



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum

Agenda Changes/Supplemental Packet

TO: MAYOR ZAK AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, MMC, CITY CLERK
DATE: JULY 24, 2017
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

CONSENT AGENDA

Ordinance 17-30, An Ordinance of the City Council of Homer Alaska, Approving a Contract with Homer Real Estate for Real Estate Services to Market and Sell Lot 1 Harry Feyer Subdivision, Section 14, Township 6 South, Range 13 West, Seward Meridian, KPB Parcel No. 179-110-05 And Authorizing the City Manager to Adjust the Sales Price, the Balance of the Assessments, and the Realtor's Commission to Facilitate a Sale.

Memorandum 17-110 from City Manager as backup.

Page 3

Resolution 17-072, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Renewal of the Contract for Special Services for FY2018 with the Alaska Department of Public Safety in the Amount of \$36,000 and Authorizing the City Manager to Execute the Appropriate Documents.

Copy of Special Services Contract as backup.

Page 13

ORDINANCES

Clerk's note: Item A. Ordinance 17-31 to pay off the library loan is mis-numbered as 17-30 in the packet. The Ordinance number has been corrected to 17-31 by the City Clerk using Revisor Authority per HCC 1.083060(c)(1).

Ordinance 17-31(S), An Ordinance of the City Council of Homer, Alaska, Appropriating Funds in the Amount of \$1,121,591 from the Homer Permanent Fund to Pay Off the Library Construction Loan **and Designating the Remainder of the Fund Balance of the Permanent Fund for Construction of the New Police Station. Smith.**

Page 15

Written public comment.

Page 17

Memorandum from City Attorney Klinkner as backup.

Page 19

RESOLUTIONS

Resolution 17-073(S), A Resolution of the Homer City Council Awarding the Contract for the Construction of the Soundview Sidewalk and Pedestrian Safety Improvement Project to the Firm of East Road Services, Inc. of Homer, Alaska, in the Amount of \$442,083 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Page 23

Memorandum 17-109 from Public Works Director as backup.

Page 25

Resolution 17-074(S), A Resolution of the City Council of Homer, Alaska, Authorizing Stantec Architecture to Prepare 10% Concept Design Including Preliminary Cost Estimates for Three Options for Construction of a New Police Station and Scheduling a Facilitated Worksession with Council.

Page 27

Written public comment

Page 31



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum 17-110

TO: MAYOR ZAK & HOMER CITY COUNCIL

FROM: KATIE KOESTER, CITY MANAGER

DATE: JULY 19, 2017

SUBJECT: THE SALE OF LOT 1 HARRY FEYER SUBDIVISION

In 2015, 2016, and again in 2017, the Homer City Council has resolved to sell Lot 1 Harry Feyer Subdivision.

The lot is a triangular-shaped sliver that fronts Kachemak Drive with development constraints that includes a section line easement, and water and sewer assessments totaling \$34,140.80. The 2017 assessed value of the property is approximately value of the assessments, \$34,200.

In March 2017, the City posted an Invitation to Bid noting the developments constraints and the assessment balances of \$34,140.80. The City received one bid, for one dollar and Resolution 17-034 authorized the sale. After two-months of countless phone calls to city staff the prospective buyer chose not to close unless the City reduced the balance of the assessments by approximately \$7,000.00. Based on the Invitation to Bid and Resolution 17-034 we could not proceed without reposting the Invitation to Bid.

To make the best use of staff time, I am recommending that the City use a real estate professional to market the property. Resolution 16-053 affirmed a three-year contract with Homer Real Estate based on a 10% commission rate. Since the value of this lot is approximately the value of the assessments, I am recommending that the 10% commission be based on the combined sales price and the value of the assessments. A real estate professional can contact adjacent property owners (who have the most to gain by purchasing this parcel), help to facilitate a replat of the parcel with the three adjacent property owners, and negotiate a sale that takes into consideration access issues and the assessments.

To be efficient, some flexibility is needed in regards to the sales price and the balance of the assessments. This resolution states that if the sales price, including the balance of the assessments, lowers by more than \$5,000 from previously accepted purchase agreements, (\$34, 141.80 = assessments + \$1 bid) the City Council will approve the final terms of the sale.

Att: Aerial image
2012 survey
Invitation to Bid date March 17, 2017
Resolution 17-034



