



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue

Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 22-201

To: Mayor Castner and Homer City Council

From: Rachel Tussey, CMC, Deputy City Clerk II

Through: Rob Dumouchel, City Manager

Meeting Date: November 14, 2022

Subject: Assignment of Lease Request for Bob's Trophy Charters

Summary Statement:

Kachemak Corporation dba Bob's Trophy Charters submitted a request for Assignment of Lease in June 2022. In accordance with Homer City Code 18.08.160 Assignment, City Lease Staff has reviewed the request and the new lease application/proposal from the assignee, Eagle Eye Charters.

The City Manager and City Lease Staff have determined the lessee and lease assignee have met the criteria outlined in City Code and an assignment of Lease can take place; the attached Proposal Review and Staff Recommendations form provides the summary and details of that review.

Per HCC 18.08.160(c)(5), the Port and Harbor Advisory Commission reviewed the Assignment of Lease Request for Bob's Trophy Charters at their October 26, 2022 regular meeting prior to submission to Council. They made a motion with discussion to support an Assignment of Lease from Kachemak Corporation to Eagle Eye Charters dba Bob's Trophy Charters, and recommend for City Council approval. An excerpt of their meeting minutes is attached.

Staff Recommendation:

Approve an Assignment of Lease from Kachemak Corporation to Eagle Eye Charters, and authorize the City Manager to execute the appropriate documents for the continuation of the current 20-year lease, term ending December 31, 2036 with two 5-year renewal options at an Annual Base Rent of \$7,026.60, for Tract 1-B, Fishing Hole Subdivision No. 2.

Fiscal Note:

Initial Base Rent \$7,026.60 annually, adjusted annually in accordance with the Consumer Price Index and every five years as determined by ordered appraisals.

Attachments:

City of Homer Lease Application Proposal Review & Staff Recommendations

Eagle Eye Charters Lease Application/Proposal Packet

DRAFT Assignment and Assumption of Lease Agreement for Bob's Trophy Charters



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City of Homer Lease Application Proposal Review & Staff Recommendations

Proposal Synopsis

Application is for: Eagle Eye Charters LLC dba Bob's Trophy Charters
Representative: Cory DeCook

Lease Proposal Synopsis:

Assignment of Lease request from Kachemak Corporation to Eagle Eye Charters. New lessee would take over the existing lease as-is at the same terms, duration, and rental rate.

- Per HCC 18.08.160 Assignment, the City Manager determines that a lessee is in full compliance with a lease before an assignment will be effective. After Lease Staff's review, the current lessee (Kachemak Corporation dba Bob's Trophy Charters) is found to be in good standing and eligible to assign the lease.
- Current lease is a 20-year lease from 1/1/2017 to 12/31/2036 with two 5-year options to renew; would expire with no options remaining 12/31/2046.
- Last appraisal was done in 2022 (every 5 years); current Annual Market Rent is \$7,026.60.
- Applicant's proposal was initially submitted to Port Staff June 2022. At the time there were questions on the financial aspects of the applicant. City staff had a transition of lease management duties in the interim the applicant was working on reorganizing their financials. City Hall/Lease Staff started working with the applicant September 2022 to finalize their proposal.
- The updated request has been reviewed by Lease Staff and the City Manager; applicant has been determined to be a qualified assignee.

Criteria Checklist

Complete Lease Application form and a clear, precise narrative that addresses all proposal criteria:

Yes No N/A Incomplete

Notes: Lease Application, Written Narrative, and fee received/paid.

A letter from the current lessee, Todd Strand, formally requested the lease assignment in accordance with HCC. It explained how he wishes to sell the business; sale is contingent upon the applicant being able to secure a lease with the City.

Proposal is compatible with neighboring uses and consistent with applicable land use regulations including the Land Allocation Plan, Comprehensive Plan:

Yes No N/A Incomplete

Notes: Feedback from Planning Staff has verified the proposal is consistent with zoning code and the Land Allocation Plan.

Development plan details out any proposed improvements with a specific time schedule and benchmarks for development: Yes No N/A Incomplete

Notes: Applicant does not have any proposed improvement plans to the existing office building or lot.

Financial capability or backing of the applicant (including credit history, prior lease history, assets, capital investments) has been verified to support the lease proposal: Yes No N/A Incomplete

Notes: Absent bank financing for the business and that Applicant is the sole owner, the City has relied on personal financial history to prove financial solvency. Applicant submitted a current credit report that indicated any debts and payment history; it provided sufficient evidence they are capable of making timely monthly payments.

