



# AGENDA

## City Council Meeting

Monday, June 26, 2023 at 6:00 PM

City Hall Cowles Council Chambers In-Person & Via Zoom Webinar

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### Homer City Hall

491 E. Pioneer Avenue  
Homer, Alaska 99603  
www.cityofhomer-ak.gov

### Zoom Webinar ID: 205 093 973 Password: 610853

<https://cityofhomer.zoom.us>  
Dial: 346-248-7799 or 669-900-6833;  
(Toll Free) 888-788-0099 or 877-853-5247

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1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual)
3. **MAYORAL PROCLAMATIONS AND RECOGNITIONS**
  - 3.A. Recognition of July as Parks and Recreation Month
  - 3.B. Recognition of Homer Chamber of Commerce 4<sup>th</sup> of July Parade
4. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA** (The public may comment for three minutes on agenda items not schedule for public hearing.)
5. **RECONSIDERATION**
6. **CONSENT AGENDA** (Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Council Member.)
  - 6.A. Homer City Council Unapproved Special and Regular Meeting Minutes of June 12, 2023. City Clerk. Recommend adoption. Page 6
  - 6.B. Reappointment of Charles Barnwell to the Homer Planning Commission. Mayor. Recommend approval. Page 17
  - 6.C. Ordinance 23-41, An Ordinance of the City Council of Homer, Alaska Amending the FY24 Capital Budget by Appropriating \$600,000 from the Land Reserves to Purchase Tietjen Subdivision Tract D with the Intent of Developing the Parcel into the Site of the Future

- Public Works Campus. Venuti/Aderhold. Recommended dates Introduction June 26, 2023, Public Hearing and Second Reading July 24, 2023. Page 20
- 6.D. Ordinance 23-42, An Ordinance of the City Council of Homer, Alaska Amending the FY23 Capital Budget by Re-Appropriating the Second Tranche of American Rescue Plan Act (ARPA) Funds in the Amount of \$716,685.16 to the General Fund as Revenue Replacement. City Manager/Finance Director. Recommended dates Introduction June 26, 2023, Public Hearing and Second Reading July 24, 2023. Page 26
- 6.E. Ordinance 23-43, An Ordinance of the City Council of Homer, Alaska Amending the FY23 Capital Budget by Accepting and Appropriating the FY23 State of Alaska Community Assistance Program Payment in the Amount of \$204,991.19 for Various Capital Projects. City Manager. Recommended dates Introduction June 26, 2023, Public Hearing and Second Reading July 24, 2023. Page 28
- 6.F. Ordinance 23-44, An Ordinance of the City Council of Homer, Alaska Amending the FY24 Capital Budget to Fund Anticipated Maintenance to the Seawall by Establishing Authority in the FY24 Budget for Routine Maintenance to the Seawall. City Manager/Finance Director. Recommended dates Introduction June 26, 2023, Public Hearing and Second Reading July 24, 2023. Page 30
- 6.G. Ordinance 23-45, An Ordinance of the City Council of Homer, Alaska Amending the FY24 Capital Budget to Fund Anticipated Repairs or Maintenance to the United States Coast Guard Cutter (USCGC) Berth Space by Establishing Authority in the FY24 Budget for Routine Maintenance to the USCGC Berth Space. City Manager/Finance Director. Recommended dates Introduction June 26, 2023, Public Hearing and Second Reading July 24, 2023. Page 34
- 6.H. Resolution 23-062, A Resolution of the City Council of Homer, Alaska Approving a Contract Amendment with Homer Animal Services, LLC which Integrates the Budgeted Increase for Animal Shelter Operations and Animal Control Services for the First Half of Fiscal Year 2024 and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager. Recommend adoption. Page 38
- 6.I. Resolution 23-063 A Resolution of the City Council of Homer, Alaska Approving a Five Year Sublease at the Homer Airport Terminal with Northern Pacific Airways, Inc. DBA Ravn Alaska, and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager. Recommend adoption. Page 41
- 6.J. Resolution 23-064 A Resolution of the City Council of Homer, Alaska Approving a Five Year Sublease at the Homer Airport Terminal with Kenai Aviation Operations LLC, and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager. Recommend adoption. Page 73

6.K. Resolution 23-065, A Resolution of the City Council of Homer, Alaska Approving a Five Year Sublease at the Homer Airport Terminal with Pioneer Car Rental, Inc., and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager. Recommend adoption. Page 105

G.L. Resolution 23-066, A Resolution of the City Council of Homer, Alaska Approving a Contract with Kinney Engineering, LLC in the Amount of \$40,173 to provide Construction Inspection Services for the E. Bunnell Ave/Charles Way Water and Sewer Main Extension Projects. City Manager/Public Works Director. Recommend adoption. Page 142

**7. VISITORS**

7.A. Kenai Peninsula Economic Development District (KPEDD) Report – Tim Dillon, Executive Director (10 minutes)

7.B. Homer Harbor Expansion Quarterly Report – Ronny McPherson, HDR (10 minutes)

**8. ANNOUNCEMENTS/PRESENTATIONS/REPORTS (5 minutes each)**

8.A. Work Session

8.B. Committee of the Whole

8.B. Mayor's Report

8.C. Borough Report

8.D. Planning Commission

8.E. Economic Development Advisory Commission

8.F. Parks Art Recreation and Culture Advisory Commission

8.G. Library Advisory Board

8.E. Port & Harbor Advisory Commission

**9. PUBLIC HEARING(S)**

9.A. Ordinance 23-23(A-3), An Ordinance of the City Council of Homer, Alaska Appropriating the Funds for the Fiscal Years 2024 and 2025 Capital Budget. City Manager. Introduction

April 24, 2023, Public Hearing May 8 and May 22, 2023, Postponed to June 12 and June 26, 2023, Second Reading June 26, 2023. Page 145

9.B. Ordinance 23-39, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Chapters 2.40 Department of Port and Harbor, 2.64 Port and Harbor Advisory Commission, and 10.04 General Port and Harbor Provisions Updating References to Port Director and Harbormaster, and Commissioner Absences. City Manager/Port Director. Introduction June 12, 2023, Public Hearing and Second Reading June 26, 2023. Page 217

9.C. Ordinance 23-21, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Section 22.10.050 to Specify that Preliminary Plats Approved by the City Shall Include all Development Commitments made to the City, and that a Final Plat for the City of Homer Shall be an As-Built Survey. Davis/Erickson. Introduction April 10, 2023 and Refer to Planning Commission, Public Hearing and Second Reading June 26, 2023. Page 235

**10. ORDINANCE(S)**

10.A. Ordinance 23-46, An Ordinance of the City Council of Homer, Alaska Amending the FY24/25 Capital Budget by Accepting and Appropriating a Sub-recipient Grant from the University of Alaska Anchorage in the Amount of \$1,171,410 for the Kachemak Sponge Green Infrastructure Storm Water Treatment System. City Manager/Public Works Director. Recommended dates Introduction June 26, 2023, Public Hearing and Second Reading July 24, 2023. Page 241

**11. CITY MANAGER'S REPORT**

11.A. City Manager's Report Page 333

**12. PENDING BUSINESS**

**13. NEW BUSINESS**

**14. RESOLUTIONS**

**15. COMMENTS OF THE AUDIENCE** (The public may comment for three minutes on any topic.)

**16. COMMENTS OF THE CITY ATTORNEY**

**17. COMMENTS OF THE CITY CLERK**

**18. COMMENTS OF THE CITY MANAGER**

**19. COMMENTS OF THE MAYOR**

**20. COMMENTS OF THE CITY COUNCIL**

**21. ADJOURNMENT** Next Regular Meeting is Monday, July 24, 2023 at 6:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Session 23-12 a Special Meeting of the City Council of Homer, Alaska was called to order on June 12, 2023 by Mayor Ken Castner at 3:30 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS ADERHOLD, DAVIS, ERICKSON, LORD, VENUTI

**ABSENT:** COUNCIL MEMBER HANSEN (excused)

**STAFF:** CITY MANAGER DUMOUCHEL  
CITY CLERK JACOBSEN

**2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)

ADERHOLD/VENUTI MOVED TO APPROVE THE AGENDA

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**3. PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA** (3 minute time limit)

Scott Adams, city resident, commented he hopes the City can afford what's being proposed and glad to see the City of Homer becoming another Land Baron.

**4. PENDING BUSINESS**

**5. NEW BUSINESS**

- 5.A. Request for Executive Session Pursuant to AS 44.62.310 (C)(1) Matters, the Immediate Knowledge of Which would Clearly have an Adverse Effect upon the Finances of the City (Potential Purchase of Property for Future Public Works Campus).

ADERHOLD/VENUTI MOVED PURSUANT 44.62.310 (C)(1) MATTERS, THE IMMEDIATE KNOWLEDGE OF WHICH WOULD CLEARLY HAVE AN ADVERSE EFFECT UPON THE FINANCES OF THE CITY (POTENTIAL PURCHASE OF PROPERTY FOR FUTURE PUBLIC WORKS CAMPUS).

There was no discussion.

VOTE: YES: VENUTI, ERICKSON, ADERHOLD, LORD DAVIS

Motion carried.

Council recessed into executive session at 3:35 p.m. and resumed the special meeting at 3:46 p.m.

**6. COMMENTS OF THE AUDIENCE**

Scott Adams, city resident, commented on a proposal from the administration to move money from the natural gas free main allowance after the audit. He hopes it goes through the process that the money go to an account for parks or back to stakeholders who contributed to the gas line.

**7. ADJOURNMENT NO LATER THAN 3:50 P.M.**

There being no further business to come before the Council Mayor Castner adjourned the meeting at 3:50 p.m. The next Regular Meeting is Monday, June 26, 2023 at 6:00 p.m., Committee of the Whole at 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.

\_\_\_\_\_  
Melissa Jacobsen, MMC, City Clerk

Approved:\_\_\_\_\_

Session 23-13 a Regular Meeting of the City Council of Homer, Alaska was called to order on June 12, 2023 by Mayor Ken Castner at 6:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS ADERHOLD, DAVIS, ERICKSON, LORD, VENUTI

**ABSENT:** COUNCIL MEMBER HANSEN (excused)

**STAFF:** CITY MANAGER DUMOUCHEL  
CITY CLERK JACOBSEN  
PORT DIRECTOR HAWKINS  
FINANCE DIRECTOR WALTON  
ECONOMIC MANAGER ENGBRETSSEN  
ACTING CITY PLANNER FOSTER  
LIBRARY DIRECTOR BERRY  
CHIEF TECHNOLOGY OFFICER JIRSA  
CITY ATTORNEY GATTI

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

Mayor Castner announced the supplemental items: **Consent Agenda** Unapproved Regular Meeting Minutes **ANNOUNCEMENTS/ PRESENTATIONS/ REPORTS** Planning Commission written report **PUBLIC HEARING(S)** Ordinance 23-23(A), An Ordinance of the City Council of Homer, Alaska Appropriating the Funds for the Fiscal Years 2024 and 2025 Capital Budget. City Manager. General Fund Balance Chart and Capital Budget Memo Sheets as backup.

ADERHOLD/VENUTI MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**3. MAYORAL PROCLAMATIONS AND RECOGNITIONS**

**4. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA** (The public may comment for three minutes on agenda items not schedule for public hearing.)

Pat Case, city resident, commented in support of the appointment of Jim Lepley to ADA Advisory Board, and recognized new Board Member Cassidi Sorter.

**5. RECONSIDERATION**



- 6. CONSENT AGENDA** (Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Council Member.)
- 6.A. Homer City Council Unapproved Regular Meeting Minutes of May 22, 2023. City Clerk. Recommend adoption.
  - 6.B. Appointment of James Lepley to the ADA Advisory Board. Mayor. Recommend approval.
  - 6.C. Ordinance 23-38, An Emergency Ordinance of the City Council of Homer, Alaska Amending the FY23 Capital Budget by Appropriating \$35,000 from the General Fund Capital Asset Repair and Maintenance Allowance Fund (CARMA) for Emergency Repairs to the City Telephone System. City Manager. Recommend Introduction and Final Reading June 12, 2023.
  - 6.D. Ordinance 23-39, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Chapters 2.40 Department of Port and Harbor, 2.64 Port and Harbor Advisory Commission, and 10.04 General Port and Harbor Provisions Updating References to Port Director and Harbormaster, and Commissioner Absences. City Manager/Port Director. Recommend Introduction June 12, 2023, Public Hearing and Second Reading June 26, 2023.
  - 6.E. Ordinance 23-40, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Sections 21.12, Rural Residential District; 21.14 Urban Residential District; 21.18 Central Business District; 21.24 General Commercial 1 District; 21.26 General Commercial 2 District Regarding Conditional Uses in each District. Recommend Introduction June 12, 2023, Public Hearing and Second Reading June 26, 2023.

Item 6.E. moved to ordinances A. Aderhold

- 6.F. Resolution 23-054, A Resolution of the City Council of Homer, Alaska Awarding the Contract for 2023-2025 Public Works Gravel Supply Contract to Dibble Creek Rock, Ltd. of Anchor Point, Alaska and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager/Public Works Director. Recommend adoption.
- 6.G. Resolution 23-055, A Resolution of the City Council of Homer, Alaska Amending the Fee Schedule under Animal Shelter Fees. City Manager. Recommend adoption.
- 6.H. Resolution 23-056, A Resolution of the City Council of Homer, Alaska Amending the 2023 Regular Meeting Schedule for the Port and Harbor Advisory Commission. City Clerk. Recommend adoption.
- 6.I. Resolution 23-057, A Resolution of the City Council of Homer, Alaska Amending the Port and Harbor Advisory Commission Bylaws under Article V- City Staff Roles, Article VI – Meetings, VIII

– Committees and Regular Meeting Agenda. City Clerk. Recommend adoption.

- 6.J. Resolution 23-058, A Resolution of the City Council of Homer, Alaska Expressing Support for and Adopting the Homer Harbor Expansion Charter. City Manager. Recommend adoption.
- 6.K. Resolution 23-059, A Resolution of the City Council of Homer, Alaska Establishing a 2023 Mil Rate of 1 Mil for the Ocean Drive Loop Special Service District. City Manager. Recommend adoption.
- 6.L. Resolution 23-060, A Resolution of the City Council of Homer, Alaska Awarding a Task Order to Kinney Engineering in the Not to Exceed Amount of \$35,000 for Delivery of a Traffic Impact Analysis and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager/Acting City Planner. Recommend adoption.

Item 6.E. moved to ordinances A. Aderhold

City Clerk Jacobsen read the consent agenda and the recommendations.

ADERHOLD/VENUTI MOVED TO ADOPT THE RECOMMENDATIONS OF THE CONSENT AGENDA AS READ.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

## **7. VISITORS**

- 7.A. Legislative Update – Representative Sarah Vance (10 minutes)

Representative Sarah Vance reported on committees she's involved in and work that will be happening between sessions, and the potential for a special session in October for work on a fiscal plan for the State. She reviewed efforts by the House on the capital budget, status of Bills she was involved in, and highlights of the operating budget. She also reported the Commissioner of the Department of Transportation will be visiting and would like to meet with the City of Homer and Kachemak City regarding traffic concerns out East End Road.

- 7.B. Housing Report, Ryan Foster, Acting City Planner (10 minutes)

Acting City Planner Foster and Economic Development Advisory Chair Karin Marks reported on the Greater Homer Housing Conversation event recognizing community organizers, the purpose of the event, background and research, outreach efforts, report findings, thematic analysis, housing survey results, and next steps and resources. A copy of the presentation was included in the meeting packet.

- 7.C. Water/Waste Water Report - Todd Cook, Water/Wastewater Superintendent  
(10 minutes)

This report will be rescheduled.

**8. ANNOUNCEMENTS/PRESENTATIONS/REPORTS (5 minutes each)**

- 8.A. Special Meeting

Council Member Aderhold reported Council met and went into executive session to discuss a potential purchase of property for a future Public Works campus.

- 8.B. Work Session

City Manager Dumouchel reported the work session discussion was related to employee wages, recruitment, and retention. He and Personnel Director Browning responded to questions and they'll have follow up items for Council later this summer or in the fall on personnel topics.

- 8.C. Committee of the Whole

Council Member Aderhold reported Council discussed Ordinance 23-38, emergency repairs of the city phone system, Ordinance 23-40 related to changes to the zoning code regarding conditional use permits, Resolution 23-060 regarding a traffic impact analysis, Resolution 23-058 approving the Homer Harbor Expansion Project charter, and Ordinance 23-23 adopting the FY24/25 Capital Budget.

- 8.D. Mayor's Report

Mayor Castner reported the Kenai Peninsula Mayor's met in Soldotna and discussed several items that had common causes for the cities and the borough, including housing, and service area districts. He hopes to meet with Commission Chairs in the near future, he'll be working with the Clerk's office to schedule a meeting. He thanked Chairs who attend other Commission meetings because their input is valuable.

- 8.E. Borough Report

Borough Assembly Member Lane Chesley reported on the Assembly's adoption of Ordinance 2023-11(S) to reduce the Borough Planning Commissioner from 14 members to 9 members, and the map outlining the districts.

- 8.F. Planning Commission

- 8.G. Port & Harbor Advisory Commission

Port and Harbor Advisory Commissioner Bruce Friend reported at their May 24<sup>th</sup> meeting they had a report from the Kachemak Bay National Estuarine Research Reserve on their willingness to put forward previous habitat studies as an addition to the current studies happening with the Harbor Expansion Study. They also had a budget report and staff report, and a report from the Marine Trades Association. They updated their strategic

plan, discussed a business plan for the harbor, fleet management plan discussion, updated their bylaws and meeting schedule, and reviewed the draft Homer Harbor Expansion Charter and communication plan.

8.H. ADA Advisory Board

ADA Advisory Board Member Cassidi Sorter reported the Board discussed crosswalk awareness and safety, building regulations related to ADA accessibility, accessibility for business owners, and upcoming trail assessment.

**9. PUBLIC HEARING(S)**

- 9.A. Ordinance 23-36, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating a Healthy and Equitable Community Round Two Grant from the State of Alaska Department of Health and Social Services (DHSS) for Improvements to Bayview Park and to Complete a Community Health Improvement Plan. City Manager. Introduction May 22, 2023 Public Hearing and Second Reading June 12, 2023.

Mayor Castner opened the public hearing. There were no comments and the hearing was closed.

ADERHOLD/VENUTI MOVED TO ADOPT ORDINANCE 23-36 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

Council Member Lord shared her excitement about progress happening for Bayview Park. She looks forward to a full comprehensive plan for all of our parks.

Council Member Venuti shared her appreciation of the partnership with South Peninsula Hospital regarding this grant.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

- 9.B. Ordinance 23-23(A), An Ordinance of the City Council of Homer, Alaska Appropriating the Funds for the Fiscal Years 2024 and 2025 Capital Budget. City Manager. Introduction April 24, 2023, Public Hearing May 8 and May 22, 2023, Second Reading May 22, 2023 Postponed to June 12, 2023.

Ordinance 23-23(A-2)(S), An Ordinance of the City Council of Homer, Alaska Appropriating the Funds for the Fiscal Years 2024 and 2025 Capital Budget. City Manager.

Mayor Castner opened the public hearing. There were no comments and the hearing was closed.

Mayor Castner announced the motion on the floor from May 8<sup>th</sup> and opened the floor for discussion:

*ERICKSON/ADERHOLD MOVED TO REMOVE THE PERSONNEL REGULATIONS AND SALARY SCHEDULE OVERHAUL FOR \$75,000 AND RETURN FUNDS TO GENERAL FUND CARMA.*

Council Member Aderhold shared her support for this motion following their discussion at their work session.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

ADERHOLD/LORD MOVED TO AMEND THE CAPITAL BUDGET BY ADDING \$52,314, \$32,000 FROM HART ROADS AND 23,314 FROM HART TRAILS FOR BAYVIEW PARK RENOVATION ACCESSIBILITY PROJECT.

Council Member Aderhold noted this amendment is for matching funds that goes with Ordinance 23-36 that they just adopted.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was discussion regarding spending outside of the budget and clarifying the amended substitute ordinance provided in the packet has the correct amounts to date, but not amendments made tonight. There was disagreement expressed related to whereas clauses in the proposed substitute ordinance and no action was taken regarding the proposed substitute. They also addressed off budget spending and it was confirmed that if they postpone tonight an updated ordinance draft will come back at the next meeting.

ADERHOLD/ERICKSON MOVED TO POSTPONE ORDINANCE 23-23(A) AND ALL ITS VARIANTS TO THEIR JULY 24<sup>TH</sup> MEETING.

Council Member Erickson had suggested two work sessions and clarified the schedule of one June 19 and one June 26, with the intent of passing the budget on June 24<sup>th</sup>.

ADERHOLD/ERICKSON MOVED TO AMEND HER MOTION TO POSTPONE THE CAPITAL BUDGET TO THEIR NEXT MEETING AND HAVING WORK SESSION THE NEXT TWO MONDAYS.

There was no discussion on the amendment.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the motion to postpone.

VOTE (postponement): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- 9.C. Ordinance 23-37, An Ordinance of the City Council of Homer, Alaska amending the FY23 Capital Budget by Appropriating \$42,500 from the Homer Accelerated Water and Sewer Program (HAWSP) Fund for the Purpose of Engineering and Installation of Water and Sewer for Jack Gist

Park. Mayor. Introduction May 22, 2023 Public Hearing and Second Reading June 12, 2023.

Mayor Castner opened the public hearing. There were no comments and the hearing was closed.

ADERHOLD/VENUTI MOVED TO ADOPT ORDINANCE 23-37 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**10. ORDINANCE(S)**

- 10.A. Ordinance 23-40, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Sections 21.12, Rural Residential District; 21.14 Urban Residential District; 21.18 Central Business District; 21.24 General Commercial 1 District; 21.26 General Commercial 2 District Regarding Conditional Uses in each District. Recommend Introduction June 12, 2023, Public Hearing and Second Reading June 26, 2023.

ADERHOLD/VENUTI MOVED TO INTRODUCE ORDINANCE 23-40 BY READING OF TITLE ONLY.

ADERHOLD/LORD MOVED TO POSTPONE ORDINANCE 23-40 TO THEIR AUGUST 28<sup>TH</sup> MEETING AND REFER THE ORDINANCE TO THE PLANNING COMMISSION AND ECONOMIC DEVELOPMENT ADVISORY COMMISSION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**11. CITY MANAGER'S REPORT**

- 11.A. City Manager's Report

There were no additions to the report provided in the packet. Council Member Lord shared her appreciation for including a copy of the work session calendar with the report.

**12. PENDING BUSINESS**

**13. NEW BUSINESS**

**14. RESOLUTIONS**

- 14.A. Resolution 23-061, A Resolution of the City Council of Homer, Alaska Authorizing Reimbursement to Terra Bella for Accommodation of a Non-Motorized Transportation Facility in Conjunction with the Terra Bella Subdivision. City Manager/Public Works Director.

ADERHOLD/VENUTI MOVED TO ADOPT RESOLUTION 23-061 BY READING OF TITLE ONLY.

City Manager Dumouchel explained this is a follow up action to the adoption of Ordinance 23-35 appropriating funds for a non-motorized transportation facility in the Terra Bella Subdivision.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**15. COMMENTS OF THE AUDIENCE** (The public may comment for three minutes on any topic.)

Karin Marks, city resident, presented on behalf of the Homer Chamber of Commerce regarding the upcoming Peony Celebration.

Connie Isenhour, Kachemak City Mayor, commented regarding the recent water and sewer rate increase by the City and the intergovernmental agreement between Homer and Kachemak City.

Pat Case, city resident, commented regarding survey work he's doing related to ADA accessibility and disturbing results related to curb cuts at the intersection of Main Street and Pioneer Avenue. He requested when the sidewalk goes in down Main Street to the bottom that the curb cut be repaired.

**16. COMMENTS OF THE CITY ATTORNEY**

City Attorney Gatti had no comments.

**17. COMMENTS OF THE CITY CLERK**

City Clerk Jacobsen announced openings on the Planning Commission.

**18. COMMENTS OF THE CITY MANAGER**

City Manager Dumouchel had no comments.

**19. COMMENTS OF THE MAYOR**

Mayor Castner commented regarding a public members comments at the last Port and Harbor Advisory Commission meeting regarding a violations of a lease, but they don't have authority to do anything. He questions how we get to a level where complaints are checked out and the attorney can act on behalf of the City. He hopes they can address enforcement soon.

**20. COMMENTS OF THE CITY COUNCIL**

Council Member Lord commented that in terms of complaints, it's an important step to know who the correct authority is. Regarding the concept of a fiscal plan for the State she hopes the Legislature is able to move forward on that in earnest because it requires a lot of different things. Something hitting home for her and people she knows is the 2 biggest line items hit in the State budget are K-12 education and health and human services. It's not just SNAP and Medicaid, but also basic service providing. From what she's found, there isn't an orthodontist who will see kids with Denali Kid Care south of Eagle River because of the unbelievable hoops they have to go through. If we want people to live here we have to have public services that are functional and stable. She hopes the Legislature does something. This year they passed the fewest bills ever.

Council Member Venuti she agrees that enforcement is important. Health care is important. She shared regarding scholarships and congratulated the community on awarding \$50,000 in scholarships through the Homer Foundation. She appreciates everyone who stands for higher education.

Council Member Aderhold wished everyone happy Solstice.

Council Member Davis supports clarifying the lines of authority when it comes to enforcement. His takeaway from being on the Planning Commission is the importance of being proactive from the beginning when a complaint is made. He commented regarding upcoming Solstice events hosted by the Chamber.

Council Member Erickson wished her husband Happy Anniversary.

**21. ADJOURNMENT**

There being no further business to come before the Council Mayor Castner adjourned the meeting at 7:55 p.m. The next Regular Meeting is Monday, June 26, 2023 at 6:00 p.m., Committee of the Whole at 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.

\_\_\_\_\_  
Melissa Jacobsen, MMC, City Clerk

Approved: \_\_\_\_\_





# MEMORANDUM

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## Re-appointment of Charles Barnwell to the Planning Commission

**Item Type:** Action Memorandum  
**Prepared For:** Mayor Castner and Homer City Council  
**Date:** June 21, 2023  
**From:** Mayor Castner

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Charles Barnwell is appointed to the Planning Commission. Mr. Barnwell's term expires July 1, 2026.

### **Recommendation:**

Confirm the re-appointment of Charles Barnwell to the Planning Commission.

### **Attachment:**

Charles Barnwell Re-appointment Application



# Advisory Body Application For Reappointment to Committees, Commissions, Board & Task Forces

**Office of the City Clerk**  
491 East Pioneer Avenue  
Homer, Alaska 99603  
Phone: (907) 235-3130  
Fax: (907) 235-3143  
[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

The Information provided on this form will provide the basic information to the Mayor and City Council on your interest in serving on the selected Advisory Body. It is considered public and will be included in the City Council meeting packet. This information will be published in the City Directory and within city web pages if you are reappointed by the Mayor and your reappointment is confirmed by the City Council.

### Applicant Information

Full Name: CHARLES E. BARNWELL

Physical Address Where you Claim Residency: 410 CRESTWOOD CIRCLE, HOMER, AK.

Mailing Address: AS ABOVE 99603

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number(s): 907-602-1213

Email: BARNWELLCE@gmail.com

### Advisory Body You Are Requesting Reappointment To

- Planning Commission
- Parks, Art, Recreation & Culture Advisory Commission
- Port & Harbor Advisory Commission
- Economic Development Advisory Commission
- Library Advisory Board
- ADA Advisory Board
- Other - Please Indicate \_\_\_\_\_

### Please Answer the Following

Do you have a current Public Official Conflict of Interest Disclosure Statement on file with the City Clerk as required by HCC 1.18.043?  Yes  No

What resident type is your current seat?  City Resident  Non-City Resident

Has your residency changed since your last appointment?  Yes  No

How long have you served on this advisory body? 3 YEARS

**Background Information**

Please list any current memberships or organizations that you belong to related to the advisory body you serve on:

AMERICAN PLANNING ASSOCIATION

Please explain why you wish to be reappointed to the Advisory Body to which you currently serve. This may include information on accomplishments or projects completed, future goals for the body, or any additional information that may assist the Mayor in the decision making process. You may attach an additional page if needed.

General: assist with COE planning

Specific: assist and advise on comprehensive plan, transportation plan and other plans.

**CITY OF HOMER  
HOMER, ALASKA**

Aderhold/Venuti

**ORDINANCE 23-41**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
AMENDING THE FY24 CAPITAL BUDGET BY APPROPRIATING  
\$600,000 FROM THE LAND RESERVES TO PURCHASE TIETJEN  
SUBDIVISION TRACT D, WITH THE INTENT OF DEVELOPING THE  
PARCEL INTO THE SITE OF THE FUTURE PUBLIC WORKS CAMPUS

WHEREAS, The Public Works Department’s equipment and operations are outgrowing many of the current Public Works facilities located at 3575 Heath Street; and

WHEREAS, The current Public Works Campus is located within the tsunami inundation zone; and

WHEREAS, Resolution 20-125 approved the creation of a Public Works Task Force with direction to evaluate the City’s options for relocating all, or part, of the existing Public Works Campus out of the tsunami inundation zone; and

WHEREAS, The Public Works Task Force’s final recommendations included a phased approach to moving the Public Works Campus out of the tsunami zone; and

WHEREAS, The first step of the staged approach is the acquisition of land which is appropriately suited to be the site of the future Public Works Campus; and

WHEREAS, The City has identified an 8.63 acre parcel in the East End Mixed Use District as an appropriate location for a future Public Works Campus; and

WHEREAS, The owner has agreed to sell the property to the City contingent upon a favorable phase 1 environment study and approval by the City Council; and

WHEREAS, The current available balance of the Land Reserves is approximately \$909,264 and the purchase of the property including closing costs and any other associated expenses is not expected to exceed \$600,000.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The FY24 Capital Budget is hereby amended by appropriating \$600,000 for the purchase of Tietjen Subdivision Tract D, KPB 179-280-06, located between Eagle Place and Ternview Place, one parcel south of East End Road as follows:

	<u>Fund</u>	<u>Description</u>	<u>Amount</u>
43			
44	150	Land Reserves	\$600,000
45			

46 Section 2. The City Manager is hereby authorized to negotiate and execute the  
47 appropriate documents for the purchase of the property.

48  
49 Section 3. This is a budget amendment ordinance and shall not be codified.

50  
51 ENACTED BY THE HOMER CITY COUNCIL this \_\_\_\_ day of \_\_\_\_, 2023.

52  
53 CITY OF HOMER

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57 \_\_\_\_\_  
58 KEN CASTNER, MAYOR

59  
60 ATTEST:

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62  
63 \_\_\_\_\_  
64 MELISSA JACOBSEN, MMC, CITY CLERK

65  
66 YES:

67 NO:

68 ABSENT:

69 ABSTAIN:

70

71 First Reading:

72 Public Hearing:

73 Second Reading:

74 Effective Date:



# MEMORANDUM

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**Ordinance 23-41, An Ordinance of the City Council of Homer, Alaska Amending the FY24 Capital Budget by Appropriating \$600,000 from the Land Reserves to Purchase Tietjen Subdivision Tract D with the Intent of Developing the Parcel into the Site of the Future Public Works Campus. Venuti/Aderhold.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner and Homer City Council  
**Date:** June 13, 2023  
**From:** Rob Dumouchel, City Manager

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After much time and effort, Council has before them a land purchase to consider for the home of a future Public Works Campus. Campus development was envisioned to be a long-term phased project, and one of the first steps was securing a location. If Council approves this purchase, staff will be able to begin watching for funding opportunities through FEMA and others that would possibly fund the movement of critical infrastructure and services out of the tsunami inundation zone.

## **Background**

In November 2020, Council passed resolution 20-125 which approved the creation of a Public Works Task Force with the direction to evaluate the City's options for relocating all, or part, of the existing Public Works Campus which is currently located within the tsunami inundation zone. Additionally, much of the heavy equipment used to run Public Works is outgrowing the existing facilities of the current campus.

The Task Force met throughout 2021 and published a final recommendation August 23, 2021. The Task Force recommended a phased approach to moving part of the Public Works Campus out of the tsunami zone. An early step to the plan was the acquisition of a parcel(s) for the Campus and a rough estimate of the cost was up to \$1.2 million.

Working with the City's contracted real estate agent (Resolution 22-059), Angie Newby at Homer Real Estate, we conducted a lot of outreach to individuals holding parcels that could meet the future needs of the Public Works Department. We've had difficulty finding parcels owned by willing sellers which would meet our needs and had desired sale prices that could be supported by an appraisal.

Earlier this year, we initiated communication with the owners of an undeveloped 8.63-acre parcel in the East End Mixed Use Zone District (EEMU). The parcel is relatively flat, has access to utilities, and is

near a major roadway. The Public Works Director indicated a strong interest in the site and the City Manager and Economic Development Manager worked with the City’s Real Estate Agent to see if we could work out a deal. At this time, we have found a price at which the seller is happy, I believe Council should be satisfied, and an appraisal will back up as being reasonable.

**Site Overview**

The subject parcel is located just off of East End Road, a little more than 2 ½ miles from City Hall. The parcel is 8.63 acres bounded by Eagle Pl. to the west, Ternview Pl. to the east, and an undeveloped segment of Little Fireweed Ln. to the north. The southern boundary is in line with Kilokak Ave. The parcel is undeveloped and the zone district is favorable for the development of a Public Works Campus. The EEMU District “is primarily intended to provide sites for businesses that require direct motor vehicle access and may require larger land area. The district is meant to accommodate a mixture of existing and accessory residential with nonresidential uses. When a conflict exists between residential and nonresidential uses, conflicts shall be resolved in favor of nonresidential uses” (Homer City Code § 21.27.010)



### **Costs, Contingencies, and Funding**

The property owner has agreed to sell the property for \$525,000, which is same value determined by the property's appraisal. The ordinance funding this purchase will be requesting \$600,000 to cover commissions, closing costs, and any other small unforeseen costs that may be required to complete the deal. The offer that was made on behalf of the City is contingent upon a favorable phase 1 environmental study and, of course, approval by the City Council. The phase 1 environment is expected to be underway at the time the funding ordinance is introduced and completed by the time the ordinance comes back for adoption in late July.

The proposed funding source for this parcel is the Land Reserves fund. Council may remember that Ordinance 22-09 transferred \$1M into the Land Reserves. I noted in memo 22-020 which accompanied the ordinance that "having these funds available will help me to negotiate potential options for projects like the Public Works campus relocation." At this time, there is over \$900k in the Land Reserves fund, and this is the only "planned" land purchase we have on deck at this time. Most other land reserve purchases made by the City are small dollar opportunity-based and targeted at protecting the Bridge Creek Watershed. We also have plans to acquire property as part of the green infrastructure program, however, much of that will either be grant funded or come out of a different fund (i.e., HART).

### **Timeline to Development**

As noted earlier, the Public Works Task Force envisioned a phased approach to development of a new campus. It may be a number of years before we are ready to develop this parcel. In the near term, we may want to consider a short term lease on the parcel to generate revenue while we seek grant, or other, funding for a Public Works Campus. In the longer term, once we've designed the campus, we may also want to consider subdividing the property if we don't anticipate filling out the full 8.63 acres with City needs.

**Staff Recommendation:** Introduce and adopt Ordinance 23-41 funding the purchase of Tietjen Subdivision Tract D, KPB 179-280-06.



**CITY OF HOMER  
FINANCIAL SUPPLEMENT**

PROJECT NAME	<u>Purchase Parcel for Future Public Works Campus</u>	DATE	<u>06/20/2023</u>
DEPARTMENT	<u>City Council</u>	SPONSOR	<u>Aderhold/Venuti</u>
REQUESTED AMOUNT	<u>\$ 600,000</u>		

<b>DESCRIPTION</b>	<p>The Public Works Department's equipment and operations are outgrowing many of the current Public Works facilities located at 3575 Heath Street and the facility is located within the tsunami inundation zone.</p> <p>Resolution 20-125 approved the creation of a Public Works Task Force with direction to evaluate the City's options for relocating all, or part, of the existing Public Works Campus out of the tsunami inundation zone. The Public Works Task Force's final recommendations included a phased approach to moving the Public Works Campus out of the tsunami zone. The first step of the staged approach is the acquisition of land which is appropriately suited to be the site of the future Public Works Campus.</p> <p>The City has identified an 8.63 acre parcel in the East End Mixed Use District as an appropriate location for a future Public Works Campus. The owner has agreed to sell the property to the City contingent upon a favorable phase 1 environment study and approval by the City Council.</p>
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FUNDING SOURCE(S)	LAND RESERVES	GF CARMA	GF FLEET CARMA	PORT RESERVES	WATER CARMA
	<b>100%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>
	HAWSP	HART-ROADS	HART-TRAILS	PORT FLEET RESERVES	SEWER CARMA
	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>

FUNDING SOURCE 1: LAND RESERVES	FUNDING SOURCE 2:	FUNDING SOURCE 3:
Current Balance <u>\$ 971,753</u>	Current Balance _____	Current Balance _____
Encumbered <u>\$ 62,488</u>	Encumbered _____	Encumbered _____
Requested Amount <u>\$ 600,000</u>	Requested Amount _____	Requested Amount _____
Other Items on Current Agenda <u>\$ 0</u>	Other Items on Current Agenda _____	Other Items on Current Agenda _____
Remaining Balance <u>\$ 309,264</u>	Remaining Balance _____	Remaining Balance _____
FUNDING SOURCE 4:	FUNDING SOURCE 5:	FUNDING SOURCE 6:
Current Balance _____	Current Balance _____	Current Balance _____
Encumbered _____	Encumbered _____	Encumbered _____
Requested Amount _____	Requested Amount _____	Requested Amount _____
Remaining Balance _____	Remaining Balance _____	Remaining Balance _____

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

3 City Manager/  
4 Finance Director

5 **ORDINANCE 23-42**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
8 AMENDING THE FY23 CAPITAL BUDGET BY RE-APPROPRIATING  
9 THE SECOND TRANCHE OF AMERICAN RESCUE PLAN ACT (ARPA)  
10 FUNDS IN THE AMOUNT OF \$716,685.16 TO THE GENERAL FUND  
11 AS REVENUE REPLACEMENT.  
12

13 WHEREAS, The City of Homer was awarded \$1,433,370.33 to be paid in two tranches,  
14 one year apart; and  
15

16 WHEREAS, The first tranche of \$716,685.17 was received in FY22 and City Council  
17 approved Ordinance 21-55 appropriating this tranche as General Fund revenue replacement;  
18 and  
19

20 WHEREAS, The second tranche of \$716,685.16 was received by the City of Homer and  
21 originally intended for use related to water and sewer needs by Ordinance 22-60; and  
22

23 WHEREAS, The original plan intent for the second tranche did not work as anticipated  
24 and the funds need to be re-appropriated; and  
25

26 WHEREAS, There is a desire to accept the second tranche funds as General Fund  
27 revenue replacement similar to the first tranche appropriated by Ordinance 21-55; and  
28

29 WHEREAS, These funds have to be fully expended by December 31, 2026.  
30

31 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
32

33 Section 1. The Homer City Council hereby amends the FY23 Capital Budget by re-  
34 appropriating the second tranche of ARPA funding in the amount of \$716,685.16 for General  
35 Fund revenue replacement as follows:  
36

37 Revenue:

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
119-0375	ARPA Funding	\$716,685.16

41 Transfer to:

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
100	General Fund	\$716,685.16

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

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this xx<sup>th</sup> day of July, 2023.

CITY OF HOMER

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KEN CASTNER, MAYOR

ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSENT:

ABSTAIN:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**ORDINANCE 23-43**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY23 CAPITAL BUDGET BY ACCEPTING AND APPROPRIATING THE FY23 STATE OF ALASKA COMMUNITY ASSISTANCE PROGRAM PAYMENT IN THE AMOUNT OF \$204,991.19 FOR VARIOUS CAPITAL PROJECTS.

WHEREAS, In FY23 the City of Homer received \$204,991.19 from the Community Assistance Program (CAP) which has not yet been accepted or appropriated; and

WHEREAS, The application for the FY23 Community Assistance Program funds indicated the City of Homer would designate those funds towards ADA Improvements for City facilities; and

WHEREAS, Ultimately it is up to the Council as to where the funds are spent and we are not obligated by the State to follow the original application; and

WHEREAS, The City would benefit from applying Community Assistance Program funds towards select FY24/25 General Fund CARMA projects.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby amends the FY23 Capital Budget by accepting the FY23 Community Assistance Program payment in the amount of \$204,991.19 as follows:

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
151-xxxx	FY2023 Community Assistance Program	\$204,991.19

Section 2. The Homer City Council hereby amends the FY23 Capital Budget by appropriating the FY23 Community Assistance Program payment in the amount of \$204,991.19 as follows:

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
151-xxxx	Upgrade City Workstations to Microsoft Office 2021	\$40,000.00
151-xxxx	NextGen Firewall	\$50,000.00
151-xxxx	Upgraded Internet Link for City Hall	\$30,000.00
151-xxxx	Two Ballistic Shields	\$6,732.00
151-xxxx	GIS Upgrade	\$16,490.00

43	151-xxxx	Air Conditioning for Public Works Server Room	\$8,000.00
44	151-xxxx	ADA Accessibility Equipment	\$9,739.00
45	151-xxxx	Replace Library Chairs	<u>\$44,030.19</u>
46		Total:	\$204,991.19

47  
48 Section 3. This appropriation is intended to pay for the aforementioned items  
49 previously included in the FY24/25 Capital Budget under General Fund CARMA.

50  
51 Section 4. This ordinance is a budget ordinance only, is not permanent in nature and  
52 shall not be codified.

53  
54 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_  
55 \_\_\_\_\_, 2020.

56  
57 CITY OF HOMER  
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59 \_\_\_\_\_  
60 KEN CASTNER, MAYOR

61  
62  
63  
64 ATTEST:  
65  
66 \_\_\_\_\_  
67 MELISSA JACOBSEN, MMC, CITY CLERK

68  
69 YES:  
70 NO:  
71 ABSTAIN:  
72 ABSENT:  
73  
74 First Reading:  
75 Public Hearing:  
76 Second Reading:  
77 Effective Date:

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

3 City Manager/  
4 Finance Director

5 **ORDINANCE 23-44**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
8 AMENDING THE FY24 CAPITAL BUDGET TO FUND ANTICIPATED  
9 MAINTENANCE TO THE SEAWALL BY ESTABLISHING AUTHORITY  
10 IN THE FY24 BUDGET FOR ROUTINE MAINTENANCE TO THE  
11 SEAWALL.  
12

13 WHEREAS, The Homer City Council created the Ocean Drive Loop Special Service  
14 District, and  
15

16 WHEREAS, The Special Service District was created to raise tax revenues from benefited  
17 property owners to support maintenance and repair of the Seawall they own, which is located  
18 on their properties; and  
19

20 WHEREAS, As a tax-exempt property owner along the Seawall, the City contributes  
21 \$10,000 annually to the Seawall Reserve for the City's portion of repairs to the Seawall; and  
22

23 WHEREAS, Based on linear feet, the property owners are responsible for 82% of the wall  
24 repairs and the City is responsible for 18% of the wall repairs.  
25

26 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
27

28 Section 1. The Homer City Council hereby amends the FY24 Capital Budget by  
29 appropriating \$5,000 from the Sewall Maintenance Reserve and Ocean Drive Loop Special  
30 Service District accounts for the purpose of maintain the seawall as follows:  
31

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
808-0375	Ocean Drive Loop Special Service District (82%)	\$4,100
156-0369	Seawall Maintenance Reserve (18%)	\$900

37  
38 Section 2. This is an annual appropriation and will lapse at the end of the fiscal year.  
39

40 Section 3. This is a budget amendment ordinance, is temporary in nature, and shall not  
41 be codified.  
42

43 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this xx<sup>th</sup> day of July, 2023.

44

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CITY OF HOMER

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\_\_\_\_\_  
KEN CASTNER, MAYOR

49

50 ATTEST:

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53 MELISSA JACOBSEN, MMC, CITY CLERK

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55 YES:

56 NO:

57 ABSENT:

58 ABSTAIN:

59

60 First Reading:

61 Public Hearing:

62 Second Reading:

63 Effective Date:



# MEMORANDUM

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**Ordinance 23-44, An Ordinance of the City Council of Homer, Alaska Amending the FY24 Capital Budget to Fund Anticipated Maintenance to the Seawall by Establishing Authority in the FY24 Budget for Routine Maintenance to the Seawall. City Manager/Finance Director.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner and Homer City Council  
**Date:** June 22, 2023  
**From:** Elizabeth Walton, Finance Director  
**Through:** Rob Dumouchel, City Manager

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**Purpose of Ordinance:**

The Homer City Council created the Ocean Drive Loop Special Service District to raise tax revenues from benefited property owners to support maintenance and repair of the Seawall they own. The City of Homer is a tax-exempt property owner along the Seawall and, as such, contributes \$10,000 annually through the budget to the Seawall Reserve for the City's portion of repairs.

Now, the City of Homer needs the authority to spend from the Special Service District and reserve to address any routine maintenance or repair needs to the Seawall for the fiscal year.

This will be an annual ordinance that comes before City Council to establish authority to spend up to a dollar amount on routine maintenance or repairs. An ordinance will be brought forward if additional funding is needed before the end of the fiscal year. All funds not spend within the fiscal year will return back to the Special Service District and Seawall Reserve, as appropriate, for future use.

**Recommendation:**

Pass Ordinance authorizing up to \$5,000 to be spent on routine maintenance or repair needs associated with the Seawall.



CITY OF HOMER  
FINANCIAL SUPPLEMENT

PROJECT NAME	<u>SEAWALL ANNUAL MAINTENANCE AUTHORITY</u>	DATE	<u>06/22/2023</u>
DEPARTMENT	<u>Public Works</u>	SPONSOR	<u>City Manager/Finance Director</u>
REQUESTED AMOUNT	<u>\$ 5,000</u>		

DESCRIPTION	<p>The Homer City Council created the Ocean Drive Loop (ODL) Special Service District and it was created to raise tax revenues from benefited property owners to support maintenance and repair of the Seawall they own, which is located on their properties. As a tax-exempt property owner along the Seawall, the City contributes \$10,000 annually to the Seawall Reserve for the City's portion of repairs to the Seawall. Based on linear feet, the property owners are responsible for 82% of the wall repairs and the City is responsible for 18% of the wall repairs.</p>
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FUNDING SOURCE(S)	OPERATING	GF CARMA	GF FLEET CARMA	SEAWALL RESERVES	WATER CARMA
	0%	0%	0%	82%	0%
	HAWSP	HART-ROADS	HART-TRAILS	ODL SERVICE DISTRICT	SEWER CARMA
	0%	0%	0%	18%	0%

FUNDING SOURCE 1: ODL Special Service District	FUNDING SOURCE 2: Seawall Reserves	FUNDING SOURCE 3:
Current Balance <u>\$ 43,733</u>	Current Balance <u>\$ 40,919</u>	Current Balance _____
Encumbered <u>\$ 0</u>	Encumbered <u>\$ 0</u>	Encumbered _____
Requested Amount <u>\$ 4,100</u>	Requested Amount <u>\$ 900</u>	Requested Amount _____
Other Items on Current Agenda <u>\$ 0</u>	Other Items on Current Agenda <u>\$ 0</u>	Other Items on Current Agenda _____
Remaining Balance <u>\$ 39,633</u>	Remaining Balance <u>\$ 40,019</u>	Remaining Balance _____
FUNDING SOURCE 4:	FUNDING SOURCE 5:	FUNDING SOURCE 6:
Current Balance _____	Current Balance _____	Current Balance _____
Encumbered _____	Encumbered _____	Encumbered _____
Requested Amount _____	Requested Amount _____	Requested Amount _____
Remaining Balance _____	Remaining Balance _____	Remaining Balance _____

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

3 City Manager/  
4 Finance Director

5 **ORDINANCE 23-45**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
8 AMENDING THE FY24 CAPITAL BUDGET TO FUND ANTICIPATED  
9 REPAIRS OR MAINTENANCE TO THE UNITED STATES COAST  
10 GUARD CUTTER (USCGC) BERTH SPACE BY ESTABLISHING  
11 AUTHORITY IN THE FY24 BUDGET FOR ROUTINE MAINTENANCE  
12 TO THE USCGC BERTH SPACE.  
13

14 WHEREAS, The Coast Guard leases berth space on the West side of the Pioneer Dock to  
15 moor their vessel, the USCGC Aspen (previously USCGC Hickory); and  
16

17 WHEREAS, As part of their priority use agreement for the USCGC Hickory berth space, a  
18 portion of funds, paid monthly by the Coast Guard, is set aside for use in the event of any  
19 required maintenance or repairs; and  
20

21 WHEREAS, The Homer City Council adopted Ordinance 23-19 establishing a dedicated  
22 reserve for required maintenance or repairs of the USCGC berth space.  
23

24 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
25

26 Section 1. The Homer City Council hereby amends the FY24 Capital Budget by  
27 appropriating \$20,000 from the USCGC Berth Space Maintenance Reserve for anticipated  
28 repairs or maintenance of the USCGC berth space as follows:  
29

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
456-0383	USCGC Berth Space Maintenance Reserve	\$20,000

30  
31  
32

33 Section 2. This is an annual appropriation and will lapse at the end of the fiscal year.  
34

35 Section 3. This is a budget amendment ordinance, is temporary in nature, and shall not  
36 be codified.  
37

38 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this xx<sup>th</sup> day of July, 2023.  
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40 CITY OF HOMER  
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ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

\_\_\_\_\_  
KEN CASTNER, MAYOR

YES:  
NO:  
ABSENT:  
ABSTAIN:  
  
First Reading:  
Public Hearing:  
Second Reading:  
Effective Date:



# MEMORANDUM

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**Ordinance 23-45, An Ordinance of the City Council of Homer, Alaska Amending the FY24 Capital Budget to Fund Anticipated Repairs or Maintenance to the United States Coast Guard Cutter (USCGC) Berth Space by Establishing Authority in the FY24 Budget for Routine Maintenance to the USCGC Berth Space. City Manager/Finance Director.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner and Homer City Council  
**Date:** June 22, 2023  
**From:** Elizabeth Walton, Finance Director  
**Through:** Rob Dumouchel, City Manager

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**Purpose of Ordinance:**

The Coast Guard has a priority use agreement for their berth space and a portion of the funds paid are to be set aside for use in the event of any required maintenance or repairs.

Homer City Council adopted Ordinance 23-19 establishing a dedicated reserve for required maintenance or repairs associated with the United States Coast Guard Cutter (USCGC) berth space. Now, the City of Homer needs the authority to spend from this reserve to address any required maintenance or repair needs to the berth space for the fiscal year.

This will be an annual ordinance that comes before City Council to establish authority to spend up to a dollar amount on routine maintenance or repairs. An ordinance will be brought forward if additional funding is needed before the end of the fiscal year. All funds not spend within the fiscal year will return back to the USCGC Berth Space Maintenance Reserve for future use.

**Recommendation:**

Pass Ordinance authorizing up to \$20,000 to be spent on routine maintenance or repair needs associated with the USCGC berth space.

CITY OF HOMER  
FINANCIAL SUPPLEMENT

PROJECT NAME	<u>USCGC BERTH SPACE ANNUAL MAINTENANCE AUTHORITY</u>	DATE <u>06/22/2023</u>
DEPARTMENT	<u>Port and Harbor</u>	SPONSOR <u>City Manager/Finance Director</u>
REQUESTED AMOUNT	<u>\$ 20,000</u>	

DESCRIPTION	The Coast Guard leases berth space on the West side of the Pioneer Dock to moor their vessel, the USCGC Aspen (previously USCGC Hickory). As part of their priority use agreement for the USCGC Hickory berth space, a portion of funds, paid monthly by the Coast Guard, is set aside for use in the event of any required maintenance or repairs. The Homer City Council adopted Ordinance 23-19 establishing a dedicated reserve for required maintenance or repairs of the USCGC berth space.
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FUNDING SOURCE(S)	OPERATING	GF CARMA	GF FLEET CARMA	USCGC BERTH RESERVES	WATER CARMA
	0%	0%	0%	100%	0%
	HAWSP	HART-ROADS	HART-TRAILS	PORT FLEET RESERVES	SEWER CARMA
	0%	0%	0%	0%	0%

FUNDING SOURCE 1: USCGC BERTH RESERVES	FUNDING SOURCE 2:	FUNDING SOURCE 3:
Current Balance <u>\$ 144,360</u>	Current Balance _____	Current Balance _____
Encumbered <u>\$ 0</u>	Encumbered _____	Encumbered _____
Requested Amount <u>\$ 20,000</u>	Requested Amount _____	Requested Amount _____
Other Items on Current Agenda <u>\$ 0</u>	Other Items on Current Agenda _____	Other Items on Current Agenda _____
Remaining Balance <u>\$ 124,360</u>	Remaining Balance _____	Remaining Balance _____
FUNDING SOURCE 4:	FUNDING SOURCE 5:	FUNDING SOURCE 6:
Current Balance _____	Current Balance _____	Current Balance _____
Encumbered _____	Encumbered _____	Encumbered _____
Requested Amount _____	Requested Amount _____	Requested Amount _____
Remaining Balance _____	Remaining Balance _____	Remaining Balance _____

**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**RESOLUTION 23-062**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA APPROVING A CONTRACT AMENDMENT WITH HOMER ANIMAL SERVICES, LLC WHICH INTEGRATES THE BUDGETED INCREASE FOR ANIMAL SHELTER OPERATIONS AND ANIMAL CONTROL SERVICES FOR THE FIRST HALF OF 2024 FISCAL YEAR AND AUTHORIZES THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS

WHEREAS, A contract for operation and management was awarded to Alaska Mindful Paws via Resolution 16-104; and

WHEREAS, A five year contract renewal and amendment was approved by Council via Resolution 18-072; and

WHEREAS, Alaska Mindful Paws became Homer Animal Services, LLC in 2020; and

WHEREAS, A contract amendment increasing the contract amount for animal shelter operations was approved via Resolution 21-088; and

WHEREAS, A contract amendment allowing Homer Animal Services, LLC to retain fees collected for services provided by the shelter; and

WHEREAS, The FY24/25 Operating Budget, adopted via Ordinance 23-20(A), included a \$91,293 per year increase in funding for the Animal Shelter; and

WHEREAS, An amendment is required to integrate that budgeted adjustment into the City's contract with Homer Animal Services, LLC; and

WHEREAS, The contract with Homer Animal Services, LLC expires December 31, 2023 and the Animal Shelter contract will be going back out to bid in the first half of FY24.

NOW, THEREFORE BE IT RESOLVED that the City Council of Homer, Alaska approved a contract amendment with Homer Animal Services which adds \$45,646.50 in compensation to the period running from July 1, 2023 until December 31, 2023, and authorizes the City Manager to negotiate and execute the appropriate documents.

43 PASSED AND ADOPTED by the Homer City Council this 26<sup>th</sup> day of June, 2023.

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CITY OF HOMER

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KEN CASTNER, MAYOR

49 ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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54 Fiscal Note: FY24 Budget



# MEMORANDUM

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**A Resolution of the City Council of Homer, Alaska Approving a Contract Amendment with Homer Animal Services, LLC which Integrates the Budgeted Increase for Animal Shelter Operations and Animal Control Services for the First Half of Fiscal Year 2024 and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner and Homer City Council  
**Date:** June 14, 2023  
**From:** Rob Dumouchel, City Manager

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The Homer Animal Shelter is operated by a contract held by Homer Animal Services, LCC. The contract is in need of an amendment to reflect the increase in funding approved within the FY24/25 operating budget. This amendment would only apply to the period from July 1<sup>st</sup> to December 31<sup>st</sup> as the existing contract is set to expire at the end of the year. We will be putting Animal Shelter operations back out to bid during that period and then negotiating a signing a new agreement to carry us forward through calendar year 2024 and beyond.

## **Background**

In 2016 the City went out to bid for Homer Animal Shelter operation and management services. The contract was awarded to the one responsive bidder, Alaska Mindful Paws (Resolution 16-104). The contract was signed in November 2016 and the term commenced January 1, 2017. Over time, the contract has been extended (Resolution 18-072) and modified (Resolutions 21-088 and 23-004) to help the Animal Shelter's operator, who is now known as Homer Animal Services, LLC, to keep up with the changes in demand and the high levels of inflation that have hit animal services particularly hard. In the FY24/25 operating budget, a \$90,000 increase in professional services for the Animal Shelter was approved, but has not yet been integrated into the existing contract for Homer Animal Services, LLC. Homer Animal Services, LLC's contract is set to expire December 31, 2023.

**Staff Recommendation:** Approve Resolution 23-062 amending the contract with Homer Animal Services, LLC to pay out an additional \$45,646.50 for the period covering July 1, 2023 to December 31, 2023



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2 **CITY OF HOMER**  
3 **HOMER, ALASKA**

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City Manager

**RESOLUTION 23-063**

A RESOLUTION OF THE HOMER CITY COUNCIL APPROVING A FIVE YEAR SUBLEASE AT THE HOMER AIRPORT TERMINAL FOR NORTHERN PACIFIC AIRWAYS, INC. DBA RAVN ALASKA, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Northern Pacific Airways, Inc., dba Ravn Alaska (Ravn) has requested a new sublease with the City to continue their existing operations, which includes 2530 square feet of combined front counter, office, baggage claim loading bay and cargo space located at the Homer Airport Terminal; and

WHEREAS, The current sublease between Ravn and the City at the Homer Airport Terminal expired on March 30, 2023 and is now on a month to month basis; and

WHEREAS, The prime lease held between the City and the State of Alaska Department of Transportation and Public Facilities (DOT&PF) terminated March 20, 2023 and the City recently has renewed this lease; and

WHEREAS, DOT&PF only permits the City to enter into sublease arrangements at the Homer Airport Terminal with a maximum term length of five years however the City can only offer a sublease that ends with the prime leases termination date of March 30, 2028; and

WHEREAS, HCC 18.08.140 City property may be subleased if expressly permitted in the lease agreement and approved in writing by Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby approves a five year sublease effective July 1, 2023 through March 30, 2028 space at the Homer Airport Terminal for the annual lease rent of \$119,384.52 and authorizes the City Manager to negotiate and execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this \_\_\_\_\_th day of \_\_\_\_, 2023.

CITY OF HOMER

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KEN CASTNER, MAYOR

45 ATTEST:

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48 MELISSA JACOBSEN, MMC, CITY CLERK

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50 Fiscal information: \$119,384.52 lease revenue



# MEMORANDUM

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**Resolution 23-063 A Resolution of the City Council of Homer, Alaska Approving a Five Year Sublease at the Homer Airport Terminal with Northern Pacific Airways, Inc. DBA Ravn Alaska, and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor & City Council  
**Meeting Date:** June 26, 2023  
**Staff Contact:** Julie Engebretsen, Economic Development Manager  
**Through:** Rob Dumouchel, City Manager

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**Summary Statement:**

Northern Pacific Airways, Inc., dba Ravn Alaska (Ravn) has submitted a lease application and written request for a new short-term lease at the Homer Airport Terminal for the purpose of continuing scheduled passenger air carrier operations.

The Homer Airport Terminal building is owned by the City of Homer, while the land is leased to the City by the State of Alaska. The lease with the State has a five year term, beyond which the City cannot sublease space long term within the terminal. There is a provision for a month to month continuation of both the City lease with the State and for subleases within the terminal building; all City tenants are currently operating under this provision until new leases are executed. The City lease with the State was recently executed, allowing the City to renew subleases with tenants for the remainder of the new five year term.

The City Manager and Lease Staff has reviewed the request and found the proposal to be compatible with applicable regulations and meets the criteria outlined in City Code.

Staff is recommending to Council that a forty-six month lease be awarded to Northern Pacific Airways, Inc., dba Ravn Alaska (Ravn) at the Homer Airport Terminal, with a base rent of \$119,384.52 per year.

**Staff Recommendation:**

Adopt Resolution 23-063.

**Attachments:**

Northern Pacific Airways, Inc., dba Ravn Alaska City Lease Application  
DRAFT Airport Lease Agreement



1.800.866.8394  
ravnalaska.com

4700 Old International Airport Rd  
Anchorage, AK 99502

March 15, 2023

City of Homer  
Attention: Rob Dumouchel  
491 East Pioneer Avenue  
Homer, AK 99603

RE: Northern Pacific Airways Inc, dba Ravn Alaska - Lease Renewal Homer Airport

Dear Mr. Dumouchel:

Northern Pacific Airways Inc. dba Ravn Alaska is pleased to submit our application and documentation to extend the lease at Homer Airport. Ravn Alaska has had the pleasure of serving the Homer community for many years and looks forward to a bright future. By continuing this lease, we will operate air transportation for both passengers and cargo which serves the benefits the community in many ways. Supplying an average of 25 passenger flights per week, our service promotes tourism and offers convenience for traveling residents. In addition, Ravn Alaska contributes to the local economy by providing employment and necessary expedited cargo for a variety of businesses, including the South Peninsula Hospital.

Thank you in advance for your time and consideration. If I may be of assistance, please contact me at 907.223.5836.

Sincerely,

Tina Hanley  
Chief Commercial Officer



# City Lease Application

## For City-Owned Real Property & Airport Terminal Space

**Office of the City Clerk**  
 491 East Pioneer Avenue  
 Homer, Alaska 99603  
 Phone: (907) 235-3130  
 Fax: (907) 235-3143  
[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

### Lease Application Purpose

- Request for New Lease; New Lessee – Applicant is not currently a City lessee
- Request for New Lease; Existing Lessee – Applicant is a current lessee with no remaining options to renew
- Request for Assignment of Lease – Applicant is requesting to have an existing lease transferred to a new owner/business

### Property Information

This Lease is for:	<input type="checkbox"/> City-Owned Real Property	<input checked="" type="checkbox"/> Space in the Homer Airport Terminal Building
Physical Address:	Lot 5A, Block 800 (located at the Homer Airport -3720 FAA Road, Homer, AK 99603)	
Square Footage:	2,530 square feet	<input type="checkbox"/> Full Lot <input checked="" type="checkbox"/> Portion of Lot
	KPB Parcel No.:	
Legal Description of Property: (If within the Airport Terminal Building list Space Description Info & square footage instead)	Lot 5A, Block 800 Homer Airport Tracts Sublease as part of ADA-06600	

### Applicant Information

Business Name:	Northern Pacific Airways, Inc. dba Ravn Alaska
Representative's Full Name & Title:	Tina Hanley Chief Commercial Officer
Mailing Address:	4700 Old International Airport Road
City, State, ZIP Code:	Anchorage, AK 99502
Phone Number(s):	907-266-8468
Email:	tina.hanley@ravnalaska.com

### Business Entity & Financial Information

<input type="checkbox"/>	Sole or Individual Proprietorship – Attached documentation must provide owner's full name, address, and verify they are the sole owner.
	Is entity authorized to do business in Alaska? <input type="checkbox"/> No <input type="checkbox"/> Yes – As of what date:
<input type="checkbox"/>	Partnership – Attached documentation must provide Partners' full names, addresses, and share percentages.
	Date of Organization: _____ Type of Partnership: _____

Is Partnership authorized to do business in Alaska? <input type="checkbox"/> No <input type="checkbox"/> Yes – As of what date:	
<input checked="" type="checkbox"/>	Corporation – Attached documentation must provide the full names of Officers and Principal Stockholders (10%+), their addresses, and share percentages.
	Date of Organization: 07/27/1959      Type of Corporation: Business Corporation
	Is Corporation authorized to do business in Alaska? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes – As of what date: 07/27/1959
	Corporation is held: <input checked="" type="checkbox"/> Privately <input type="checkbox"/> Publicly – How and where is stock traded:
<input type="checkbox"/>	Other – Please explain:
Proof of Financial Capability to Meet Obligations:  <b><u>*PRIOR LEASE HISTORY ON FILE WITH THE CITY OF HOMER*</u></b>	<input checked="" type="checkbox"/> Documentation of Payment History: Documents such as a credit report and score from one of the three credit bureaus (i.e. Experian, Equifax, TransUnion) or records of prior lease history.
	<input type="checkbox"/> Documentation of Applicant's Financial Backing: Records showing applicant has secured the funding necessary to implement their development/improvement plan and/or purchase the business (if applicable).
	<input type="checkbox"/> Documentation of Business' Vitality: Minimum of two years (past year and current year) of financial statements; this includes a Balance Sheet and Profit/Loss Statement (Revenue/Expense Statement).
Surety Information:	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?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – Attach a statement naming the surety or bonding company, date and amount of bond, and the circumstances surrounding the default or performance.
Bankruptcy information:	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?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – Attach a statement indicating state, date, Court having jurisdiction, case number and to amount of assets and debt.
Pending Litigation:	Are you or any of the principals of your organization holding more than a 10% interest presently a party to any pending litigation?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – Attach detailed information as to each claim, cause of action, lien, judgment including dates and case numbers.
<b>Lease Proposal</b>	
Type of Business/ Proposed Use of the Property:	Regional Airline: passenger and cargo transportation by air and related functions of aircraft operation

<p>Requested Lease Term:</p>	<p><input type="checkbox"/> Short Term Lease (One Year or Less) – Duration (in months):</p> <p><input checked="" type="checkbox"/> Long Term Lease (More Than One Year)</p> <ul style="list-style-type: none"> <li>Standardized Lease is a 20-year term with two 5-year Options to Renew; City Manager may deviate from standardized lease term when reasonable and necessary, and approved by Council (18.08.030).</li> <li>No more than two Options to Renew; each option cannot exceed 25% of initial lease term (18.08.110).</li> </ul> <p>Duration (in years):                      5                      No. of Options to Renew:</p>
<p>Property Plan:</p> <p><b>*LEASE RENEWAL*</b> <u>NO CHANGES</u></p>	<p><input type="checkbox"/> Describe your Property Plan in your written narrative. Details should include but not be limited to:</p> <ul style="list-style-type: none"> <li>Proposed utilization of the lot/space, including parking</li> <li>If there are existing buildings on the property and what their proposed uses are</li> <li>Any intentions to rent out or sublease space on the property</li> <li>How the use is compatible with neighboring uses and consistent with applicable land use regulations including the Land Allocation Plan; Comprehensive Plan</li> </ul> <p><input type="checkbox"/> Provide a detailed schematic (to scale) that shows the following:</p> <ul style="list-style-type: none"> <li>Size of lot – dimensions and total square footage</li> <li>Placement/size of existing buildings, storage units, and other miscellaneous structures</li> <li>Parking spaces – numbered on the drawing with a total number indicated</li> <li>Note: an as-built survey from a licensed surveyor may be required</li> </ul>
<p>Development Plan:</p> <p><b>*LEASE RENEWAL*</b> <u>NO CHANGES</u></p>	<p>Do you have a development and/or improvement plan for the property, including plans for repairs or maintenance to any existing buildings?</p> <p><input type="checkbox"/> Yes    In your written narrative, provide as much information as possible on how you intend to develop/improve the property. Include a time schedule from project initiation to completion, major project milestones, cost estimate and financing plan, and any additional designs not already provided in the Property Plan's detailed schematic.</p> <p><input type="checkbox"/> No        In your written narrative, explain why.</p>
<p>City Planning &amp; Other Agency Approvals:</p> <p><b>*LEASE RENEWAL*</b> <u>N/A</u></p>	<p>Does your business/proposed use and/or development plan require agency approval? The granting of any lease is contingent upon lessee obtaining approval, necessary permits, and/or inspection statements from all appropriate City, State and/or Federal agencies. This includes but is not limited to:</p> <ul style="list-style-type: none"> <li>Applicable permits/approval from City Planning for zoning compliance, such as Conditional Use Permits, Zoning Permits</li> <li>Fire Marshall Plan Review and Permitting</li> <li>Waste Disposal System Plan Approval – Includes fish waste if applicable</li> <li>Other applicable permits/inspection statements from agencies such as U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and Alaska Department of Environmental Conservation Division of Environmental Health</li> </ul> <p><input type="checkbox"/> Explain in your written narrative what necessary approvals, permits, and/or inspections are applicable to your business/proposed use and the current status of your application with those agencies.</p> <p><input type="checkbox"/> Attach any relevant documentation that verifies completion or pending status.</p>

<p>Insurance Requirements:</p> <p><u>STATE OF ALASKA</u> <u>CERTIFICATE OF</u> <u>COMPLIANCE</u> <u>ATTACHED</u></p>	<p>The granting of any lease is contingent upon lessee obtaining and keeping in full force insurance as outlined in HCC 18.08.170. Certificates of insurance showing the required insurance is in effect and identifying the City as an additional insured must be provided to the City at the time a lease becomes effective and annually thereafter, and upon every change in insurance provider or insurance coverage.</p> <p><input checked="" type="checkbox"/> Provide proof of insurability for public liability insurance in the amount of not less than \$1,000,000 coverage per occurrence for bodily injury, including death, and property damage, and the City of Homer as co-insured. Additional insurance limits or types may be required due to the nature of the business, lease, or exposure.</p>
<p>Benefits &amp; Impacts on Community:</p> <p><u>*SEE NARRATIVE</u> <u>NO CHANGES*</u></p>	<p><input checked="" type="checkbox"/> In your written narrative answer the following questions:</p> <ul style="list-style-type: none"> <li>• What experience do you have in the proposed business or venture?</li> <li>• How long have you resided or conducted business in the City, Kenai Peninsula Borough, and/or the State of Alaska?</li> <li>• What are some of the economic, social, and financial benefits and/or impacts your business/proposed use brings to the community?</li> </ul>
<p>Applicant References:</p>	<p><input checked="" type="checkbox"/> In your written narrative, 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>Each reference must include the following:</p> <ul style="list-style-type: none"> <li>• Full Name</li> <li>• Name of the organization/business and their title at this entity</li> <li>• Address</li> <li>• Phone number and email address</li> <li>• Nature of association with Applicant</li> </ul>
<p>Additional Information:</p>	<p><input checked="" type="checkbox"/> Include in your written narrative, or attach relevant documentation, that you deem pertinent to your application/lease proposal. Criteria for evaluating and approving proposals and competing lease applications can be found under HCC 18.08.060.</p>

**Required Attachments/Documentation**

<input checked="" type="checkbox"/>	Written Narrative
<input checked="" type="checkbox"/>	<p>Business Entity and Licensing Information</p> <ul style="list-style-type: none"> <li>• State of Alaska Business License</li> <li>• Current State of Alaska Biennial Report</li> <li>• If Partnership: Statement of Partnership/Partnership Agreement</li> <li>• If Corporation: Articles of Incorporation &amp; Bylaws</li> <li>• Any additional documentation concerning the formation or operation of the entity</li> </ul>
<input checked="" type="checkbox"/>	Financial Information
<input type="checkbox"/>	N/A Property Plan - Detailed Schematic of Property
<input type="checkbox"/>	N/A Development Plan documents/plans, if any



<input checked="" type="checkbox"/>	Proof of Insurability; verification that insurance can be provided at signing of lease
<input type="checkbox"/>	N/A City Planning & Other Agency Approval Information, if any

**Application Signatures**

By signing, I agree that the above information is true and correct to the best of my knowledge. I certify that I am authorized to sign as the applicant on behalf of the entity I represent.

Signature: Tina Hanley Date: 3.15.23

Printed Name & Title: Tina Hanley, CCO

**Office Use Only**

Received By & Date:	Fee Processed: \$	Date:
Date Application Accepted as Complete:	Application Timeout Date: (1 year from receipt)	
Submitted for Dept. Review:	<input type="checkbox"/> Planning <input type="checkbox"/> Port & Harbor <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Other:	
Submitted for City Manager Review:	<input type="checkbox"/> Approved on:	<input type="checkbox"/> Denied on:
For Existing Leases Exempt from Competitive Bidding:	Current Lease Expires with No Options to renew: _____	
	6 mos. Prior to date of lease termination (Council Approval Deadline): _____	
	Request received within 12 to 18 mo. timeframe from expiration of lease date: <input type="checkbox"/> Yes <input type="checkbox"/> No	

**HOMER AIRPORT TERMINAL**  
**AIR CARRIER/TICKET COUNTER SUBLEASE**

**THIS SUBLEASE IS MADE** this 1<sup>st</sup> day of July, 2023, between the City of Homer, an Alaska Municipal Corporation (“Sublessor”), whose address is 491 East Pioneer Avenue, Homer, Alaska 99603, and Northern Pacific Airways, Inc. dba Ravn Alaska (“Sublessee”), whose address is 4700 Old International Road, Anchorage, AK 99502.

The City is Lessee in a lease agreement (“Prime Lease”) affecting the property dated both October 6, 1992 and March 3, 1993, the agreement of which has been recorded in the Homer Recording District under Document No. 1993-001154-0, also known as Lease Agreement No. ADA-06600, between the State of Alaska, Department of Transportation and Public Facilities (“Lessor”), and the City of Homer (“Lessee”), as amended by Supplement No.1, dated February 28, 2002, and as amended by Supplement No.2, dated March 30, 2023 and may be further amended from time to time with the Lessor to which all the terms, covenants, and conditions of this Sublease are subject to. Sublessee will fully comply with all covenants, provisions, conditions, and terms of that Prime Lease.

**CITY AND SUBLESSEE AGREE AS FOLLOWS:**

**1. DESCRIPTION.** City subleases to Sublessee and Sublessee subleases from City the premises consisting of 2,530 square feet of space as more fully described and/or depicted on Exhibit A (“Leased Premises”) in the Homer Airport Terminal Building (“Building”) located on Lot 5A, Block 800, HOMER AIRPORT TRACTS according to the official plats on file with DOT/PF, Division of Aviation for the term, the rent, and subject to the covenants and conditions hereinafter provided. The Sublessee will also have access to the Common Use Areas for Sublesses more fully described and/or depicted on Exhibit A (“Common Use Areas”). This Sublease confers no rights either with regard to the subsurface of the land below the floor level of the Leased Premises or with regard to airspace above the ceiling of the Leased Premises.

This sublease includes 11 parking spaces at the Homer Airport Terminal in the employee parking area.

**2. TERM.** (a) The term of this Sublease shall commence on July 1, 2023, and shall end on March 30, 2028, unless sooner terminated as hereinafter provided.

(b) In any event, Sublessee may not occupy the Premises before the debtor currently in possession of the lease notices rejection or DOT/PF consents to this Sublease in writing. IF City is unable to deliver possession of the Premises by the date specified for the commencement of the term of this Sublease as a result of causes beyond its reasonable control, including without limitation any failure or delay in obtaining the consent of DOT/PF, City shall not be liable for any damage caused by failing to deliver possession, this Sublease shall not be void or voidable, and the term

of this Sublease shall not be extended by the delay. The Sublessee shall not be liable for rent until the City delivers possession of the Premises to Sublessee but shall commence paying rent when City delivers possession.

**3. RENT** Sublessee shall pay to City as annual rent, without deduction, setoff, prior notice or demand, the sum of \$119,384.52 plus taxes (“Rent”). Rent shall be payable in monthly installments of \$9,948.71 plus tax (“Monthly rent Payment”) in advance on the first day of each month, commencing on the date the term of this Sublease commences. Monthly rent for the first month or portion of it shall be paid on the day the term commences.

Monthly rent for any partial month shall be prorated based on the number of days in the month. Rent not paid when due shall bear interest from the date when due at the rate of interest specified in AS 45.45.010 (a) as now enacted or hereinafter amended. Rent shall be paid at the address set forth for City in the introductory paragraph of this Sublease, or as otherwise directed from time to time by notices from City.

**4. USE OF PREMISES** Sublessee shall use the Leased Premises for office space and ticket counter space for passenger or cargo transportation by air and related functions of aircraft operations and ticket sale and for no other use without City’s written consent. Sublessee agrees to comply with all federal, state and local laws, ordinances and regulations as well as the terms of the Prime Lease. Sublessee agrees to comply with the following rules and regulations and with such reasonable modifications thereof and additions thereto as City may hereafter from time to time make for the Building.

- (a) Sublessee shall comply with all covenants, provisions, conditions, and terms of the Prime Lease.
- (b) Sublessee shall not make or permit to be made any use of the premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of said Prime Lease; nor will Sublessee commit any act, either by commission or omission, which would cause City to be in default of any covenant, provision, term or condition of the Prime Lease. Sublessee hereby acknowledges receiving a copy of the Prime Lease as provided in Exhibit C.
- (c) Sublessee will not make any use of the Property or the Building, nor will sublessee make or permit to be made any use of the Premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of this Sublease; which is forbidden by any federal, state or local law, ordinance or regulation; which may be dangerous to life, limb, or property; which would, in the reasonable judgement of City, in any way impair the character, reputation or appearance of the Building as an attractive and functional airport terminal building; or which would impair or interfere with or tend to impair or interfere with any of the services performed by City for the Property. Sublessee shall immediately cease and desist any conduct the City, in its sole discretion, determines is in violation of this subsection upon receiving written notification by the City of such violation.
- (d) Sublessee shall not exhibit, sell or offer for sale on the Premises or in the Building any article or thing except those articles and things reasonably connected with the stated use of the Premises set forth above by Sublessee without the advance consent of the City.

(e) Sublessee shall not display, inscribe, print, paint, maintain or affix in or about the building or outside of the Premises any sign, notice, legend, direction, figure or advertisement, unless Sublessee shall first have obtained the consent of the City, any then only such names(s) and matter, and in such color, size, style, place and materials as shall first have been approved by City. City shall not unreasonably withhold prompt approval, but City's insistence on compliance with a uniform signage plan shall not be deemed unreasonable.

(f) No additional locks or similar devices shall be attached to any door or window without City's consent. No keys for any door other than those provided by city shall be made. All keys including cargo area garage door openers must be returned to City at the expiration or termination of this Sublease. If more than two keys for one lock are desired, City will provide the same upon payment by Sublessee. Sublessee will be responsible for replacing lost or damaged garage door opener and/or keys.

(g) Sublessee shall not overload any floor. City may direct, within reason, the time and manner of delivery, routing and removal, and the location, of safes and other heavy articles.