Lot 1 Harry Feyer
Subdivision,
KPB 17911005

Kachemak Drive

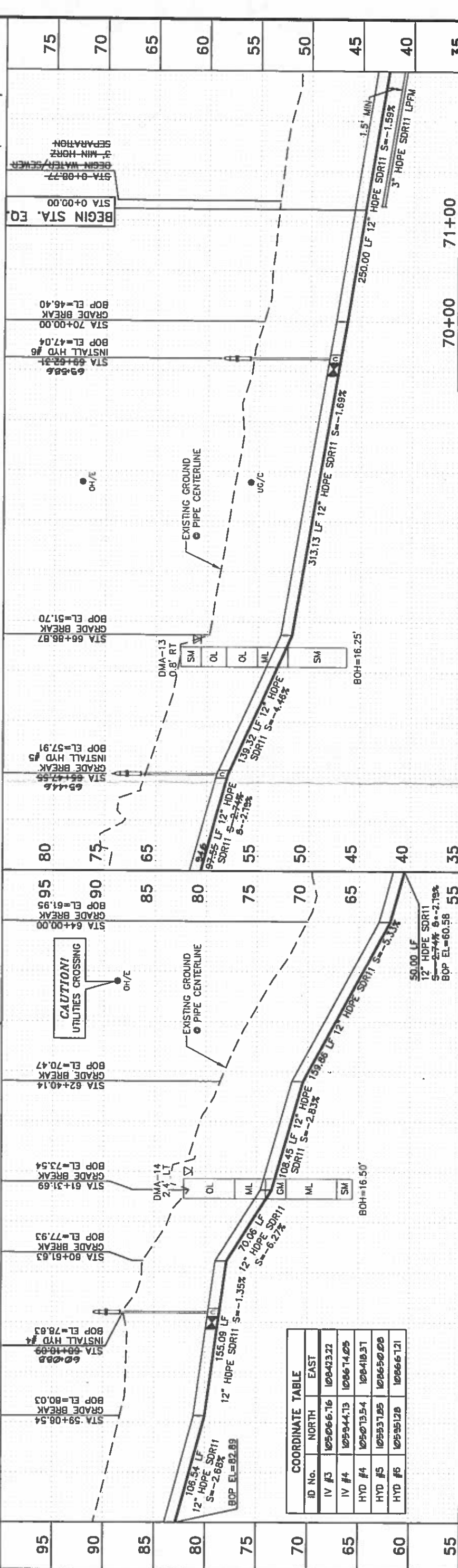
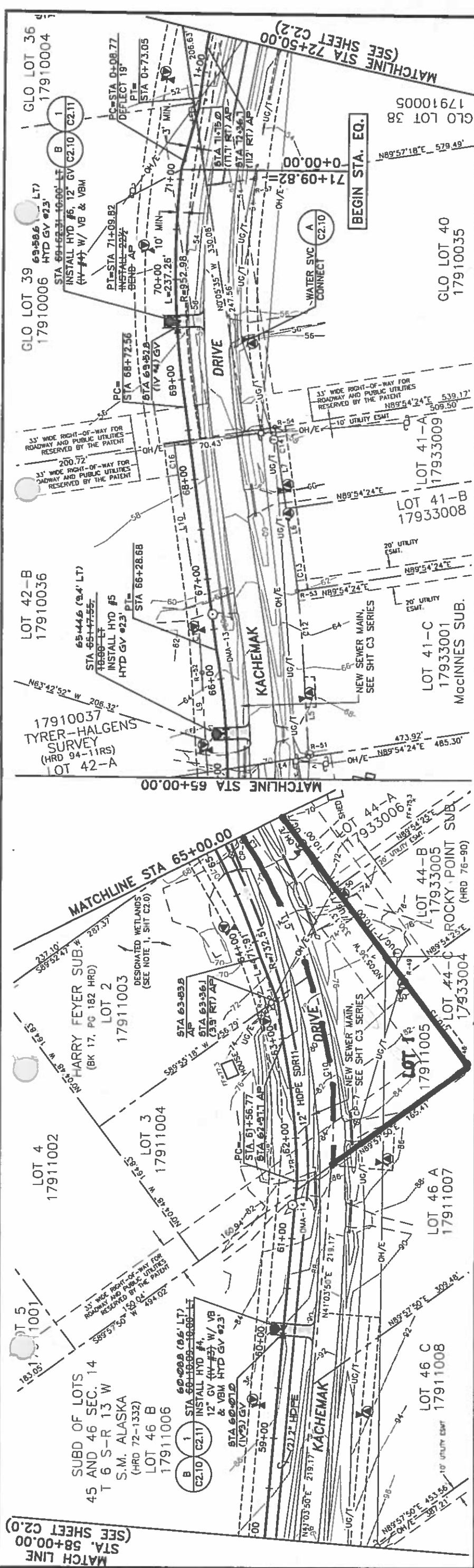


Fri Jul 21 2017 11:43:40 AM



DISCLAIMER: The data displayed herein is neither a legally recorded map nor survey and is provided for informational purposes only. The user assumes all responsibility for the accuracy of any data displayed herein. Original source documents should be consulted for accuracy verification.

KPB Parcel Viewer



NO.	DATE	BY	DESCRIPTION		
1	8/19/11	FJV	HORIZ ALIGN MODIFICATION		
2	6/20/12	FJV	AS CONSTRUCTED		

58+00	59+00	60+00	61+00	62+00	63+00	64+00	65+00	66+00	67+00	68+00	69+00	70+00	71+00	72+00
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REVISIONS

NO. DATE BY DESCRIPTION

1 8/19/11 FJV HORIZ ALIGN MODIFICATION

2 6/20/12 FJV AS CONSTRUCTED

SCALE: SHOWN

DESIGNED: SW

CHECKED: FJV

DRAWN: SJW

DATE: 08/19/11

SHEET 11 OF 38

COORDINATE TABLE

ID No.	NORTH	EAST
IV #3	105066.16	108423.22
IV #4	105944.73	108674.05
HYD #4	105073.54	108419.37
HYD #5	105937.25	108650.08
HYD #6	105951.28	108666.121

RECORD DRAWING

CITY OF HOMER - KACHEMAK DRIVE

PHASE II WATER AND SEWER IMPROVEMENTS

WATER LINE PLAN & PROFILE

STA 58+00.00 TO STA 72+50.00

PROJECT NO. 27088

PHONE (907) 563-0013 FAX (907) 563-6713

Bristol

ENVIRONMENTAL & ENGINEERING SERVICES CORPORATION

CITY OF HOMER, ALASKA

PUBLIC WORKS DEPARTMENT

3575 HEATH STREET

HOMER, ALASKA 99603

PHONE: (907) 235-3170

FAX: (907) 235-3145

45 AND 46 SEC. 14

T 6 S-R 13 W

S.M. ALASKA

(HRD 72-1332)

LOT 46 B

LOT 46 C

17911006

CITY OF ALASKA

49th DISTRICT

REGISTERED PROFESSIONAL ENGINEER

FRANCIS J. FRANKS

NO. 179512

LOT 45

17911001

LOT 4

17911002

LOT 3

17911004

LOT 2

17911003

LOT 1

17911005

LOT 46 A

17911007

LOT 46 B

17911008

LOT 46 C

17911009

LOT 44-A

17933006

LOT 44-B

17933005

LOT 44-C

17933004

LOT 41-A

17933009

LOT 41-B

17933008

LOT 41-C

17933001

MACINNIS SUB.

STATIONING

58+00 59+00 60+00 61+00 62+00 63+00 64+00 65+00 66+00 67+00 68+00 69+00 70+00 71+00 72+00

**INVITATION TO BID
CITY OF HOMER
TO PURCHASE CITY REAL PROPERTY**

MAR 16 2017

Sealed bids for the purchase of real property will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **2:00 p.m. Friday, March 31, 2017**, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. If no acceptable bids are received by March 31, 2017 the City may extend the time period. **All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive.** Plan holder registration forms and bid specifications are available online at <http://www.cityofhomer-ak.gov/rfps>

The City of Homer, Alaska, is hereby advertising for sealed bids to purchase the following real property:

Lot 1 Harry Feyer Subdivision on Kachemak Drive, Section 14, Township 6 South, Range 13 West, Seward Meridian (KPB Parcel No. 17911005).