Applicant has a closing date set for December 1st to purchase the business. Applicant has proven financial capability of buying the business; current lessee has voiced his support of the sale and is moving forward with it.

Applicant has not had been found in default or sent to collections, has not filed bankruptcy, does not have any pending litigation against them, and has a credit history of making all payments on time over the past 7 years.

Proposal found to be sufficient in other evaluation criteria per HCC 18.08.060 (includes experience of applicant in the proposed business or venture, economic, financial, and social impacts): Yes No N/A Incomplete

Notes: Applicant's proposal to continue the business as-is has found to be sufficient. He has worked for this charter company and is looking to keep it running as the current owner is seeking to sell. The applicant is a local resident and home owner; this helps retain seasonal earnings in the community year round and supports the social and economic goals of the city.

Applicant has verified they are insurable and licensable in the City, Kenai Peninsula Borough, and/or the State of Alaska for their proposed use: Yes No N/A Incomplete

Notes: Applicant has proven they are insurable; signing of a lease is contingent upon Applicant being able to provide final insurance.

Applicant has the appropriate business licenses with the State.

Health requirement documentation not applicable for this type of business/land use.

Any other information that is directly pertinent to the proposal: Yes No N/A Incomplete

Notes: Applicant does not intend to sublease, which requires prior approval of City Council per HCC 18.08.140 Sublease.

FOR ASSIGNMENTS ONLY – Current lessee is in full compliance with the lease terms and is eligible for lease reassignment: Yes No N/A Incomplete

Notes: Port staff verified Kachemak Corporation is in good standing with their bills.

All applicable documentation has been provided:

Yes No N/A Incomplete

- Lease Application and Narrative
- Plot Plan
- Development Plan – n/a
- Financial Information
- Verification that Insurance can be provided at Signing of Lease
- Business Entity and Licensing Information

Comments/Recommendations from Planning & Zoning

Rick Abboud, City Planner: After a quick look at the site and business, my initial recommendation is to ensure that that structure is approved by the Fire Marshal for overnight accommodations. From a look on the outside, I do not see any zoning problems.

Julie Engebretsen, Economic Development Manager: There is some Fire Marshal info in the files; I am following up with the Fire Marshal on if the accommodations have been reviewed or not. If not, we would make that a condition of the lease. It's something the new leaseholder could reasonably resolve by the start of the 2023 season. Or, he can use it as employee housing without a review.

Comments/Recommendations from Port & Harbor Staff (if applicable)

N/A

Bryan Hawkins, Port Director: Initial concerns were addressed by the Applicant providing a written narrative. From a harbor operation perspective there were no objections.

Recommendation from Port & Harbor Advisory Commission (if applicable)

N/A

Pending review at the PHC's October 26, 2022 regular meeting.

Comments from City Manager's Office

No additional comments

Recommended Action to City Council

By Resolution, approve an Assignment of Lease from Kachemak Corporation to Eagle Eye Charters, and authorize the City Manager to execute the appropriate documents for the continuation of the current 20-year lease, term ending December 31, 2036 with two 5-year renewal options at an Annual Base Rent of \$7,026.60, for Tract 1-B, Fishing Hole Subdivision No. 2.

Application Verified By: _____

Date: _____

City Manager Approval: _____

Date: _____

Cory DeCook
Eagle Eye Charters LLC
DBA Bobs Trophy Charters
PO Box 2592
Homer, AK 99603
Corydecook@yahoo.com
907-756-3755

October 19, 2022

City of Homer
Attn: Rachel Tussey

After eight years as an employee with Bobs Trophy Charters the opportunity to purchase the company has become a reality. Todd Strand (current owner) and I have come to an agreement to make this possible. This is super exciting for me since it is where I started my charter fishing career. One year as a deckhand and seven years as a captain for Bobs Trophy Charters I feel that this is the time to move forward. I have secured all the funds needed to purchase the business, but have to make sure that the lease for the office land, through the city of Homer can be reassigned to myself before I am able to move forward. My belief is that after 43 years in business Bobs Trophy Charters Office is a critical part of the company and that its location is important to the success and longevity of one of Homers original charter companies. This location is unique in being one of the first charter companies that people see when the drive down the spit. Also the size of the lot is very special because it allows our customers to drive right up to the front door to check-in. This company employs anywhere from 12 to 14 people of which roughly seven or eight of them meet at the office each day. My goal is to proceed with Bobs Trophy Charters just the way it is. The current owner has kept the office updated so at this point in time I don't believe there will be any updates needed for the office. Please let me know if there is any further information that will be helpful in securing this lease.

