

**INTERGOVERNMENTAL AGREEMENT FOR
WASTEWATER UTILITY FACILITIES AND SERVICE
BETWEEN THE CITIES OF HOMER AND KACHEMAK
JANUARY 1, 2014**

AGREEMENT dated as of January 1, 2014, by and between the City of Homer, an Alaska first class city ("Homer"), and the City of Kachemak, an Alaska second class city ("Kachemak").

RECITALS

WHEREAS, Homer owns, operates and maintains a public wastewater utility that provides wastewater collection, transportation and treatment service in Homer and Kachemak; and

WHEREAS, Kachemak desires that Homer continue to provide wastewater collection, transportation and treatment services to maintain the public health and safety of the greater Homer area; and

WHEREAS, Homer has the staff, equipment, and management capability to operate and maintain the wastewater collection, transportation and treatment system that provides wastewater utility service in Kachemak; and

WHEREAS, AS 29.35.010(13) authorizes each party to enter into an agreement with another city; and

WHEREAS, Homer currently provides wastewater collection and treatment services for Kachemak under an Intergovernmental Agreement adopted by the parties in 1988 that was one of the basis for the joint funding of the Homer wastewater treatment plant and the Kachemak wastewater collection system, which needs to be updated to reflect current conditions.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows.

AGREEMENT

ARTICLE 1 – DEFINITIONS

1.2 "Capital Cost" means a cost associated with the installation or acquisition of improvements, equipment and property including planning, engineering and design, construction, purchase of equipment and materials, supervision of construction, reasonable administration and interest on borrowed money during construction.

1.2 "Category 1 Improvement" means an improvement to the Utility wastewater collection and transportation system other than normal maintenance and replacement that benefits only customers in either Kachemak or Homer.

1.3 “Category 2 Improvement” means an improvement to the Utility wastewater collection and transportation system other than normal maintenance and replacement that benefits customers in both Kachemak and Homer, such as existing and future trunk sewers in the East End Road that provide service to customers in both communities.

1.4 “Category 3 Improvement” means an improvement to the Utility wastewater treatment facilities required by regulatory authorities.

1.5 “Category 4 Improvement” means an improvement to the Utility wastewater treatment facilities required to provide additional capacity.

1.6 “Utility” means the wastewater collection, transportation and treatment utility owned and operated by Homer.

ARTICLE II –UTILITY CAPITAL IMPROVEMENTS BENEFITING KACHEMAK CUSTOMERS

2.1 Kachemak shall pay Homer one hundred percent (100%) of the Capital Cost of all Category 1 Improvements in Kachemak.

2.2 Kachemak shall pay Homer part of the Capital Cost of Category 2 Improvements based on the zone connection fee method in Homer City Code 14.12.030 for the area in a benefited zone in Kachemak.

2.3 Kachemak shall pay Homer a percentage of the Capital Cost of Category 3 Improvements and Category 4 Improvements equal to the estimated percentage of the total wastewater treated by the Utility’s wastewater treatment facilities that is produced by customers in Kachemak in the year the improvement is made. Homer will determine the estimated percentage of total wastewater that is produced by customers in Kachemak in consultation with a committee representing Utility customers established under Section 4.3.

2.4 The payments that are required under this Article may be made either directly by Kachemak to Homer, or from funds made available to Homer on behalf of Kachemak in the form of matching grants or legislative appropriations from third party agencies, including the Environmental Protection Agency and the State of Alaska Department of Environmental Conservation.

2.5 Kachemak shall obtain and grant to Homer all easements and rights-of-way required to construct, operate, and maintain Utility improvements in Kachemak.

2.6 Kachemak shall coordinate all privately funded sewer improvements within Kachemak with Homer and the owner/developer.

ARTICLE III UTILITY SERVICE TO KACHEMAK CUSTOMERS

3.1 A customer in Kachemak may elect to be charged for Utility service on a metered basis. To be charged on a metered basis, a customer shall open a Utility customer account with Homer, lease a water meter, pay all associated service charges, and provide at its own expense

all labor and material required to install the water meter in a manner and location approved by the Homer Public Works Department.

3.2 Kachemak will collect user fees each month from all non-metered Utility customers in Kachemak, at the rate currently prescribed by Homer for Utility service to non-metered customers in Kachemak. Homer shall bill Kachemak in a single monthly bill for all non-metered Utility customers in Kachemak. Kachemak shall pay the amount billed for a month not later than the fifteenth day of the following month. The entire amount of the bill shall be payable regardless of whether Kachemak has collected all user fees due from non-metered Utility customers in Kachemak. Homer will determine the estimated average volume in gallons per month for non-metered customers in consultation with a committee representing Utility customers established under Section 4.3.

3.3 Kachemak shall adopt in its code of ordinances, the same rules and regulations governing the use of wastewater facilities that Homer adopts from time to time in Title 14 of the Homer City Code.

3.4 At Homer's request, Kachemak shall serve as a clearinghouse for all service connection requests for non-metered Utility customers in Kachemak, collecting from requesting customers and remitting to Homer all required fees.

ARTICLE IV – OBLIGATIONS OF HOMER

4.1 Homer shall provide capacity in any future improvements to Homer's Utility facilities sufficient to serve existing and reasonably projected future Kachemak customers.

4.2 Homer shall operate, maintain and repair Utility facilities in Kachemak and provide for the pumping of private septic tanks on properties in Kachemak connected to Utility facilities.

4.3 Homer shall review Utility rates for Kachemak City at the same time the City of Homer reviews their utility rates at the utility's expense, to establish fair and equitable rates for all Utility customers. In conducting the review Homer may obtain advice from an independent consultant having expertise in wastewater utility rate analysis, and/or a committee representing Utility customers, which shall have at least one member appointed by the City Council of Kachemak. Utility customers in Kachemak shall pay the same rate for Utility service as Utility customers in Homer that receive the same category of service.

4.4 Utility rates for service to customers in Kachemak shall be based on the following: (i) charges to a metered customer shall be equal to the per-gallon and other charges to the same category of metered customer in Homer; (ii) the fee for septic tank pumping shall be equal to the unit cost that Homer selects as the lowest responsive and responsible bid to provide the service under Homer's procurement code; (iii) the sewer usage fee to non-metered customers shall be based on an average volume in gallons per month multiplied by the per-gallon charge to the same category of non-metered customer in Homer, which per-gallon charge shall include Utility administration, operation, maintenance and depreciation expenses, but exclude the Capital cost of Utility improvements.

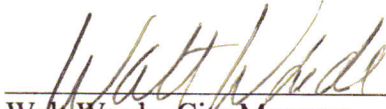
4.5 Homer shall provide the planning, engineering, design, construction, construction administration and construction surveillance for all Utility capital improvements, including those in Kachemak.

ARTICLE V – MISCELLANEOUS

5.1 This Agreement supersedes and replaces the Intergovernmental Agreement adopted by the parties in 1988.

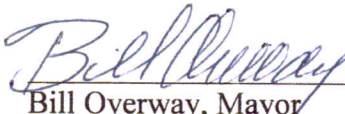
EXECUTED the 26 day of Nov 2014.

CITY OF HOMER



Walt Wrede, City Manager

CITY OF KACHEMAK



Bill Overway, Mayor