This lot is 0.39 acres, 16,988 square feet and in the Rural Residential Zoning District. The purchaser to assume the water and sewer assessments. The gas assessment is paid.

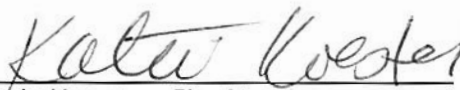
Assessments	Balance	Annual Payment	# of years remaining
Water	\$ 17,642.22	\$ 1,379.27	16.5 yrs
Sewer	\$ 16,498.58	\$ 1,290.64	16.5 yrs
Natural gas	0	0	0

From the Homer Land Allocation Plan: This lot "is a sliver of land left over after the dedication of Kachemak Drive. Currently, two driveways cross the property to reach the homes to the west. The majority of this lot has an access easement across it, so only a portion of the land could be used for a structure. Further, Kachemak Drive is only 60 feet at this point instead of the usual 100 feet."

An electronic copy of the bid package is available on the City's website <http://www.cityofhomer-ak.gov/rfps> or you may purchase hard copies at the Office of the City Clerk for a fee of \$10.00. If you have any questions on the contents of the bid package, please contact the City Clerk at (907) 235-3130.

The City reserves the absolute right to reject any or all proposals, may waive any or all informalities or irregularities, and may permit the correction of errors or omissions in responses.

Dated this 17th day of March, 2017


Katie Koester, City Manager

Publish: City website

NOTES

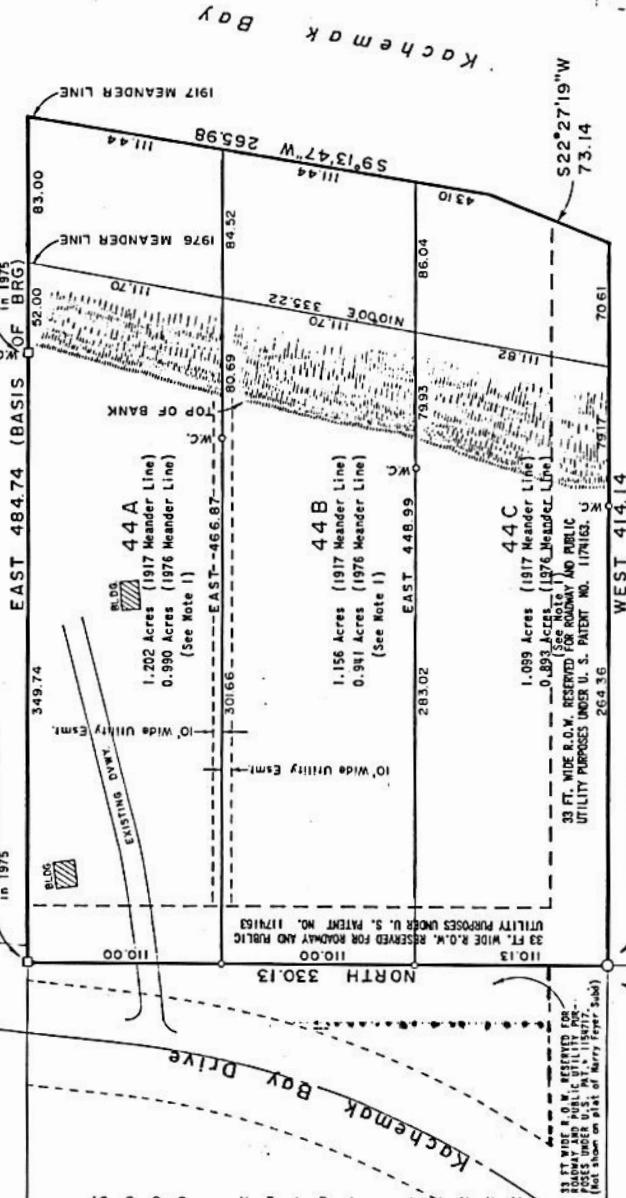
- The acreage for all lots shown on this plat includes the adjacent R.O.W. Emt. area.
- Wastewater disposal systems shall comply with applicable laws and regulations pertaining to the installation, construction and operation of said system.
- 5/8" X 30" Iron Rods set at all lot corners this survey, unless indicated otherwise

M A C I N N E S S U B D .

41 C

Fed. 911 X 211 Sub E Tract set by Ken Branch, R.L.S. in 1975

Fed. 911 X 211 Sub E Tract set by Ken Branch, R.L.S. in 1975



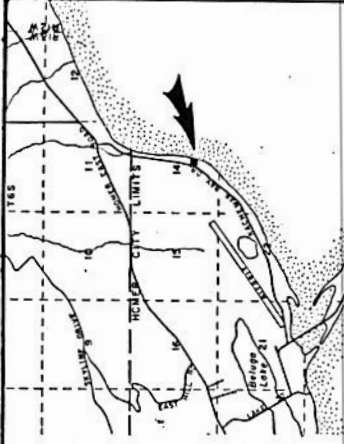
33 FT. WIDE R.O.W. RESERVED FOR HIGHWAY AND PUBLIC UTILITY PURPOSES UNDER U. S. PATENT NO. 179163 (See Note 1)

30 FT. WIDE R.O.W. RESERVED FOR HIGHWAY AND PUBLIC UTILITY PURPOSES UNDER U. S. PATENT NO. 179163 (See Note 1)

33 FT. WIDE R.O.W. RESERVED FOR HIGHWAY AND PUBLIC UTILITY PURPOSES UNDER U. S. PATENT NO. 179163 (See Note 1)

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33 FT. WIDE R.O.W. RESERVED FOR HIGHWAY AND PUBLIC UTILITY PURPOSES UNDER U. S. PATENT NO. 179163 (See Note 1)



1976 MEANDER LINE

1917 MEANDER LINE

KACHEMAK BAY

1" = 50'

LEGEND

—○— Indicates 5/8" X 30" Iron Rod set this survey.