(h) Unless city gives consent, Sublessee shall not install or operate any steam or internal combustion engine, boiler, machinery, refrigerating or heating device or air conditioning apparatus in or about the premises, or carry on any mechanical business therein, or use the Premises for housing accommodation or lodging or sleeping purposes, or do any cooking therein, or use any illumination other than electric light, or use or authorize to be brought into the Building any inflammable fluid such as gasoline, kerosene, naphtha, and benzene, or any explosives, radioactive materials or other articles deemed extra hazardous to life, limb or property, except in a manner which would not violate any federal, state or local law, ordinance or regulation. Sublessee shall not use the premises for any illegal or immoral purpose.

(i) The sidewalks, halls, passages, exits, and entrances ("Common use Areas") shall not be obstructed by Sublessee or used for any purpose other than for ingress to and egress from the premises. No Sublessee and no employees or invitees of any Sublessee shall go up on the roof of the Building.

(j) Sublessee shall not use, keep or permit to be kept any foul, explosive or noxious gas or substance in the Premises, or permit or suffer the premises to be occupied or used in a manner unreasonable offensive or objectionable to the City or other occupants of the Building by reason of noise, odors, and/or vibrations, or unreasonably interfere in any way with other tenants or those having business therein; nor shall any animals or birds be brought in or kept in or about the Premises or the Building, unless for purposes of air transport, and then only in containers designed for transport of such animals or birds. Sublessee shall be responsible for enforcing the requirement that all animals and birds shall be kept in containers while in the Premises or the Building. Sublessee shall make all repairs and conduct all cleaning necessary as a result of the presence of birds or animals in the Premises or the building in connection with air transport.

(k) Sublessee shall see that the doors and windows, if openable, of the premises, are closed and securely locked before leaving the Building and must observe with strict care and caution that all water faucets or water apparatus are entirely shut off before Sublessee or Sublessee's employees leave the building, and that all electricity shall likewise be carefully shut off so as to prevent waste or damage.

(l) In the event of any default or carelessness in performing the duties imposed by this paragraph, Sublessee shall make good all resulting injuries or losses sustained by other sublessees or occupants of the Building and City. In additions to all other liabilities for breach of any covenant of this paragraph, the Sublessee shall pay to the City an amount equal to any increase in insurance premiums payable of the City or any other tenant in the building caused by such breach, but City shall have the burden of proving by a preponderance of the evidence that such increase is directly attributable to such breach.

**5. SECURITY DEPOSIT.** The Sublessee has deposited with City at the time of execution of this Sublease the sum of \$17,106.60 (equal to fifteen percent (15%) of Rent) as a security deposit for the performance by Sublessee of the provisions of this Sublease. If Sublessee is in default, City can use the security deposit, or any portion of it, to cure the default or to compensate City for all damage sustained by City resulting from Sublessee's default. Sublessee shall immediately upon demand pay to City a sum equal to the portion of the security deposit expended or applied by city as provided in this paragraph so as to maintain the security deposit in the sum initially deposited with the City. Sublessee's failure to do so within five (5) days after demand by City shall be a default under this Sublease. If Sublessee is not in default at the expiration or termination of this Sublease, city shall return the security deposit to Sublessee. City's obligation with respect to the security deposit are those of debtor and not those of trustee or fiduciary. City may maintain the security deposit separate and apart from City's general funds or co-mingle the security deposit with City's general funds. City shall not be required to pay Sublessee interest on the security deposit. If City is required by law to maintain the security deposit in an interest bearing account, City shall be entitled to receive and retain the maximum amount permitted under applicable law as a bookkeeping and administrative charge.

**6. UTILITIES AND SERVICES.** City shall furnish to the Premises, at City's expense, except as otherwise provided in this sublease, reasonable quantities of electricity and heat as required for Sublessee's use. City shall furnish water, sewer and garbage removal service to the Building, at City's expense; however, Sublessee shall be responsible for cleaning the Leased Premises and taking its garbage to dumpsters provided for the Building. If City is required to construct new or additional utility installations including, without limitation, wiring, plumbing, conduits and mains, resulting from Sublessee's changed or increased utility requirements, Sublessee shall, on demand, pay the City the total cost of these items. If Sublessee causes City services such as janitorial services to exceed the normal and scheduled service already provided to the building, Sublessee will be responsible for the costs incurred by the City to provide this additional service. City shall not be liable for failure to furnish utilities to the Premises when the failure results from causes beyond City's reasonable control, but in case of such failure City will take all reasonable steps to restore the interrupted utilities. Any such interruption of utilities shall never be deemed an eviction or disturbance of Sublessee's use and possession of the Premises, or any part thereof, or give Sublessee any right to abatement of rent, or otherwise relieve Sublessee from performance of any of Sublessee's obligations under this Sublease, except that Sublessee's obligation to pay rent shall be abated to the extent that any such interruption of the utilities exceeds fifteen (15) days. Sublessee shall pay for the telephone charges, including installation.

**7. CONDITON OF PREMISES.** Sublessee's taking possession of the Premises shall be conclusive evidence as against Sublessee that the Premises were in good order and satisfactory condition when Sublessee took possession, except that to latent defects. No promise of City to alter, remodel, repair or improve the Premises or the Building and no representation as to the condition of the Premises or the

building has been made by City to Sublessee, other than as may be contained in this Sublease or in a separate written agreement. At the termination of this Sublease, the Sublessee shall return the Premises clean and in as good order and condition as when the Sublessee took possession, ordinary wear and tear excepted, failing which the City may restore the Premises to such condition and the Sublessee shall pay the cost thereof on demand.

**8. MAINTENANCE AND REPAIRS.** City, at City's expense, shall maintain, in good condition, the structural parts of the Building which shall include only the foundation, bearing and exterior walls (excluding glass and doors to the premises), subflooring, the unexposed electrical, plumbing and sewage systems, and the heating and ventilation system servicing the Premises. Sublessee, at Sublessee's expense, shall maintain, in good condition, the Premises, including, without limitation, all glass, doors to the Premises, electrical and plumbing fixtures, interior walls, signs and Sublessee's personal property.

**9. PARKING AND SNOW REMOVAL.** This sublease includes eleven parking spaces at the Homer Airport Terminal in the employee parking area. The City shall designate a parking area for employees of tenants of the building. No overnight parking of employee vehicles is allowed. Overnight parking for one Sublessee's van shall be in the long term parking area on the west side of the terminal to facilitate snow removal. City shall provide snow removal in the parking area. If city, in City's sole discretion, is able to provide additional designated parking for employee or business vehicles, Sublessee shall pay additional rent of \$15 per month for each additional space. Additional rent is due at the same time the rent is due under paragraph 3 of the Sublease.

**10. ALTERATIONS.** (a) Sublessee shall not make any alterations to the Premises without City's prior written consent, which shall not be unreasonably withheld. Requests for approval of alterations shall be made in writing and shall not be unreasonably withheld. Requests for approval of alterations shall be made in writing and shall include three (3) copies of the plans and specifications. The city will approve or disapprove the proposed alterations within thirty (30) days. Approval of the alterations shall not constitute a building permit, nor shall a building permit constitute approval of the alterations. Any alterations (except Sublessee's trade fixtures) shall remain on and be surrendered with the premises on expiration or termination of this Sublease, except that City can elect at any time to require Sublessee to remove any alterations that Sublessee has made to the Premises. If City so elects, Sublessee, at Sublessee's expense, shall restore the Premises to the condition designated by City in its election, before the last day of the term, or within thirty (30) days after notice of election is given, whichever is later. If Sublessee proceeds to make any approved alterations to the Premises as provided in this paragraph, Sublessee shall notify city no less than five (5) days prior to the commencement of the work.

(b) Sublessee shall make no improvements or construction without the prior approval of DOT/PF. Sublessee shall provide City with copies of such written approval(s) prior to commencement of any improvements or construction.

**11. MECHANICS' LIENS.** Sublessee shall pay all costs for construction done by it or caused to be done by it on the premises as permitted by this Sublease. Sublessee shall keep the Premises, the Building, and the property free and clear of mechanics' liens resulting from construction done by or for Sublessee. Sublessee shall have the right to test the correctness or validity of any such lien only if, immediately on demand by City, sublessee procures and records a lien release bond issued by a corporation authorized to issue surety bonds in the State of Alaska in an amount equal to one and one-half times the amount of the

claim of lien. The bond shall meet the requirements of AS 34.35.072 and shall provide for the payment of any sum that the claimant may recover on the claim, plus interest, costs and attorney's fees.

**12. INDEMNITY.** (a) Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorneys' fees, arising out of any injury to or death of any person or damage to or destruction of property occurring to, in, on or about the Premises, Building or Property, but only to the proportionate extent such damages, costs and fees may be caused by or contributed to by fault or other legal responsibility on the part of Sublessee, its employees, authorized representative, customers, invitees, or sublessees. Notwithstanding the preceding sentence, Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorney's fees, arising out of any injury to or death of any person or damage to or destruction of property arising out of and in the course of Sublessee's cargo and/or flight time, as defined in 14 CFR Section 1.1. Notwithstanding the first sentence of this paragraph, Sublessee shall not be liable to City or its insurers for, and Sublessee's obligation to protect, indemnify and hold City harmless shall not include any lost or damages, including costs and attorney's fees, covered and paid by City's fire insurance described in paragraph 16.

(b) Furthermore, Sublessee shall protect, defend, and indemnify and hold the State harmless to the same level and extent that the Sublessee would provide to the State if the Sublessee were a direct lessee of the State under the Prime Lease.

**13. AVIATION LIABILITY, PUBLIC LIABILITY, PROPERTY DAMAGE, WORKERS' COMPENSATION, AND OTHER INSURANCE.**

(a) Sublessee, at Sublessee's expense, shall maintain airline/aircraft/airport public liability insurance with policy limits not less than that required by statute.

(b) Sublessee, at Sublessee's expense, shall maintain comprehensive general liability insurance with a single combined liability limit of not less than ONE MILLION DOLLARS (\$1,000,000.00) per person, THREE MILLION DOLLARS (\$ 3,000,000.00) per occurrence for personal injury or death and property damage arising from one occurrence in the amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) insuring against all liability of sublessee, its employees, and authorized representatives, arising out of or in connection with sublessee's use or occupancy of the premises.

(c) All aviation and comprehensive general liability insurance policies shall insure performance by Sublessee of the indemnity provisions of paragraph 12; shall name City and DOT/PF as additional insureds; shall include a waiver of subrogation by the insurer against City and DOT/PF; and shall not contain any exclusion from coverage for Sublessee's liability for damages or loss incurred by City or DOT/PF because of their status as additional insureds

(d) Sublessee, at Sublessee's expense, shall maintain workers' compensation insurance with policy limits not less than that required by statute.

(e) In addition to the foregoing, Sublessee must obtain and maintain such insurance covering the operations and activities of Sublessee to the same level and extent that Sublessee would be required to maintain if the Sublessee were the direct lessee of DOT/PF under the Prime Lease. Sublessee must provide to DOT/PF, with a copy to City, such binders or certificates of insurance as may be required by DOT/PF to prove compliance with this subparagraph.

**14. USE OF HAZARDOUS SUBSTANCES.** (a) Sublessee shall not cause or permit any hazardous material to be brought upon, kept, or used in or about the Property by Sublessee or its authorized representatives, customers, invitees or sublessees, except for such hazardous material as is necessary or useful to Sublessee'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) Sublessee shall not discharge, leak or emit, or permit its authorized representatives, customers, invitees or sublessees to discharge, leak or emit, any material into the atmosphere, ground, sewer system or any body of water, if such material does or may, unlawfully pollute or contaminate the same, or may unlawfully 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. The preceding sentence only applies to Sublessee's use of and operations on the Property.

(d) If any such discharge, leak, spill, emission, or pollution (referred to in subparagraph 14(c) above) occurs upon or from the Property during the Sublease term or any holdover, Sublessee will immediately notify City 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) Sublessee 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 sublessee, its authorized representatives, customers, invitees and sublessees, and the Sublessee shall give immediate notice to the City of any violation or suspected violation of the provisions of subparagraphs 149a), (b), (c) and (d).

**15. INDEMNITY FOR USE OF HAZARDOUS MATERIAL.** (a) Sublessee shall protect, indemnify and hold City and DOT/PF and their officers, officials, and other employees harmless from and against 0 any claims, demands, penalties, fines, judgments, settlements, liabilities, losses, damage, costs and expenses (including, without limitation, attorney, consultant and expert fees, court costs and other litigation expenses).

(b) City shall protect, indemnify and hold Sublessee and its directors, officers, and other employees harmless from and against any Environmental Damages arising out of or related to 9i) the presence, disposal or release of any hazardous material on or impacting the property; and (ii) any bodily injury (including death or property damage (real or personal) caused by such presence, disposal or release, but only to the proportionate extent such Environmental Damages shall have been caused by or contributed to by fault or other legal responsibility on the part of city or its employees, agents, customers, invitees or contractors.

(c) For the purposes of paragraphs 1 and 15, "Hazardous material" is defined as any substance that is toxic, ignitable, reactive, or corrosive that is regulated by any local government; the State of Alaska, or



the United States government. "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, polychlorobiphenyles ("PCB's") and petroleum and petroleum products.

**16. CITY'S FIRE INSURANCE.** City shall, at City's expense, maintain on the Building a policy of fire and extended coverage insurance, with vandalism and malicious mischief endorsement, up to the full replacement value. The policy shall provide that any proceeds shall be made payable solely to City. The "full replacement value" of the building to be insured under this paragraph shall be determined by the insurance company issuing the policy at the time the policy is initially obtained or subsequently renewed.

Sublessee shall not use the Premises for any purpose, nor do any acts in the premises, which will increase the existing rate of insurance on the building or cause the cancellation of any insurance policy covering the building or any part thereof, nor shall Sublessee sell, or permit to be kept, used or sold, on the premises, any article, material or substance which may be prohibited by standard form fire and extended coverage insurance policies. Sublessee shall, at Sublessee's expense, comply with any and all requirements pertaining to the Premises of any insurance organization or company, necessary for the maintenance of fire and extended coverage insurance covering the Building. Sublessee agrees to pay to City and additional rent any increase in premiums on policies which may be carried by City covering damage to the Building by fire and the perils normally included in extended coverage, but only to the extent City proves by a preponderance of the evidence that such increase is directly attributable to Sublessee's breach of the first two sentences of this subparagraph. In event of non-payment of such additional rent, city shall have all the rights and remedies provided in this Sublease in case of nonpayment of rent.

**17. OTHER INSURANCE MATTERS.** All insurance required to be carried by Sublessee under this sublease and the Prime Lease shall be issued by insurance companies authorized to do business in the State of Alaska with a financial rating of at least "A" as rated in the most recent edition of Best's Insurance Reports, or an equivalent rating; shall be issued as a primary policy; and shall contain an endorsement requiring twenty(20) days prior written notice from the insurance company to both parties and before cancellation or change in the coverage, scope or amount of any policy. Sublessee shall furnish insurance certificates to City and DOT/PF at the commencement of the term of this sublease, and on renewals. Sublessee shall promptly furnish copies of each policy to City and DOT/PF upon request.

**18. TAXES AND ASSESSMENTS.** City shall pay all general and special assessments. Sublessee shall pay all real estate taxes levied on Sublessee's interest in the premises, Building or Property.

**19. DESTRUCTION.** If, during the term of this sublease, the Premises or the Building are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable, city shall restore the premises or the Building to substantially the same condition as they were in immediately before destruction, if the restoration can be made under the then existing laws and can be substantially completed within one hundred twenty (120) working days after the date of destruction. Such destruction shall not terminate this Sublease. If the restoration cannot be made in the time stated in this paragraph, either party shall have the right to terminate this Sublease by notice to the other party given at

any time within thirty (30) days after the date of such destruction, or within thirty (30) days after it is determined that such restoration cannot be completed within the time stated, whichever is longer, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall have no right to terminate this Sublease. If the then existing laws do not permit the restoration, either party shall have the right to terminate this Sublease by notice to the other party given at any time within thirty (30) days after the date of such destruction.

If a portion of the building other than the Premises shall be totally or partially destroyed from any cause such that in the reasonable opinion of the city the Building should be restored in such a way as to alter the Premises materially, city may terminate this Sublease by notice to Sublessee at any time within thirty (30) days after the date of such destruction. In the event of giving effective notice pursuant to this paragraph, the term of this Sublease shall expire on the date thirty (30) days after the giving of such notice as fully and completely as if such date were set forth for the expiration of the term of this Sublease. If this Sublease is not so terminated, City shall restore the Premises and the Building within a reasonable time and this Sublease shall continue in full force and effect.

If City is required or elects to restore the Premises as provided in this paragraph, city shall not be required to restore alterations made by Sublessee, Sublessee's improvements, Sublessee's trade fixtures, and Sublessee's personal property, including without limitation, any panels, decoration, office fixtures, railing, ceiling, floor covering, partitions and the like, such excluded items being the sole responsibility of Sublessee to restore.

In case of destruction there shall be an abatement or reduction of rent, between the date of destruction and the date of completion of the restoration or the date of termination of this Sublease based on the extent to which the destruction interferes with Sublessee's use of the Premises, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall not be entitled to such abatement or reduction of rent.

If there is destruction to the building that exceeds thirty-three and one-third percent (33 1/3%) of the then replacement value of the building from any risk, City can elect to terminate this Sublease whether or not the Premises are destroyed. If, in the case of such destruction, Sublessee reasonably determines that such destruction unreasonably interferes with its use and occupancy of the Premises, Sublessee can elect to terminate this Sublease by written notice to City.

**20. CONDEMNATION.** If, during the term of this Sublease, there is a taking by condemnation (including condemnation by city) of all or any part of the Premises or Building, the rights and obligations of the parties shall be as follows:

If there is a taking of all or any part of the premises, the term of this Sublease shall forthwith cease and terminate as of the date of vesting of title in the condemner, and the City is entitled to receive the entire award from the condemning authority except that portion, if any, of the award which may be attributable to the loss of the value of the Sublessee's business and Sublessee's leasehold interest, which is given the Sublessee by virtue of this Sublease.

**21. DEFAULT.** Each of the following shall be deemed a default by the Sublessee and a breach of the Sublease:

- (a) A default in the payment of the rent and additional rents due hereunder for a period often (10) days from the due date for such payment.
- (b) A default in the performance of any other term, covenant or condition on the part of the Sublessee to be kept, performed, or observed for a period of fifteen (15) days after service by City on Sublessee of a notice specifying the particular default or defaults, provided, however, that no default on the part of the Sublessee in the performance of work or acts required by it to be done, or conditions to be modified, shall be deemed to exist if steps shall have in good faith been commenced promptly by the Sublessee to rectify the same and shall be prosecuted to completion with diligence and continuity.
- (c) The entry of a decree or order for relief by a court having jurisdiction in respect of the Sublessee in an involuntary case under the federal bankruptcy laws, as now or herein after constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of or for the Sublessee or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs.
- (d) The commencement by the Sublessee of a voluntary case under the federal bankruptcy laws, as now constituted or thereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by it to the appointment of or taking possession of a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of or for the Sublessee or for any substantial part of its property, or the making by Sublessee of any assignment for the benefit of creditors, or the failure of the Sublessee generally to pay its debts as such debts become due, or the taking of corporate action by the Sublessee in furtherance of any of the foregoing.
- (e) The taking possession of the property of Sublessee by any governmental office or agency pursuant to statutory authority for the dissolution or liquidation of the Sublessee.
- (f) The vacation or abandonment of the Premises by Sublessee.
- (g) The assignment or subletting of the Premises by Sublessee without the prior written consent of City and the State of Alaska.

**22. CITY'S REMEDIES IN EVENT OF DEFAULT.** In the event of any default by Sublessee under this Sublease, City shall have the following rights and remedies, which shall be cumulative and all in addition to any rights and remedies that City may be given by statute common law or otherwise:

- (a) Distrain for rent due.
- (b) Re enter the Premises and take possession thereof and remove all signs, other evidence of tenancy, and all personal property of Sublessee from the premises.
- (c) Declare the term of this Sublease ended.
- (d) Relet the Premises in whole or in part for any period equal to or greater or less than the remainder of the term of this Sublease.
- (e) Collect any and all rents due or to become due from subtenants or other occupants of the Premises.

(f) If Sublessee shall at any time fail to make any payment or perform any other action in part to be made or performed under this Sublease, City may, but shall not be obligated to, and without waiving or releasing Sublessee from any obligation under this Sublease, make such payment or perform such other act as may be reasonable in the circumstances, and in connection therewith to pay expenses and employ counsel.

All sums so paid by City and all expenses in connection therewith, together with interest thereon at the rate of twelve percent (12%) per year or the current maximum legal rate of interest, whichever is less, from the date of payment to the date of repayment, shall be deemed additional rent hereunder and payable at the time of any installment of rent thereafter becoming due and city shall have the same rights and remedies for the nonpayment thereof, or any other additional rent as in the case of default in the payment of rent.

(g) Restrain by injunction any violation or attempted violation, or compel by injunction the performance of any of the covenants, agreements or conditions or terms of this Sublease.

(h) Recover, whether this Sublease be terminated or not, from Sublessee, damages, provided for below constituting of items (i) and (ii), or at City's election in lieu of (ii), item (iii):

(i) reasonable attorney's fees and other expenses incurred by city by reason of the breach or default by Sublessee:

(ii) an amount equal to the amount of the rent and additional rents reserved under this Sublease, less the net rent, if any, collected by City on reletting the Premises, which shall be due and payable by Sublessee to City on the days on which the rent and additional rents reserved in this Sublease would have become due and payable; that is to say, upon each of such days Sublessee shall pay to City the amount of deficiency then existing. Such net rent collected on reletting by City shall be computed by deducting from the gross rent collected all expenses incurred by city in connection with the reletting of the Premises, or any part thereof, including broker's commission and the cost of renovation or remodeling the Premises;

(iii) an amount to be due immediately on breach, equal to the amount, if any, by which the remaining rent due under this Sublease exceeds the fair and reasonable rental value of the Premises 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 Premises 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. If the Premises, or any part thereof, be relet by City for the unexpired term of this Sublease, or any part thereof, before presentation of proof of damages, the amount of rent reserved upon such reletting in the absence of evidence to the contrary, shall be deemed to be the fair and reasonable rental value for the Premises, or any part thereof, so relet during the term of such reletting.

Reentry or reletting of the Premises, or any part thereof, pursuant to this section shall not be deemed a termination of this Sublease, unless expressly declared to be so by City. If this Sublease shall be deemed terminated, Sublessee's liabilities shall survive and Sublessee shall be liable for damages as provided above.

The enumeration of the default rights of City above are not intended to imply that they are mutually exclusive, nor that they are in lieu of any or all statutory, common law or other rights.

**23. BANKRUPTCY OR INSOLVENCY.** (A) In the event that Sublessee shall file a petition, or an order for relief is entered against Sublessee, under Chapter 7 of the Bankruptcy Code, and the Trustee of Sublessee shall elect to assume this Sublease for the purpose of assigning the same, such election and/or assignment may only be made if all of the terms and conditions of subsections (c), (d) and (e) hereof are satisfied. If such Trustee shall fail to elect to assume this Sublease for the purpose of assigning the same within sixty (60) days after the order of relief, this Sublease shall be deemed to have been rejected. City shall be thereupon immediately entitled to exercise any remedies available to it under paragraph 25 of this Sublease, and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceeding shall survive.

(b) In the event that Sublessee files a petition for reorganization under Chapters 11 and 13 of the Bankruptcy Code or a proceeding filed by or against Sublessee under any other chapter of the Bankruptcy Code is converted to a Chapter 11 or 13 proceeding, and the Trustee of Sublessee or Sublessee as debtor-in-possession fails to assume this Sublease within sixty (60) days from the date of filing of the Petition or such conversation, the Trustee or debtor-in-possession shall be deemed to have rejected this Sublease. City shall be thereupon immediately entitled to exercise any remedies available to it under section 22 of this Sublease and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceedings shall survive. If the Trustee of Sublessee shall elect to assume this Sublease such election may only be made if all of the terms and conditions of subsections (c) and (d) hereof are satisfied. If the Trustee of Sublessee shall elect to assign this Sublease after assuming it, such assignment may only be made if all of the terms and conditions of subsection hereof are satisfied.

(c) No election to assume this Sublease shall be effective unless in writing and addressed to City and unless in City's reasonable business judgement, all of the following conditions, which City and Sublessee acknowledge to be commercially reasonable, have been satisfied:

- 1) The Trustee or the debtor-in-possession has cured or has provided City adequate assurance (as defined hereunder) that:
  - A) within ten (10) days from the date of such assumption the Trustee or debtor-in-possession will cure all monetary defaults under this Sublease; and
  - B) within thirty (30) days from the date of such assumption the Trustee or debtor-in-possession will cure all not-monetary defaults under this Sublease, or if the non-monetary default requires more than thirty (30) days to cure, the Trustee or debtor-in-possession will within thirty (30) days commence and proceed with diligence and continuity to cure the non-monetary defaults under this Sublease.
- 2) The Trustee or the debtor-in-possession has compensated, or has provided to City adequate assurance (as defined hereunder) that within ten (10) days from the date of assumption City will be compensated for any pecuniary loss sent to the Trustee or debtor-in-possession.
- 3) The Trustee or the debtor-in-possession has provided City with adequate assurance of the future performance of each of Sublessee's obligations under this Sublease; provided, however, that the obligations imposed upon the Trustee or debtor-in-possession shall continue with respect to Sublessee after the completion of bankruptcy proceedings.

4) City has determined that the assumption of the Sublease will not breach any provision in any other Lease by which City is bound relating to the Property.

(d) For the purposes of subparagraph (c) , adequate assurance shall mean: (i) City shall reasonably determined that the Trustee or the debtor-in-possession has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure City that the Trustee or debtor-in-possession will have sufficient funds to fulfill the obligations of Sublessee under this Sublease; and (ii) An order shall have been entered segregation sufficient cash payable to City and/or there shall have been granted a valid and perfected first lien and security interest in property of Sublessee, Trustee or debtor-in-possession, acceptable as to value and kind to City, to secure City the obligation of the Trustee or debtor-in-possession to cure the monetary and/or non-monetary defaults under this Sublease within the time period set forth above.

(e) If the Trustee or debtor-in-possession has assumed the Sublease pursuant to the terms and provisions of subparagraphs (a) or (b), for the purpose of assigning (or elects to assign) Sublessee's interest under this Sublease to any other person, such interest may be so assigned only if City shall acknowledge in writing that the intended assignee has provided adequate assurance as defined in this subparagraph (e) of future performance of all the terms, covenants and conditions of this Sublease to be performed by Sublessee.

For purposes of this subparagraph (e), adequate assurance of future performance shall mean that City shall have reasonably ascertained that each of the following conditions has been satisfied:

- 1) The assignee has submitted a current financial statement audited by a certified public accountant which shows a net worth and working capital in amounts determined to be sufficient by City to assure the future performance by such assignee of Sublessee's obligations under this Sublease;
- 2) If requested by City, the assignee shall have obtained guarantees in form and substance satisfactory to City from one or more persons whom City determines to be credit worth;
- 3) The assignee has submitted in writing evidence, satisfactory to City, of substantial business experience in business operations of the same kind and comparable size to the business contemplated under this Sublease; and
- 4) City has obtained all consents or waivers from any third party necessary to permit such assignment under any lease or agreement by which City is bound.

(f) Neither Sublessee's interest in this Sublease, nor any lesser interest of Sublessee herein, shall pass to any Trustee, receiver, assignee for the benefit of creditors, or any other person or entity, or otherwise by operation of law under the laws of any state having jurisdiction of the person or property of Sublessee ('State law') unless City shall consent to such transfer in writing. No acceptance by City of rent or other payments from any such Trustee, receiver, assignee, person or other entity shall be deemed to have waived, nor shall it waive, the need to obtain City's consent or City's right to terminate this Sublease for any transfer of Sublessee's interest under this Sublease without such consent.

(g) In the event Sublessee shall be adjudicated insolvent pursuant to the provisions of any present or future insolvency law under state law, or if a receiver or Trustee of the property of Sublessee shall be appointed under state law by reason of Sublessee's insolvency made or Sublessee's property for the benefit of creditors under state law; then and in such event City may, at its option, terminate this Sublease

and all rights of Sublessee here under without further obligation to Sublessee, by giving Sublessee written notice of the election to so terminate.

**24. SURRENDER OF POSSESSION.** If, after termination of this Sublease, Sublessee shall vacate the Premises without removing all of its property, any and all property that remains may be removed from the Premises by City and may be handled, removed or stored by City at the risk, cost, and expense of Sublessee, and City shall in no event be responsible for the value, preservation or safekeeping thereof or for any loss or damage to Sublessee occasioned thereby. Sublessee shall pay to City, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in City's possession or under City's control. Any such property of Sublessee not removed from the Premises or retaken from storage by Sublessee within thirty (30) days after the end of the term of this Sublease or of Sublessee's right to possession of the Premises, however terminated, shall be conclusively deemed to have been forever abandoned by Sublessee and either may be retained by City as its property or may be disposed of in such manner as City may see fit.

**25. QUIET ENJOYMENT.** So long as Sublessee shall observe and perform the covenants and conditions contained in this Sublease, Sublessee shall, at all times during the term of this Sublease, peacefully and quietly have the enjoy possession of the Premises without any disturbance or hindrance by, from or through City, but subject to any rights of the State of Alaska in the Prime Lease.

**26. ASSIGNMENT AND SUBLETTING.** (a) Sublessee shall not assign, hypothecate, or encumber its interest in this Sublease or in the Premises. Sublessee shall not sublease all or any part of the Premises, or allow any other person or entity (except Sublessee's authorized representatives) to occupy or use all or any part of the Premises without first obtaining City's written consent, which will not unreasonably be withheld, and the written consent of DOT/PF. No sub-sublessee may occupy the Premises before DOT/PF grants written consent. Any assignment, encumbrance or hypothecation of the Sublease is void, and any sub-sublease without such consent by the City and DOT/PF is voidable and, at City's election, shall constitute a default. No consent to any sublease shall constitute a further waiver of the provisions of this paragraph.

(b) Any proposed sublease must be submitted to the City for approval in three (3) copies, each bearing the original notarized signature of all parties. Each sublease shall be expressly subject and subordinate to the Sublease and the Prime Lease and the rights of the City and DOT/PF respectively, and shall require the sublessee to assume the Sublessee's obligations hereunder and shall not release the Sublessee from liability hereunder. Each sublease shall be expressly terminable by City in its sole discretion at the end of the term of this Sublease. If approved by City, the proposed sublease will be forwarded to DOT/PF for approval. No consent to sublease is effective until given in writing by both the City and DOT/PF.

**27. RIGHTS RESERVED TO CITY.** City reserves the following rights:

(a) To name or to change the name of the Building.

(b) To install and maintain or to allow installation and maintenance of signs on the exterior or interior of the Building, excluding the interior of the Premises.

(c) To have pass keys to the Premises.

(d) To have access to the Premises for purposes of inspection upon reasonable prior notice.

(e) On reasonable prior notice to Sublessee, to exhibit the Premises to prospective tenants during the last six (6) months of the term of this Sublease, and to any prospective purchase, mortgagee, or assignee of any mortgage on the Building and to other having a legitimate interest at any time during the term of this Sublease.

(f) At any time in the event of an emergency and otherwise at reasonable times, to take any and all measures, including inspections, repairs, alterations, additions, and improvement to the Premises or to the Building as may be necessary or desirable for the safety, protection or preservation of the Premises or the Building or City's interest, or as may be necessary or desirable in the operation or improvement of the building, or in order to comply with laws, and requirement of governmental or other authority.

**28. ESTOPPEL CERTIFICATES.** Either party shall at any time and from time to time upon not less than fifteen (15) days prior request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Sublease 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.

**29. HOLDING OVER.** If Sublessee remains in possession of the Premises after expiration of the term of this Sublease, or after the date in any notice given by City to Sublessee termination this Sublease, such possession by Sublessee shall be deemed to be a month to month tenancy terminable on thirty (30) days' notice given at any time by either party. The provisions of this paragraph do not exclude City's rights of re-entry or any other right under this Sublease.

**30. SUBORDINATION OF SUBLEASE.** The rights of Sublessee under this Sublease shall be and are subordinate at all times to the Prime Lease and all ground leases and/or underlying leases, if any, now or hereafter in force against the Property and to the lien of any mortgage or mortgages now or hereafter in force against such leases and/or the Premises, and to all advances made or hereafter to be extensions thereof. This paragraph is self-operative and no further instrument of subordination shall be required. In conformation of such subordination, Sublessee shall promptly execute such further instrument as may be reasonably requested by City. Sublessee, at the option of any mortgagee, agrees to attorn to such mortgagee in the event of a foreclosure sale or deed in lieu thereof.

**31. NOTICES.** All notices, demands and requests from one party to another shall be delivered in person or sent by mail addressed to the other party at the address set forth below or at such other address as either party may notify the other in writing pursuant to this paragraph.

If to City:

City Manager's Office  
Airport Terminal manager, City Hall  
491 East Pioneer Ave.  
Homer Alaska 99603-7624  
Telephone: 907.235.8121

If to Sublessee:

Northern Pacific Airways, Inc. dba Ravn Alaska  
Tina Hanley  
4700 Old International Airport Road  
Anchorage, AK 99502  
Telephone: 907.266.8468



E-mail: [citymanager@ci.homer.ak.us](mailto:citymanager@ci.homer.ak.us)

E-mail: [tina.hanley@ravnalaska.com](mailto:tina.hanley@ravnalaska.com)

Telephone, facsimile, and e-mail addresses are provided for informational purposes, and may not be used in lieu of mail or personal delivery for formal notices, demands, and requests.

If in an emergency, a secondary contact person on behalf of each party, and aside for the contacts listed above, will be:

City of Homer  
Attn: Building Maintenance Division  
491 East Pioneer Ave, Homer AK  
Telephone: 907.235.3170  
E-mail: [publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

Northern Pacific Airways, Inc. dba Ravn Alaska  
4700 Old International Airport Road  
Anchorage, AK 99502  
Telephone: 907.266.8468

**32. WAIVER.** No failure by either City or Sublessee to insist upon the strict performance by the other of any term, covenant or condition of this Sublease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such term, covenant or condition. No waiver of any breach or right, unless in writing, shall affect or alter this Sublease, but each and every term, covenant and condition of this Sublease shall continue in full force and effect with respect to any other then existing or subsequent breach.

The receipt and acceptance by City of delinquent rent shall not constitute a waiver of any other defaults; it shall constitute only a waiver of timely payment of the particular installment of rent involved. No act or conduct of City, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Sublessee before the expiration of the term of this Sublease. Only a notice from City o Sublessee shall constitute acceptance of the surrender of the premises and accomplish a termination of the term of this Sublease.

**33. SALE OR TRANSFER OF PREMISES.** If City sells or transfers the Building or the Premises, on assumption of the sale or transfer, City shall be released from any liability thereafter accruing under the security deposit or prepaid rent to City's successor and on such transfer City shall be discharged from any further liability in reference to the security deposit or prepaid rent.

**34. MISCELLANEOUS PROVISIONS.**

- (a) Time is of the essence of each provision of this Sublease.
- (b) This Sublease shall be binding on and inure to the benefit of the parties here to and their respective successors and assigns, except as otherwise provided in the Sublease.
- (c) This Sublease shall be governed by and construed and enforced in accordance with the laws of the State of Alaska.
- (d) This Sublease contains all the agreements of the parties and cannot be amended or modified except by a written agreement signed by the parties hereto.
- (e) It is understood and agreed that this Sublease shall not be binding until and unless all parties have signed it.

- (f) If Sublessee is a corporation, Sublessee shall deliver to City and DOT/PF on execution of this Sublease a certified copy of a resolution of its board of directors authorizing the execution of this Sublease and naming the officers that are authorized to execute this Sublease on behalf of the corporation or other proof reasonably satisfactory to City and DOT/PF.
- (g) Any litigation arising out of the performance of the parties under this Sublease, or its interpretation, shall be brought in the Superior Court for the State of Alaska, Third Judicial District at Homer.
- (h) All provisions contained in this Sublease, whether covenants or conditions, shall be deemed to be both covenants and conditions.
- (i) This Sublease may be executed in several counterparts, each of which shall be deemed an original and may be used as such, and such counterparts shall constitute but one and the same instrument.

**35. NON-DISCRIMINATION.** Sublessee covenants and agrees that discrimination on the grounds of race, color, religion, national, origin, ancestry, age or gender will not be permitted against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal, state or local law. To the extent required by applicable law, regulation, or government contract, Sublessee shall furnish services on a fair, reasonable and not unjustly discriminatory basis, and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, however, that Sublessee may make reasonable and nondiscriminatory discounts, rebates and similar types of price reductions to volume purchasers. The Sublessee recognizes the right of the City to take any action necessary to enforce this covenant, including actions required pursuant to any federal, state or local law.

- (a) This agreement is subject to requirements of the U/S/ Department of Transportation's regulations, 49 CFR Part 23, Subpart F. The concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award of performance of any concession agreement covered by 49 CFR Part 23, Subpart F.
- (b) The concessionaire agrees to include the above statements in any subsequent concession agreement that it enters and cause those businesses to similarly include the statements in further agreements.

**36. RADIO INTERFERENCE.** At the City's request, Sublessee shall discontinue the use of any machine or device which interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

**37. REGULATIONS.** Sublessee agrees to abide by all reasonable regulations now or hereafter established by the City or DOT/PF, or both, concerning the use, operation and maintenance of the Premises, Building and the Property.

**38. STATE DOT/PF APPROVAL.** Pursuant to the terms of the Prime Lease this Sublease shall not become effective until approved in writing by the State of Alaska, Department of Transportation and Public Facilities.

**39. TERMINAL CHANGES AND IMPROVEMENTS.** (a) The Sublessee understands and agrees that the requirements of the Building as an airport terminal in such matters as passenger volume, freight

volume, flight frequencies, aircraft size, operating procedures, efficient baggage handling and passenger movements, aircraft and vehicle parking requirements, etc., may from time to time change, sometimes substantially, and consequently the City does hereby reserve the right and option to rebuild, remodel, relocate or otherwise effect such changes in the Premises and the Building. Sublessee agrees that upon thirty (30) days advance written notice given by City to relocate to new premises within the Building as may be reasonably assigned by City as deemed necessary or advisable; subject, however, to the conditions that the new premises shall be situated on the same floor in the Building and on the same concourse or hallway as the Premises, and further that the area of the new premises shall not be less than ninety percent (90%) of the area of the Premises unless Sublessee shall consent to a greater reduction.

(b) Sublessee shall be receive no compensation but shall receive reimbursement of reasonable expenses for any such move required by City. Moreover, if the area of the new premises is less than the area of the Premises, rent shall be reduced by a fraction, the numerator of which is the difference between the area of the Premises and the area of the new premises and the denominator of which is the area of the Premises. During the term of this Sublease (not including any extensions or renewals thereof) the Sublessee shall not be required to pay any increased rent resulting from any such move required by City, even if the new premises are larger than or have a higher rental rate than the Premises.

(c) The Sublessee agrees that temporary inconveniences such as noise, disturbances, traffic detours, moving, and the like, caused by or associated with the construction, remodeling, rebuilding, or relocation of the Premises or other portions of the Building shall not constitute a breach of quiet enjoyment of the Premises, nor shall they be grounds for an abatement of rental exception in cases of interruption of the Sublessee's business or activities of longer than five (5) days in any calendar month in which case the rent shall be abated to the extent of the daily prorated rate of the monthly rental per each day of interruption of the Sublessee' business or activity.

(d) In the event Sublessee is required to move to new premises, City will exert its best efforts to provide new premises comparable to the Premises but in the event Sublessee reasonably believes the move will have a substantially adverse effect on the activities or business of the Sublessee conducted in the premises, the Sublessee may terminate this Sublease by giving written notice of termination to the City within thirty (30) days after the City has given the Sublessee the foregoing notice that the Sublessee must move.

**40. SPECIAL COVENANTS.** Special Covenants including renewal and rent adjustment provisions, if any, are set forth in Exhibit "B" attached hereto and incorporated by reference in this Sublease.

**IN WITNESS WHEREOF**, City and Sublessee have signed this Sublease as of the day and year first above written.

**Sublessor:**

**CITY OF HOMER**

**Sublessee:**

**NORTHERN PACIFIC AIRWAYS, Inc.  
Db a Ravn Alaska**

**By: \_\_\_\_\_  
Rob Dumouchel, City Manager**

**By: \_\_\_\_\_  
(Name, Title)**

**ACKNOWLEDGMENTS**

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_, City Manager of the City of Homer, an Alaska municipal corporation,  
on behalf of the City of Homer.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_, as \_\_\_\_\_ (title) of  
\_\_\_\_\_ (name of entity) on behalf of \_\_\_\_\_  
(name of entity).

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**DESCRIPTION OF LEASED PREMISES**

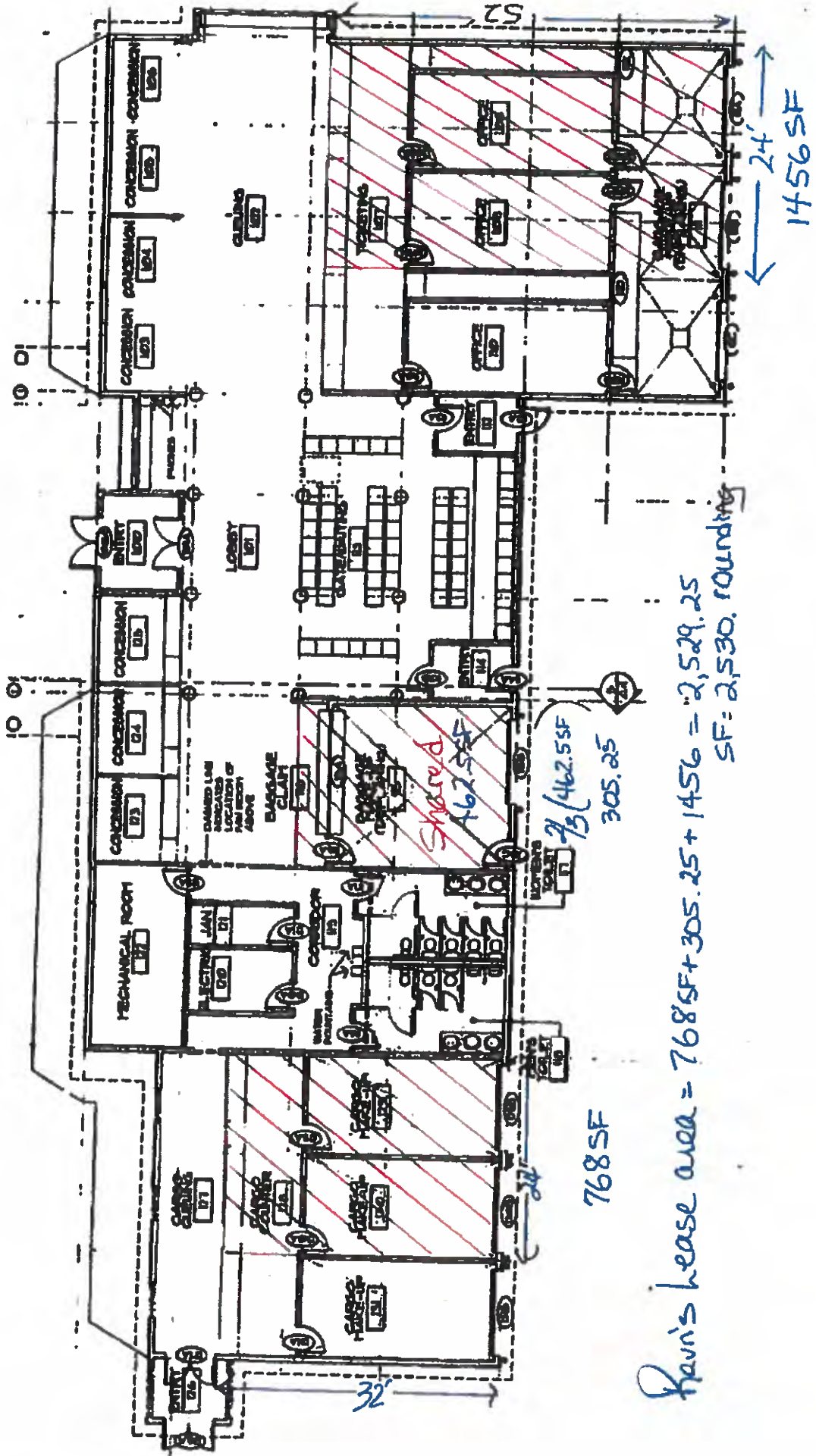
The description of the Leased Premises is as follows:

Office and ticket area #108 and #109 with baggage make-up area (enplaning) directly behind office area #108 and #109. Two-thirds of the baggage make-up area (deplaning) #115. Cargo make-up areas #129 and #130. Total area consisting of 2,530 square feet, in the Homer Airport Terminal Building, Homer Airport located in Township 6S, Range 13W, Seward Meridian, Section 21, Homer Recording District, Homer, Alaska, all situated on Lot 5A, Block 800, HOMER AIRPORT TRACTS according to the official plats on file with the State of Alaska, Department of Transportation and Public Facilities, Division of Aviation.

This sublease includes 11 parking spots at the Homer Airport Terminal in the employee parking area.

The attached drawings depict the Premises being subleased along with common areas of the Building that are used by other sublessees and the City.

City of Homer  
Airport Terminal Floor Plan



**EXHIBIT B  
SPECIAL COVENANTS**

1. This Sublease does not include any right of renewal.
2. The annual rent provided for in paragraph 3 of the Sublease shall be adjusted annually on the first day of January 2021 and on the first day January of each year thereafter (each such day is a "Rent Adjustment Date") throughout the term and renewal terms, if any, of the Sublease as follows:

(a) The basis for computing the adjustment is the Consumer Price Index for All Urban Consumers (CPI-U) for Anchorage, Alaska, for All Items (1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Index published for the second half of the calendar year nearest, but preceding, the date of the commencement of the term of this Sublease is the "Beginning Index." The Index published for the second half of the calendar year nearest, but preceding, the Rent Adjustment Date is the "Extension Index." On the Rent Adjustment Date, the annual rent for the following year (until the next rent adjustment) shall be adjusted by increasing the initial annual rent stated in paragraph 3 of the Sublease by a percentage equal to the percentage of increase from the Beginning Index to the Extension Index. In no case shall the adjusted annual rent be less than the initial annual rent set forth in paragraph 3. Upon adjustment of the annual rent as provided in this Sublease, City shall promptly provide written notice to Sublessee stating the new annual rent, but its failure to do so will not relieve Sublessee of its obligation to pay the adjusted rent commencing as of the Rent Adjustment Date.

(b) If the Index is changed so the base year differs from that used as of the commencement of the term of this Sublease, 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.

(c) For purposes of computing rent adjustments under the provisions of this paragraph 2 (Exhibit B), the date of commencement of the term of this Sublease shall be deemed to be September 16, 2020.

3. In addition to the uses authorized in paragraph 4 of the Sublease, Sublessee is authorized to conduct aircraft fueling operations in conformance with the requirements of the Prime Lease, as amended by Supplement No. 1. By conducting aircraft fueling operations, Sublessee, with respect to Sublessee's aircraft fueling operations, voluntarily assumes all responsibilities and liabilities assigned to the "Lessee" in Supplement No. 1, and further agrees to hold harmless, defend, and indemnify the City and DOT/PF from and against any and all losses, liabilities, damages, claims, costs, expenses and attorney fees, resulting from or arising out of Sublessee's aircraft fueling operations or its breach in performance of the obligations of the "Lessee" under Supplement No. 1, or both. Nothing contained in this paragraph shall be construed as any limitation of any other hold harmless, defense, or indemnity provision of the Lease, and in the case of any conflict between such provisions, the provision granting the greater protection to the City shall control.

**EXHIBIT C**  
**PRIME LEASE**



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

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City Manager

**RESOLUTION 23-064**

A RESOLUTION OF THE HOMER CITY COUNCIL APPROVING A FIVE YEAR SUBLEASE AT THE HOMER AIRPORT TERMINAL FOR KENAI AVIATION OPERATIONS LLC, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The current sublease between Kenai Aviation Operations LLC and the City at the Homer Airport Terminal expired on March 30, 2023 and is now on a month to month basis; and

WHEREAS, Kenai Aviation Operations LLC has requested a new sublease with the City to continue their existing operations, which includes 733 square feet of combined front counter, office and baggage claim loading bay space located at the Homer Airport Terminal; and

WHEREAS, The prime lease held between the City and the State of Alaska Department of Transportation and Public Facilities (DOT&PF) terminated March 20, 2023 and the City recently has renewed this lease; and

WHEREAS, DOT&PF only permits the City to enter into sublease arrangements at the Homer Airport Terminal with a maximum term length of five years however the City can only offer a sublease that ends with the prime leases termination date of March 30, 2028; and

WHEREAS, HCC 18.08.140 City property may be subleased if expressly permitted in the lease agreement and approved in writing by Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby approves five year sublease effective July 1, 2023 through March 30, 2028 for 733 square feet of space at the Homer Airport Terminal for the monthly lease rent of \$2,866.03 and authorizes the City Manager to negotiate and execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this \_\_\_\_th day of \_\_\_\_, 2023.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

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46 ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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51 Fiscal information: \$34,392.36 lease revenue



# MEMORANDUM

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**Resolution 23-064 A Resolution of the City Council of Homer, Alaska Approving a Five Year Sublease at the Homer Airport Terminal with Kenai Aviation Operations LLC, and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor & City Council  
**Meeting Date:** June 26, 2023  
**Staff Contact:** Julie Engebretsen, Economic Development Manager  
**Through:** Rob Dumouchel, City Manager

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**Summary Statement:**

Kenai Aviation Operations LLC has submitted a lease application and written request for a new short-term lease at the Homer Airport Terminal for the purpose of continuing scheduled and charter passenger air carrier operations.

The Homer Airport Terminal building is owned by the City of Homer, while the land is leased to the City by the State of Alaska. The lease with the State has a five year term, beyond which the City cannot sublease space long term within the terminal. There is a provision for a month to month continuation of both the City lease with the State and for subleases within the terminal building; all City tenants are currently operating under this provision until new leases are executed. The City lease with the State was recently executed, allowing the City to renew subleases with tenants for the remainder of the new five year term.

The City Manager and Lease Staff has reviewed the request and found the proposal to be compatible with applicable regulations and meets the criteria outlined in City Code.

Staff is recommending to Council that a forty-six month lease be awarded to Kenai Aviation Operations LLC at the Homer Airport Terminal, with a base rent of \$34,392.36 per year.

**Staff Recommendation:**

Adopt Resolution 23-064.

**Attachments:**

Kenai Aviation Operations LLC City Lease Application  
DRAFT Airport Lease Agreement



101 N Willow St., Kenai, AK 99611  
(907) 283-4124  
www.kenaiaviation.com

**03/13/2023**

**TO: Office of the City Clerk, City of Homer Alaska**

Written Narrative:

Our requested lease term is 3 years with 2 options to renew. The utilization of the lease is to facilitate the safe and timely operation of Kenai Aviation's scheduled service and charter service departing from Homer Airport. Kenai Aviation does not have any business plans or models to sublease. Kenai Aviation does not have any plans to improve or develop the property as the Homer Airport facilitates a safe work environment, counter space, and gate access. Kenai Aviation is not aware of any agency approval required to operate this space.

Kenai Aviation has operated in Alaska since the 1960's as primarily an on-demand charter service. The Caldwell Family purchased Kenai Aviation in 2018 with the intention of providing top shelf service throughout the Kenai Peninsula and the State of Alaska. Since the purchase, Kenai Aviation greatly expanded service and started scheduled service airline programs as defined under FAR Part 135 with the intention of fulfilling that goal. Kenai Aviation performs scheduled flights back and forth from Anchorage to Homer, Monday through Friday. Starting May 1<sup>st</sup>, 2023, scheduled flights will operate back and forth from Anchorage to Homer, 7 days a week. Kenai Aviation has also expanded on-demand charter services to include remote Alaskan communities, such as: Unalaska, Unalakleet, McGrath, and Seldovia. Our goal is to provide the Kenai Peninsula with safe and reliable airline transportation.

Applicant References:

1. First National Bank of Alaska,  
11408 Kenai Spur Hwy, Kenai, AK 99611  
Tim Redder, 907-283-6800
2. Peninsula Aero Tech,  
135 Granite Pt Ct, Kenai, AK 99611  
Scott, 907-283-1441
3. Crowley Fuels,  
401 N Willow St, Kenai AK 99611  
907-283-4542
4. Arctic Barnabas Ministries  
135 N Willow St, Kenai, AK 99611  
Patty, 907-283-3377



# City Lease Application For City-Owned Real Property

**Office of the City Manager**

491 East Pioneer Avenue

Homer, Alaska 99603

Phone: (907) 235-3121

Fax: (907) 235-3148

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

Lease Application Purpose	
<input type="checkbox"/>	Request for New Lease; New Lessee – Applicant is not currently a City lessee
<input checked="" type="checkbox"/>	Request for New Lease; Existing Lessee – Applicant is a current lessee with no remaining options to renew
<input type="checkbox"/>	Request for Assignment of Lease – Applicant is requesting to have an existing lease transferred to a new owner/business

Property Information		
Physical Address:	Space in the Homer Airport Terminal Building, 3720 FAA Road, Homer, AK 99603	
Square Footage:	<input type="checkbox"/> Full Lot <input type="checkbox"/> Portion of Lot	KPB Parcel No.:
Legal Description of Property:	Lot 5A, Block 800 Homer Airport Tracts	

Applicant Information	
Business Name:	Kema Aviation Operations, LLC
Representative's Full Name & Title:	Jacob Caldwell, President
Mailing Address:	101 N Willow St
City, State, ZIP Code:	Kema, AK 99611
Phone Number(s):	907-398-9447
Email:	jacob@kemaaviation.com

Business Entity & Financial Information	
<input type="checkbox"/>	Sole or Individual Proprietorship – Attached documentation must provide owner's full name, address, and verify they are the sole owner.
<input type="checkbox"/>	Partnership – Attached documentation must provide Partners' full names, addresses, and share percentages.
Is entity authorized to do business in Alaska?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes – As of what date: 1/18/2018
Date of Organization:	Type of Partnership:
Is Partnership authorized to do business in Alaska?	<input type="checkbox"/> No <input type="checkbox"/> Yes – As of what date:

<input type="checkbox"/>	Corporation – Attached documentation must provide the full names of Officers and Principal Stockholders (10%+), their addresses, and share percentages.
	Date of Organization: _____ Type of Corporation: _____
	Is Corporation authorized to do business in Alaska? <input type="checkbox"/> No <input type="checkbox"/> Yes – As of what date: _____
	Corporation is held: <input type="checkbox"/> Privately <input type="checkbox"/> Publicly – How and where is stock traded: _____
<input type="checkbox"/>	Other – Please explain: _____

Proof of Financial Capability to Meet Obligations:	<input type="checkbox"/> Documentation of Payment History: Documents such as a credit report and score from one of the three credit bureaus (i.e. Experian, Equifax, TransUnion) or records of prior lease history.
	<input type="checkbox"/> Documentation of Applicant’s Financial Backing: Records showing applicant has secured the funding necessary to implement their development/improvement plan and/or purchase the business (if applicable).
	<input type="checkbox"/> Documentation of Business’ Vitality: Minimum of two years (past year and current year) of financial statements; this includes a Balance Sheet and Profit/Loss Statement (Revenue/Expense Statement).

Surety Information:	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?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – Attach a statement naming the surety or bonding company, date and amount of bond, and the circumstances surrounding the default or performance.
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Bankruptcy information:	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?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – Attach a statement indicating state, date, Court having jurisdiction, case number and to amount of assets and debt.
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Pending Litigation:	Are you or any of the principals of your organization holding more than a 10% interest presently a party to any pending litigation?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – Attach detailed information as to each claim, cause of action, lien, judgment including dates and case numbers.
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Lease Proposal	
Type of Business/ Proposed Use of the Property:	Scheduled Passenger Air Transportation Unscheduled Passenger Air Transportation

Requested Lease Term:	<input type="checkbox"/> Short Term Lease (One Year or Less) – Duration (in months): <input checked="" type="checkbox"/> Long Term Lease (More Than One Year) <ul style="list-style-type: none"> <li>● Standardized Lease is a 20-year term with two 5-year Options to Renew; City Manager may deviate from standardized lease term when reasonable and necessary, and approved by Council (18.08.030).</li> <li>● No more than two Options to Renew; each option cannot exceed 25% of initial lease term (18.08.110).</li> </ul> Duration (in years): <u>4</u> No. of Options to Renew: <u>2</u>
Property Plan:	<input type="checkbox"/> Describe your Property Plan in your written narrative. Details should include but not be limited to: <ul style="list-style-type: none"> <li>● Proposed utilization of the lot/space, including parking</li> <li>● If there are existing buildings on the property and what their proposed uses are</li> <li>● Any intentions to rent out or sublease space on the property</li> <li>● How the use is compatible with neighboring uses and consistent with applicable land use regulations including the Land Allocation Plan; Comprehensive Plan</li> </ul> <input type="checkbox"/> Provide a detailed schematic (to scale) that shows the following: <ul style="list-style-type: none"> <li>● Size of lot – dimensions and total square footage</li> <li>● Placement/size of existing buildings, storage units, and other miscellaneous structures</li> <li>● Parking spaces – numbered on the drawing with a total number indicated</li> <li>● Note: an as-built survey from a licensed surveyor may be required</li> </ul>
Development Plan:	Do you have a development and/or improvement plan for the property, including plans for repairs or maintenance to any existing buildings? <input type="checkbox"/> Yes    In your written narrative, provide as much information as possible on how you intend to develop/improve the property. Include a time schedule from project initiation to completion, major project milestones, cost estimate and financing plan, and any additional designs not already provided in the Property Plan's detailed schematic. <input type="checkbox"/> No      In your written narrative, explain why.
City Planning & Other Agency Approvals:	Does your business/proposed use and/or development plan require agency approval? The granting of any lease is contingent upon lessee obtaining approval, necessary permits, and/or inspection statements from all appropriate City, State and/or Federal agencies. This includes but is not limited to: <ul style="list-style-type: none"> <li>● Applicable permits/approval from City Planning for zoning compliance, such as Conditional Use Permits, Zoning Permits</li> <li>● Fire Marshall Plan Review and Permitting</li> </ul>

	<ul style="list-style-type: none"> <li>● Waste Disposal System Plan Approval – Includes fish waste if applicable</li> <li>● Other applicable permits/inspection statements from agencies such as U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and Alaska Department of Environmental Conservation Division of Environmental Health</li> </ul> <p><input type="checkbox"/> Explain in your written narrative what necessary approvals, permits, and/or inspections are applicable to your business/proposed use and the current status of your application with those agencies.</p> <p><input type="checkbox"/> Attach any relevant documentation that verifies completion or pending status.</p>
Insurance Requirements:	<p>The granting of any lease is contingent upon lessee obtaining and keeping in full force insurance as outlined in HCC 18.08.170. Certificates of insurance showing the required insurance is in effect and identifying the City as an additional insured must be provided to the City at the time a lease becomes effective and annually thereafter, and upon every change in insurance provider or insurance coverage.</p> <p><input checked="" type="checkbox"/> Provide proof of insurability for public liability insurance in the amount of not less than \$1,000,000 coverage per occurrence for bodily injury, including death, and property damage, and the City of Homer as co-insured. Additional insurance limits or types may be required due to the nature of the business, lease, or exposure.</p>
Benefits & Impacts on Community:	<p><input type="checkbox"/> In your written narrative answer the following questions:</p> <ul style="list-style-type: none"> <li>● What experience do you have in the proposed business or venture?</li> <li>● How long have you resided or conducted business in the City, Kenai Peninsula Borough, and/or the State of Alaska?</li> <li>● What are some of the economic, social, and financial benefits and/or impacts your business/proposed use brings to the community?</li> </ul>
Applicant References:	<p><input type="checkbox"/> In your written narrative, 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>Each reference must include the following:</p> <ul style="list-style-type: none"> <li>● Full Name</li> <li>● Name of the organization/business and their title at this entity</li> <li>● Address</li> <li>● Phone number and email address</li> <li>● Nature of association with Applicant</li> </ul>
Additional Information:	<p><input type="checkbox"/> Include in your written narrative, or attach relevant documentation, that you deem pertinent to your application/lease proposal. Criteria for evaluating and approving proposals and competing lease applications can be found under HCC 18.08.060.</p>

### Required Attachments/Documentation


- Written Narrative



<input type="checkbox"/> Business Entity and Licensing Information
<input checked="" type="radio"/> State of Alaska Business License
<input checked="" type="radio"/> Current State of Alaska Biennial Report
<input checked="" type="radio"/> If Partnership: Statement of Partnership/Partnership Agreement
<input checked="" type="radio"/> If Corporation: Articles of Incorporation & Bylaws
<input checked="" type="radio"/> Any additional documentation concerning the formation or operation of the entity
<input type="checkbox"/> Financial Information
<input type="checkbox"/> Property Plan – Detailed Schematic of Property
<input type="checkbox"/> Development Plan documents/plans, if any
<input type="checkbox"/> Proof of Insurability; verification that insurance can be provided at signing of lease
<input type="checkbox"/> City Planning & Other Agency Approval Information, if any

**Application Signatures**

By signing, I agree that the above information is true and correct to the best of my knowledge. I certify that I am authorized to sign as the applicant on behalf of the entity I represent.

Signature:  Date: 6/19/2023

Printed Name & Title: Jacob Caldwell, President

**Office Use Only**

Received By & Date:	Fee Processed: \$	Date:
Date Application Accepted as Complete/Submitted for Review:	Application Timeout Date: (1 year from receipt)	
Submitted for Dept. Review: <input type="checkbox"/> Planning <input type="checkbox"/> Port & Harbor <input type="checkbox"/> Economic Development <input type="checkbox"/> Finance <input type="checkbox"/> Public Works		
Submitted for City Manager Review:		<input type="checkbox"/> Approved on: <input type="checkbox"/> Denied on:
For Existing Leases Exempt from Competitive Bidding:	Current Lease Expires with No Options to renew: _____	
	6 mos. Prior to date of lease termination (Council Approval Deadline): _____	
	Request received within 12 to 18 mo. timeframe from expiration of lease date: <input type="checkbox"/> Yes <input type="checkbox"/> No	

## HOMER AIRPORT TERMINAL

### AIR CARRIER/TICKET COUNTER SUBLEASE

**THIS SUBLEASE IS MADE** this 1<sup>st</sup> day of July, 2023, between the City of Homer, an Alaska Municipal Corporation (“Sublessor”), whose address is 491 East Pioneer Avenue, Homer, Alaska 99603, and Kenai Aviation Operations LLC, an Alaskan Limited Liability Corporation (“Sublessee”), whose address is 101 N. Willow St, Kenai AK 99611.

The City is Lessee in a lease agreement (“Prime Lease”) affecting the property dated both October 6, 1992 and March 3, 1993, the agreement of which has been recorded in the Homer Recording District under Document No. 1993-001154-0, also known as Lease Agreement No. ADA-06600, between the State of Alaska, Department of Transportation and Public Facilities (“Lessor”), and the City of Homer (“Lessee”), as amended by Supplement No.1, dated February 28, 2002, and as amended by Supplement No.2, dated March 30, 2023 and may be further amended from time to time with the Lessor to which all the terms, covenants, and conditions of this Sublease are subject to. Sublessee will fully comply with all covenants, provisions, conditions, and terms of that Prime Lease.

#### **CITY AND SUBLESSEE AGREE AS FOLLOWS:**

**1. DESCRIPTION.** City subleases to Sublessee and Sublessee subleases from City the premises consisting of 733 square feet of space as more fully described and/or depicted on Exhibit A (“Leased Premises”) in the Homer Airport Terminal Building (“Building”) located on Lot 5A, Block 800, HOMER AIRPORT TRACTS according to the official plats on file with DOT/PF, Division of Aviation for the term, the rent, and subject to the covenants and conditions hereinafter provided. The Sublessee will also have access to the Common Use Areas for Sublesses more fully described and/or depicted on Exhibit A (“Common Use Areas”). This Sublease confers no rights either with regard to the subsurface of the land below the floor level of the Leased Premises or with regard to airspace above the ceiling of the Leased Premises.

**2. TERM.** (a) The term of this Sublease shall commence on July 1, 2023, and shall end on March 30, 2028, unless sooner terminated as hereinafter provided.

(b) In any event, Sublessee may not occupy the Premises before the debtor currently in possession of the lease notices rejection or DOT/PF consents to this Sublease in writing. IF City is unable to deliver possession of the Premises by the date specified for the commencement of the term of this Sublease as a result of causes beyond its reasonable control, including without limitation any failure or delay in obtaining the consent of DOT/PF, City shall not be liable for any damage caused by failing to deliver possession, this Sublease shall not be void or voidable, and the term of this Sublease shall not be extended by the delay. The Sublessee shall not be liable for rent

until the City delivers possession of the Premises to Sublessee but shall commence paying rent when City delivers possession.

**3. RENT** Sublessee shall pay to City as annual rent, without deduction, setoff, prior notice or demand, the sum of \$34,392.36 plus taxes ("Rent"). Rent shall be payable in monthly installments of \$2,866.03 plus tax ("Monthly rent Payment") in advance on the first day of each month, commencing on the date the term of this Sublease commences. Monthly rent for the first month or portion of it shall be paid on the day the term commences.

Monthly rent for any partial month shall be prorated based on the number of days in the month. Rent not paid when due shall bear interest from the date when due at the rate of interest specified in AS 45.45.010 (a) as now enacted or hereinafter amended. Rent shall be paid at the address set forth for City in the introductory paragraph of this Sublease, or as otherwise directed from time to time by notices from City.

**4. USE OF PREMISES** Sublessee shall use the Leased Premises for office space and ticket counter space for passenger or cargo transportation by air and related functions of aircraft operations and ticket sale and for no other use without City's written consent. Sublessee agrees to comply with all federal, state and local laws, ordinances and regulations as well as the terms of the Prime Lease. Sublessee agrees to comply with the following rules and regulations and with such reasonable modifications thereof and additions thereto as City may hereafter from time to time make for the Building.

(a) Sublessee shall comply with all covenants, provisions, conditions, and terms of the Prime Lease.

(b) Sublessee shall not make or permit to be made any use of the premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of said Prime Lease; nor will Sublessee commit any act, either by commission or omission, which would cause City to be in default of any covenant, provision, term or condition of the Prime Lease. Sublessee hereby acknowledges receiving a copy of the Prime Lease as provided in Exhibit C.

(c) Sublessee will not make any use of the Property or the Building, nor will sublessee make or permit to be made any use of the Premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of this Sublease; which is forbidden by any federal, state or local law, ordinance or regulation; which may be dangerous to life, limb, or property; which would, in the reasonable judgement of City, in any way impair the character, reputation or appearance of the Building as an attractive and functional airport terminal building; or which would impair or interfere with or tend to impair or interfere with any of the services performed by City for the Property. Sublessee shall immediately cease and desist any conduct the City, in its sole discretion, determines is in violation of this subsection upon receiving written notification by the City of such violation.

(d) Sublessee shall not exhibit, sell or offer for sale on the Premises or in the Building any article or thing except those articles and things reasonably connected with the stated use of the Premises set forth above by Sublessee without the advance consent of the City.

(e) Sublessee shall not display, inscribe, print, paint, maintain or affix in or about the building or outside of the Premises any sign, notice, legend, direction, figure or advertisement, unless Sublessee shall first

have obtained the consent of the City, any then only such names(s) and matter, and in such color, size, style, place and materials as shall first have been approved by City. City shall not unreasonably withhold prompt approval, but City's insistence on compliance with a uniform signage plan shall not be deemed unreasonable.

(f) No additional locks or similar devices shall be attached to any door or window without City's consent. No keys for any door other than those provided by city shall be made. All keys including cargo area garage door openers must be returned to City at the expiration or termination of this Sublease. If more than two keys for one lock are desired, City will provide the same upon payment by Sublessee. Sublessee will be responsible for replacing lost or damaged garage door opener and/or keys.

(g) Sublessee shall not overload any floor. City may direct, within reason, the time and manner of delivery, routing and removal, and the location, of safes and other heavy articles.

(h) Unless city gives consent, Sublessee shall not install or operate any steam or internal combustion engine, boiler, machinery, refrigerating or heating device or air conditioning apparatus in or about the premises, or carry on any mechanical business therein, or use the Premises for housing accommodation or lodging or sleeping purposes, or do any cooking therein, or use any illumination other than electric light, or use or authorize to be brought into the Building any inflammable fluid such as gasoline, kerosene, naphtha, and benzene, or any explosives, radioactive materials or other articles deemed extra hazardous to life, limb or property, except in a manner which would not violate any federal, state or local law, ordinance or regulation. Sublessee shall not use the premises for any illegal or immoral purpose.

(i) The sidewalks, halls, passages, exits, and entrances ("Common use Areas") shall not be obstructed by Sublessee or used for any purpose other than for ingress to and egress from the premises. No Sublessee and no employees or invitees of any Sublessee shall go up on the roof of the Building.

(j) Sublessee shall not use, keep or permit to be kept any foul, explosive or noxious gas or substance in the Premises, or permit or suffer the premises to be occupied or used in a manner unreasonable offensive or objectionable to the City or other occupants of the Building by reason of noise, odors, and/or vibrations, or unreasonably interfere in any way with other tenants or those having business therein; nor shall any animals or birds be brought in or kept in or about the Premises or the Building, unless for purposes of air transport, and then only in containers designed for transport of such animals or birds. Sublessee shall be responsible for enforcing the requirement that all animals and birds shall be kept in containers while in the Premises or the Building. Sublessee shall make all repairs and conduct all cleaning necessary as a result of the presence of birds or animals in the Premises or the building in connection with air transport.

(k) Sublessee shall see that the doors and windows, if openable, of the premises, are closed and securely locked before leaving the Building and must observe with strict care and caution that all water faucets or water apparatus are entirely shut off before Sublessee or Sublessee's employees leave the building, and that all electricity shall likewise be carefully shut off so as to prevent waste or damage.

(l) In the event of any default or carelessness in performing the duties imposed by this paragraph, Sublessee shall make good all resulting injuries or losses sustained by other sublessees or occupants of the Building and City. In additions to all other liabilities for breach of any covenant of this paragraph, the

Sublessee shall pay to the City an amount equal to any increase in insurance premiums payable of the City or any other tenant in the building caused by such breach, but City shall have the burden of proving by a preponderance of the evidence that such increase is directly attributable to such breach.

**5. SECURITY DEPOSIT.** The Sublessee has deposited with City at the time of execution of this Sublease the sum of \$2,564.35 as a security deposit for the performance by Sublessee of the provisions of this Sublease. If Sublessee is in default, City can use the security deposit, or any portion of it, to cure the default or to compensate City for all damage sustained by City resulting from Sublessee's default. Sublessee shall immediately upon demand pay to City a sum equal to the portion of the security deposit expended or applied by city as provided in this paragraph so as to maintain the security deposit in the sum initially deposited with the City. Sublessee's failure to do so within five (5) days after demand by City shall be a default under this Sublease. If Sublessee is not in default at the expiration or termination of this Sublease, city shall return the security deposit to Sublessee. City's obligation with respect to the security deposit are those of debtor and not those of trustee or fiduciary. City may maintain the security deposit separate and apart from City's general funds or co-mingle the security deposit with City's general funds. City shall not be required to pay Sublessee interest on the security deposit. If City is required by law to maintain the security deposit in an interest bearing account, City shall be entitled to receive and retain the maximum amount permitted under applicable law as a bookkeeping and administrative charge.

**6. UTILITIES AND SERVICES.** City shall furnish to the Premises, at City's expense, except as otherwise provided in this sublease, reasonable quantities of electricity and heat as required for Sublessee's use. City shall furnish water, sewer and garbage removal service to the Building, at City's expense; however, Sublessee shall be responsible for cleaning the Leased Premises and taking its garbage to dumpsters provided for the Building. If City is required to construct new or additional utility installations including, without limitation, wiring, plumbing, conduits and mains, resulting from Sublessee's changed or increased utility requirements, Sublessee shall, on demand, pay the City the total cost of these items. If Sublessee causes City services such as janitorial services to exceed the normal and scheduled service already provided to the building, Sublessee will be responsible for the costs incurred by the City to provide this additional service. City shall not be liable for failure to furnish utilities to the Premises when the failure results from causes beyond City's reasonable control, but in case of such failure City will take all reasonable steps to restore the interrupted utilities. Any such interruption of utilities shall never be deemed an eviction or disturbance of Sublessee's use and possession of the Premises, or any part thereof, or give Sublessee any right to abatement of rent, or otherwise relieve Sublessee from performance of any of Sublessee's obligations under this Sublease, except that Sublessee's obligation to pay rent shall be abated to the extent that any such interruption of the utilities exceeds fifteen (15) days. Sublessee shall pay for the telephone charges, including installation.

**7. CONDTION OF PREMISES.** Sublessee's taking possession of the Premises shall be conclusive evidence as against Sublessee that the Premises were in good order and satisfactory condition when Sublessee took possession, except that to latent defects. No promise of City to alter, remodel, repair or improve the Premises or the Building and no representation as to the condition of the Premises or the building has been made by City to Sublessee, other than as may be contained in this Sublease or in a separate written agreement. At the termination of this Sublease, the Sublessee shall return the Premises clean and in as good order and condition as when the Sublessee took possession, ordinary wear and tear

excepted, failing which the City may restore the Premises to such condition and the Sublessee shall pay the cost thereof on demand.

**8. MAINTENANCE AND REPAIRS.** City, at City's expense, shall maintain, in good condition, the structural parts of the Building which shall include only the foundation, bearing and exterior walls (excluding glass and doors to the premises), subflooring, the unexposed electrical, plumbing and sewage systems, and the heating and ventilation system servicing the Premises. Sublessee, at Sublessee's expense, shall maintain, in good condition, the Premises, including, without limitation, all glass, doors to the Premises, electrical and plumbing fixtures, interior walls, signs and Sublessee's personal property.

**9. PARKING AND SNOW REMOVAL.** This sublease includes four parking spaces in the employee parking area. The City shall designate a parking area for employees of the tenants of the Building. No overnight parking of employee vehicles is allowed. City shall provide snow removal in the parking area. If city, in City's sole discretion, is able to provide additional designated parking for employee or business vehicles, Sublessee shall pay additional rent of \$15 per month for each additional space. Additional rent is due at the same time the rent is due under paragraph 3 of the Sublease.

**10. ALTERATIONS.** (a) Sublessee shall not make any alterations to the Premises without City's prior written consent, which shall not be unreasonably withheld. Requests for approval of alterations shall be made in writing and shall not be unreasonably withheld. Requests for approval of alterations shall be made in writing and shall include three (3) copies of the plans and specifications. The city will approve or disapprove the proposed alterations within thirty (30) days. Approval of the alterations shall not constitute a building permit, nor shall a building permit constitute approval of the alterations. Any alterations (except Sublessee's trade fixtures) shall remain on and be surrendered with the premises on expiration or termination of this Sublease, except that City can elect at any time to require Sublessee to remove any alterations that Sublessee has made to the Premises. If City so elects, Sublessee, at Sublessee's expense, shall restore the Premises to the condition designated by City in its election, before the last day of the term, or within thirty (30) days after notice of election is given, whichever is later. If Sublessee proceeds to make any approved alterations to the Premises as provided in this paragraph, Sublessee shall notify city no less than five (5) days prior to the commencement of the work.

(b) Sublessee shall make no improvements or construction without the prior approval of DOT/PF. Sublessee shall provide City with copies of such written approval(s) prior to commencement of any improvements or construction.

**11. MECHANICS' LIENS.** Sublessee shall pay all costs for construction done by it or caused to be done by it on the premises as permitted by this Sublease. Sublessee shall keep the Premises, the Building, and the property free and clear of mechanics' liens resulting from construction done by or for Sublessee. Sublessee shall have the right to test the correctness or validity of any such lien only if, immediately on demand by City, sublessee procures and records a lien release bond issued by a corporation authorized to issue surety bonds in the State of Alaska in an amount equal to one and one-half times the amount of the claim of lien. The bond shall meet the requirements of AS 34.35.072 and shall provide for the payment of any sum that the claimant may recover on the claim, plus interest, costs and attorney's fees.

**12. INDEMNITY.** (a) Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorneys' fees, arising out of any injury to or death of any person or

damage to or destruction of property occurring to, in, on or about the Premises, Building or Property, but only to the proportionate extent such damages, costs and fees may be caused by or contributed to by fault or other legal responsibility on the part of Sublessee, its employees, authorized representative, customers, invitees, or sublessees. Notwithstanding the preceding sentence, Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorney's fees, arising out of any injury to or death of any person or damage to or destruction of property arising out of and in the course of Sublessee's cargo and/or flight time, as defined in 14 CFR Section 1.1. notwithstanding the first sentence of this paragraph, Sublessee shall not be liable to City or its insurers for, and Sublessee's obligation to protect, indemnify and hold City harmless shall not include any lost or damages, including costs and attorney's fees, covered and paid by City's fire insurance described in paragraph 16.

(b) Furthermore, Sublessee shall protect, defend, and indemnify and hold the State harmless to the same level and extent that the Sublessee would provide to the State if the Sublessee were a direct lessee of the State under the Prime Lease.

**13. AVIATION LIABILITY, PUBLIC LIABILITY, PROPERTY DAMAGE, WORKERS' COMPENSATION, AND OTHER NSURANCE.**

(a) Sublessee, at Sublessee's expense, shall maintain airline/aircraft/airport public liability insurance with policy limits not less than that required by statute.