Sincerely,
Cory DeCook



Bob's Trophy Charters
A division of Kachemak Corporation
P.O. Box 1775
Homer, AK 99603

June 13, 2022

Homer City Hall
Rob Dumouchel, City Manager
491 East Pioneer Ave
Homer, AK 99603

Dear Mr. Dumouchel,

I have been negotiating the sale of Bob's Trophy Charters with a buyer by the name of Cory DeCook. At this time, it looks as though an agreement has been made for him to buy the assets of Bob's Trophy Charters and I would like to request an Assignment of our lease to his new entity called Eagle Eye Charters.

The sale of this business is contingent upon the approval of this lease assignment as the location of the building is critical for the continued successful operation of the business.

Attached please find the Lease Application, Personal Financial Statement and check for \$280.00 that has been completed by Mr. DeCook. Please let us know how to proceed.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Strand".

Todd Strand, President

Kachemak Corporation dba Bob's Trophy Charters

Cc: Bryan Hawkins, Harbormaster



Lease Application/Assignment Form

Directions:

1. Please submit this application form to the City Manager's Office, 491 Pioneer Avenue, Homer, AK, 99603.
2. Please answer all questions on this form, or put "N/A" in the space if it is non-applicable.
3. Please include all applicable fees in the form of a check, made payable to the City of Homer.

| | |
|--|---|
| Applicant Name: | Cory DeCook |
| Business Name: | Bob's Trophy Charters |
| Social Security Number: | [REDACTED] |
| Mailing Address: | P.O. Box 2592 Homer, AK 99603 |
| City, State, ZIP code: | Homer AK 99603 |
| Business Telephone No. | 907-756-3755 |
| Representative's Name: | Cory DeCook |
| Mailing Address: | _____ |
| City, State, ZIP code: | _____ |
| Business Telephone No. | _____ |
| Property Location: | 3978 Homer Spit Road Homer, AK 99603 |
| Legal Description: | Tract 2-B Fishing Hole subdivision NO. 2 Homer Recording district, State of Alaska |
| Type of Business to be placed on property: | Fishing Charter Booking Office Currently on the site |
| Duration of Lease requested: | 20 years |
| Options to re-new: | yes |

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

| 1. | Plot Plan | <p>A drawing of the proposed leased property showing:</p> <p align="center"><i>See attached</i></p> <input checked="" type="checkbox"/> Size of lot - dimensions and total square footage (to scale) <input checked="" type="checkbox"/> Placement and size of buildings, storage units, miscellaneous structures planned (to scale). <input checked="" type="checkbox"/> Water and sewer lines – location of septic tanks, if needed. <input checked="" type="checkbox"/> Parking spaces – numbered on the drawing with a total number indicated | | | | | | | | | | | | | | | | | | | | |
|--------------|-------------------------------|---|-------|-------|-------|-------------|-------|-------|-------|-------|-------|-------|-------|-------|--------------|-------------------------------|-------|-------|-------|-------|-------|-------|
| 2. | Development Plan | <p><input type="checkbox"/> List the time schedule from project initiation to project completion, including major project milestones.</p> <table border="0"> <thead> <tr> <th data-bbox="506 703 730 735">Dates</th> <th data-bbox="779 703 1485 735">Tasks</th> </tr> </thead> <tbody> <tr> <td>_____</td> <td align="center"><i>None</i></td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> </tbody> </table> <p>For each building, indicate:</p> <table border="0"> <thead> <tr> <th data-bbox="506 1050 974 1081">Building Use</th> <th data-bbox="950 1050 1518 1081">Dimensions and square footage</th> </tr> </thead> <tbody> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> <tr> <td>_____</td> <td>_____</td> </tr> </tbody> </table> | Dates | Tasks | _____ | <i>None</i> | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | Building Use | Dimensions and square footage | _____ | _____ | _____ | _____ | _____ | _____ |
| Dates | Tasks | | | | | | | | | | | | | | | | | | | | | |
| _____ | <i>None</i> | | | | | | | | | | | | | | | | | | | | | |
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| _____ | _____ | | | | | | | | | | | | | | | | | | | | | |
| 3. | Insurance | <p align="center"><i>Policy to be issued if Application is Approved</i></p> <input checked="" type="checkbox"/> Attach a statement of proof of insurability of lessee for a minimum liability insurance for combined single limits of \$1,000,000 showing the City of Homer as co-insured. Additional insurance limits may be required due to the nature of the business, lease or exposure. Environmental insurance may be required. If subleases are involved, include appropriate certificates of insurance. | | | | | | | | | | | | | | | | | | | | |
| 4. | Subleases | <p align="center"><i>N/A</i></p> <input checked="" type="checkbox"/> Please indicate and provide a detailed explanation of any plans that you may have for subleasing the property. The City of Homer will generally require payment of 25% of proceeds paid Lessee by subtenants. Refer to chapter 13 of the Property Management Policy and Procedures manual. | | | | | | | | | | | | | | | | | | | | |
| 5. | Health Requirements | <p align="center"><i>N/A</i></p> <input checked="" type="checkbox"/> Attach a statement documenting that the plans for the proposed waste disposal system, and for any other necessary health requirements, have been submitted to the State Department of Environmental Conservation for approval. Granting of this lease shall be contingent upon the lessee obtaining all necessary approvals from the State DEC. | | | | | | | | | | | | | | | | | | | | |