1" = 1 MILE

VICINITY MAP

76-90

76-90

45 A

45 A

45 A

45 A

45 A

45 A

45 A

45 A

45 A

45 A

45 A

45 A

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT THIS PLAT REPRESENTS A SURVEY MADE UNDER MY DIRECT SUPERVISION AND THAT MONUMENTS ACTUALLY EXIST AS LOCATED AND THAT DIMENSIONAL AND OTHER DETAILS ARE CORRECT.

Date 10-19-76
 Jan Branch, R.L.S., No. 1301 S

KENAI PENINSULA BOROUGH

I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT HAS BEEN FOUND TO COMPLY WITH THE REGULATIONS OF THE KENAI PENINSULA BOROUGH AND THAT SAID PLAT HAS BEEN APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION.

Date October 11 1976
 Borough Planning Director

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND DEDICATE ALL STREETS, EASEMENTS AND OTHER OPEN SPACES TO PUBLIC USE.

Date 10-19-76
 Janice Peckham, General Del. Homer, Ak.

Date 10-19-76
 Pauline M. Casey, 3145 S. Idalia Aurora, Colo. (Deed Of Trust, Beneficiary)

NOTARY'S ACKNOWLEDGEMENT

CERTIFICATE OF OWNERSHIP SUBSCRIBED AND SWORN TO BEFORE ME THIS 19 DAY OF October 1976.

W. G. ...
 Notary in and for the STATE OF ALASKA
 My Commission Expires Dec. 1976

ROCKY POINT SUBDIVISION

LOCATED WITHIN THE CITY OF HOMER

A Subdivision of BLM Lot 44, Section 14, T6S, R13W, S.M., Homer Recording Dist., Alaska, Into Lots 44A, 44B & 44C.

Containing: 3.457 ACRES (1917 Meander Line)
 2.824 ACRES (1976 Meander Line)

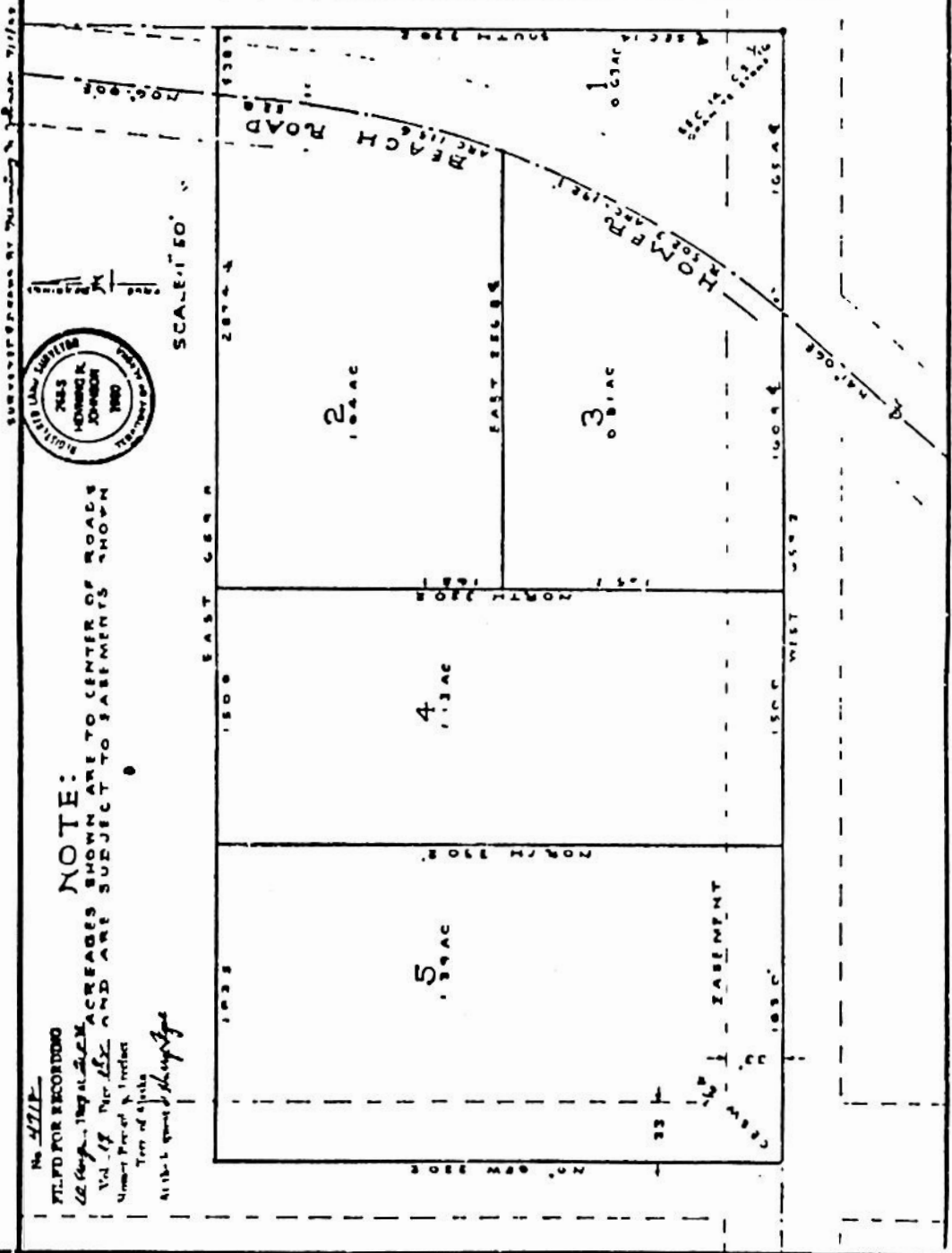
PREPARED BY
 JANICE NEEDHAM
 GENERAL DELIVERY
 HOMER, ALASKA

DATE
 KEN BRANCH, R.L.S. 9/20/76
 SCALE
 HOMER, ALASKA 1" = 50'



See the 1976 Rocky Point Subdivision plat for a clearer illustration of Lot 1 Harry Feyer Sub.