(b) Sublessee, at Sublessee's expense, shall maintain comprehensive general liability insurance with a single combined liability limit of not less than ONE MILLION DOLLARS (\$1,000,000.00) per person, THREE MILLION DOLLARS (\$ 3,000,000.00) per occurrence for personal injury or death and property damage arising from one occurrence in the amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) insuring against all liability of sublessee, its employees, and authorized representatives, arising out of or in connection with sublessee's use or occupancy of the premises.

(c) All aviation and comprehensive general liability insurance policies shall insure performance by Sublessee of the indemnity provisions of paragraph 12; shall name City and DOT/PF as additional insureds; shall include a waiver of subrogation by the insurer against City and DOT/PF; and shall not contain any exclusion from coverage for Sublessee's liability for damages or loss incurred by City or DOT/PF because of their status as additional insureds

(d) Sublessee, at Sublessee's expense, shall maintain workers' compensation insurance with policy limits not less than that required by statute.

(e) In addition to the foregoing, Sublessee must obtain and maintain such insurance covering the operations and activities of Sublessee to the same level and extent that Sublessee would be required to maintain fi the Sublessee were the direct lessee of DOT/PF under the Prime Lease. Sublessee must provide to DOT/PF, with a copy to City, such binders or certificates of insurance as may be required by DOT/PF to prove compliance with this subparagraph.

**14. USE OF HAZARDOUS SUBSTANCES.** (a) Sublessee shall not cause or permit any hazardous material to be brought upon, kept, or used in or about the Property by Sublessee or its authorized representatives, customers, invitees or sublessees, except for such hazardous material as is necessary or useful to Sublessee'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) Sublessee shall not discharge, leak or emit, or permit its authorized representatives, customers, invitees or sublessees to discharge, leak or emit, any material into the atmosphere, ground, sewer system or any body of water, if such material does or may, unlawfully pollute or contaminate the same, or may unlawfully 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. The preceding sentence only applies to Sublessee's use of and operations on the Property.

(d) If any such discharge, leak, spill, emission, or pollution (referred to in subparagraph 14(c) above) occurs upon or from the Property during the Sublease term or any holdover, Sublessee will immediately notify City 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) Sublessee 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 sublessee, its authorized representatives, customers, invitees and sublessees, and the Sublessee shall give immediate notice to the City of any violation or suspected violation of the provisions of subparagraphs 149a), (b), (c) and (d).

**15. INDEMNITY FOR USE OF HAZARDOUS MATERIAL.** (a) Sublessee shall protect, indemnify and hold City and DOT/PF and their officers, officials, and other employees harmless from and against 0 any claims, demands, penalties, fines, judgments, settlements, liabilities, losses, damage, costs and expenses (including, without limitation, attorney, consultant and expert fees, court costs and other litigation expenses).

(b) City shall protect, indemnify and hold Sublessee and its directors, officers, and other employees harmless from and against any Environmental Damages arising out of or related to 9i) the presence, disposal or release of any hazardous material on or impacting the property; and (ii) any bodily injury (including death<sup>0</sup> or property damage (real or personal) caused by such presence, disposal or release, but only to the proportionate extent such Environmental Damages shall have been caused by or contributed to by fault or other legal responsibility on the part of city or its employees, agents, customers, invitees or contractors.

(c) For the purposes of paragraphs 1 and 15, "Hazardous material" is defined as any substance that is toxic, ignitable, reactive, or corrosive that is regulated by any local government; the State of Alaska, or the United States government. "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, polychlorobiphenyles ("PCB's") and petroleum and petroleum products.

**16. CITY'S FIRE INSURANCE.** City shall, at City's expense, maintain on the Building a policy of fire and extended coverage insurance, with vandalism and malicious mischief endorsement, up to the full replacement value. The policy shall provide that any proceeds shall be made payable solely to City. The "full replacement value" of the building to be insured under this paragraph shall be determined by the insurance company issuing the policy at the time the policy is initially obtained or subsequently renewed.

Sublessee shall not use the Premises for any purpose, nor do any acts in the premises, which will increase the existing rate of insurance on the building or cause the cancellation of any insurance policy covering the building or any part thereof, nor shall Sublessee sell, or permit to be kept, used or sold, on the premises, any article, material or substance which may be prohibited by standard form fire and extended coverage insurance policies. Sublessee shall, at Sublessee's expense, comply with any and all requirements pertaining to the Premises of any insurance organization or company, necessary for the maintenance of fire and extended coverage insurance covering the Building. Sublessee agrees to pay to City and additional rent any increase in premiums on policies which may be carried by City covering damage to the Building by fire and the perils normally included in extended coverage, but only to the extent City proves by a preponderance of the evidence that such increase is directly attributable to Sublessee's breach of the first two sentences of this subparagraph. In event of non-payment of such additional rent, city shall have all the rights and remedies provided in this Sublease in case of nonpayment of rent.

**17. OTHER INSURANCE MATTERS.** All insurance required to be carried by Sublessee under this sublease and the Prime Lease shall be issued by insurance companies authorized to do business in the State of Alaska with a financial rating of at least "A" as rated in the most recent edition of Best's Insurance Reports, or an equivalent rating; shall be issued as a primary policy; and shall contain an endorsement requiring twenty(20) days prior written notice from the insurance company to both parties and before cancellation or change in the coverage, scope or amount of any policy. Sublessee shall furnish insurance certificates to City and DOT/PF at the commencement of the term of this sublease, and on renewals. Sublessee shall promptly furnish copies of each policy to City and DOT/PF upon request.

**18. TAXES AND ASSESSMENTS.** City shall pay all general and special assessments. Sublessee shall pay all real estate taxes levied on Sublessee's interest in the premises, Building or Property.

**19. DESTRUCTION.** If, during the term of this sublease, the Premises or the Building are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable, city shall restore the premises or the Building to substantially the same condition as they were in immediately before destruction, if the restoration can be made under the then existing laws and can be substantially completed within one hundred twenty (120) working days after the date of destruction. Such destruction shall not terminate this Sublease. If the restoration cannot be made in the time stated in this paragraph, either party shall have the right to terminate this Sublease by notice to the other party given at any time within thirty (30) days after the date of such destruction, or within thirty (30) days after it is determined that such restoration cannot be completed within the time stated, whichever is longer, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall have no right to terminate this Sublease. If the then existing laws do not permit the restoration, either party shall have the

right to terminate this Sublease by notice to the other party given at any time within thirty (30) days after the date of such destruction.

If a portion of the building other than the Premises shall be totally or partially destroyed from any cause such that in the reasonable opinion of the city the Building should be restored in such a way as to alter the Premises materially, city may terminate this Sublease by notice to Sublessee at any time within thirty (30) days after the date of such destruction. In the event of giving effective notice pursuant to this paragraph, the term of this Sublease shall expire on the date thirty (30) days after the giving of such notice as fully and completely as if such date were set forth for the expiration of the term of this Sublease. If this Sublease is not so terminated, City shall restore the Premises and the Building within a reasonable time and this Sublease shall continue in full force and effect.

If City is required or elects to restore the Premises as provided in this paragraph, city shall not be required to restore alterations made by Sublessee, Sublessee's improvements, Sublessee's trade fixtures, and Sublessee's personal property, including without limitation, any panels, decoration, office fixtures, railing, ceiling, floor covering, partitions and the like, such excluded items being the sole responsibility of Sublessee to restore.

In case of destruction there shall be an abatement or reduction of rent, between the date of destruction and the date of completion of the restoration or the date of termination of this Sublease based on the extent to which the destruction interferes with Sublessee's use of the Premises, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall not be entitled to such abatement or reduction of rent.

If there is destruction to the building that exceeds thirty-three and one-third percent (33 1/3%) of the then replacement value of the building from any risk, City can elect to terminate this Sublease whether or not the Premises are destroyed. If, in the case of such destruction, Sublessee reasonably determines that such destruction unreasonably interferes with its use and occupancy of the Premises, Sublessee can elect to terminate this Sublease by written notice to City.

**20. CONDEMNATION.** If, during the term of this Sublease, there is a taking by condemnation (including condemnation by city) of all or any part of the Premises or Building, the rights and obligations of the parties shall be as follows:

If there is a taking of all or any part of the premises, the term of this Sublease shall forthwith cease and terminate as of the date of vesting of title in the condemner, and the City is entitled to receive the entire award from the condemning authority except that portion, if any, of the award which may be attributable to the loss of the value of the Sublessee's business and Sublessee's leasehold interest, which is given the Sublessee by virtue of this Sublessee.

**21. DEFAULT.** Each of the following shall be deemed a default by the Sublessee and a breach of the Sublease:

(a) A default in the payment of the rent and additional rents due hereunder for a period often (10) days from the due date for such payment.

(b) A default in the performance of any other term, covenant or condition on the part of the Sublessee to be kept, performed, or observed for a period of fifteen (15) days after service by City on Sublessee of a notice specifying the particular default or defaults, provided, however, that no default on the part of the Sublessee in the performance of work or acts required by it to be done, or conditions to be modified, shall be deemed to exist if steps shall have in good faith been commenced promptly by the Sublessee to rectify the same and shall be prosecuted to completion with diligence and continuity.

(c) The entry of a decree or order for relief by a court having jurisdiction in respect of the Sublessee in an involuntary case under the federal bankruptcy laws, as now or herein after constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of or for the Sublessee or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs.

(d) The commencement by the Sublessee of a voluntary case under the federal bankruptcy laws, as now constituted or thereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by it to the appointment of or taking possession of a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of or for the Sublessee or for any substantial part of its property, or the making by Sublessee of any assignment for the benefit of creditors, or the failure of the Sublessee generally to pay its debts as such debts become due, or the taking of corporate action by the Sublessee in furtherance of any of the foregoing.

(e) The taking possession of the property of Sublessee by any governmental office or agency pursuant to statutory authority for the dissolution or liquidation of the Sublessee.

(f) The vacation or abandonment of the Premises by Sublessee.

(g) The assignment or subletting of the Premises by Sublessee without the prior written consent of City and the State of Alaska.

**22. CITY'S REMEDIES IN EVENT OF DEFAULT.** In the event of any default by Sublessee under this Sublease, City shall have the following rights and remedies, which shall be cumulative and all in addition to any rights and remedies that City may be given by statute common law or otherwise:

(a) Distrain for rent due.

(b) Re enter the Premises and take possession thereof and remove all signs, other evidence of tenancy, and all personal property of Sublessee from the premises.

(c) Declare the term of this Sublease ended.

(d) Relet the Premises in whole or in part for any period equal to or greater or less than the remainder of the term of this Sublease.

(e) Collect any and all rents due or to become due from subtenants or other occupants of the Premises.

(f) If Sublessee shall at any time fail to make any payment or perform any other action in part to be made or performed under this Sublease, City may, but shall not be obligated to, and without waiving or releasing Sublessee from any obligation under this Sublease, make such payment or perform such other

act as may be reasonable in the circumstances, and in connection therewith to pay expenses and employ counsel.

All sums so paid by City and all expenses in connection therewith, together with interest thereon at the rate of twelve percent (12%) per year or the current maximum legal rate of interest, whichever is less, from the date of payment to the date of repayment, shall be deemed additional rent hereunder and payable at the time of any installment of rent thereafter becoming due and city shall have the same rights and remedies for the nonpayment thereof, or any other additional rent as in the case of default in the payment of rent.

(g) Restrain by injunction any violation or attempted violation, or compel by injunction the performance of any of the covenants, agreements or conditions or terms of this Sublease.

(h) Recover, whether this Sublease be terminated or not, from Sublessee, damages, provided for below constituting of items (i) and (ii), or at City's election in lieu of (ii), item (iii):

(i) reasonable attorney's fees and other expenses incurred by city by reason of the breach or default by Sublessee:

(ii) an amount equal to the amount of the rent and additional rents reserved under this Sublease, less the net rent, if any, collected by City on reletting the Premises, which shall be due and payable by Sublessee to City on the days on which the rent and additional rents reserved in this Sublease would have become due and payable; that is to say, upon each of such days Sublessee shall pay to City the amount of deficiency then existing. Such net rent collected on reletting by City shall be computed by deducting from the gross rent collected all expenses incurred by city in connection with the reletting of the Premises, or any part thereof, including broker's commission and the cost of renovation or remodeling the Premises;

(iii) an amount to be due immediately on breach, equal to the amount, if any, by which the remaining rent due under this Sublease exceeds the fair and reasonable rental value of the Premises 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 Premises 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. If the Premises, or any part thereof, be relet by City for the unexpired term of this Sublease, or any part thereof, before presentation of proof of damages, the amount of rent reserved upon such reletting in the absence of evidence to the contrary, shall be deemed to be the fair and reasonable rental value for the Premises, or any part thereof, so relet during the term of such reletting.

Reentry or reletting of the Premises, or any part thereof, pursuant to this section shall not be deemed a termination of this Sublease, unless expressly declared to be so by City. If this Sublease shall be deemed terminated, Sublessee's liabilities shall survive and Sublessee shall be liable for damages as provided above.

The enumeration of the default rights of City above are not intended to imply that they are mutually exclusive, nor that they are in lieu of any or all statutory, common law or other rights.

**23. BANKRUPTCY OR INSOLVENCY.** (A) In the event that Sublessee shall file a petition, or an order for relief is entered against Sublessee, under Chapter 7 of the Bankruptcy Code, and the Trustee of

Sublessee shall elect to assume this Sublease for the purpose of assigning the same, such election and/or assignment may only be made if all of the terms and conditions of subsections (c), (d) and (e) hereof are satisfied. If such Trustee shall fail to elect to assume this Sublease for the purpose of assigning the same within sixty (60) days after the order of relief, this Sublease shall be deemed to have been rejected. City shall be thereupon immediately entitled to exercise any remedies available to it under paragraph 25 of this Sublease, and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceeding shall survive.

(b) In the event that Sublessee files a petition for reorganization under Chapters 11 and 13 of the Bankruptcy Code or a proceeding filed by or against Sublessee under any other chapter of the Bankruptcy Code is converted to a Chapter 11 or 13 proceeding, and the Trustee of Sublessee or Sublessee as debtor-in-possession fails to assume this Sublease within sixty (60) days from the date of filing of the Petition or such conversation, the Trustee or debtor-in-possession shall be deemed to have rejected this Sublease. City shall be thereupon immediately entitled to exercise any remedies available to it under section 22 of this Sublease and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceedings shall survive. If the Trustee of Sublessee shall elect to assume this Sublease such election may only be made if all of the terms and conditions of subsections (c) and (d) hereof are satisfied. If the Trustee of Sublessee shall elect to assign this Sublease after assuming it, such assignment may only be made if all of the terms and conditions of subsection € hereof are satisfied.

(c) No election to assume this Sublease shall be effective unless in writing and addressed to City and unless in City's reasonable business judgement, all of the following conditions, which City and Sublessee acknowledge to be commercially reasonable, have been satisfied:

1) The Trustee or the debtor-in-possession has cured or has provided City adequate assurance (as defined hereunder) that:

A) within ten (10) days from the date of such assumption the Trustee or debtor-in-possession will cure all monetary defaults under this Sublease; and

B) within thirty (30) days from the date of such assumption the Trustee or debtor-in-possession will cure all not-monetary defaults under this Sublease, or if the non-monetary default requires more than thirty (30) days to cure, the Trustee or debtor-in-possession will within thirty (30) days commence and proceed with diligence and continuity to cure the non-monetary defaults under this Sublease.

2) The Trustee or the debtor-in-possession has compensated, or has provided to City adequate assurance (as defined hereunder) that within ten (10) days from the date of assumption City will be compensated for any pecuniary loss sent to the Trustee or debtor-in-possession.

3) The Trustee or the debtor-in-possession has provided City with adequate assurance of the future performance of each of Sublessee's obligations under this Sublease; provided, however, that the obligations imposed upon the Trustee or debtor-in-possession shall continue with respect to Sublessee after the completion of bankruptcy proceedings.

4) City has determined that the assumption of the Sublease will not breach any provision in any other Lease by which City is bound relating to the Property.

(d) For the purposes of subparagraph (c) , adequate assurance shall mean: (i) City shall reasonably determined that the Trustee or the debtor-in-possession has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure City that the Trustee or debtor-in-possession will have sufficient funds to fulfill the obligations of Sublessee under this Sublease; and (ii) An order shall have been entered segregation sufficient cash payable to City and/or there shall have been granted a valid and perfected first lien and security interest in property of Sublessee, Trustee or debtor-in-possession, acceptable as to value and kind to City, to secure City the obligation of the Trustee or debtor-in-possession to cure the monetary and/or non-monetary defaults under this Sublease within the time period set forth above.

(e) If the Trustee or debtor-in-possession has assumed the Sublease pursuant to the terms and provisions of subparagraphs (a) or (b), for the purpose of assigning (or elects to assign) Sublessee's interest under this Sublease to any other person, such interest may be so assigned only if City shall acknowledge in writing that the intended assignee has provided adequate assurance as defined in this subparagraph (e) of future performance of all the terms, covenants and conditions of this Sublease to be performed by Sublessee.

For purposes of this subparagraph (e), adequate assurance of future performance shall mean that City shall have reasonably ascertained that each of the following conditions has been satisfied:

- 1) The assignee has submitted a current financial statement audited by a certified public accountant which shows a net worth and working capital in amounts determined to be sufficient by City to assure the future performance by such assignee of Sublessee's obligations under this Sublease;
- 2) If requested by City, the assignee shall have obtained guarantees in form and substance satisfactory to City from one or more persons whom City determines to be credit worth;
- 3) The assignee has submitted in writing evidence, satisfactory to City, of substantial business experience in business operations of the same kind and comparable size to the business contemplated under this Sublease; and
- 4) City has obtained all consents or waivers from any third party necessary to permit such assignment under any lease or agreement by which City is bound.

(f) Neither Sublessee's interest in this Sublease, nor any lesser interest of Sublessee herein, shall pass to any Trustee, receiver, assignee for the benefit of creditors, or any other person or entity, or otherwise by operation of law under the laws of any state having jurisdiction of the person or property of Sublessee ('State law') unless City shall consent to such transfer in writing. No acceptance by City of rent or other payments from any such Trustee, receiver, assignee, person or other entity shall be deemed to have waived, nor shall it waive, the need to obtain City's consent or City's right to terminate this Sublease for any transfer of Sublessee's interest under this Sublease without such consent.

(g) In the event Sublessee shall be adjudicated insolvent pursuant to the provisions of any present or future insolvency law under state law, or if a receiver or Trustee of the property of Sublessee shall be appointed under state law by reason of Sublessee's insolvency made or Sublessee's property for the benefit of creditors under state law; then and in such event City may, at its option, terminate this Sublease and all rights of Sublessee here under without further obligation to Sublessee, by giving Sublessee written notice of the election to so terminate.

**24. SURRENDER OF POSSESSION.** If, after termination of this Sublease, Sublessee shall vacate the Premises without removing all of its property, any and all property that remains may be removed from the Premises by City and may be handled, removed or stored by City at the risk, cost, and expense of Sublessee, and City shall in no event be responsible for the value, preservation or safekeeping thereof or for any loss or damage of Sublessee occasioned thereby. Sublessee shall pay to City, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in City's possession or under City's control. Any such property of Sublessee not removed from the Premises or retaken from storage by Sublessee within thirty (30) days after the end of the term of this Sublease or of Sublessee's right to possession of the Premises, however terminated, shall be conclusively deemed to have been forever abandoned by Sublessee and either may be retained by City as its property or may be disposed of in such manner as City may see fit.

**25. QUIET ENJOYMENT.** So long as Sublessee shall observe and perform the covenants and conditions contained in this Sublease, Sublessee shall, at all times during the term of this Sublease, peacefully and quietly have the enjoy possession of the Premises without any disturbance or hindrance by, from or through City, but subject to any rights of the State of Alaska in the Prime Lease.

**26. ASSIGNMENT AND SUBLETTING.** (a) Sublessee shall not assign, hypothecate, or encumber its interest in this Sublease or in the Premises. Sublessee shall not sublease all or any part of the Premises, or allow any other person or entity (except Sublessee's authorized representatives) to occupy or use all or any part of the Premises without first obtaining City's written consent, which will not unreasonably be withheld, and the written consent of DOT/PF. No sub-sublessee may occupy the Premises before DOT/PF grants written consent. Any assignment, encumbrance or hypothecation of the Sublease is void, and any sub-sublease without such consent by the City and DOT/PF is voidable and, at City's election, shall constitute a default. No consent to any sublease shall constitute a further waiver of the provisions of this paragraph.

(b) Any proposed sublease must be submitted to the City for approval in three (3) copies, each bearing the original notarized signature of all parties. Each sublease shall be expressly subject and subordinate to the Sublease and the Prime Lease and the rights of the City and DOT/PF respectively, and shall require the sublessee to assume the Sublessee's obligations hereunder and shall not release the Sublessee from liability hereunder. Each sublease shall be expressly terminable by City in its sole discretion at the end of the term of this Sublease. If approved by City, the proposed sublease will be forwarded to DOT/PF for approval. No consent to sublease is effective until given in writing by both the City and DOT/PF.

**27. RIGHTS RESERVED TO CITY.** City reserves the following rights:

(a) To name or to change the name of the Building.

(b) To install and maintain or to allow installation and maintenance of signs on the exterior or interior of the Building, excluding the interior of the Premises.

(c) To have pass keys to the Premises.

(d) To have access to the Premises for purposes of inspection upon reasonable prior notice.

(e) On reasonable prior notice to Sublessee, to exhibit the Premises to prospective tenants during the last six (6) months of the term of this Sublease, and to any prospective purchase, mortgagee, or assignee of any mortgage on the Building and to other having a legitimate interest at any time during the term of this Sublease.

(f) At any time in the event of an emergency and otherwise at reasonable times, to take any and all measures, including inspections, repairs, alterations, additions, and improvement to the Premises or to the Building as may be necessary or desirable for the safety, protection or preservation of the Premises or the Building or City's interest, or as may be necessary or desirable in the operation or improvement of the building, or in order to comply with laws, and requirement of governmental or other authority.

**28. ESTOPPEL CERTIFICATES.** Either party shall at any time and from time to time upon not less than fifteen (15) days prior request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Sublease 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.

**29. HOLDING OVER.** If Sublessee remains in possession of the Premises after expiration of the term of this Sublease, or after the date in any notice given by City to Sublessee termination this Sublease, such possession by Sublessee shall be deemed to be a month to month tenancy terminable on thirty (30) days' notice given at any time by either party. The provisions of this paragraph do not exclude City's rights of re-entry or any other right under this Sublease.

**30. SUBORDINATION OF SUBLEASE.** The rights of Sublessee under this Sublease shall be and are subordinate at all times to the Prime Lease and all ground leases and/or underlying leases, if any, now or hereafter in force against the Property and to the lien of any mortgage or mortgages now or hereafter in force against such leases and/or the Premises, and to all advances made or hereafter to be extensions thereof. This paragraph is self-operative and no further instrument of subordination shall be required. In conformation of such subordination, Sublessee shall promptly execute such further instrument as may be reasonably requested by City. Sublessee, at the option of any mortgagee, agrees to attorn to such mortgagee in the event of a foreclosure sale or deed in lieu thereof.

**31. NOTICES.** All notices, demands and requests from one party to another shall be delivered in person or sent by mail addressed to the other party at the address set forth below or at such other address as either party may notify the other in writing pursuant to this paragraph.

If to City:

City Manager's Office  
Airport Terminal manager, City Hall  
491 East Pioneer Ave.  
Homer Alaska 99603-7624  
Telephone: 907.235.8121  
E-mail: [citymanager@ci.homer.ak.us](mailto:citymanager@ci.homer.ak.us)

If to Sublessee:

Kenai Aviation Operations LLC  
Jacob Caldwell  
101 N. Willow St  
Kenai AK 99611  
Telephone: 907.283.4124  
E-mail: [jacob@kenaiaviations.com](mailto:jacob@kenaiaviations.com)



Telephone, facsimile, and e-mail addresses are provided for informational purposes, and may not be used in lieu of mail or personal delivery for formal notices, demands, and requests.

If in an emergency, a secondary contact person on behalf of each party, and aside for the contacts listed above, will be:

City of Homer  
Attn: Building Maintenance Division  
491 East Pioneer Ave, Homer AK  
Telephone: 907.235.3170  
E-mail: [publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

Kenai Aviation Operations LLC  
101 N. Willow St  
Kenai AK 99611  
Telephone: 907.283.4124  
E-mail: [Jacob@kenaiaviation.com](mailto:Jacob@kenaiaviation.com)

**32. WAIVER.** No failure by either City or Sublessee to insist upon the strict performance by the other of any term, covenant or condition of this Sublease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such term, covenant or condition. No waiver of any breach or right, unless in writing, shall affect or alter this Sublease, but each and every term, covenant and condition of this Sublease shall continue in full force and effect with respect to any other then existing or subsequent breach.

The receipt and acceptance by City of delinquent rent shall not constitute a waiver of any other defaults; it shall constitute only a waiver of timely payment of the particular installment of rent involved. No act or conduct of City, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Sublessee before the expiration of the term of this Sublease. Only a notice from City o Sublessee shall constitute acceptance of the surrender of the premises and accomplish a termination of the term of this Sublease.

**33. SALE OR TRANSFER OF PREMISES.** If City sells or transfers the Building or the Premises, on assumption of the sale or transfer, City shall be released from any liability thereafter accruing under the security deposit or prepaid rent to City's successor and on such transfer City shall be discharged from any further liability in reference to the security deposit or prepaid rent.

**34. MISCELLANEOUS PROVISIONS.**

- (a) Time is of the essence of each provision of this Sublease.
- (b) This Sublease shall be binding on and inure to the benefit of the parties here to and their respective successors and assigns, except as otherwise provided in the Sublease.
- (c) This Sublease shall be governed by and construed and enforced in accordance with the laws of the State of Alaska.
- (d) This Sublease contains all the agreements of the parties and cannot be amended or modified except by a written agreement signed by the parties hereto.
- (e) It is understood and agreed that this Sublease shall not be binding until and unless all parties have signed it.

- (f) If Sublessee is a corporation, Sublessee shall deliver to City and DOT/PF on execution of this Sublease a certified copy of a resolution of its board of directors authorizing the execution of this Sublease and naming the officers that are authorized to execute this Sublease on behalf of the corporation or other proof reasonably satisfactory to City and DOT/PF.
- (g) Any litigation arising out of the performance of the parties under this Sublease, or its interpretation, shall be brought in the Superior Court for the State of Alaska, Third Judicial District at Homer.
- (h) All provisions contained in this Sublease, whether covenants or conditions, shall be deemed to be both covenants and conditions.
- (i) This Sublease may be executed in several counterparts, each of which shall be deemed an original and may be used as such, and such counterparts shall constitute but one and the same instrument.

**35. NON-DISCRIMINATION.** Sublessee covenants and agrees that discrimination on the grounds of race, color, religion, national, origin, ancestry, age or gender will not be permitted against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal, state or local law. To the extent required by applicable law, regulation, or government contract, Sublessee shall furnish services on a fair, reasonable and not unjustly discriminatory basis, and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, however, that Sublessee may make reasonable and nondiscriminatory discounts, rebates and similar types of price reductions to volume purchasers. The Sublessee recognizes the right of the City to take any action necessary to enforce this covenant, including actions required pursuant to any federal, state or local law.

- (a) This agreement is subject to requirements of the U/S/ Department of Transportation's regulations, 49 CFR Part 23, Subpart F. The concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award of performance of any concession agreement covered by 49 CFR Part 23, Subpart F.
- (b) The concessionaire agrees to include the above statements in any subsequent concession agreement that it enters and cause those businesses to similarly include the statements in further agreements.

**36. RADIO INTERFERENCE.** At the City's request, Sublessee shall discontinue the use of any machine or device which interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

**37. REGULATIONS.** Sublessee agrees to abide by all reasonable regulations now or hereafter established by the City or DOT/PF, or both, concerning the use, operation and maintenance of the Premises, Building and the Property.

**38. STATE DOT/PF APPROVAL.** Pursuant to the terms of the Prime Lease this Sublease shall not become effective until approved in writing by the State of Alaska, Department of Transportation and Public Facilities.

**39. TERMINAL CHANGES AND IMPROVEMENTS.** (a) The Sublessee understands and agrees that the requirements of the Building as an airport terminal in such matters as passenger volume, freight

volume, flight frequencies, aircraft size, operating procedures, efficient baggage handling and passenger movements, aircraft and vehicle parking requirements, etc., may from time to time change, sometimes substantially, and consequently the City does hereby reserve the right and option to rebuild, remodel, relocate or otherwise effect such changes in the Premises and the Building. Sublessee agrees that upon thirty (30) days advance written notice given by City to relocate to new premises within the Building as may be reasonably assigned by City as deemed necessary or advisable; subject, however, to the conditions that the new premises shall be situated on the same floor in the Building and on the same concourse or hallway as the Premises, and further that the area of the new premises shall not be less than ninety percent (90%) of the area of the Premises unless Sublessee shall consent to a greater reduction.

(b) Sublessee shall be receive no compensation but shall receive reimbursement of reasonable expenses for any such move required by City. Moreover, if the area of the new premises is less than the area of the Premises, rent shall be reduced by a fraction, the numerator of which is the difference between the area of the Premises and the area of the new premises and the denominator of which is the area of the Premises. During the term of this Sublease (not including any extensions or renewals thereof) the Sublessee shall not be required to pay any increased rent resulting from any such move required by City, even if the new premises are larger than or have a higher rental rate than the Premises.

(c) The Sublessee agrees that temporary inconveniences such as noise, disturbances, traffic detours, moving, and the like, caused by or associated with the construction, remodeling, rebuilding, or relocation of the Premises or other portions of the Building shall not constitute a breach of quiet enjoyment of the Premises, nor shall they be grounds for an abatement of rental exception in cases of interruption of the Sublessee's business or activities of longer than five (5) days in any calendar month in which case the rent shall be abated to the extent of the daily prorated rate of the monthly rental per each day of interruption of the Sublessee' business or activity.

(d) In the event Sublessee is required to move to new premises, City will exert its best efforts to provide new premises comparable to the Premises but in the event Sublessee reasonably believes the move will have a substantially adverse effect on the activities or business of the Sublessee conducted in the premises, the Sublessee may terminate this Sublease by giving written notice of termination to the City within thirty (30) days after the City has given the Sublessee the foregoing notice that the Sublessee must move.

**40. SPECIAL COVENANTS.** Special Covenants including renewal and rent adjustment provisions, if any, are set forth in Exhibit "B" attached hereto and incorporated by reference in this Sublease.

**IN WITNESS WHEREOF**, City and Sublessee have signed this Sublease as of the day and year first above written.

**Sublessor:**

**CITY OF HOMER**

**By:** \_\_\_\_\_  
**Rob Dumouchel, City Manager**

**Sublessee:**

**KENAI AVIATION OPERATIONS LLC**

**By:** \_\_\_\_\_  
**(Name, Title)**

**ACKNOWLEDGMENTS**

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_, City Manager of the City of Homer, an Alaska municipal corporation,  
on behalf of the City of Homer.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires:

\_\_\_\_\_  
STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_, as \_\_\_\_\_ (title) of  
\_\_\_\_\_ (name of entity) on behalf of \_\_\_\_\_  
(name of entity).

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

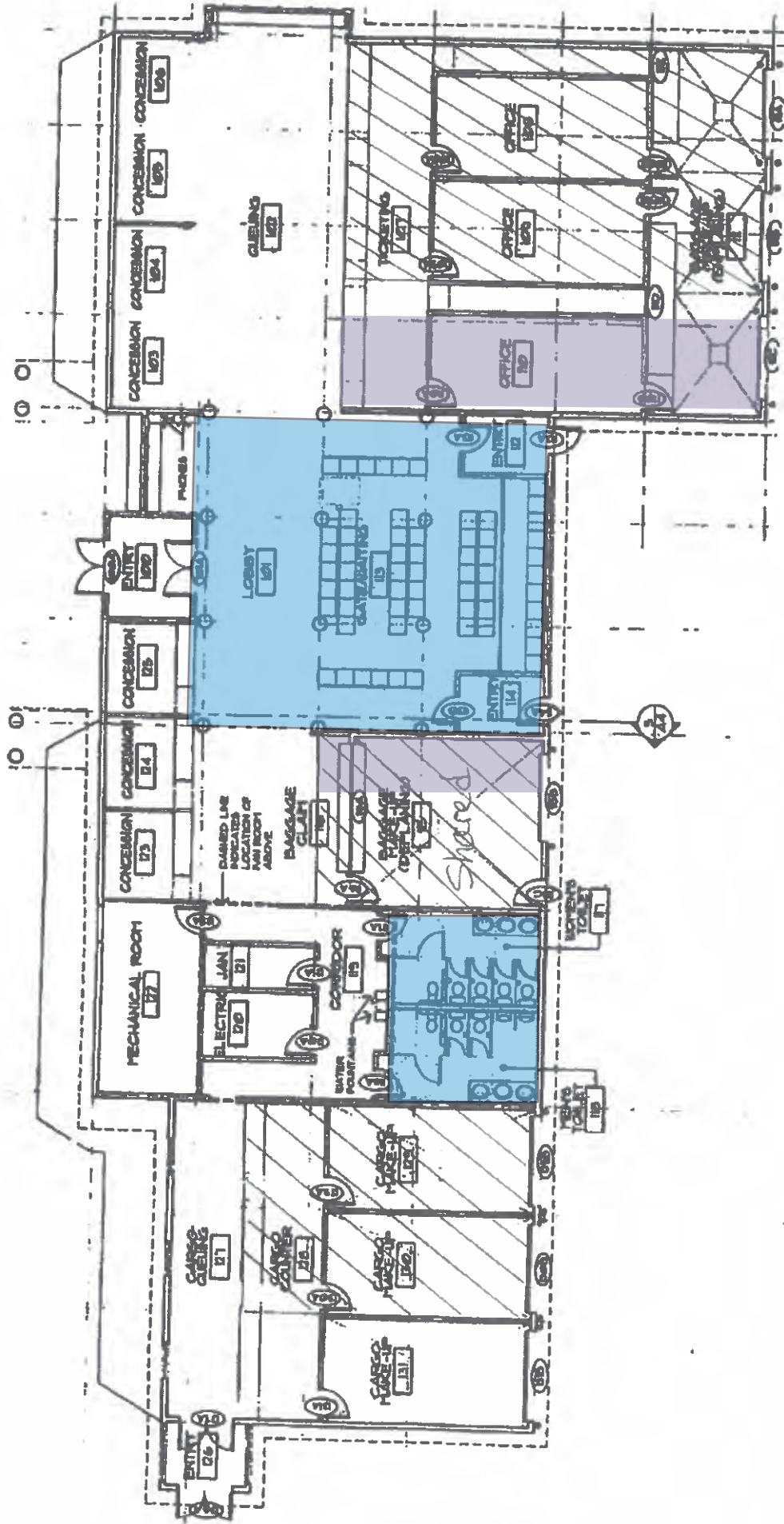
## **EXHIBIT A**

### **DESCRIPTION OF SUBLEASED PREMISES**

The description of the Leased Premises is as follows:

Office and ticket area #110 with baggage make-up area (enplaning) directly behind office area #110. One-third of the baggage make-up area (deplaning) #115. Cargo make -up area # 131 directly behind office and ticket area #110. Total area consisting of 733 square feet, in the Homer Airport Terminal Building, Homer Airport located in Township 6S, Range 13W, Seward Meridian, Section 21, Homer recording District, Homer, Alaska, all situated on Lot 5A, Block 800, HOMER AIRPORT TRACTS according to the official plats on file with the State of Alaska, Department of Transportation and Public Facilities, Division of Aviation. The attached drawings depict the Premises being subleased (shaded in purple) along with the common areas of the Building that are used by other sublessees and the City.

**City of Homer  
Airport Terminal Floor Plan**



Common Areas (+ all public corridors)

Main counter + 1/3 shared baggage = 733sq ft  
 = \$2866.03 per month x 12 = \$34,392.36 per annum

## **EXHIBIT B**

### **SPECIAL COVENANTS**

1. This Sublease does not include any right of renewal
2. In addition to the uses authorized in paragraph 4 of the Sublease, Sublessee is authorized to conduct aircraft fueling operations in conformance with the requirements of the Prime Lease, as amended by Supplement No. 1. By conducting aircraft fueling operations, Sublessee, with respect to Sublessee's aircraft fueling operations, voluntarily assumes all responsibilities and liabilities assigned to the "Lessee" in Supplement No. 1, and further agrees to hold harmless, defend, and indemnify the City and DOT/PF from and against any and all losses, liabilities, damages, claims, costs, expenses and attorney fees, resulting from or arising out of Sublessee's aircraft fueling operations or its breach in performance of the obligations of the "Lessee" under Supplement No. 1, or both. Nothing contained in this paragraph shall be construed as any limitation of any other hold harmless, defense, or indemnity provision of the Lease, and in the case of any conflict between such provisions, the provision granting the greater protection to the City shall control.

**EXHIBIT C  
PRIME LEASE**



**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**RESOLUTION 23-065**

A RESOLUTION OF THE HOMER CITY COUNCIL APPROVING A NONCOMPETITIVE FIVE YEAR SHORT-TEM SUBLEASE AT THE HOMER AIRPORT TERMINAL WITH PIONEER CAR RENTAL, INC., AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The current sublease between Pioneer Car Rental, Inc. and the City at the Homer Airport Terminal expired on March 30, 2023 and is now on a month to month basis; and

WHEREAS, Pioneer Car Rental, Inc. has requested a new sublease with the City for the existing counter and parking spaces the company currently uses; and

WHEREAS, The prime lease held between the City and the State of Alaska Department of Transportation and Public Facilities (DOT&PF) terminated March 20, 2023 and the City recently has renewed this lease; and

WHEREAS, DOT&PF only permits the City to enter into sublease arrangements at the Homer Airport Terminal with a maximum term length of five years however the City can only offer a sublease that ends with the prime leases termination date of March 30, 2028; and

WHEREAS, HCC 18.08.040(c) states short term leases are not required to go through the competitive bidding process unless the short-term lease would result in the lease of the City-owned property to the same lessee for more than one consecutive year; and

WHEREAS, HCC18.08.130(a) states Council, upon written recommendation by the City Manager, may exempt the renewal of a lease from competitive bidding if Council finds such exemption serves the City's best interests; and

WHEREAS, The City issued a Request for Proposals to lease comparable space at the Homer Airport Terminal in 2017 and no bids were received; and

WHEREAS, Comparable counter space adjacent to Pioneer Car Rental, Inc. has been available for sublease with no public interest received; and

WHEREAS, It is in the City's best interest to retain Pioneer Car Rental, Inc. as a year round, high grossing tenant until March 30, 2028.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby approves a noncompetitive five year short term sublease effective July 1, 2023 through March

45 30, 2028 at the Homer Airport Terminal for Concession Space #123 (111 square feet) and 20  
46 parking spaces to Pioneer Acre Rental, Inc. at a minimum rate of \$2 per square foot of counter  
47 space and 10% gross sales, but in no case shall the gross sales be lower than \$500 per month,  
48 and authorizes the City Manager to negotiate and execute the appropriate documents.

49  
50 PASSED AND ADOPTED by the Homer City Council this 26<sup>th</sup> day of June, 2023.

51  
52 CITY OF HOMER

53  
54  
55 \_\_\_\_\_  
56 KEN CASTNER, MAYOR

57  
58 ATTEST:  
59  
60 \_\_\_\_\_  
61 MELISSA JACOBSEN, MMC, CITY CLERK

62  
63 Fiscal information: Minimum annual lease fee of \$2 per square foot of counter space and 10%  
64 gross sales into account number 100-0045-4357



# MEMORANDUM

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**Resolution 23-065, A Resolution of the City Council of Homer, Alaska Approving a Five Year Sublease at the Homer Airport Terminal with Pioneer Car Rental, Inc., and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor & City Council  
**Meeting Date:** June 26, 2023  
**Staff Contact:** Julie Engebretsen, Economic Development Manager  
**Through:** Rob Dumouchel, City Manager

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**Summary Statement:**

Pioneer Car Rental, Inc has submitted a lease application and written request for a new short-term lease at the Homer Airport Terminal for the purpose of continuing scheduled passenger air carrier operations.

The Homer Airport Terminal building is owned by the City of Homer, while the land is leased to the City by the State of Alaska. The lease with the State has a five year term, beyond which the City cannot sublease space long term within the terminal. There is a provision for a month to month continuation of both the City lease with the State and for subleases within the terminal building; all City tenants are currently operating under this provision until new leases are executed. The City lease with the State was recently executed, allowing the City to renew subleases with tenants for the remainder of the new five year term.

The City Manager and Lease Staff has reviewed the request and found the proposal to be compatible with applicable regulations and meets the criteria outlined in City Code.

Staff is recommending to Council that a forty-six month lease be awarded to Pioneer Car Rental, Inc. at the Homer Airport Terminal. This tenant sublease is based on square footage rental within the terminal, 20 parking spaces, and 10% of gross sales.

**Staff Recommendation:**

Adopt Resolution 23-065.

**Attachments:**

Pioneer Car Rental, Inc Lease Application  
DRAFT Airport Lease Agreement



# City Lease Application

## For City-Owned Real Property & Airport Terminal Space

**Office of the City Clerk**  
 491 East Pioneer Avenue  
 Homer, Alaska 99603  
 Phone: (907) 235-3130  
 Fax: (907) 235-3143  
[clerk@cityofhomer.ak.gov](mailto:clerk@cityofhomer.ak.gov)

### Lease Application Purpose

- Request for New Lease; New Lessee – Applicant is not currently a City lessee
- Request for New Lease; Existing Lessee – Applicant is a current lessee with no remaining options to renew
- Request for Assignment of Lease – Applicant is requesting to have an existing lease transferred to a new owner/business

### Property Information

This Lease is for:	<input type="checkbox"/> City-Owned Real Property	<input checked="" type="checkbox"/> Space in the Homer Airport Terminal Building	
Physical Address:	3720 FAARD		
Square Footage:	<input type="checkbox"/> Full Lot	<input type="checkbox"/> Portion of Lot	KPB Parcel No.:
Legal Description of Property: (If within the Airport Terminal Building list Space Description Info & square footage instead)			

### Applicant Information

Business Name:	Pioneer Car Rentals, Inc.
Representative's Full Name & Title:	Brian Berens - Owner
Mailing Address:	PO Box 249
City, State, ZIP Code:	Homer, AK 99603
Phone Number(s):	(269) 751-9227
Email:	brian-berens@yahoo.com

### Business Entity & Financial Information

<input type="checkbox"/>	Sole or Individual Proprietorship – Attached documentation must provide owner's full name, address, and verify they are the sole owner.
	Is entity authorized to do business in Alaska? <input type="checkbox"/> No <input type="checkbox"/> Yes – As of what date: _____
<input type="checkbox"/>	Partnership – Attached documentation must provide Partners' full names, addresses, and share percentages.
	Date of Organization: _____ Type of Partnership: _____

Is Partnership authorized to do business in Alaska? <input type="checkbox"/> No <input type="checkbox"/> Yes - As of what date:	
<input checked="" type="checkbox"/>	Corporation - Attached documentation must provide the full names of Officers and Principal Stockholders (10%+), their addresses, and share percentages.
Date of Organization: 5/5/97	Type of Corporation: S-Corp
Is Corporation authorized to do business in Alaska? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - As of what date: 4/30/97	
Corporation is held: <input checked="" type="checkbox"/> Privately <input type="checkbox"/> Publicly - How and where is stock traded:	

<input type="checkbox"/>	Other - Please explain:
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Proof of Financial Capability to Meet Obligations:	<input type="checkbox"/> Documentation of Payment History: Documents such as a credit report and score from one of the three credit bureaus (i.e. Experian, Equifax, TransUnion) or records of prior lease history.
	<input type="checkbox"/> Documentation of Applicant's Financial Backing: Records showing applicant has secured the funding necessary to implement their development/improvement plan and/or purchase the business (if applicable).
	<input type="checkbox"/> Documentation of Business' Vitality: Minimum of two years (past year and current year) of financial statements; this includes a Balance Sheet and Profit/Loss Statement (Revenue/Expense Statement).

Surety Information:	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? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - Attach a statement naming the surety or bonding company, date and amount of bond, and the circumstances surrounding the default or performance.
---------------------	--

Bankruptcy information:	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? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - Attach a statement indicating state, date, Court having jurisdiction, case number and to amount of assets and debt.
-------------------------	--

Pending Litigation:	Are you or any of the principals of your organization holding more than a 10% interest presently a party to any pending litigation? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - Attach detailed information as to each claim, cause of action, lien, judgment including dates and case numbers.
---------------------	--

Lease Proposal	
Type of Business/ Proposed Use of the Property:	Rental Cars

<p>Requested Lease Term:</p>	<p><input type="checkbox"/> Short Term Lease (One Year or Less) – Duration (in months):</p> <p><input checked="" type="checkbox"/> Long Term Lease (More Than One Year)</p> <ul style="list-style-type: none"> <li>• Standardized Lease is a 20-year term with two 5-year Options to Renew; City Manager may deviate from standardized lease term when reasonable and necessary, and approved by Council (18.08.030).</li> <li>• No more than two Options to Renew; each option cannot exceed 25% of initial lease term (18.08.110).</li> </ul> <p>Duration (in years): 20                      No. of Options to Renew:</p>
<p>Property Plan:</p> <p>Same as Previous History. No Changes</p>	<p><input type="checkbox"/> Describe your Property Plan in your written narrative. Details should include but not be limited to:</p> <ul style="list-style-type: none"> <li>• Proposed utilization of the lot/space, including parking</li> <li>• If there are existing buildings on the property and what their proposed uses are</li> <li>• Any intentions to rent out or sublease space on the property</li> <li>• How the use is compatible with neighboring uses and consistent with applicable land use regulations including the Land Allocation Plan; Comprehensive Plan</li> </ul> <p><input type="checkbox"/> Provide a detailed schematic (to scale) that shows the following:</p> <ul style="list-style-type: none"> <li>• Size of lot – dimensions and total square footage</li> <li>• Placement/size of existing buildings, storage units, and other miscellaneous structures</li> <li>• Parking spaces – numbered on the drawing with a total number indicated</li> <li>• Note: an as-built survey from a licensed surveyor may be required</li> </ul>
<p>Development Plan:</p> <p>No Changes</p>	<p>Do you have a development and/or improvement plan for the property, including plans for repairs or maintenance to any existing buildings?</p> <p><input type="checkbox"/> Yes    In your written narrative, provide as much information as possible on how you intend to develop/improve the property. Include a time schedule from project initiation to completion, major project milestones, cost estimate and financing plan, and any additional designs not already provided in the Property Plan's detailed schematic.</p> <p><input type="checkbox"/> No      In your written narrative, explain why.</p>
<p>City Planning &amp; Other Agency Approvals:</p> <p>No Changes</p>	<p>Does your business/proposed use and/or development plan require agency approval? The granting of any lease is contingent upon lessee obtaining approval, necessary permits, and/or inspection statements from all appropriate City, State and/or Federal agencies. This includes but is not limited to:</p> <ul style="list-style-type: none"> <li>• Applicable permits/approval from City Planning for zoning compliance, such as Conditional Use Permits, Zoning Permits</li> <li>• Fire Marshall Plan Review and Permitting</li> <li>• Waste Disposal System Plan Approval – Includes fish waste if applicable</li> <li>• Other applicable permits/inspection statements from agencies such as U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and Alaska Department of Environmental Conservation Division of Environmental Health</li> </ul> <p><input type="checkbox"/> Explain in your written narrative what necessary approvals, permits, and/or inspections are applicable to your business/proposed use and the current status of your application with those agencies.</p> <p><input type="checkbox"/> Attach any relevant documentation that verifies completion or pending status.</p>

Insurance Requirements:	<p>The granting of any lease is contingent upon lessee obtaining and keeping in full force insurance as outlined in HCC 18.08.170. Certificates of insurance showing the required insurance is in effect and identifying the City as an additional insured must be provided to the City at the time a lease becomes effective and annually thereafter, and upon every change in insurance provider or insurance coverage.</p> <p><input checked="" type="checkbox"/> Provide proof of insurability for public liability insurance in the amount of not less than \$1,000,000 coverage per occurrence for bodily injury, including death, and property damage, and the City of Homer as co-insured. Additional insurance limits or types may be required due to the nature of the business, lease, or exposure.</p>
Benefits & Impacts on Community:	<p><input type="checkbox"/> In your written narrative answer the following questions:</p> <ul style="list-style-type: none"> <li>• What experience do you have in the proposed business or venture?</li> <li>• How long have you resided or conducted business in the City, Kenai Peninsula Borough, and/or the State of Alaska?</li> <li>• What are some of the economic, social, and financial benefits and/or impacts your business/proposed use brings to the community?</li> </ul>
Applicant References:	<p><input type="checkbox"/> In your written narrative, 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>Each reference must include the following:</p> <ul style="list-style-type: none"> <li>• Full Name</li> <li>• Name of the organization/business and their title at this entity</li> <li>• Address</li> <li>• Phone number and email address</li> <li>• Nature of association with Applicant</li> </ul>
Additional Information:	<p><input type="checkbox"/> Include in your written narrative, or attach relevant documentation, that you deem pertinent to your application/lease proposal. Criteria for evaluating and approving proposals and competing lease applications can be found under HCC 18.08.060.</p>

### Required Attachments/Documentation

<input type="checkbox"/> Written Narrative	<i>Continued operations, just as before.</i>
<input type="checkbox"/> Business Entity and Licensing Information	<ul style="list-style-type: none"> <li>• State of Alaska Business License</li> <li>• Current State of Alaska Biennial Report</li> <li>• If Partnership: Statement of Partnership/Partnership Agreement</li> <li>• If Corporation: Articles of Incorporation &amp; Bylaws</li> <li>• Any additional documentation concerning the formation or operation of the entity</li> </ul>
<input type="checkbox"/> Financial Information	
<input type="checkbox"/> Property Plan - Detailed Schematic of Property	
<input type="checkbox"/> Development Plan documents/plans, if any	

<input checked="" type="checkbox"/>	Proof of Insurability; verification that insurance can be provided at signing of lease
<input type="checkbox"/>	City Planning & Other Agency Approval Information, if any

**Application Signatures**

By signing, I agree that the above information is true and correct to the best of my knowledge. I certify that I am authorized to sign as the applicant on behalf of the entity I represent.

Signature: Brian Berens Date: 6/15/23

Printed Name & Title: Brian Berens - President

Office Use Only	
Received By & Date:	Fee Processed: \$ _____ Date: _____
Date Application Accepted as Complete:	Application Timeout Date: (1 year from receipt)
Submitted for Dept. Review:	<input type="checkbox"/> Planning <input type="checkbox"/> Port & Harbor <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Other:
Submitted for City Manager Review:	<input type="checkbox"/> Approved on: _____ <input type="checkbox"/> Denied on: _____
For Existing Leases Exempt from Competitive Bidding:	Current Lease Expires with No Options to renew: _____ 6 mos. Prior to date of lease termination (Council Approval Deadline): _____ Request received within 12 to 18 mo. timeframe from expiration of lease date: <input type="checkbox"/> Yes <input type="checkbox"/> No





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/21/2022

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

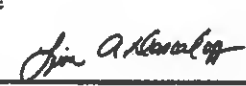
<b>PRODUCER</b> Triad Insurance Management and Services Agency, Inc.  P. O. Box 1587 Exton PA 19341		<b>CONTACT NAME:</b> PHONE (A/C, No. Ext): (610) 280-9980 FAX (A/C, No.): (610) 280-9985 E-MAIL ADDRESS:	
<b>INSURED</b>  Pioneer Car Rental Inc. 3720 FAA Road Suite 123 Homer AK 99803		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: StarStone National Insurance Company NAIC # 25496 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

**COVERAGES**      **CERTIFICATE NUMBER:** CL22102123738      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL BRN INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	35900E226APG	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$      RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				PER STATUTE      OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
DAILY RENTALS. THE CERTIFICATE HOLDER NAMED BELOW IS SHOWN TO BE AN ADDITIONAL INSURED AS THEIR INTEREST MAY APPEAR.

<b>CERTIFICATE HOLDER</b>  City of Homer 491 E. Pioneer Avenue  Homer AK 99803	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  
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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/21/2022

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<b>PRODUCER</b> Triad Insurance Management and Services Agency, Inc.  P. O. Box 1587 Exton PA 19341	<b>CONTACT NAME:</b> PHONE (A/C, No. Ext): (610) 280-9980 FAX (A/C, No): (610) 280-9985 E-MAIL ADDRESS:																				
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<b>INSURED</b> Pioneer Car Rental Inc. 3720 FAA Road Suite 123 Homer AK 99603																					


COVERAGES                                      CERTIFICATE NUMBER: CL22102123736                                      REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:		Y	35900E226APG	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMPIOP AGG \$ 3,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE    OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

DAILY RENTALS. THE CERTIFICATE HOLDER NAMED BELOW IS SHOWN TO BE AN ADDITIONAL INSURED AS THEIR INTEREST MAY APPEAR.

<b>CERTIFICATE HOLDER</b>  State of Alaska, Dept of Transportation and Public Facilities-DOT & PF P O Box 196900 Anchorage AK 99519	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  
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# INSURANCE BINDER

DATE (MM/DD/YYYY)  
10/21/2022**THIS BINDER IS A TEMPORARY INSURANCE CONTRACT, SUBJECT TO THE CONDITIONS SHOWN ON PAGE 2 OF THIS FORM.**

AGENCY <b>Triad Insurance Management and Services Agency</b>		COMPANY <b>StarStone National Insurance Co</b>		BINDER # <b>35900E226APG</b>	
P. O. Box 1587 Exton PA 19341		DATE EFFECTIVE	TIME	DATE EXPIRATION	TIME
		11/1/2022	12:01	12/1/2022	12:01 AM
PHONE (AG. No. Ext): (610)280-9980	FAX (AG. No.): (610)280-9985	<input checked="" type="checkbox"/> THIS BINDER IS ISSUED TO EXTEND COVERAGE IN THE ABOVE NAMED COMPANY PER EXPIRING POLICY #: 35900E215APG			
CODE:	SUB CODE:	DESCRIPTION OF OPERATIONS / VEHICLES / PROPERTY (including Location)			
AGENCY CUSTOMER ID: 00004898					
INSURED AND MAILING ADDRESS <b>Pioneer Car Rental Inc. 3720 FAA Road Suite 123 Homer AK 99603</b>					

TYPE OF INSURANCE		COVERAGE / FORMS	LIMITS		
PROPERTY	CAUSES OF LOSS		DEDUCTIBLE	COINS %	AMOUNT
<input type="checkbox"/> BASIC	<input type="checkbox"/> BROAD <input type="checkbox"/> SPEC				
<b>GENERAL LIABILITY</b>					
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY		EACH OCCURRENCE		\$ 1,000,000
<input type="checkbox"/>	CLAIMS MADE <input checked="" type="checkbox"/> OCCUR		DAMAGE TO RENTED PREMISES		\$ 100,000
			MED EXP (Any one person)		\$ 5,000
			PERSONAL & ADV INJURY		\$ 1,000,000
			GENERAL AGGREGATE		\$ 3,000,000
			PRODUCTS - COMPROP AGG		\$ 3,000,000
<b>VEHICLE LIABILITY</b>			COMBINED SINGLE LIMIT		\$
<input type="checkbox"/>	ANY AUTO		BODILY INJURY (Per person)		\$
<input type="checkbox"/>	ALL OWNED AUTOS		BODILY INJURY (Per accident)		\$
<input type="checkbox"/>	SCHEDULED AUTOS		PROPERTY DAMAGE		\$
<input type="checkbox"/>	HIRED AUTOS		MEDICAL PAYMENTS		\$
<input type="checkbox"/>	NON-OWNED AUTOS		PERSONAL INJURY PROT		\$
			UNINSURED MOTORIST		\$
<b>VEHICLE PHYSICAL DAMAGE DED</b>			ACTUAL CASH VALUE		\$
<input type="checkbox"/>	COLLISION:	<input type="checkbox"/> ALL VEHICLES <input type="checkbox"/> SCHEDULED VEHICLES	STATED AMOUNT		\$
<input type="checkbox"/>	OTHER THAN COL:				\$
<b>GARAGE LIABILITY</b>			AUTO ONLY - EA ACCIDENT		\$
<input type="checkbox"/>	ANY AUTO		OTHER THAN AUTO ONLY:		\$
			EACH ACCIDENT		\$
			AGGREGATE		\$
<b>EXCESS LIABILITY</b>			EACH OCCURRENCE		\$
<input type="checkbox"/>	UMBRELLA FORM		AGGREGATE		\$
<input type="checkbox"/>	OTHER THAN UMBRELLA FORM		SELF-INSURED RETENTION		\$
<b>WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY</b>			PER STATUTE		\$
			E.L. EACH ACCIDENT		\$
			E.L. DISEASE - EA EMPLOYEE		\$
			E.L. DISEASE - POLICY LIMIT		\$
<b>SPECIAL CONDITIONS / OTHER COVERAGES</b>			FEES		\$
			TAXES		\$
			ESTIMATED TOTAL PREMIUM		\$

<b>NAME &amp; ADDRESS</b>		MORTGAGEE	ADDITIONAL INSURED
		LOSS PAYEE	
		LOAN #:	
		AUTHORIZED REPRESENTATIVE	
		Lisa Dascaloff/BARB	<i>Lisa Dascaloff</i>

## CONDITIONS

This Company binds the kind(s) of insurance stipulated on page 1 of this form. The Insurance is subject to the terms, conditions and limitations of the policy(ies) in current use by the Company.

This binder may be cancelled by the Insured by surrender of this binder or by written notice to the Company stating when cancellation will be effective. This binder may be cancelled by the Company by notice to the Insured in accordance with the policy conditions. This binder is cancelled when replaced by a policy. If this binder is not replaced by a policy, the Company is entitled to charge a premium for the binder according to the Rules and Rates in use by the Company.

### Applicable in Arizona

Binders are effective for no more than ninety (90) days.

### Applicable in California

When this form is used to provide insurance in the amount of one million dollars (\$1,000,000) or more, the title of the form is changed from "Insurance Binder" to "Cover Note".

### Applicable in Colorado

With respect to binders issued to renters of residential premises, home owners, condo unit owners and mobile home owners, the insurer has thirty (30) business days, commencing from the effective date of coverage, to evaluate the issuance of the insurance policy.

### Applicable in Delaware

The mortgagee or Obligee of any mortgage or other instrument given for the purpose of creating a lien on real property shall accept as evidence of insurance a written binder issued by an authorized insurer or its agent if the binder includes or is accompanied by: the name and address of the borrower; the name and address of the lender as loss payee; a description of the insured real property; a provision that the binder may not be canceled within the term of the binder unless the lender and the insured borrower receive written notice of the cancellation at least ten (10) days prior to the cancellation; except in the case of a renewal of a policy subsequent to the closing of the loan, a paid receipt of the full amount of the applicable premium, and the amount of insurance coverage.

Chapter 21 Title 25 Paragraph 2119

### Applicable in Florida

Except for Auto Insurance coverage, no notice of cancellation or nonrenewal of a binder is required unless the duration of the binder exceeds 60 days. For auto insurance, the insurer must give 5 days prior notice, unless the binder is replaced by a policy or another binder in the same company.

### Applicable in Maryland

The insurer has 45 business days, commencing from the effective date of coverage to confirm eligibility for coverage under the insurance policy.

### Applicable in Michigan

The policy may be cancelled at any time at the request of the insured.

### Applicable in Nevada

Any person who refuses to accept a binder which provides coverage of less than \$1,000,000.00 when proof is required: (A) Shall be fined not more than \$500.00, and (B) is liable to the party presenting the binder as proof of insurance for actual damages sustained therefrom.

### Applicable in Oklahoma

All policies shall expire at 12:01 a.m. standard time on the expiration date stated in the policy.

### Applicable in Oregon

Binders are effective for no more than ninety (90) days. A binder extension or renewal beyond such 90 days would require the written approval by the Director of the Department of Consumer and Business Services.

### Applicable in the Virgin Islands

This binder is effective for only ninety (90) days. Within thirty (30) days of receipt of this binder, you should request an insurance policy or certificate (if applicable) from your agent and/or insurance company.

**Alaska Department of Commerce, Community, and Economic Development**

Division of Corporations, Business, and Professional Licensing

PO Box 110806, Juneau, AK 99811-0806

This is to certify that

**PIONEER CAR RENTALS INC**

PO BOX 249, HOMER, AK 99603

owned by

PIONEER CAR RENTALS INC

is licensed by the department to conduct business for the period

October 8, 2022 to December 31, 2024  
for the following line(s) of business:

53 - Real Estate, Rental and Leasing



This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States. This license must be posted in a conspicuous place at the business location. It is not transferable or assignable.

Julie Scande  
Commissioner

## HOMER AIRPORT TERMINAL

### AIR CARRIER/TICKET COUNTER SUBLEASE

**THIS SUBLEASE IS MADE** this 1<sup>st</sup> day of July, 2023, between the City of Homer, an Alaska Municipal Corporation (“Sublessor”), whose address is 491 East Pioneer Avenue, Homer, Alaska 99603, and Pioneer Car Rentals, Inc (“Sublessee”), whose address is PO Box 249, Homer AK 99603.

The City is Lessee in a lease agreement (“Prime Lease”) affecting the property dated both October 6, 1992 and March 3, 1993, the agreement of which has been recorded in the Homer Recording District under Document No. 1993-001154-0, also known as Lease Agreement No. ADA-06600, between the State of Alaska, Department of Transportation and Public Facilities (“Lessor”), and the City of Homer (“Lessee”), as amended by Supplement No.1, dated February 28, 2002, and as amended by Supplement No.2, dated March 30, 2023 and may be further amended from time to time with the Lessor to which all the terms, covenants, and conditions of this Sublease are subject to. Sublessee will fully comply with all covenants, provisions, conditions, and terms of that Prime Lease.

#### **CITY AND SUBLESSEE AGREE AS FOLLOWS:**

**1. DESCRIPTION.** City subleases to Sublessee and Sublessee subleases from City the premises consisting of 111 square feet of space in the Homer Airport Terminal Building (“Building”) and 20 parking spaces outside of the Building as more fully described and/or depicted on Exhibit A (“Leased Premises”) as located on Lot 5A, Block 800, HOMER AIRPORT TRACTS according to the official plats on file with DOT/PF, Division of Aviation for the term, the rent, and subject to the covenants and conditions hereinafter provided.

The City has also set aside three additional parking spaces adjacent to leased parking for incidental use by the Sublessee. If it is determined the Sublessee requires use of these three additional spaces, the description and rent of this Sublease will be amended accordingly. If the Sublease has not been amended to incorporate the three parking spaces, they will be available for City use.

The Sublessee will also have access to the Common Use Areas for Sublesses more fully described and/or depicted on Exhibit A (“Common Use Areas”). This Sublease confers no rights either with regard to the subsurface of the land below the floor level of the Leased Premises or with regard to airspace above the ceiling of the Leased Premises.

**2. TERM.** (a) The term of this Sublease shall commence on July 1, 2023, and shall end on March 30, 2028, unless sooner terminated as hereinafter provided.

(b) In any event, Sublessee may not occupy the Premises before the debtor currently in possession of the lease notices rejection or DOT/PF consents to this Sublease in writing. IF City is unable to

deliver possession of the Premises by the date specified for the commencement of the term of this Sublease as a result of causes beyond its reasonable control, including without limitation any failure or delay in obtaining the consent of DOT/PF, City shall not be liable for any damage caused by failing to deliver possession, this Sublease shall not be void or voidable, and the term of this Sublease shall not be extended by the delay. The Sublessee shall not be liable for rent until the City delivers possession of the Premises to Sublessee but shall commence paying rent when City delivers possession.

**3. RENT** Sublessee shall pay to City as annual rent, without deduction, setoff, prior notice or demand, the sum of \$4,452.00 plus taxes (“Rent”). Rent shall be payable in monthly installments of \$371.00 plus tax (“Monthly rent Payment”) in advance on the first day of each month, commencing on the date the term of this Sublease commences. Monthly rent for the first month or portion of it shall be paid on the day the term commences.

Monthly rent for any partial month shall be prorated based on the number of days in the month. Rent not paid when due shall bear interest from the date when due at the rate of interest specified in AS 45.45.010 (a) as now enacted or hereinafter amended. Rent shall be paid at the address set forth for City in the introductory paragraph of this Sublease, or as otherwise directed from time to time by notices from City.

Sublessee shall also pay the City rent equal to ten percent (10%) of Sublessee’s Gross Sales (“Percentage Rent”) as detailed in Exhibit B.

**4. USE OF PREMISES** Sublessee shall use the Leased Premises for office space and ticket counter space for passenger or cargo transportation by air and related functions of aircraft operations and ticket sale and for no other use without City’s written consent. Sublessee agrees to comply with all federal, state and local laws, ordinances and regulations as well as the terms of the Prime Lease. Sublessee agrees to comply with the following rules and regulations and with such reasonable modifications thereof and additions thereto as City may hereafter from time to time make for the Building.

(a) Sublessee shall comply with all covenants, provisions, conditions, and terms of the Prime Lease.

(b) Sublessee shall not make or permit to be made any use of the premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of said Prime Lease; nor will Sublessee commit any act, either by commission or omission, which would cause City to be in default of any covenant, provision, term or condition of the Prime Lease. Sublessee hereby acknowledges receiving a copy of the Prime Lease as provided in Exhibit C.

(c) Sublessee will not make any use of the Property or the Building, nor will sublessee make or permit to be made any use of the Premises or any part thereof which would violate any of the covenants, agreements, terms, provisions and conditions of this Sublease; which is forbidden by any federal, state or local law, ordinance or regulation; which may be dangerous to life, limb, or property; which would, in the reasonable judgement of City, in any way impair the character, reputation or appearance of the Building as an attractive and functional airport terminal building; or which would impair or interfere with or tend to impair or interfere with any of the services performed by City for the Property. Sublessee shall

immediately cease and desist any conduct the City, in its sole discretion, determines is in violation of this subsection upon receiving written notification by the City of such violation.

(d) Sublessee shall not exhibit, sell or offer for sale on the Premises or in the Building any article or thing except those articles and things reasonably connected with the stated use of the Premises set forth above by Sublessee without the advance consent of the City.

(e) Sublessee shall not display, inscribe, print, paint, maintain or affix in or about the building or outside of the Premises any sign, notice, legend, direction, figure or advertisement, unless Sublessee shall first have obtained the consent of the City, any then only such names(s) and matter, and in such color, size, style, place and materials as shall first have been approved by City. City shall not unreasonably withhold prompt approval, but City's insistence on compliance with a uniform signage plan shall not be deemed unreasonable.

(f) No additional locks or similar devices shall be attached to any door or window without City's consent. No keys for any door other than those provided by city shall be made. All keys including cargo area garage door openers must be returned to City at the expiration or termination of this Sublease. If more than two keys for one lock are desired, City will provide the same upon payment by Sublessee. Sublessee will be responsible for replacing lost or damaged garage door opener and/or keys.

(g) Sublessee shall not overload any floor. City may direct, within reason, the time and manner of delivery, routing and removal, and the location, of safes and other heavy articles.

(h) Unless city gives consent, Sublessee shall not install or operate any steam or internal combustion engine, boiler, machinery, refrigerating or heating device or air conditioning apparatus in or about the premises, or carry on any mechanical business therein, or use the Premises for housing accommodation or lodging or sleeping purposes, or do any cooking therein, or use any illumination other than electric light, or use or authorize to be brought into the Building any inflammable fluid such as gasoline, kerosene, naphtha, and benzene, or any explosives, radioactive materials or other articles deemed extra hazardous to life, limb or property, except in a manner which would not violate any federal, state or local law, ordinance or regulation. Sublessee shall not use the premises for any illegal or immoral purpose.

(i) The sidewalks, halls, passages, exits, and entrances ("Common use Areas") shall not be obstructed by Sublessee or used for any purpose other than for ingress to and egress from the premises. No Sublessee and no employees or invitees of any Sublessee shall go up on the roof of the Building.

(j) Sublessee shall not use, keep or permit to be kept any foul, explosive or noxious gas or substance in the Premises, or permit or suffer the premises to be occupied or used in a manner unreasonable offensive or objectionable to the City or other occupants of the Building by reason of noise, odors, and/or vibrations, or unreasonably interfere in any way with other tenants or those having business therein; nor shall any animals or birds be brought in or kept in or about the Premises or the Building, unless for purposes of air transport, and then only in containers designed for transport of such animals or birds. Sublessee shall be responsible for enforcing the requirement that all animals and birds shall be kept in containers while in the Premises or the Building. Sublessee shall make all repairs and conduct all cleaning necessary as a result of the presence of birds or animals in the Premises or the building in connection with air transport.



(k) Sublessee shall see that the doors and windows, if openable, of the premises, are closed and securely locked before leaving the Building and must observe with strict care and caution that all water faucets or water apparatus are entirely shut off before Sublessee or Sublessee's employees leave the building, and that all electricity shall likewise be carefully shut off so as to prevent waste or damage.

(l) In the event of any default or carelessness in performing the duties imposed by this paragraph, Sublessee shall make good all resulting injuries or losses sustained by other sublessees or occupants of the Building and City. In additions to all other liabilities for breach of any covenant of this paragraph, the Sublessee shall pay to the City an amount equal to any increase in insurance premiums payable of the City or any other tenant in the building caused by such breach, but City shall have the burden of proving by a preponderance of the evidence that such increase is directly attributable to such breach.

**5. SECURITY DEPOSIT.** The Sublessee has deposited with City at the time of execution of this Sublease the sum of \$1,000.00 as a security deposit for the performance by Sublessee of the provisions of this Sublease. If Sublessee is in default, City can use the security deposit, or any portion of it, to cure the default or to compensate City for all damage sustained by City resulting from Sublessee's default. Sublessee shall immediately upon demand pay to City a sum equal to the portion of the security deposit expended or applied by city as provided in this paragraph so as to maintain the security deposit in the sum initially deposited with the City. Sublessee's failure to do so within five (5) days after demand by City shall be a default under this Sublease. If Sublessee is not in default at the expiration or termination of this Sublease, city shall return the security deposit to Sublessee. City's obligation with respect to the security deposit are those of debtor and not those of trustee or fiduciary. City may maintain the security deposit separate and apart from City's general funds or co-mingle the security deposit with City's general funds. City shall not be required to pay Sublessee interest on the security deposit. If City is required by law to maintain the security deposit in an interest bearing account, City shall be entitled to receive and retain the maximum amount permitted under applicable law as a bookkeeping and administrative charge.

**6. UTILITIES AND SERVICES.** City shall furnish to the Premises, at City's expense, except as otherwise provided in this sublease, reasonable quantities of electricity and heat as required for Sublessee's use. City shall furnish water, sewer and garbage removal service to the Building, at City's expense; however, Sublessee shall be responsible for cleaning the Leased Premises and taking its garbage to dumpsters provided for the Building. If City is required to construct new or additional utility installations including, without limitation, wiring, plumbing, conduits and mains, resulting from Sublessee's changed or increased utility requirements, Sublessee shall, on demand, pay the City the total cost of these items. If Sublessee causes City services such as janitorial services to exceed the normal and scheduled service already provided to the building, Sublessee will be responsible for the costs incurred by the City to provide this additional service. City shall not be liable for failure to furnish utilities to the Premises when the failure results from causes beyond City's reasonable control, but in case of such failure City will take all reasonable steps to restore the interrupted utilities. Any such interruption of utilities shall never be deemed an eviction or disturbance of Sublessee's use and possession of the Premises, or any part thereof, or give Sublessee any right to abatement of rent, or otherwise relieve Sublessee from performance of any of Sublessee's obligations under this Sublease, except that Sublessee's obligation to pay rent shall be abated to the extent that any such interruption of the utilities exceeds fifteen (15) days. Sublessee shall pay for the telephone charges, including installation.

**7. CONDITON OF PREMISES.** Sublessee's taking possession of the Premises shall be conclusive evidence as against Sublessee that the Premises were in good order and satisfactory condition when Sublessee took possession, except that to latent defects. No promise of City to alter, remodel, repair or improve the Premises or the Building and no representation as to the condition of the Premises or the building has been made by City to Sublessee, other than as may be contained in this Sublease or in a separate written agreement. At the termination of this Sublease, the Sublessee shall return the Premises clean and in as good order and condition as when the Sublessee took possession, ordinary wear and tear excepted, failing which the City may restore the Premises to such condition and the Sublessee shall pay the cost thereof on demand.

**8. MAINTENANCE AND REPAIRS.** City, at City's expense, shall maintain, in good condition, the structural parts of the Building which shall include only the foundation, bearing and exterior walls (excluding glass and doors to the premises), subflooring, the unexposed electrical, plumbing and sewage systems, and the heating and ventilation system servicing the Premises. Sublessee, at Sublessee's expense, shall maintain, in good condition, the Premises, including, without limitation, all glass, doors to the Premises, electrical and plumbing fixtures, interior walls, signs and Sublessee's personal property.

**9. PARKING AND SNOW REMOVAL.** This Sublease includes two parking spots at the Homer Airport Terminal for employee parking within the vicinity of the 20 parking spaces reserved for car rental use by the Sublessee as depicted in Exhibit A. No overnight parking of employee vehicles is allowed. City shall provide snow removal in the parking area. If city, in City's sole discretion, is able to provide additional designated parking for employee or business vehicles, Sublessee shall pay additional rent of \$15 per month for each additional space. Additional rent is due at the same time the rent is due under paragraph 3 of the Sublease.

**10. ALTERATIONS.** (a) Sublessee shall not make any alterations to the Premises without City's prior written consent, which shall not be unreasonably withheld. Requests for approval of alterations shall be made in writing and shall not be unreasonably withheld. Requests for approval of alterations shall be made in writing and shall include three (3) copies of the plans and specifications. The city will approve or disapprove the proposed alterations within thirty (30) days. Approval of the alterations shall not constitute a building permit, nor shall a building permit constitute approval of the alterations. Any alterations (except Sublessee's trade fixtures) shall remain on and be surrendered with the premises on expiration or termination of this Sublease, except that City can elect at any time to require Sublessee to remove any alterations that Sublessee has made to the Premises. If City so elects, Sublessee, at Sublessee's expense, shall restore the Premises to the condition designated by City in its election, before the last day of the term, or within thirty (30) days after notice of election is given, whichever is later. If Sublessee proceeds to make any approved alterations to the Premises as provided in this paragraph, Sublessee shall notify city no less than five (5) days prior to the commencement of the work.

(b) Sublessee shall make no improvements or construction without the prior approval of DOT/PF. Sublessee shall provide City with copies of such written approval(s) prior to commencement of any improvements or construction.

**11. MECHANICS' LIENS.** Sublessee shall pay all costs for construction done by it or caused to be done by it on the premises as permitted by this Sublease. Sublessee shall keep the Premises, the Building, and the property free and clear of mechanics' liens resulting from construction done by or for Sublessee.

Sublessee shall have the right to test the correctness or validity of any such lien only if, immediately on demand by City, sublessee procures and records a lien release bond issued by a corporation authorized to issue surety bonds in the State of Alaska in an amount equal to one and one-half times the amount of the claim of lien. The bond shall meet the requirements of AS 34.35.072 and shall provide for the payment of any sum that the claimant may recover on the claim, plus interest, costs and attorney's fees.

**12. INDEMNITY.** (a) Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorneys' fees, arising out of any injury to or death of any person or damage to or destruction of property occurring to, in, on or about the Premises, Building or Property, but only to the proportionate extent such damages, costs and fees may be caused by or contributed to by fault or other legal responsibility on the part of Sublessee, its employees, authorized representative, customers, invitees, or sublessees. Notwithstanding the preceding sentence, Sublessee shall protect, indemnify and hold City and DOT/PF harmless from all damages, including costs and attorney's fees, arising out of any injury to or death of any person or damage to or destruction of property arising out of and in the course of Sublessee's cargo and/or flight time, as defined in 14 CFR Section 1.1. notwithstanding the first sentence of this paragraph, Sublessee shall not be liable to City or its insurers for, and Sublessee's obligation to protect, indemnify and hold City harmless shall not include any lost or damages, including costs and attorney's fees, covered and paid by City's fire insurance described in paragraph 16.

(b) Furthermore, Sublessee shall protect, defend, and indemnify and hold the State harmless to the same level and extent that the Sublessee would provide to the State if the Sublessee were a direct lessee of the State under the Prime Lease.

**13. AVIATION LIABILITY, PUBLIC LIABILITY, PROPERTY DAMAGE, WORKERS' COMPENSATION, AND OTHER NSURANCE.**

(a) Sublessee, at Sublessee's expense, shall maintain airline/aircraft/airport public liability insurance with policy limits not less than that required by statute.

(b) Sublessee, at Sublessee's expense, shall maintain comprehensive general liability insurance with a single combined liability limit of not less than ONE MILLION DOLLARS (\$1,000,000.00) per person, THREE MILLION DOLLARS (\$ 3,000,000.00) per occurrence for personal injury or death and property damage arising from one occurrence in the amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) insuring against all liability of sublessee, its employees, and authorized representatives, arising out of or in connection with sublessee's use or occupancy of the premises.

(c) All aviation and comprehensive general liability insurance policies shall insure performance by Sublessee of the indemnity provisions of paragraph 12; shall name City and DOT/PF as additional insureds; shall include a waiver of subrogation by the insurer against City and DOT/PF; and shall not contain any exclusion from coverage for Sublessee's liability for damages or loss incurred by City or DOT/PF because of their status as additional insureds

(d) Sublessee, at Sublessee's expense, shall maintain workers' compensation insurance with policy limits not less than that required by statute.

(e) In addition to the foregoing, Sublessee must obtain and maintain such insurance covering the operations and activities of Sublessee to the same level and extent that Sublessee would be required to

maintain if the Sublessee were the direct lessee of DOT/PF under the Prime Lease. Sublessee must provide to DOT/PF, with a copy to City, such binders or certificates of insurance as may be required by DOT/PF to prove compliance with this subparagraph.

