'm writing to urge you to include the Pratt Museum capital project on the CIP shortlist.

Having just finished the playground project (or nearly so!), I find it hard to imagine how we ever managed without such a great playground and wonderful gathering space in our community. As you may have seen, the playground is packed with kids and families during all hours of the day, even when the weather isn't so great.

I believe that once the new museum building is complete, we will feel the same way: how did we manage without this wonderful facility in our community? The new museum building will be another important gathering and learning space for families and other community members. It will be high quality exhibit space for work by artists of local, statewide, and national renown. It will be a beautiful and inspiring place for events--the kind of space that doesn't exist yet in our community. It will include a space for museum education programs, which currently happen with all of their noise and mess within the galleries themselves. It will provide space where the Pratt's collections can be examined by scholars from the local community and afar. And it will be a place where we can have confidence that our community history and treasures are being stored and cared for scrupulously--no leaking roof, no humidity problems, etc. etc.

Like the new playground, the new museum building will feel like a necessity for local residents once it's complete. But of course, the impact of these kinds of projects are felt well beyond the bounds of our community. Have you seen the recent *Washington Post* article that lauds both the new playground and the Pratt? The article is about traveling to Alaska with kids. When we create these kinds of resources in our community, we make them more attractive to travelers as well.

[August 3 2012 Washington Post "Vacationing in Alaska with Toddlers in Tow"](#)

Thanks for the work you do in supporting the Pratt--and other community improvement projects. Your enthusiasm for the playground buoyed us along over this previous year! I hope you'll keep the momentum going for community improvement by including the Pratt's project on the CIP shortlist.

Thank you,

Miranda Weiss  
[mirandaweiss@gmail.com](mailto:mirandaweiss@gmail.com)

## Jo Johnson

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**From:** Nancy Levinson [kenaicats@gci.net]  
**Sent:** Wednesday, September 19, 2012 1:10 PM  
**To:** Jo Johnson  
**Subject:** Pratt Museum CIP Placement

To Homer City Council Members,

I wish to add my voice to those supporting a high placement for the Pratt Museum on Homer's Capital Improvement Plan priority list in order for the Pratt to gain the necessary State support for its building project.

As a small community museum, the Pratt is well-known and respected within Alaska and Outside. As such, it is a great asset to Homer in attracting visitors and new residents as well as a valuable cultural, educational, and scientific resource for current citizens.

I have been a volunteer at the Pratt for over 20 years and have always been impressed by the time and energy (going far beyond paid hours) staff put into making the Pratt the best it can be in spite of severe limitations on space for work, storage, display and access. I myself have worked in everything from a storage closet to the lunch room (long gone), and the shop—none suitable for what I was doing.

The Pratt really does need a new building. Please help our Museum reach its goals.

Nancy Levinson





COMMENTS OF THE AUDIENCE  
COMMENTS OF THE CITY ATTORNEY  
COMMENTS OF THE CITY CLERK  
COMMENTS OF THE CITY MANAGER  
COMMENTS OF THE MAYOR  
COMMENTS OF THE CITY COUNCIL  
ADJOURNMENT