HARRY FEYER SUBDIVISION LOCATED IN LOT 43 SEC. 14, T6S-R13W, S.M. ALASKA



**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 17-034

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA APPROVING THE SALE OF LOT 1 HARRY FEYER SUBDIVISION, SECTION 14, TOWNSHIP 6 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, KPB PARCEL NO. 179-110-05 TO THE RESPONSIBLE BIDDER FOR ONE DOLLAR AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS TO FINALIZE THE SALE.

WHEREAS, HCC 18.12.020 provides that real property that is no longer required for public purpose may be sold to the highest responsible bidder at public auction or by sealed bids; and

WHEREAS, City Council determined that a public purpose did not exist for Lot 1 Harry Feyer Subdivision and designated the property for sale in the City's 2015 and 2016 Land Allocation Plans adopted by Resolution 15- 030(A) on April 27, 2015 and by Resolution 16-043 on April 25, 2016; and

WHEREAS, The Land Allocation Plan clarifies that Lot 1 Harry Feyer Subdivision is a small triangular sliver of land with a access easement(s) crossing the parcel, leaving only a portion of the land developable; and

WHEREAS, Ordinance 16-17(S) Section 5, further authorizes the sale of Lot 1 Harry Feyer Subdivision for less than fair market value in consideration of its development constraints and large water and sewer assessments. In addition, Section 5 declares that it is in the best interest of the City to convey the property for nominal consideration to an adjacent property owners; and

WHEREAS, When combined, the water and sewer assessments of \$34,141.80 exceed the assessed value of \$30,900.00; and

WHEREAS, The property was offered through sealed bids and advertised on the City of Homer website from March 17, 2017 through March 31, 2017, and one bid was received for one dollar.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves the sale to the responsible bidder, an adjacent property owner, as

Jan Needham for Lot 1 Harry Feyer Subdivision, Section 14, Township 6 South, Range 13 West, Seward Meridian, KPB Parcel

45 No. 179-110-05.

46

47 BE IT FURTHER RESOLVED that the Homer City Council authorizes the City Manager to
48 execute the necessary documents to complete the sale with the bidder.

49

50

51 PASSED AND ADOPTED by the Homer City Council this 10th day of April, 2017.

52

53

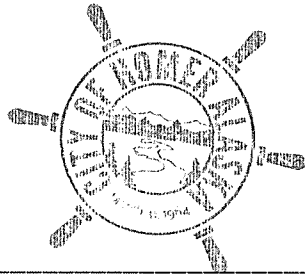
CITY OF HOMER

54

55

56

57



Bryan Zak
BRYAN ZAK, MAYOR

58 ATTEST:

59

60

61

Jo Johnson
JO JOHNSON, MMC, CITY CLERK

62

63

64 Fiscal Note: Water and sewer assessments of \$34,141.80

**ALASKA DEPARTMENT OF PUBLIC SAFETY
CONTRACT FOR SPECIAL SERVICES**

July 1, 2017 to June 30, 2018

The parties. The parties to this contract are the Alaska Department of Public Safety (hereinafter referred to as the "Department") and the City of Homer (hereinafter referred to as the "City").

Sole Agreement. The City and the Department undertake this contract under the terms set forth below. This contract is the sole agreement between the parties relating to special services, and there are no other agreements, express or implied.

Effective Date/Termination/Amendments. This contract is effective July 1, 2017 and continues in force until June 30, 2018; except that it may be terminated by either party upon thirty (30) days written notification to the other. This agreement may be amended by written agreement of the parties.

1. The Department will pay the City for services provided in accordance with, and under the terms of, this contract. Payments will be made quarterly in the amount of \$9,000.00, for a total of \$36,000.00. Payment for services provided under this contract will be made in four annual payments in the amount of and covering the periods indicated below:

Period Covered	Amount	Payment Process Can Be Initiated
07/01/17 – 09/30/17	\$9,000.00	10/01/17
10/01/17 – 12/31/17	\$9,000.00	01/01/18
01/01/18 – 03/31/18	\$9,000.00	04/01/18
04/01/18 – 06/30/18	\$9,000.00	06/01/18
12 Month Total	\$36,000.00	

2. The City will provide and perform the services specified in this contract to the satisfaction of the Department, in support of Department personnel and operations.

SPECIFIC PROVISIONS

3. The City will:
 - a. permit limited but continued access to and utilization of professional facilities and equipment instrumental to the overall efficient and effective operation of law enforcement and emergency response component (i.e. squad room, temporary work desk, kitchen, weight and exercise room, locker room, interview rooms, evidence processing room and equipment, Datamaster, video and training material, and other general building facilities).

**ALASKA DEPARTMENT OF PUBLIC SAFETY
CONTRACT FOR SPECIAL SERVICES**

July 1, 2017 to June 30, 2018

- b. provide continued transport and security of prisoners from the Homer Jail to Homer Court for hearings and arraignments; persons remanded to custody by the Court from Homer Court to Homer Jail; persons in custody prior to arraignment; and persons committed under Title 47 to the South Peninsula Hospital in Homer.

IN WITNESS OF THIS AGREEMENT, the undersigned duly authorized officers have subscribed their names on behalf of the Department and the City respectively.

For the City of Homer:

For the Department of Public Safety:

By _____

By _____

Printed Name _____

Printed Name _____

Official Title _____

Official Title _____

Date _____

Date _____

1 CITY OF HOMER
2 HOMER, ALASKA

3 Smith

4 ORDINANCE 17-31(S)

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 APPROPRIATING FUNDS IN THE AMOUNT OF \$1,121,591 FROM
8 THE HOMER PERMANENT FUND TO PAY OFF THE LIBRARY
9 CONSTRUCTION LOAN **AND DESIGNATING THE REMAINDER OF**
10 **THE FUND BALANCE OF THE PERMANENT FUND FOR**
11 **CONSTRUCTION OF THE NEW POLICE STATION.**
12

13 WHEREAS, The Homer Permanent Fund was established by Ordinance 05-14(S) for the
14 purpose of receiving monies from the distribution of the Exxon Valdez Oil Spill settlement and
15 other “wind-fall” funds, and serving as an endowment whose income would be used to support
16 City government, and whose principal could be loaned to support City capital projects; and
17

18 WHEREAS, The City pays \$99,824 annually in debt service on a USDA loan from the
19 construction of the Homer Public Library; and
20