**14. USE OF HAZARDOUS SUBSTANCES.** (a) Sublessee shall not cause or permit any hazardous material to be brought upon, kept, or used in or about the Property by Sublessee or its authorized representatives, customers, invitees or sublessees, except for such hazardous material as is necessary or useful to Sublessee'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) Sublessee shall not discharge, leak or emit, or permit its authorized representatives, customers, invitees or sublessees to discharge, leak or emit, any material into the atmosphere, ground, sewer system or any body of water, if such material does or may, unlawfully pollute or contaminate the same, or may unlawfully 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. The preceding sentence only applies to Sublessee's use of and operations on the Property.

(d) If any such discharge, leak, spill, emission, or pollution (referred to in subparagraph 14(c) above) occurs upon or from the Property during the Sublease term or any holdover, Sublessee will immediately notify City 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) Sublessee 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 sublessee, its authorized representatives, customers, invitees and sublessees, and the Sublessee shall give immediate notice to the City of any violation or suspected violation of the provisions of subparagraphs 149a), (b), (c) and (d).

**15. INDEMNITY FOR USE OF HAZARDOUS MATERIAL.** (a) Sublessee shall protect, indemnify and hold City and DOT/PF and their officers, officials, and other employees harmless from and against 0 any claims, demands, penalties, fines, judgments, settlements, liabilities, losses, damage, costs and expenses (including, without limitation, attorney, consultant and expert fees, court costs and other litigation expenses).

(b) City shall protect, indemnify and hold Sublessee and its directors, officers, and other employees harmless from and against any Environmental Damages arising out of or related to 9i) the presence, disposal or release of any hazardous material on or impacting the property; and (ii) any bodily injury (including death0 or property damage (real or personal) caused by such presence, disposal or release, but only to the proportionate extent such Environmental Damages shall have been caused by or contributed to

by fault or other legal responsibility on the part of city or its employees, agents, customers, invitees or contractors.

(c) For the purposes of paragraphs 1 and 15, "Hazardous material" is defined as any substance that is toxic, ignitable, reactive, or corrosive that is regulated by any local government; the State of Alaska, or the United States government. "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, polychlorobiphenyles ("PCB's") and petroleum and petroleum products.

**16. CITY'S FIRE INSURANCE.** City shall, at City's expense, maintain on the Building a policy of fire and extended coverage insurance, with vandalism and malicious mischief endorsement, up to the full replacement value. The policy shall provide that any proceeds shall be made payable solely to City. The "full replacement value" of the building to be insured under this paragraph shall be determined by the insurance company issuing the policy at the time the policy is initially obtained or subsequently renewed.

Sublessee shall not use the Premises for any purpose, nor do any acts in the premises, which will increase the existing rate of insurance on the building or cause the cancellation of any insurance policy covering the building or any part thereof, nor shall Sublessee sell, or permit to be kept, used or sold, on the premises, any article, material or substance which may be prohibited by standard form fire and extended coverage insurance policies. Sublessee shall, at Sublessee's expense, comply with any and all requirements pertaining to the Premises of any insurance organization or company, necessary for the maintenance of fire and extended coverage insurance covering the Building. Sublessee agrees to pay to City and additional rent any increase in premiums on policies which may be carried by City covering damage to the Building by fire and the perils normally included in extended coverage, but only to the extent City proves by a preponderance of the evidence that such increase is directly attributable to Sublessee's breach of the first two sentences of this subparagraph. In event of non-payment of such additional rent, city shall have all the rights and remedies provided in this Sublease in case of nonpayment of rent.

**17. OTHER INSURANCE MATTERS.** All insurance required to be carried by Sublessee under this sublease and the Prime Lease shall be issued by insurance companies authorized to do business in the State of Alaska with a financial rating of at least "A" as rated in the most recent edition of Best's Insurance Reports, or an equivalent rating; shall be issued as a primary policy; and shall contain an endorsement requiring twenty(20) days prior written notice from the insurance company to both parties and before cancellation or change in the coverage, scope or amount of any policy. Sublessee shall furnish insurance certificates to City and DOT/PF at the commencement of the term of this sublease, and on renewals. Sublessee shall promptly furnish copies of each policy to City and DOT/PF upon request.

**18. TAXES AND ASSESSMENTS.** City shall pay all general and special assessments. Sublessee shall pay all real estate taxes levied on Sublessee's interest in the premises, Building or Property.

**19. DESTRUCTION.** If, during the term of this sublease, the Premises or the Building are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable,

city shall restore the premises or the Building to substantially the same condition as they were in immediately before destruction, if the restoration can be made under the then existing laws and can be substantially completed within one hundred twenty (120) working days after the date of destruction. Such destruction shall not terminate this Sublease. If the restoration cannot be made in the time stated in this paragraph, either party shall have the right to terminate this Sublease by notice to the other party given at any time within thirty (30) days after the date of such destruction, or within thirty (30) days after it is determined that such restoration cannot be completed within the time stated, whichever is longer, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall have no right to terminate this Sublease. If the then existing laws do not permit the restoration, either party shall have the right to terminate this Sublease by notice to the other party given at any time within thirty (30) days after the date of such destruction.

If a portion of the building other than the Premises shall be totally or partially destroyed from any cause such that in the reasonable opinion of the city the Building should be restored in such a way as to alter the Premises materially, city may terminate this Sublease by notice to Sublessee at any time within thirty (30) days after the date of such destruction. In the event of giving effective notice pursuant to this paragraph, the term of this Sublease shall expire on the date thirty (30) days after the giving of such notice as fully and completely as if such date were set forth for the expiration of the term of this Sublease. If this Sublease is not so terminated, City shall restore the Premises and the Building within a reasonable time and this Sublease shall continue in full force and effect.

If City is required or elects to restore the Premises as provided in this paragraph, city shall not be required to restore alterations made by Sublessee, Sublessee's improvements, Sublessee's trade fixtures, and Sublessee's personal property, including without limitation, any panels, decoration, office fixtures, railing, ceiling, floor covering, partitions and the like, such excluded items being the sole responsibility of Sublessee to restore.

In case of destruction there shall be an abatement or reduction of rent, between the date of destruction and the date of completion of the restoration or the date of termination of this Sublease based on the extent to which the destruction interferes with Sublessee's use of the Premises, except that if such destruction resulted from Sublessee's fault or negligence, Sublessee shall not be entitled to such abatement or reduction of rent.

If there is destruction to the building that exceeds thirty-three and one-third percent (33 1/3%) of the then replacement value of the building from any risk, City can elect to terminate this Sublease whether or not the Premises are destroyed. If, in the case of such destruction, Sublessee reasonably determines that such destruction unreasonably interferes with its use and occupancy of the Premises, Sublessee can elect to terminate this Sublease by written notice to City.

**20. CONDEMNATION.** If, during the term of this Sublease, there is a taking by condemnation (including condemnation by city) of all or any part of the Premises or Building, the rights and obligations of the parties shall be as follows:

If there is a taking of all or any part of the premises, the term of this Sublease shall forthwith cease and terminate as of the date of vesting of title in the condemner, and the City is entitled to receive the entire award from the condemning authority except that portion, if any, of the award which may be attributable

to the loss of the value of the Sublessee's business and Sublessee's leasehold interest, which is given the Sublessee by virtue of this Sublessee.

**21. DEFAULT.** Each of the following shall be deemed a default by the Sublessee and a breach of the Sublease:

- (a) A default in the payment of the rent and additional rents due hereunder for a period often (10) days from the due date for such payment.
- (b) A default in the performance of any other term, covenant or condition on the part of the Sublessee to be kept, performed, or observed for a period of fifteen (15) days after service by City on Sublessee of a notice specifying the particular default or defaults, provided, however, that no default on the part of the Sublessee in the performance of work or acts required by it to be done, or conditions to be modified, shall be deemed to exist if steps shall have in good faith been commenced promptly by the Sublessee to rectify the same and shall be prosecuted to completion with diligence and continuity.
- (c) The entry of a decree or order for relief by a court having jurisdiction in respect of the Sublessee in an involuntary case under the federal bankruptcy laws, as now or herein after constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of or for the Sublessee or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs.
- (d) The commencement by the Sublessee of a voluntary case under the federal bankruptcy laws, as now constituted or thereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by it to the appointment of or taking possession of a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of or for the Sublessee or for any substantial part of its property, or the making by Sublessee of any assignment for the benefit of creditors, or the failure of the Sublessee generally to pay its debts as such debts become due, or the taking of corporate action by the Sublessee in furtherance of any of the foregoing.
- (e) The taking possession of the property of Sublessee by any governmental office or agency pursuant to statutory authority for the dissolution or liquidation of the Sublessee.
- (f) The vacation or abandonment of the Premises by Sublessee.
- (g) The assignment or subletting of the Premises by Sublessee without the prior written consent of City and the State of Alaska.

**22. CITY'S REMEDIES IN EVENT OF DEFAULT.** In the event of any default by Sublessee under this Sublease, City shall have the following rights and remedies, which shall be cumulative and all in addition to any rights and remedies that City may be given by statute common law or otherwise:

- (a) Distrain for rent due.
- (b) Re enter the Premises and take possession thereof and remove all signs, other evidence of tenancy, and all personal property of Sublessee from the premises.
- (c) Declare the term of this Sublease ended.

(d) Relet the Premises in whole or in part for any period equal to or greater or less than the remainder of the term of this Sublease.

(e) Collect any and all rents due or to become due from subtenants or other occupants of the Premises.

(f) If Sublessee shall at any time fail to make any payment or perform any other action in part to be made or performed under this Sublease, City may, but shall not be obligated to, and without waiving or releasing Sublessee from any obligation under this Sublease, make such payment or perform such other act as may be reasonable in the circumstances, and in connection therewith to pay expenses and employ counsel.

All sums so paid by City and all expenses in connection therewith, together with interest thereon at the rate of twelve percent (12%) per year or the current maximum legal rate of interest, whichever is less, from the date of payment to the date of repayment, shall be deemed additional rent hereunder and payable at the time of any installment of rent thereafter becoming due and city shall have the same rights and remedies for the nonpayment thereof, or any other additional rent as in the case of default in the payment of rent.

(g) Restrain by injunction any violation or attempted violation, or compel by injunction the performance of any of the covenants, agreements or conditions or terms of this Sublease.

(h) Recover, whether this Sublease be terminated or not, from Sublessee, damages, provided for below constituting of items (i) and (ii), or at City's election in lieu of (ii), item (iii):

(i) reasonable attorney's fees and other expenses incurred by city by reason of the breach or default by Sublessee:

(ii) an amount equal to the amount of the rent and additional rents reserved under this Sublease, less the net rent, if any, collected by City on reletting the Premises, which shall be due and payable by Sublessee to City on the days on which the rent and additional rents reserved in this Sublease would have become due and payable; that is to say, upon each of such days Sublessee shall pay to City the amount of deficiency then existing. Such net rent collected on reletting by City shall be computed by deducting from the gross rent collected all expenses incurred by city in connection with the reletting of the Premises, or any part thereof, including broker's commission and the cost of renovation or remodeling the Premises;

(iii) an amount to be due immediately on breach, equal to the amount, if any, by which the remaining rent due under this Sublease exceeds the fair and reasonable rental value of the Premises 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 Premises 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. If the Premises, or any part thereof, be relet by City for the unexpired term of this Sublease, or any part thereof, before presentation of proof of damages, the amount of rent reserved upon such reletting in the absence of evidence to the contrary, shall be deemed to be the fair and reasonable rental value for the Premises, or any part thereof, so relet during the term of such reletting.

Reentry or reletting of the Premises, or any part thereof, pursuant to this section shall not be deemed a termination of this Sublease, unless expressly declared to be so by City. If this Sublease shall be deemed



terminated, Sublessee's liabilities shall survive and Sublessee shall be liable for damages as provided above.

The enumeration of the default rights of City above are not intended to imply that they are mutually exclusive, nor that they are in lieu of any or all statutory, common law or other rights.

**23. BANKRUPTCY OR INSOLVENCY.** (A) In the event that Sublessee shall file a petition, or an order for relief is entered against Sublessee, under Chapter 7 of the Bankruptcy Code, and the Trustee of Sublessee shall elect to assume this Sublease for the purpose of assigning the same, such election and/or assignment may only be made if all of the terms and conditions of subsections (c), (d) and (e) hereof are satisfied. If such Trustee shall fail to elect to assume this Sublease for the purpose of assigning the same within sixty (60) days after the order of relief, this Sublease shall be deemed to have been rejected. City shall be thereupon immediately entitled to exercise any remedies available to it under paragraph 25 of this Sublease, and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceeding shall survive.

(b) In the event that Sublessee files a petition for reorganization under Chapters 11 and 13 of the Bankruptcy Code or a proceeding filed by or against Sublessee under any other chapter of the Bankruptcy Code is converted to a Chapter 11 or 13 proceeding, and the Trustee of Sublessee or Sublessee as debtor-in-possession fails to assume this Sublease within sixty (60) days from the date of filing of the Petition or such conversation, the Trustee or debtor-in-possession shall be deemed to have rejected this Sublease. City shall be thereupon immediately entitled to exercise any remedies available to it under section 22 of this Sublease and this Sublease shall be canceled, but City's right to be compensated for damages in such bankruptcy proceedings shall survive. If the Trustee of Sublessee shall elect to assume this Sublease such election may only be made if all of the terms and conditions of subsections (c) and (d) hereof are satisfied. If the Trustee of Sublessee shall elect to assign this Sublease after assuming it, such assignment may only be made if all of the terms and conditions of subsection € hereof are satisfied.

(c) No election to assume this Sublease shall be effective unless in writing and addressed to City and unless in City's reasonable business judgement, all of the following conditions, which City and Sublessee acknowledge to be commercially reasonable, have been satisfied:

1) The Trustee or the debtor-in-possession has cured or has provided City adequate assurance (as defined hereunder) that:

A) within ten (10) days from the date of such assumption the Trustee or debtor-in-possession will cure all monetary defaults under this Sublease; and

B) within thirty (30) days from the date of such assumption the Trustee or debtor-in-possession will cure all not-monetary defaults under this Sublease, or if the non-monetary default requires more than thirty (30) days to cure, the Trustee or debtor-in-possession will within thirty (30) days commence and proceed with diligence and continuity to cure the non-monetary defaults under this Sublease.

2) The Trustee or the debtor-in-possession has compensated, or has provided to City adequate assurance (as defined hereunder) that within ten (10) days from the date of assumption City will be compensated for any pecuniary loss sent to the Trustee or debtor-in-possession.

3) The Trustee or the debtor-in-possession has provided City with adequate assurance of the future performance of each of Sublessee's obligations under this Sublease; provided, however, that the obligations imposed upon the Trustee or debtor-in-possession shall continue with respect to Sublessee after the completion of bankruptcy proceedings.

4) City has determined that the assumption of the Sublease will not breach any provision in any other Lease by which City is bound relating to the Property.

(d) For the purposes of subparagraph (c) , adequate assurance shall mean: (i) City shall reasonably determined that the Trustee or the debtor-in-possession has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure City that the Trustee or debtor-in-possession will have sufficient funds to fulfill the obligations of Sublessee under this Sublease; and (ii) An order shall have been entered segregation sufficient cash payable to City and/or there shall have been granted a valid and perfected first lien and security interest in property of Sublessee, Trustee or debtor-in-possession, acceptable as to value and kind to City, to secure City the obligation of the Trustee or debtor-in-possession to cure the monetary and/or non-monetary defaults under this Sublease within the time period set forth above.

(e) If the Trustee or debtor-in-possession has assumed the Sublease pursuant to the terms and provisions of subparagraphs (a) or (b), for the purpose of assigning (or elects to assign) Sublessee's interest under this Sublease to any other person, such interest may be so assigned only if City shall acknowledge in writing that the intended assignee has provided adequate assurance as defined in this subparagraph (e) of future performance of all the terms, covenants and conditions of this Sublease to be performed by Sublessee.

For purposes of this subparagraph (e), adequate assurance of future performance shall mean that City shall have reasonably ascertained that each of the following conditions has been satisfied:

- 1) The assignee has submitted a current financial statement audited by a certified public accountant which shows a net worth and working capital in amounts determined to be sufficient by City to assure the future performance by such assignee of Sublessee's obligations under this Sublease;
- 2) If requested by City, the assignee shall have obtained guarantees in form and substance satisfactory to City from one or more persons whom City determines to be credit worth;
- 3) The assignee has submitted in writing evidence, satisfactory to City, of substantial business experience in business operations of the same kind and comparable size to the business contemplated under this Sublease; and
- 4) City has obtained all consents or waivers from any third party necessary to permit such assignment under any lease or agreement by which City is bound.

(f) Neither Sublessee's interest in this Sublease, nor any lesser interest of Sublessee herein, shall pass to any Trustee, receiver, assignee for the benefit of creditors, or any other person or entity, or otherwise by operation of law under the laws of any state having jurisdiction of the person or property of Sublessee ('State law') unless City shall consent to such transfer in writing. No acceptance by City of rent or other payments from any such Trustee, receiver, assignee, person or other entity shall be deemed to have waived, nor shall it waive, the need to obtain City's consent or City's right to terminate this Sublease for any transfer of Sublessee's interest under this Sublease without such consent.

(g) In the event Sublessee shall be adjudicated insolvent pursuant to the provisions of any present or future insolvency law under state law, or if a receiver or Trustee of the property of Sublessee shall be appointed under state law by reason of Sublessee's insolvency made or Sublessee's property for the benefit of creditors under state law; then and in such event City may, at its option, terminate this Sublease and all rights of Sublessee here under without further obligation to Sublessee, by giving Sublessee written notice of the election to so terminate.

**24. SURRENDER OF POSSESSION.** If, after termination of this Sublease, Sublessee shall vacate the Premises without removing all of its property, any and all property that remains may be removed from the Premises by City and may be handled, removed or stored by City at the risk, cost, and expense of Sublessee, and City shall in no event be responsible for the value, preservation or safekeeping thereof or for any loss or damage of Sublessee occasioned thereby. Sublessee shall pay to City, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in City's possession or under City's control. Any such property of Sublessee not removed from the Premises or retaken from storage by Sublessee within thirty (30) days after the end of the term of this Sublease or of Sublessee's right to possession of the Premises, however terminated, shall be conclusively deemed to have been forever abandoned by Sublessee and either may be retained by City as its property or may be disposed of in such manner as City may see fit.

**25. QUIET ENJOYMENT.** So long as Sublessee shall observe and perform the covenants and conditions contained in this Sublease, Sublessee shall, at all times during the term of this Sublease, peacefully and quietly have the enjoy possession of the Premises without any disturbance or hindrance by, from or through City, but subject to any rights of the State of Alaska in the Prime Lease.

**26. ASSIGNMENT AND SUBLETTING.** (a) Sublessee shall not assign, hypothecate, or encumber its interest in this Sublease or in the Premises. Sublessee shall not sublease all or any part of the Premises, or allow any other person or entity (except Sublessee's authorized representatives) to occupy or use all or any part of the Premises without first obtaining City's written consent, which will not unreasonably be withheld, and the written consent of DOT/PF. No sub-sublessee may occupy the Premises before DOT/PF grants written consent. Any assignment, encumbrance or hypothecation of the Sublease is void, and any sub-sublease without such consent by the City and DOT/PF is voidable and, at City's election, shall constitute a default. No consent to any sublease shall constitute a further waiver of the provisions of this paragraph.

(b) Any proposed sublease must be submitted to the City for approval in three (3) copies, each bearing the original notarized signature of all parties. Each sublease shall be expressly subject and subordinate to the Sublease and the Prime Lease and the rights of the City and DOT/PF respectively, and shall require the sublessee to assume the Sublessee's obligations hereunder and shall not release the Sublessee from liability hereunder. Each sublease shall be expressly terminable by City in its sole discretion at the end of the term of this Sublease. If approved by City, the proposed sublease will be forwarded to DOT/PF for approval. No consent to sublease is effective until given in writing by both the City and DOT/PF.

**27. RIGHTS RESERVED TO CITY.** City reserves the following rights:

(a) To name or to change the name of the Building.

(b) To install and maintain or to allow installation and maintenance of signs on the exterior or interior of the Building, excluding the interior of the Premises.

(c) To have pass keys to the Premises.

(d) To have access to the Premises for purposes of inspection upon reasonable prior notice.

(e) On reasonable prior notice to Sublessee, to exhibit the Premises to prospective tenants during the last six (6) months of the term of this Sublease, and to any prospective purchase, mortgagee, or assignee of any mortgage on the Building and to other having a legitimate interest at any time during the term of this Sublease.

(f) At any time in the event of an emergency and otherwise at reasonable times, to take any and all measures, including inspections, repairs, alterations, additions, and improvement to the Premises or to the Building as may be necessary or desirable for the safety, protection or preservation of the Premises or the Building or City's interest, or as may be necessary or desirable in the operation or improvement of the building, or in order to comply with laws, and requirement of governmental or other authority.

**28. ESTOPPEL CERTIFICATES.** Either party shall at any time and from time to time upon not less than fifteen (15) days prior request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Sublease 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.

**29. HOLDING OVER.** If Sublessee remains in possession of the Premises after expiration of the term of this Sublease, or after the date in any notice given by City to Sublessee termination this Sublease, such possession by Sublessee shall be deemed to be a month to month tenancy terminable on thirty (30) days' notice given at any time by either party. The provisions of this paragraph do not exclude City's rights of re-entry or any other right under this Sublease.

**30. SUBORDINATION OF SUBLEASE.** The rights of Sublessee under this Sublease shall be and are subordinate at all times to the Prime Lease and all ground leases and/or underlying leases, if any, now or hereafter in force against the Property and to the lien of any mortgage or mortgages now or hereafter in force against such leases and/or the Premises, and to all advances made or hereafter to be extensions thereof. This paragraph is self-operative and no further instrument of subordination shall be required. In conformation of such subordination, Sublessee shall promptly execute such further instrument as may be reasonably requested by City. Sublessee, at the option of any mortgagee, agrees to attorn to such mortgagee in the event of a foreclosure sale or deed in lieu thereof.

**31. NOTICES.** All notices, demands and requests from one party to another shall be delivered in person or sent by mail addressed to the other party at the address set forth below or at such other address as either party may notify the other in writing pursuant to this paragraph.

If to City:

If to Sublessee:

City Manager's Office  
Airport Terminal manager, City Hall  
491 East Pioneer Ave.  
Homer Alaska 99603-7624  
Telephone: 907.235.8121  
E-mail: [citymanager@ci.homer.ak.us](mailto:citymanager@ci.homer.ak.us)

Pioneer Car Rental  
Brian Berens  
PO Box 249  
Homer AK 99603  
Telephone: 267-751-9227  
E-mail: [brian\\_berens@yahoo.com](mailto:brian_berens@yahoo.com)

Telephone, facsimile, and e-mail addresses are provided for informational purposes, and may not be used in lieu of mail or personal delivery for formal notices, demands, and requests.

If in an emergency, a secondary contact person on behalf of each party, and aside for the contacts listed above, will be:

City of Homer  
Attn: Building Maintenance Division  
491 East Pioneer Ave, Homer AK  
Telephone: 907.235.3170  
E-mail: [publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

Pioneer Car Rentals, Inc.  
Joshua Dennis  
4280 Main St Apt 1, Homer AK  
Telephone: 907.953.1079

**32. WAIVER.** No failure by either City or Sublessee to insist upon the strict performance by the other of any term, covenant or condition of this Sublease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such term, covenant or condition. No waiver of any breach or right, unless in writing, shall affect or alter this Sublease, but each and every term, covenant and condition of this Sublease shall continue in full force and effect with respect to any other then existing or subsequent breach.

The receipt and acceptance by City of delinquent rent shall not constitute a waiver of any other defaults; it shall constitute only a waiver of timely payment of the particular installment of rent involved. No act or conduct of City, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Sublessee before the expiration of the term of this Sublease. Only a notice from City or Sublessee shall constitute acceptance of the surrender of the premises and accomplish a termination of the term of this Sublease.

**33. SALE OR TRANSFER OF PREMISES.** If City sells or transfers the Building or the Premises, on assumption of the sale or transfer, City shall be released from any liability thereafter accruing under the security deposit or prepaid rent to City's successor and on such transfer City shall be discharged from any further liability in reference to the security deposit or prepaid rent.

**34. MISCELLANEOUS PROVISIONS.**

- (a) Time is of the essence of each provision of this Sublease.
- (b) This Sublease shall be binding on and inure to the benefit of the parties here to and their respective successors and assigns, except as otherwise provided in the Sublease.

- (c) This Sublease shall be governed by and construed and enforced in accordance with the laws of the State of Alaska.
- (d) This Sublease contains all the agreements of the parties and cannot be amended or modified except by a written agreement signed by the parties hereto.
- (e) It is understood and agreed that this Sublease shall not be binding until and unless all parties have signed it.
- (f) If Sublessee is a corporation, Sublessee shall deliver to City and DOT/PF on execution of this Sublease a certified copy of a resolution of its board of directors authorizing the execution of this Sublease and naming the officers that are authorized to execute this Sublease on behalf of the corporation or other proof reasonably satisfactory to City and DOT/PF.
- (g) Any litigation arising out of the performance of the parties under this Sublease, or its interpretation, shall be brought in the Superior Court for the State of Alaska, Third Judicial District at Homer.
- (h) All provisions contained in this Sublease, whether covenants or conditions, shall be deemed to be both covenants and conditions.
- (i) This Sublease may be executed in several counterparts, each of which shall be deemed an original and may be used as such, and such counterparts shall constitute but one and the same instrument.

**35. NON-DISCRIMINATION.** Sublessee covenants and agrees that discrimination on the grounds of race, color, religion, national, origin, ancestry, age or gender will not be permitted against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal, state or local law. To the extent required by applicable law, regulation, or government contract, Sublessee shall furnish services on a fair, reasonable and not unjustly discriminatory basis, and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, however, that Sublessee may make reasonable and nondiscriminatory discounts, rebates and similar types of price reductions to volume purchasers. The Sublessee recognizes the right of the City to take any action necessary to enforce this covenant, including actions required pursuant to any federal, state or local law.

- (a) This agreement is subject to requirements of the U/S/ Department of Transportation's regulations, 49 CFR Part 23, Subpart F. The concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award of performance of any concession agreement covered by 49 CFR Part 23, Subpart F.
- (b) The concessionaire agrees to include the above statements in any subsequent concession agreement that it enters and cause those businesses to similarly include the statements in further agreements.

**36. RADIO INTERFERENCE.** At the City's request, Sublessee shall discontinue the use of any machine or device which interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

**37. REGULATIONS.** Sublessee agrees to abide by all reasonable regulations now or hereafter established by the City or DOT/PF, or both, concerning the use, operation and maintenance of the Premises, Building and the Property.

**38. STATE DOT/PF APPROVAL.** Pursuant to the terms of the Prime Lease this Sublease shall not become effective until approved in writing by the State of Alaska, Department of Transportation and Public Facilities.

**39. TERMINAL CHANGES AND IMPROVEMENTS.** (a) The Sublessee understands and agrees that the requirements of the Building as an airport terminal in such matters as passenger volume, freight volume, flight frequencies, aircraft size, operating procedures, efficient baggage handling and passenger movements, aircraft and vehicle parking requirements, etc., may from time to time change, sometimes substantially, and consequently the City does hereby reserve the right and option to rebuild, remodel, relocate or otherwise effect such changes in the Premises and the Building. Sublessee agrees that upon thirty (30) days advance written notice given by City to relocate to new premises within the Building as may be reasonably assigned by City as deemed necessary or advisable; subject, however, to the conditions that the new premises shall be situated on the same floor in the Building and on the same concourse or hallway as the Premises, and further that the area of the new premises shall not be less than ninety percent (90%) of the area of the Premises unless Sublessee shall consent to a greater reduction.

(b) Sublessee shall be receive no compensation but shall receive reimbursement of reasonable expenses for any such move required by City. Moreover, if the area of the new premises is less than the area of the Premises, rent shall be reduced by a fraction, the numerator of which is the difference between the area of the Premises and the area of the new premises and the denominator of which is the area of the Premises. During the term of this Sublease (not including any extensions or renewals thereof) the Sublessee shall not be required to pay any increased rent resulting from any such move required by City, even if the new premises are larger than or have a higher rental rate than the Premises.

(c) The Sublessee agrees that temporary inconveniences such as noise, disturbances, traffic detours, moving, and the like, caused by or associated with the construction, remodeling, rebuilding, or relocation of the Premises or other portions of the Building shall not constitute a breach of quiet enjoyment of the Premises, nor shall they be grounds for an abatement of rental exception in cases of interruption of the Sublessee's business or activities of longer than five (5) days in any calendar month in which case the rent shall be abated to the extent of the daily prorated rate of the monthly rental per each day of interruption of the Sublessee' business or activity.

(d) In the event Sublessee is required to move to new premises, City will exert its best efforts to provide new premises comparable to the Premises but in the event Sublessee reasonably believes the move will have a substantially adverse effect on the activities or business of the Sublessee conducted in the premises, the Sublessee may terminate this Sublease by giving written notice of termination to the City within thirty (30) days after the City has given the Sublessee the foregoing notice that the Sublessee must move.

**40. SPECIAL COVENANTS.** Special Covenants including renewal and rent adjustment provisions, if any, are set forth in Exhibit "B" attached hereto and incorporated by reference in this Sublease.

**IN WITNESS WHEREOF,** City and Sublessee have signed this Sublease as of the day and year first above written.

**Sublessor:**

**CITY OF HOMER**

**By: \_\_\_\_\_  
Rob Dumouchel, City Manager**

**Sublessee:**

**Pioneer Car Rentals, Inc.**

**By: \_\_\_\_\_  
Brian Berens, President**

**ACKNOWLEDGMENTS**

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, City Manager of the City of Homer, an Alaska municipal corporation, on behalf of the City of Homer.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires:

\_\_\_\_\_  
STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_ (title) of \_\_\_\_\_ (name of entity) on behalf of \_\_\_\_\_ (name of entity).

\_\_\_\_\_  
**Notary Public in and for Alaska**  
**My Commission Expires: \_\_\_\_\_**



**EXHIBIT A**  
**DESCRIPTION OF LEASED PREMISES**

The description of the Leased Premises is as follows:

City subleases to Sublessee and Sublessee subleases from City the premises consisting of 111 square feet of indoor space at the Homer Airport Terminal Building ("Building") and 20 parking spots outside of the Building as more fully described and/or depicted on Exhibit A ("Leased Premises") located on Lot 5A, Block 800, HOMER AIRPORT TRACTS for the term, the rent, and subject to the covenants and conditions hereinafter provided. Of the parking spaces outside the building, two spaces are designated for Sublessee employee parking. Sublessee employees shall not park in other spaces in the Airport Terminal parking lot.

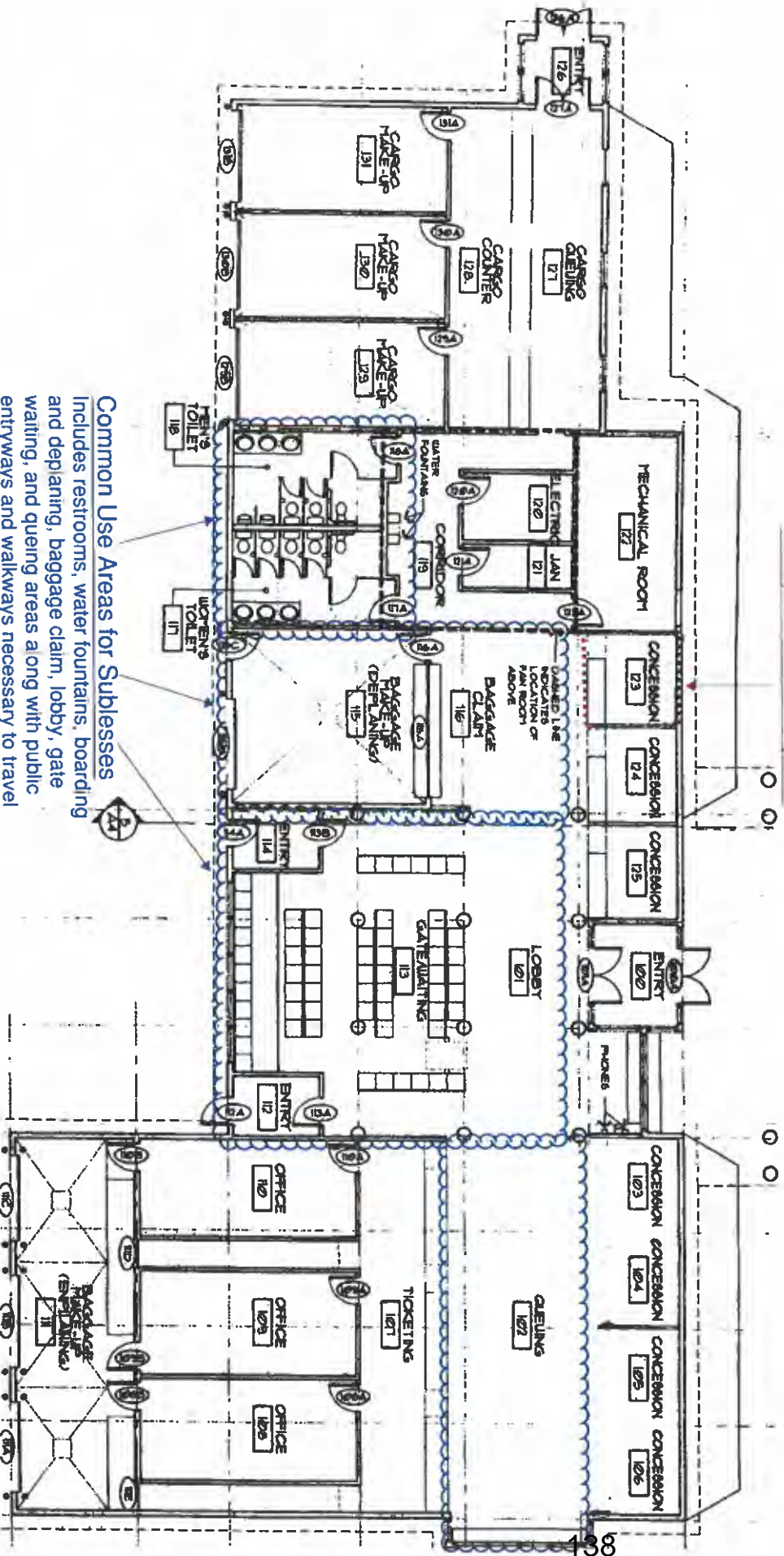
The City has also set aside three additional parking spaces adjacent to leased parking for incidental use by the Sublessee. If it is determined the Sublessee requires use of these three additional spaces, the description and rent of this Sublease will be amended accordingly. If the Sublease has not been amended to incorporate the three parking spaces, they will be available for City use.

The Sublessee will also have access to the Common Use Areas for Sublessees more fully described and/or depicted on Exhibit A ("Common Use Areas"). This Sublease confers no rights either with regard to the subsurface of the land below the floor level of the Leased Premises or with regard to airspace above the ceiling of the Leased Premises. The Homer Airport Terminal is not a 24/7 access building.

The attached drawings depict the Premises being subleased along with common areas of the Building that are used by other sublessees and the City.

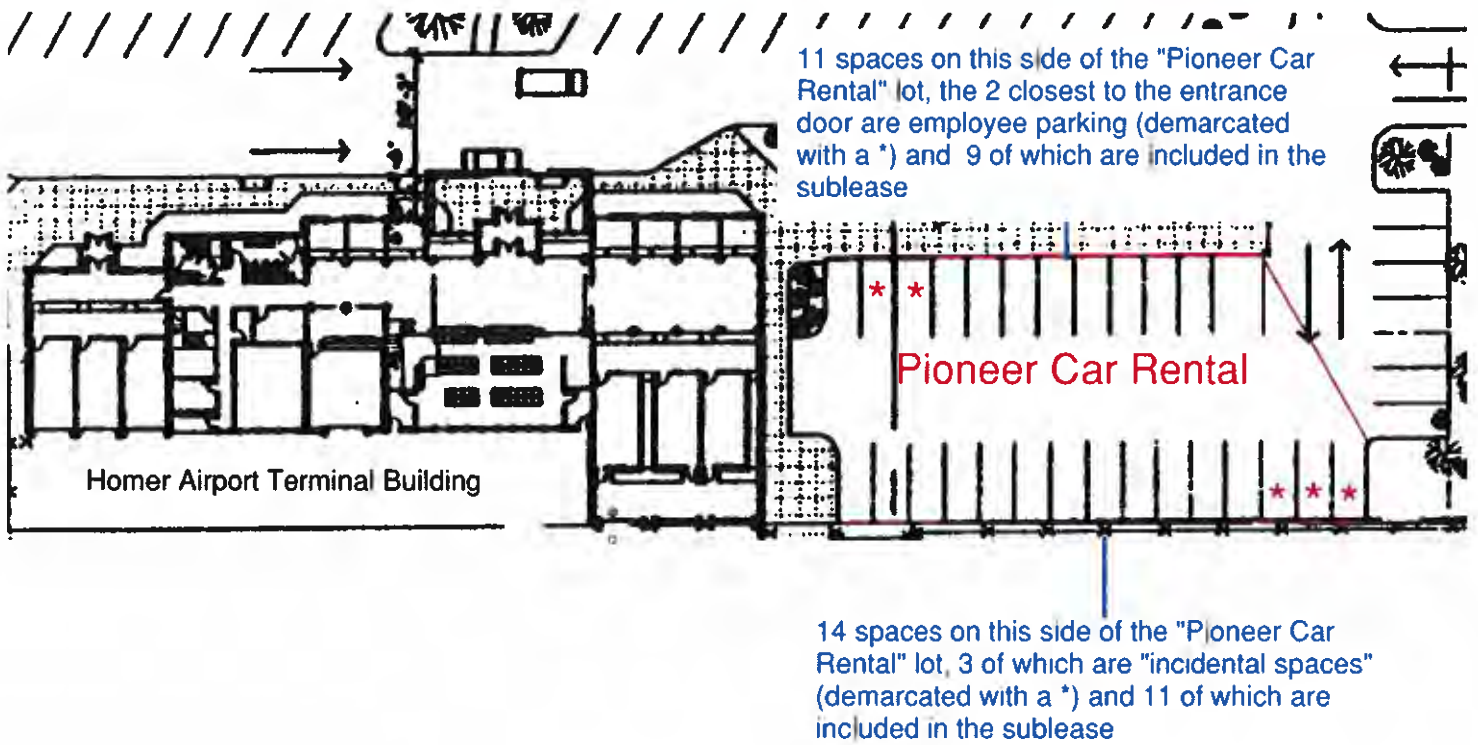
**City of Homer  
Airport Terminal Floor Plan  
Pioneer Car Rental Inc. Sublease**

Pioneer Car Rental Inc.  
Oct. 1, 2019 - March 30, 2023



**Common Use Areas for Subleases**  
Includes restrooms, water fountains, boarding and deplaning, baggage claim, lobby, gate waiting, and queuing areas along with public entryways and walkways necessary to travel through the building

City of Homer  
Airport Terminal Parking Lot  
Pioneer Car Rental Inc. Sublease



**EXHIBIT B**  
**SPECIAL COVENANTS**

This Sublease does not include any right of renewal.

Rent adjustment provisions are as follows:

In addition to the rents specified in Paragraph 3 of the Sublease the Sublessee shall pay the City rent equal to ten percent (10%) of Sublessee's Gross Sales ("Percentage Rent") but in no case shall the Percentage Rate be lower than \$500.00 per month.

(a) "Gross Sales" means the actual sales of goods, or merchandise rented or sold and the actual charges for all services performed by the Sublessee, in, at, from or arising out of the use of the Premises, whether for wholesale, retail, cash, credit, trade-ins, barter, or otherwise, without reserve or deduction for inability or failure to collect. Gross Sales shall include, without limitation, all rentals, sales and services, regardless of whether delivery or performance is made from the Premises or from some other place, where the orders therefore originate (a) in, from, or arising out of the use of the Premises, or (b) by mail, telephone, facsimile, E-mail, Internet connection, or otherwise, that Sublessee or any reasonable person in the normal and customary course of its business would credit or attribute to its operations at the Premises. Any sums deposited with and forfeited to Sublessee shall be included in Gross Sales. Each installment or credit sale or rental shall be treated as a sale or rental for the full price in the month during which such sale or rental is made, regardless of whether or when Sublessee receives payment therefore.

Gross Sales shall not include (a) reasonable fuel charges, (b) amounts received in payment or reimbursement for actual vehicle damage or loss, (c) cash or credit refunds to customers on transactions (not to exceed to actual price of the sale or rental) otherwise included in Gross Sales, (d) sales of trade fixtures, machinery, and equipment, including vehicles retired from service, after use thereof in the conduct of Sublessee's business, and (e) amounts collected and paid by Sublessee to any government for any sales or excise tax.

(b) Sublessee shall deliver to City, within ten days after the end of each calendar month, a written report signed by the Sublessee or by an authorized officer or agent of Sublessee showing the Gross Sales made in the preceding calendar month and calculating the Percentage Rent due. City shall have the right, upon reasonable notice to Sublessee, to exam and audit Sublessee's records to determine the accuracy of Sublessee's reports.

(c) All payments of Percentage Rent shall be made monthly within ten (10) days after the end of the month, accompanied by the report described in subparagraph (b). If Sublessee's report of Gross Sales or calculation of Percentage Rent are found to be incorrect, any additional amount determined to be due the City shall be immediately paid to the City by the Sublessee, and any amount of overpayment by the Sublessee shall be credited against the next monthly payment due the City under this Lease.

**EXHIBIT C  
PRIME LEASE**

**CITY OF HOMER  
HOMER, ALASKA**

City Manager/  
Public Works Director

**RESOLUTION 23-066**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA APPROVING A CONTRACT WITH KINNEY ENGINEERING LLC IN THE AMOUNT OF \$40,173 TO PROVIDE CONSTRUCTION INSPECTION SERVICES FOR THE E. BUNNELL AVE/CHARLES WAY WATER AND SEWER MAIN EXTENSION PROJECTS AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Resolution 23-016 awarded the construction contract for the subject projects to South Central Construction, Inc. and work is underway; and

WHEREAS, The City used an in-house inspector at the beginning of the project, but operator crew workload has created a situation where hiring an outside firm has become necessary; and

WHEREAS, Kinney Engineering, LLC provided a proposal for inspection services; and

WHEREAS, A short term Task Order was issued to Kinney Engineering and authorization is needed for the remainder of the project, which is expected to be completed in mid-July.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby awards a contract for construction inspection services for the E. Bunnell/Charles Way Water and Sewer Main Extension Project to Kinney Engineering LLC in the amount of \$40,173 and authorizes the City Manager to negotiate and execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 26<sup>th</sup> day of June, 2023.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal Note: Ordinance 23-10



# MEMORANDUM

---

**Resolution 23-066, A Resolution of the City Council of Homer, Alaska Approving a Contract with Kinney Engineering, LLC in the Amount of \$40,173 to provide Construction Inspection Services for the E. Bunnell Ave/Charles Way Water and Sewer Main Extension Projects. City Manager/Public Works Director.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor & City Council  
**Meeting Date:** June 15, 2023  
**Staff Contact:** Janette Keiser, PE, Director of Public Works  
**Through:** Rob Dumouchel, City Manager

---

**Issue:** The purpose of this Memorandum is to request authorization to issue a contract for inspection services to Kinney Engineering LLC for the Bunnell Ave /Charles Way Avenue Water and Sewer Special Assessment Districts.

**Background:**

Resolution 23-016 awarded the construction contract to South Central Construction, Inc. Work is underway and they are moving fast, working 7-12's. We started the project using in-house inspector, a cross-trainee from the operator crew, Joe Inglis. This strategy worked out well for the past two years, when Joe served as inspector for the Woodard Creek Culvert Replacement Project and the water/sewer main work that was done last year on Alder Lane and Tasmania Court. I had hoped to continue this strategy this year. However, it is not to be. We are too short staffed on the operator crew to be able to use Joe in an inspector role. We've asked Kinney Engineering to provide a proposal for inspection services. See attached. WE feel it is necessary for someone to be available to South Central on a daily basis because they are moving fast; we need to make sure any Requests for Information or changed conditions are addressed immediately, while we still have opportunities to address issues.

I've issued a short term Task Order to Kinney to keep the project going. I request authorization to issue a longer term Task Order, in the amount of \$40,000, to cover the full duration of the project, which is expected to be mid-July.

**Recommendation:** That the City Council authorize the issuance of a Task Order to Kinney Engineering LLC to provide inspection services for the Bunnell Avenue/Charles Way water and sewer Special Assessment Districts.

**COST ESTIMATE PER TASK**

FIRM: Kinney Engineering, LLC				PROJECT TITLE: Charles Way Bunnell Ave W/SS Construction Inspections								
TASK NO:	1	TASK DESCRIPTION: Task 1: Inspections and Reporting						DATE: 14-Jun-23				
GROUP:	A	METHOD OF PAYMENT: FP <input type="checkbox"/> FP <input type="checkbox"/> T&E <input checked="" type="checkbox"/> CPFF <input type="checkbox"/>						Prepared by: Kinney				
SUB-TASK NO.	SUB-TASK DESCRIPTION	Project Mgr	Senior Professional Engineer	Intern (Normal)	Intern (Overtime)	Technician (Normal)	Technician (Overtime)					
		Randy Kinney Principal Engineer	Leon Galbraith	Margaret Devlin	Margaret Devlin	Aaron Finkler	Aaron Finkler					
1.1	Project Management	4										
1.2	Project Setup, Client Transitions		8	4		4						
1.3	Daily Onsite Inspections Weekday (Mon-Fri)		8.5	103.5		36						
1.4	Daily Reports, photo logs for Weekdays		4	24	8	8						
1.5	Daily Onsite Inspections Weekends (Sat and Sun) and Holidays		12		2		60					
1.6	Daily Reports and photo logs for Weekends and Holidays		2				12					
1.7	Coordination with Designer		24	8		8						
1.8	Closeout	4	2									
<b>TOTAL LABOR HOURS</b>		8.00	60.50	139.5	10	56	72	0	0	0	0	
<b>* LABOR RATES (\$/HR)</b>		\$245.00	\$170.00	\$80.00	\$120.00	\$95.00	\$142.50	\$245.00	\$135.00	\$115.00	\$125.00	
<b>LABOR COSTS (\$)</b>		\$1,960.00	\$10,285.00	\$11,160.00	\$1,200.00	\$5,320.00	\$10,260.00	\$0.00	\$0.00	\$0.00	\$0.00	
EXPENSES						COMMENTS:						
SUB-TASK NO.	ITEM(S)	QUANTITY	UNIT PRICE	TOTAL PRICE	-Weekdays 4 hours on site, 1/2 travel -Weekends/holidays 4 hours on site, 1 hour travel (from Anchor River). -Weekday inspection at normal rates; Weekend and Holidays at overtime (1.5 x Normal) -Inspection services are included as time period between June 14, 2023 and July 31, 2023. 7-Days per week.							
1.3,1.5	Kinney Vehicle per day (Includes Fuel)	Days	47	\$75.00							\$3,525.00	
All	Misc		1	\$100.00							\$100.00	
			0	\$0.00							\$0.00	
			0	\$0.00							\$0.00	
			0	\$0.00							\$0.00	
				0	\$0.00	\$0.00	<b>FIRM'S TOTAL COST OF LABOR (or Fixed Price):</b>				<b>\$40,185</b>	
				<b>TOTAL EXPENSES:</b>			<b>\$3,625</b>	<b>FIRM'S TOTAL EXPENSES + 10% Markup:</b>				<b>\$3,988</b>
<b>SUB-CONTRACTORS: Firm Initials and Price Per Task</b>						<b>FIRM'S TOTAL COST (no Subcontracts or Fee)</b>				<b>\$44,173</b>		
FIRM:												
AMOUNT:											<b>\$0</b>	



CITY OF HOMER  
HOMER, ALASKA

City Manager

ORDINANCE 23-23(A-3)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
APPROPRIATING THE FUNDS FOR THE FISCAL YEARS 2024 AND  
2025 CAPITAL BUDGET.

**WHEREAS, Capital projects that have been closed through the FY24/25 capital budget planning process are outlined in Memorandum CC-23-153.**

**NOW, THEREFORE,** THE CITY OF HOMER ORDAINS:

Section 1. Pursuant to the authority of Alaska Statutes Title 29, the following appropriations are made for the fiscal year ending June 2024:

**Capital Projects Funds:**

General Fund Fleet CARMA (152)	\$ <del>165,000</del> <b><u>270,000</u></b>
General Fund CARMA (156)	\$ <del>627,397</del> <b><u>1,037,136-745,175</u></b>
Utility CARMA (256)	\$ 1,163,834
Port Fleet Reserves (452)	\$ 115,000
Port Reserves (456)	\$ 335,000
HART Roads (160)	\$ <del>3,070,667</del> <b><u>2,880,667-2,918,667</u></b>
HART Trails (165)	\$ <del>386,000</del> <b><u>376,314</u></b>
HAWSP (205)	\$ <del>0</del> <b><u>10,000</u></b>
<b><u>General Fund Unassigned (100)</u></b>	<b><u>\$20,000-97,500</u></b>
<b><u>General Fund Seized Assets (157-0745)</u></b>	<b><u>\$16,268.78</u></b>
 Total Capital Expenditures	 \$ <del>5,862,898</del> <b><u>6,112,637-6,047,758.78</u></b>

Section 2. Pursuant to the authority of Alaska Statutes Title 29, the following appropriations are made for the fiscal year ending June 2025:

**Capital Projects Funds:**

General Fund Fleet CARMA (152)	\$ 0
General Fund CARMA (156)	\$ 0
Utility CARMA (256)	\$ 80,000
Port Fleet Reserves (452)	\$ 0
Port Reserves (456)	\$ 0
HART Roads (160)	\$ 0
HART Trails (165)	\$ 0

43	HAWSP (205)	\$ <del>0</del> <b>150,000</b>
44	<b><u>General Fund Unassigned (100)</u></b>	<b><u>\$350,000</u></b>
45		
46	Total Capital Expenditures	\$ <del>80,000</del> <b>580,000</b>

47  
48 Section 3. The amounts appropriated by this ordinance are appropriated to the  
49 purposes stated in the adopted budget.

50  
51 Section 4. This Ordinance is limited to approval of the Budget and appropriations for  
52 Fiscal Year 2024 and 2025, is a non code Ordinance and shall become effective July 1, 2023.

53  
54 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_,  
55 2023.

56  
57 CITY OF HOMER  
58  
59  
60  
61 \_\_\_\_\_  
62 KEN CASTNER, MAYOR

63  
64  
65 \_\_\_\_\_  
66 MELISSA JACOBSEN, MMC, CITY CLERK

67  
68  
69 AYES:  
70 NOES:  
71 ABSTAIN:  
72 ABSENT:  
73  
74  
75 First Reading:  
76 Public Hearing:  
77 Second Reading:  
78 Effective Date:

## Capital Budget Amendments - FY24/25

Request Name	Sponsor	FY24 Amount	FY25 Amount	Funding Source	Status
ADA Accessibility Equipment	Aderhold	\$ 9,739		General Fund CARMA	Passed
New Comprehensive Plan Development	Aderhold	\$ 400,000		General Fund CARMA	Passed
Town Center Plan Revision	Davis	\$ 250,000		General Fund CARMA	Failed
Jack Gist Park - Water/Sewer Extension	Mayor	\$ 77,500		\$42,500 HAWSP - moved to FY23; \$77,500 General Fund Unassigned Fund Balance	Passed
Karen Hornaday Park - Water/Sewer Extension	Mayor	\$ 30,000	\$ 500,000	<b>FY24</b> - \$10,000 HAWSP; \$20,000 GF Unassigned Fund Balance <b>FY25</b> - \$150,000 HAWSP; \$350,000 General Fund Unassigned Fund Balance	Passed
Grid Repair/Replacement Design	Erickson	\$ 25,000	\$ 100,000	Port Reserves	Failed
<b>Remove</b> - Wayfinding and Streetscape Implementation	Erickson	\$ (50,000)		Remove capital project and return funds back to HART Trails	Failed
<b>Remove</b> - Pumper/Tanker Contingency	Erickson	\$ (25,000)		Remove capital project and return funds back to General Fund Fleet CARMA	Failed
<b>Remove</b> - Fuel Island Replacement	Erickson	\$ (190,000)		Remove capital project and return funds back to HART Roads	Passed
<b>Remove</b> - Trail Design Criteria Manual Update	Erickson	\$ (50,000)		Remove capital project and return funds back to HART Trails	Passed
Future Rec Center	Mayor	\$ 1,000,000	\$ 1,000,000	<b>FY24</b> - \$1,000,000 Future General Fund Unassigned Fund Balance <b>FY25</b> - \$1,000,000 Future General Fund Unassigned Fund Balance	Failed
Lane Dividers for West Fairview/Eric Lane	Davis	\$ 6,000		HART Roads	Passed
<b>Remove</b> - Personnel Regulations and Salary Schedule Overhaul	Erickson	\$ (75,000)		Remove capital project and return funds back to General Fund CARMA	Passed
Bayview Park Renovation Project - Accessibility	Administration	\$ 52,314		\$32,000 HART Roads; \$20,314 HART Trails	Passed
Pest Management Contract	Administration	\$ 20,000		HART Trails	
Live Scan Fingerprinting Machine Replacement	Administration	\$ 23,000		General Fund CARMA	
MEDIC1 Replacement - Additional Funding	Administration	\$ 105,000		General Fund Fleet CARMA	

## Land Reserves - Fund 150

### Current Information - as of 6/22/23

Fund Name	Current Balance	Encumbrances	Available Balance
Land Reserves	\$ 971,753	\$ 62,488	\$ 909,264

### Open Encumbrances - as of 6/22/23

Description	Requestor	ORD #	Amount Remaining
Purchase Lot 6 - Bridge Creek Watershed District	Administration	23-02(A)	\$ 9,321
Two Parcels and Drainage Easements - Bridge Creek	Administration	22-01(A)	\$ 53,168
			\$ 62,488

### Requested Projects

Description	Requestor	Fiscal Year	Requested Amount
			\$ -

### Future Fund Activity

Activity Description	FY23 Amount	FY24 Amount	FY25 Amount
Operating Budget Transfer			
Net Activity	\$ -	\$ -	\$ -

### Proposed Future State

Fund Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
Land Reserves	\$ 971,753	\$ 62,488	\$ -	\$ 909,264
			FY24 Projects	\$ -
			FY24 Net Activity	\$ -
			FY24 Ending Balance	\$ 909,264
			FY25 Projects	\$ -
			FY25 Net Activity	\$ -
			FY25 Ending Balance	\$ 909,264

**Land Reserves Ending FY25 Balance (Est.):**                    \$            **909,264**

## Fleet CARMA - Fund 152

### Current Information - as of 6/22/23

Fund Name	Current Balance	Encumbrances	Available Balance
General Fund Fleet CARMA	\$ 1,233,672	\$ 727,253	\$ 506,419

### Open Encumbrances - as of 6/22/23

Description	Requestor	ORD #	Amount Remaining
Ladder Truck	Fire	23-22	\$ 200,000
Mobile Radio for Police Vehicle	Police	23-07	\$ 6,950
MEDIC1 Replacement	Fire	22-81	\$ 300,000
Airport Sanding Truck - GF Unassigned Transfer	Public Works	22-05(A)	\$ 60,000
Replacement E-103 Bldg Maint Van	Public Works	21-36(S-2)(A)	\$ 50,000
Replacement E-126 Bldg Maint Vehicle	Public Works	21-36(S-2)(A)	\$ 50,000
Patrol Vehicle Replacement	Police	21-36(S-2)(A), 21-09	\$ 60,303
			\$ 727,253

### Requested Projects

Description	Requestor	Fiscal Year	Requested Amount
Off-Road Firefighting Apparatus	Fire	FY24	\$ 45,000
Deputy Chief Vehicle Replacement	Fire	FY24	\$ 95,000
Pumper/Tanker Contingency	Fire	FY24	\$ 25,000
MEDIC1 Replacement - Additional Funding	Fire	FY24	\$ 105,000
			\$ 270,000

### Future Fund Activity

Activity Description	FY23 Amount*	FY24 Amount	FY25 Amount
Operating Budget Transfer	\$ -	\$ -	\$ -
Net Activity	\$ -	\$ -	\$ -

### Proposed Future State

Fund Name	Current Balance	Encumbrances	Projects	Available Balance
General Fund Fleet CARMA	\$ 1,233,672	\$ 727,253	\$ 270,000	\$ 236,419

**Fleet CARMA Ending FY25 Balance (Est.):**                    \$            236,419

**Police Station Debt Service - Fund 154**

**Current Information - as of 6/22/23**

Fund Name	Current Balance	Encumbrances	Available Balance
Police Station Debt Service	\$ 1,611,295	\$ -	\$ 1,611,295

**Open Encumbrances - as of 6/22/23**

Description	Requestor	ORD #	Amount Remaining
			\$ -

**Requested Projects**

Description	Requestor	Fiscal Year	Requested Amount
			\$ -

**Future Fund Activity**

Activity Description	FY23 Amount	FY24 Amount	FY25 Amount	FY26 Amount
Sales Tax (Budgeted)		\$ 893,520	\$ 929,260	\$ 929,260
Debt Payment - Principal		\$ (230,000)	\$ (245,000)	\$ (255,000)
Debt Payment - Interest		\$ (164,000)	\$ (152,500)	\$ (140,250)
Net Activity	\$ -	\$ 499,520	\$ 531,760	\$ 534,010

**Proposed Future State**

Fund Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
Police Station Debt Service	\$ 1,611,295	\$ -	\$ -	\$ 1,611,295
			FY24 Projects	\$ -
			FY24 Net Activity	\$ 499,520
			FY24 Ending Balance	\$ 2,110,815
			FY25 Projects	\$ -
			FY25 Net Activity	\$ 531,760
			FY25 Ending Balance	\$ 2,642,575
<b>Police Station Debt Service Ending FY25 Balance (Est.):</b>	<b>\$ 2,642,575</b>			
			FY26 Projects	\$ -
			FY26 Net Activity	\$ 534,010
			FY26 Ending Balance	\$ 3,176,585
<b>Police Station Debt Service Ending FY26 Balance (Est.):</b>	<b>\$ 3,176,585</b>			
	FY23	FY24	FY25	FY26
Debt Balance	3,280,000	3,050,000	2,805,000	2,550,000

ORD 18-26(A)(S)(A) - GOB Issuance; 0.3% of sales tax expires 12/31 of the year when City has received sufficient funds to pay off all of debt service

### General CARMA - Fund 156

#### Current Information - as of 6/22/23

Account Name	Current Balance	Encumbrances	Available Balance
General	\$ 1,808,296	\$ 560,033	\$ 1,248,264
Seawall	\$ 40,919	\$ -	\$ 40,919
HERC	\$ 246,005	\$ 97,511	\$ 148,494
Fishing Hole	\$ 91,351	\$ -	\$ 91,351
<b>Total - General Fund CARMA</b>	<b>\$ 2,186,571</b>	<b>\$ 657,543</b>	<b>\$ 1,529,028</b>

#### Open Encumbrances - as of 6/22/23

Description	Requestor	ORD #	Amount Remaining
Telephone System Repairs - EMERGENCY ORDINANCE	IT	23-38	\$ 35,000
Planning and Zoning Updates	Planning	23-11	\$ 250,000
Short Term Rental Tracking Services	Planning	23-05	\$ 11,806
Fencing at Skyline Drive Fire Station	Fire	22-57	\$ 15,000
Pioneer Ave Banners - expires end of FY23	Parks	22-54, 19-51(A)	\$ 7,347
Demolish HERC 2	HERC	22-45	\$ 97,511
Professional IJJA Grant Writing Services	City Hall	22-39	\$ 44,976
Licensed Microwave WAN - expires 12/31/23	IT	21-66, 18-44(A)	\$ 82,220
Mariner Park Lagoon Maintenance	Parks	21-36(S-2)(A)	\$ 6,000
Skatepark Upkeep	Parks	21-36(S-2)(A)	\$ 8,787
Public Computer Replacement	Library	21-36(S-2)(A)	\$ 10,512
Videoconference System Replacement	Library	21-36(S-2)(A)	\$ 7,000
Email System Upgrade	IT	21-36(S-2)(A)	\$ 13,416
Network Switches	IT	21-36(S-2)(A)	\$ 25,523
Airport ADA - Restrooms, Fountain, etc.	Public Works	21-36(S-2)(A)	\$ 9,080
City Hall ADA - Ramp	Public Works	21-36(S-2)(A)	\$ 12,366
Airport Terminal Painting (Exterior)	Public Works	21-36(S-2)(A)	\$ 21,000
			<b>\$ 657,543</b>

#### Requested Projects

Description	Requestor	Fiscal Year	Requested Amount
Fire Hose Replacement	Fire	FY24	\$ 78,000
Replace Library Chairs	Library	FY24	\$ 1,000
Police Station Fencing	Police	FY24	\$ 27,000
Hornaday Park Playground Improvements	Public Works	FY24	\$ 25,000
ADA-Family Restroom at Airport	Public Works	FY24	\$ 50,000
Airport Terminal Sidewalk Repairs	Public Works	FY24	\$ 76,175
HERC I Roof Inspection	Public Works	FY24	\$ 15,000
Karen Hornaday Park Master Plan	Public Works	FY24	\$ 50,000
New Comprehensive Plan Development	Council	FY24	\$ 400,000
Live Scan Fingerprinting Machine Replacement	Administration	FY24	\$ 23,000
			<b>\$ 745,175</b>

#### Future Fund Activity

Activity Description	FY23 Amount	FY24 Amount	FY25 Amount
Proposed Transfer to HERC CARMA*		\$ 311,216	

#### Proposed Future State

Account Name	Current Balance	Encumbrances	FY24 Net Activity	Projects	Available Balance
General	\$ 1,808,296	\$ 560,033	\$ -	\$ 730,175	\$ 518,089
Seawall	\$ 40,919	\$ -	\$ -	\$ -	\$ 40,919
HERC	\$ 246,005	\$ 97,511	\$ 311,216	\$ 15,000	\$ 444,710
Fishing Hole	\$ 91,351	\$ -	\$ -	\$ -	\$ 91,351
	<b>\$ 2,186,571</b>	<b>\$ 657,543</b>	<b>\$ 311,216</b>	<b>\$ 745,175</b>	<b>\$ 1,095,069</b>

**General CARMA Ending FY25 Balance (Est.):** \$ 1,095,069

\*Pending Council approval - Ordinance yet to be introduced

#### Previously Funded FY24 Projects - Now Funded with FY23 Community Assistance Program (CAP) Funds

Description	Requestor	Fiscal Year	Requested Amount
Upgrade City Workstations to Microsoft Office 2021	IT	FY24	\$ 40,000.00
NextGen Firewall	IT	FY24	\$ 50,000.00
Upgraded Internet Link for City Hall	IT	FY24	\$ 30,000.00
Two Ballistic Shields - split funding	Police	FY24	\$ 6,732.00
GIS Upgrade	Public Works	FY24	\$ 16,490.00
Air Conditioning for Public Works Server Room	Public Works	FY24	\$ 8,000.00
ADA Accessibility Equipment	Council	FY24	\$ 9,739.00
Replace Library Chairs	Library	FY24	\$ 44,030.19
			<b>\$ 204,991.19</b>

### Utility CARMA - Fund 256

#### Current Information - as of 6/22/23

Account Name	Current Balance	Encumbrances	Available Balance
Water	\$ 2,025,540	\$ 117,260	\$ 1,908,280
Sewer	\$ 1,876,822	\$ 1,257,532	\$ 619,290
	<u>\$ 3,902,362</u>	<u>\$ 1,374,792</u>	<u>\$ 2,527,570</u>

#### Open Encumbrances - as of 6/22/23

Description	Requestor	ORD #	Budget Remaining
Fire Hydrant Replacement Program	Water	22-37	\$ 100,000
PR Station Hatch Improvement	Water	21-36(S-2)	\$ 13,385
1/2 of Utility Financial Mgmt	Water	21-03	\$ 3,875
Rehab of Electrical Control Works for Lift Stations	Sewer	22-80	\$ 263,417
Broken Clarifier Belt at Waste Water Treatment Plant	Sewer	22-73(S), 22-55, 22-34(S)	\$ 962,236
Manhole Repair for East Hill Repaving Project	Sewer	22-29	\$ 3,004
Repair Pond Liner at Sewer Treatment Plant	Sewer	21-36(S-2)	\$ 25,000
1/2 of Utility Financial Mgmt	Sewer	21-03	\$ 3,875
			<u>\$ 1,374,792</u>

#### Requested Projects

Description	Requestor	Fiscal Year	Budget Amount
Fleet Replacement	Water	FY24	\$ 50,000
Replace Water Meters	Water	FY24	\$ 50,000
Million Gallon Water Tank Aeration System	Water	FY24	\$ 60,000
Raw Water Line Replacement Design	Water	FY24	\$ 86,000
PRV Replacement West Trunk Line	Water	FY24	\$ 21,000
Paint Brush Booster Station Pump Upgrade	Water	FY24	\$ 250,000
WTP Membrane Train	Water	FY24	\$ 80,000
Design for Replacing 8" Cast Iron Distribution Line	Water	FY24	\$ 90,000
Vehicle Replacement (E-131, E-130, E-114)	Water	FY24	\$ 66,667
WTP Membrane Train	Water	FY25	\$ 80,000
Replace Lift Station Access Hatch	Sewer	FY24	\$ 14,000
Fleet Replacement	Sewer	FY24	\$ 50,000
Launch Ramp Lift Station Enclosure	Sewer	FY24	\$ 13,000
WWTP Digester Blowers	Sewer	FY24	\$ 48,000
Transfer Switch, STP	Sewer	FY24	\$ 38,500
Vehicle Replacement (E-131, E-130, E-114)	Sewer	FY24	\$ 66,667
Beluga Lift Station	Sewer	FY24	\$ 100,000
			<u>\$ 1,163,834</u>

#### Future Fund Activity

Activity Description	FY23 Amount	FY24 Amount	FY25 Amount
Operating Budget Transfer - Water CARMA <sup>1</sup>	\$ 106,804	\$ 309,240	\$ 316,946
Operating Budget Transfer - Sewer CARMA <sup>2</sup>	\$ 234,166	\$ 254,332	\$ 272,020
Utility Operations to Water CARMA Transfer	\$ -	\$ -	\$ -
Utility Operations to Sewer CARMA Transfer	\$ -	\$ -	\$ -
Net Activity	\$ 340,970	\$ 563,572	\$ 588,966

#### Proposed Future State

Account Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
Water	\$ 2,025,540	\$ 117,260	\$ 106,804	\$ 2,015,084
			FY24 Projects \$	(753,667)
			FY24 Net Activity \$	309,240
			FY24 Ending Balance \$	1,570,657
			FY25 Projects \$	(80,000)
			FY25 Net Activity \$	316,946
			<b>FY25 Ending Balance \$</b>	<b>1,807,604</b>
Sewer	\$ 1,876,822	\$ 1,257,532	\$ 234,166	\$ 853,456
			FY24 Projects \$	(330,167)
			FY24 Net Activity \$	254,332
			FY24 Ending Balance \$	777,621
			FY25 Projects \$	-
			FY25 Net Activity \$	272,020
			<b>FY25 Ending Balance \$</b>	<b>1,049,641</b>

Utility CARMA Ending FY25 Balance (Est.): \$ 2,857,245

(1) and (2) FY23 Budget transfers are done at end of fiscal year



## Port & Harbor Fleet - Fund 452

### Current Information - as of 6/22/23

Fund Name	Current Balance	Encumbrances	Available Balance
Harbor Fleet	\$ 139,514	\$ 2,120	\$ 137,394

### Open Encumbrances - as of 6/22/23

Description	Requestor	ORD #	Amount Remaining
Port Maint. Mobile Welding Trailer	Port	21-36(S-2)(A)	\$ 2,120
			\$ 2,120

### Requested Projects

Description	Requestor	Fiscal Year	Requested Amount
Patrol Truck	Port	FY24	\$ 55,000
Port Maintenance Plow Truck	Port	FY24	\$ 60,000
			\$ 115,000

### Future Fund Activity

Activity Description	FY23 Amount	FY24 Amount	FY25 Amount
Operating Budget Transfer*	\$ 30,000	\$ 30,000	\$ 30,000
Net Activity	\$ 30,000	\$ 30,000	\$ 30,000

### Proposed Future State

Fund Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
Harbor Fleet	\$ 139,514	\$ 2,120	\$ 30,000	\$ 167,394
			FY24 Projects	\$ (115,000)
			FY24 Net Activity	\$ 30,000
			FY24 Ending Balance	\$ 82,394
			FY25 Projects	\$ -
			FY25 Net Activity	\$ 30,000
			FY25 Ending Balance	\$ 112,394

**Port & Harbor Fleet Ending FY25 Balance (Est.):**                    \$            **112,394**

\*FY23 Budget transfer will be done at end of fiscal year

**Port & Harbor Reserve - Fund 456**

**Current Information - as of 6/22/23**

Account Name	Current Balance	Encumbrances	Available Balance
Harbor General	\$ 1,565,836	\$ 664,081	\$ 901,754
Harbor Match	\$ 500,000	\$ -	\$ 500,000
Load and Launch	\$ 314,381	\$ -	\$ 314,381
USCGC Berth Space Maintenance	\$ 144,360	\$ -	\$ 144,360
	<u>\$ 2,524,577</u>	<u>\$ 664,081</u>	<u>\$ 1,860,496</u>

**Open Encumbrances - as of 6/22/23**

Description	Requestor	ORD #	Amount Remaining
Crane 7 Rebuild	Port	23-34, 22-66	\$ 26,383
Parking Signage and Mobile Parking Delineation Barriers	Port	23-14	\$ 12,626
Professional/Technical Support for PID Grant Application	Port	23-12	\$ 61,420
Owner's Representative	Port	22-79	\$ 369,057
Design of Parking Improvements to Select Lots	Port	22-78(A)	\$ 13,418
R&M Consultants - Grant Assistance	Port	22-19(A)	\$ 13,318
Float Repair for End Caps K thru Q	Port	21-52	\$ 35,650
Fish Grinder Building Replacement Design	Port	21-36(S-2)(A)	\$ 11,354
Fish Carcass Trailer x2	Port	21-36(S-2)(A)	\$ 10,856
Harbor Office ADA Entry Door Improvements	Port	21-36(S-2)(A)	\$ 10,000
Fish Grinder Building Replacement	Port	21-36(S-2)(A)	\$ 100,000
			<u>\$ 664,081</u>

**Requested Projects**

Description	Requestor	Fiscal Year	Requested Amount
Outfall Line Pump	Port	FY24	\$ 25,000
Ice Metering System	Port	FY24	\$ 145,000
Harbor Bottom Survey	Port	FY24	\$ 25,000
Tank 1 Sludge Removal	Port	FY24	\$ 40,000
Electrical Works for Sewage Lift Station - Fish Grinder	Port	FY24	\$ 40,000
Paid Parking Program Expansion - Planning & Permitting	Port	FY24	\$ 60,000
			<u>\$ 335,000</u>

**Future Fund Activity**

Activity Description	FY23 Amount	FY24 Amount	FY25 Amount
Operating Budget Transfer - Harbor General	\$ -	\$ 315,157	\$ 242,704
Operating Budget Transfer - Match Funding <sup>1</sup>	\$ 993,675	\$ 500,000	\$ 500,000
Operating Budget Transfer - Load and Launch*	\$ 29,186	\$ -	\$ -
Net Activity	\$ 1,022,861	\$ 815,157	\$ 742,704

**Proposed Future State**

Account Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
Harbor General	\$ 1,565,836	\$ 664,081	\$ -	\$ 901,754
			FY24 Projects \$	(335,000)
			FY24 Net Activity \$	315,157
			FY24 Ending Balance \$	881,912
			FY25 Projects \$	-
			FY25 Net Activity \$	242,704
			<b>FY25 Ending Balance \$</b>	<b>1,124,615</b>
Harbor Match	\$ 500,000	\$ -	\$ 993,675	\$ 1,493,675
			FY24 Projects \$	-
			FY24 Net Activity \$	500,000
			FY24 Ending Balance \$	1,993,675
			FY25 Projects \$	-
			FY25 Net Activity \$	500,000
			<b>FY25 Ending Balance \$</b>	<b>2,493,675</b>
Load and Launch	\$ 144,360	\$ -	\$ 29,186	\$ 173,546
			FY24 Projects \$	-
			FY24 Net Activity \$	-
			FY24 Ending Balance \$	173,546
			FY25 Projects \$	-
			FY25 Net Activity \$	-
			<b>FY25 Ending Balance \$</b>	<b>173,546</b>
<b>Account Name</b>				
Harbor General	\$ 1,124,615			
Harbor Match	\$ 2,493,675			
Load and Launch	\$ 173,546			
USCGC Berth Space Maintenance	\$ 144,360			
<b>Port &amp; Harbor Reserve Ending FY25 Balance (Est.):</b>	<b>\$ 3,936,196</b>			

\*FY23 Budget transfers are done at end of fiscal year

(1) ORD 23-27 to reappropriate operating transfer from Harbor General to Harbor Match

**HART Roads - Fund 160**

**Current Information - as of 6/22/23**

Account Name	Current Balance	Encumbrances	Available Balance
HART Roads	\$ 5,608,791	\$ 422,958	\$ 5,185,833
HART Roads Match	\$ 500,000	\$ -	\$ 500,000
	<u>\$ 6,108,791</u>	<u>\$ 422,958</u>	<u>\$ 5,685,833</u>

**Open Encumbrances - as of 6/22/23**

Description	Requestor	ORD #	Amount Remaining
Non-Motorized Opportunity Project - West Fairview Lane	Public Works	23-35	\$ 110,000
Beluga Slough Green Infrastructure Storm Water Treatment System	Public Works	23-16(S)	\$ 81,313
On-call Kachemak Bay Conservation Society	Public Works	22-77	\$ 25,000
Master Transportation Plan Update	Public Works	22-38	\$ 36,526
Green Infrastructure Research - Appraisals	Public Works	22-08	\$ 53,900
Green Infrastructure Research	Public Works	22-08	\$ 15,892
Design Criteria Manual	Public Works	22-07	\$ 4,145
Ben Walters Way Sidewalk Design & Survey	Public Works	21-36(S-2)(A)	\$ 46,195
Ground Water Research	Public Works	21-36(S-2)(A), 21-16(A)	\$ 49,986
			<u>\$ 422,958</u>

**Requested Projects**

Description	Requestor	Fiscal Year	Requested Amount
Drainage Management Plan	Public Works	FY24	\$ 7,000
Mt Augustine Surface Water	Public Works	FY24	\$ 193,000
Homer Soil and Water Contract	Public Works	FY24	\$ 20,000
Bunnell Ave Road Restoration Project - Design	Public Works	FY24	\$ 50,000
Beluga Slough Green Infrastructure Project	Public Works	FY24	\$ 125,900
Ben Walters Sidewalk Construction	Public Works	FY24	\$ 1,700,000
Svedlund-Herndon Sidewalk Design	Public Works	FY24	\$ 75,000
Iris Court Drainage	Public Works	FY24	\$ 240,000
Kachemak Sponge Green Infrastructure Project Property	Public Works	FY24	\$ 418,100
Vehicle Replacement (E-130 and E-114)	Public Works	FY24	\$ 51,667
Lane Dividers for West Fairview/Eric Lane	City Council	FY24	\$ 6,000
Bayview Park Renovation Project - Accessibility	Administration	FY24	\$ 32,000
			<u>\$ 2,918,667</u>

**Future Fund Activity**

Activity Description	FY23 Amount*	FY24 Amount	FY25 Amount
Sales Tax (Budgeted)	\$ -	\$ 1,900,555	\$ 1,976,577
Transfer to General Fund (ORD 17-40(A)) <sup>1</sup>	\$ (866,100)	\$ (1,169,889)	\$ (1,187,628)
Net Activity	\$ (866,100)	\$ 730,666	\$ 788,948

**Proposed Future State**

Account Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
HART Roads	\$ 5,608,791	\$ 422,958	\$ (866,100)	\$ 4,319,733
			FY24 Projects \$	(2,918,667)
			FY24 Net Activity \$	730,666
			FY24 Ending Balance \$	2,131,732
			FY25 Projects \$	-
			FY25 Net Activity \$	788,948
			<b>FY25 Ending Balance \$</b>	<b>2,920,680</b>

Account Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
HART Roads Match	\$ 500,000	\$ -	\$ -	\$ 500,000
			FY24 Projects \$	-
			FY24 Net Activity \$	-
			FY24 Ending Balance \$	500,000
			FY25 Projects \$	-
			FY25 Net Activity \$	-
			<b>FY25 Ending Balance \$</b>	<b>500,000</b>

Account Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
HART Roads	\$ 2,920,680			
HART Roads Match	\$ 500,000			
<b>HART Roads Ending FY25 Balance (Est.):</b>	<b>\$ 3,420,680</b>			

\*FY23 Budget transfers are done at end of fiscal year  
 (1) HART Roads transfer to General Fund to cover roads maintenance

**HART Trails - Fund 165**

**Current Information - as of 6/22/23**

Account Name	Current Balance	Encumbrances	Available Balance
HART Trails	\$ 1,072,071	\$ 20,000	\$ 1,052,071

**Open Encumbrances - as of 6/22/23**

Description	Requestor	Ordinance #	Amount Remaining
Small Works Trails Maintenance Program - expires end of FY23	Public Works	22-28, 21-36(S-2)(A)	\$ 20,000
			<u>\$ 20,000</u>

**Requested Projects**

Description	Requestor	Fiscal Year	Requested Amount
Wayfinding and Streetscape Implementation	Economic Development	FY24	\$ 50,000
Lee Avenue Trail	Public Works	FY24	\$ 20,000
Vehicle Replacement (E-129, E-120, E-107, E-101)	Public Works	FY24	\$ 150,000
Fairview Ave Trail - East - Construction	Public Works	FY24	\$ 30,000
Library Trails - West Lot and Storybook - ADA upgrades	Public Works	FY24	\$ 25,000
Reber Trail Re-Route	Public Works	FY24	\$ 15,000
Trail Head Improvements	Public Works	FY24	\$ 12,000
Side-by-Side Attachments for Trails Maintenance	Public Works	FY24	\$ 10,000
Powered Wheelbarrow	Public Works	FY24	\$ 4,000
Tajen Trail - Establishing New Tread	Public Works	FY24	\$ 10,000
Beauregard Court Trail - Establishing New Tread	Public Works	FY24	\$ 10,000
Bayview Park Renovation Project - Accessibility	Administration	FY24	\$ 20,314
Pest Management	Public Works	FY24	\$ 20,000
			<u>\$ 376,314</u>

**Future Fund Activity**

Activity Description	FY23 Amount*	FY24 Amount	FY25 Amount
Sales Tax (Budgeted)	\$ -	\$ 194,526	\$ 202,307
Transfer to General Fund (ORD 17-40(A)) <sup>1</sup>	\$ (41,706)	\$ (105,993)	\$ (118,663)
Net Activity	\$ (41,706)	\$ 88,532	\$ 83,644

**Proposed Future State**

Account Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
HART Trails	\$ 1,072,071	\$ 20,000	\$ (41,706)	\$ 1,010,365
			FY24 Projects \$	(376,314)
			FY24 Net Activity \$	88,532
			FY24 Ending Balance \$	722,583
			FY25 Projects \$	-
			FY25 Net Activity \$	83,644
			<b>FY25 Ending Balance \$</b>	<b>806,227</b>

Account Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
HART Trails	\$ 806,227			
<b>HART Trails Ending FY25 Balance (Est.):</b>	<b>\$ 806,227</b>			

\*FY23 Budget transfers are done at end of fiscal year  
 (1) HART Trails transfer to General Fund to cover trails maintenance

# FY24/25 Capital Budget



FY24/25 Capital Budget

Homer, Alaska

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## Capital Budget Introduction

The last few years have been intense for capital projects. The City had a backlog of deferred maintenance along with needs to expand the reach, quality, and capacity of our many public facilities. The City undertook a tremendous amount of project work despite the disruptions from the COVID-19 pandemic. Post-COVID, the proliferation of infrastructure grant programs has added the leveraging grant funds into larger projects to our focus.