21 WHEREAS, A portion of the Homer Permanent Fund could serve their purpose better if
22 they were transferred to pay off debt; and
23

24 WHEREAS, The City of Homer can save \$464,314 in avoided interest charges over the
25 next 17 years by paying the United States Department of Agricultural Rural Development Loan
26 for library construction off early; and
27

28 WHEREAS, Reducing debt obligation is a valid goal of the Permanent Fund and ~~in the~~
29 ~~future the Council could consider spending the remainder of the capital dollars for the new~~
30 ~~police station will allow the City of Homer to borrow less money to fund the project; and~~
31 **designating the remaining fund balance to construction of a new police station will**
32 **reduce the amount the City will have to borrow for the project; and**
33

34 **WHEREAS, Keeping the remaining designated funds in the Permanent Fund until**
35 **such time as construction commences allows the potential for increased relief to the**
36 **project budget through growth of the Fund.**
37

38 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
39

40 Section 1. The City Council hereby appropriates \$1,121,591 from the Homer Permanent
41 Fund pursuant HCC 3.12.060 to pay off in full the United States Department of Agricultural
42 Rural Development Loan, (Library Construction Loan.)

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

43 **Section 2. The City Council hereby states its intent that the remaining balance of**
44 **the Permanent Fund, market value of \$1,182,210 as of July 17, 2017, for a new police**
45 **station. These dollars will remain in the Permanent Fund and be invested according to**
46 **Homer City Code Chapter 3.12 until the funds are needed for the actual construction of a**
47 **new police station, subject to future appropriation.**

48
49 Section 3. This Ordinance is a budget amendment, temporary in nature and shall not
50 be codified **to the extent this ordinance is inconsistent with any of the provisions in Homer**
51 **City Code 3.12, this ordinance governs.**

52
53 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ____ day of _____, 2017.

54
55 CITY OF HOMER

56
57
58 _____
59 BRYAN ZAK, MAYOR

60 ATTEST:

61
62
63 _____
64 MELISSA JACOBSEN, MMC, CITY CLERK

65
66 YES:

67 NO:

68 ABSTAIN:

69 ABSENT:

70
71
72 First Reading:

73 Public Hearing:

74 Second Reading:

75 Effective Date:

76
77 Reviewed and approved as to form:

78
79
80 _____
81 Mary K. Koester, City Manager

80 _____
81 Holly C. Wells, City Attorney

82
83 Date: _____

Date: _____

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

From: Mary Griswold
To: [Bryan Zak](#); [Catriona Reynolds](#); [David Lewis](#); [Donna Aderhold](#); [Heath Smith](#); [Shelly Erickson](#); [Tom Stroozas](#); [Katie Koester](#); [Department Clerk](#)
Subject: Lewis Ord 17xxx to pay off library loan
Date: Monday, July 17, 2017 11:02:17 AM

Lewis Ordinance 17 xxx to pay off library loan

I fully support using Permanent Fund proceeds to pay off the library loan even though we will save \$464,314 instead of the original projection of \$1M. This is a significant savings and a wise use of the windfall. I also support using the remainder of the Permanent Fund for the future police station, whether the Fund is dissolved now or when the police station is ready for construction.

The windfall we received is not large enough to grow to a productive endowment in a reasonable timeframe. It is a perfect windfall to pay for critical city infrastructure.



Virus-free. www.avast.com

MEMORANDUM

TO: Mayor and Council Members
City of Homer

CC: Walt Wrede, City Manager
Jo Johnson, City Clerk
City of Homer

FROM: Tom Klinkner

DATE: November 11, 2009

FILE NO. 506,742.1

RE: Binding Effect of Homer Permanent Fund Ordinance

I have been asked whether the City Council is precluded from taking legislative action contrary to the provisions of HCC Chapter 3.12 that require deposits to the Homer Permanent Fund (“Permanent Fund”), or restrict expenditures from the Permanent Fund. I conclude that the City Council is not so precluded, but instead at any time may enact an ordinance either (i) amending or repealing HCC Chapter 3.12, or (ii) appropriating funds without complying with the provisions of HCC Chapter 3.12.

HCC Chapter 3.12 requires that 95% of “monies from the distribution of the Exxon Valdez settlement,” and certain “wind-fall monies” be placed in the Permanent Fund.¹ “Wind-fall monies” include “monies from any source other than standard budgeted operating revenues and not allocated to any specific purpose,” but do not include “bond proceeds, grant funds allocated to a specified purpose, or the proceeds of non-Exxon Valdez litigation when such proceeds are recovered as damages to compensate or reimburse the city for expenditures previously made by the city.”²

60% of each contribution made to the Permanent Fund is allocated to an income sub-fund, and 40% is allocated to a growth sub-fund.³ The income from the income sub-fund may be expended for general governmental purposes, and its principal may be used for loans for City capital projects.⁴ The income from the growth sub-fund may not be expended, but is added to the principal of the growth sub-fund and reinvested.⁵ Except for loans from the principal of the

¹ HCC 3.12.020.

² HCC 3.12.020(b).

³ HCC 3.12.030.

⁴ HCC 3.12.060(b); HCC 3.12.070.

⁵ HCC 3.12.060(c).

income sub-fund for City capital projects, the principal of both the income sub-fund and the growth sub-fund may not be distributed or spent without the authorization of 60% of city voters at a regular or special election.⁶

The City may “exercise any power not otherwise prohibited by law.”⁷ The legislative power of the City is vested in the Council.⁸ It is a well established rule of municipal law that a city council may not limit the legislative power of future councils by prohibiting the repeal of certain ordinances:

The power of repeal extends, generally speaking, to all ordinances. Indeed, a municipal corporation cannot abridge its own legislative powers by the passage of irrevocable ordinances. The members of its legislative body are trustees for the public, and the nature and limited tenure of their office impress the ordinances enacted by them with liability to change. One council may not by an ordinance bind itself or its successors so as to prevent free legislation in matters of municipal government. Accordingly, in the absence of a valid provision to the contrary, a municipal council or assembly, having the power to legislate on, or exercise discretionary or regulatory authority over, any given subject, may exercise that power at will by enacting or repealing an ordinance in relation to that subject.⁹

Thus, the Council’s could not “abridge its own legislative power” by enacting the provisions of HCC Chapter 3.12 that require the placement of certain monies in the Permanent Fund, or that restrict the expenditure of monies in the Permanent Fund.

The Council enacted HCC Chapter 3.12 by ordinance. Just as the Council was authorized to adopt HCC Chapter 3.12, the Council may amend or repeal it at any time. Alaska case law and general principles of municipal law establish the authority of the Council to repeal an ordinance:

Specific grant of power to repeal ordinances, however, ordinarily is not necessary since it is the general rule that power to enact ordinances implies power, unless otherwise provided in the grant, to repeal them. It is patently obvious that the effectiveness of any legislative body would be entirely destroyed if the power to amend or repeal its legislative acts were taken away from it.¹⁰

⁶ HCC 3.12.080(b).

⁷ AS 29.35.250(a).

⁸ AS 29.20.050(a).

⁹ 6 McQuillin, *The Law of Municipal Corporations* § 21.10, at 374 (rev.3d ed. 2007) (footnotes omitted).

¹⁰ *City of St. Mary’s v. St. Mary’s Native Corporation* 9 P.3d 1002, 1007 (Alaska 2000), quoting 6 McQuillin, *The Law of Municipal Corporations* § 21.10, at 261 (rev.3d ed.1998).

In addition to amending or repealing HCC Chapter 3.12, the Council may abrogate its restrictions simply by appropriating money from the Permanent Fund for any City purpose. The Council makes appropriations by ordinance,¹¹ and the subsequent legislative act of such an appropriation would release the City from the prior legislative constraints of HCC Chapter 3.12.¹²

Please let me know whether we may be of further assistance in this matter.

¹¹ AS 29.25.010(a)(4).

¹² *Miller v. Matanuska-Susitna Borough*, 54 P.3d 285, 292 (Alaska 2002).

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Public Works Director

RESOLUTION 17-073(S)

A RESOLUTION OF THE HOMER CITY COUNCIL AWARDING THE CONTRACT FOR THE CONSTRUCTION OF THE SOUNDVIEW SIDEWALK AND PEDESTRIAN SAFETY IMPROVEMENT PROJECT TO THE FIRM OF EAST ROAD SERVICES. INC. OF HOMER, ALASKA IN THE AMOUNT OF \$442,083 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Competitive bids were solicited for the Soundview Sidewalk and Pedestrian Safety Improvement Project in conformance with The City of Homer's Procurement Policy; and

WHEREAS, Two bids were received on July 20, 2017 (see Memorandum 17-109); and

WHEREAS, The low bid from East Road Services, Inc. of Homer, Alaska was found to be responsive; and

WHEREAS, The bid is within the project budget approved by the City Council; and

WHEREAS, This award is not final until written notification is received by the firm from the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, awards the contract for the Frisbee Court Paving Project to the firm of East Road Services, Inc. of Homer, Alaska, in the amount of \$442,083 and authorizes the City Manager to execute the appropriate documents necessary to complete this project.

PASSED AND ADOPTED by the Homer City Council this 24th day of July, 2017.

CITY OF HOMER

BRIAN ZAK, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal Note: HART fund (Project #151-0003)



MEMORANDUM 17-109

To: Katie Koester, City Manager
From: Carey Meyer, PW Director
Date: July 20, 2017
Subject: **Award of Construction Contract
Soundview Sidewalk and Pedestrian Safety Improvements**

The Homer City Council (Ordinance 17-08) accepted and appropriated an Alaska Department of Transportation and Public Facilities ATAP Grant in the amount of \$520,125.30; and appropriated the required match of \$208,049.70 from the HART Fund, for the purpose of completing the Safe Route To School improvements on Soundview Avenue. These improvements include construction of a concrete curb/gutter and asphalt sidewalk between Mullikin and the driveway entrance to the West Homer Elementary School, signage, crosswalks, radar warning signs and other traffic calming measures.

On July 20, 2017, bids were received for the Soundview Sidewalk and Pedestrian Safety Improvement Project. This work was advertised in the Homer News on June 22 and 29 and in the Peninsula Clarion on July 2, 2017. Procurement was completed in accordance with the City's procurement regulations and the ATAP Grant conditions.

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

Responsive Bidder's Names	Amount
Clark Management	\$ 471,343.50
East Road Services, Inc.	\$ 442,083.00
Engineer's Estimate	\$ 503,318.00

The City's 5% local bidder's preference does not apply to this award (grant includes federal dollars). The low bidder is local.

The low bid is within the project budget approved by the City Council. Public Works expects the work to commence this summer and be completed the end of September.

Recommendation:

City Council pass a resolution awarding the construction contract for the Soundview Sidewalk and Pedestrian Safety Improvement Project in the amount of \$442,083 to East Road Services, Inc. of

Homer, Alaska and authorizing the authorize the City Manager to execute all appropriate documents necessary to complete this project.

Fiscal Note – Soundview Sidewalk and Pedestrian Safety Improvement Project #151-0003

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3
4 Aderhold

5 **RESOLUTION 17-074(S)**
6

7 A RESOLUTION OF THE HOMER CITY COUNCIL AUTHORIZING
8 STANTEC ARCITECTURE TO PREPARE 10% CONCEPTUAL DESIGN
9 INCLUDING PRELIMINARY COST ESTIMATES FOR THREE OPTIONS
10 FOR CONSTRUCTION OF A NEW POLICE STATION AND
11 SCHEDULING A FACILITED WORKSESSION WITH COUCNIL
12

13 WHEREAS, Council created a Public Safety Building Review Committee (PSBRC) in
14 January 2014; and
15

16 WHEREAS, The PSBRC selected a property at the corner of the Sterling Highway and
17 Pioneer Avenue, commonly referred to as the HERC site, because it met the PSBRC's selection
18 criteria (e.g., lot size, property ownership, and above the tsunami zone); and
19

20 WHEREAS, The proposed new fire department was separated from the public safety
21 building project when it became apparent the cost was too steep to simultaneously build a
22 new police and fire station; and
23

24 WHEREAS, Council supported a bonding request to construct a reduced size public
25 safety campus with police station only that repurposed the HERC building as non-essential
26 space to the voters at the general election in October 2016 in an amount not to exceed twelve
27 million dollars; and
28