This document and the annually updated Capital Improvement Plan, when used in tandem, are intended to give the best available overview of intended future capital spending. The document begins with a department by department overview of current and future capital spending. That is followed by overviews of each fund, a breakdown of all capital projects made to the City Manager, and a look at our fleet from the Public Works' asset management program. The intent was to provide capital project data in multiple ways to give Council and the public the most complete view possible. Obviously things will change in the course of a two-year budget, projects will be added and dropped along the way, but the general pathway is sketched out here for use by the Council and the public.



*Figure 1 - Crews working on the Main Street Sidewalk completed in fall 2022*

## Capital Budget Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
APPROPRIATING THE FUNDS FOR THE FISCAL YEARS 2024 AND  
2025 CAPITAL BUDGET.

THE CITY OF HOMER ORDAINS:

Section 1. Pursuant to the authority of Alaska Statutes Title 29, the following appropriations are made for the fiscal year ending June 2024:

**Capital Projects Funds:**

General Fund Fleet CARMA (152)	\$ 165,000
General Fund CARMA (156)	\$ 627,397
Utility CARMA (256)	\$ 1,163,834
Port Fleet Reserves (452)	\$ 115,000
Port Reserves (456)	\$ 335,000
HART Roads (160)	\$ 3,070,667
HART Trails (165)	\$ 386,000
HAWSP (205)	\$ 0
Total Capital Expenditures	\$ 5,862,898

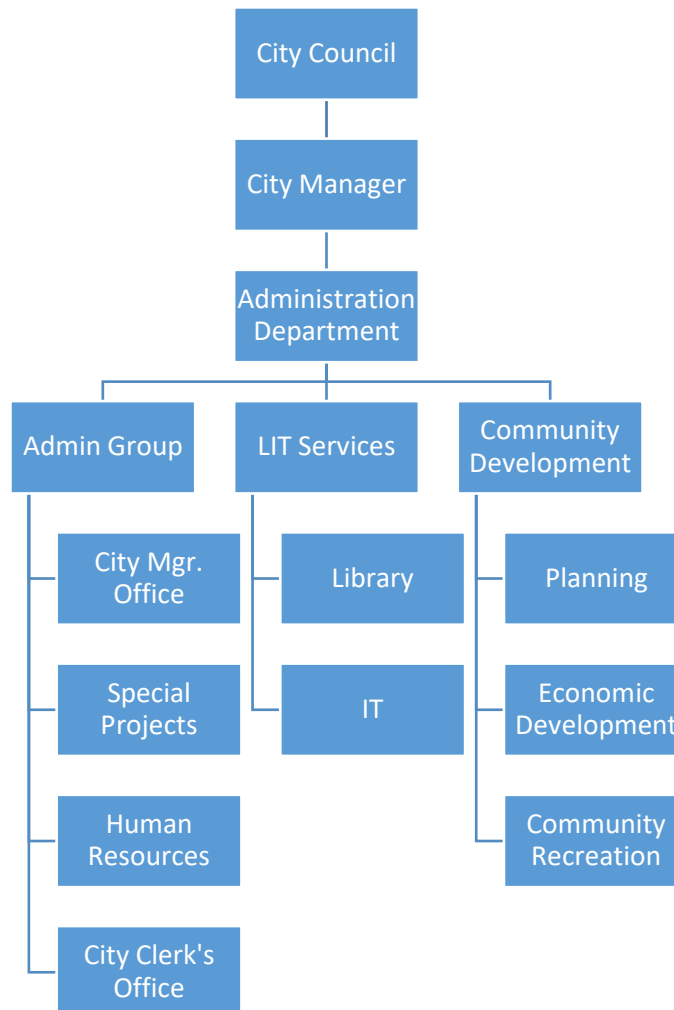
Section 2. Pursuant to the authority of Alaska Statutes Title 29, the following appropriations are made for the fiscal year ending June 2025:

**Capital Projects Funds:**

General Fund Fleet CARMA (152)	\$ 0
General Fund CARMA (156)	\$ 0
Utility CARMA (256)	\$ 80,000
Port Fleet Reserves (452)	\$ 0
Port Reserves (456)	\$ 0
HART Roads (160)	\$ 0
HART Trails (165)	\$ 0
HAWSP (205)	\$ 0
Total Capital Expenditures	\$ 80,000

## Department of Administration

The Department of Administration is managed in three subsections: Administration (City Manager, Special Projects, Human Resources, and the City Clerk's Office), Community Development (Planning, Economic Development, and Community Recreation), and Library & IT Services (Library and IT). The City of Homer's Department of Administration is predominantly located in City Hall at 491 E Pioneer Avenue and the Homer Public Library at 500 Hazel Avenue. Administration also has a satellite offices at Homer High School and the HERC Campus for the Community Recreation Manager.



Department of Administration: Administration Group

Open Projects from Capital Budgets and Off-Cycle Appropriations

<b>Description</b>	<b>Amount Requested</b>	<b>Status</b>	<b>Ordinance</b>
<b>Professional IJJA Grant Writing Services</b>	\$125,000	In progress, working with HDR on multiple projects	22-39

FY24/25 Proposed Projects

<b>Description</b>	<b>Amount Requested</b>	<b>CM Approved?</b>
<b>Personnel Regulations and Salary Schedule Overhaul</b>	\$75,000	YES – General CARMA
<b>HERC Match Funds</b>	\$311,216	YES – To be Funded by Natural Gas Free Main Allowance Funds

Anticipated FY26/27 Projects

<b>Description</b>	<b>Projected Cost</b>
<b>City Hall Renovations – Add new offices within existing footprint</b>	Unknown at this time

2023-2028 Capital Improvement Plan Projects

<b>Description</b>	<b>Projected Total Cost</b>
<b>City Hall Access Barrier Removal</b>	\$400,000
<b>Removing Parking &amp; Pavement Accessibility Barriers at City Facilities</b>	\$385,600

Department of Administration: Community Development

Open Projects from Capital Budgets and Off-Cycle Appropriations

Description	Amount Requested	Status	Ordinance
<b>Pioneer Ave Banners (FY23 Only)</b>	\$10,000	Designs under review and banners should be in place by summer 2023	22-54
<b>Short Term Rental Tracking Services</b>	\$20,239	Service provider is in the “set up” phase of the agreement	23-05
<b>Comprehensive Plan and Complete Title 21 Zoning and Planning Code Rewrite</b>	\$250,000	Scope of project being redeveloped after Mayor’s veto to reduce appropriation	23-11

FY24/25 Proposed Projects

Description	Amount Requested	CM Approved?
<b>Wayfinding &amp; Streetscape Implementation</b>	\$50,000	YES – HART Trails
<b>Trail Design Criteria Manual Update</b>	\$50,000	YES – HART Trails
<b>Community Recreation Software</b>	\$11,000	NO
<b>Bounce House</b>	\$15,000	NO
<b>Building Code Implementation</b>	\$470,000	NO – Waiting for FEMA grant approval decision before moving forward

Anticipated FY26/27 Projects

Description	Projected Cost
<b>Subdivision Code Update</b>	\$50,000

2023-2028 Capital Improvement Plan Projects

Description	Projected Total Cost
<b>Pioneer Avenue Gateway Redevelopment: Multi-Use Community Center</b>	\$15,796,000

Department of Administration: Library & Information Technology

Open Projects from Capital Budgets and Off-Cycle Appropriations

Description	Amount Requested	Status	Ordinance
Public Computer Replacement	\$40,000	Project in progress, nearing completion	21-36(S-2)(A)
Videoconference System Replacement	\$7,000	Not started	21-36(S-2)(A)
Licensed Microwave WAN	\$120,000	Project in progress	21-55,18-44(A)
Email System Upgrade	\$30,000	Project in progress	21-36(S-2)(A)
Network Switches	\$32,000	Project in progress	21-36(S-2)(A)

FY24/25 Proposed Projects

Description	Amount Requested	CM Approved?
Upgrade City Workstations to Microsoft Office 2021	\$40,000	YES – General CARMA
Network Firewall Appliance Set Up	\$50,000	YES – General CARMA and ongoing service fee included in operating budget
Upgrade Internet link for City Hall	\$30,000	YES – General CARMA
Phone System Upgrade	\$35,000	YES – General CARMA
Replace Library Chairs	\$45,000	YES – General CARMA

Anticipated FY26/27 Projects

Description	Projected Cost
Citywide Cloud Productivity Upgrade	\$175,000
Council Chambers Tech Overhaul	\$300,000
IT Fleet Vehicle (Van?)	\$50,000

2023-2028 Capital Improvement Plan Projects

There are no Library or IT focused projects in the CIP at this time.

## Department of Finance

The Department of Finance is located at Homer City Hall at 491 E Pioneer Avenue. At this time, Finance does not have any open or proposed capital projects. In the proposed FY24/25 Operating Budget, the Department is requesting an increased amount of professional services budget to allow for more projects with finance contractors to help with technical projects and policy updates.

## Homer Volunteer Fire Department

The City of Homer Volunteer Fire Department is located at 604 E Pioneer Avenue and is also responsible for the former police station building which is co-located on the same parcel as the fire hall.

### Open Projects from Capital Budgets and Off-Cycle Appropriations

Description	Amount Requested	Status	Ordinance
Fencing Around Skyline Drive Fire Station	\$15,000	To be completed in spring 2023	22-57
Medic-1 Replacement	\$300,000	Working on ordering the ambulance	22-81

### FY24/25 Proposed Projects

Description	Amount Requested	CM Approved?
Off-Road Firefighting Apparatus	\$45,000	YES – Fleet CARMA
Fire Hose Replacement	\$78,000	YES – General CARMA
Engine 4 Replacement	\$819,000	NO
Deputy Chief Vehicle Replacement	\$95,000	YES – Fleet CARMA
Ladder Truck (Used)*	\$230,000	YES – Fleet CARMA
Pumper/Tanker Contingency	\$25,000	YES – Fleet CARMA

\*will be purchased via separate ordinance from capital budget

### Anticipated FY26/27 Projects

Description	Projected Cost
Quick Attack/Brush Truck	\$185,000
Training Trailer Repair	\$20,000
Type 3 Pumper	\$650,000
Two Utility Vehicles	\$150,000
Fire Hall Expansion/Redevelopment Design	\$1,500,000

### 2023-2028 Capital Improvement Plan Projects

Description	Projected Total Cost
Fire Hall Expansion	\$20,000,000
Fire Department Fleet Management	\$2,570,000



## Homer Police Department

The City of Homer Police Department is located at 625 Grubstake Ave. The Police Department is also responsible for the Animal Shelter which is located at 3577 Heath Street and operated under a contract currently held by Homer Animal Services, LLC.

### Open Projects from Capital Budgets and Off-Cycle Appropriations

Description	Amount Requested	Status	Ordinance
Four Patrol Vehicles and Jail Van	\$305,000	On order	21-36(S-2)(A), 21-09
Mobile Radio for Police Vehicle	\$6,950	On Order	23-07
Computer Aided Dispatch	\$206,360	In the early stages of implementation; still getting the system dialed in	21-36(S-2)(A); 21-59

### FY24/25 Proposed Projects

Description	Amount Requested	CM Approved?
Virtual Reality Training System	\$79,900	NO
Ballistic Shields (2)	\$23,000	YES – General CARMA (\$6,732) and seized asset account (\$16,268)
Security Fencing	\$27,000	YES – General CARMA
Night Vision Equipment	\$95,000	NO
In-Car Video Cameras	\$162,204	NO

### Anticipated FY26/27 Projects

Description	Projected Cost
Two Patrol Vehicles	\$150,000
Public Safety Drone	\$30,000
Noise Abatement in Dispatch	\$100,000
Body cameras for Officers	\$90,000
Computer Replacements	\$35,000

### 2023-2028 Capital Improvement Plan Projects

There are no Police Department focused projects in the CIP at this time.

## Port & Harbor Department

The City of Homer Port & Harbor Department is headquartered at the Harbormaster's Office located at 4311 Freight Dock Road, it has various facilities surrounding the harbor basin.

### Open Projects from Capital Budgets and Off-Cycle Appropriations

<b>Description</b>	<b>Amount Requested</b>	<b>Status</b>	<b>Ordinance</b>
<b>Port Maintenance Mobile Welding Van</b>	\$17,000	Trailer has been purchased and will be converted into a mobile welding support trailer	21-36(S-2)(A)
<b>Parking Lot Delineation Materials</b>	\$25,000	Project has gotten underway	23-14
<b>Professional and Technical Assistance for PIDP Grant Application</b>	\$63,070	HDR has been hired and staff is working to support the application process	23-12
<b>Parking Support</b>	\$38,775	New fee stations are ordered, software contract is signed, and new signage is purchased	23-04
<b>New Large Vessel Harbor Project Owner Representative Contract</b>	\$408,073	HDR worked with the Corps on Work-in-Kind contract; Communications team is ramping up; General Investigation contract is signed and will begin soon	22-79
<b>HDL Parking Improvement Design</b>	\$49,690	Staff is coordinating with AKDOT to solve some existing problems before HDL proceeds on the parking lot upgrade design	22-78(A)
<b>Harbor Basin Pile Cathodic Protection</b>	\$374,051	Project initiated	21-36(S-2)(A) 22-75
<b>Ice Plan NH3 Line Repair</b>	\$7,400	Complete; remaining funds to be returned to Port Reserves	22-74(A)
<b>Rebuild Crane #7</b>	\$69,110	In progress; ordinance coming to Council to address a cost overrun related to discovery of unexpected damage to a critical part of the crane mechanism	22-66
<b>R&amp;M Consultants – Grant Services – Float Replacement</b>	\$56,450	Initial report complete; remaining funds to be returned to Port Reserves	22-19(A)
<b>Float Repair for End Caps K thru Q</b>	\$147,900	In progress; materials are on site, coordinating with Washington based vendor to organize installation	21-52
<b>Fish Grinder Building Replacement Design</b>	\$15,000	Task order for design issued by Resolution 23-025	21-36(S-2)(A)
<b>Fish Carcass Trailer x2</b>	\$30,000	One complete, other under construction soon	21-36(S-2)(A)

<b>Harbor Office ADA Entry Door Improvements</b>	\$10,000	Not started, waiting on specialty contractor	21-36(S-2)(A)
<b>Fish Grinder Building Replacement</b>	\$100,000	Special Projects applied for an Alaska Fish and Game grant to pay for the building; will hear decision in July 2023	21-36(S-2)(A)

#### FY24/25 Proposed Projects

<b>Description</b>	<b>Amount Requested</b>	<b>CM Approved?</b>
<b>New Patrol Truck</b>	\$55,000	YES – Port Fleet Reserve
<b>Port Maintenance Plow Truck</b>	\$60,000	YES – Port Fleet Reserve
<b>Ice Metering System</b>	\$145,000	YES – Port Reserve
<b>Outfall Line Pump</b>	\$25,000	YES – Port Reserve
<b>Harbor Bottom Survey</b>	\$25,000	YES – Port Reserve
<b>Tank 1 Sludge Removal</b>	\$40,000	YES – Port Reserve
<b>Electrical Works for Sewage Lift Station – Fish Grinder</b>	\$40,000	YES – Port Reserve
<b>Paid Parking Program Expansion – Planning and Permitting</b>	\$60,000	YES – Port Reserve
<b>Camera System Ramps 1-5</b>	\$344,000	NO
<b>Wood Grid Replacement Engineering</b>	\$25,000	NO
<b>Fish Grinder Building</b>	\$300,000	NO
<b>Spit Parking Lot Storm Drain Project</b>	\$1,198,628	NO

#### Anticipated FY26/27 Projects

It is expected that much of FY26/27 will be driven by how successful we are at landing grant funds for various large projects.

#### 2023-2028 Capital Improvement Plan Projects

<b>Description</b>	<b>Projected Total Cost</b>
<b>Port of Homer: New Large Vessel Harbor</b>	\$278,000,000
<b>Homer Harbor Critical Float System Replacements: Systems 1 &amp; 4</b>	\$41,000,000
<b>Homer Spit Coastal Erosion Mitigation</b>	\$3,960,000
<b>Nick Dudiak Fishing Lagoon Accessible Ramp &amp; Fishing Platform</b>	\$770,000
<b>Homer Spit Campground Renovations</b>	\$95,000
<b>Barge Mooring &amp; Large Vessel Haul Out Repair Facility</b>	\$5,297,626
<b>Fish Grinding Building Replacement</b>	\$275,000
<b>Harbor Ramp 8 Public Restroom</b>	\$400,000
<b>Homer Harbor Dredging</b>	\$980,000
<b>Homer Harbor Security Cameras: Ramp 1-5 Access Points</b>	\$120,000
<b>Ice Plant Upgrades</b>	\$40,000
<b>Large Vessel Sling Lift, Phase 1</b>	\$65,000
<b>Steel Grid Repair (engineering and design)</b>	\$25,000
<b>Wood Grid Replacement (engineering and design)</b>	\$25,000

## Public Works Department (General Fund)

The City of Homer Public Works Department is located at 3575 Heath Street. The Public Works capital items will be separated between general fund and the utility fund.

### Open Projects from Capital Budgets and Off-Cycle Appropriations

<b>Description</b>	<b>Amount Requested</b>	<b>Status</b>	<b>Ordinance</b>
<b>Replacement E-103 Bldg Maint. Van</b>	\$50,000	On order	21-36(S-2)(A)
<b>Replacement E-126 Bldg Maint. Vehicle</b>	\$50,000	Attempting to order	21-36(S-2)(A)
<b>Demolish HERC2</b>	\$153,000	Task order for PCB testing approved by Resolution 23-027	22-45
<b>Mariner Park Lagoon Maintenance</b>	\$6,000	Planned for next year	21-36(S-2)(A)
<b>Skatepark Upkeep</b>	\$10,000	Small projects completed in 2022, more expected in 2023	21-36(S-2)(A)
<b>Airport ADA – Restrooms, Fountain, etc.</b>	\$14,400	Initial design complete for concept	21-36(S-2)(A)
<b>City Hall ADA – Ramp</b>	\$14,400	Designed and Fire Marshall approval has been granted; implementation to be handled with Community Assistant Program funds appropriated by Council in 2022	21-36(S-2)(A)
<b>Airport Terminal Painting (Exterior)</b>	\$21,000	On hold, discovered damaged siding that may change scope of project	21-36(S-2)(A)
<b>On-call Kachemak Bay Conservation Society</b>	\$25,000	Working on a Kachemack sponge related project	22-77
<b>Master Transportation Plan Update</b>	\$185,368	Work is underway	22-38
<b>Green Infrastructure Research – Appraisals</b>	\$80,000	Appraisals and other fieldwork complete; future work to be funded by grants	22-08
<b>Green Infrastructure Research</b>	\$60,000	Measuring glow and ground water data currently	22-08

<b>Design Criteria Manual</b>	\$15,000	Nearing completion, expect before the end of the fiscal year	22-07
<b>Ben Walters Way Sidewalk Design and Survey</b>	\$100,000	Design is 65% complete	21-36(S-2)(A)
<b>Ground Water Research</b>	\$75,000	Work is underway by KBNERR	21-36(S-2)(A)

#### FY24/25 Proposed Projects

<b>Description</b>	<b>Amount Requested</b>	<b>CM Approved?</b>
<b>ADA Family Restrooms at Airport</b>	\$50,000	YES – General CARMA
<b>Airport Terminal Sidewalk Repairs</b>	\$76,175	YES – General CARMA
<b>Vehicle Replacement (E-130, E-114)</b>	\$51,667	YES – HART Roads
<b>GIS Upgrade</b>	\$16,490	YES – General CARMA
<b>HERC II Abatement and Demolition</b>	\$325,000	NO
<b>HERC I Roof Inspection</b>	\$15,000	YES – General CARMA
<b>Karen Hornaday Park Master Plan</b>	\$50,000	YES – General CARMA
<b>Nuclear Compaction Testing Device</b>	\$20,000	YES – HART Roads
<b>Air Conditioning Unit for PW Server Room</b>	\$8,000	YES – General CARMA
<b>HERC I Hazmat Abatement/Demo Design</b>	\$75,000	NO
<b>Tenant Improvements at Kachemak Center</b>	\$40,000	NO
<b>Kachemak Sponge Green Infrastructure Project – Design</b>	\$354,050	Supported by a grant
<b>Heath Street – Pavement Restoration Project</b>	\$2,328,668	NO
<b>Grader</b>	\$365,000	NO
<b>Kachemak Sponge Green Infrastructure Project – Property Acquisition</b>	\$418,100	YES – HART Roads
<b>Kachemak Sponge Green Infrastructure Project – Construction of Stormwater Facilities</b>	\$2,459,080	NO
<b>Fuel Island Replacement – Construction</b>	\$190,000	YES – HART Roads
<b>Bishop’s Beach Restroom Replacement – Construction</b>	\$400,000	NO
<b>Bunnell Ave Road Restoration Project - Design</b>	\$50,000	YES – HART Roads
<b>Beluga Slough Green Infrastructure Project</b>	\$125,900	YES – HART Roads
<b>Ben Walters Sidewalk Construction</b>	\$1,700,000	YES – HART Roads
<b>Svedlund Herndon Sidewalk Design</b>	\$75,000	YES – HART Roads
<b>Iris Court Drainage</b>	\$100,000	YES – HART Roads
<b>Allowance for Matching Funds</b>	\$500,000	YES – HART Roads
<b>Drainage Management Plan</b>	\$7,000	YES – HART Roads
<b>Mt. Augustine Surface Water</b>	\$193,000	YES – HART Roads
<b>Homer Soil and Water Contract</b>	\$20,000	YES – HART Roads
<b>Design of PW Mechanics/Operators Shop</b>	\$100,000	NO

<b>Vehicle Replacement (E-129, E-120, E-107, E-101)</b>	\$150,000	YES – HART Trails
<b>Lee Avenue Trail</b>	\$15,000	YES – HART Trails
<b>Fairview Ave Trail – East - Construction</b>	\$30,000	YES – HART Trails
<b>Library Trails – West Lot and Storybook – ADA Upgrades</b>	\$25,000	YES – HART Trails
<b>Reber Trail Re-Route</b>	\$15,000	YES – HART Trails
<b>Trailhead Improvements</b>	\$12,000	YES – HART Trails
<b>Side-by-side Attachments for Trail Maintenance</b>	\$10,000	YES – HART Trails
<b>Powered Wheelbarrow</b>	\$4,000	YES – HART Trails
<b>Tajen Trail – Establishing New Tread</b>	\$10,000	YES – HART Trails
<b>Beauregard Court Trail – Establishing New Tread</b>	\$10,000	YES – HART Trails
<b>Vehicle Re-appropriation for E-129, E-120, E-107, E-101</b>	\$150,000	YES – HART Trails

#### Anticipated FY26/27 Projects

<b>Description</b>	<b>Projected Cost</b>
<b>Ohlson Lane – Construction – Road &amp; Sidewalk</b>	\$1,500,000
<b>Bishops Beach Restrooms</b>	\$500,000
<b>Hornaday Park Restrooms</b>	\$500,000

#### 2023-2028 Capital Improvement Plan Projects

<b>Description</b>	<b>Projected Total Cost</b>
<b>Slope Stability &amp; Erosion Mitigation Program</b>	\$8,140,000
<b>Karen Hornaday Park Public Restroom Facility</b>	\$425,000
<b>New Public Works Facility</b>	\$12,027,750
<b>Bayview Park Restoration</b>	\$190,000
<b>Homer Spit Trailhead Restroom</b>	\$400,000
<b>Jack Gist Park Improvements, Phase 2</b>	\$60,000
<b>Ben Walters Lane Sidewalk Facility</b>	\$1,673,436
<b>Heath Street Rehabilitation</b>	\$4,100,000
<b>Homer Airport Terminal Improvements</b>	\$1,402,570
<b>Homer All Ages &amp; Abilities Pedestrian Pathway</b>	\$3,900,000
<b>Svedlund/Herndon Street Sidewalks</b>	\$1,600,000
<b>Wayfinding &amp; Streetscape Plan Implementation</b>	\$271,000

## Public Works Department (Utility Fund)

The City of Homer Public Works Department provides water and sewer utility services. The wastewater treatment plan is located at 3575 Heath Street and the water treatment plant is located on Skyline Drive.

### Open Projects from Capital Budgets and Off-Cycle Appropriations

<b>Description</b>	<b>Amount Requested</b>	<b>Status</b>	<b>Ordinance</b>
<b>Interim Financing to Complete East Bunnell Ave/Charles Way Water/Sewer</b>	\$482,412	Just approved, project to start soon	23-10
<b>RWP-1 Balance Motor/Shaft</b>	\$50,000	Utility state were able to make adjustments that will avoid this expenditure; money to return to HAWSP	22-60
<b>Replace UV System</b>	\$430,000	Not ready to complete this year	22-60
<b>Bunnell/Charles Water Main Extension</b>	\$525,637	Chose a contractor, contract executed, construction prep underway	22-18(S)
<b>Bunnell/Charles Sewer Main Extension</b>	\$418,221	Chose a contractor, contract executed, construction prep underway	22-18(S)
<b>Alder Lane Water Improvement Project</b>	\$333,670	Project complete, working on closing it out	22-06(S); 20-83
<b>Pennock Street Water Main Gap</b>	\$45,000	Developer has not followed through, cancelling appropriation and sending money back to HAWSP	22-03
<b>Tasmania Court Water and Sewer Improvements</b>	\$138,399	Project is complete	21-71
<b>Water Main Extension on East Hill Road</b>	\$70,485	Expected completion by June 2023	21-69
<b>Ground Water Research</b>	\$75,000	Work is underway by KBNERR	21-36(S-2)(A)
<b>Fire Hydrant Replacement Program</b>	\$100,000	Under review	22-37
<b>PR Station Hatch Improvement</b>	\$35,279	Nearing completion, one more hatch required	21-36(S-2)(A)
<b>½ of Utility Financial Management</b>	\$8,646	Original project complete; may	21-03

		conduct one more related plan under contract	
<b>Rehab of Electrical Control Works for Lift Stations</b>	\$271,517	Project in process	22-80
<b>Broken Clarifier Belt at WWTP</b>	\$966,444	Project underway	22-55; 22-34(S); 22-73(S)
<b>Repair Pond Liner at Sewer Treatment Plant</b>	\$25,000	Waiting for fix on effluent pipe before proceeding	22-29
<b>½ of Utility Financial Management</b>	\$8,646	Original project complete; may conduct one more related plan under contract	21-03

#### FY24/25 Proposed Projects

<b>Description</b>	<b>Amount Requested</b>	<b>CM Approved?</b>
<b>Coatings for Digestors</b>	\$300,000	NO
<b>Coatings for Clarifiers</b>	\$450,000	NO
<b>Replace Water Meters</b>	\$50,000	YES – Water CARMA
<b>Million Gallon Water Tank Aeration System</b>	\$60,000	YES – Water CARMA
<b>Raw Water Line Replacement Design</b>	\$86,000	YES – Water CARMA
<b>PRV Replacement West Trunk Line</b>	\$21,000	YES – Water CARMA
<b>Final Design – Beluga Lift Station</b>	\$100,000	YES – Sewer CARMA
<b>Paintbrush Booster Station Pump Upgrade</b>	\$250,000	YES – Water CARMA
<b>WTP Membrane Filter Train FY24</b>	\$80,000	YES – Water CARMA
<b>WTP Membrane Filter Train FY25</b>	\$80,000	YES – Water CARMA
<b>WWTP Aeration Pond Effluent Box</b>	\$73,000	NO
<b>Kachekmak City Septic Pumping Contract</b>	\$55,770	NO
<b>Transfer Switch STP</b>	\$38,500	YES – Sewer CARMA
<b>Dredge Sludge Lagoon at WTP</b>	\$60,000	NO
<b>Design for Replacing 8” Cast Iron Distribution Line</b>	\$90,000	YES – Water CARMA
<b>Master Water &amp; Sewer Plan</b>	\$90,000	NO
<b>Electrical Works for Sewage Lift Station – 30 Acres</b>	\$67,000	NO
<b>Spit Parking Lot Storm Drain Project</b>	\$1,198,628	NO
<b>Fleet Replacement</b>	\$50,000	YES – Water CARMA
<b>Vehicle Replacement (E-131, E-130, E-114)</b>	\$66,667	YES – Water CARMA
<b>Vehicle Replacement (E-131, E-130, E-114)</b>	\$66,667	YES – Sewer CARMA

#### 2023-2028 Capital Improvement Plan Projects

<b>Description</b>	<b>Projected Total Cost</b>
<b>A-Frame Water Transmission Line</b>	\$804,092



<b>Beluga Sewage Lift Station</b>	\$2,934,353
<b>Water Storage/Distribution Improvements</b>	\$10,438,214

## Fund Overviews

### General Fund Fleet CARMA – Fund 152

<b>Fleet CARMA - Fund 152</b>						
<b>Current Information - as of 4/21/23</b>						
<b>Fund Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>Available Balance</b>			
General Fund Fleet CARMA	\$ 1,276,595	\$ 546,108	\$ 730,487			
<b>Open Encumbrances - as of 4/21/23</b>						
<b>Description</b>	<b>Requestor</b>	<b>ORD #</b>	<b>Amount Remaining</b>			
Mobile Radio for Police Vehicle	Police	23-07	\$ 6,950			
MEDIC1 Replacement	Fire	22-81	\$ 300,000			
Airport Sanding Truck - GF Unassigned Transfer	Public Works	22-05(A)	\$ 60,000			
New Grader - GF Unassigned Transfer	Public Works	22-04(S)(A)	\$ 18,855			
Replacement E-103 Bldg Maint Van	Public Works	21-36(S-2)(A)	\$ 50,000			
Replacement E-126 Bldg Maint Vehicle	Public Works	21-36(S-2)(A)	\$ 50,000			
Patrol Vehicle Replacement	Police	21-36(S-2)(A), 21-09	\$ 60,303			
			<u>\$ 546,108</u>			
<b>Requested Projects</b>						
<b>Description</b>	<b>Requestor</b>	<b>Fiscal Year</b>	<b>Requested Amount</b>			
Off-Road Firefighting Apparatus	Fire	FY24	\$ 45,000			
Deputy Chief Vehicle Replacement	Fire	FY24	\$ 95,000			
Pumper/Tanker Contingency	Fire	FY24	\$ 25,000			
			<u>\$ 165,000</u>			
<b>Future Fund Activity</b>						
<b>Activity Description</b>	<b>FY23 Amount*</b>	<b>FY24 Amount</b>	<b>FY25 Amount</b>			
Operating Budget Transfer	\$ -	\$ -	\$ -			
Proposed Purchase of Ladder Truck (Used)*	\$ (230,000)					
Net Activity	\$ (230,000)	\$ -	\$ -			
<b>Proposed Future State</b>						
<b>Fund Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Projects</b>	<b>Available Balance</b>	
General Fund Fleet CARMA	\$ 1,276,595	\$ 546,108	\$ (230,000)	\$ 165,000	\$ 335,487	
<b>Fleet CARMA Ending FY25 Balance (Est.):</b>	<b>\$ 335,487</b>					

\*Pending Council approval - Ordinance to be introduced 4/24

General Fund CARMA – Fund 156

<b>General CARMA - Fund 156</b>			
<b>Current Information - as of 5/3/23</b>			
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>Available Balance</b>
General	\$ 1,829,828	\$ 560,536	\$ 1,269,292
Seawall	\$ 40,919	\$ -	\$ 40,919
HERC	\$ 290,155	\$ 138,075	\$ 152,081
Fishing Hole	\$ 91,351	\$ -	\$ 91,351
<b>Total - General Fund CARMA</b>	<b>\$ 2,252,253</b>	<b>\$ 698,611</b>	<b>\$ 1,553,642</b>

<b>Open Encumbrances - as of 5/3/23</b>			
<b>Description</b>	<b>Requestor</b>	<b>ORD #</b>	<b>Amount Remaining</b>
Planning and Zoning Updates	Planning	23-11	\$ 250,000
Short Term Rental Tracking Services	Planning	23-05	\$ 20,239
Fencing at Skyline Drive Fire Station	Fire	22-57	\$ 15,000
Pioneer Ave Banners - expires end of FY23	Parks	22-54, 19-51(A)	\$ 10,000
Demolish HERC 2	HERC	22-45	\$ 138,075
Professional IJJA Grant Writing Services	City Hall	22-39	\$ 53,073
Licensed Microwave WAN - expires 12/31/23	IT	21-66, 18-44(A)	\$ 86,947
Mariner Park Lagoon Maintenance	Parks	21-36(S-2)(A)	\$ 6,000
Skatepark Upkeep	Parks	21-36(S-2)(A)	\$ 8,787
Public Computer Replacement	Library	21-36(S-2)(A)	\$ 16,029
Videoconference System Replacement	Library	21-36(S-2)(A)	\$ 7,000
Email System Upgrade	IT	21-36(S-2)(A)	\$ 19,492
Network Switches	IT	21-36(S-2)(A)	\$ 25,523
Airport ADA - Restrooms, Fountain, etc.	Public Works	21-36(S-2)(A)	\$ 9,080
City Hall ADA - Ramp	Public Works	21-36(S-2)(A)	\$ 12,366
Airport Terminal Painting (Exterior)	Public Works	21-36(S-2)(A)	\$ 21,000
			<b>\$ 698,611</b>

<b>Requested Projects</b>			
<b>Description</b>	<b>Requestor</b>	<b>Fiscal Year</b>	<b>Requested Amount</b>
Fire Hose Replacement	Fire	FY24	\$ 78,000
Personnel Regulations/Salary Schedule Overhaul	Human Resources	FY24	\$ 75,000
Upgrade City Workstations to Microsoft Office 2021	IT	FY24	\$ 40,000
NextGen Firewall	IT	FY24	\$ 50,000
Upgraded Internet Link for City Hall	IT	FY24	\$ 30,000
Phone System Upgrade	IT	FY24	\$ 35,000
Replace Library Chairs	Library	FY24	\$ 45,000
Police Station Fencing	Police	FY24	\$ 27,000
Two Ballistic Shields - split funding	Police	FY24	\$ 6,732
Hornaday Park Playground Improvements	Public Works	FY24	\$ 25,000
ADA-Family Restroom at Airport	Public Works	FY24	\$ 50,000
Airport Terminal Sidewalk Repairs	Public Works	FY24	\$ 76,175
GIS Upgrade	Public Works	FY24	\$ 16,490
HERC I Roof Inspection	Public Works	FY24	\$ 15,000
Karen Hornaday Park Master Plan	Public Works	FY24	\$ 50,000
Air Conditioning for Public Works Server Room	Public Works	FY24	\$ 8,000
			<b>\$ 627,397</b>

<b>Future Fund Activity</b>			
<b>Activity Description</b>	<b>FY23 Amount</b>	<b>FY24 Amount</b>	<b>FY25 Amount</b>
Proposed Transfer to HERC CARMA*	\$ 311,216		

General Fund CARMA – Fund 156 – Continued

Account Name	Proposed Future State				
	Current Balance	Encumbrances	FY23 Net Activity	Projects	Available Balance
General	\$ 1,829,828	\$ 560,536	\$ -	\$ 627,397	\$ 641,895
Seawall	\$ 40,919	\$ -	\$ -	\$ -	\$ 40,919
HERC	\$ 290,155	\$ 138,075	\$ 311,216	\$ -	\$ 463,297
Fishing Hole	\$ 91,351	\$ -	\$ -	\$ -	\$ 91,351
	<u>\$ 2,252,253</u>	<u>\$ 698,611</u>	<u>\$ 311,216</u>	<u>\$ 627,397</u>	<u>\$ 1,237,461</u>
<b>General CARMA Ending FY25 Balance (Est.):</b>	<b>\$ 1,237,461</b>				

\*Pending Council approval - Ordinance yet to be introduced

Utility CARMA – Fund 256

Utility CARMA - Fund 256			
Current Information - as of 5/3/23			
Account Name	Current Balance	Encumbrances	Available Balance
Water	\$ 2,215,936	\$ 117,260	\$ 2,098,676
Sewer	\$ 2,120,430	\$ 1,257,852	\$ 862,578
	<u>\$ 4,336,366</u>	<u>\$ 1,375,112</u>	<u>\$ 2,961,254</u>

Open Encumbrances - as of 5/3/23			
Description	Requestor	ORD #	Budget Remaining
Fire Hydrant Replacement Program	Water	22-37	\$ 100,000
PR Station Hatch Improvement	Water	21-36(S-2)	\$ 13,385
1/2 of Utility Financial Mgmt	Water	21-03	\$ 3,875
Rehab of Electrical Control Works for Lift Stations	Sewer	22-80	\$ 263,417
Broken Clarifier Belt at Waste Water Treatment Plant	Sewer	22-73(S), 22-55, 22-34(S)	\$ 962,236
Manhole Repair for East Hill Repaving Project	Sewer	22-39	\$ 3,324
Repair Pond Liner at Sewer Treatment Plant	Sewer	21-36(S-2)	\$ 25,000
1/2 of Utility Financial Mgmt	Sewer	21-03	\$ 3,875
			<u>\$ 1,375,112</u>

Requested Projects			
Description	Requestor	Fiscal Year	Budget Amount
Fleet Replacement	Water	FY24	\$ 50,000
Replace Water Meters	Water	FY24	\$ 50,000
Million Gallon Water Tank Aeration System	Water	FY24	\$ 60,000
Raw Water Line Replacement Design	Water	FY24	\$ 86,000
PRV Replacement West Trunk Line	Water	FY24	\$ 21,000
Paint Brush Booster Station Pump Upgrade	Water	FY24	\$ 250,000
WTP Membrane Train	Water	FY24	\$ 80,000
Design for Replacing 8" Cast Iron Distribution Line	Water	FY24	\$ 90,000
Vehicle Replacement (E-131, E-130, E-114)	Water	FY24	\$ 66,667
WTP Membrane Train	Water	FY25	\$ 80,000
Replace Lift Station Access Hatch	Sewer	FY24	\$ 14,000
Fleet Replacement	Sewer	FY24	\$ 50,000
Launch Ramp Lift Station Enclosure	Sewer	FY24	\$ 13,000
WWTP Digester Blowers	Sewer	FY24	\$ 48,000
Transfer Switch, STP	Sewer	FY24	\$ 38,500
Vehicle Replacement (E-131, E-130, E-114)	Sewer	FY24	\$ 66,667
Beluga Lift Station	Sewer	FY24	\$ 100,000
			<u>\$ 1,163,834</u>

Future Fund Activity			
Activity Description	FY23 Amount	FY24 Amount	FY25 Amount
Operating Budget Transfer - Water CARMA <sup>1</sup>	\$ 106,804	\$ 309,240	\$ 316,946
Operating Budget Transfer - Sewer CARMA <sup>2</sup>	\$ 234,166	\$ 254,332	\$ 272,020
Utility Operations to Water CARMA Transfer	\$ -	\$ -	\$ -
Utility Operations to Sewer CARMA Transfer	\$ -	\$ -	\$ -
Water CARMA to Utility Operations Transfer <sup>3</sup>	\$ (200,000)	\$ -	\$ -
Sewer CARMA to Utility Operations Transfer <sup>4</sup>	\$ (238,315)	\$ -	\$ -
Net Activity	\$ (97,345)	\$ 563,572	\$ 588,966

Utility CARMA – Fund 256 - Continued

<b>Utility CARMA - Fund 256</b>				
<b>Account Name</b>	<b>Proposed Future State</b>		<b>FY23 Net Activity</b>	<b>Available Balance</b>
	<b>Current Balance</b>	<b>Encumbrances</b>		
Water	\$ 2,215,936	\$ 117,260	\$ (93,196)	\$ 2,005,480
			FY24 Projects \$	(753,667)
			FY24 Net Activity \$	309,240
			FY24 Ending Balance \$	1,561,054
			FY25 Projects \$	(80,000)
			FY25 Net Activity \$	316,946
			<b>FY25 Ending Balance \$</b>	<b>1,798,000</b>
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Sewer	\$ 2,120,430	\$ 1,257,852	\$ (4,149)	\$ 858,429
			FY24 Projects \$	(330,167)
			FY24 Net Activity \$	254,332
			FY24 Ending Balance \$	782,594
			FY25 Projects \$	-
			FY25 Net Activity \$	272,020
			<b>FY25 Ending Balance \$</b>	<b>1,054,614</b>
<b>Utility CARMA Ending FY25 Balance (Est.):</b>	<b>\$ 2,852,614</b>			

(1) and (2) FY23 Budget transfers are done at end of fiscal year

(3) and (4) Transfer from Utility CARMA to Utility Operations - rate funded projects were closed and funds need to be returned to original funding source; FY23 Budget Amendment Ordinance coming

Port & Harbor Fleet – Fund 452

**Port & Harbor Fleet - Fund 452**

Current Information - as of 4/21/23			
Fund Name	Current Balance	Encumbrances	Available Balance
Harbor Fleet	\$ 139,514	\$ 2,120	\$ 137,394

Open Encumbrances - as of 4/21/23			
Description	Requestor	ORD #	Amount Remaining
Port Maint. Mobile Welding Trailer	Port	21-36(S-2)(A)	\$ 2,120
			<u>\$ 2,120</u>

Requested Projects			
Description	Requestor	Fiscal Year	Requested Amount
Patrol Truck	Port	FY24	\$ 55,000
Port Maintenance Plow Truck	Port	FY24	\$ 60,000
			<u>\$ 115,000</u>

Future Fund Activity			
Activity Description	FY23 Amount	FY24 Amount	FY25 Amount
Operating Budget Transfer*	\$ 30,000	\$ 30,000	\$ 30,000
Net Activity	\$ 30,000	\$ 30,000	\$ 30,000

Proposed Future State				
Fund Name	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
Harbor Fleet	\$ 139,514	\$ 2,120	\$ 30,000	\$ 167,394
			FY24 Projects	\$ (115,000)
			FY24 Net Activity	\$ 30,000
			FY24 Ending Balance	\$ 82,394
			FY25 Projects	\$ -
			FY25 Net Activity	\$ 30,000
			FY25 Ending Balance	\$ 112,394

**Port & Harbor Fleet Ending FY25 Balance (Est.):** \$ 112,394

\*FY23 Budget transfer will be done at end of fiscal year

Port & Harbor Reserve – Fund 456

<b>Port &amp; Harbor Reserve - Fund 456</b>			
<b>Current Information - as of 4/21/23</b>			
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>Available Balance</b>
Harbor General	\$ 2,180,187	\$ 807,584	\$ 1,372,603
Load and Launch	\$ 314,381	\$ -	\$ 314,381
	<u>\$ 2,494,568</u>	<u>\$ 807,584</u>	<u>\$ 1,686,984</u>

<b>Open Encumbrances - as of 4/21/23</b>			
<b>Description</b>	<b>Requestor</b>	<b>ORD #</b>	<b>Amount Remaining</b>
Parking Signage and Mobile Parking Delineation Barriers	Port	23-14	\$ 25,000
Professional/Technical Support for PID Grant Application	Port	23-12	\$ 63,070
Parking Kiosks and Management Software	Port	23-04	\$ 14,199
Owner's Representative	Port	22-78(A)	\$ 408,073
Design of Parking Improvements to Select Lots	Port	22-78(A)	\$ 14,928
Crane 7 Rebuild	Port	22-66	\$ 69,110
R&M Consultants - Grant Assistance	Port	22-19(A)	\$ 15,268
Float Repair for End Caps K thru Q	Port	21-52	\$ 58,100
Deep Water Dock Security Gate	Port	21-36(S-2)(A)	\$ 3,980
Fish Grinder Building Replacement Design	Port	21-36(S-2)(A)	\$ 15,000
Fish Carcass Trailer x2	Port	21-36(S-2)(A)	\$ 10,856
Harbor Office ADA Entry Door Improvements	Port	21-36(S-2)(A)	\$ 10,000
Fish Grinder Building Replacement	Port	21-36(S-2)(A)	\$ 100,000
			<u>\$ 807,584</u>

<b>Requested Projects</b>			
<b>Description</b>	<b>Requestor</b>	<b>Fiscal Year</b>	<b>Requested Amount</b>
Outfall Line Pump	Port	FY24	\$ 25,000
Ice Metering System	Port	FY24	\$ 145,000
Harbor Bottom Survey	Port	FY24	\$ 25,000
Tank 1 Sludge Removal	Port	FY24	\$ 40,000
Electrical Works for Sewage Lift Station - Fish Grinder	Port	FY24	\$ 40,000
Paid Parking Program Expansion - Planning & Permitting	Port	FY24	\$ 60,000
			<u>\$ 335,000</u>

<b>Future Fund Activity</b>			
<b>Activity Description</b>	<b>FY23 Amount</b>	<b>FY24 Amount</b>	<b>FY25 Amount</b>
Operating Budget Transfer - Harbor General	\$ -	\$ 315,157	\$ 242,704
Operating Budget Transfer - Match Funding <sup>1</sup>	\$ 993,675	\$ 500,000	\$ 500,000
Operating Budget Transfer - Load and Launch*	\$ 29,186	\$ -	\$ -
Harbor General to Harbor Match Transfer <sup>2</sup>	\$ (500,000)	\$ -	\$ -
Harbor Match from Harbor General Transfer <sup>3</sup>	\$ 500,000	\$ -	\$ -
Net Activity	\$ 1,022,861	\$ 815,157	\$ 742,704



Port & Harbor Reserve – Fund 456 Continued

Account Name	Proposed Future State			
	Current Balance	Encumbrances	FY23 Net Activity	Available Balance
Harbor General	\$ 2,180,187	\$ 807,584	\$ (500,000)	\$ 872,603
			FY24 Projects	\$ (335,000)
			FY24 Net Activity	\$ 315,157
			FY24 Ending Balance	\$ 852,760
			FY25 Projects	\$ -
			FY25 Net Activity	\$ 242,704
			<b>FY25 Ending Balance</b>	<b>\$ 1,095,464</b>
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Harbor Match	\$ -	\$ -	\$ 1,493,675	\$ 1,493,675
			FY24 Projects	\$ -
			FY24 Net Activity	\$ 500,000
			FY24 Ending Balance	\$ 1,993,675
			FY25 Projects	\$ -
			FY25 Net Activity	\$ 500,000
			<b>FY25 Ending Balance</b>	<b>\$ 2,493,675</b>
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Load and Launch	\$ 314,381	\$ -	\$ 29,186	\$ 343,567
			FY24 Projects	\$ -
			FY24 Net Activity	\$ -
			FY24 Ending Balance	\$ 343,567
			FY25 Projects	\$ -
			FY25 Net Activity	\$ -
			<b>FY25 Ending Balance</b>	<b>\$ 343,567</b>
<b>Account Name</b>				
Harbor General	\$ 1,095,464			
Harbor Match	\$ 2,493,675			
Load and Launch	\$ 343,567			
<b>Port &amp; Harbor Reserve Ending FY25 Balance (Est.):</b>	<b>\$ 3,932,706</b>			

\*FY23 Budget transfers are done at end of fiscal year

- (1) FY23 Budget Amendment Ordinance coming to reappropriate this transfer from Harbor General to Harbor Match
- (2) and (3) Transfer \$500,000 of existing Harbor General balance to Harbor Match; FY23 Budget Amendment Ordinance coming

## HART Roads

<b>HART Roads - Fund 160</b>				
<b>Current Information - as of 5/3/23</b>				
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>Available Balance</b>	
HART Roads	\$ 5,967,672	\$ 318,095	\$ 5,649,577	

<b>Open Encumbrances - as of 5/3/23</b>			
<b>Description</b>	<b>Requestor</b>	<b>ORD #</b>	<b>Amount Remaining</b>
Beluga Slough Green Infrastructure Storm Water Treatment System	Public Works	23-16(S)	\$ 81,313
On-call Kachemak Bay Conservation Society	Public Works	22-77	\$ 25,000
Master Transportation Plan Update	Public Works	22-38	\$ 37,051
Green Infrastructure Research - Appraisals	Public Works	22-08	\$ 53,900
Green Infrastructure Research	Public Works	22-08	\$ 15,892
Design Criteria Manual	Public Works	22-07	\$ 4,145
Ben Walters Way Sidewalk Design & Survey	Public Works	21-36(S-2)(A)	\$ 50,808
Ground Water Research	Public Works	21-36(S-2)(A), 21-16(A)	\$ 49,986
			<u>\$ 318,095</u>

<b>Requested Projects</b>			
<b>Description</b>	<b>Requestor</b>	<b>Fiscal Year</b>	<b>Requested Amount</b>
Drainage Management Plan	Public Works	FY24	\$ 7,000
Mt Augustine Surface Water	Public Works	FY24	\$ 193,000
Homer Soil and Water Contract	Public Works	FY24	\$ 20,000
Fuel Island Replacement - Construction	Public Works	FY24	\$ 190,000
Bunnell Ave Road Restoration Project - Design	Public Works	FY24	\$ 50,000
Beluga Slough Green Infrastructure Project	Public Works	FY24	\$ 125,900
Ben Walters Sidewalk Construction	Public Works	FY24	\$ 1,700,000
Svedlund-Herndon Sidewalk Design	Public Works	FY24	\$ 75,000
Iris Court Drainage	Public Works	FY24	\$ 240,000
Kachemak Sponge Green Infrastructure Project Property	Public Works	FY24	\$ 418,100
Vehicle Replacement (E-130 and E-114)	Public Works	FY24	\$ 51,667
			<u>\$ 3,070,667</u>

<b>Future Fund Activity</b>			
<b>Activity Description</b>	<b>FY23 Amount*</b>	<b>FY24 Amount</b>	<b>FY25 Amount</b>
Sales Tax (Budgeted)	\$ -	\$ 1,900,555	\$ 1,976,577
Transfer to General Fund (ORD 17-40(A)) <sup>1</sup>	\$ (866,100)	\$ (1,169,889)	\$ (1,187,628)
HART Roads to HART Roads Match Transfer <sup>2</sup>	\$ (500,000)	\$ -	\$ -
HART Roads Match from HART Roads Transfer <sup>2</sup>	\$ 500,000	\$ -	\$ -
HART Roads to Non-Motorized Transportation Program Transfer <sup>4</sup>	\$ (500,000)	\$ -	\$ -
Non-Motorized Transportation Program from HART Roads Transfer <sup>2</sup>	\$ 500,000	\$ -	\$ -
HART Roads to Small Works Roads Maintenance Program Transfer <sup>6</sup>	\$ (100,000)	\$ -	\$ -
Small Works Roads Maintenance Program from HART Roads Transfer <sup>7</sup>	\$ 100,000	\$ -	\$ -
HART Roads to Small Works Pest Management Program Transfer <sup>8</sup>	\$ (20,000)	\$ -	\$ -
Small Works Pest Management Program from HART Roads Transfer <sup>9</sup>	\$ 20,000	\$ -	\$ -
<b>Net Activity</b>	<b>\$ (866,100)</b>	<b>\$ 730,666</b>	<b>\$ 788,948</b>

## HART Roads - Continued

Account Name	Proposed Future State		FY23 Net Activity	Available Balance
	Current Balance	Encumbrances		
HART Roads	\$ 5,967,672	\$ -	318,095	\$ (1,986,100)
				\$ (3,070,667)
				\$ 730,666
				\$ 1,323,476
				\$ -
				\$ 788,948
				\$ 2,112,424
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
HART Roads Match	\$ -	\$ -	\$ 500,000	\$ 500,000
				\$ -
				\$ -
				\$ 500,000
				\$ -
				\$ -
				\$ 500,000
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Non-Motorized Transportation Opportunity Program	\$ -	\$ -	\$ 500,000	\$ 500,000
				\$ -
				\$ -
				\$ 500,000
				\$ -
				\$ -
				\$ 500,000
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Small Works Roads Maintenance Program	\$ -	\$ -	\$ 100,000	\$ 100,000
				\$ -
				\$ -
				\$ 100,000
				\$ -
				\$ -
				\$ 100,000
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Small Works Pest Management Program	\$ -	\$ -	\$ 20,000	\$ 20,000
				\$ -
				\$ -
				\$ 20,000
				\$ -
				\$ -
				\$ 20,000
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
HART Roads	\$ 2,112,424	\$ -		
HART Roads Match	\$ 500,000	\$ -		
Non-Motorized Transportation Opportunity Program	\$ 500,000	\$ -		
Small Works Roads Maintenance Program	\$ 100,000	\$ -		
Small Works Pest Management Program	\$ 20,000	\$ -		
<b>HART Roads Ending FY25 Balance (Est.):</b>	<b>\$ 3,232,424</b>			

\*FY23 Budget transfers are done at end of fiscal year

(1) HART Roads transfer to General Fund to cover roads maintenance

(2) and (3) Transfer \$500,000 of existing HART Roads balance to HART Roads Match; FY23 Budget Amendment Ordinance coming

(4) and (5) Transfer \$500,000 of existing HART Roads balance to Non-Motorized Transportation Opportunity Program; FY23 Budget Amendment Ordinance coming

(6) and (7) Transfer \$100,000 of existing HART Roads balance to Small Works Roads Maintenance Program; FY23 Budget Amendment Ordinance coming

(8) and (9) Transfer \$20,000 of existing HART Roads balance to Small Works Pest Management Program; FY23 Budget Amendment Ordinance coming

## HART Trails

<b>HART Trails</b>			
<b>Current Information - as of 4/21/23</b>			
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>Available Balance</b>
HART Trails	\$ 1,040,630	\$ 20,000	\$ 1,020,630

<b>Open Encumbrances - as of 4/21/23</b>			
<b>Description</b>	<b>Requestor</b>	<b>Ordinance #</b>	<b>Amount Remaining</b>
Small Works Trails Maintenance Program - expires end of FY23	Public Works	22-28, 21-36(S-2)(A)	\$ 20,000
			<u>\$ 20,000</u>

<b>Requested Projects</b>			
<b>Description</b>	<b>Requestor</b>	<b>Fiscal Year</b>	<b>Requested Amount</b>
Wayfinding and Streetscape Implementation	Economic Development	FY24	\$ 50,000
Trail Design Criteria Manual Update	Economic Development	FY24	\$ 50,000
Lee Avenue Trail	Public Works	FY24	\$ 20,000
Vehicle Replacement (E-129, E-120, E-107, E-101)	Public Works	FY24	\$ 150,000
Fairview Ave Trail - East - Construction	Public Works	FY24	\$ 30,000
Library Trails - West Lot and Storybook - ADA upgrades	Public Works	FY24	\$ 25,000
Reber Trail Re-Route	Public Works	FY24	\$ 15,000
Trail Head Improvements	Public Works	FY24	\$ 12,000
Side-by-Side Attachments for Trails Maintenance	Public Works	FY24	\$ 10,000
Powered Wheelbarrow	Public Works	FY24	\$ 4,000
Tajen Trail - Establishing New Tread	Public Works	FY24	\$ 10,000
Beauregard Court Trail - Establishing New Tread	Public Works	FY24	\$ 10,000
			<u>\$ 386,000</u>

<b>Future Fund Activity</b>			
<b>Activity Description</b>	<b>FY23 Amount*</b>	<b>FY24 Amount</b>	<b>FY25 Amount</b>
Sales Tax (Budgeted)	\$ -	\$ 194,526	\$ 202,307
Transfer to General Fund (ORD 17-40(A)) <sup>1</sup>	\$ (41,706)	\$ (105,993)	\$ (118,663)
HART Trails to Non-Motorized Transportation Program Transfer <sup>2</sup>	\$ (100,000)	\$ -	\$ -
Non-Motorized Transportation Program from HART Trails Transfer <sup>3</sup>	\$ 100,000	\$ -	\$ -
HART Trails to Small Works Trails Maintenance Program Transfer <sup>4</sup>	\$ (100,000)	\$ -	\$ -
Small Works Trails Maintenance Program from HART Trails Transfer <sup>5</sup>	\$ 100,000	\$ -	\$ -
Net Activity	\$ (41,706)	\$ 88,532	\$ 83,644

HART Trails - Continued

Account Name	Proposed Future State		FY23 Net Activity	Available Balance
	Current Balance	Encumbrances		
HART Trails	\$ 1,053,697	\$ 20,000	\$ (241,706)	\$ 791,991
			FY24 Projects \$	(386,000)
			FY24 Net Activity \$	88,532
			FY24 Ending Balance \$	494,523
			FY25 Projects \$	-
			FY25 Net Activity \$	83,644
			<b>FY25 Ending Balance \$</b>	<b>578,167</b>
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Non-motorized Transportation Opportunity Program	\$ -	\$ -	\$ 100,000	\$ 100,000
			FY24 Projects \$	-
			FY24 Net Activity \$	-
			FY24 Ending Balance \$	100,000
			FY25 Projects \$	-
			FY25 Net Activity \$	-
			<b>FY25 Ending Balance \$</b>	<b>100,000</b>
<b>Account Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Small Works Trails Maintenance Program	\$ -	\$ -	\$ 100,000	\$ 100,000
			FY24 Projects \$	-
			FY24 Net Activity \$	-
			FY24 Ending Balance \$	100,000
			FY25 Projects \$	-
			FY25 Net Activity \$	-
			<b>FY25 Ending Balance \$</b>	<b>100,000</b>
<b>Account Name</b>				
HART Trails	\$	578,167		
Non-motorized Transportation Opportunity Program	\$	100,000		
Small Works Trails Maintenance Program	\$	100,000		
<b>HART Trails Ending FY25 Balance (Est.):</b>	<b>\$</b>	<b>778,167</b>		

\*FY23 Budget transfers are done at end of fiscal year

(1) HART Trails transfer to General Fund to cover trails maintenance

(2) and (3) Transfer \$100,000 of existing HART-Trails balance to Non-Motorized Transportation Opportunity Program; FY23 Budget Amendment Ordinance coming

(4) and (5) Transfer \$100,000 of existing HART-Trails balance to Small Works Trails Maintenance Program; FY23 Budget Amendment Ordinance coming

HAWSP

COMING SOON

## Other Notable Funds

### Land Reserves – Fund 150

The Land Reserves Fund is used to purchase lands with a strategic value to the City. An expected future purchase taking advantage of this fund is land for a new Public Works campus located outside of the tsunami zone. Staff has been working with the City's realtor to located and purchase an appropriate parcel.

<b>Land Reserves - Fund 150</b>				
<b>Current Information - as of 4/21/23</b>				
<b>Fund Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>Available Balance</b>	
Land Reserves	\$ 971,753	\$ 62,488	\$ 909,264	
<b>Open Encumbrances - as of 4/21/23</b>				
<b>Description</b>	<b>Requestor</b>	<b>ORD #</b>	<b>Amount Remaining</b>	
Purchase Lot 6 - Bridge Creek Watershed District	Administration	23-02(A)	\$ 9,321	
Two Parcels and Drainage Easements - Bridge Creek	Administration	22-01(A)	\$ 53,168	
			<u>\$ 62,488</u>	
<b>Requested Projects</b>				
<b>Description</b>	<b>Requestor</b>	<b>Fiscal Year</b>	<b>Requested Amount</b>	
			<u>\$ -</u>	
<b>Future Fund Activity</b>				
<b>Activity Description</b>	<b>FY23 Amount</b>	<b>FY24 Amount</b>	<b>FY25 Amount</b>	
Operating Budget Transfer				
Net Activity	\$ -	\$ -	\$ -	
<b>Proposed Future State</b>				
<b>Fund Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Land Reserves	\$ 971,753	\$ 62,488	\$ -	\$ 909,264
			FY24 Projects	\$ -
			FY24 Net Activity	\$ -
			FY24 Ending Balance	\$ 909,264
			FY25 Projects	\$ -
			FY25 Net Activity	\$ -
			FY25 Ending Balance	\$ 909,264
<b>Land Reserves Ending FY25 Balance (Est.):</b>	<b>\$ 909,264</b>			

Police Station Debt Service Fund – Fund 154

The Police Station Debt Service Fund exists to pay off the bond debt for the new police station which was opened in 2020. We are forecasting that the City will have sufficient funds to pay off the bond debt during FY25, possibly the very end of FY24.

<b>Police Station Debt Service - Fund 154</b>				
<b>Current Information - as of 4/21/23</b>				
<b>Fund Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>Available Balance</b>	
Police Station Debt Service	\$ 1,504,099	\$ -	\$ 1,504,099	
<b>Open Encumbrances - as of 4/21/23</b>				
<b>Description</b>	<b>Requestor</b>	<b>ORD #</b>	<b>Amount Remaining</b>	
			\$ -	
<b>Requested Projects</b>				
<b>Description</b>	<b>Requestor</b>	<b>Fiscal Year</b>	<b>Requested Amount</b>	
			\$ -	
<b>Future Fund Activity</b>				
<b>Activity Description</b>	<b>FY23 Amount</b>	<b>FY24 Amount</b>	<b>FY25 Amount</b>	<b>FY26 Amount</b>
Sales Tax (Budgeted)	\$ -	\$ 893,520	\$ 929,260	\$ 929,260
Debt Payment - Principal	\$ -	\$ (230,000)	\$ (245,000)	\$ (255,000)
Debt Payment - Interest	\$ -	\$ (164,000)	\$ (152,500)	\$ (140,250)
Net Activity	\$ -	\$ 499,520	\$ 531,760	\$ 534,010
<b>Proposed Future State</b>				
<b>Fund Name</b>	<b>Current Balance</b>	<b>Encumbrances</b>	<b>FY23 Net Activity</b>	<b>Available Balance</b>
Police Station Debt Service	\$ 1,504,099	\$ -	\$ -	\$ 1,504,099
			FY24 Projects \$	-
			FY24 Net Activity \$	499,520
			FY24 Ending Balance \$	2,003,619
			FY25 Projects \$	-
			FY25 Net Activity \$	531,760
			FY25 Ending Balance \$	2,535,379
<b>Police Station Debt Service Ending FY25 Balance (Est.):</b>	<b>\$ 2,535,379</b>		FY26 Projects \$	-
			FY26 Net Activity \$	534,010
			FY26 Ending Balance \$	3,069,390
<b>Police Station Debt Service Ending FY26 Balance (Est.):</b>	<b>\$ 3,069,390</b>			
			FY23	FY24
			FY25	FY26
			Debt Balance	3,280,000
				3,050,000
				2,805,000
				2,550,000

ORD 18-26(A)(S)(A) - GOB Issuance; 0.3% of sales tax expires 12/31 of the year when City has received sufficient funds to pay off all of debt service



## Capital Project Requests

The following tables include all requests made to the City Manager for the FY24/25 Capital Budget. Each item includes a brief description, estimated cost, and note as to whether it was approved for inclusion in the budget by the City Manager. Rejected items have brief commentary as to why.

### Fleet CARMA – Fund 152

Requesting Dept./Div.	Title	Description	Request	CM Approved
Fire	Ladder Truck (Used)	As the City has grown and allowed for larger structures to be built, the addition of a ladder truck to the fire fleet has become a necessary expansion. Ladder trucks can run \$1.4 – \$1.6 million new and appropriately equipped. We have an opportunity to purchase a used ladder truck from Ketchikan and staff is currently doing due diligence to inspect the vehicle and determine if it would be a good purchase for the City.	\$230,000	YES Purchase will come before the budget is adopted due to the availability of this specific apparatus
Fire	Off-road Firefighting Apparatus	This side-by-side vehicle with upgrades to haul water and crew for fire suppression purposes would replace the capabilities of Brush-2 which is at the end of its useful life. This vehicle would ensure we retain the capability to respond to fires off the road and on beaches.	\$45,000	YES
Fire	Deputy Chief Vehicle Replacement	The Deputy Chief is required as a Command Officer and paramedic to respond directly to calls with a reliable and tactical ready vehicle. The current vehicle is 19 years old and poorly suited to the job. The new vehicle will have all the required command equipment to manage emergency and disaster situations, communications systems, ALS medical supply storage, and rescue equipment. A plow will also be added to assist with response during winter weather.	\$95,000	YES
Fire	Pumper/Tanker Contingency	Council approved the purchase of an Enforcer 2500 gallon tender fire truck with Ordinance 22-22 at a price not to exceed \$800,000. The City received a large discount for prepayment and \$93,394 was left unspent. Administration would like to set \$25,000 aside as a contingency and return the rest (\$68,394) to Fleet CARMA.	\$25,000	YES
Fire	Engine-4 Replacement	Engine-4 is an essential part of the firefighting fleet in the city and is vital to sustaining an ISO rating that has been enjoyed by tax payers for years. Engine-4 is 40 years old, 20 years overdue for replacement and will not be classified during the next ISO visit due to its age which will have a noticeable impact on insurance premiums (increasing) on all insured businesses and homeowners in Homer. Engine-4 did not pass its last pump test in June of 2022 and was down with mechanical issues (failed brakes) for more than 5 months. With Engine-4 unable to pass its pump test it is essentially out of service and not to be used, leaving us with only one Engine.	\$819,000	NO Expecting an opportunity to purchase a ladder truck before FY24/25 is adopted; this request should be seriously considered at the time of the mid-biennium adjustment, if not sooner
Public Works	Grader	Procure a grader for the purpose of plowing snow, grading roads, repairing water/utilities, and otherwise supporting the installation and maintenance of PW infrastructure.	\$365,000	NO

General CARMA – Fund 156

Requesting Dept./Div.	Title	Description	Request	CM Approved
Admin	HERC Match Funds	Move money remaining in the natural gas free main allowance account after the audit into HERC CARMA for future use	\$311,216	YES
Community Recreation	Bounce House	In an effort to provide additional fun, active and engaging programs specifically for the younger youth demographic. A bounce house would provide indoor and outdoor opportunities. The estimate includes shipping cost	\$15,000	NO
Community Recreation	Recreation Management Software	Software would be used to improve and streamline the overall operations of the division by allowing for: online registration and payment; improved scheduling and communications; participant tracking; etc.	\$11,000	NO Community Rec only does \$30-40k per year in fees. A cheaper mobile solution or kiosk may be a better fit for the interim period between now and the HERC Replacement
Fire	Fire Hose Replacement	The existing fire hose system used to fight structural, vehicle, marine, and industrial fires is due to be replaced.	\$78,000	YES
Human Resources	Personnel Regulations and Salary Schedule Overhaul	Both personnel regulations and salary schedule-related items need to be reviewed and updated intermittently to keep up with trends in the workplace and a changing legal environment. This project would be used to hire a consultant to help staff update and modernize current HR systems	\$75,000	YES
IT	Upgrade City Workstations to Microsoft Office 2021	Most City workstations are running Office 2016. The IT Division recommends updating all of these machines to Office 2021.	\$40,000	YES
IT	NextGen Firewall	Unlike a traditional firewall, which prevents or allows network traffic based on simple criteria like source or destination, NextGen firewalls perform realtime deeper analysis of packet-level information as it enters the network to monitor for malicious content.	\$50,000	YES
IT	Upgrade Internet Link for City Hall	Industry standards generally recommend 5-15Mbps per office worker for Internet connectivity. Twenty office workers typically work from City Hall, sharing a 35Mbps link to the Internet, or about 1.75Mbps per office worker. Additionally, the City Hall link supports digital phones for all city staff, the city email server, business applications such as finance software, as well as video-conferencing from Council	\$30,000	YES

		Chambers. A fiber optic connection to the building would allow a bandwidth increase to a recommended ~300Mbps to support current needs and would enable us to consider moving more applications and services to cloud-based operations.		
IT	Phone System Upgrade	The majority of the City's phone system is antiquated and has suffered multiple challenges in recent years. This project would bring the system to a modern standard. Most of our phones are roughly 20 years old. Approximately 84 phones will be replaced across the City, those at the Police Station are still relatively new and will not be replaced.	\$35,000	YES
Library	Replace Library Chairs	When the library opened in 2006, the furnishings included 84 wooden chairs, 15 soft lounge chairs, and 49 office-style rolling chairs. The wooden chairs have held up well, but the rest are wearing out. This request would replace lounge and office chairs and includes shipping and a small contingency (\$2,500).	\$45,000	YES
Police	Police Station Fencing	This request will fund the purchase and installation of security fencing around the back of the police station. The fencing will be a six foot tall, 9 gauge chain link fence with a continuous top rail and it will include one 20 foot wide sliding gate. This fencing will close off the back perimeter of the police station grounds, running on the lot line between the station and the post office. This back area of the police station grounds is shadowed, thickly vegetated in areas and hard to monitor closely on our video surveillance system due to shadows, changing terrain elevations and vegetation. It is the area most vulnerable to approach and trespass around the station.	\$27,000	YES
Police	Two Ballistic Shields	These ballistic shields will replace two shields that over 25 years old. The new models are significantly upgraded larger shields with improved protection from higher powered rounds and viewing ports. This project will be supported by approximately \$16,000 from the seized assets account which may only be used for police related purchases.	\$23,000 - \$16,268 from seized asset account and \$6732 from CARMA	YES
Police	Virtual Reality Training System	This request is for a Virtual Reality Training system from InVeris Training Solutions for patrol and jail officer training. This system is an advanced training solution that uses virtual reality, (VR), for critical, real-world preparation of our officers for use of force situations.	\$79,900	NO Attempt to fund through Homeland Security Grant Programs first
Police	Night Vision Equipment	This request is to purchase night vision equipment for 12 police officers. We currently have four units that are 15 years	\$95,000	NO Attempt to fund through

		old and in poor condition. The new equipment will consist of 10 single tube units and 2 double tube units along with the required mounting hardware. The new units mount to the officer's helmets and are adjusted to each individual officer's physical characteristics.		Homeland Security Grant Programs
Police	In-Car Video Cameras	This project will equip 12 of our patrol vehicles with in-car video cameras. It will also provide the necessary data storage and retrieval equipment. Approximately 80% of police departments are now operating with in-car video recording equipment. The recordings offer excellent documentation of what an officer saw and did during traffic stops and the subsequent encounters. The recordings obtained will primarily be used as evidence in court room proceedings. The district attorney's office is now requiring video recordings to go to trial in some driving cases. Without the recordings we are in danger of having cases dismissed. The recordings can also be used for training, liability protection, improving officer safety and providing transparency of police conduct to the public. Statistically, a police department is more likely to be sued for use of force allegations and driving related incidents versus anything else.	\$162,204 Would also include an annual expense for service and data storage	NO Attempt to fund through Homeland Security Grant Programs first
Public Works	Seawall Maintenance	To be paid from the Seawall CARMA fund within the General CARMA Fund	\$4,000	YES
Public Works	Hornaday Park Playground Improvements	The Homer Foundation's board of trustees approved the use of left over funds from the original playground project and the boat house pavillion to be used for maintenance and improvement of the existing Hornaday Park playground. The request to Council is for \$25,000, however, \$20,363 will be reimbursed by the Homer Foundation.	\$25,000  \$20,363 to be reimbursed by Homer Foundation	YES
Public Works	ADA-Family Restroom at Airport	This Request will fund the design and purchase of construction materials to build an ADA-compliant, gender-neutral Family Restroom at the Airport. The design will cost \$25,000, based on an estimate from a local architect and engineering team, mostly to address Fire Marshall requirements. Then, we would buy the construction materials and built it with PW labor, during "shoulder" seasons.	\$50,000	YES
Public Works	Airport Terminal Sidewalk Repairs	This Capital Request will fund the replacement of a portion of the concrete sidewalk at the airport that has buckled due to frost heave. The cost is based on a quote from a reputable local concrete contractor, which I incased by 10% for escalation.	\$76,175	YES

Public Works	GIS Upgrade	One-time license upgrade for GIS system, addition of two extra "seats" for Public Works employees, and two Trimble tables for field work	\$16,490	YES
Public Works	HERC I Roof Inspection	With the challenges related to demolishing the HERC structures, age of the existing roof structure, and series of buildings that have collapsed under snow weight in Alaska recently, it seems wise to inspect the existing roof to determine its condition and how much life is left in it.	\$15,000	YES
Public Works	Karen Hornday Park Master Plan	Develop a new master plan for Karen Hornaday Park	\$50,000	YES
Public Works	Air Conditioning for Public Works Server Room	Request would fund purchase of an air conditioning unit to be installed in the server room	\$8,000	YES
Public Works	Tenant Improvements for Kachemak Center	Kachemak Center is a potential rental location for Building Maintenance and Parks to reside once they leave the HERC.	\$40,000	NO Uncertain if this will be the best location, looking for alternatives
Public Works	HERC II Abatement and Demolition	Increases the funds available for the demolition of the HERC II building.	\$325,000	NO Take separate action when Admin and Council are aligned on a solution
Public Works	HERC I – HazMat Abatement/Demo Design	Fund the develop of a hazardous materials abatement and demolition plan for HERC I	\$75,000	NO Ongoing issue

### Utility CARMA – Fund 256 – Water

Requesting Dept./Div.	Title	Description	Request	CM Approved
Public Works (Water)	Paint Brush Booster Station Pump Upgrade	The Paint brush booster Station supplies potable water to customers above the gravity feed water transmission main. In 2022 the electric components failed and left customer without water. The booster station was built in 2008. Parts are no longer available for this equipment. Operators were able to find old components at the STP, but those are limited. Funds will be used to replace existing booster pumps and upgrade electrical components and telemetry as needed. We submitted a ADEC SRF Questionnaire and expect this project will be added to the ADEC's Intended Use Plan, allowing us to access SRF Loan Funds.	\$250,000	YES
Public Works (Water)	WTP Membrane Filter Train FY24	This will buy one water filter membrane train for the Water Treatment Plant to replace one of the existing membrane trains that is beyond its useful life. A questionnaire for ADEC SRF has been submitted for this project.	\$80,000	YES

Public Works (Water)	WTP Membrane Filter Train FY25	This will buy one water filter membrane train for the Water Treatment Plant to replace one of the existing membrane trains that is beyond its useful life. A questionnaire for ADEC SRF has been submitted for this project.	\$85,000	YES
Public Works (Water)	Design for Replacing 8" Cast Iron Distribution Line	Fund the design of a replacement line	\$90,000	YES
Public Works	Vehicle Contingency	We have had difficulties in ordering vehicles, and when we do, the costs have gone up significantly. The intent of this funding is to cover overages for vehicles already approved in the prior budget.	\$15,000	YES

### Utility CARMA – Fund 256 – Sewer

Requesting Dept./Div.	Title	Description	Request	CM Approved
Public Works (Sewer)	Transfer Switch, STP	Backup power to the Sewer Treatment Plant is provided by an on-site diesel generator. During a power outage a transfer switch automatically transfers the plant to the generator. The original switch from 1990 is not transferring power properly. Funds will be used to purchase a new transfer switch and install it.	\$38,500	YES
Public Works	Vehicle Contingency	We have had difficulties in ordering vehicles, and when we do, the costs have gone up significantly. The intent of this funding is to cover overages for vehicles already approved in the prior budget.	\$15,000	YES – Converted into a repacked request which will create a new appropriation
Public Works (Sewer)	Final Design – Beluga Lift Station	Final design of project. Eligible for ADEC loans	\$100,000	YES
Public Works (Sewer)	Coatings for Digesters	Fund the renovation of the concrete coating on the WWTP digesters. Project is eligible for Clean Water SRF and we have submitted a questionnaire to ADEC which is the first step towards getting a loan	\$300,000	NO
Public Works (Sewer)	Coatings for Clarifiers	Renovate the coating on the WWTP clarifiers. Project is eligible for Clean Water SRF and we have submitted a questionnaire to ADEC which is the first step towards getting a loan	\$450,000	NO
Public Works (Sewer)	WWTP Aeration Pond Effluent Box	Rebuild the electrical works for the aeration pond effluent box at the WWTP. A questionnaire for ADEC SRF loan funds has been submitted	\$73000	NO
Public Works (Sewer)	Portable 3 Phase Back Up Generator	Portable, 3 phase power backup generator. Public works does not have one at this time. The sewer plant does have a backup generator, but it is not always available and we need a dedicated unit in case of emergency.	\$95,000	NO
Public Works (Sewer)	Dredge Sludge Lagoon at WTP	Fund the dredging and renovation of the sludge lagoon at the WTP	\$60,000	NO
Public Works (Sewer)	Electrical Works for Sewage Lift Station – 30 Acres	Project will upgrade/renovate the electrical works at the sewage lift station on the Spit known as the 30 acres lift station.	\$67,000	NO