29 WHEREAS, Proposition #1 that would allow the City of Homer to incur debt and issue
30 general obligation bonds in an amount not to exceed twelve million dollars (\$12,000,000) to
31 finance the planning, design, and construction of a police station and related capital
32 improvements was defeated by the voters at the October 4, 2016 regular election by 71 votes;
33 and
34

35 WHEREAS, Council created the Police Station Building Task Force in February of 2017
36 to provide guidance on how to move forward on the police station including site selection,
37 budget, operations and maintence, and public private partnerships; and
38

39 WHEREAS, The Police Station Building Task Force presented recommendations to
40 Council via Memorandum 17-082 on May 30, 2017; and

41
42 WHEREAS, The Police Station Building Task Force recommended Heath Street and
43 Grubstake Avenue (north of the post office) as the preferred site for a new police station; and

44
45 WHEREAS, The Task Force further recommended two building options for
46 consideration by Council: option 2A an approximately 8,400 square foot building with a not to
47 exceed budget of \$6 million and option 2B a 13,900 square foot building with a not to exceed
48 budget of \$~~13~~9 million; and

49
50 WHEREAS, The Council discussed the recommendations at length at the May 30 and
51 June 12 meetings without being able to come to a consensus on cost or site for a new police
52 station; and

53
54 WHEREAS, Council expressed an interest in keeping the HERC site as an option for the
55 location of a new police station; and

56
57 WHEREAS, The HERC gym is currently used for Community Recreation including pickle
58 ball, toddler play group, and Zumba, among other activities; and

59
60 WHEREAS, The Parks, Arts, Recreation and Culture Needs Assessment in 2015
61 concluded a that the most pressing recreational/cultural need in Homer was for a general-
62 purpose gymnasium and multi-purpose space for dance, martial arts, performing arts, and
63 community events; and

64
65 WHEREAS, The Needs Assessment further concluded that while a long-term option for
66 a cultural and reactional center is explored, the City should investigate ways to keep the HERC
67 open to help meet indoor space needs; and

68
69 WHEREAS, Investing in the HERC to increase the life span of the building and bring the
70 downstairs up to fire code will allow expanded public use with greater occupancy capabilities
71 than are currently allowed; and

72
73 WHEREAS, Repurposing the HERC in a way that is useful to the police department while
74 maintaining the gym access to the public fills two very important needs in the community; and

75
76 WHEREAS, Currently the City spends \$40,000 - \$60,000 a year keeping the HERC in warm
77 status. Repurposing the facility with improved energy efficiency, renovating the roof, and
78 making it a useful facility will allow those operating dollars to be spent constructively on
79 operating and maintaining a new police station; and

80

81 WHEREAS, Stantec Architecture is the firm selected by the City Council in March of 2014
82 to manage the design and construction for the public safety building under the General
83 Contractor /Construction Manager model; and

84
85 WHEREAS, The Council has been working on meeting the need for a new police station
86 for over 3 years and is still struggling with major variables such as site and cost; and

87
88 WHEREAS, Given the importance of the project and the differing opinions, it would be
89 useful to have a professional facilitator guide Council through an extended worksession
90 evaluating the pros and cons of different options with the goal of coming to consensus on an
91 option that can be brought to the public for their feedback.

92
93 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska authorizes
94 Stantec Architecture to prepare three 10% concept designs for the new police station for
95 consideration by Council:

- 96
97 1. A 9 million dollar facility located at the corner of Heath Street and Grubstake Avenue
98 2. A 6 million dollar facility the corner of Heath Street and Grubstake Avenue
99 3. Modified plans for the HERC site that remove the shooting range and allow public
100 access to the downstairs/gym section of the building for recreation.

101
102 BE IT FURTHER RESOLVED that the City will contract with a **an independent** facilitator
103 to conduct an extended worksession scheduled after the general election in October to discuss
104 the three options in detail **with the intent of gaining city council agreement on one site and**
105 **building concept.**

106 PASSED AND ADOPTED by the Homer City Council on this 24th day of July, 2017.

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108 CITY OF HOMER

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ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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Fiscal Note: \$39,400. \$37,400 for 10% preliminary design on 3 options; \$2,000 for professional
121 facilitator from Police Station Building Fund, account balance \$88,000

From: Barbara Howard
To: [Melissa Jacobsen](#)
Subject: Message to Mayor and Council Members
Date: Monday, July 24, 2017 10:39:47 AM

Dear Mayor and Council Members:

I write to you in regards of **Resolution 17-074 (Police Station)**. Thank you Council Member Aderhold for keeping this very important project on the radar screen until resolved.

Resolution 17-074 painfully yet accurately takes me on a very long walk down memory lane where years of meeting times and taxpayer dollars have lead to no decision as of today. Please consider the motion to table this resolution for the following reasons:

I would like to propose Resolution 17-074 be tabled and that the council directs the city manager to contract with a skilled facilitator to conduct a working session with the council for the sole purpose of resolving the outstanding issues that would result in a unanimous voice to the community about this project.

I strongly support the services of an independent skilled conflict resolution facilitator to help this council get to the finish line. You have more in common than not and believing that, should be the catalyst that propels you to resolve this very important dilemma. Working under the assumption each and everyone of you sincerely wants to improve the working conditions of the police station I offer what I believe you have in common:

1. Love of your community
2. Appreciation for high quality qualified public safety personnel
3. Remembering the city is an employer and your desire to be a "in compliance" employer.
4. Public safety for the citizens is your # 1 priority
5. Respect for the citizens who will bear the cost of a sufficient and efficient facility
6. Appreciation and respect for the reports, committee recommendations over the past three + years .
7. Importance of your unanimous decision for this project is essential for voter outreach program.
8. Respect for the Police Chiefs concerns of design and location
9. Desire to bring this project to completion
10. Desire to work in a consensus building environment

When I review the many pages of minutes of both the council and task force it is clear there are just a few "sticky wicket" points that have prevented this council from moving ahead. So lets stop talking about those few and start talking about the many points you do find yourselves on common ground.

A facilitated workshop with interest based dialogue will result in a good consensus outcome, I am positive.

Thank you for your consideration,

Barbara Howard