## HART Roads – Fund 160

Requesting Dept./Div.	Title	Description	Request	CM Approved
Admin	Road Grant Matching Funds	Seed a general grant match account for roads, stormwater, and sidewalk improvements	\$500,000	YES
Public Works	Nuclear Compaction Testing Device	Device measures compaction of soil and asphalt	\$20,000	YES
Public Works	Fuel Island Replacement - Construction	The fuel island at Public Works serves as a fueling station for vehicles citywide. It is over 30 years old and nearing end of life.	\$190,000	YES
Public Works	Bunnell Ave Road Restoration Project - Design	This project will fund the design of the Bunnell Avenue Road Restoration Project – road, sidewalks, and storm drain. The Council funded the design of the Ohlson/Bunnell Pavement Restoration Project in FY23. During preliminary design, it became apparent the local property owners wanted more discussion about what to do on Bunnell Avenue. The projects were split so that we can proceed with Ohlson Lanes final design and construction while the land use issues related to Bunnell Ave are addressed in other planning processes.	\$50,000	YES
Public Works	Beluga Slough Green Infrastructure Project	This request will fund matching funds required by the ACWA Grant to design/construct a green infrastructure project at the end of Bunnell Street	\$125,900	YES
Public Works	Ben Walters Sidewalk Construction	Fund the construction of the Ben Walters Sidewalk	\$1,700,000	YES
Public Works	Svedlund-Herndon Sidewalk Design	This request will fund the design of a sidewalk that connects pedestrians from Pioneer Avenue, north on Svedlund, and then west on Herndon to the Senior Citizen Housing Project	\$75,000	YES
Public Works	Iris Court Drainage	This request will extend an existing appropriation and increase the funds available to correct a drainage problem on Iris Court	\$240,000	YES
Public Works	Kachemak Sponge Green Infrastructure Project Property Acquisition	This project will fund property acquisition for the Kachemak Sponge Green Infrastructure Project. We expect approximately \$883,524 to be covered by grant funds and the remaining \$418,100 by the City or other funders.	\$418,100	YES
Public Works	Vehicle Contingency	We have had difficulties in ordering vehicles, and when we do, the costs have gone up significantly. The intent of this funding is to cover overages for vehicles already approved in the prior budget.	\$15,000	YES – Converted into a repacked request which will create a new appropriation
Public Works	Kachemak Sponge Green Infrastructure Project Construction of Storm Water Works	The costs are eligible for ADEC SRF financing and currently listed on ADEC’s intended use plan for \$1,000,000.	\$2,459,080	NO Currently seeking other funding sources first
Public Works	Kachemak Sponge Green Infrastructure Project Design and	This request will fund the design and associated professional services for the Kachemak Sponge Green Infrastructure Project. Much of the work will be funded by a grant. The project is also listed	\$354,050	NO Currently seeking other

	Other Professional Services	on the ADEC's intended use plan for State Revolving Use Funds.		funding sources first
Public Works	Allowance for HAPP Matching Funds	This request will fund matching funds required by the RAISE Grant, for which the City has submitted an application for the planning and design of multiple non-motorized transportation improvements	\$500,000	NO Put funds towards a general HART match instead since specific grant awards are unknown at this time
Public Works	Heath Street – Pavement Restoration Project	Project design was funded in FY23 and implementation programmed into the Road Financial Plan. The cost estimate is based on the 35% design, which calls for the rebuilding of Heath Street from the Sterling Highway to the High School. As the design progresses, we will be isolating which portions of the street need to be rebuilt	\$2,328,668	NO Reconsider during mid-biennium adjustment if adequate funds are available
Public Works	Public Works Mechanics/Operators Shop - Design	This request will fund design and related professional services for a new mechanics and operators shop	\$100,000	NO Still seeking property

### HART Trails – Fund 165

Requesting Dept./Div.	Title	Description	Request	CM Approved
Economic Development	Wayfinding and Streetscape Implementation	Phase one of wayfinding implementation with a focus on pedestrian trailheads, wayfinding in downtown, at Spit campgrounds and major Spit facilities, and Baycrest visitor kiosk.	\$50,000	YES
Economic Development	Trail Design Criteria Manual Update	The current manual was created in 2009. Since then, new guidelines have been proposed for ADA access, which should be incorporated into City trail standards. Project intended for FY25 so the City has time to learn policy issues with the new requirements for non-motorized transportation in new subdivisions. Year round trail maintenance considerations also need to be incorporated into trail standards.	\$50,000	YES
Public Works	Lee Avenue Trail	Fund the completion of a new trail on Lee Avenue between Heath Street and Kachemak Way	\$20,000	YES
Public Works	Fairview Ave Trail – East – Construction	This project will fund the construction of upgrades to Fairview that connects with the high school	\$30,000	YES
Public Works	Library Trails – West Lot and Storybook – ADA upgrades	The City recently adopted a plan for developing improvements to the Library's West Lot. Part of those call for upgrading the existing trails to ADA standards.	\$25,000	YES
Public Works	Reber Trail Re-Route	This project will re-route and reconstruct the upper portion of the Reber trail to reduce the grade and/or build "steps" into the hillside to break up the steep slope.	\$15,000	YES
Public Works	Trailhead Improvements	This project will improve several trailheads on existing trails to make them more visible, add parking, and install signage. Trailheads include: Karen Hornaday Natural Trail at the west end of Danview, Lower Reber Trail at the west end of	\$12,000	YES



		Fairview Avenue, Poopdeck Trail at Pioneer Avenue, Library Story Trail where it intersects with Lucky Shot Road.		
Public Works	Side-by-side Attachments for Trails Maintenance	This project will purchase attachments that will turn the Parks division's side-by-side into an efficient winter trail maintenance tool by equipping it with an enclosed "cab", cab heater, winch, snow plow, and	\$10,000	YES
Public Works	Powered Wheelbarrow	This piece of equipment will enable our Trail Maintenance crew to more effectively provide maintenance by helping to convey sand bags, tools, mulch, gravel, and the variety of other supplies needed to maintain trails.	\$4,000	YES
Public Works	Tajen Trail – Establishing New Tread	This project will build out Tajen Trail into a usable pedestrian route in a new subdivision.	\$10,000	YES
Public Works	Beauregard Court Trail – Establishing New Tread	This project will build out Beauregard Court Trail into a usable pedestrian route to connect a new subdivision of Jack Gist Park	\$10,000	YES
Public Works	Vehicle Re-appropriation for E-129, E-120, E-107, E-101	We have had difficulties in ordering vehicles, and when we do, the costs have gone up significantly. The intent of this funding is to extend the original appropriations and include additional funds to ensure we can afford the vehicles at current prices.	\$150,000	YES

#### HAWSP – Fund 205

Requesting Dept./Div.	Title	Description	Request	CM Approved
Admin	Water/Sewer Expansion Grant Match	Seed a general grant match account for water and sewer expansion projects	TBD	
Public Works	Master Water and Sewer Plan	Develop a new water/sewer master plan. This plan is eligible for ADEC Drinking Water and Clean Water loans and the high probability of being awarded Principal Forgiveness subsidies. ADEC likes communities who care enough to plan their infrastructure.	\$90,000	NO Seeking other funding opportunities first
Public Works	Bishop's Beach Restroom Replacement	This project will fund the construction of a new plumbed restroom at Bishop's Beach Park	\$400,000	NO

#### Port & Harbor Fleet – Fund 452

Requesting Dept./Div.	Title	Description	Request	CM Approved
Port	Patrol Truck	Harbor officers use the patrol vehicles throughout the various shifts to keep watch over the facilities. This expenditure replaces patrol truck 400 built in 2010. Once the new truck is in service, truck 400 will be moved to finish its useful life with seasonal port staff.	\$55,000	YES
Port	Port Maintenance Plow Truck	Port Maintenance has the responsibility of keeping the docks, ramps, ramp approaches, and some key parking areas cleared of snow.	\$60,000	YES

## Port & Harbor Reserves – Fund 456

Requesting Dept./Div.	Title	Description	Request	CM Approved
Admin	Future Grant Match Start of FY24	Create a Harbor Grant Matching Fund and seed it with \$500,000 already in Port Reserves	\$993,675	YES
Admin	Future Grant Match FY24	Add \$500,000 at the end of FY24	\$500,000	YES
Admin	Future Grant Match FY25	Add \$500,000 at the end of FY25	\$500,000	YES
Port	Outfall Line Pump	Purchase a spare replacement pump for the City outfall line. This outfall line is connected to the fish grinder building and its purpose is to pump the ground fish materials to the disposal site between the first and second Pioneer Dock mooring dolphins at the end of the Homer Spit	\$25,000	
Port	Ice Metering System	This metering equipment upgrade will allow us to more accurately dispense the ice that we sell at the Fish Dock. The metering system currently in use for ice delivery is original equipment, not repairable, and also not accurate resulting in over-delivery of ice.	\$145,000	YES
Port	Harbor Bottom Survey	Survey the entire small boat basin and calculate the amount of materials that would need to be removed to get back to design depth. Based on the total number of cubic yards to be removed we would be able to estimate the cost to re-dredge the nonfederal portion of the harbor basin	\$25,000	YES
Port	Tank 1 Sludge Removal	Port Maintenance is tasked with collecting the used oil, antifreeze, filters, and absorbent rags from the ramp two and ramp seven collection satellite buildings. The materials are processed through our used oil building next to the Port Maintenance shop. We have three 10,000 gallon used oil tanks that we store the collected oil in. In an as needed agreement we pay a firm to pump the collected used oil into a tank truck and transport to a processing facility in Anchorage. Over time sludge (heavy contaminated oil waist) has accumulated on the bottom of the tanks resulting in less storage capacity. With this project, a team will be hired to clean the sludge out of the bottom of one of the three storage tanks.	\$40,000	YES
Public Works (Sewer)	Electrical Works for Sewage Lift Station – Fish Grinder	Project will upgrade/renovate the electrical works at the sewage lift station at the Fish Grinder.	\$40,000	YES
Port	Paid Parking Program Expansion – Planning and Permitting	The Spit’s parking inventory is frequently overlapped by state highway right-of-way which complicates its	\$60,000	YES

		usage for parking purposes. This program will plan, permit, survey, and design solutions that will allow for the safe and efficient expansion of paid parking on the Spit.		
Port	Camera System Ramps 1-5	A project designing the system was funded in the previous budget. Cameras have been very effective to deter theft, vandalism, and facility misuse. Ramps 1 thru 5 are very high use areas of the harbor and having a reliable camera system to support our mission will be a huge benefit to vessel, business, and vehicle owners in those areas.	\$344,000	NO This project can wait while larger financial needs are considered
Port	Wood Grid Replacement Engineering	Staff have determined that the Wood Grid is very near its end of life from a safe operations use standpoint. During the CIP review the Wood Grid was moved up to level 1 of importance in the Capital improvement project list by the port commission and council. Phase 1 of this project will be to complete engineering and design for the replacement of this vessel maintenance facility.	\$25,000	NO Wood grid is only expected to generate \$6,000 in usage for FY23; value of retaining this amenity needs to be evaluated
Port	Fish Grinder Building	Design and construct a new building for the Fish Grinder. This project, since it involves the disposal of waste products, qualifies for ADEC SRF loans. A questionnaire has been submitted.	\$300,000	NO Currently seeking other funding sources first
Port	Spit Parking Lot Storm Drain Project	This project will upgrade several parking lots on the Spit with paving and storm drain improvements so that the Enterprise can charge for parking. This project, since it involves storm water collection and treatment, qualifies for ADEC SRF funds. A questionnaire has been submitted.	\$1,198,628	NO Wait on outcome of loan questionnaire

## Fleet Overview

The City's fleet is attempting to go through a transformation. We have many older vehicles, particularly in the Fire Department, which need to be replaced in order to continue to meet Departmental missions. We budgeted for big strides in the FY22/23 Capital Budget, however, we have faced many supply chain challenges which have included extended wait times, or even extended periods of time in which dealers will not even take orders for new vehicles.

The following list shows all current fleet vehicles, pumps, plows, and other equipment maintained by the Public Works Motor Pool. The data contained within the table, direct from our rolling stock asset management program, includes the manufacture date and expected life span of the various items. There is also a Risk Rating which scores items from one to five, with one being low risk and five being high risk. The Risk Rating is a composite of a Likelihood of Failure (LOF) rating and a Consequence of Failure (COF) rating.

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
Public Works Vehicles						
PARKS	E101	1999 RANGER	1999	15	3	
WTP/STP	E102	1999 RANGER TRUCK	1999	15	3	
BUILDING MAINT	E103	1999 FORD E250 VAN	1999	15	5	This vehicle is slated for replacement and a replacement has been ordered.
WTP/STP	E104	2000 K2500 4X4 W/ FLATBED	2000	15	3	
PARKS	E107	2001 CHEV S-10 EXTEND CAB	2001	15	4	This vehicle is slated for replacement and a replacement has been ordered.
EQ OPS	E110	2022 F550 XL 4x4 Reg Chassis	2022	15	2	
MOTORPOOL	E111	2002 JEEP WRANGLER	2002	15	3	
WTP/STP	E112	2006 FORD F-150 4X4	2006	15	3	
ENGINEERING	E113	2006 FORD F-150 4X4	2006	15	3	
ENGINEERING	E114	1997 FORD RANGER XLT 4X4	1997	15	4	This vehicle is slated for replacement and a replacement has been ordered.
METER	E115	2006 FORD F-150 4X4	2006	15	3	
EQ OPS	E116	2022 FORD F-350 4X4	2022	15	1	
WTP/STP	E117	2007 FORD F-150 4X4	2007	15	3	
PARKS	E118	2008 FORD F-250 4X4 FLATBED	2008	15	3	
MOTORPOOL	E119	2008 FORD F-350 SD FLATBED	2008	15	2	

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
PARKS	E120	1995 FORD F-150 4X4	1995	15	3	
BUILDING MAINT	E121	2016 CHEVY EXPRESS 2500 VAN	2016	15	2	
WTP/STP	E122	2014 F-150	2014	15	3	
EQ OPS	E123	2014 F-150	2014	15	3	
BUILDING MAINT	E125	2007 FORD EXPEDITION	2007	15	3	This vehicle was repurposed from the Police Dept.
PARKS	E126	1998 FORD EXPEDITION XLT - 4X4	1998	15	4	This vehicle was repurposed from the Police Dept.
ENGINEERING	E127	2012 CHEVY COLORADO EXT CAB	2012	15	3	
Superintendent	E128	2012 CHEVY COLORADO CREW CAB	2012	15	2	
EQ OPS	E130	1994 CHEV SVC TRK	1994	15	4	Vehicle needs replacement, chassis is overloaded.
WTP/STP	E131	1994 FORD 4X4 F-150 P/U	1994	15	4	This vehicle is slated for replacement and a replacement has been ordered.
PARKS	E132	1999 FORD F-550 2 TON 4X4	1999	12	3	Vehicle was repurposed from Equipment Operations.
EQ OPS	E134	2003 FORD F-550 2-TON 4X4	2003	12	5	
EQ OPS	E135	2013 FORD F-550 2-TON 4X4 Truck/Sander	2013	12	4	
EQ OPS	E136	2016 FORD F-550 2-TON 4x4 Truck/Sander	2016	12	4	
MOTORPOOL	E137	2000 DODGE DURANGO	2000	15	3	Vehicle was repurposed from the Police Dept.
WTR DIST	E138	2019 FORD F350 CHASSIS	2019	15	2	
WTR DIST	E139	2019 FORD F350 CHASSIS w/crane	2019	15	2	
WTR DIST	E140	2019 FORD F-150 4WD SUPERCAB	2019	15	1	
EQ OPS	E150	1986 140 G CAT GRADER	1986	20	5	Taken out of Service 2022, Surplused 2023
EQ OPS	E150-A	SNOW WING				Surplused 2023

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
EQ OPS	E150-B	SNOW GATE				Repurposed to E169
EQ OPS	E151	2009 ISUZU SWEEPER TRUCK	2009	20	3	
EQ OPS	E151-A	2009 ELGIN CROSSWIND FURY ST SWEEPER	2009	20	3	
EQ OPS	E152	2007 HRL-50 ROADWAY STRIPER - <i>Out of Service</i>	2007			Surplused 2023
EQ OPS	E153	2007 D37 KOMATSU DOZER	2007	20	2	
PORT MAINT.	E154	P/H MV9-WIGGINS 4X4 FORK LIFT	1982	20	3	
WTP	E155	HYSTER 50F FORK LIFT - WTP (used 5,000lb	1998	20	4	
EQ OPS	E156	2022 TOOLCAT 4W56	2022	20	1	
EQ OPS	E157	2000 FREIGHTLINER END DUMP	2000	20	4	Has Transmission issues needs replacement soon.
EQ OPS	E159	2014 PELICAN-NP SWEEPER	2014	20	2	
EQ OPS	E160	1984 FORD 4X6 2-TON VAN - STEAM TRK	1984	25	3	
EQ OPS	E161	1987 950 CAT LOADER	1987	20	5	Taken out of Service 2022, Surplused 2023
STP	E162	CASE LOADER - SKID STEER	1991	20	5	
EQ OPS	E164	1994 720A CHAMPION GRADER	1994	20	5	Replaced Transmission 2022, Became back-up 2023
EQ OPS	E164-A	SNOW WING				
EQ OPS	E164-B	SNOW GATE				
EQ OPS	E166	2020 CAT 420 XE BACKHOE LOADER	2020	15	2	
EQ OPS	E167	2021 VOLVO L110H LOADER	2021	20	2	
EQ OPS	E168	2002 163H AWD CAT GRADER	2002	20	4	Needs Replacement by 2026
EQ OPS	E168-A	RYLIND 14' SNOW WING				
EQ OPS	E168-B	WLEDCO BEALES SNOW GATE				
EQ OPS	E168-C	RYLIND 6-WAY V-PLOW				

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
EQ OPS	E169	1980 CAT 12G GRADER - Herdon Grader	1980	20	3	
EQ OPS	E170	2003 TOOLCAT 5600	2003	15	5	This vehicle was removed from service and surplused in 2023.E156 ordered as replacement in 2022
EQ OPS	E171	1989 FORD F800 BUCKET TRUCK	1989	20	4	
	E171A	ALTEC450H BOOM/BUCKET	1989	20	3	
EQ OPS	E172	2003 644H JD FRONT END LOADER	2003	20	3	
EQ OPS	E172-A	Plow Blade				
EQ OPS	E173	2006 KOMATSU PC160LC-7 EXCAVATOR	2006	20	3	
WTP / STP	E174	2006 KOMATSU WA100M-5 LOADER	2006	20	2	
EQ OPS	E175	2004 VOLVO WHEELED EW180B EXCAVATOR	2004	20	2	
EQ OPS	E176	2006 FREIGHTLINER - STEAM TRUCK	2006	20	3	
EQ OPS	E177	2015 MAC DUMP TRUCK	2015	20	2	
EQ OPS	E178	2018 SEWER VAC TRUCK	2018	20	2	
EQ OPS	E180	2021 CAT 160 AWD GRADER	2021	20	2	
EQ OPS	E180-A	HI-GATE SNOWGATE				
EQ OPS	E180-B					
	E181	2022 CAT 160 AWD GRADER	2022	20	1	Replacement for E164
<b>MISCELLANEOUS</b>						
EQ OPS	E201	STIHL MS362 CM 28" CHAINSAW	2020	10	1	
EQ OPS	E204	STIHL BR 800 BACKPACK LEAF BLOWER X-Z	2020	10	1	
	E205	TS-420 STIHL CUT-OFF SAW	2007	10	1	
	E207	DYNAPAC JUMPING JACK COMPACTOR	2004	15	1	
WTP	E219	McELROY PITBULL FUSION MACHINE (1"-4")				

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
EQ OPS	E222	HI-WAY TAILGATE SPREADER				
BUILDING MAINT	E223	HONDA SNOW BLOWER				
	E224	2003 ALLMAND LIGHT TOWER - USED	2003	25	3	
	E225	2007 DYNAPAC DIESEL PLATE COMPACTOR - USED	2007	25	2	
STP	E226	2007 O'BRIEN SEWER JET	2007	20	3	
WTP	E234	350 RM TAPMATE ~ LIVE TAPPING TOOL		15	3	
STP	E237	RIGID SEWER CAMERA SYSTEM				
WTP	E242	ELECTRO FUSION UNIT FOR HDPE PIPE				
MOTORPOOL	E244	MILLERMATIC 252 WELDER				
	E249	INGERSOLL RAND JACK HAMMER				
	E250	BOMAG COMPACTOR				
EQ OPS	E251	20" STIHL CHAINSAW -PW				
EQ OPS	E253	OLD SHOP AIR COMPRESSOR				
EQ OPS	E254	SULLAIR 185 MOBILE AIR COMPRESSOR				
	E255	2018 - WACKER PLATE COMPACTOR	2018	20	1	
MOTORPOOL	E256	SHOP AIR COMPRESSOR				
	E258	TS-510 STIHL CUT-OFF SAW				
EQ OPS	E259	2020 KM INTERNATIONAL ASPHALT RECYCLER	2020	20	2	
EQ OPS	E260	2002 OJK125 MELETER - CRACK SEALER	2002	20	3	
WTR DIST	E261	2020 DUSTLESS BLASTER - DB500	2020	20	1	
EQ OPS	E267	HOLMS PV 4.0 SNOW PLOW	2022	20	1	
EQ OPS	E269	2012 VAPOR STEAM GENERATOR - E176	2012	20	3	
EQ OPS	E270	TEX STEAM STEAMER - E160				
EQ OPS	E271	LAURE D50 SNOW BLOWER	2011	15	3	



Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
WTP	E272	HONDA TRACK SNOW BLOWER				
EQ OPS	E273	STIHL 101 PRUNING SAW				
EQ OPS	E274	2018 DIAMOND - BRUSH CUTTER FOR LOADER	2018	15	2	
EQ OPS	E274A	YANMAR POWER UNIT FOR BRUSH CUTTER ATTACH.				
EQ OPS	E274B	50" DIAMOND FLAIL MOWER HEAD				
EQ OPS	E274C	DIAMOND ROTARY HEAD				
EQ OPS	E275	FAIRE SNOW BLOWER (8')				
STP	E279	PORTABLE POWER JETTER - SEWER	2007	15		
	E285	CEMENT MIXER				
EQ OPS	E287	2017 HUSQVARNA CHAINSAW 562XP 24"	2017	10	1	
EQ OPS	E289	TS 700 14 CUTQUICK CHOP SAW				
<b>Pumps</b>						
WTP	E202	1997 GORMAN RUPP WATER MAIN BOOSTER PUMP	1997	20		
	E203	1996 3" DIAPHRAGM PUMP	1996	20		
	E208	4 " DIESEL PUMP	1981	20		
EQ OPS	E209	HONDA 3" TRASH PUMP WT30X	2013	10	1	
EQ OPS	E264	2" HONDA TRASH PUMP	2018	10	1	
	E265	FLYGT READY 4 ELEC. DEWATER PUMP	2006	15		
STP	E279	PORTABLE POWER JETTER - SEWER	1997	15		
PORT MAINT.	E282	2001 VIKING WAST OIL TRANSFER PUMP	2001	20		
		<b>Generators</b>				
EQ OPS	E206	2008 HONDA EU2000i PORTABLE GENERATOR	2008	15	1	
STP	E230	PERKINS MOBILE GENERATOR - 80KW	1998	20	3	
	E230-A	TRAILER - PERKINS MOBILE GEN SET	1998	20	3	

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
STP	E231	1990 ONAN MOBILE GENERATOR - 80 KW	1990	20	3	
	E232	YANMAR 2700 WATT PORTABLE GENERATOR	1999	15	2	
	E233	YANMAR 5500 WATT PORTABLE GENERATOR	1999	15	2	
PORT MAINT.	E235	1999 HONDA PORTABLE GENERATOR-3.5kw	1999	15	2	
PORT MAINT.	E236	1999 HONDA PORTABLE GENERATOR-3.5kw	1999	15	2	
	E241	2005 MILLER WELDER - BOBCAT 250	2005	15	3	
PORT MAINT.	E246	1999 HONDA PORTABLE GEN SET	1999	15	2	
PORT MAINT.	E252	PORTABLE HONDA GENERATOR	2005	15	2	
PORT MAINT.	E281	MILLER WELDER/GENERATOR LOCATED IN PORT VAN E422	2008	15	1	
Trailers						
PORT MAINT.	E240	T1-1996 FLATBED TRAILER	1999	20		
PARKS	E243	EQUIPMENT TRAILER - LG TILT TOP	1974	20		
PARKS	E245	PARKS UTILITY TRAILER #1	2011	20	1	
EQ OPS	E247	TRENCH BOX TRAILER	1991	20		
MOTOR POOL	E248	LIGHT VEHICLE RETRIEVAL TRAILER - DOLLY	1997	15		
EQ OPS	E276	2021 TRAFFIC CONTROL TRAILER	2021	20	1	
EQ OPS	E284	2003 TRAILMAX HEAVY EQUIPMENT TRAILER	2003	15		
MOTOR POOL	E286	2016 UTILITY_CAR HAULER TRAILER	2016	15	2	
	E288	WTP Boat Trailer				
PARKS	E210	PARKS UTILITY TRAILER #2				
MOTOR POOL	E211	Message Trailer				
MOTOR POOL	E212	Message Trailer				
MOTOR POOL	E213	Message Trailer				
MOTOR POOL	E214	Message Trailer				

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
<b>Sanders</b>						
EQ OPS	E257	MEYER LPV SPREADER/SANDER 4' STAINLESS	2017	10	3	
PORT MAINT.	E266	8' STAINLESS STEEL SPREADER P/U SANDER	2019	10	3	
PORT MAINT.	E266-A	HONDA GAS ENGINE FOR E266 SANDER				
EQ OPS	E268	2017 SWENSON SS SANDER - 1.5 CY - E135	2017	10	4	
	E268-A	HONDA GAS ENGINE FOR E268 SANDER				
EQ OPS	E277	HENDERSON 1.5 CY - 7' SS APT SANDER	2002	12	5	
	E277-A	11 HP HONDA GAS ENGINE FOR E277 SM SANDER				
EQ OPS	E278	10 CY HENDERSON SANDER - 2002	2002	15	3	
	E278-A	18 HP HONDAY GAS ENGINE FOR E278 LG SANDER				
EQ OPS	E280	2013 - 10 CY SWENSON SS AUGER SPREADER/SANDER	2013	15	3	
EQ OPS	E283	2017 SWENSON SS SANDER - 1.5 CY - E136	2017	15	4	
	E283-A	13 HP HONDA GAS ENGINE FOR E283 SANDER				
<b>Plows - Pick Up</b>						
BUILDING MAINT	E290	9.5' WESTERN V-PLOW (2019)	2019	10	3	
PORT MAINT.	E291	8000HD BLIZZARD STRAIGHT BLADE PLOW (2009)	2009	10	3	
EQ OPS	E292	9' WESTERN V-PLOW (2016)	2016	10	4	
PORT MAINT.	E293	MEYERS SV3 9.5	2020	10	3	
PORT MAINT.	E294	8' BLIZZARD PLOW w/ HYD WINGS (2010)	2010	10	3	
EQ OPS	E295	9' WESTERN V-PLOW (2013)	2013	10	4	
PORT MAINT.	E296	MEYERS SV 2 - 8.5' PLOW (2012)	2012	10	3	
		<b>City Hall Vehicles</b>				
CITY HALL	E308	2006 FORD FREESTYLE AWD BLUE	2006	20	2	

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
		<b>Port/Harbor Vehicles</b>				
PORT OPS	E400	2010 FORD F-150 NEW TO CREW 2014	2010	15	2	
PORT OPS	E401	2003 FORD F-250 4X4 Plow Truck Ice Plant	2003	15	3	
PORT OPS	E403	2009 CHEV COLORADO	2009	15	3	
	E404	2011 FORD ESCAPE HYBRID	2011	15	1	
PORT OPS	E405	2005 FORD F-150 2WD	2022	15	2	
PORT MAINT	E406	2022 FORD XL F-250 4X4 Plow Truck Maintenance	2022	15	1	
PORT OPS	E409	2016 F-SERIES SD F350 4X4 Sander	2016	15	3	
PORTS OPS	E410	P/H MV11-1995 GROVE MANLIFT	1995	20	3	
	E411	2011 VERSA HANDLER	2011	15	2	
PORT OPS	E412	T2-1995 FISH CARCASS DUMP TRAILER	1995	15	3	
PORT OPS	E413	T3-1997 PORTABLE FIRE PUMP TRAILER	1997	20	2	
PORT OPS	E414	20' PORT OPERATIONS SKIFF W/90 HP HONDA	1999	20	3	
PORT OPS	E415	2000 FISH CARCASS TRAILER	2000		3	
PORT OPS	E416	2004 FISH CARCASS TRAILER	2004	15	3	
PORT MAINT	E417	TRAILER FOR FIRE CARTS	2005	20	2	
PORT OPS	E418	2009 SWEEPSTER	2009	15	2	
PORT MAINT	E419	2006 KOMATSU WA100M-5 LOADER	2006	20	3	
PORT MAINT	E420	2011 MB SWEEPER	2011	15	3	
PORT MAINT	E421	2012 CHEVROLET SILVERADO 1500 1/2 TON	2012	15	2	
PORT MAINT	E422	2008 GENIE Z-45/25 ARTICULATING BOOM LIFT	2008	20	3	
PORT MAINT	E424	2001 F550 USED OIL VAC TRUCK	2001	20	3	
PORT MAINT	E426	2008 FORD F-350 4X4 Plow Truck	2008	15	3	
PORT MAINT	E427	1993 CHEV STEP-SIDE VAN	1993	20	3	
PORT MAINT	E428	2010 F-350 4X4 Plow Truck	2010	15	3	

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
PORT OPS	E429	2013 F-150 PICKUP	2013	15	2	
PORT MAINT	E430	2002, 25' Peregrine Harbor Tug W/Twin 150 HP Cummins 4B Series Engines	2002	20	3	
PORT MAINT	E431	2013 MB SWEEPER YUKON	2013	15	2	
Police Department Vehicles						
POLICE	E500	BLUE BIRD HOVER MOWER	2020	15	1	
POLICE	E501	2017 FORD EXPLORER INTERCEPTOR	2017	8	1	
POLICE	E502	2017 FORD EXPLORER INTERCEPTOR	2017	8	1	
POLICE CHIEF	E504	2018 FORD EXPLORER AWD 4DR K8AT	2018	8	1	
POLICE	E505	2015 FORD EXPLORER	2015	8	2	
POLICE	E506	2015 FORD EXPLORER (UNMARKED)	2015	8	2	
POLICE	E507	2020 FORD EXPEDITION XL	2020	8	1	
POLICE	E508	2020 FORD EXPEDITION XL	2020	8	1	
POLICE	E511	2019 CHEVY TAHOE	2019	8	1	
POLICE	E512	2019 CHEVY TAHOE	2019	8	1	
POLICE	E516	2003 FORD EXCURSION	2003	8	4	To be replaced
POLICE	E518	2007 FORD EXPEDITION	2007	8	3	To be replaced
POLICE	E519	2013 FORD EXPEDITION	2013	8	3	
POLICE	E520	MOBILE RADAR UNIT - "SMART CART"				
POLICE	E521	2015 POLARIS RZR 570	2015	12	1	Project Drive
POLICE	E521A	FOREST RIVER CARGO MATE, RZR TRAILER				Project Drive
POLICE	E523	2008 CHEV VAN (JAIL VAN)	2008	8	3	Transferred to public works, replaced by new van
POLICE	E527	2014 FORD EXPLORER	2014	8	3	
Fire Department Vehicles						
FIRE	E602	KACHEMAK CITY BUILDING AIR COMPRESSOR	2014			
FIRE	E603	INGERSOLL RAND MODEL 2340 AIR COMPRESSOR				
FIRE	E604	QUINCY AIR COMPRESSOR	1980			

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
FIRE	E605	2020 BAUER COMPRESSOR	2020			
FIRE	E612	2008 - ENGINE 2 - KME CUSTOM PUMPER	2008	15	3	15 yr front line, 5 yr reserve life.
FIRE	E613	2008 - BRUSH 2 - POLARIS RANGER 700	2008	15	2	Could be surplussed if we acquire new off-road vehicle inFY24/25
FIRE	E613A	2008 - BRUSH 2 - TRAILER POLARIS RANGER 700	2008	20	1	
FIRE	E614	1983 - ENGINE 4 - SPARTAN	1983	15	5	15 yr front line, 5 yr reserve life.
FIRE	E615	2013 - COMMAND-2 - FORD EXPEDITION	2013	15	1	ACTUALLY COMMAND 3
FIRE	E621	1997 - MEDIC 1 - FORD 4X4 F350	1997	12	4	6 yr front line, 12 yr reserve life. REPLACEMENT ON ORDER
FIRE	E622	2002 - MEDIC 2 - FORD F350	2002	12	3	6 yr front line, 12 yr reserve life.
FIRE	E623	2016 - MEDIC 3 - FORD F3HZ	2016	6	1	6 yr front line, 12 yr reserve life.
FIRE	E631	1990 - BRUSH 1 - FORD	1990	12	5	12 yr front line, 3 yr reserve life. SURPLUSED
CHIEF	E632	2020 - COMMAND 1 - CHEVEROLET TAHOE	2020	15	1	
FIRE	E633	2003 - UTILITY 1 - FORD F-350, CREW CAB	2003	15	2	
FIRE	E634	2001 - UTILITY 3 - F-550 FORD	2001	12	2	12 yr front line, 3 yr reserve life. SQUAD 3
OLD CHIEF	E635	2006 - UTILITY 2 - FORD EXPEDITION	2006	15	2	COMMAND 3 - Driven by Kahles
FIRE	E636A	2002 TRAILER POLARIS SPORTSMAN 6X6	2002	20	1	
FIRE	E637	2017 (ARGO) FRONTIER 8 X 8	2017	15	2	
FIRE	E637-A	2017 BIG TEX UTILITY TRAILER	2017	15	1	
FIRE	E641	1987 - TANKER 1 - HURI	1987	15	5	15 yr front line, 5 yr reserve life.
FIRE	E642	1989 - TANKER 2 - E-ONE	1989	15	5	15 yr front line, 5 yr reserve life.
FIRE	E651	1999 - RESCUE 1 TRUCK - FREIGHT LINER	1999	15	4	15 yr front line, 5 yr reserve life.

Department	Asset ID	Asset Description	Manufacture Date	Expected Life	Risk Rating	Notes
FIRE	E652	2009 ACHILLES INFLATABLE BOAT	2009	15	2	
Parks						
PARKS	E700	2017 - JOHN DEERE LAWN TRACTOR - NEW	2017	8	2	
PARKS	E701	2019 HUSQVARNA Z254 23HP KAW 54" FAB	2019	8	3	
PARKS	E702	1998 HONDA WATER PUMP	1998			
PARKS	E703	HONDA WEED TRIMMER	2001			
PARKS	E704	STIHL WEED TRIMMER - LARGE	2000			
PARKS	E705	STIHL LAWN/SIDEWALK EDGER	2000			
PARKS	E706	2019 HUSQVARNA Z254 26HP KOH 54" ZERO MOWER	2019	8	3	
PARKS	E707	2019 HONDA PUSH MOWER	2019	8	2	
PARKS	E708	1999 LANDA COLD WATER PRESSURE WASHER	1999			
PARKS	E709	DR. FIELD & BRUSH MOWER	1996	8		
PARKS	E710	2019 HUSQVARNA 48" RIDING MOWER	2019	8	3	
PARKS	E711	STIHL MM56C WEEDER/TRIMMER				
PARKS	E712	2006 HONDA 4-WHEELER	2006	15		
PARKS	E713	MS261C STIHL CHAINSAW	2015			
PARKS	E714	2019 HUSQVARNA HANDHELD BLOWER	2019			
PARKS	E715	HONDA TRIMMER	2019			
PARKS	E716	HONDA TRIMMER	2019			
PARKS	E717	BEN FIELD AND BRUSH MOWER	2020			
PARKS	E718	2019 NHU 580BTS BACKPACK BLOWER	2019			
PARKS	E719	2020 YAMAHA WOLVERINE X2	2020	15	1	
PARKS	E719-A	WOLVERINE X2 TRAILER				
PARKS	E720	HONDA LAWNMOWER	2020			
KS	E721	HONDA MOWER	2020	8	2	





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

3 City Manager/Port Director

4 **ORDINANCE 23-39**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING HOMER CITY CODE CHAPTERS 2.40 DEPARTMENT OF  
8 PORT AND HARBOR, 2.64 PORT AND HARBOR ADVISORY  
9 COMMISSION, AND 10.04 GENERAL PORT AND HARBOR  
10 PROVISIONS.

11  
12 WHEREAS, Historically the job of Homer Port Director and Harbormaster have been  
13 held by the same individual who has covered both the top administrative and top operational  
14 needs of the Homer Port and Harbor facilities; and

15  
16 WHEREAS, Growth within the harbor, large scope projects, and additional executive  
17 level management needs have effectively made it unfeasible for the Port  
18 Director/Harbormaster to help in the field or cover operations; and

19  
20 WHEREAS, In the new budget starting July 1 2023, there will be an approved  
21 restructuring and the addition of staff to absorb increased workloads, maintain our ability to  
22 provide excellent levels of service, and allow for focus on the harbor's and community's long  
23 term goals; and

24  
25 WHEREAS, Part of this restructuring includes separating the Port Director and  
26 Harbormaster into two separate positions which requires the editing of City Code to reflect the  
27 changes; and

28  
29 WHEREAS, Commission absences needs updating to be consistent with HCC 2.58.050  
30 (h)(5) Required Procedures and the Commission's bylaws.

31  
32 NOW, THEREFORE, The City of Homer Ordains:

33  
34 Section 1. Homer City Code 2.40 Department of Port and Harbor, General Port is hereby  
35 amended as follows:

36  
37 Chapter 2.40 DEPARTMENT OF PORT AND HARBOR

38  
39 Sections:

40 2.40.010 Department of Port and Harbor.

41  
42 2.40.010 Department of Port and Harbor.

[**Underlined added.** Deleted language stricken through]

43 The Department of Port and Harbor is created which shall be headed by the Port ~~and Harbor~~  
44 **Director** who shall be appointed by the City Manager for an indefinite term and shall be  
45 removable by the City Manager. The Director will have supervision of and be responsible for  
46 the operation of all port and harbor facilities including but not limited to docks, the small boat  
47 harbor, spit land, warehouse, port terminal, grids, ice plant and fueling facilities in accordance  
48 to operating rules and regulations enacted by the City Council and administrative direction of  
49 the City Manager. The Department may be subdivided into divisions with their own supervisors  
50 as deemed necessary.

51

52 Section 2. Homer City Code 2.64 Port and Harbor Advisory Commission is hereby  
53 amended as follows:

54

55

Chapter 2.64  
PORT AND HARBOR ADVISORY COMMISSION

56

57 Sections:

- |    |          |  |
|----|----------|--|
| 58 | 2.64.010 | Commission – Creation and membership.          |
| 59 | 2.64.020 | Commission – Terms of members.                 |
| 60 | 2.64.030 | Proceedings of the Commission.                 |
| 61 | 2.64.040 | Duties and responsibilities of the Commission. |
| 62 |          |  |

63

64 Prior legislation: Ord. 73-1.

65

66 2.64.010 Commission – Creation and membership.

67

68 a. There is created the City of Homer Port and Harbor Advisory Commission, referred to in this  
69 chapter as the Commission. Such Commission will be made up of seven members, who shall  
70 be nominated by the Mayor and confirmed by the City Council. Not more than two member(s)  
71 may be from outside the City limits.

72

73 b. A Chairman and Vice-Chairman of the Commission shall be selected annually and shall be  
74 appointed from and by the appointive members.

75

76 c. The Mayor, the City Manager, the Port ~~Manager~~ **Director** and the Harbormaster shall serve as  
77 consulting members of the Commission in addition to the seven appointive members, and may  
78 attend all meetings as consultants, but shall have no vote.

79

80 2.64.020 Commission – Terms of members.

81

82 a. Members of the first Commission shall be appointed for the following terms:

83

84 1. Three members shall be appointed for three-year terms;

85

86 2. Two members shall be appointed for two-year terms;

87

88 3. Two members shall be appointed for one-year terms.

89

90 b. At the end of the respective terms set forth in subsection (a) of this section, members shall  
91 be appointed for full three-year terms.

92

93 ~~c. Any Commissioner who shall have two successive unexcused absences shall be subject to~~  
94 ~~removal by the Commission by a majority vote of the members present.~~ **An appointment is**  
95 **vacated if a member has three consecutive unexcused absences, or misses half of all**  
96 **meetings within an appointment year, whether excused or unexcused.**

97

98 2.64.030 Proceedings of the Commission.

99

100 The Commission shall meet regularly once a month, and at the call of the Chairman.  
101 Permanent records or minutes shall be kept of Commission proceedings and such minutes  
102 shall record the vote of each member upon every question. Every decision or finding shall  
103 immediately be filed in the office of the City Clerk, and shall be a public record open to  
104 inspection by any person. Every decision or finding shall be directed to the City Council at the  
105 earliest possible date.

106

107 2.64.040 Duties and responsibilities of the Commission.

108

109 a. It shall be the duty of the Commission to act in an advisory capacity to the City Manager and  
110 the City Council on the problems and development of the City port and harbor facilities.  
111 Consideration may include the physical facilities, possible future development and  
112 recommendations on land use within the port and harbor areas.

113

114 b. The daily operation and maintenance of the port and harbor are the direct responsibility of  
115 the Port Manager **Director** and the Harbormaster, under the direction of the City Manager. Any  
116 recommendation the Commission or a Commission member may have regarding the  
117 operation and maintenance of the facilities is to be directed to the City Manager, not a port or  
118 harbor employee. The City Manager will study the recommendation and refer it to the Council,  
119 or the recommendations of the Commission concerning policy issues shall be sent directly to  
120 the Council upon the request of the Commission.

121

122 c. The Commission shall consider any specific proposal, problem or project as directed by the  
123 City Council and any report or recommendations thereon shall be made directly to the Council,  
124 unless otherwise directed by the Council.

125  
126 d. The City Council may at a future date expand or withdraw duties and responsibilities of the  
127 Commission.  
128

129 Section 3. Homer City Code 10.04 Port and General Port and Harbor Provisions is hereby  
130 amended as follows:

131  
132 Chapter 10.04  
133 GENERAL PORT AND HARBOR PROVISIONS 1  
134

135 Sections:

- 136  
137 10.04.010 Short title.  
138 10.04.020 Scope – Administrative powers.  
139 10.04.030 Definitions.  
140 10.04.035 Homer port and harbor tariff.  
141 10.04.040 ~~Harbormaster~~ **Port Director** – Powers and duties.  
142 10.04.050 Rule and regulation establishment authority.  
143 10.04.055 Fees.  
144 10.04.060 Revenues – Use of.  
145 10.04.080 City docks – Other closure.  
146 10.04.085 Use of load and launch ramp.  
147 10.04.090 Underway requirement.  
148 10.04.100 Vehicles and other wheeled conveyances.  
149 10.04.105 Use of port and harbor dumpsters.  
150 10.04.110 Violation – Penalty.  
151 10.04.115 Appeal from port and harbor citation issued pursuant to HCC Titles 7 and 10.  
152 10.04.120 Impounded vessel procedure.  
153 10.04.130 Nuisances declared – Removal.  
154 10.04.132 Nuisances – Abatement procedure.  
155 10.04.134 Nuisances – Post-removal hearing.  
156 10.04.135 Nuisances – Form of demand for hearing – Hearing officer.  
157 10.04.138 Interference with impoundment prohibited.  
158 10.04.139 Lien on impounded or nuisance vessel.  
159 10.04.140 Annual review required.  
160 10.04.150 Required equipment.

161  
162 Prior legislation: Ords. 88-11, 89-6, 90-7, 90-8(A), 90-16, 90-17(A), 91-25, 92-23(A), 92-45, 92-46,  
163 95-3, 95-4 and 95-9.

164  
165 10.04.010 Short title.

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

166  
167 This title shall constitute the Port and Harbor Code of the City and may be cited as such.

168  
169 10.04.020 Scope – Administrative powers.

170 This title and the Homer port and harbor tariff shall be deemed an exercise of the powers of  
171 the City for the protection, safeguarding, and orderly moorage and control of boats, and for  
172 the protection and general welfare of the public and all of its provisions shall be liberally  
173 construed for the accomplishment of the purpose. The City, through its properly appointed  
174 representatives, shall have the authority to board any vessel utilizing the harbor or port  
175 facilities for the purpose of enforcing this title and the Homer port and harbor tariff.

176  
177 10.04.030 Definitions.

178  
179 Unless otherwise provided in this title or required by the context, definitions set forth in the  
180 Homer port and harbor tariff shall apply to this title.

181  
182 10.04.035 Homer port and harbor tariff.

183  
184 The rates, charges, rules and regulations for wharfage, terminal storage, demurrage and other  
185 terminal services and privileges are set forth in the Homer port and harbor tariff and as filed  
186 with the Federal Maritime Commission. Subject to the requirements of HCC 10.04.055, the  
187 Homer port and harbor tariff may be amended from time to time by resolution of the City  
188 Council.

189  
190 10.04.040 ~~Harbormaster~~ **Port Director**– Powers and duties.

191  
192 A ~~Harbormaster~~ **Port Director**, who shall have police powers, shall be appointed in the same  
193 manner as other City employees. The ~~Harbormaster~~ **Port Director, or their designee**, shall be  
194 assigned to enforce the provisions of this title and the Homer port and harbor tariff, maintain  
195 an accurate log of the registration data of all boats using Homer harbor facilities, showing the  
196 date of occupancy of berthing facilities, issue citations and impound vehicles, vessels, gear or  
197 equipment for violations of this title, and collect or arrange for the collection of the established  
198 fees. The ~~Harbormaster~~ **Port Director, or their designee**, is granted the power and authority  
199 from time to time, as circumstances require, but without any obligation to do so, and without  
200 any obligation or liability on his part, or that of the City for his failure to do so, to replace  
201 defective mooring lines, to pump vessels which are in a dangerous condition for lack thereof,  
202 and to move any boat for the purpose of protecting such boat from fire or from other hazard  
203 or for the protection of other vessels or property therefrom. Whenever the ~~Harbormaster~~ **Port**  
204 **Director, or their designee**, shall perform or cause to be performed any of the actions  
205 authorized in this title or other emergency actions, after having given notice of the immediate  
206 need therefor, or having attempted to give such notice within the time limits prescribed by the

207 exigencies of the situation, a fee as prescribed in the Homer port and harbor tariff shall be  
208 assessed the vessel owner or operator.

209  
210 10.04.050 Rule and regulation establishment authority.

211  
212 The City Manager is empowered and authorized to establish additional rules and regulations  
213 governing the use of the Homer harbor, assignment of stalls, and the general conduct in,  
214 around and on harbor facilities and parking areas. Such rules and regulations shall become  
215 effective upon approval by the City Council. The Council may provide for a different effective  
216 date. The City Manager shall print and make available to the public copies of regulations  
217 adopted pursuant to this section.

218  
219 10.04.055 Fees.

220  
221 a. Fees for the approved use of Homer harbor facilities and services as set forth in the Homer  
222 port and harbor tariff may be changed by City Council resolution; provided, that a public  
223 hearing is held prior to approval of the resolution; and provided further, that any such change  
224 is effective only after the change is filed with the Federal Maritime Commission as an  
225 amendment to the Homer port and harbor tariff.

226  
227 b. The ~~Harbormaster~~ **Port Director, or their designee**, may negotiate special fees and charges  
228 with a vessel owner or operator where the owner or operator requires an exceptional volume  
229 of, or unique or unusual, services or facilities, and it is in the best interest of the City to enter  
230 into special arrangements. In such event, the ~~Harbormaster~~ **Port Director** shall inform the City  
231 Manager of such special, negotiated arrangements.

232  
233 10.04.060 Revenues – Use of.

234  
235 All revenues from the Homer harbor shall be expended for the maintenance, operation and  
236 improvement of the Homer harbor in accordance with generally accepted accounting  
237 principles. Revenues from the Homer boat harbor shall be expended solely for the furtherance  
238 of financial stability and self-sufficiency of the Homer harbor.

239  
240 10.04.080 City docks – Other closure.

241  
242 The City, through its City Manager or other duly constituted agent, may prohibit the use of any  
243 wharves and docking facilities owned or controlled by the City at any time when closing the  
244 facilities is required to protect and preserve the public welfare and safety.

245  
246 10.04.085 Use of load and launch ramp.

247

248 a. Terms and conditions for use of the small boat harbor load and launch ramp are provided in  
249 the Homer port and harbor tariff as amended from time to time.

250  
251 b. No person who is obligated to pay a fee for using the small boat harbor load and launch  
252 ramp may use the small boat harbor load and launch ramp without first paying the fee  
253 prescribed for its use.

254  
255 c. A person who is obligated to pay a fee for using the small boat harbor load and launch ramp  
256 must make the ticket verifying payment available upon request, or display the seasonal permit  
257 on the port side of the permit holder's vessel.

258  
259 10.04.090 Underway requirement.

260  
261 On at least two days in each calendar year, separated by at least 60 days, a vessel moored in  
262 the Homer harbor shall depart under its own power from the Homer harbor and travel beyond  
263 the one-quarter-mile turning basin of the Pioneer and Deep Water Docks before returning  
264 under the vessel's own power to the Homer harbor. The moorage charge for a vessel that fails  
265 to comply with this requirement shall be increased by 50 percent commencing at the time the  
266 vessel fails to comply and continuing during the period of noncompliance.

267  
268 10.04.100 Vehicles and other wheeled conveyances.

269  
270 a. No person other than an employee of the City or other person acting on City business shall  
271 drive a vehicle upon trails in the harbor area that are designated for pedestrian or bicycle use  
272 except in case of emergency. Parking or leaving boats, trailers and/or other vehicles and  
273 equipment related thereto by the public shall be limited to specific areas designated for such  
274 use.

275  
276 b. Hauling out boats on skids is prohibited unless approved in advance by the ~~Harbormaster.~~  
277 **Port Director, or their designee.**

278  
279 10.04.105 Use of port and harbor dumpsters.

280  
281 a. Dumpsters provided at port and harbor facilities are for port and harbor related use only.  
282 b. The dumping of non-port-and-harbor-related waste, such as household waste or  
283 construction waste, in port and harbor dumpsters is prohibited.

284  
285 10.04.110 Violation – Penalty.

286

287 Except as provided in HCC 1.16.040 and 7.04.030, any violation of the provisions contained in  
288 this title or regulations adopted pursuant to this title shall be unlawful and punishable as  
289 provided in HCC 1.16.010.

290

291 10.04.115 Appeal from port and harbor citation issued pursuant to HCC Titles 7 and 10.

292

293 a. A person who has been issued a citation for a violation of HCC Title 7 or 10 by the City of  
294 Homer ~~Harbormaster~~ **Port Director**, or their designee, may appeal that action to the hearing  
295 officer designated by the City Manager by completing an administrative hearing request form  
296 and delivering the form to the Homer City Clerk's office no later than 30 days after the issuance  
297 of the citation.

298

299 b. The hearing officer shall schedule an appeal hearing for the next available hearing date after  
300 the date of delivery of the administrative hearing request form to the City Clerk's office.

301

302 c. The appeal hearing shall be conducted informally and may be governed by such rules and  
303 procedures as the hearing officer may establish, except that:

304

- 305 1. Each party has the right to be represented by counsel.
- 306 2. Each party may present witnesses and evidence.
- 307 3. Each party and witnesses may appear in person or by telephone.
- 308 4. Each party may confront and question witnesses.
- 309 5. The individual receiving the citation may testify in their own defense.
- 310 6. Each party may subpoena witnesses.
- 311 7. The hearing shall be open to the public.
- 312 8. An electronic recording shall be made of the hearing.

313

314 d. The hearing officer may exercise independent judgment as to the weight of evidence  
315 supporting or refuting the notice of violation or impoundment, and may exercise independent  
316 judgment on legal issues raised by the parties.

317

318 e. No later than 30 days following the hearing the hearing officer shall issue a written decision  
319 including findings of fact and conclusions of law. Such findings must be reasonably specific so  
320 as to provide interested persons and, where appropriate, reviewing authorities, a clear and  
321 precise understanding of the reasons for the decision entered. The decision, findings of fact,  
322 and conclusions of law shall be forwarded to all parties to the appeal. A final appealable  
323 decision must indicate that it is a final order and that a party disputing the decision has 30 days  
324 to appeal.

325



326 f. A final decision issued under subsection (e) of this section may be appealed to the Superior  
327 Court within 30 days after the date the decision was issued. For the purposes of this section the  
328 date of issuance is the date upon which the decision was mailed or delivered to the parties.

329

330 10.04.120 Impounded vessel procedure.

331

332 a. At least 10 days prior to impounding any vessel, the City shall cause to be posted on the  
333 vessel, in the Harbormaster's office, the City Clerk's office and on the bulletin board at the  
334 entrance of the United States Post Office notice of such action to be taken by the City. A copy  
335 of the notice shall be mailed by certified mail, return receipt requested, to the owner or  
336 operator of the vessel at his last known address, which address shall be the same as that  
337 furnished in accordance with the regulations of this tariff. The notice shall contain the name  
338 and/or number of the vessel, the name and address, if known, of the owner or operator and  
339 the location of the vessel.

340

341 b. As to any vessel proposed for impoundment, an owner or operator of the vessel has the right  
342 to a pre-impoundment administrative hearing to determine whether there is probable cause  
343 to impound the vessel if such person files a written demand, on forms so provided for such a  
344 hearing, with the City within 10 days after such person has learned such vessel will be  
345 impounded or within 10 days after the return of mail receipt of the notice required by  
346 subsection (a) of this section, whichever occurs first.

347

348 c. A hearing shall be conducted before a hearing officer designated by the City Manager within  
349 48 hours of receipt of written demand therefor from the person seeking the hearing unless the  
350 person waives the right to a speedy hearing. Saturdays, Sundays and City holidays are to be  
351 excluded from the calculation of the 48-hour period. The hearing officer shall be someone  
352 other than the persons who will direct the impounding and storage of the vessel. The sole issue  
353 before the hearing officer shall be whether there is probable cause to impound the vessel in  
354 question. "Probable cause to impound" shall mean such a state of facts as would lead a person  
355 of ordinary care and prudence to believe that there was a breach of Federal, local or municipal  
356 law or regulations, or any agreement entered into pursuant thereto, rendering the vessel  
357 subject to impoundment. The hearing officer shall conduct the hearing in an informal manner  
358 and shall not be bound by technical rules of evidence. The person demanding the hearing shall  
359 carry the burden of establishing that such person has the right to possession of the vessel. The  
360 ~~Harbormaster~~ **Port Director, or their designee**, shall carry the burden of establishing that  
361 there is probable cause to impound the vessel in question. At the conclusion of the hearing,  
362 the hearing officer shall prepare a written decision. A copy of such decision and reasons  
363 therefor shall be provided to the person demanding the hearing and the owner of the vessel if  
364 such owner is not the person requesting the hearing. The hearing officer's decision in no way  
365 affects any criminal proceeding connection with the impound in question and any criminal  
366 charges involved in such proceeding may only be challenged in the appropriate court. The

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

367 decision of the hearing officer is final and may only be appealed to the Superior Court. Failure  
368 of the owner or operator to request or attend a scheduled pre-impoundment hearing shall be  
369 deemed a waiver of the right of such hearing.

370  
371 d. The hearing officer shall only determine that as to the vessel in question either that there is  
372 probable cause to impound the vessel or that there is no such probable cause. In the event that  
373 the hearing officer determines that there is no probable cause, the hearing officer shall prepare  
374 and date a certificate of no probable cause, copies of which shall be given to the owner or  
375 operator and to the ~~Harbormaster~~ **Port Director, or their designee**. Upon receipt of such  
376 certificate of probable cause, the ~~Harbormaster~~ **Port Director, or their designee**, may  
377 proceed with impoundment and disposition of the vessel by removal, sale or destruction as  
378 authorized by this title.

379  
380 e. Any vessel impounded shall be held by the City for a period of not less than 30 days during  
381 which the City shall publish in a newspaper of general circulation in the City a notice describing  
382 the vessel in general terms, the name and/or number, if any, the name and address of the  
383 owner, or operator, if known, or if not known shall so state the location of the vessel and the  
384 intention of the City to sell the same at public auction, on a day and at a place and time certain,  
385 not less than 10 days prior to the sale, for cash to the highest and best bidder. At any time prior  
386 to the auction, the owner or operator may redeem the vessel by cash payment of all City  
387 charges against the vessel.

388  
389 f. The minimum acceptable bid shall be a sum equal to the City's charges against the vessel.  
390 The proceeds of the sale shall be first applied to the cost of sale, then to accrued stall license  
391 fees and charges, service fees, storage charges, attorney fees and costs, and other expenses  
392 provided for in this title, and the balance, if any, shall be held in trust by the City for the owner  
393 of the vessel to claim; and if not claimed within one year, the balance shall be deposited into  
394 the small boat harbor facilities fund. Upon the sale being made, the City shall make and deliver  
395 its bill of sale, without warranty, conveying the vessel to the buyer.

396  
397 g. If at the public sale there are no bidders for the vessel, the City may destroy, sell at private  
398 sale or otherwise dispose of the vessel. The disposition is to be made without liability of the  
399 City, its employees or agents to the owner, master or any lien holder of the vessel.

400  
401 10.04.130 Nuisances declared – Removal.

402  
403 a. For the purposes of this title and in the interest of the greatest use of the facilities of the  
404 Homer harbor and the municipal waters by the general public, vessels in the Homer harbor  
405 and elsewhere on the municipal waters that are illegally moored, cause an obstruction to  
406 navigation, or that are abandoned or derelicts or unfit or unseaworthy or which are maintained  
407 in such manner as to make them liable to sinking for lack of being pumped or other

408 maintenance, or which are unsafe or which are maintained in a manner as to constitute a fire  
409 hazard, and sunken vessels and vessels in imminent danger of sinking, are declared to be  
410 nuisances and subject to abatement and removal from the Homer harbor or other municipal  
411 waters by the City or its agents, without liability of the City for any damage done by virtue of  
412 the removal or for any of its consequences.

413  
414 b. Refuse of all kinds or any other obstructions or debris are declared to be public nuisances,  
415 and it shall be unlawful for any person to place, or cause to be placed, any public nuisance in  
416 the Homer harbor or in the municipal waters, or on the shores thereof. Nets, gear, and other  
417 material left on any float or dock for more than 12 hours are hereby declared a public nuisance.  
418 Any person causing or permitting the nuisances to be placed as aforesaid shall remove the  
419 same and upon his failure to do so, the same may be removed or caused to be removed by the  
420 ~~Harbormaster~~ **Port Director, or their designee**. When the ~~Harbormaster~~ **Port Director, or**  
421 **their designee**, has authorized such nuisances to be removed or stored commercially, all costs  
422 of such commercial removal or storage shall be paid by and recoverable from the person  
423 creating the nuisances and shall not excuse the person responsible therefor from prosecution  
424 hereunder. Any nuisance under this subsection may be impounded, disposed of by  
425 destruction, private or public sale, or by any other means deemed reasonable by the  
426 ~~Harbormaster~~ **Port Director**. Such disposition is to be made without liability of the City, its  
427 employees or agents to the owner, master or any lien holder of the nuisance.

428  
429 c. Upon the ~~Harbormaster's~~ **Port Director's** written determination that a nuisance described  
430 in subsection (a) of this section exists that constitutes a clear and present danger to the public  
431 health, safety or general welfare, the nuisance may be summarily abated by the ~~Harbormaster~~  
432 **Port Director** according to HCC 10.04.132 without prior notice.

433  
434 d. Vessels declared a nuisance under subsection (a) of this section that do not constitute a clear  
435 and present danger to the public health, safety and general welfare may be moved,  
436 impounded, or disposed of according to the procedure provided in HCC 10.04.120.

437  
438 10.04.132 Nuisances – Abatement procedure.

439  
440 a. Unless otherwise provided, the procedure set forth in this section shall apply whenever a  
441 vessel has been impounded or removed or a nuisance vessel abated pursuant to  
442 HCC 10.04.130(a) or otherwise, and the pre-impoundment administrative hearing procedures  
443 of HCC 10.04.120 were not followed.

444  
445 b. An impoundment is effective when a written order of impoundment is placed on a vessel. An  
446 order of impoundment shall identify the vessel, state the reasons for impoundment, and be  
447 dated and signed by the ~~Harbormaster~~ **Port Director**, or his ~~his~~ **their** authorized designee. An  
448 impounded vessel may be immediately towed or otherwise removed upon the order of the

449 ~~Harbormaster~~ **Port Director**. Nothing in this subsection shall be construed to prevent the City  
450 from using alternatives to impoundment, including without limitation removal or other means  
451 to abate a nuisance.

452  
453 c. When action is taken to impound, remove, or otherwise abate a nuisance vessel, notice of  
454 such action shall be placed on the vessel if possible, and within six hours a copy of the notice  
455 shall be personally delivered or placed in the U.S. mail addressed to the owner of the vessel.  
456 The notice shall include the following substantive provisions:

457  
458 ATTENTION: The vessel \_\_\_\_\_ has been impounded/removed/abated by the City of  
459 Homer ~~harbormaster~~ **Port Director** as a public nuisance for the following reasons:

460  
461 \_\_\_\_\_  
462 As the owner of the vessel you have the following options (those that apply are checked):  
463 \_\_\_\_ The vessel has been impounded and you may recover possession of the vessel by paying to  
464 the person having custody of the vessel the towing, storage, and other charges that may have  
465 accrued. The vessel is at the following location:

466  
467 \_\_\_\_ The vessel has been removed and you may recover possession of the vessel at the following  
468 location: \_\_\_\_\_

469 \_\_\_\_ The vessel has been destroyed. You may direct any inquiries to the City of Homer  
470 ~~harbormaster~~ **Port Director**.

471 \_\_\_\_ The following action has been taken, and any option you may have is described below:  
472 \_\_\_\_\_

473 If you believe the vessel was improperly impounded, removed, or otherwise abated, you may:

474  
475 (i) In the case of an impoundment, recover possession of the vessel by paying any towing, storage,  
476 or other charges that have accrued, and you may claim a refund or reimbursement by filing a  
477 demand (on a form provided by the city) for an administrative hearing before a hearing officer as to  
478 whether the ~~harbormaster~~ **Port Director** had a sufficient factual and legal basis to impound the  
479 vessel; or

480  
481 (ii) In the case of an impoundment, you may demand return of the vessel without paying the towing,  
482 storage, or other charges by filing a demand (on a form provided by the city) for an administrative  
483 hearing before a hearing officer as to whether the ~~harbormaster~~ **Port Director** had a sufficient  
484 factual and legal basis to impound the vessel; or

485  
486 (iii) You may in any other case file a demand (on a form provided by the city) for an administrative  
487 hearing before a hearing officer as to whether the ~~harbormaster~~ **Port Director** had a sufficient  
488 factual and legal basis to impound, remove, or abate the vessel.

489  
490 To be entitled to such a hearing, your written demand must be filed with the City Clerk (a) within 5  
491 workdays after you learned that your vessel was impounded, removed, or otherwise abated or (b)  
492 within 15 workdays after the City mailed notice to the vessel owner of the action taken, whichever

493 is earlier. If you fail to make a timely request for a hearing you will lose all right to challenge the  
494 sufficiency of the basis for the action taken.

495  
496 If timely requested, the hearing must be held within 48 hours after the filing of your written demand,  
497 not including, Saturdays, Sundays, and city holidays, unless you waive your right to a speedy  
498 hearing. A determination that there was an insufficient factual or legal basis for the action taken  
499 will require the release of the vessel to the owner without payment of the towing, storage, or other  
500 accrued charges, or it will entitle the owner to a refund or reimbursement if the charges were  
501 already paid.

502  
503 A hearing may be demanded by filing the appropriate form with the City Clerk at Homer City Hall  
504 between 8:00 a.m. and 5:00 p.m. on any day other than Saturday, Sunday and city holidays.

505  
506 10.04.134 Nuisances – Post-removal hearing.

507  
508 a. If demand is timely made, the owner or person entitled to possession of the vessel is entitled  
509 to an administrative hearing to determine whether there was a sufficient factual and legal  
510 basis for the action to impound, remove, or otherwise abate the vessel. To be entitled to such  
511 a hearing, a written demand must be filed with the City Clerk (1) within five workdays after the  
512 owner or other person entitled to possession learned that the vessel was impounded,  
513 removed, or otherwise abated, or (2) within 15 workdays after the City mailed the notice  
514 required by HCC 10.04.132(c) to the vessel owner, whichever is earlier. If no timely request for  
515 a hearing is made, the factual and legal basis for the action taken will be conclusively deemed  
516 sufficient for all purposes.

517  
518 b. The hearing will be held within 48 hours after the filing of a written demand, not including  
519 Saturdays, Sundays and City holidays, unless the person demanding the hearing waives a  
520 speedy hearing.

521  
522 c. The hearing officer shall not be bound by formal rules of evidence. A copy of the  
523 ~~Harbormaster's~~ **Port Director's** written determination that a public nuisance exists will  
524 constitute prima facie proof of a sufficient factual and legal basis for the action. The burden  
525 will be on the vessel owner to prove by a preponderance of the evidence that there was not  
526 sufficient factual or legal basis for impounding, removing, or otherwise abating the vessel.

527  
528 d. At the conclusion of the hearing, the hearing officer shall prepare a written decision,  
529 including the reasons for the decision. A copy of such decision shall be provided to the person  
530 demanding the hearing and the owner of the vessel. The hearing officer's decision in no way  
531 affects any criminal charges that may be pending. The decision of the hearing officer is final  
532 and may only be appealed to the Superior Court.

533

534 e. A determination by the hearing officer that there was not a sufficient factual or legal basis  
535 for the action taken will require the release of the vessel to the owner or other person entitled  
536 to possession without payment of the towing, storage, or the accrued charges, or will entitle  
537 the person to a refund or reimbursement by the City if the charges have already been paid. If  
538 the hearing officer determines there was a sufficient factual and legal basis for the action  
539 taken, the ~~Harbormaster~~ **Port Director, or their designee,** may proceed to dispose of the  
540 vessel by sale according to HCC 10.04.120(e) through (g), or the ~~Harbormaster~~ **Port Director,**  
541 **or their designee,** may destroy or otherwise dispose of the vessel without sale if he makes a  
542 good faith determination that the value of the vessel does not exceed the costs of towing,  
543 storage, sale, and other harbor charges accrued against the vessel. [Ord. 95-28 § 3, 1995].

544  
545 10.04.135 Nuisances – Form of demand for hearing – Hearing officer.

546  
547 a. The City Clerk shall prepare and make available a form of demand for a hearing pursuant to  
548 HCC 10.04.134. Upon receipt of a demand for a hearing the City Clerk shall immediately  
549 forward the demand to the City Manager or his designee, who shall schedule an administrative  
550 hearing and notify all parties.

551  
552 b. The City Manager shall appoint a hearing officer to conduct hearings pursuant to  
553 HCC 10.04.134. No person with the authority to impound, remove, or otherwise abate a  
554 nuisance vessel shall be eligible to serve as a hearing officer. [Ord. 95-28 § 4, 1995].

555  
556 10.04.138 Interference with impoundment prohibited.

557  
558 a. Unless authorized by the ~~Harbormaster~~ **Port Director, or their designee,** it is unlawful for  
559 any person to remove an impoundment order from a vessel upon which it has been posted.

560  
561 b. Unless authorized by the ~~Harbormaster~~ **Port Director, or their designee,** it is unlawful for  
562 any person to move a vessel after it has been posted with an impoundment order.

563  
564 c. It is unlawful for any person to interfere with the ~~Harbormaster~~ **Port Director** or any other  
565 person under the ~~Harbormaster's~~ **Port Director's** authority engaged in the impound, removal,  
566 or abatement of a vessel or public nuisance. [Ord. 95-28 § 5, 1995].

567  
568 10.04.139 Lien on impounded or nuisance vessel.

569  
570 The City shall have a lien on any vessel impounded or abated as a nuisance under this title for  
571 charges for towing, storage, costs of abatement, costs of sale, attorney fees, any other charges  
572 incurred in connection with the impoundment or abatement, and charges for harbor services,  
573 including, without limitation, moorage, dockage, stall rental, utilities, and other services  
574 provided to or for the benefit of the vessel. [Ord. 95-28 § 6, 1995].

575  
576 10.04.140 Annual review required.

577  
578 An annual review shall be required of all port and harbor rates. Such annual review shall be  
579 part of preparation of the port, and charges and harbor fiscal operating budgets.

580  
581 10.04.150 Required equipment.

582  
583 All watercraft or vessels shall carry the equipment required by any applicable United States  
584 laws or regulations as now or hereafter amended, and shall be numbered or designated in  
585 accordance with any applicable United States laws or regulations as now or hereafter  
586 amended. In the absence of extenuating circumstances, failure of any boat or vessel within the  
587 Homer harbor to comply with applicable United States laws or regulations shall be in violation  
588 of this title. [Ord. 95-18(S), 1995].

589 \_\_\_\_\_  
590 1  
591 For statutory provisions authorizing municipalities to provide for and regulate harbor facilities  
592 see AS 30. Ordinance 95-18(S) repealed and reenacted HCC Title 10 with the bulk of HCC  
593 Title 10 being incorporated into the Homer Port and Harbor Tariff 95-1, adopted by Resolution  
594 95-69.

595  
596 Section 4. This ordinance is of a permanent and general character and shall be included  
597 in Homer City Code.

598  
599 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_,  
600 2023.

601  
602  
603  
604  
605 CITY OF HOMER  
606  
607  
608 \_\_\_\_\_  
609 KEN CASTNER, MAYOR

609 ATTEST:  
610  
611 \_\_\_\_\_  
612 MELISSA JACOBSEN, MMC, CITY CLERK

613  
614 YES:  
615 NO:

- 616 ABSTAIN:
- 617 ABSENT:
- 618
- 619 First Reading:
- 620 Public Hearing:
- 621 Second Reading:
- 622 Effective Date:

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





# MEMORANDUM

---

**Ordinance 23-39, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Chapters 2.40 Department of Port and Harbor, 2.64 Port and Harbor Advisory Commission, and 10.04 General Port and Harbor Provisions Updating References to Port Director and Harbormaster, and Commissioner Absences. City Manager/Port Director.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner and Homer City Council  
**Date:** June 8, 2023  
**From:** Melissa Jacobsen, MMC, City Clerk

---

Homer City Code 2.64.020(c) currently reads “Any Commissioner who shall have two successive unexcused absences shall be subject to removal by the Commission by a majority vote of the members present”. This language conflicts with the Port and Harbor Advisory Commission bylaws and Homer City Code 2.58.050(h)(5).

HCC 2.64.020(c) should be amended to read “An appointment is vacated if a member has three consecutive unexcused absences, or misses half of all meetings within an appointment year, whether excused or unexcused” to be consistent with the bylaws and 2.58.050(h)(5).

## **Recommendation**

Adopt Ordinance 23-39



# MEMORANDUM

---

**Ordinance 23-39, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Chapters 2.40 Department of Port and Harbor, 2.64 Port and Harbor Advisory Commission, and 10.04 General Port and Harbor Provisions Updating References to Port Director and Harbormaster, and Commissioner Absences. City Manager/Port Director.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner and Homer City Council  
**Date:** May 30, 2023  
**From:** Bryan Hawkins, Port Director  
**Through:** Rob Dumouchel, City Manager

---

Recently, as part of budget discussions, we talked about several things that have come together making it necessary for me to think about how we are getting through the day-to-day operations at the Port. My job title has always been Port Director/Harbormaster and for the first 13 years in this position, I was able to be a lot more operations based. Meaning I could stand a watch for an operations shift and when necessary drop what I was doing to help in the field. However, out of necessity I've had to turn my focus to executive level management work, which has effectively removed me from the crew when it comes to operations.

We developed a reorganization plan for the Port and Harbor to address the new needs, and our goals were simple:

- ✓ Promote from within to share operations level workload with existing staff to capitalizing on their skills and capabilities.
- ✓ Continue to provide excellent level day-to-day service to our port and harbor customers.
- ✓ As an organization, make room for the Port and Harbor department to be able to focus on our community's goals for harbor expansion.

Part of this approved plan included splitting the Port Director and Harbormaster into two separate positions to better address the administrative and operational workloads, and with the budget passed and the plan getting ready for implementation, we need to update City Code language that currently states "Port Director/Harbormaster" to represent each entity as separate.

## **Recommendation**

Adopt Ordinance 23-39

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

Davis/Erickson

3  
4 **ORDINANCE 23-21**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING HOMER CITY CODE SECTION 22.10.050 TO SPECIFY  
8 THAT PRELIMINARY PLATS APPROVED BY THE CITY SHALL  
9 INCLUDE ALL DEVELOPMENT COMMITMENTS MADE TO THE CITY,  
10 AND THAT A FINAL PLAT FOR THE CITY OF HOMER SHALL BE AN  
11 AS-BUILT SURVEY.  
12

13 WHEREAS, The City of Homer has a responsibility to its residents to ensure that new  
14 subdivisions are designed and built with necessary infrastructure for the health and safety of  
15 its citizens and the protection of the environment; and  
16

17 WHEREAS, Developers of new subdivisions often make development commitments to  
18 the City related to sidewalks, trails, sewer connections, drainage, storm water controls,  
19 grading, slope, setbacks, protection of wetlands, preservation of existing watercourses and/or  
20 mitigation of potential downstream impact of watercourse alteration, and other subdivision  
21 improvements that may be required by code, or which may not be required by code but may  
22 arise in consultations with city staff or in response to public testimony related to the  
23 development; and  
24

25 WHEREAS, The public hearing that is included in the preliminary plat approval process  
26 is the primary opportunity for public engagement in the process of developing new  
27 subdivisions, and this public engagement sometimes results in additional development  
28 commitments being made to the city; and  
29

30 WHEREAS, In the past there have been instances where development commitments  
31 that were made to the City were not implemented as promised; and  
32

33 WHEREAS, Current city code envisions a final plat to be issued by the Borough on the  
34 basis of an agreement to carry out certain commitments, rather than on the basis of those  
35 commitments actually having been carried out; and  
36

37 WHEREAS, A policy requiring all development commitments to be included on the  
38 preliminary plat, and requiring the final plat to be an as-built survey showing completion of all  
39 the elements included on the preliminary plat would appear to be an effective means of  
40 ensuring all commitments undertaken by a subdivider have been implemented.  
41

42 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

43            Section 1. Homer City Code Chapter 22.10.050 entitled “Improvement requirements -  
44 General” is hereby amended as follows:

45  
46 22.10.050 Improvement requirements - General

47 a. **The final plat for a subdivision in the City shall be an as-built survey showing**  
48 **completion of all elements of the previously-approved preliminary plat.** The Kenai  
49 Peninsula Borough shall not release any final plat for a subdivision in the City for filing at the  
50 State Recorder’s office until the subdivider or developer of the subdivision ~~either enters a~~  
51 ~~subdivision agreement for, or~~ constructs and obtains written City approval of, the following  
52 improvements, according to the standards and procedures required under HCC Title [11](#):

- 53
- 54            1. Streets in all rights-of-way dedicated by the plat;
  - 55            2. All other utilities and public improvements to be constructed in the rights-of-way and
  - 56            easements dedicated by the plat, including water, sewer, electric, communications,
  - 57            and gas lines, and applicable means for non-motorized transportation; and
  - 58            3. Abandonment or relocation of existing water or sewer service lines required due to
  - 59            conflict with new or relocated property lines, as required by the Public Works
  - 60            Department.

61

62 b. The Commission may exempt a plat from the provisions of subsection (a) of this section as  
63 provided in HCC [22.10.040](#).

64

65 c. The subdivider shall be required to dedicate street rights-of-way according to the standards  
66 and specifications of Chapter [11.04](#) HCC and the City of Homer Design Criteria Manual. The  
67 subdivider shall be required to dedicate ROW or easements required to support non-motorized  
68 transportation facilities required by HCC [11.04.120](#). Beyond a minimum of 60 feet, the  
69 subdivider may agree to a note attached to said subdivision plat providing sufficient setback  
70 to allow future expansion of the right-of-way without removal of improvements. Horizontal  
71 alignments are subject to City review; the City may require realignment of streets on proposed  
72 plats if the alignments do not conform to Chapter [11.04](#) HCC and the Design Criteria Manual.  
73 Final plat approval shall thus be subject to the approval of horizontal alignments by the City  
74 Public Works Engineer.

75

76 d. All street, utility main improvements and means for non-motorized transportation to be  
77 constructed as part of a subdivision agreement shall be constructed according to the  
78 procedures of Chapter [11.20](#) HCC. The City shall accept no such improvements unless a  
79 subdivision agreement is executed prior to construction of such improvements.

80

81 **e. Any development commitments made by a subdivider to the City shall be shown on the**  
82 **preliminary plat prior to its transmittal by the City to the Kenai Peninsula Borough. Any**  
83 **plat notes provided in lieu of drawings shall be specific and promissory. Such**  
84 **development commitments may be related to sidewalks, trails, sewer connections,**

85 **drainage, storm water controls, grading, slope, setbacks, protection of wetlands,**  
86 **preservation of existing watercourses and/or mitigation of potential downstream impact**  
87 **of watercourse alteration, and any other subdivision improvements, whether required**  
88 **by code, or which may not be required by code but may arise in consultations with city**  
89 **staff or in response to public testimony related to the development.**

90  
91 e **f.** All streets constructed as part of a subdivision improvement project shall be monumented  
92 according to the procedures of Chapter [11.20](#) HCC (HCC [11.20.090](#)(d)).

93  
94 Section 2. This ordinance is of a permanent and general character and shall be included  
95 in the City Code.

96  
97 ENACTED BY THE HOMER CITY COUNCIL this \_\_\_\_ day of \_\_\_\_, 2023.

98  
99 CITY OF HOMER

100  
101  
102  
103 \_\_\_\_\_  
104 KEN CASTNER, MAYOR

105  
106 ATTEST:  
107  
108  
109 \_\_\_\_\_  
110 MELISSA JACOBSEN, MMC, CITY CLERK

111  
112 YES:  
113 NO:  
114 ABSENT:  
115 ABSTAIN:  
116  
117 First Reading:  
118 Public Hearing:  
119 Second Reading:  
120 Effective Date:



# MEMORANDUM

---

**Ordinance 23-21, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Section 22.10.050 to Specify that Preliminary Plats Approved by the City Shall Include all Development Commitments made to the City, and that a Final Plat for the City of Homer Shall be an As-Built Survey. Davis/Erickson.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner & City Council  
**Meeting Date:** June 19, 2023  
**From:** Ryan Foster, Special Projects Coordinator (Acting City Planner)  
**Through:** Rob Dumouchel, City Manager

---

As the Acting City Planner, I have reviewed the memorandum and draft ordinance that was introduced before the departure of Rick Abboud as City Planner. Ordinance 23-21 has been referred to the Planning Commission, but upon my review, I would like to recommend a project-based approach to address and achieve the goals established in the memorandum and draft ordinance before engaging with the Planning Commission for their recommendation to City Council. This approach would bring together representatives from all stages in the development review process and consist of the following steps:

1. Meet with Council Member's Davis and Erickson, as the City Council sponsors of the ordinance, to discuss the intent of the ordinance and any goals or concerns they have regarding the development process and ensuring infrastructure improvements are constructed to Homer City Code.
2. Meet with key development review team members to discuss the entire development process and the intent and goals of Ordinance 23-21:
  - a. Kenai Peninsula Borough Platting Division
  - b. Homer City Planner
  - c. Homer Public Works
  - d. Homer Economic Development
  - e. Homer Fire Department
3. If necessary, update the ordinance based on findings and goals from the previous meetings and note any changes in process and procedures. Consider a substitute ordinance, if necessary.
4. Legal review of the draft ordinance.
5. Consider outreach to the development community, if necessary.
6. Planning Commission public hearing and recommendation to City Council.
7. City Council public hearing.

The goal of ensuring infrastructure is constructed to City Code is very much a shared goal of City Council and City Staff. The impact on the community is substantial, in regard to quality of life and the cost of accepting infrastructure improvements and maintaining those improvements in perpetuity.

**If this approach is acceptable to the City Council, staff can begin this process immediately. The estimated timeline for the entire process is up to 6 months.**

Thank you for your consideration.



# AGENDA ITEM REPORT

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**Ordinance 23-21, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Section 22.10.050 to Specify that Preliminary Plats Approved by the City Shall Include all Development Commitments made to the City, and that a Final Plat for the City of Homer Shall be an As-Built Survey. Davis/Erickson.**

**Item Type:** Ordinance  
**Prepared For:** Mayor Castner and Homer City Council  
**Meeting Date:** 10 April 2023  
**From:** Council Members Davis and Erickson

---

The intent of this ordinance is to address the phenomenon of new subdivisions coming into existence in Homer that do not include various development commitments (e.g. sidewalks, trails, easements, drainage routes & infrastructure) that were made to the City during the approvals process for the subdivision, but were never implemented.

The proposed solution is to a) require that all development commitments made to the City be included on the preliminary plat prior to its approval by the City and transmittal to the Kenai Peninsula Borough, and b) to require that the final plat issued by the Borough be an as-built survey showing completion of all the commitments included on the preliminary plat.

Our intent in introducing this ordinance now is not that it be passed immediately, but that it be referred to the Planning Commission for comment and input.

**Recommendation:**

Introduce Ordinance 23-21 and refer to the Planning Commission, schedule public hearing and second reading on May 22, 2023.

**Attachments:**

Ordinance 23-21



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

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 23-46**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
8 AMENDING THE FY24 CAPITAL BUDGET BY ACCEPTING AND  
9 APPROPRIATING A SUB-RECIPIENT GRANT FROM THE  
10 UNIVERSITY OF ALASKA ANCHORAGE IN THE AMOUNT OF  
11 \$1,171,410 FOR THE KACHEMAK SPONGE GREEN  
12 INFRASTRUCTURE STORM WATER TREATMENT SYSTEM.  
13

14 WHEREAS, the Kachemak Bay National Estuarine Research Reserve (KBNERR) has  
15 worked with the City to identify wetlands/peatlands that could be used as a wetland treatment  
16 system as part of the City’s Kachemak Sponge Green Infrastructure Storm Water Treatment  
17 System and to submit a proposal for a grant to acquire such lands; and  
18

19 WHEREAS, The University of Alaska Anchorage (UAA), the fiscal agent for KBNERR, has  
20 received a grant from NOAA for the purpose of acquiring wetlands and peatlands to be  
21 preserved for conservation in perpetuity as part of the Kachemak Sponge Green Infrastructure  
22 Storm Water Treatment System; and  
23

24 WHEREAS, The City will be a sub-recipient of the NOAA grant and responsible for  
25 conducting the environmental reviews, surveys, appraisals and other services required to  
26 support the property acquisition; and  
27

28 WHEREAS, The NOAA grant supports one of the projects within the Slope Stability and  
29 Erosion Mitigation Program, a Legislative Priority in the 2023-2028 City of Homer Capital  
30 Improvement Plan.  
31

32 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
33

34 Section 1. The Homer City Council hereby amends the FY24 Capital Budget by  
35 accepting and appropriating, as a sub-recipient, a grant from the University of Alaska  
36 Anchorage in the amount of \$1,171,410 as follows:  
37

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
151-XXXX	University of Alaska Anchorage Grant	\$1,171,410

40  
41 Section 2. The City Manager is authorized to execute the appropriate documents.  
42

43            Section 3. This is a budget amendment ordinance, is temporary in nature, and shall  
44 not be codified.

45  
46            ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_day of \_\_\_, 2023.

47  
48  
49            CITY OF HOMER

50  
51  
52            \_\_\_\_\_  
53 KEN CASTNER, MAYOR

54  
55 ATTEST:

56  
57  
58            \_\_\_\_\_  
59 MELISSA JACOBSEN, MMC, CITY CLERK

60  
61 YES:

62 NO:

63 ABSENT:

64 ABSTAIN:

65  
66 First Reading:

67 Public Hearing:

68 Second Reading:

69 Effective Date:



## **Attachment 1**

### **Certifications and Assurances**

Subaward Number:

#### **Certification Regarding Lobbying (2 CFR 200.450)**

By signing this Subaward, the Subrecipient Authorized Official certifies, to the best of his/her knowledge and belief, that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement in accordance with 2 CFR 200.450.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," to the PTE.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

---

#### **Debarment, Suspension, and Other Responsibility Matters (2 CFR 200.214 and 2 CFR 180)**

By signing this Subaward, the Subrecipient Authorized Official certifies, to the best of his/her knowledge and belief that neither the Subrecipient nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, in accordance with 2 CFR 200.213 and 2 CFR 180.

---

#### **Audit and Access to Records**

Subrecipient certifies that it will provide PTE with notice of any adverse findings which impact this Subaward. Subrecipient certifies compliance with applicable provisions of 2 CFR 200.501-200.521. If Subrecipient is not required to have a Single Audit as defined by 200.501, Awarding Agency requirements, or the Single Audit Act, then Subrecipient will provide notice of the completion of any required audits and will provide access to such audits upon request. Subrecipient will provide access to records as required by parts 2 CFR 200.337 and 200.338 as applicable.

---

#### **Program for Enhancement of Contractor Employee Protections (41 U.S.C 4712)**

Subrecipient is hereby notified that they are required to: inform their employees working on any federal award that they are subject to the whistleblower rights and remedies of the program; inform their employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and include such requirements in any agreement made with a subcontractor or subgrantee.

---

The Subrecipient shall require that the language of the certifications above in this Attachment 1 be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

---

#### **Use of Name**

Neither party shall use the other party's name, trademarks, or other logos in any publicity, advertising, or news release without the prior written approval of an authorized representative of that party. The parties agree that each party may use factual information regarding the existence and purpose of the relationship that is the subject of this Subaward for legitimate business purposes, to satisfy any reporting and funding obligations, or as required by applicable law or regulation without written permission from the other party. In any such statement, the relationship of the parties shall be accurately and appropriately described.

---

#### **Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment**

Pursuant to 2 CFR 200.216, Subrecipient will not obligate or expend funds received under this Subaward to: (1) procure or obtain; (2) extend or renew a contract to procure or obtain; or (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services (as described in Public Law 115-232, section 889) as a substantial or essential component of any system, or as a critical technology as part of any system.

**Attachment 2**  
**Federal Award Terms and Conditions**

Subaward Number

**Required Data Elements**

Awarding Agency Institute (If Applicable)

The data elements required by Uniform Guidance are incorporated

Federal Award Issue Date      FAIN      Assistance Listing No.

**This Subaward Is:**

Assistance Listing Program Title (ALPT)

Research & Development

Subject to FFATA

Key Personnel Per NOA

---

**General Terms and Conditions**

By signing this Subaward, Subrecipient agrees to the following:

1. To abide by the conditions on activities and restrictions on expenditure of federal funds in appropriations acts that are applicable to this Subaward to the extent those restrictions are pertinent. This includes any recent legislation noted on the Federal Awarding Agency's website:
2. 2 CFR 200
3. The Federal Awarding Agency's grants policy guidance, including addenda in effect as of the beginning date of the period of performance or as amended found at:
4. Research Terms and Conditions, including any Federal Awarding Agency's Specific Requirements found at:  

except for the following :

  - a. No-cost extensions require the written approval of the PTE. Any requests for a no-cost extension shall be directed to the Contact shown in Attachment 3A, not less than 30 days prior to the desired effective date of the requested change.
  - b. Any payment mechanisms and financial reporting requirements described in the applicable Federal Awarding Agency Terms and Conditions and Agency-Specific Requirements are replaced with Terms and Conditions (1) through (4) of this Subaward; and
  - c. Any prior approvals are to be sought from the PTE and not the Federal Awarding Agency.
  - d. Title to equipment as defined in 2 CFR 200.1 that is purchased or fabricated with research funds or Subrecipient cost sharing funds, as direct costs of the project or program, shall vest in the Subrecipient subject to the conditions specified in 2 CFR 200.313.
  - e. Prior approval must be sought for a change in Subrecipient PI or change in Key Personnel (defined as listed on the NOA).
5. Treatment of program income:

---

**Special Terms and Conditions:**

**Data Sharing and Access:**

Subrecipient agrees to comply with the Federal Awarding Agency's data sharing and/or access requirements as reflected in the NOA or the Federal Awarding Agency's standard terms and conditions as referenced in General Terms and Conditions 1-4 above.

---

**Data Rights:**

Subrecipient grants to PTE the right to use data created in the performance of this Subaward solely for the purpose of and only to the extent required to meet PTE's obligations to the Federal Government under its PTE Federal Award.

---

**Copyrights:**

to PTE an irrevocable, royalty-free, non-transferable, non-exclusive right and license to use, reproduce, make derivative works, display, and perform publicly any copyrights or copyrighted material (including any computer software and its documentation and/or databases) first developed and delivered under this Subaward solely for the purpose of and only to the extent required to meet PTE's obligations to the Federal Government under its PTE Federal Award.

Subrecipient grants to PTE the right to use any written progress reports and deliverables created under this Subaward solely for the purpose of and only to the extent required to meet PTE's obligations to the Federal Government under its Federal Award.

---

**Promoting Objectivity in Research (COI):**

Subrecipient must designate herein which entity's Financial Conflicts of Interest policy (COI) will apply:

If applying its own COI policy, by execution of this Subaward, Subrecipient certifies that its policy complies with the requirements of the relevant Federal Awarding Agency as identified herein:

Subrecipient shall report any financial conflict of interest to PTE's Administrative Representative or COI contact, as designated on Attachment 3A. Any financial conflicts of interest identified shall, when applicable, subsequently be reported to Federal Awarding Agency. Such report shall be made before expenditure of funds authorized in this Subaward and within 45 days of any subsequently identified COI.

---

**Work Involving Human or Vertebrate Animals** (Select Applicable Options)

No Human or Vertebrate Animals

---

**Human Subjects Data** (Select One)

---

---

**Additional Terms**

**Attachment 3A**  
**Pass-Through Entity (PTE) Contacts**

Subaward Number:

---

**PTE Information**

Entity Name:

Legal Address:

Website:

---

**PTE Contacts**

Central Email:

Principal Investigator Name:

Email:

Telephone Number:

Administrative Contact Name:

Email:

Telephone Number:

COI Contact email (if different to above):

Financial Contact Name:

Email:

Telephone Number:

Email invoices?    Yes    No    Invoice email (if different):

Authorized Official Name:

Email:

Telephone Number:

---

**PI Address:**

**Administrative Address:**

**Invoice Address:**

**Attachment 3B**  
Research Subaward Agreement  
Subrecipient Contacts

Subaward Number:

**Subrecipient Information for [FFATA](#) reporting**

Entity's UEI/DUNS Name:

EIN No.:

Institution Type:

UEI / DUNS:

Currently registered in SAM.gov:      Yes      No

Parent UEI / DUNS:

Exempt from reporting executive compensation: Yes

No  
*(if no, complete 3B pg2)*

**Place of Performance Information for FFATA reporting**

Physical Address, City, State (if U.S.) and Country:

***U.S. Entities only (insert information for Place of Performance):***

Congressional District:

Zip Code+4:

[Zip Code Look-up](#)

**Subrecipient Contacts**

Central Email:

Website:

Principal Investigator Name:

Email:

Telephone Number:

Administrative Contact Name:

Email:

Telephone Number:

Financial Contact Name:

Email:

Telephone Number:

Invoice Email:

Authorized Official Name:

Email:

Telephone Number:

**Legal Address:**

**Administrative Address:**

**Payment Address:**



**Attachment 3B-2**  
**Highest Compensated Officers**

Subaward Number:

---

**Subrecipient:**

Institution Name:

PI Name:

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**Highest Compensated Officers**

The names and total compensation of the five most highly compensated officers of the entity(ies) must be listed if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1) Internal Revenue Code of 1986.

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Officer 1 Name:

Officer 1 Compensation:

Officer 2 Name:

Officer 2 Compensation:

Officer 3 Name:

Officer 3 Compensation:

Officer 4 Name:

Officer 4 Compensation:

Officer 5 Name:

Officer 5 Compensation:

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**Attachment 4**  
**Reporting and Prior Approval Terms**

Subaward Number:

Subrecipient agrees to submit the following reports (PTE contacts are identified in Attachment 3A):

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**Technical Reports:**

Monthly technical/progress reports will be submitted to the PTE's \_\_\_\_\_ within \_\_\_\_\_ days of the end of the month.

Quarterly technical/progress reports will be submitted within 30 days after the end of each project quarter to the PTE's \_\_\_\_\_.

Annual technical / progress reports will be submitted within \_\_\_\_\_ days prior to the end of each budget period to the PTE's \_\_\_\_\_. Such report shall also include a detailed budget for the next Budget Period, updated other support for key personnel, certification of appropriate education in the conduct of human subject research of any new key personnel, and annual IRB or IACUC approval, if applicable.

A Final technical/progress report will be submitted to the PTE's \_\_\_\_\_ within \_\_\_\_\_ days of the end of the Project Period or after termination of this award, whichever comes first.

Technical/progress reports on the project as may be required by PTE's \_\_\_\_\_ in order for the PTE to satisfy its reporting obligations to the Federal Awarding Agency.

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**Prior Approvals:**

Carryover:

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**Other Reports:**

In accordance with 37 CFR 401.14, Subrecipient agrees to notify both the Federal Awarding Agency via iEdison and PTE's \_\_\_\_\_ within 60 days after Subrecipient's inventor discloses invention(s) in writing to Subrecipient's personnel responsible for patent matters. The Subrecipient will submit a final invention report using Federal Awarding Agency specific forms to the PTE's \_\_\_\_\_ within 60 days of the end of the Project Period to be included as part of the PTE's final invention report to the Federal Awarding Agency.

A negative report is required:

Property Inventory Report (only when required by Federal Awarding Agency), specific requirements below.

**Additional Technical and Reporting Requirements:**

**Attachment 5**  
**Statement of Work, Cost Sharing, Indirects & Budget**

**Statement of Work**

Below Attached, pages

If award is FFATA eligible and SOW exceeds 4000 characters, include a *Subrecipient Federal Award Project Description*

**Budget Information**

<p><b>Indirect Information</b> Indirect Cost Rate (IDC) Applied %</p> <p>Rate Type:</p>	<p><b>Cost Sharing</b></p> <p>If Yes, include Amount: \$</p>
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**Budget Details** Below Attached, pages

**Budget Totals**

Direct Costs \$

Indirect Costs \$

Total Costs \$

*All amounts are in United States Dollars*



The City of Homer will complete the following tasks:

Appraisals: October 2022 - April 2023

Replat Property: November 2022 - July 2023

Draft Phase I: November 2022 - May 2023

Process Phase I: April 2023 - October 2023

Finalize Phase I: October 2023 - January 2024

Purchase Property: January 2024 - March 2024

The following work plan will be used to accomplish the above tasks:

Goal: All of the lands identified in the proposal will be purchased and protected for conservation in perpetuity (Years 1 and 2). This will require multiple steps to acquire the land, record a title showing the Sub-recipient City of Homer as the new owner, and memorialize development restrictions on the deed. Further, the lands will need to be surveyed and re-platted to differentiate between the land which will be undeveloped and protected for conservation and the lands upon which the nature-based water treatment works will be constructed.

Objective 1. Complete appraisal process for subject real estate parcels.

Objective 2. Replat the subject real estate parcels

Objective 3. Prepare draft Phase I Environmental Report

Objective 4. Process Phase I Environmental Report

Objective 5. Finalize Phase I Environmental Report

Objective 6. Prepare the title documents and protective deed restrictions

Objective 7. Purchase Property

Objective 8. Monitor health of wetlands on an on-going basis

Subaward to the City of Homer		Budget						
Item		Personnel Budget (total project, 2 years)						
Personnel	Role	Hours	Hourly Rate	Salaries/ Wages	Fringe Benefits per Hour	Fringe Benefits (\$)	TOTAL	
Janette Keiser	Principal Investigator and Project Manager	406	\$ 53.03	\$ 21,530.18	\$ 27.82	\$ 11,294.92	\$ 32,825.10	
Julie Engebretsen	Lands Manager	258	\$ 48.03	\$ 12,391.74	\$ 24.85	\$ 6,411.30	\$ 18,803.04	
Jenny Carroll	Grant Manager	239	\$ 52.48	\$ 12,542.72	\$ 26.31	\$ 6,288.09	\$ 18,830.81	
Jessica McGuire	Accounts Payable	140	\$ 26.02	\$ 3,642.80	\$ 15.59	\$ 2,182.60	\$ 5,825.40	
Aaron Yeaton	Mapping & Support	420	\$ 29.51	\$ 12,394.20	\$ 19.48	\$ 8,181.60	\$ 20,575.80	
				<b>\$ 62,501.64</b>		<b>\$ 34,358.51</b>	<b>\$ 96,860.15</b>	
		<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>TOTAL</b>		
<b>Personnel</b>		\$ 75,000.00	\$ 21,860.15	\$ -	\$ -	\$ 96,860.15		
		<b>Subtotal</b>				<b>\$ 96,860.15</b>		
<b>Contractual</b>								
Coble Geophysics	Hydrologic Assessment & geophysical monitoring	\$ 43,000.00	\$ 10,000.00	\$ -	\$ -	\$ 53,000.00		
Bishop Engineering	Wetland Delineation	\$ 32,000.00	\$ 3,000.00	\$ -	\$ -	\$ 35,000.00		
Geovera	Boundary Survey & re-platting	\$ 32,000.00	\$ -	\$ -	\$ -	\$ 32,000.00		
MacSwain Associates, LLC	Real Estate Appraisals	\$ 26,000.00	\$ -	\$ -	\$ -	\$ 26,000.00		
Johnson Appraisal Company	Review Appraisals	\$ 20,000.00	\$ -	\$ -	\$ -	\$ 20,000.00		
Homer Real Estate	Real Estate Broker - assistance with property acquisition		\$ 40,000.00	\$ -	\$ -	\$ 40,000.00		
Midnight Environmental Services	Phase I Environmental	\$ 50,000.00	\$ -	\$ -	\$ -	\$ 50,000.00		
Jermaine, Dunnagan & Owens, PC	Legal services - real estate purchase agreements	\$ 25,000.00	\$ -	\$ -	\$ -	\$ 25,000.00		
		<b>Subtotal</b>				<b>\$ 281,000.00</b>		
<b>Other</b>								
Kachemak Title	Title fees for re-plat process	\$ 250.00	\$ -	\$ -	\$ -	\$ 250.00		
Kenai Peninsula Borough	Plat Filing Fees	\$ 800.00	\$ -	\$ -	\$ -	\$ 800.00		
Kachemak Title	Title and recording fees to support real estate acquisitions	\$ -	\$ 7,500.00	\$ -	\$ -	\$ 7,500.00		
Mike Kennedy - Southern 20 acres	Costs of Property Acquisition	\$ -	\$ 225,000.00	\$ -	\$ -	\$ 225,000.00		
Mike Kennedy - Northeastern 10 acres	Costs of Property Acquisition	\$ -	\$ 155,000.00	\$ -	\$ -	\$ 155,000.00		
Kenai Peninsula Borough	Costs of Property Acquisition	\$ -	\$ 260,000.00	\$ -	\$ -	\$ 260,000.00		
Kenneth & Roseleen Moore	Costs of Property Acquisition	\$ -	\$ 145,000.00	\$ -	\$ -	\$ 145,000.00		
		<b>Subtotal, Other</b>				<b>\$ 793,550.00</b>		
<b>Total Direct Costs</b>		<b>\$ 304,050.00</b>	<b>\$ 867,360.15</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,171,410.15</b>	<b>\$ 1,171,410</b>	
Indirect Costs	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Total</b>		<b>\$ 304,050.00</b>	<b>\$ 867,360.15</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,171,410.15</b>	<b>\$ 1,171,410</b>	

## Kachemak Drive Peatlands Water Quality Improvement Project

### Subaward to the City of Homer

#### BUDGET NARRATIVE

##### **Personnel – Salaries and Wages: \$62,502**

**Year 1: \$40,331**

**Year 2: \$22,171**

Subrecipient City of Homer personnel will serve in multiple roles to manage the project and administer the grant:

- 1. Key Personnel:** Janette Keiser, PE, City of Homer Public Works Director/City Engineer  
**Role:** Sub-recipient City of Homer Principal Investigator and Project Manager  
**Responsibilities:** Manage the overall project development and progress, including but not limited to monitoring costs, timeliness, interface with Applicant, KBNERR, and any 3<sup>rd</sup> party stakeholders. The Project Manager will also serve as the Sub-recipient's Contracting Officer.
- 2. Key Personnel:** Julie Engebretsen, City of Homer Deputy Planner  
**Role:** Lands Manager  
**Responsibilities:** Manage the process of acquiring, surveying and re-platting of the real estate that will be acquired for conservation.
- 3. Key Personnel:** Jenny Carrol – City of Homer Special Projects Coordinator  
**Role:** Grant Manager  
**Responsibilities:** Manages the grant award/execution process to ensure compliance with grant requirements
- 4. Key Personnel:** Jessica McGuire, City of Homer Finance Dept.  
**Role:** Accounts Payable – processes invoices for payment.  
**Responsibilities:** Submits invoices for grant reimbursement and pays invoices from 3<sup>rd</sup> party consultants
- 5. Personnel:** Aaron Yeaton, City of Homer GIS Technician  
**Role:** Mapping & Field Support  
**Responsibilities:** Integrates the real estate acquired for conservation into the Sub-recipient City of Homer's inventory of lands and GIS mapping as well as supports data collection from field investigations

The Direct Costs are the hourly wage times estimated hours for each employee's work on the project.

##### **Personnel - Fringe Benefits: \$34,358**

**Year 1: \$22,170**

**Year 2: \$12,188**

Fringe benefits are the actual hourly cost of fringe benefits paid to the Sub-recipient City of Homer employee multiplied by the number of hours said employee is expected to work on the Project.

**Travel: \$0**

**Equipment: \$0**

**Supplies: \$0**

**Contractual/Services: \$281,000**

**Year 1: \$228,000**

Coble Geophysical Services: \$43,000

Bishop Engineering: \$32,000

Geovera: \$32,000

MacSwain Associates, LLC: \$26,000

Johnson Appraisal Company: \$20,000

Midnight Environmental Services: \$50,000

Jermaine, Dunnagan & Owens, PC: \$25,000

**Year 2: \$53,000**

Coble Geophysics: \$10,000

Bishop Engineering: \$3,000

Homer Real Estate: \$40,000

1. **Coble Geophysical Services:** CGS will conduct hydrologic and geophysical assessment of the real properties to be acquired for conservation to ensure said properties will perform satisfactorily as wetland treatment sites (Year 1 and Year 2).
2. **Bishop Engineering LLC:** BE will perform wetland delineations of the real properties to be acquired for conservation, as required for environmental permitting (Year 1 and Year 2).
3. **Geovera:** Geovera will conduct the boundary surveys and prepare documents to support the re-plat of the real properties to be acquired for conservation (Year 1).
4. **MacSwain Associates, LLC:** MA will prepare the appraisals of the real properties to be acquired for conservation (Year 1).
5. **Johnson Appraisal Company:** JAC will prepare the review appraisals of the real properties to be acquired for conservation, as required by federal regulation (Year 1).
6. **Homer Real Estate:** HRE will assist with acquisition of the real properties to be acquired for conservation. The brokerage fee is 10% of the cost of the private real properties acquired, as quoted by the broker (Year 2).
7. **Midnight Environmental Services:** MES will prepare the Phase I Environmental Report for the real properties to be acquired for conservation, as required by federal regulation (Year 1).
8. **Jermaine, Dunnagan & Owens, PC:** JDO will prepare the real estate transactions for the real properties to be acquired for conservation. Also, this consultant will provide the legal document ensuring the real property acquired for conservation will be restricted in perpetuity for conservation purposes (Year 1).

**Construction: \$0**

**Other Direct Costs: \$793,550**

**Year 1: \$1,050**

Kachemak Title: \$250

Kenai Peninsula Borough: \$800

**Year 2: \$792,500**

Kachemak Title: \$7,500

Mike Kennedy: \$225,000 (southern 20 acres)

Mike Kennedy: \$155,000 (northeastern 10 acres)

Kenai Peninsula Borough: \$260,000

Keneth & Roseleen Moore: \$145,000

1. **Kachemak Title:** \$250 is budgeted for Title fees for Re-Plat Fees. This is the current cost of applying for a title for re-plat of the real property to be acquired for conservation.
2. **Kenai Peninsula Borough:** \$800 is budgeted for the Platting Application Fee. This is the current cost of applying for a re-plat of the real property to be acquired for conservation.
3. **Kachemak Title:** \$7,500 is budgeted for Title and Recording Fees. This is the current cost of recording real estate transactions for the real property to be acquired for conservation.
4. **Mike Kennedy – Southern 20 acres:** \$225,000 is budgeted for real property acquisition of this parcel of land. This is the appraised value, plus escalation, of the southern 20 acres of property owned by Michael Kennedy, which is to be acquired for conservation. \$225,000
5. **Mike Kennedy – Northeastern 10 acres:** \$155,000 is budgeted for real property acquisition. This is the estimated value, of the northeastern 10 acres of property owned by Michael Kennedy, which is to be acquired for conservation, based on the appraised value of the southern 20 acres.
6. **Kenai Peninsula Borough:** \$260,000 is budgeted for real property acquisition. This is the appraised value, plus escalation, of the 20 acres of real property to be acquired for conservation, currently owned by the Kenai Peninsula Borough.
7. **Kenneth and Roseleen Moore, et al.:** \$145,000 is budgeted for real property acquisition. This is the estimated value of the five acres of real property to be acquired for conservation, currently owned by Mr. & Mrs. Kenneth Moore based on the appraised value of adjacent, similar properties.

**Indirect Costs: \$0**

**Total subaward budget: \$1,171,410**

**Year 1: \$304,050**

**Year 2: \$867,360**



## **Attachment 6**

### **Notice of Award (NOA) and any additional documents**

The following pages include the NOA and if applicable any additional documentation referenced throughout this Subaward.

Not incorporating the NOA or any additional documentation to this Subaward.

FORM CD-450 (REV 10/18)		U. S. DEPARTMENT OF COMMERCE <b>FINANCIAL ASSISTANCE AWARD</b>		<input type="checkbox"/> GRANT <input checked="" type="checkbox"/> COOPERATIVE AGREEMENT	
RECIPIENT NAME UNIVERSITY OF ALASKA ANCHORAGE		FEDERAL AWARD ID NUMBER <b>NA23NOS4730101</b>			
		PERIOD OF PERFORMANCE 04/01/2023-02/28/2025			
STREET ADDRESS 3211 PROVIDENCE DR		FEDERAL SHARE OF COST <div style="text-align: right;">\$1,272,383.00</div>			
CITY, STATE, ZIP CODE ANCHORAGE AK 99508-4614		RECIPIENT SHARE OF COST <div style="text-align: right;">\$0.00</div>			
AUTHORITY Infrastructure Investment and Jobs Act, Public Law 117-58, and Coastal Zone Management Act section 307A (16 U.S.C. Sec. 1456-1) and 310 (16 U.S.C. 1456c)		TOTAL ESTIMATED COST <div style="text-align: right;">\$1,272,383.00</div>			
CFDA NO. AND NAME 11.473 Office for Coastal Management					
PROJECT TITLE Kachemak Drive Peatlands Water Quality Improvement Project					
<p><b>This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.</b></p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS</p> <p><input type="checkbox"/> R &amp; D AWARD</p> <p><input type="checkbox"/> FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE</p> <p><input checked="" type="checkbox"/> BUREAU SPECIFIC ADMINISTRATIVE STANDARD AWARD CONDITIONS</p> <p><input checked="" type="checkbox"/> SPECIFIC AWARD CONDITIONS</p> <p><input checked="" type="checkbox"/> LINE ITEM BUDGET</p> <p><input checked="" type="checkbox"/> 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101</p> <p><input type="checkbox"/> 48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES</p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE PRE-AWARD NOTIFICATION REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS (REF: 79 FR78390)</p> <p><input type="checkbox"/> MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.</p> <p><input checked="" type="checkbox"/> OTHER(S):          This award is being made under competitive Funding Opportunity Number NOAA-NOS-OCM-2022-2007460 posted at Grants.gov on 06/28/2022.</p>					
SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER Jewel Linzey				DATE 04/06/2023	
PRINTED NAME, PRINTED TITLE AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL Aaron Dotson				DATE 04/25/2023	

## Specific Award Conditions

**Award Number:** NA23NOS4730101  
**Amendment Number:** 0

### 1) New Award SAC

This award number NA23NOS4730101, to University of Alaska Anchorage, supports the work described in the Recipient's proposal entitled "Kachemak Drive Peatlands Water Quality Improvement Project" dated 10/26/2022, 11/18/2022, 02/08/2023, 02/10/2023, and 03/16/2023 which is incorporated into the award by reference. Where the terms of the award and proposal differ, the terms of the award shall prevail.

### 2) Part 1 - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Pursuant to the Infrastructure Investment and Jobs Act ("IIJA"), Pub.L. No. 117-58, which includes the Build American, Buy American (BABA) Act, Pub. L. No. 117-58, §§ 70901-52 and OMB M-22-11, recipients of an award of Federal financial assistance from the Department of Commerce (DOC) are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- 1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- 2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- 3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

To help federal agencies and recipients meet BABA requirements, the U.S. Department of Commerce, National Institute for Standards and Technology (NIST), Hollings Manufacturing Extension Partnership (MEP) National Network™ provides a service to connect stakeholders, including recipients, to U.S. manufacturers that have relevant production capabilities and capacities to help fulfill current market and supply chain needs. Recipients considering a BABA nonavailability waiver are strongly encouraged to contact the NIST/MEP for assistance with supplier scouting services prior to seeking a BABA nonavailability waiver. Further information on the NIST/MEP supplier scouting services is

available at: <https://www.nist.gov/mep/supplier-scouting>.

### **3) Part 2 - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**

#### **WAIVERS**

When necessary, recipients may apply for, and DOC may grant, a waiver from these requirements. DOC will notify the recipient for information on the process for requesting a waiver from these requirements.

1) When DOC has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which DOC determines that:

- a. applying the domestic content procurement preference would be inconsistent with the public interest;
- b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. DOC will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at [whitehouse.gov/omb/management/made-in-america](http://whitehouse.gov/omb/management/made-in-america).

#### **DEFINITIONS**

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives<sup>2</sup>—that is or consists primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

"Infrastructure" includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater

systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

"Project" means the construction, alteration, maintenance, or repair of infrastructure in the United States

--

1 Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

2 IIJA, § 70917(c)(1).

#### **4) Implementation of Domestic Sourcing Requirements**

Prior to initiation of any construction that may arise in this award, the Recipient is required to inform the NOAA Grants Officer and the Federal Program Officer whether it is using iron, steel, manufactured products, or construction materials as described in the

Specific Award Condition in this award on Required Use of American Iron, Steel, Manufactured Products, and Construction Materials. In addition, the Recipient is required to inform the NOAA Grants Officer and the Federal Program Officer whether those

materials are produced or manufactured in the United States, or alternatively, it is requesting one or more waivers, as described in the award condition. The Recipient is required to coordinate with NOAA regarding its compliance with this term.

#### **5) Funding Acknowledgement Sign**

For each property restored or acquired under the award, the Recipient shall cause to be erected at the property a permanent plaque or sign satisfactory to NOAA that identifies the project and credits the "National Oceanic and Atmospheric Administration through the Bipartisan Infrastructure Law" as a funding source. The Recipient's final project report shall include photographs of the sign installed at the property as evidence that this award condition has been met.

#### **6) Cooperative Agreement Specific Award Condition**

This award is a cooperative agreement as described in 2 C.F.R. § 200.1, meaning that the NOAA is "substantially involved" in the project. NOAA's participation involves the following:

NOAA Office for Coastal Management (OCM) staff will provide technical assistance and guidance to the Recipient and participate in programmatic activities beyond normal stewardship responsibilities in the administration of the award. OCM staff will closely monitor the award, and in its discretion, may review or monitor local programs for which the Recipient remains responsible. NOAA will collaborate and coordinate with the recipient on the project, and/or provide

training on project-related matters to project staff, and provide assistance in the management and technical performance of the project activities. NOAA may require milestones before subsequent stages of the project may continue. NOAA may limit the recipient's discretion with respect to the scope of work, organizational structure, staffing, mode of operations, and other management processes, which will be coupled with close monitoring of operational involvement during performance.

## **7) Supplemental Reporting Guidance**

This Special Award Condition supplements reporting requirements in 2 C.F.R. §§ 200.328-200.330, the Department of Commerce Standard Terms and Conditions and NOAA Administrative Standard Award Conditions.

Format: Performance reports shall address the subject areas specified in "Office for Coastal Management, FY 2022/2023 Infrastructure Competitive Funding Performance Report Guidelines", which is available from the NOAA Office for Coastal Management and may be attached to this award.

## **8) Programmatic Specific Award Conditions**

A. Implementing Project Activities: The recipient shall comply, and must require each contractor or subcontractor to comply, with all applicable Federal, state, and local laws and regulations.

B. Field Work: The applicant must ensure that any field work will be conducted in accordance with appropriate Federal, state and local laws and will follow recognized best practices for minimizing impacts to the human and natural environment.

C. Safety: The Recipient is responsible for safety in the project, including the safety of project personnel, associates, visitors, and volunteers. In addition, for any Self-Contained Underwater Breathing Apparatus (SCUBA) diving activities in a project, it is the responsibility of the Recipient to ensure that SCUBA divers are certified to a level commensurate with the type and conditions of the diving activity being undertaken. Furthermore, it is the responsibility of the Recipient to ensure that any SCUBA diving activities under this award meet, at a minimum, all applicable Federal, State, and local laws and regulations pertaining to the type of SCUBA diving being undertaken.

D. Uncrewed Aircraft Systems: If this project involves Uncrewed Aircraft Systems (UAS or drone technology), the Recipient is responsible for coordinating with the Federal Program Officer regarding any applicable policies and standards in NOAA's Office of Marine and Aviation Operations (OMAO) Handbook (June 2022, and any updates). See <https://www.oma.noaa.gov/learn/aircraft-operations/aircraft/uncrewed-aircraft-systems>. In addition, for any UAS activities in a project, it is the responsibility of the Recipient to ensure it has complied with applicable federal/state/local laws and have the appropriate permits in hand prior to conducting drone operation.

### **E. Funding Acknowledgement Sign**

For each property restored or acquired under the award, the Recipient shall cause to be erected at the property a permanent plaque or sign satisfactory to NOAA that identifies the project and credits the "National Oceanic and Atmospheric Administration through the Bipartisan Infrastructure Law" as a funding source.

The Recipient's final project report shall include photographs of the sign installed at the property as evidence that this award condition has been met.

### **F. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**

If applicable, and pursuant to the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the

Build America, Buy America (BABA) Act, Pub. L. No. 117-58, §§ 70901-52 and OMB M-22-11, recipients of an award of Federal financial assistance from the Department of Commerce (DOC) are hereby notified that none of the funds provided under any award in this program may be used for a project for infrastructure unless: (1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers: When necessary, recipients may apply for, and DOC may grant, a waiver from these requirements. DOC will notify the recipient for information on the process for requesting a waiver from these requirements. When DOC has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which DOC determines that: a. applying the domestic content procurement preference would be inconsistent with the public interest; b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. A request to waive the application of the domestic content procurement preference must be in writing. DOC will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the U.S. Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described at [whitehouse.gov/omb/management/made-in-america](http://whitehouse.gov/omb/management/made-in-america).

**Definitions:**

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinyl chloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States. -- 1 Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives. 2 IIA, § 70917(c)(1).

#### Implementation of Domestic Sourcing Requirements

Prior to initiation of any construction that may arise in any award under this program, the Recipient will be required to inform the NOAA Grants Officer and the Federal Program Officer whether it is using iron, steel, manufactured products, or construction materials as described in the above policy on Required Use of American Iron, Steel, Manufactured Products, and Construction Materials. In addition, the Recipient will be required to inform the NOAA Grants Officer and the Federal Program Officer whether those materials are produced or manufactured in the United States, or alternatively, it is requesting one or more waivers, as described in this announcement. The Recipient will be required to coordinate with NOAA regarding its compliance with this policy.

### **9) Land Acquisition Special Award Conditions - General Requirements**

#### A. General requirements on land acquisitions and conservation easements

The Recipient shall comply with all requirements set forth in the Department of Commerce Financial Assistance Standard Terms and Conditions and 2 CFR 200, including 2 CFR 200.311, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA - 42 USC § 4601 et seq., and implementing regulations issued at 15 CFR Part 11 and 49 CFR 24). The URA includes providing for fair and equitable treatment of displaced persons or of persons whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The URA also includes requirements regarding notifications to the property owner and conflict of interest considerations. Consistent with these requirements, the term “real property” as used in these Conditions includes fee interests as well as conservation easements. Unless approved by NOAA, conservation easements shall be perpetual in nature (as opposed to a conservation easement for a set term of years).

The Recipient agrees (a) Not to use any power of eminent domain available to the Recipient (including the commencement of eminent domain proceedings) for use in connection with the project for the purpose of advancing the economic interests of private parties; (b) Not to accept title to land, easements, or other interest in land acquired by the use of any power of eminent domain for use in connection with the project for such purposes; and (c) Any use of the power of eminent domain to acquire land, easements or interests in land, whether by the recipient or any other entity that has the power of eminent domain, in connection with the project without prior written consent of the operating unit constitutes an unauthorized activity and/or use of funds under the award, and subjects the recipient to appropriate enforcement action by the Grants Officer, including but not limited to the disallowance of award costs and the termination of an award.

#### B. Post-acquisition requirements

The Recipient shall manage the Property in accordance with the award. With the written approval of NOAA, Recipient may transfer the property to a public agency or entity that in the transfer document agrees to continue to manage the property in accordance with the award and to not further transfer the property without the written approval of NOAA. In the event NOAA becomes aware of title discrepancies or encumbrances that NOAA deems to interfere with the purpose for which these funds were granted, or if NOAA determines that the property has ceased to be used for the original purpose as approved by NOAA, the Recipient shall reimburse NOAA for the Federal funds received for the project as provided in 2 CFR 200.311.



### C. Deed Restriction Language

Pursuant to 2 C.F.R. 200.316, the deed(s) for the real property(ies) acquired with funds from this award shall contain substantially the following provision:

"This property has been acquired with funds from Federal financial assistance award NA23NOS4730101 through NOAA's FY2022 Bipartisan Infrastructure Law National Estuarine Research Reserve Habitat Restoration and Conservation funding under the Infrastructure Investment and Jobs Act (PL 117-58). Title to the property conveyed by this deed shall vest upon acquisition in the City of Homer subject to the conditions that the property shall be managed for conservation purposes and consistent with the purposes for which it was acquired. City of Homer shall not dispose of, exchange, encumber its title or other interests in, or convert the use of this property without the approval of NOAA or its successor agencies."

For each property acquired under the award, a copy of the recorded deed showing the required language shall be submitted with the final project report.

### D. Reimbursement of Grant Funds

In the event NOAA becomes aware that the property or easement has been disposed of, transferred, or exchanged; there are title discrepancies or encumbrances that NOAA deems interfere with the purpose for which these funds were granted; or if NOAA determines that the property has ceased to be used for the purposes for the original purposes as approved by NOAA, the Recipient is subject to 2 CFR Part 200.311(c) Real Property Use and Disposition requirements, which include reimbursement to NOAA for the share of the federal funds received for the project based on the fair market value of the interest in the land at the time of disposal.

## **10) Cooperative Agreement for CESU Special Award Condition**

During the award period, the KBNERR will support the mission of the Pacific Northwest Cooperative Ecosystem Studies Unit by supporting their objectives to:

- (1) provide research, technical assistance and education to federal land management, environmental and research agencies and their potential partners;
- (2) develop a program of research, technical assistance and education that involves the biological, physical, social, and cultural sciences needed to address resource issues and interdisciplinary problem-solving at multiple scales and in an ecosystem context at the local, regional, and national level; and
- (3) place special emphasis on the working collaboration among federal agencies and universities and their related partner institutions.

No NOAA Cooperative Institute exists to meet the interdisciplinary and science to management needs of this cooperative agreement.

## **11) Funding Restriction Special Award Condition - Kennedy and Moore parcels**

Federal funds are not permitted to be expended for land acquisition under this award until NOAA reviews and approves the project. Specifically, the Recipient is not authorized to expend federal funds in the amount of \$525,000 for property

acquisition for the Kennedy and Moore parcels until the recipient provides to NOAA: evidence of agreement all willing sellers, draft evidence of title, appraisal, survey, draft conservation easement, and draft deed for each site, and NOAA has reviewed and approved them.

In addition, the monitoring objective for the project was not well defined in the associated data sharing plan. The Recipient is not authorized to expend federal funds for property acquisition or monitoring until NOS has been provided additional information and a revised data sharing plan.

Lastly, the environmental review, National Environmental Policy Act analysis, National Historic Preservation Act consultations, permits and other environmental analysis were not completed by the time the final award file needed to be submitted to obligate funds. The Recipient is not authorized to expend federal funds for property acquisition or monitoring until NOS demonstrates compliance with applicable environmental laws and regulations by providing appropriate documentation within the final award file. At this time, there is no action or requirement that needs to be completed by the Recipient. Once this SAC has been released by NOS, the Recipient is authorized to expend federal funds to complete property acquisition, unless there are other conditions placed on the award that would restrict this expenditure of funds.

This information should be submitted to NOAA's Office for Coastal Management by December 28, 2024, which is 93 days prior to the official SAC response date (March 31, 2025) in order to allow for due diligence and environmental compliance review

**Due Date: 03/31/2025**

## **12) Post Award Environmental Review Process**

National Environmental Policy Act (NEPA) Requirements for Change of Scope: Under Department of Commerce Standard Terms and Conditions § G.04.a., the Recipient is required to identify to NOAA any impact the award will have on the quality of the human environment, and assist NOAA in complying with NEPA and associated environmental laws and policies. For any tasks or sub-tasks with a Special Award Condition attached requiring further NOAA Office for Coastal Management review prior to full approval, the Office for Coastal Management will review these tasks to determine the appropriate level of National Environmental Policy Act analysis, and if additional information is necessary.

If the scope of an award amendment has changed from the original grant scope (e.g., funding is being awarded for additional construction not originally considered), then NOAA will consider if the change implicates the National Environmental Policy Act even if it was considered in the original award of the grant. A Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement may be prepared for grant amendments, depending on scope of the amendment and what type of analysis is appropriate. For additional grant cycle steps, such as the release of funds, cost extensions, and other administrative steps that do not change the scope of the original grant award where NEPA was conducted, a NEPA review will not need to be conducted again.

NOAA may require additional information to fulfill post award NEPA and environmental compliance review requirements. If NOAA determines that an environmental assessment is required, applicants may also be required to assist

in drafting the assessment. Applicants may also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal.

### **13) Funding Restriction Special Award Condition - Kenia Peninsula Borough parcel**

Federal funds are not permitted to be expended for land acquisition under this award until NOAA reviews and approves the project. Specifically, the Recipient is not authorized to expend federal funds in the amount of \$260,000 for property acquisition for the Kenia Peninsula Borough parcels until the recipient provides to NOAA: evidence of agreement all willing sellers, draft evidence of title, appraisal, survey, draft conservation easement, and draft deed for each site, and NOAA has reviewed and approved them. In the event that a funded project is determined to be no longer feasible, in-full or in-part, after the start of the award, the recipient may propose a replacement project that also meets the intent and purposes of this funding competition. This project will be reviewed by NOAA staff using the criteria within the funding announcement and if the project is found meritorious consistent with program priorities, evaluation criteria and other information then NOAA may recommend that the Grants Officer approve the replacement project.

In addition, the monitoring objective for the project was not well defined in the associated data sharing plan. The Recipient is not authorized to expend federal funds for property acquisition or monitoring until NOS has been provided additional information and a revised data sharing plan.

Lastly, the environmental review, National Environmental Policy Act analysis, National Historic Preservation Act consultations, permits and other environmental analysis were not completed by the time the final award file needed to be submitted to obligate funds. The Recipient is not authorized to expend federal funds for property acquisition or monitoring until NOS demonstrates compliance with applicable environmental laws and regulations by providing appropriate documentation within the final award file. At this time, there is no action or requirement that needs to be completed by the Recipient. Once this SAC has been released by NOS, the Recipient is authorized to expend federal funds to complete property acquisition, unless there are other conditions placed on the award that would restrict this expenditure of funds.

This information should be submitted to NOAA's Office for Coastal Management by December 28, 2024, which is 93 days prior to the official SAC response date (March 31, 2025) in order to allow for due diligence and environmental compliance review

**Due Date: 03/31/2025**

## **Administrative Standard Award Conditions for National Oceanic and Atmospheric Administration (NOAA) Financial Assistance Awards U.S. Department of Commerce**

This Federal assistance award will be implemented using “[Grants Online](#),” a Federal information technology system for grants management and processing. Grants Online allows the recipient to accept awards electronically, manage user roles for individuals within their organization, and submit post-award action requests, financial reports, performance progress reports, and tangible personal property and real property reports. You can contact the Grants Online Help Desk for assistance in obtaining your login credentials.

Contact the Grants Online Help Desk at [GrantsOnline.HelpDesk@noaa.gov](mailto:GrantsOnline.HelpDesk@noaa.gov), (240) 533-9533, between the hours of 8:00 a.m. and 6:00 p.m. Eastern Time Monday through Friday excluding Federal holidays. Please refer to the NOAA website at <https://www.noaa.gov/organization/information-technology/grant-recipient-user-resources> for additional information.

### **I. Award Payments – ASAP Enrollment**

Consistent with 2 C.F.R. §200.305 and Department of Commerce Financial Assistance Standard Terms and Conditions (Commerce Terms), recipient award payments will be made through electronic funds transfers using the U.S. Department of the Treasury’s Automated Standard Application for Payments (ASAP) system. Recipients must enroll in ASAP system by first submitting an Organization Profile Change Request via Grants Online, which will include the following requirements:

- EIN#
- DUNS#
- Name of Organization
- Type of Organization (i.e. Non-profit, For Profit, State etc.)
- Address
- Point of Contact
- Title
- Point of Contact's Email Address
- Phone Number

If your organization is not currently enrolled in ASAP, please submit an Organization Profile Change Request in Grants Online as soon as possible to begin the enrollment process. New ASAP enrollments can take up to a month to be completed.

### **II. Reporting**

#### **A. Financial Reports**

The recipient will use NOAA’s Grants Online system to complete Federal Financial Reports (SF-425), required by 2 CFR §200.328 and Commerce Terms. Grants Online will notify the recipient organization

via email when SF-425s are available for reporting and submission through the Grants Online system. The status of all reports can be seen under “Financial Reports” under the Grants File.

To complete a report, login to NOAA Grants Online at <https://grantsonline.rdc.noaa.gov>, search for the award and navigate to the Grants File overview page. Find the report near the bottom of the page and click on the link to the report to complete the report. For multiple awards that require Federal Financial Reports (SF-425) covering the same period, the recipient may create and submit a multi-award SF-425 from the —Awards tab. For additional assistance with Grants Online, please review the Recipient Quick Reference Guide available at [https://www.noaa.gov/sites/default/files/atoms/files/GrantRecipients\\_Quick\\_Ref\\_Guide.pdf](https://www.noaa.gov/sites/default/files/atoms/files/GrantRecipients_Quick_Ref_Guide.pdf). This site also has additional detailed recipient assistance material. If you are having problems with accessing Grants Online, please contact the Grants Online Help Desk at (240) 533-9533 or [GrantsOnline.HelpDesk@noaa.gov](mailto:GrantsOnline.HelpDesk@noaa.gov).

1. Request for Advance or Reimbursement (SF-270)
  - a. The SF-270 shall NOT be submitted by the recipient using the Department of Treasury ASAP system unless specifically directed by a specific award condition.
  - b. Semi-annual Federal Financial Reports (SF-425) are not required if the SF-270 is used; however, a Final SF-425 will be required.
  - c. If your organization is registered in ASAP, reimbursements will be made through ASAP.
2. Federal Financial Report (SF-425) - Due semi-annually; reported under the —“Federal Cash” line of the report.
  - a. The SF-425 shall be submitted on a semi-annual basis. If the recipient is reporting on more than one NOAA grant and/or agreement, then the SF-425 attachment must be used.
  - b. Interim semi-annual Federal Financial Reports (SF-425) are due no later than 30 days after the semi-annual reporting periods ending March 31 and September 30 for the cumulative project period of the award.
  - c. The SF-425 is required for any recipient using ASAP for payment. If converting to ASAP during the course of the Award, the SF-425 forms will be due as described above starting with the ASAP conversion date.
3. Federal Financial Report (SF-425) - (final report only)
  - a. A final comprehensive Federal Financial Report must be submitted within 120 days after the period of performance end date. Subrecipients must submit final reports to the pass-through entity, no later than 90 days after the period of performance end date. The recipient’s report shall cover the entire period of performance from the start date through the end date of the original award, or approved extended end date (e.g., no-cost extension or extension to the closeout period) of the award, and must include the cumulative total of indirect costs charged to the award. This final report must not be submitted until cash on hand is \$0. If necessary, reach out to your grants specialist for information on how to return funds if your organization has cash on hand at the end of closeout.

## B. Performance Reports

The recipient will use NOAA's Grants Online system to submit Performance Progress Reports, required by 2 CFR §200.329 and Commerce Terms. The Grants Online System will notify your organization through email when performance progress reports are available for reporting and submission through NOAA Grants Online. Recipients are responsible for ensuring all personnel listed on an award have a current email address. The status of reports can be seen under "Progress Reports" under the Grant File.

To complete your report, login to NOAA Grants Online at <https://grantsonline.rdc.noaa.gov/>, search for the award and navigate to the Grants File overview page. Then find the report near the bottom of the page and click on the link to the report to complete it. Your organization must attach the report document for submission. The Federal Program Officer is the authority on the acceptable form and content of Project Progress Reports. For additional assistance with Grants Online, please review the Recipient Quick Reference Guide available at [https://www.noaa.gov/sites/default/files/atoms/files/GrantRecipients\\_Quick\\_Ref\\_Guide.pdf](https://www.noaa.gov/sites/default/files/atoms/files/GrantRecipients_Quick_Ref_Guide.pdf). This site also has additional detailed recipient assistance material. If you are having problems with your access to Grants Online, please contact the Grants Online Help Desk at (240) 533-9533 or [GrantsOnline.HelpDesk@noaa.gov](mailto:GrantsOnline.HelpDesk@noaa.gov).

1. Frequency: Performance reports are due on a semi-annual basis unless otherwise specified in a specific award condition, no later than 30 days following the end of each six (6) month period from the start date of the original award. The last semi-annual performance report is required. The final report, which summarizes activities conducted during the entire award, must be submitted within 120 days following the period of performance end date. Subrecipients must submit final reports to the pass-through entity, no later than 90 days after the period of performance end date.
2. For awards governed by the Federal-wide Research Terms and Conditions, recipients must complete the Research Performance Progress Report (RPPR). The Department of Commerce implemented a RPPR for research awards in accordance with the requirement for recipient submission of performance reports using OMB-approved government-wide standard information collections per 2 C.F.R. §200.329. The recipient must complete the RPPR directly in Grants Online. Also, the RPPR format and instructions are available at <https://www.commerce.gov/oam/policy/financial-assistance-policy>.

## C. Property Reports and Disposition

Property records, including any documentation relating to disposition of property, required by 2 CFR §200.310-316, are to be submitted in NOAA's Grants Online System. The Tangible Personal Property Report (SF-428) and the Real Property Status Report (SF-429) should be included in documentation, as applicable. At the end of the period of performance, but no later than the closeout period, the recipient must report on property using the property forms (SF-428/SF-429 forms) located at <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html#sortBy=1>. Such property shall include real property (§200.311), Federally-owned and exempt property (§200.312), equipment acquired with grant funds (§200.313), and residual inventory of unused supplies exceeding \$5,000 in total aggregate value (§200.314). The recipient must request property disposition instructions from NOAA. In addition, recipients may be required to submit annual reports on real property, per §200.330.

Research awards should also refer to the Federal-wide Research Terms and Conditions at <http://www.nsf.gov/awards/managing/rtc.jsp>.

## D. Reporting Subawards and Executive Compensation

The recipient is reminded that the Commerce Terms require specified reporting regarding subawards and executive compensation, per the Federal Funding Accountability and Transparency Act (FFATA). This information is not reported through Grants Online. Follow reporting instructions in the Commerce Terms.

## III. Scientific Integrity

### A. General Guidelines

1. *Maintaining Integrity.* The non-Federal entity shall maintain the scientific integrity of research performed pursuant to this grant or financial assistance award including the prevention, detection, and remediation of any allegations regarding the violation of scientific integrity or scientific and research misconduct, and the conduct of inquiries, investigations, and adjudications of allegations of violations of scientific integrity or scientific and research misconduct. All the requirements of this provision flow down to subrecipients.
2. *Peer Review.* The peer review of the results of scientific activities under a NOAA grant, financial assistance award, or cooperative agreement shall be accomplished to ensure consistency with NOAA standards on quality, relevance, scientific integrity, reproducibility, transparency, and performance. NOAA will ensure that peer review of "influential scientific information" or "highly influential scientific assessments" is conducted in accordance with the Office of Management and Budget (OMB) Final Information Quality Bulletin for Peer Review and NOAA policies on peer review, such as the Information Quality Guidelines.
3. In performing or presenting the results of scientific activities under the NOAA grant, financial assistance award, or cooperative agreement and in responding to allegations regarding the violation of scientific integrity or scientific and research misconduct, the non-Federal entity and all subrecipients shall comply with the provisions herein and NOAA Administrative Order (NAO) 202-735D, Scientific Integrity, and its Procedural Handbook, including any amendments thereto. That Order can be found at <http://nrc.noaa.gov/ScientificIntegrityCommons.aspx>.
4. *Primary Responsibility.* The non-Federal entity shall have the primary responsibility to prevent, detect, and investigate allegations of a violation of scientific integrity or scientific and research misconduct. Unless otherwise instructed by the grants officer, the non-Federal entity shall promptly conduct an initial inquiry into any allegation of such misconduct and may rely on its internal policies and procedures, as appropriate, to do so.
5. By executing this grant, financial assistance award, or cooperative agreement the non-Federal entity provides its assurance that it has established an administrative process for performing an inquiry, investigating, and reporting allegations of a violation of scientific

integrity or scientific and research misconduct; and that it will comply with its own administrative process for performing an inquiry, investigation, and reporting of such misconduct.

6. The non-Federal entity shall insert this provision in all subawards at all tiers under this grant, financial assistance award, or cooperative agreement.

## **B. Investigating Scientific Integrity or Scientific and Research Misconduct**

1. *Initiating Investigation.* If the non-Federal entity or subrecipient determines that there is sufficient evidence to proceed to an investigation, it shall notify the grants officer and, unless otherwise instructed, the non-Federal entity or subrecipient shall:
  - a. Promptly conduct an investigation to develop a complete factual record and an examination of such record leading to either a finding regarding the violation of scientific integrity or scientific and research misconduct and an identification of appropriate remedies or a determination that no further action is warranted.
  - b. If the investigation leads to a finding regarding the violation of scientific integrity or scientific and research misconduct, obtain adjudication by a neutral third party adjudicator. The adjudication must include a review of the investigative record and, as warranted, a determination of appropriate corrective actions and sanctions.
2. *Finalizing Investigation.* When the investigation is complete, the non-Federal entity shall forward to the grants officer a copy of the evidentiary record, the investigative report, any recommendations made to the non-Federal entity adjudicating official, the adjudicating official's decision and notification of any corrective action taken or planned, and the subject's written response (if any).

## **C. Findings and Corrective Actions**

If the non-Federal entity finds that scientific integrity has been violated or scientific and research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in process and shall:

- a. Take all necessary corrective actions, which includes, but are not limited to, correcting the research record, and, as appropriate, imposing restrictions, controls, or other parameters on research in process or to be conducted in the future, and
- b. Coordinate remedial action with the grants officer.

## **IV. Data Sharing Directive**

The Data and Publication Sharing Directive for NOAA Grants, Cooperative Agreements, and Contracts ensures that environmental data funded extramurally by NOAA are made publicly accessible in a timely fashion (typically within two years of collection), and that final manuscripts of peer-reviewed research papers are deposited with the NOAA Central Library (upon acceptance by the journal, or no later than at



time of publication). Therefore, non-Federal entities, or recipients, must make data produced under financial assistance publicly accessible in accordance with the Data Management Plan included with the Proposal, unless the grant program grants a modification or an exemption. The text of the Directive is available at <https://nosc.noaa.gov/EDMC/PD.DSP.php>.

1. **Data Sharing:** Environmental data collected or created under this Grant, Cooperative Agreement, or Contract must be made publicly visible and accessible in a timely manner, free of charge or at minimal cost that is no more than the cost of distribution to the user, except where limited by law, regulation, policy, or national security requirements. Data are to be made available in a form that would permit further analysis or reuse: data must be encoded in a machine-readable format, preferably using existing open format standards; data must be sufficiently documented, preferably using open metadata standards, to enable users to independently read and understand the data. The location (internet address) of the data should be included in the final report. Pursuant to NOAA Information Quality Guidelines,<sup>1</sup> data should undergo quality control (QC) and a description of the QC process and results should be referenced in the metadata.<sup>2,3</sup>
2. **Timeliness:** Data accessibility must occur no later than publication of a peer-reviewed article based on the data, or two years after the data are collected and verified, or two years after the original end date of the grant (not including any extensions or follow-on funding), whichever is soonest, unless a delay has been authorized by the NOAA funding program.
3. **Disclaimer:** Data produced under this award and made available to the public must be accompanied by the following statement: "These data and related items of information have not been formally disseminated by NOAA, and do not represent any agency determination, view, or policy."
4. **Failure to Share Data:** Failing or delaying to make environmental data accessible in accordance with the submitted Data Management Plan, unless authorized by the NOAA Program, may lead to enforcement actions, and will be considered by NOAA when making future award decisions. Funding recipients are responsible for ensuring these conditions are also met by sub-recipients and subcontractors.
5. **Funding acknowledgement:** Federal funding sources shall be identified in all scholarly publications. An Acknowledgements section shall be included in the body of the publication stating the relevant Grant Programs and Award Numbers. In addition, funding sources shall be reported during the publication submission process using the FundRef mechanism (<http://www.crossref.org/fundref/>) if supported by the Publisher.
6. **Manuscript submission:** The final pre-publication manuscripts of scholarly publications produced with NOAA funding shall be submitted to the NOAA Institutional Repository at <https://repository.library.noaa.gov> after acceptance, and no later than upon publication, of the paper by a journal. NOAA will produce a publicly-visible catalog entry directing users to the published version of the article. After an embargo period of one year after publication, NOAA shall make the manuscript itself publicly visible, free of charge, while continuing to direct users to the published version of record.

7. **Data Citation:** Publications based on data, and new products derived from source data, must cite the data used according to the conventions of the Publisher, using unambiguous labels such as Digital Object Identifiers (DOIs). All data and derived products that are used to support the conclusions of a peer-reviewed publication must be made available in a form that permits verification and reproducibility of the results.

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1 [http://www.cio.noaa.gov/services\\_programs/IQ\\_Guidelines\\_103014.html](http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html)

2 Failure to perform quality control does not constitute an excuse not to share data.

3 Data without QC are considered "experimental products" and their dissemination must be accompanied by explicit limitations on their quality or by an indicated degree of uncertainty.

## V. Post Award Actions Requests

Grants Online provides the ability for recipients to submit post award action requests. The Department of Commerce requires that post award action requests be approved by an Authorized Representative. Grants Online enforces this business rule by routing all post award action requests through the recipient organizations Authorized Representative(s). Recipients must follow the guidance provided in Grants Online at [https://www.noaa.gov/sites/default/files/atoms/files/Recipient\\_AAR\\_Help\\_0.pdf](https://www.noaa.gov/sites/default/files/atoms/files/Recipient_AAR_Help_0.pdf).

Per 2 CFR §200.332, recipients/pass through entities (PTEs) are given the authority to impose additional restrictions on subrecipients in order for the recipient/PTE to meet its own responsibility to the Federal awarding agency. Recipients/PTEs may, at their discretion, opt to restrict the waived prior approvals identified in the Research Terms, if applicable, to their subrecipients. Recipients/PTEs should identify the applicable prior approval terms in their own subaward agreements.

## VI. Negotiated Indirect Cost Rate Agreements

This term supplements the Commerce Terms. Recipients must submit new or updated Negotiated Indirect Cost Rate Agreements (NICRA) to the NOAA Grants Office, when applicable. NICRAs can be submitted to the NOAA Grants Office through an email to the assigned Grants Specialist and Grants Officer for recordkeeping.

If NOAA is your organization's cognizant agency the applicant may contact the NOAA Grants Office if they wish to establish an agreement, if an applicant has not previously established an indirect cost rate agreement with a Federal agency. The negotiation and approval of a rate is subject to the procedures required by NOAA and the Commerce Terms. Per the 2 CFR 200 revisions effective as of November 12, 2020, any recipient that does not have a current negotiated (including provisional) rate, except for those recipients described in 2 CFR 200, Appendix VII, paragraph D.1.b., may opt to use the de minimis indirect cost rate of 10% of Modified Total Direct Cost (as allowable under 2 CFR §200.414). Also, NOAA may permit the recipient to use its last expired approved rate along with acknowledgment from their cognizant agency that their new indirect cost proposal has been received.

## **VII. Research Terms and Conditions**

For awards designated on the CD-450 as Research, the Commerce Terms, and the Federal-wide Research Terms and Conditions (Research Terms) as implemented by the Department of Commerce, currently at <https://www.nsf.gov/awards/managing/rtc.jsp>, both apply to the award. The Commerce Terms and the Research Terms are generally intended to harmonize with each other; however, where the Commerce Terms and the Research Terms differ in a Research award, the Research Terms prevail, unless otherwise indicated in a specific award condition.

## **VIII. Audit Findings Follow-up and Corrective Action**

In accordance with 2 C.F.R. §200.511 and the Commerce Terms, an auditee is responsible for follow-up and corrective action on all audit findings. For information on the summary of prior year audit findings and the corrective action plan, please also refer to §200.511(b) (1) (2), and (3) (i) (ii) (iii), and refer to §200.516 Audit findings, paragraph (c).

Paragraph (c) Corrective action plan of 2 C.F.R. §200.511 Audit Findings Follow-up, further states that at the completion of the audit, the auditee must prepare a corrective action plan to address each audit finding included in the current year auditor's reports. As defined in 2 CFR Part 200, a corrective action means action taken by the auditee that: (a) Corrects identified deficiencies; (b) Produces recommended improvements; or (c) Demonstrates that audit findings are either invalid or do not warrant auditee action. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.

NOAA as the cognizant, oversight, or Federal awarding agency of the auditee is responsible for follow-up on audit findings to ensure that the auditee takes appropriate and timely corrective action. As part of audit follow-up, NOAA must: (i) issue a management decision as prescribed in §200.521 Management decision; and (ii) monitor the recipient taking appropriate and timely corrective action. For additional information on applicable Federal agency responsibilities of NOAA for follow-up with corrective actions, see §200.513 Responsibilities.

## **IX. Audit Resolution**

Recipients that expend \$750,000 or more in Federal funds during the recipient's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with §200.501. As provided in §200.513, a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients.

As further prescribed in DOC's Departmental Administrative Order (DAO) 213-5 and 2 C.F.R. Part 200 Subpart F, Department and operating unit personnel shall act promptly to resolve both the financial and nonfinancial issues identified in an audit report. Comments, arguments, and evidence (if any) submitted by the auditee and the operating unit shall be considered in resolving the findings. A DOC decision on the resolution of audit findings and recommendations will be made in accordance with the procedures and within the specified time frames identified in DAO 213-5.

The audit action official shall issue the Management Decision and Audit Resolution Determination. The Management Decision and Audit Resolution Determination will be maintained in the official grant file and a copy will be forwarded to the Program Officer.

Recipients are afforded the opportunity to appeal the Audit Resolution Determination. The appeal process is the last opportunity for auditees to provide evidence to support their disputes. NOAA will not accept any submission from a recipient regarding an appeal after the established deadline, unless requested by the Grants Officer, the Office of Inspector General, or the Office of the General Counsel. After the Department renders a decision on an appeal, there are no other administrative appeals available.

An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due to DOC.

Recipients are responsible for the repayment of audit-related debts and for the collection of audit-related debts from their sub recipients where an audit has determined funds are owed. This does not relieve the recipient of liability for the debt.

## **X. NOAA Sexual Assault and Sexual Harassment Prevention and Response Policy**

1. NOAA requires organizations receiving federal assistance to report findings of sexual harassment, or any other kind of harassment, regarding a Principal Investigator (PI), co-PI, or any other key personnel in the award. The recipient must report to the NOAA Grants Officer and Program Officer if the PI, co-PI, or other key personnel are placed on administrative leave relating to a harassment finding or investigation. NOAA may take unilateral action as necessary to protect the safety of all personnel on a project supported by financial assistance, to include suspending or terminating an award or requiring a recipient to replace or remove personnel.

If the award involves the use of NOAA-operated facilities and/or vessels, the recipient must adhere to the following specific requirements:

- Financial assistance awards involving the use of NOAA operated-facilities: [NOAA Sexual Assault and Sexual Harassment Prevention and Response Policy Applicable to Financial Assistance Awards Involving NOAA-Operated Facilities \(May 2018\)](#)
- Financial assistance awards involving the use of vessels: [NOAA Sexual Assault and Sexual Harassment Prevention and Response Policy Applicable to Financial Assistance Awards Involving the Use of a Vessel\(s\) under NOAA Contract, Order, Grant, or Cooperative Agreement \(May 2018\)](#)

Direct links to the requirements for awards involving the use of NOAA operated-facilities and/or vessels may be found at <https://www.noaa.gov/organization/acquisition-grants/noaa-workplace-harassment-training-for-contractors-and-financial>. Note that these policies include required training.

2. NOAA expects all financial assistance recipients to establish and maintain clear and unambiguous standards of behavior to ensure harassment free workplaces wherever NOAA grant or cooperative agreement work is conducted, including notification pathways for all personnel, including students, on the awards. This expectation includes activities at all on- and offsite facilities and during conferences and workshops. All such settings should have accessible and evident means for reporting violations and recipients should exercise due diligence with timely investigations of allegations and corrective actions.
3. The NOAA Workplace Violence Prevention and Response Program (WVPR) works to establish a culture of professionalism and respect through violence prevention and response; education and training; victim support; reporting procedures and appropriate accountability that enhances the safety and well-being of all NOAA employees, affiliates, and visitors. Please visit <https://www.noaa.gov/workplace-violence-prevention-response-program> for more information.

DEPARTMENT OF COMMERCE  
FINANCIAL ASSISTANCE  
STANDARD TERMS AND CONDITIONS



12 November 2020

**DEPARTMENT OF COMMERCE**  
**FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS**

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## PREFACE

This document sets out the standard terms and conditions (ST&Cs) applicable to this U.S. Department of Commerce (DOC or Commerce) financial assistance award (hereinafter referred to as the DOC ST&Cs or Standard Terms). A non-Federal entity<sup>1</sup> receiving a DOC financial assistance award must, in addition to the assurances made as part of the application, comply and require each of its subrecipients, contractors, and subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders (E.O.s), Office of Management and Budget (OMB) circulars, provisions of the OMB *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, and any other terms and conditions incorporated into this DOC financial assistance award. In addition, unless otherwise provided by the terms and conditions of this DOC financial assistance award, Subparts A through E of 2 C.F.R. Part 200 and the Standard Terms are applicable to for-profit entities, foreign public entities and to foreign organizations that carry out a DOC financial assistance award.<sup>2</sup>

This award is subject to the laws and regulations of the United States. Any inconsistency or conflict in terms and conditions specified in the award will be resolved according to the following order of precedence: federal laws and regulations, applicable notices published in the *Federal Register*, E.O.s, OMB circulars, DOC ST&Cs, agency standard award conditions (if any), and specific award conditions. A specific award condition may amend or take precedence over a Standard Term on a case-by-case basis, when indicated by the specific award condition.

Some of the Standard Terms herein contain, by reference or substance, a summary of the pertinent statutes, regulations published in the *Federal Register* or Code of Federal Regulations (C.F.R.), E.O.s, OMB circulars, or the certifications and assurances provided by applicants through Standard Forms (*e.g.*, SF-424s) or through DOC forms (*e.g.* Form CD-511). To the extent that it is a summary, such Standard Term provision is not in derogation of, or an amendment to, any such statute, regulation, E.O., OMB circular, certification, or assurance.

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<sup>1</sup> Note that the OMB Uniform Guidance uses the term “non-Federal entity” to generally refer to an entity that carries out a Federal award as a recipient or subrecipient. Because some of the provisions of these DOC ST&Cs apply to recipients rather than subrecipients, or vice versa, for clarity, these DOC ST&Cs use the terms “non-Federal entity,” “recipient,” and “subrecipient” consistent with their meanings in the OMB Uniform Guidance. In addition, the OMB Uniform Guidance uses the term “pass-through entity” to refer to a non-Federal entity that makes a subaward. As defined at 2 C.F.R. § 200.1:

“Non-Federal entity” is “a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.”

“Recipient” is “an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.”

“Subrecipient” is “an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.”

“Pass-through entity” is “a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.”

<sup>2</sup> See 2 C.F.R. § 200.1 for the definitions of “foreign public entity” and “foreign organization.”

DOC commenced implementation of the Research Terms and Conditions (RT&Cs) for Federal awards effective October 1, 2017; the RT&Cs address and implement the Uniform Guidance issued by OMB. For awards designated on the Form CD-450 (Financial Assistance Award) as Research, both the DOC ST&Cs and the RT&Cs as implemented by DOC apply to the award. The RT&Cs as well as the DOC implementation statement, agency specific requirements, prior approval matrix, subaward requirements, and national policy requirements are posted on the National Science Foundation's website – <https://www.nsf.gov/awards/managing/rtc.jsp>. The DOC ST&Cs and the RT&Cs are generally intended to harmonize with each other; however, where the DOC ST&Cs and the RT&Cs differ in a Research award, the RT&Cs prevail, unless otherwise indicated in a specific award condition.

## **A. PROGRAMMATIC REQUIREMENTS**

### **.01 Reporting Requirements**

a. Recipients must submit all reports as required by DOC, electronically or, if unable to submit electronically, in hard copy, as outlined below and as may be supplemented by the terms and conditions of a specific DOC award.

b. Performance (Technical) Reports. Recipients must submit performance (technical) reports to the Program Officer. Performance (technical) reports should be submitted in the same frequency as the Form SF-425 (Federal Financial Report), unless otherwise directed by the Grants Officer.

1. Performance (technical) reports must contain the information prescribed in 2 C.F.R. § 200.329 (Monitoring and reporting program performance), unless otherwise specified in the award conditions.

2. As appropriate and in accordance with the format provided by the Program Officer (or other OMB-approved information collections, including the Research Program Performance Report [RPPR] as adopted by DOC for use in research awards), recipients are required to relate financial data to the performance accomplishments of this Federal award. When applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance will be measured in a way that will help DOC to improve program outcomes, share lessons learned, and spread the adoption of best or promising practices. As described in 2 C.F.R. § 200.211 (Information contained in a Federal award), DOC will identify the timing and scope of expected performance by the recipient as related to the outcomes intended to be achieved by the Federal program.

3. Recipients (or pass-through entities as applicable) must submit a final performance report within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its final performance report to the pass-through entity within 90 calendar days unless an extension has been granted.

c. Financial Reports. In accordance with 2 C.F.R. § 200.328 (Financial reporting), the recipient must submit a Form SF-425 (Federal Financial Report) or any successor form on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a specific award condition. Reports must be submitted to DOC as directed by the Grants Officer, in accordance with the award conditions and are due no later than 30 calendar days following the end of each reporting period. Recipients (or pass-through entities as applicable) must submit a final Form SF-425 within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its financial report to the pass-through entity within 90 calendar days unless an extension has been granted. A recipient may submit a final financial report in lieu of an interim financial report due at the end of the period of performance (e.g., in lieu of submitting a financial report for the last semi-annual or other reporting under an award, a recipient may submit a final (cumulative) financial report covering the entire award period).

d. Real Property, Tangible Personal Property and Intangible Property Reports and Requests for Dispositions. Unless otherwise required by the terms and conditions of a DOC financial assistance award, where real property, tangible personal property or intangible property is acquired or improved (in the case of real property or tangible personal property), or produced or acquired (in the case of intangible property), pursuant to a DOC award, non-Federal entities are required to submit the following real property, tangible personal property and intangible property reports (as appropriate):

1. Real Property Status Reports and Requests for Dispositions: Non-Federal entities must submit reports using Form SF-429 (Real Property Status Report) or any successor form, including appropriate attachments thereto, at least annually disclosing the status of real property that is Federally-owned property or real property in which the Federal Government retains a Federal Interest, unless the Federal Interest in the real property extends 15 years or longer. In cases where the Federal Interest attached is for a period of 15 years or more, the DOC or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or, the DOC or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years). In addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-429, with appropriate attachments, relating to a non-Federal entity's request to acquire, improve or contribute real property under a DOC financial assistance award.

Non-Federal entities wishing to dispose of real property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-429, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.311(c). *See also* the real property standards set forth in Section C. of these Standard Terms (Property Standards).

2. Tangible Personal Property Status Reports and Requests for Dispositions: DOC or a pass-through entity may also require a non-Federal entity to submit periodic reports using Form SF-428 (Tangible Personal Property Report) or any successor form, including appropriate attachments thereto, concerning tangible personal property that is Federally-owned or tangible personal property in which the Federal Government retains an interest. In

addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-428 in connection with a non-Federal entity's request to dispose of tangible personal property acquired under a DOC financial assistance award. Non-Federal entities wishing to dispose of tangible personal property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-428, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.313(e). *See also* the tangible property standards set forth in Section C. of these Standard Terms (Property Standards).

3. Intangible Property Status Reports and Requests for Dispositions: The specific requirements governing the development, reporting, and disposition of rights to intangible property, including inventions and patents resulting from DOC awards, are set forth in 37 C.F.R. Part 401, which is hereby incorporated by reference into this award. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at [www.iedison.gov](http://www.iedison.gov). Non-Federal entities may obtain a waiver of this electronic submission requirement by providing to the Grants Officer compelling reasons for allowing the submission of paper reports. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. § 200.313(e). *See also* the intangible property standards set forth in Section C. of these Standard Terms (Property Standards).

e. Subawards and Executive Compensation Reports. For reporting requirements on subawards and Executive Compensation, see paragraph G.05.o of these Standard Terms (The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)).

f. Recipient Integrity and Performance Matters. For reporting requirements pertaining to integrity and performance matters, see paragraph G.05.p of these Standard Terms (Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)).

g. Research Performance Progress Reports. All research awards shall submit the Research Performance Progress Report (RPPR) in accordance with instructions set forth in the following link: [RPPR Instructions](#).

## **.02 Revisions of Program Plans**

In accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)), the recipient must obtain prior written approval from the DOC Grants Officer for certain proposed programmatic change requests, unless otherwise provided by the terms and conditions of a DOC award. Requests for prior approval for changes to program plans must be submitted to the Federal Program Officer (or electronically for awards administered through Grants Online). Requests requiring prior DOC approval are not effective unless and until approved in writing by the DOC Grants Officer.

### **.03 Other Federal Awards with Similar Programmatic Activities**

The recipient must immediately provide written notification to the DOC Program Officer and the DOC Grants Officer if, subsequent to receipt of the DOC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC award. DOC will not pay for costs that are funded by other sources.

### **.04 Prohibition against Assignment by a Non-Federal Entity**

A non-Federal entity must not transfer, pledge, mortgage, assign, encumber or hypothecate a DOC financial assistance award or subaward, or any rights to, interests therein or claims arising thereunder, to any party or parties, including but not limited to banks, trust companies, other financing or financial institutions, or any other public or private organizations or individuals without the express prior written approval of the DOC Grants Officer or the pass-through entity (which, in turn, may need to obtain prior approval from the DOC Grants Officer).

### **.05 Disclaimer Provisions**

a. The United States expressly disclaims all responsibility or liability to the non-Federal entity or third persons (including but not limited to contractors) for the actions of the non-Federal entity or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any subaward, contract, or subcontract under this award.

b. The acceptance of this award or any subaward by the non-Federal entity does not in any way constitute an agency relationship between the United States and the non-Federal entity or the non-Federal entity's contractors or subcontractors.

### **.06 Unsatisfactory Performance or Non-Compliance with Award Provisions**

a. Failure to perform the work in accordance with the terms of the award and maintain satisfactory performance as determined by DOC may result in the imposition of additional award conditions pursuant to 2 C.F.R. § 200.208 (Specific conditions) or other appropriate enforcement action as specified in 2 C.F.R. § 200.339 (Remedies for noncompliance).

b. Failure to comply with the provisions of an award will be considered grounds for appropriate enforcement action pursuant to 2 C.F.R. § 200.339 (Remedies for noncompliance), including but not limited to: the imposition of additional award conditions in accordance with 2 C.F.R. § 200.208 (Specific conditions); temporarily withholding award payments pending the correction of the deficiency; changing the payment method to reimbursement only; the disallowance of award costs and the establishment of an accounts receivable; wholly or partially suspending or terminating an award; initiating suspension or debarment proceedings in accordance with 2 C.F.R. Parts 180 and 1326; and such other remedies as may be legally available.

c. 2 C.F.R. §§ 200.340 (Termination) through 200.343 (Effects of suspension and termination) apply to an award that is terminated prior to the end of the period of performance

due to the non-federal entity's material failure to comply with the award terms and conditions. In addition, the failure to comply with the provisions of a DOC award may adversely impact the availability of funding under other active DOC or Federal awards and may also have a negative impact on a non-Federal entity's eligibility for future DOC or Federal awards.

## **B. FINANCIAL REQUIREMENTS**

### **.01 Financial Management**

a. In accordance with 2 C.F.R. § 200.302(a) (Financial Management), each State must expend and account for the Federal award in accordance with State laws and procedures for expending and accounting for the State's own funds. In addition, the State's and any other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions applicable to the Federal award. *See also* 2 C.F.R. § 200.450 (Lobbying) for additional management requirements to verify that Federal funds are not used for unallowable lobbying costs.

b. The financial management system of each non-Federal entity must provide all information required by 2 C.F.R. § 200.302(b). *See also* 2 C.F.R. §§ 200.334 (Retention requirements for records); 200.335 (Requests for transfer of records); 200.336 (Methods for collection, transmission and storage of information); 200.337 (Access to records); and 200.338 (Restrictions on public access to records).

### **.02 Award Payments**

a. Consistent with 2 C.F.R. § 200.305(a) (Federal payment), for States, payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 C.F.R. Part 205 (Rules and Procedures for Efficient Federal-State Funds Transfers) and Treasury Financial Manual Volume I, 4A-2000 (Overall Disbursing Rules for All Federal Agencies).

b. Consistent with 2 C.F.R. § 200.305(b), for non-Federal entities other than States, payment methods must minimize the amount of time elapsing between the transfer of funds from the U.S. Treasury or the pass-through entity and the disbursement by the non-Federal entity.

1. The Grants Officer determines the appropriate method of payment and, unless otherwise stated in a specific award condition, the advance method of payment must be authorized. Advances must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. Unless otherwise provided by the terms and conditions of a DOC award, non-Federal entities must time advance payment requests so that Federal funds are on hand for a maximum of 30 calendar days before being disbursed by the



non-Federal entity for allowable award costs.

2. If a non-Federal entity demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity or if a non-Federal entity otherwise fails to continue to qualify for the advance method of payment, the Grants Officer or the pass-through entity may change the method of payment to reimbursement only.

c. Unless otherwise provided for in the award terms, payments from DOC to recipients under this award will be made using the Department of Treasury's Automated Standard Application for Payment (ASAP) system. Under the ASAP system, payments are made through preauthorized electronic funds transfers directly to the recipient's bank account, in accordance with the requirements of the Debt Collection Improvement Act of 1996. To receive payments under ASAP, recipients are required to enroll with the Department of Treasury, Financial Management Service, Regional Financial Centers, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. The following information will be required to make withdrawals under ASAP:

1. ASAP account number – the Federal award identification number found on the cover sheet of the award;
2. Agency Location Code (ALC); and
3. Region Code.

d. Recipients enrolled in the ASAP system do not need to submit a Form SF-270 (Request for Advance or Reimbursement) for payments relating to their award. Awards paid under the ASAP system will contain a specific award condition, clause, or provision describing enrollment requirements and any controls or withdrawal limits set in the ASAP system.

e. When the Form SF-270 or successor form is used to request payment, the recipient must submit the request no more than monthly, and advances must be approved for periods to cover only expenses reasonably anticipated over the next 30 calendar days. Prior to receiving payments via the Form SF-270, the recipient must complete and submit to the Grants Officer the Form SF-3881 (ACH Vendor Miscellaneous Payment Enrollment Form) or successor form along with the initial Form SF-270. Form SF-3881 enrollment must be completed before the first award payment can be made via a Form SF-270 request.

f. The Federal award identification number must be included on all payment-related correspondence, information, and forms.

g. Non-Federal entities receiving advance award payments must adhere to the depository requirements set forth in 2 C.F.R. §§ 200.305(b)(7) through (b)(11). Interest amounts up to \$500 per non-Federal entity's fiscal year may be retained by the non-Federal entity for administrative expenses.

### **.03 Federal and Non-Federal Sharing**

a. Awards that include Federal and non-Federal sharing incorporate a budget consisting of shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares must be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs exceed the total approved budget, the Federal share must not exceed the total Federal dollar amount authorized by the award.

b. The non-Federal share, whether in cash or third-party in-kind contributions, is to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or third-party in-kind contributions. In any case, the recipient must meet its cost share commitment as set forth in the terms and conditions of the award; failure to do so may result in the assignment of specific award conditions or other further action as specified in Standard Term A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). The non-Federal entity must create and maintain sufficient records justifying all non-Federal sharing requirements to facilitate questions and audits; see Section D of these Standard Terms (Audits), for audit requirements. *See* 2 C.F.R. § 200.306 for additional requirements regarding cost sharing.

### **.04 Budget Changes and Transfer of Funds among Categories**

a. Recipients are required to report deviations from the approved award budget and request prior written approval from DOC in accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)). Requests for such budget changes must be submitted to the Grants Officer (or electronically for awards serviced through Grants Online) who will notify the recipient of the final determination in writing. Requests requiring prior DOC approval do not become effective unless and until approved in writing by the DOC Grants Officer.

b. In accordance with 2 C.F.R. § 200.308(f), transfers of funds by the recipient among direct cost categories are permitted for awards in which the Federal share of the project is equal to or less than the simplified acquisition threshold. For awards in which the Federal share of the project exceeds the simplified acquisition threshold, transfers of funds among direct cost categories must be approved in writing by the Grants Officer when the cumulative amount of such direct costs transfers exceeds 10 percent of the total budget as last approved by the Grants Officer. The 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated to date by the Grants Officer along with any non-Federal share. The same requirements apply to the cumulative amount of transfer of funds among programs, functions, and activities. This transfer authority does not authorize the recipient to create new budget categories within an approved budget without Grants Officer approval. Any transfer that causes any Federal appropriation, or part thereof, to be used for an unauthorized purpose is not and will not be permitted. In addition, this provision does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget. *See* 2 C.F.R. § 200.308 (Revision

of budget and program plans) (as applicable) for specific requirements concerning budget revisions and transfer of funds between budget categories.

## **.05 Program Income**

Unless otherwise indicated in the award terms, program income may be used for any required cost sharing or added to the project budget, consistent with 2 C.F.R. § 200.307 (Program income).

## **.06 Indirect or Facilities and Administrative Costs**

a. Indirect costs (or facilities and administration costs (F&A)) for major institutions of higher education and major nonprofit organizations can generally be defined as costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect costs will not be allowable charges against an award unless permitted under the award and specifically included as a line item in the award's approved budget.

b. Unrecovered indirect costs, including unrecovered indirect costs on cost sharing or matching, may be included as part of cost sharing or matching as allowed under 2 C.F.R. § 200.306(c) (Cost sharing or matching) or the terms and conditions of a DOC award.

c. Cognizant Agency for Indirect (F&A) Costs. OMB established the cognizant agency concept, under which a single agency represents all others in dealing with non-Federal entities in common areas. The cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. In accordance with Appendices III – VII to 2 C.F.R. Part 200 the cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. With respect to for-profit organizations, the term cognizant Federal agency generally is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. *See* 48 C.F.R. § 42.003. If the only Federal funds received by a commercial organization are DOC award funds, then DOC becomes the cognizant Federal agency for indirect cost negotiations.

### **1. General Review Procedures Where DOC is the Cognizant Agency.**

i. Within 90 calendar days of the award start date, the recipient must submit to the Grants Officer any documentation (indirect cost proposal, cost allocation plan, etc.) necessary to allow DOC to perform the indirect cost rate proposal review. Below are two sources available for guidance on how to put an indirect cost plan together:

- (A) Department of Labor: <https://www.dol.gov/oasam/boc/dcd/np-comm-guide.htm>  
or
- (B) Department of the Interior: <https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/>.

ii. The recipient may use the rate proposed in the indirect cost plan as a provisional rate until the DOC provides a response to the submitted plan.

iii. The recipient is required to annually submit indirect cost proposals no later than six months after the recipient's fiscal year end, except as otherwise provided by 2 C.F.R. § 200.414(g).

2. When DOC is not the oversight or cognizant Federal agency, the recipient must provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement within 30 calendar days of receipt of a negotiated rate agreement or submission of a negotiated rate proposal.

3. If the recipient is proposing indirect costs as part of a project budget, but is not required to have a negotiated rate agreement pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b (*i.e.*, a governmental department or agency that receives \$35 million or less in direct Federal funding), the recipient may be required to provide the Grants Officer with a copy of its Certificate of Indirect Costs as referenced in 2 C.F.R. Part 200, Appendix VII, Paragraph D.3. or such other documentation, acceptable in form and substance to the Grants Officer, sufficient to confirm that proposed indirect costs are calculated and supported by documentation in accordance with 2 C.F.R. Part 200, Appendix VII. In cases where the DOC is the recipient's cognizant Federal agency, the DOC reserves the right, pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b, to require the recipient to submit its indirect cost rate proposal for review by DOC.

d. If the recipient fails to submit required documentation to DOC within 90 calendar days of the award start date, the Grants Officer may amend the award to preclude the recovery of any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.

e. The maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient is the lesser of:

1. The line item amount for the Federal share of indirect costs contained in the approved award budget, including all budget revisions approved in writing by the Grants Officer; or
2. The Federal share of the total indirect costs allocable to the award based on the indirect cost rate approved by the cognizant agency for indirect costs and applicable to the period in which the cost was incurred, in accordance with 2 C.F.R. 200 Appendix III, C.7, provided that the rate is approved on or before the award end date.

f. In accordance with 2 CFR § 200.414(c)(3), DOC set forth policies, procedures, and general decision-making criteria for deviations from negotiated indirect cost rates. These policies and procedures are applicable to all Federal financial assistance programs awarded and administered by DOC bureaus as Federal awarding agencies and may be found at [http://www.osec.doc.gov/oam/grants\\_management/policy/documents/FAM%202015-02.pdf](http://www.osec.doc.gov/oam/grants_management/policy/documents/FAM%202015-02.pdf).

g. In accordance with 2 CFR § 200.414(g), any non-Federal entity that has a negotiated indirect cost rate may apply to the entity's cognizant agency for indirect costs for a one-time extension of a currently negotiated indirect cost rate for a period of up to four years, reducing the frequency of rate calculations and negotiations between an institution and its cognizant agency.

h. In accordance with 2 CFR § 200.414(f), any non-Federal entity that does not have a current negotiated (including provisional) rate, except for those non-Federal entities described in paragraph D.1.b of Appendix VII to 2 CFR Part 200, may elect to charge a de minimis rate of 10 percent of modified total direct costs. No documentation is required to justify the 10 percent de minimis indirect cost rate.

## **.07 Incurring Costs or Obligating Federal Funds Before and After the Period of Performance**

a. In accordance with 2 C.F.R. § 200.309 (Modifications to Period of Performance) and the terms and conditions of a DOC award, a non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance, which is established in the award document. As defined at 2 C.F.R. § 200.1, the "period of performance" means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the Period of Performance in the Federal award per § 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period." The period of performance may sometimes be referred to as the project period or award period. This Standard Term is subject to exceptions for allowable costs pertaining to: (i) pre-award costs (*see* 2 C.F.R. § 200.458); (ii) publication and printing costs (*see* 2 C.F.R. § 200.461); and administrative costs incurred relating to the close-out of an award (*see* 2 C.F.R. § 200.344).

b. Reasonable, necessary, allowable and allocable administrative award closeout costs are authorized for a period of up to 120 calendar days following the end of the period of performance. For this purpose, award closeout costs are those strictly associated with close-out activities and are typically limited to the preparation of final progress, financial, and required project audit reports, unless otherwise approved in writing by the Grants Officer. A non-Federal entity may request an extension of the 120-day closeout period, as provided in 2 C.F.R. § 200.344 (Closeout).

c. Unless authorized by a specific award condition, any extension of the period of performance may only be authorized by the Grants Officer in writing. This is not a delegable authority. Verbal or written assurances of funding from anyone other than the Grants Officer does not constitute authority to obligate funds for programmatic activities beyond the end of the period of performance.

d. The DOC has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding and to extend the period of performance is at the sole discretion of DOC.

## **.08 Tax Refunds**

The non-Federal entity shall contact the Grants Officer immediately upon receipt of the refund of any taxes, including but not limited to Federal Insurance Contributions Act (FICA) taxes, Federal Unemployment Tax Act (FUTA) taxes, or Value Added Taxes (VAT) that were allowed as charges to a DOC award, regardless of whether such refunds are received by the non-Federal entity during or after the period of performance. The Grants Officer will provide written disposition instructions to the non-Federal entity, which may include the refunded taxes being credited to the award as either a cost reduction or a cash refund, or may allow the non-Federal entity to use such refunds for approved activities and costs under a DOC award. *See* 2 C.F.R. § 200.470 (Taxes (including Value Added Tax)).

## **.09 Internal Controls**

Each recipient must comply with standards for internal controls described at 2 C.F.R. § 200.303 (Internal controls). The “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States referenced in § 200.303 are available online at <http://www.gao.gov/assets/80/76455.pdf> and the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) is available online at [Internal Control Guidance](#).

## **C. PROPERTY STANDARDS**

### **.01 Standards**

Each non-Federal entity must comply with the Property Standards set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship).

### **.02 Real and Personal Property**

a. In accordance with 2 C.F.R. § 200.316 (Property trust relationship), real property, equipment, and other personal property acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property’s estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). During the duration of the Federal Interest, the non-Federal entity must comply with all use and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship), as applicable, and in the terms and conditions of the Federal award.

b. The Grants Officer may require a non-Federal entity to execute and to record (as applicable) a statement of interest, financing statement (form UCC-1), lien, mortgage or other public notice of record to indicate that real or personal property acquired or improved in whole or in part with Federal funds is subject to the Federal Interest, and that certain use and disposition

requirements apply to the property. The statement of interest, financing statement (Form UCC 1), lien, mortgage or other public notice must be acceptable in form and substance to the DOC and must be placed on record in accordance with applicable State and local law, with continuances re-filed as appropriate. In such cases, the Grants Officer may further require the non-Federal entity to provide the DOC with a written statement from a licensed attorney in the jurisdiction where the property is located, certifying that the Federal Interest has been protected, as required under the award and in accordance with applicable State and local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, must be returned to the Grants Officer. Without releasing or excusing the non-Federal entity from these obligations, the non-Federal entity, by execution of the financial assistance award or by expending Federal financial assistance funds (in the case of a subrecipient), authorizes the Grants Officer and/or program office to file such notices and continuations as it determines to be necessary or convenient to disclose and protect the Federal Interest in the property. The Grants Officer may elect not to release any or a portion of the Federal award funds until the non-Federal entity has complied with this provision and any other applicable award terms or conditions, unless other arrangements satisfactory to the Grants Officer are made.

### **.03 Intellectual Property Rights**

a. General. The rights to any work or other intangible property produced or acquired under a Federal award are determined by 2 C.F.R. § 200.315 (Intangible property). The non-Federal entity owns any work produced or purchased under a Federal award subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work or authorize others to receive, reproduce, publish, or otherwise use the work for Government purposes.

b. Inventions. Unless otherwise provided by law, the rights to any invention made by a non-Federal entity under a DOC financial assistance award are determined by the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and as codified in 35 U.S.C. § 200 *et seq.*, and modified by E.O. 12591 (52 FR 13414), as amended by E.O. 12618 (52 FR 48661). 35 U.S.C. § 201(h) defines "small business firm" as "a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration." Section 1(b)(4) of E.O. 12591 extended the Bayh-Dole Act to non-Federal entities "regardless of size" to the extent permitted by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from Federal awards are described in more detail in 37 C.F.R. Part 401, which implements 35 U.S.C. 202 through 204 and includes standard patent rights clauses in 37 C.F.R. § 401.14, which is hereby incorporated by reference into this award.

The Bayh-Dole regulations set forth in 37 C.F.R. parts 401 and 404 were amended by 83 FR 15954, with an effective date of May 14, 2018 (Amended Bayh-Dole Regulations). The Amended Bayh-Dole Regulations apply to all new financial assistance awards issued on or after May 14, 2018. The Amended Bayh-Dole Regulations do not apply to financial assistance awards issued prior to May 14, 2018, including amendments made to such awards, unless an award amendment includes a specific condition incorporating the Amended Bayh-Dole Regulations into the terms and conditions of the subject award.

1. Ownership. A non-Federal entity may have rights to inventions in accordance with 37 C.F.R. Part 401. These requirements are technical in nature and non-Federal entities are encouraged to consult with their Intellectual Property counsel to ensure the proper interpretation of and adherence to the ownership rules. Unresolved questions pertaining to a non-Federal entities' ownership rights may further be addressed to the Grants Officer.

2. Responsibilities - iEdison. The non-Federal entity must comply with all the requirements of the standard patent rights clause and 37 C.F.R. Part 401, including the standard patent rights clause in 37 C.F.R. § 401.14. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at [www.iedison.gov](http://www.iedison.gov). Non-Federal entities may obtain a waiver of this electronic submission requirement by providing the Grants Officer with compelling reasons for allowing the submission of paper reports.

c. Patent Notification Procedures. Pursuant to E.O. 12889 (58 FR 69681), the DOC is required to notify the owner of any valid patent covering technology whenever the DOC or a non-Federal entity, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the non-Federal entity uses or has used patented technology under this award without a license or permission from the owner, the non-Federal entity must notify the Grants Officer.

This notice does not constitute authorization or consent by the Government to any copyright or patent infringement occurring under the award.

d. A non-Federal entity may copyright any work produced under a Federal award, subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work, or authorize others to do so for Government purposes. Works jointly authored by DOC and non-Federal entity employees may be copyrighted, but only the part of such works authored by the non-Federal entity is protectable in the United States because, under 17 U.S.C. § 105, copyright protection is not available within the United States for any work of the United States Government. On occasion and as permitted under 17 U.S.C. § 105, DOC may require the non-Federal entity to transfer to DOC a copyright in a particular work for Government purposes or when DOC is undertaking primary dissemination of the work.

e. Freedom of Information Act (FOIA). In response to a FOIA request for research data relating to published research findings (as defined by 2 C.F.R. § 200.315(e)(2)) produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the DOC will request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA.



## D. AUDITS

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, §§ 1 *et seq.*, an audit of the award may be conducted at any time. The Inspector General of the DOC, or any of his or her duly authorized representatives, must have the right to access any pertinent books, documents, papers, and records of the non-Federal entity, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. This right also includes timely and reasonable access to the non-Federal entity's personnel for interview and discussion related to such documents. *See* 2 C.F.R. § 200.337 (Access to records). When the DOC Office of Inspector General (OIG) requires a program audit on a DOC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other Federal, State, or local audit entity.

### .01 Organization-Wide, Program-Specific, and Project Audits

- a. A recipient must, within 90 days of the end of its fiscal year, notify the Grants Officer of the amount of Federal awards, including all DOC and non-DOC awards, that the recipient expended during its fiscal year.
- b. Recipients that are subject to the provisions of Subpart F of 2 C.F.R. Part 200 and that expend \$750,000 or more in a year in Federal awards during their fiscal year must have an audit conducted for that year in accordance with the requirements contained in Subpart F of 2 C.F.R. Part 200. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted electronically to the Federal Audit Clearinghouse (FAC) through the FAC's Internet Data Entry System (IDES) (<https://harvester.census.gov/facides/>). In accordance with 2 C.F.R. § 200.425 (Audit services), the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer.
- c. Unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 C.F.R. Part 200 (e.g., for-profit entities, foreign public entities and foreign organizations) and that expend \$750,000 or more in DOC funds during their fiscal year (including both as a recipient and a subrecipient) must submit to the Grants Officer either: (i) a financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards (GAGAS); or (ii) a project specific audit for each award or subaward in accordance with the requirements contained in 2 C.F.R. § 200.507. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted to the Grants Officer. In accordance with 2 C.F.R. § 200.425, the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer. Entities that are not subject to Subpart F of 2 C.F.R. Part 200 and that expend less than \$750,000 in DOC funds in a given fiscal year are

not required to submit an audit(s) for that year, but must make their award-related records available to DOC or other designated officials for review and audit.

d. Recipients are responsible for compliance with the above audit requirements and for informing the Grants Officer of the status of their audit, including when the relevant audit has been completed and submitted in accordance with the requirements of this section. Failure to provide audit reports within the timeframes specified above may result in appropriate enforcement action, up to and including termination of the award, and may jeopardize eligibility for receiving future DOC awards.

e. In accordance with 2 C.F.R. § 200.332(d)(3), pass-through entities are responsible for issuing a management decision for applicable audit findings pertaining only to the Federal award provided by the pass-through entity to a subrecipient.

## **.02 Audit Resolution Process**

a. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due to DOC. For this reason, the recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence whenever audit results are disputed.

b. A recipient whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:

1. The recipient has 30 calendar days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.
2. The recipient has 30 calendar days from the date of the transmittal of the final audit report to submit written comments and documentary evidence.
3. The DOC will review the documentary evidence submitted by the recipient and will notify the recipient of the results in an *Audit Resolution Determination Letter*. The recipient has 30 calendar days from the date of receipt of the *Audit Resolution Determination Letter* to submit a written appeal, unless this deadline is extended in writing by the DOC. The appeal is the last opportunity for the recipient to submit written comments and documentary evidence to the DOC to dispute the validity of the audit resolution determination.
4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of applicable interest, penalties and administrative fees on the debt in accordance with 15 C.F.R. Part 19. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively.
5. The DOC will review the recipient's appeal and notify the recipient of the results in an *Appeal Determination Letter*. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the recipient. No other administrative appeals are available in DOC.

## E. DEBTS

### .01 Payment of Debts Owed to the Federal Government

a. The non-Federal entity must promptly pay any debts determined to be owed to the Federal Government. Any funds paid to a non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due), if not paid within 90 calendar days after demand, DOC may reduce a debt owed to the Federal Government by:

1. Making an administrative offset against other requests for reimbursement;
2. Withholding advance payments otherwise due to the non-Federal entity; or
3. Taking any other action permitted by Federal statute.

The foregoing does not waive any claim on a debt that DOC may have against another entity, and all rights and remedies to pursue other parties are preserved.

b. DOC debt collection procedures are set out in 15 C.F.R. Part 19. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due) and 31 U.S.C. § 3717, failure to pay a debt owed to the Federal Government must result in the assessment of interest, penalties and administrative costs in accordance with the provisions of 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Commerce entities will transfer any Commerce debt that is delinquent for more than 120 calendar days to the U.S. Department of the Treasury's Financial Management Service for debt collection services, a process known as cross-servicing, pursuant to 31 U.S.C. § 3711(g), 31 C.F.R. § 285.12, and 15 C.F.R. § 19.9. DOC may also take further action as specified in DOC ST&C A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). Funds for payment of a debt must not come from other Federally-sponsored programs, and the DOC may conduct on-site visits, audits, and other reviews to verify that other Federal funds have not been used to pay a debt.

### .02 Late Payment Charges

a. Interest will be assessed on the delinquent debt in accordance with section 11 of the Debt Collection Act of 1982, as amended (31 U.S.C. § 3717(a)). The minimum annual interest rate to be assessed is the U.S. Department of the Treasury's Current Value of Funds Rate (CVFR). The CVFR is available online at [https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr\\_home.htm](https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm) and also published by the Department of the Treasury in the *Federal Register* (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>) and in the *Treasury Financial Manual Bulletin*. The assessed rate must remain fixed for the duration of the indebtedness.

b. Penalties will accrue at a rate of not more than six percent per year or such other higher rate as authorized by law.

c. Administrative charges, i.e., the costs of processing and handling a delinquent debt, will be determined by the Commerce entity collecting the debt, as directed by the Office of the Chief Financial Officer and Assistant Secretary for Administration.

### **.03 Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Insurance Guarantees**

Pursuant to 31 U.S.C. § 3720B and 31 C.F.R. § 901.6, unless waived by DOC, the DOC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

### **.04 Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs**

Pursuant to 28 U.S.C. § 3201(e), unless waived by the DOC, a debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive any grant or loan that is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

## **F. CONFLICT OF INTEREST, CODE OF CONDUCT AND OTHER REQUIREMENTS PERTAINING TO DOC FINANCIAL ASSISTANCE AWARDS, INCLUDING SUBAWARD AND PROCUREMENT ACTIONS**

### **.01 Conflict of Interest and Code of Conduct**

a. DOC Conflict of Interest Policy. In accordance with 2 C.F.R. § 200.112 (Conflict of interest), the non-Federal entity must disclose in writing any potential conflict of interest to the DOC or pass-through entity. In addition, a non-Federal entity will establish and maintain written standards of conduct that include safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of an award. It is the DOC's policy to maintain the highest standards of conduct and to prevent real or apparent conflicts of interest in connection with DOC financial assistance awards.

b. A conflict of interest generally exists when an interested party participates in a matter that has a direct and predictable effect on the interested party's personal or financial interests. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. A conflict also may exist where there is an appearance that an interested party's objectivity in performing his or her responsibilities under the project is impaired. For example, an appearance of impairment of objectivity may result from an organizational conflict where, because of other activities or relationships with other persons or entities, an interested party is unable to render

impartial assistance, services or advice to the recipient, a participant in the project or to the Federal Government. Additionally, a conflict of interest may result from non-financial gain to an interested party, such as benefit to reputation or prestige in a professional field. For purposes of the DOC Conflict of Interest Policy, an interested party includes, but is not necessarily limited to, any officer, employee or member of the board of directors or other governing board of a non-Federal entity, including any other parties that advise, approve, recommend, or otherwise participate in the business decisions of the recipient, such as agents, advisors, consultants, attorneys, accountants or shareholders. This also includes immediate family and other persons directly connected to the interested party by law or through a business arrangement.

c. Procurement-related conflict of interest. In accordance with 2 C.F.R. § 200.318 (General procurement standards), non-Federal entities must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award and administration of contracts. *See* paragraph F.04 of these Standard Terms (Requirements for Procurements).

## **.02 Nonprocurement Debarment and Suspension**

Non-Federal entities must comply with the provisions of 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions, and which set forth the responsibilities of recipients of Federal financial assistance regarding transactions with other persons, including subrecipients and contractors.

## **.03 Requirements for Subawards**

a. The recipient or pass-through entity must require all subrecipients, including lower tier subrecipients, to comply with the terms and conditions of a DOC financial assistance award, including applicable provisions of the OMB Uniform Guidance (2 C.F.R. Part 200), and all associated Terms and Conditions set forth herein. *See* 2 C.F.R. § 200.101(b)(2) (Applicability to different types of Federal awards), which describes the applicability of 2 C.F.R. Part 200 to various types of Federal awards and §§ 200.331-333 (Subrecipient monitoring and management).

b. The recipient or pass through entity may have more restrictive policies for the RTC *waived* prior approvals (no-cost extensions, re-budgeting, etc.) for their subaward recipients. Such restrictive policies must be addressed in their subaward agreements and in accordance with §200.331.

## **.04 Requirements for Procurements**

a. States. Pursuant to 2 C.F.R. § 200.317 (Procurements by states), when procuring property and services under this Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State must comply with 2 C.F.R. §§ 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), 200.322 (Domestic preferences for procurements), and

200.323 (Procurement of recovered materials), and ensure that every purchase order or other contract includes any clauses required by 2 C.F.R. § 200.327 (Contract provisions).

b. Other Non-Federal Entities. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in 2 C.F.R. §§ 200.318 (General procurement standards) through 200.327 (Contract provisions) which include the requirement that non-Federal entities maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

## **.05 Whistleblower Protections**

This award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information), which generally provide that an employee or contractor (including subcontractors and personal services contractors) of a non-Federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward. These persons or bodies include:

- a. A Member of Congress or a representative of a committee of Congress.
- b. An Inspector General.
- c. The Government Accountability Office.
- d. A Federal employee responsible for contract or grant oversight or management at the relevant agency.
- e. An authorized official of the Department of Justice or other law enforcement agency.
- f. A court or grand jury.
- g. A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

## **.06 Small Businesses, Minority Business Enterprises and Women's Business Enterprises**

In accordance with 2 C.F.R. § 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), the recipient must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. DOC encourages non-Federal entities to use small

businesses, minority business enterprises and women’s business enterprises in contracts under financial assistance awards. The Minority Business Development Agency within the DOC will assist non-Federal entities in matching qualified minority business enterprises with contract opportunities. For further information visit MBDA’s website at <http://www.mbda.gov>. If you do not have access to the Internet, you may contact MBDA via telephone or mail:

U.S. Department of Commerce  
Minority Business Development Agency  
Herbert C. Hoover Building  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230  
(202) 482-0101

## **G. NATIONAL POLICY REQUIREMENTS**

### **.01 United States Laws and Regulations**

This award is subject to the laws and regulations of the United States. The recipient must comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

### **.02 Non-Discrimination Requirements**

No person in the United States may, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. The recipient agrees to comply with the non-discrimination requirements below:

#### **a. Statutory Provisions**

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;
2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 *et seq.*) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
3. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the

basis of handicap under any program or activity receiving or benefiting from Federal assistance.

For purposes of complying with the accessibility standards set forth in 15 C.F.R. § 8b.18(c), non-federal entities must adhere to the regulations, published by the U.S. Department of Justice, implementing Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286). The revised regulations adopted new enforceable accessibility standards called the “2010 ADA Standards for Accessible Design” (2010 Standards), which replace and supersede the former Uniform Federal Accessibility Standards for new construction and alteration projects;

5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance; and
6. Any other applicable non-discrimination law(s).

#### **b. Other Provisions**

1. Parts II and III of E.O. 11246 (Equal Employment Opportunity, 30 FR 12319),<sup>3</sup> which requires Federally assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b)).
2. E.O. 13166 (65 FR 50121, Improving Access to Services for Persons with Limited English Proficiency), requiring Federal agencies to examine the services provided, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. The DOC issued policy guidance on March 24, 2003 (68 FR 14180) to articulate the Title VI prohibition against national origin discrimination affecting LEP persons and to help ensure that non-Federal entities provide meaningful access to their LEP applicants and beneficiaries.
3. In accordance with E.O. 13798 and Office of Management and Budget, M-20-09 – Guidance Regarding Federal Grants, states or other public grantees may not condition sub-awards of Federal grant money in a manner that would disadvantage grant applicants based on their religious character.

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<sup>3</sup> As amended by E.O. 11375(32 FR 14303), E.O. 11478 (34 FR 12985), E.O. 12086 (43 FR 46501), E.O. 12107 (44 FR 1055), E.O. 13279 (F67 FR 77141), E.O. 13665 (79 FR 20749), and E.O. 13672 (79 FR 42971).



### **c. Title VII Exemption for Religious Organizations**

Generally, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, provides that it is an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination based on religion, "a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

## **.03 LOBBYING RESTRICTIONS**

### **a. Statutory Provisions**

Non-Federal entities must comply with 2 C.F.R. § 200.450 (Lobbying), which incorporates the provisions of 31 U.S.C. § 1352; and OMB guidance and notices on lobbying restrictions. In addition, non-Federal entities must comply with the DOC regulations published at 15 C.F.R. Part 28, which implement the New Restrictions on Lobbying. These provisions prohibit the use of Federal funds for lobbying the executive or legislative branches of the Federal Government in connection with the award and require the disclosure of the use of non-Federal funds for lobbying. Lobbying includes attempting to improperly influence, meaning any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter, either directly or indirectly. Costs incurred to improperly influence are unallowable. *See* 2 C.F.R. § 200.450(b) and (c).

### **b. Disclosure of Lobbying Activities**

Any recipient that receives more than \$100,000 in Federal funding and conducts lobbying with non-federal funds relating to a covered Federal action must submit a completed Form SF-LLL (Disclosure of Lobbying Activities). The Form SF-LLL must be submitted within 30 calendar days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit any required SF-LLL forms, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

## **.04 Environmental Requirements**

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under

the following statutes and E.O.s and must identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

**a. The National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*)**

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions to determine whether they have significant impacts on the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any direct, indirect or cumulative impact an award will have on the quality of the human environment and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required, but DOC remains responsible for the sufficiency and approval of the final documentation. Until the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit the appropriate environmental information and NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.

**b. The National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*)**

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f) and the Advisory Council on Historic Preservation (ACHP) implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties and, when appropriate, provide the ACHP with a reasonable opportunity to comment. Historic properties include but are not necessarily limited to districts, buildings, structures, sites and objects. In this connection, archeological resources and sites that may be of traditional religious and cultural importance to Federally-recognized Indian Tribes, Alaskan Native Villages and Native Hawaiian Organizations may be considered historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers, ACHPs or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to

submit any information sufficient to enable DOC to make the requisite assessment under the NHPA.

Additionally, non-Federal entities are required to assist the DOC in assuring compliance with the Archeological and Historic Preservation Act of 1974 (54 U.S.C. § 312502 *et seq.*, formerly 16 U.S.C. § 469a-1 *et seq.*); Executive Order 11593 (Protection and Enhancement of the Cultural Environment, May 13, 1971); Executive Order 13006 (Locating Federal Facilities on Historic Properties in Our Nation’s Central Cities, May 21, 1996); and Executive Order 13007 (Indian Sacred Sites, May 24, 1996).

**c. Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)**

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to decide whether there is an alternative to minimize any potential harm.

**d. Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”)**

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Clean Water Act (33 U.S.C. §§ 1251 *et seq.*), and E.O. 11738 (38 FR 25161), and must not use a facility on the Excluded Parties List (EPL) (located on the System for Award Management (SAM) website, SAM.gov) in performing any award that is nonexempt under 2 C.F.R. § 1532, and must notify the Program Officer in writing if it intends to use a facility that is on the EPL or knows that the facility has been recommended to be placed on the EPL.

**e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 *et seq.*)**

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas. Per 2 C.F.R. § 200.447(a), the cost of required flood insurance is an allowable expense, if it is reflected in the approved project budget.

**f. The Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*)**

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

**g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 *et seq.*)**

Funded projects must be consistent with a coastal State’s approved management program for the coastal zone.

**h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 *et seq.*)**

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

**i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 *et seq.*)**

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

**j. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f *et seq.*)**

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer which threatens public health.

**k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*)**

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

**l. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund) (42 U.S.C. §§ 9601 *et seq.*) and the Community Environmental Response Facilitation Act (42 U.S.C. § 9601 note *et seq.*)**

These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

**m. Executive Order 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations”)**

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

**n. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 *et seq.*)**

Non-Federal entities must identify to DOC any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with the National Marine Fisheries Service (NMFS) regarding the potential effects of their actions and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency

procedures previously established under NEPA, the ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

**o. Clean Water Act (CWA) Section 404 (33 U.S.C. § 1344)**

CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

**p. Rivers and Harbors Act (33 U.S.C. § 407)**

A permit may be required from the U.S. Army Corps of Engineers if the proposed activity involves any work in, over or under navigable waters of the United States. Recipients must identify any work (including structures) that will occur in, over or under navigable waters of the United States and obtain the appropriate permit, if applicable.

**q. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), Bald and Golden Eagle Protection Act (16 U.S.C. § 668 *et seq.*), and Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds, January 10, 2001)**

Many prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. Fish and Wildlife Service to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

**r. Executive Order 13112 (Invasive Species, February 3, 1999)**

Federal agencies must identify actions that may affect the status of invasive species and use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them. In addition, an agency may not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.

**s. Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*)**

During the planning of water resource development projects, agencies are required to give fish and wildlife resources equal consideration with other values. Additionally, the U.S.

Fish and Wildlife Service and fish and wildlife agencies of states must be consulted whenever waters of any stream or other body of water are “proposed or authorized, permitted or licensed to be impounded, diverted... or otherwise controlled or modified” by any agency under a Federal permit or license.

## **.05 OTHER NATIONAL POLICY REQUIREMENTS**

### **a. Buy-American Preferences**

Strengthening Buy-American Preferences for Infrastructure Projects. Recipients of covered programs (as defined in Executive Order 13858, 31 January 2019, and 2 C.F.R. §200.322 (Domestic preferences for procurements)) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under this Award.

### **b. Criminal and Prohibited Activities**

1. The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 *et seq.*), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money (including money representing grants, loans, or other benefits).
2. The False Claims Amendments Act of 1986 and the False Statements Accountability Act of 1996 (18 U.S.C. §§ 287 and 1001, respectively), provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States must be subject to imprisonment of not more than five years and must be subject to a fine in the amount provided by 18 U.S.C. § 287.
3. The Civil False Claims Act (31 U.S.C. §§ 3729 - 3733), provides that suits can be brought by the government, or a person on behalf of the government, for false claims made under Federal assistance programs.
4. The Copeland Anti-Kickback Act (18 U.S.C. § 874), prohibits a person or organization engaged in a Federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract. The Copeland Anti-Kickback Act also applies to contractors and subcontractors pursuant to 40 U.S.C. § 3145.
5. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and implementing regulations issued at 15 C.F.R. Part 11, which provides for fair and equitable treatment of displaced persons or persons whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

6. The Hatch Act (5 U.S.C. §§ 1501-1508 and 7321-7326), which limits the political activities of employees or officers of state or local governments whose principal employment activities are funded in whole or in part with Federal funds.

7. To ensure compliance with Federal law pertaining to financial assistance awards, an authorized representative of a non-Federal entity may be required to periodically provide certain certifications to the DOC regarding Federal felony and Federal criminal tax convictions, unpaid federal tax assessments, delinquent Federal tax returns and such other certifications that may be required by Federal law.

### **c. Drug-Free Workplace**

The non-Federal entity must comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102) and DOC implementing regulations published at 2 C.F.R. Part 1329 (Requirements for Drug-Free Workplace (Financial Assistance)), which require that the non-Federal entity take certain actions to provide a drug-free workplace.

### **d. Foreign Travel**

1. Each non-Federal entity must comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131 through 301-10.143.

2. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable or use of U.S. flag air carrier service will not accomplish the agency's mission.

3. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral/multilateral "Open Skies Agreements" (U.S. Government Procured Transportation) that allow federal funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple "Open Skies Agreements" currently in effect. For more information about the current bilateral and multilateral agreements, visit the GSA [website](#). Information on the Open Skies agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State's [website](#).

4. If a foreign air carrier is anticipated to be used for any portion of travel under a DOC financial assistance award, the non-Federal entity must receive prior approval from the Grants Officer. When requesting such approval, the non-Federal entity must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the non-Federal entity to provide the Grants Officer with the following: name; dates

of travel; origin and destination of travel; detailed itinerary of travel; name of the air carrier and flight number for each leg of the trip; and a statement explaining why the non-Federal entity meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the non-Federal entity must provide the Grants Officer with a copy of the agreement or a citation to the official agreement available on the GSA website. The Grants Officer must make the final determination and notify the non-Federal entity in writing (which may be done through the recipient in the case of subrecipient travel). Failure to adhere to the provisions of the Fly America Act will result in the non-Federal entity not being reimbursed for any transportation costs for which any non-Federal entity improperly used a foreign air carrier.

Note: When using code-sharing flights (two or more airlines having flight numbers assigned to the same flight) involving U.S. flag carriers and non-U.S. flag carriers, the airline symbol and flight number of the U.S. flag carrier must be used on the ticket to qualify as a U.S. flag carrier (e.g. "*Delta Airlines Flight XXXX, operated by KLM*"). Conversely, if the ticket shows "[*Foreign Air Carrier*] XXX, operated by Delta," that travel is using a foreign air carrier and is subject to the Fly America Act and must receive prior approval from the Grants Officer as outlined in paragraph G.05.d.4.

#### **e. Increasing Seat Belt Use in the United States**

Pursuant to E.O. 13043 (62 FR 19217), non-Federal entities should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally owned vehicles.

#### **f. Federal Employee Expenses and Subawards or Contracts Issued to Federal Employees or Agencies**

1. Use of award funds (Federal or non-Federal) or the non-Federal entity's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy may prohibit the acceptance of gifts, including travel payments for federal employees, from non-Federal entities regardless of the source. Therefore, before award funds may be used by Federal employees, non-Federal entities must submit requests for approval of such action to the Federal Program Officer who must review and make a recommendation to the Grants Officer. The Grants Officer will notify the non-Federal entity in writing (generally through the recipient) of the final determination.
2. A non-Federal entity or its contractor may not issue a subaward, contract or subcontract of any part of a DOC award to any agency or employee of DOC or to other Federal employee, department, agency, or instrumentality, without the advance prior written approval of the DOC Grants Officer.

#### **g. Minority Serving Institutions Initiative**

Pursuant to E.O.s 13555 (White House Initiative on Educational Excellence for Hispanics) (75 FR 65417), 13592 (Improving American Indian and Alaska Native



Educational Opportunities and Strengthening Tribal Colleges and Universities) (76 FR 76603), and 13779 (White House Initiative to Promote Excellence and Innovation at Historically Black Colleges and Universities) (82 FR 12499), DOC is strongly committed to broadening the participation of minority serving institutions (MSIs) in its financial assistance programs. DOC's goals include achieving full participation of MSIs to advance the development of human potential, strengthen the Nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC encourages all applicants and non-Federal entities to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

#### **h. Research Misconduct**

The DOC adopts, and applies to financial assistance awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the Executive Office of the President's Office of Science and Technology Policy on December 6, 2000 (65 FR 76260). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. Non-Federal entities that conduct extramural research funded by DOC must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Non-Federal entities also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Non-Federal entities must notify the Grants Officer of any allegation that meets the definition of research misconduct and detail the entity's inquiry to determine whether there is sufficient evidence to proceed with an investigation, as well as the results of any investigation. The DOC may take appropriate administrative or enforcement action at any time under the award, up to and including award termination and possible suspension or debarment, and referral to the Commerce OIG, the U.S. Department of Justice, or other appropriate investigative body.

#### **i. Research Involving Human Subjects**

1. All proposed research involving human subjects must be conducted in accordance with 15 C.F.R. Part 27 (Protection of Human Subjects). No research involving human subjects is permitted under this award unless expressly authorized by specific award condition, or otherwise in writing by the Grants Officer.
2. Federal policy defines a human subject as a living individual about whom an investigator (whether professional or student) conducting research (1) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or (2) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

3. DOC regulations at 15 C.F.R. Part 27 require that non-Federal entities maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the non-Federal entity (generally through the recipient) must submit appropriate documentation to the Federal Program Officer for approval by the appropriate DOC officials. As applicable, this documentation must include:

- i. Documentation establishing approval of an activity in the project by an Institutional Review Board (IRB) under a Federal wide Assurance issued by Department of Health and Human Services or other Federal agency guidelines (*see also* 15 C.F.R. § 27.103);
- ii. Documentation to support an exemption for an activity in the project under 15 C.F.R. § 27.104(d);
- iii. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form;
- iv. Documentation of an IRB approval of continuing review approved prior to the expiration date of the previous IRB determination; and
- v. Documentation of any reportable events, such as serious adverse events, unanticipated problems resulting in risk to subjects or others, and instances of noncompliance.

4. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects research, until the appropriate documentation is approved in writing by the Grants Officer. In accordance with 15 C.F.R. § 27.118, if research involving human subjects is proposed after an award is made, the non-Federal entity must contact the Federal Program Officer and provide required documentation. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

#### **j. Care and Use of Live Vertebrate Animals**

Non-Federal entities must comply with the Laboratory Animal Welfare Act of 1966, as amended, (Pub. L. No. 89-544, 7 U.S.C. §§ 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations (9 C.F.R. Parts 1, 2, and 3); the Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 *et seq.*) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC financial assistance award unless authorized by the Grants Officer.

## k. Management and Access to Data and Publications

1. In General. The recipient acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance and other reports submitted by recipients, may be used by the DOC in conducting reviews and evaluations of its financial assistance programs. For this purpose, recipient information and data may be accessed, reviewed and evaluated by DOC employees, other Federal employees, Federal agents and contractors, and/or by non-Federal personnel, all of who enter into appropriate or are otherwise subject to confidentiality and nondisclosure agreements covering the use of such information. Recipients are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperating with DOC and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), recipients are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained relating to a DOC financial assistance award.
2. Scientific Data. Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.
3. Publications, Videos, and Acknowledgment of Sponsorship.
  - i. Publication of results or findings in appropriate professional journals and production of video or other media is encouraged as an important method of recording, reporting and otherwise disseminating information and expanding public access to federally-funded projects (*e.g.*, scientific research). Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.
  - ii. Non-Federal entities may be required to submit a copy of any publication materials, including but not limited to print, recorded, or Internet materials, to the funding agency.
  - iii. When releasing information related to a funded project, non-Federal entities must include a statement that the project or effort undertaken was or is sponsored by DOC and must also include the applicable financial assistance award number.
  - iv. Non-Federal entities are responsible for assuring that every publication of material based on, developed under, or otherwise produced pursuant to a DOC financial assistance award contains the following disclaimer or other disclaimer approved by the Grants Officer:

*This [report/video/etc.] was prepared by [recipient name] using Federal funds under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do*

*not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce.*

## **I. Homeland Security Presidential Directive**

If the performance of this DOC financial assistance award requires non-Federal entity personnel to have routine access to Federally-controlled facilities and/or Federally-controlled information systems (for purpose of this term “routine access” is defined as more than 180 calendar days), such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the DOC will conduct a check with U.S. Citizenship and Immigration Services’ (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that he or she is eligible for employment within the United States. Any items or services delivered under a financial assistance award must comply with DOC personal identity verification procedures that implement Homeland Security Presidential Directive 12 (Policy for a Common Identification Standard for Federal Employees and Contractors), Federal Information Processing Standard (FIPS) PUB 201, and OMB Memorandum M-05-24. The recipient must ensure that its subrecipients and contractors (at all tiers) performing work under this award comply with the requirements contained in this term. The Grants Officer may delay final payment under an award if the subrecipient or contractor fails to comply with the requirements listed in the term below. The recipient must insert the following term in all subawards and contracts when the subaward recipient or contractor is required to have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system:

*The subrecipient or contractor must comply with DOC personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system.*

*The subrecipient or contractor must account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor must return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by DOC: (1) When no longer needed for subaward or contract performance; (2) Upon completion of the subrecipient or contractor employee’s employment; (3) Upon subaward or contract completion or termination.*

## **m. Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations**

1. This clause applies to the extent that this financial assistance award encompasses activities that involve export-controlled items.

2. In performing this financial assistance award, a non-Federal entity may participate in activities involving items subject to export control (export-controlled items) under the Export Administration Regulations (EAR). The non-Federal entity is responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR's deemed exports and re-exports provisions. The non-Federal entity must establish and maintain effective export compliance procedures at DOC and non-DOC facilities, including facilities located abroad, throughout performance of the financial assistance award. At a minimum, these export compliance procedures must include adequate restrictions on export-controlled items, to guard against any unauthorized exports, including in the form of releases or transfers to foreign nationals. Such releases or transfers may occur through visual inspection, including technology transmitted electronically, and oral or written communications.

### 3. Definitions

- i. Export-controlled items. Items (commodities, software, or technology), that are subject to the EAR (15 C.F.R. §§ 730-774), implemented by the DOC's Bureau of Industry and Security. These are generally known as "dual-use" items, items with a military and commercial application. The export (shipment, transmission, or release/transfer) of export-controlled items may require a license from DOC.
- ii. Deemed Export/Re-export. The EAR defines a deemed export as a release or transfer of export-controlled items (specifically, technology or source code) to a foreign person (foreign national) in the U.S. Such release is "deemed" to be an export to the foreign person's most recent country of citizenship or permanent residency (*see* 15 C.F.R. § 734.13(a)(2) & (b)). A release may take the form of visual inspection or oral or written exchange of information. *See* 15 C.F.R. § 734.15(a). If such a release or transfer is made abroad to a foreign person of a country other than the country where the release occurs, it is considered a deemed re-export to the foreign person's most recent country of citizenship or permanent residency. *See* 15 C.F.R. § 734.14(a)(2). Licenses from DOC may be required for deemed exports or re-exports. An act causing the release of export-controlled items to a foreign person (e.g., providing or using an access key or code) may require authorization from DOC to the same extent that an export or re-export of such items to the foreign person would. *See* 15 C.F.R. § 734.15(b).

4. The non-Federal entity must secure all export-controlled items that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that the export of such items, including in the form of release or transfer to foreign persons, is prevented, or licensed, as required by applicable Federal laws, E.O.s, and/or regulations, including the EAR.

5. As applicable, non-Federal entity personnel and associates at DOC sites will be informed of any procedures to identify and protect export-controlled items from unauthorized export.

6. To the extent the non-Federal entity wishes to release or transfer export-controlled items to foreign persons, the non-Federal entity will be responsible for obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed re-exports. Failure to obtain any export licenses required under the EAR may subject the non-Federal entity to administrative or criminal enforcement. See 15 C.F.R. part 764.
7. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, E.O.s or regulations.
8. Compliance with this term will not satisfy any legal obligations the non-Federal entity may have regarding items that may be subject to export controls administered by other agencies such as the Department of State, which has jurisdiction over exports and re-exports of defense articles and services subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130), including the release of defense articles to foreign persons in the United States and abroad.
9. The non-Federal entity must include the provisions contained in this term in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve research or other activities that implicate export-controlled items.

**n. The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 C.F.R. Part 175**

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if any non-Federal entity engages in certain activities related to trafficking in persons. The DOC hereby incorporates the following award term required by 2 C.F.R. § 175.15(b):

***Trafficking in persons.***

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

*1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—*

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;*
- ii. Procure a commercial sex act during the period of time that the award is in effect; or*
- iii. Use forced labor in the performance of the award or subawards under the award.*

2. *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —*

*i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or*

*ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either— (A) Associated with performance under this award; or (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension).*

***b. Provision applicable to a recipient other than a private entity.*** *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—*

*1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or*

*2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—*

*i. Associated with performance under this award; or*

*ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326, (Nonprocurement Debarment and Suspension).*

***c. Provisions applicable to any recipient.***

*1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.*

*2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:*

*i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and*

*ii. Is in addition to all other remedies for noncompliance that are available to us under this award.*

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

**d. Definitions. For purposes of this award term:**

1. “Employee” means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25;

ii. Includes: (A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b); and (B) A for-profit organization.

4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

**o. The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)**

1. **Reporting Subawards and Executive Compensation.** Under FFATA, recipients of financial assistance awards of \$30,000 or more are required to report periodically on executive compensation and subawards, as described in the following term from 2 C.F.R. Part 170, Appendix A, which is incorporated into this award:

***Reporting Subawards and Executive Compensation***

**a. Reporting of first-tier subawards.**

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward



to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

**b. Reporting Total Compensation of Recipient Executives for non-Federal entities.**

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 C.F.R. § 170.320;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards), and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and,

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile found at the System for Award Management (SAM) website located at <https://www.sam.gov>.

ii. *By the end of the month following the month in which this award is made, and annually thereafter.*

**c. Reporting of Total Compensation of Subrecipient Executives.**

1. *Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—*

i. *in the subrecipient's preceding fiscal year, the subrecipient received—*

(A) *80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards) and,*

(B) *\$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and*

ii. *The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).*

*See also 2 C.F.R. § 200.300(b).*

2. *Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:*

i. *To the recipient.*

ii. *By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.*

**d. Exemptions.** *If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report: i. Subawards, and ii. The total compensation of the five most highly compensated executives of any subrecipient.*

e. **Definitions.** For purposes of this award term:

1. *Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).*
2. *Non-Federal entity means all of the following, as defined in 2 C.F.R. Part 25:*
  - i. *A Governmental organization, which is a State, local government, or Indian tribe;*
  - ii. *A foreign public entity;*
  - iii. *A domestic or foreign nonprofit organization; and,*
  - iv. *A domestic or foreign for-profit organization.*
3. *Executive means officers, managing partners, or any other employees in management positions.*
4. *Subaward:*
  - i. *This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.*
  - ii. *The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R § 200.331).*
  - iii. *A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.*
5. *Subrecipient means a non-Federal entity or Federal agency that:*
  - i. *Receives a subaward from you (the recipient) under this award; and*
  - ii. *Is accountable to you for the use of the Federal funds provided by the subaward.*
6. *Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):*
  - i. *Salary and bonus.*
  - ii. *Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.*

- iii. *Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.*
- iv. *Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.*
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. *Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.*

2. **System for Award Management (SAM) and Universal Identifier Requirements** -- as described in 2 C.F.R. Part 25, Appendix A, which is incorporated into this award:

***System for Award Management (SAM) and Universal Identifier Requirements***

a. ***Requirement for System for Award Management.*** *Unless you are exempted from this requirement under 2 C.F.R. § 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.*

b. ***Requirement for Unique Entity Identifier.*** *If you are authorized to make subawards under this Federal award, you:*

- 1. *Must notify potential subrecipients that no entity (see definition in paragraph c of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.*
- 2. *May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.*

c. ***Definitions for purposes of this term:***

- 1. *SAM means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.SAM.gov>).*

2. *Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.*
3. *Entity includes non-Federal entities as defined at 2 C.F.R. § 200.1 and also includes all of the following, for purposes of this part:*
  - i. *A foreign organization;*
  - ii. *A foreign public entity;*
  - iii. *A domestic for-profit organization; and*
  - iv. *A Federal agency.*
4. *Subaward has the meaning given in 2 C.F.R § 200.1.*
5. *Subrecipient has the meaning given in 2 C.F.R § 200.1.*

See also 2 C.F.R. § 200.300(b).

#### **p. Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)**

##### ***Reporting of Matters Related to Recipient Integrity and Performance***

1. **General Reporting Requirement.** If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.
2. **Proceedings About Which You Must Report.** Submit the information required about each proceeding that:
  - i. Is relating to the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
  - ii. Reached its final disposition during the most recent five-year period; and

iii. Is one of the following:

- (A) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
- (B) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- (C) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- (D) Any other criminal, civil, or administrative proceeding if:
  - I. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
  - II. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
  - III. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures. Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency. During any period when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions. For purposes of this award term and condition:

- i. Administrative proceeding means a non-judicial process that is adjudicatory in nature to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

ii. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

iii. Total value of currently active grants, cooperative agreements, and procurement contracts includes:

(A) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(B) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

#### **q. Never Contract with the Enemy (2 C.F.R Part 183; 2 C.F.R. § 200.215)**

Under 2 C.F.R. § 200.215 (Never contract with the enemy) Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 C.F.R. Part 183. These regulations affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

1. **Applicability.** This term applies only to recipients of covered grants or cooperative agreements, as defined in 2 C.F.R. § 183.35 Definitions.

2. **Requirements.** As applicable, recipients must fulfill the requirements as described in the following terms from 2 C.F.R. Part 183, Appendix A, which is incorporated into this award:

##### ***a. Term 1. Prohibition on Providing Funds to the Enemy.***

1. *The recipient must—*

i. *Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR Part 180.300 prior to issuing a subaward or contract and;*

ii. *Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.*

2. *The recipient may include the substance of this clause, including this paragraph (1), in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

3. *The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (1) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities*

**b. Term 2. Additional Access to Recipient Records.**

1. *In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations*

2. *The substance of this clause, including this paragraph (2), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

**r. Prohibition on certain telecommunications and video surveillance services or equipment (Public Law 115-232, section 889; 2 C.F.R. § 200.216)**

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain, or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.



As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i). For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii). Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also §200.471.

#### **s. Federal Financial Assistance Planning During a Funding Hiatus or Government Shutdown**

This term sets forth initial guidance that will be implemented for Federal assistance awards in the event of a lapse in appropriations, or a government shutdown. The Grants Officer may issue further guidance prior to an anticipated shutdown.

1. Unless there is an actual rescission of funds for specific grant or cooperative agreement obligations, non-Federal entities under Federal financial assistance awards for which funds have been obligated generally will be able to continue to perform and incur allowable expenses under the award during a funding hiatus. Non-Federal entities are advised that ongoing activities by Federal employees involved in grant or cooperative agreement administration (including payment processing) or similar operational and administrative work cannot continue when there is a funding lapse. Therefore, there may be delays, including payment processing delays, in the event of a shutdown.

2. All award actions will be delayed during a government shutdown; if it appears that a non-Federal entity's performance under a grant or cooperative agreement will require agency involvement, direction, or clearance during the period of a possible government shutdown, the Program Officer or Grants Officer, as appropriate, may attempt to provide such involvement, direction, or clearance prior to the shutdown or advise non-Federal entities that such involvement, direction, or clearance will not be forthcoming during the shutdown. Accordingly, non-Federal entities whose ability to withdraw funds is subject to prior agency approval, which in general are non-Federal entities that have been designated high risk, non-Federal entities under construction awards, or are otherwise limited to reimbursements or subject to agency review, will be able to draw funds down from the relevant Automatic Standard Application for Payment (ASAP) account only if agency approval is given and coded into ASAP prior to any government shutdown or closure. This limitation may not be lifted during a government shutdown. Non-Federal entities should plan to work with the Grants Officer to request prior approvals in advance of a shutdown wherever possible. Non-Federal entities whose authority to draw down award funds is restricted may decide to suspend work until the government reopens.

3. The ASAP system should remain operational during a government shutdown. Non-Federal entities that do not require any Grants Officer or agency approval to draw down advance funds from their ASAP accounts should be able to do so during a shutdown. The 30-day limitation on the drawdown of advance funds will still apply notwithstanding a government shutdown (see section B.02.b.1 of these terms).

Washington, DC 20250-9410; Fax, (202) 690-7442; Email, [program.intake@usda.gov](mailto:program.intake@usda.gov).

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Done at Washington, DC on: December 23, 2014.

**Alfred V. Almanza,**  
*Acting Administrator.*

[FR Doc. 2014-30478 Filed 12-29-14; 8:45 am]

**BILLING CODE 3410-DM-P**

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

[Docket No. FSIS-2014-0029]

#### National Advisory Committee on Microbiological Criteria for Foods; Renewal

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice of renewal of committee.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice is announcing the renewal of the charter of the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). The Committee is being renewed in cooperation with the Department of Health and Human Services (DHHS). The establishment of the Committee was recommended by a 1985 report of the National Academy of Sciences Committee on Food Protection, Subcommittee on Microbiological Criteria, "An Evaluation of the Role of Microbiological Criteria for Foods." The current charter for the NACMCF is available for viewing on the NACMCF homepage at [\*\*FOR FURTHER INFORMATION CONTACT:\*\*  
Karen Thomas, Advisory Committee](http://www.fsis.usda.gov/wps/portal/searchhelp/sitemap!ut/p/a1/rZLLbslwEEW_hUWWlSfNg2RJI5FC1UQU2pJskPEjNUqckFhV1a-vU4G6ohQp3oxHvj66M7q4wFtcaPqhSmpUo2k19EWwgxUEJlphmUVkDov0dZU9xjEkT3dWkA-CC2cG1_6_4QIXTJvWvONc9qpHrNFGaOOAsrXTwt5qqrQDpkmV6x3g1FCrqirBBpeIao460TadsY-asprJcx3gLS0FF70q9U_HFMd5ILlwCeeluq5AXhgjtOcBRb4MPEICT7pwsvaH-9A7Cy5Pn9v1TH8JyTMQWMzXG5L492RmCesbTV0BBmMD_bGB05GB2e07XP4j1OpwPBYzG80hjZ8Gb8fPZlu_1OFBtg9fG1nXuzRFdB-C61fLZPIN_bauIQ!!/?1dmy&current=true&urile=wcm%3apath%3a%2Ffsis-content%2Finternet%2Fmain%2Ftopics%2Fdata-collection-and-reports%2Fnacmcf%2Fcommittee-charter%2Fcharter.</a></p>
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Specialist, U.S. Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), Room 9-214D Patriots Plaza III, 1400 Independence Avenue SW., Washington, DC 20250-3700. Telephone number: (202) 690-6620.

#### SUPPLEMENTARY INFORMATION:

##### Background

USDA is charged with the administration and the enforcement of the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), and the Egg Products Inspection Act (EPIA). The Secretary of DHHS is charged with the administration and enforcement of the Federal Food, Drug, and Cosmetic Act (FFDCA). These Acts help protect consumers by ensuring that food products are wholesome, not adulterated, and properly marked, labeled, and packaged.

In order to assist the Secretaries in carrying out their responsibilities under the FMIA, PPIA, EPIA, and FFDCA, the NACMCF is being renewed. The Committee will continue to be charged with providing recommendations to the Secretaries on the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been adequately and appropriately processed.

Renewal of this Committee and its charter is necessary and in the public interest because of the need for external expert advice on the range of scientific and technical issues that must be addressed by the FSIS and DHHS in meeting their statutory responsibilities. To address the complexity of the issues, the Committee is expected to meet one or more times annually.

Members will be appointed by the Secretary of USDA after consultation with the Secretary of the DHHS. Because of the complexity of matters addressed by this Committee, the Secretary may consult with other Federal Agencies, such as the Department of Commerce's National Marine Fisheries Service, the Department of Defense's Veterinary Service Activity, and the DHHS' Centers for Disease Control and Prevention, for advice on membership appointments. Background materials are available on the Internet at the address noted above or by contacting the person listed above.

##### Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at [http://www.fsis.usda.gov/regulations\\_&\\_policies/Federal\\_Register\\_Notices/index.asp](http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp).

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update (Update), which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update also is available on the FSIS Web site. In addition, FSIS offers an electronic mail subscription service that provides automatic and customized access to selected food safety news and information. This service is available at [http://www.fsis.usda.gov/News\\_&\\_Events/Email\\_Subscription/](http://www.fsis.usda.gov/News_&_Events/Email_Subscription/).

Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

##### USDA Nondiscrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status.

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250-9410 or call 202-720-5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Done at Washington, DC on: December 23, 2014.

**Alfred V. Almanza,**  
*Acting Administrator.*

[FR Doc. 2014-30483 Filed 12-29-14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Office of the Secretary

[Docket No. 141217999-4999-01]

**RIN 0690-XC003**

#### Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

**AGENCY:** Department of Commerce (DOC).

**ACTION:** Notice.

**SUMMARY:** This notice replaces the U.S. Department of Commerce (DOC) Pre-Award Notification Requirements for Grants and Cooperative Agreements most recently published in the **Federal Register** on December 17, 2012 (77 FR 74634). This announcement constitutes notice of a recompilation of the Department of Commerce pre-award requirements for grants and cooperative agreements, including all amendments and revisions to date.

**DATES:** This notice is effective on December 26, 2014.

**FOR FURTHER INFORMATION CONTACT:** John Geisen, Department of Commerce Office of Acquisition Management, Telephone Number: (202) 482-0602.

**SUPPLEMENTARY INFORMATION:** The DOC is authorized to award grants and cooperative agreements under a wide range of programs that support economic development, international trade, minority businesses, standards and technology, oceanic/atmospheric services, and telecommunications and information. It is the policy of the DOC to seek full and open competition for awards of discretionary financial assistance funds whenever possible. Moreover, in general DOC financial assistance must be awarded through a merit-based review and selection process. Notices announcing the availability of Federal funds for new awards for each DOC competitive financial assistance program will be posted on [www.grants.gov](http://www.grants.gov) by the sponsoring operating unit in the uniform format for an announcement of Notice of Funding Opportunity (NOFA) published by the Office of Management

and Budget (OMB). Note that the DOC may use the term “Federal Funding Opportunity (FFO)” interchangeably with NOFA. In limited circumstances (e.g., when required by statute), the DOC will also publish notices in the **Federal Register** announcing the availability of Federal funds for new awards.

In accordance with the **Federal Register** notice published on December 19, 2014 (79 FR 75871) and the regulation at 2 CFR 1327.101, the DOC adopted the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200 (OMB Uniform Guidance) for DOC Federal financial assistance awards (i.e., grants and cooperative agreements). The DOC is updating its policies and administrative requirements applicable to its assistance programs to reflect the requirements of the OMB Uniform Guidance.

This announcement provides notice to applicants and other interested parties that various laws, regulations, administrative requirements, and Federal and DOC policies procedures apply to all DOC-sponsored assistance programs. A compilation of these requirements may be found on the DOC Web site at [http://www.osec.doc.gov/oam/grants\\_management/policy/default.htm](http://www.osec.doc.gov/oam/grants_management/policy/default.htm). Please note that as these requirements change, the DOC Web site will be updated, but there may be a time lag between when a requirement is effective and when it is posted at the previously referenced Web site. All requirements applicable to Federal awards will be clearly identified in the

terms and conditions of the Federal award.

Dated: December 22, 2014.

**John Geisen,**

*Grants Management Division, Office of Acquisition Management, Department of Commerce.*

[FR Doc. 2014-30297 Filed 12-29-14; 8:45 am]

**BILLING CODE 3510-17-P**

**DEPARTMENT OF COMMERCE**

**Economic Development Administration**

**Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance**

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm’s workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE**  
[12/19/2014 through 12/22/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Sunheat International .....	3724 Arch Avenue, Grand Island, NE 68803.	12/22/2014	The firm manufactures electrical heating devices including portable heaters, fireplaces, saunas, and patio heaters.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA’s regulations at 13 CFR 315.9 for procedures to request a public

hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: December 22, 2014.

**Michael S. DeVillo,**

*Eligibility Examiner.*

[FR Doc. 2014-30496 Filed 12-29-14; 8:45 am]

**BILLING CODE 3510-WH-P**

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**Order Denying Export Privileges**

In the Matter of:  
Maria Luisa Sanchez-Lopez, Inmate Number: 51777-379, FCI Aliceville, Federal Correctional Institution, P.O. Box 4000, Aliceville, AL 35442

On February 13, 2014, in the U.S. District Court for the Southern District of Texas, Maria Luisa Sanchez-Lopez (“Sanchez-Lopez”) was convicted of



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum

TO: Mayor Castner and Homer City Council  
 FROM: Rob Dumouchel, City Manager  
 DATE: June 22, 2023  
 SUBJECT: City Manager's Report for June 26, 2023 Council Meeting

### Boat Fire Contained by HVFD

Homer Volunteer Fire Department has been very busy this summer. On June 20<sup>th</sup>, the crew responded to a boat fire at 10:15pm. Homer provided an engine and tanker and a total of eight personnel (including two volunteers). An additional three personnel responded from KESA and one from Anchor Point (WES). The fire was kept to the vessel and there were no injuries to the crew or the public.



### 2023 Property Tax Figures from KPB

I received notice from the Kenai Peninsula Borough Assessor regarding the 2023 certified main roll taxable values for the City of Homer as of June 1, 2023. They are as follows:

	Assessed	Taxable
<b>Real Property</b>	\$1,547,404,200	\$940,906,000
<b>Oil &amp; Gas Property</b>	\$0	\$0
<b>Personal Property</b>	\$42,715,533	\$38,465,196
<b>Total 2023 Certified Main Roll Value</b>	\$1,590,119,733	\$979,371,196

The \$979M in taxable property for 2023 is an increase of \$108M (12.4%) over 2022's taxable property values. Based on the numbers provided by the Borough, we should see upwards of \$285,000 above what we budgeted for in FY24 for property taxes.

### **First Quarter Sales Tax**

First quarter sales tax from the Borough for calendar year 2023 saw a very small dip in all jurisdictions within the Kenai Peninsula. Homer had \$35,142,391 in taxable sales which translates into approximately \$1.7M in revenue to the City. The sales tax revenue for 2023 is roughly \$57,543 behind last year's performance for the quarter. For reference, the first quarter is by far the smallest quarter for the City. The taxable sales in the second and third quarters are generally double and triple that which we see in the first quarter.

First quarter sales tax from the Alaska Remote Sellers Sales Tax Commission is up quite a bit from 2022. In the first quarter of calendar year 2023, we have an estimated \$212,086 in revenue which is a \$51,324 (31%) increase over the year prior.

### **City Planner Update**

Upon the departure of former City Planner Rick Abboud, Special Project Coordinator Ryan Foster stepped in as acting City Planner and has been doing a great job of keeping the Planning Division on track through the busy season. I've asked Ryan to make the switch permanent and he has agreed to become our full-time City Planner. Ryan will official make that transition in July.

### **Potential AML Grant Partnerships**

There are two grant programs open right now for which the Alaska Municipal League (AML) is assembling select coastal communities for potential partnership. One is related to public electric vehicle charging infrastructure which is titled the "Connecting Alaska's Coastal Communities with Charging Infrastructure Project." This is connected to a federal grant that had been evaluated by staff but not pursued because the cost to the City in local match would be very high (\$200,000+) at a time when we're trying to build up funds for future harbor float replacements and harbor expansion projects. Under the proposal being written by AML for the State, the local grant match would be carried by the State of Alaska making this a much more attractive program for the City. The concept and application are still under development by AML and I can share more as things progress. A second grant underway at AML is focused on coastal resilience funding for Alaska Communities that would come from the NOAA Inflation Reduction Act Climate Resilience Regional Challenge. AML is still waiting for the official release of the notice of funding opportunity, but they have proactively reached out to communities like ours to gauge interest and possible support in the future. More to come as that opportunity develops.

### **Special Events and Food Trucks Code Update Follow Up**

In March of 2022, Council adopted Ordinances 22-15(S)(A) and 22-14 which updated regulations related to mobile food service (i.e., food trucks) and special events. A little more than a year has elapsed and I took a look back with staff at how the changes have been working out for the City and those seeking permits.

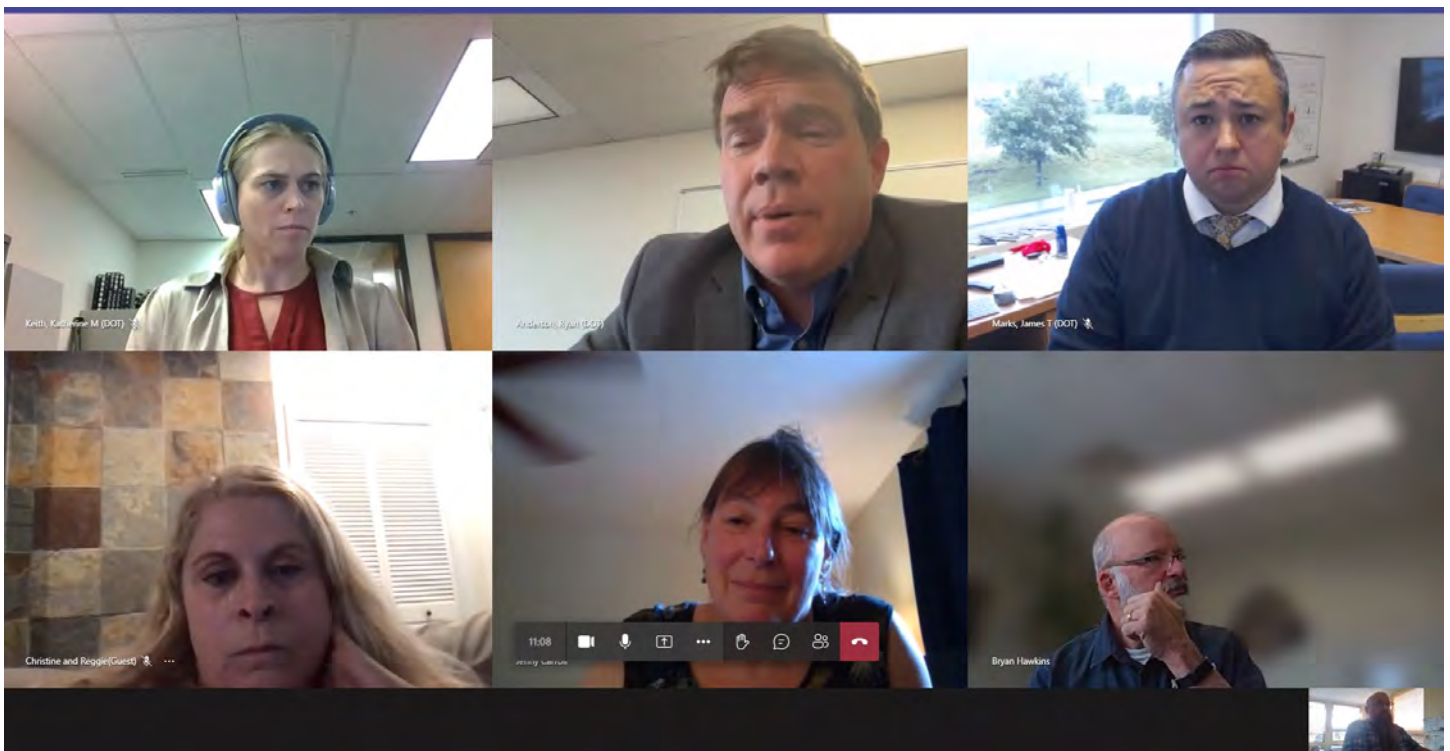
**Mobile Food Service:** The move from the Police Department to Planning for mobile food service permitting was very smooth and Planning has proved to be a much more user-friendly place to get permitted. At this time, most permitting is being handled online. The streamlining of our permitting process has been very appreciated by food truck operators and we've received positive comments from the Chamber of Commerce who has hosted food truck events within the City since the passage

of the update. The change that allows food trucks in parks as part of a permitted special event has been particularly popular and appreciated by the public.

**Special Events:** We have been quite busy with special event permitting and the updated program has been going very well. It is administered in the City Manager’s office at this time. We have also instituted pre-event meetings for particularly complicated events (i.e., annual fireworks), or first time events, in an effort to make event implementation as smooth as possible with minimal surprises for the City and the event permit holders. In the code update we created some fines for egregious violations of code. So far, we have not had to use any punitive fees to maintain public health and safety related to special events. We hope to keep that streak alive. Staff is preparing to host an internal meeting to discuss areas in which we may benefit from some small changes or improvements at a level below amending City Code.

### Meeting with Alaska Department of Transportation

Special Projects Coordinator Jenny Carroll, Port Director Bryan Hawkins, Christine Hess from J&H Consulting, and I met with Commissioner Ryan Anderson, Deputy Commissioner Katherine Keith, and Director of Planning & Program Development James Marks to discuss potential partnerships for federally funded grant programs. We focused this meeting on spit erosion mitigation. We had a very positive meeting and have planned a follow up to see if we can successfully collaborate on a grant application this summer. We have met frequently with Commissioner Anderson since he was appointed by the Governor in 2021, and we are very appreciative of his willingness to meet with us directly on topics important to Homer and the Southern Kenai Peninsula.



### AML Summer Conference Coming Soon!

The AML Summer Legislative Conference is scheduled for August 9-11<sup>th</sup> here in the City of Homer. We will be hosting local government officials from all over the state. The first day of the conference involves meetings of the Alaska Conference of Mayors and the Alaska Municipal Management Association. The rest of the conference is focused on State legislation and generally well attended by Mayors, Councilmembers, and City

Managers. City staff continues to coordinate with AML to ensure they're getting the local support they require to make the event a success.

### **Professional Development Update**

This spring I graduated from the Master of Business Administration program at the University of Alaska Fairbanks (UAF), my diploma was delivered while I was out on leave. Throughout the program I completed courses like Organizational Theory for Managers, Financial Markets & Strategy, Quantitative Methods for Managers, Project Management, Public Policy and Accountability, Strategic Leadership, Strategic Collaboration, and Administration & Management of Criminal Justice Organizations. Across the last year I have also been enrolled in the Master of Security and Disaster Management at UAF, and I expect to finish that degree program at the end of the year.