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| 6. | Agency Approval | <input type="checkbox"/> Attach statement(s) of proof that your plans have been inspected and approved by any agency which may have jurisdiction of the project; i.e. Fire Marshall, Army Corps of Engineers, EPA, etc. The granting of this lease shall be contingent upon lessee obtaining approval, necessary permits, and/or inspection statements from all appropriate State and/or Federal agencies. |
| 7. | Fees | <p><u>All applicable fees must be submitted prior to the preparation and/or execution of a lease.</u></p> <p><input checked="" type="checkbox"/> Application fee - \$30.00. Covers costs associated with processing the application. <i>Please make check payable to the City of Homer.</i></p> <p><input type="checkbox"/> Lease fee - \$300.00. Covers the costs of preparing and processing the actual lease.</p> <p><input checked="" type="checkbox"/> Assignment fee - \$250.00. Covers the costs of preparing and processing the lease transfer. <i>Please make check payable to the City of Homer.</i></p> |
| 8. | Financial Data | <p><u>Please indicate lessee's type of business entity:</u></p> <p><input checked="" type="checkbox"/> Sole or individual proprietorship. <input type="checkbox"/> Partnership. <input type="checkbox"/> Corporation. <input type="checkbox"/> Other – Please explain: _____</p> <hr/> <p><input checked="" type="checkbox"/> Financial Statement – <u>Please attach a financial statement showing the ability of the lessee to meet the required financial obligations.</u> <i>See Attached</i></p> <p><input checked="" type="checkbox"/> 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. If yes, please attach a statement naming the surety or bonding company, date and amount of bond, and the circumstances surrounding the default or performance.</p> <p><input checked="" type="checkbox"/> 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. If yes, please attach a statement indicating state, date, Court having jurisdiction, case number and to amount of assets and debt.</p> <p><input checked="" type="checkbox"/> 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. If yes, please attach detailed information as to each claim, cause of action, lien, judgment including dates and case numbers.</p> |

| 9. | Partnership Statement | <p><input checked="" type="checkbox"/> If the applicant is a partnership, please provide the following:</p> <p>Date of organization: <u>None</u></p> <p>Type: <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership</p> <p>Statement of Partnership Recorded? <input type="checkbox"/> Yes <input type="checkbox"/> No Where _____ When _____</p> <p>Has partnership done business in Alaska? <input type="checkbox"/> Yes <input type="checkbox"/> No Where _____ When _____</p> <p>Name, address, and partnership share. If partner is a corporation, please complete corporation statement.</p> <p><i>Please attach a copy of your partnership agreement.</i></p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------|-----------------------|--|-------|-------|---------|-------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|------|-------|--|--|--|--|--|--|--|--|
| 10. | Corporation Statement | <p><input checked="" type="checkbox"/> If the applicant is a corporation, please provide the following:</p> <p>Date of Incorporation: <u>None at this time</u></p> <p>State of Incorporation: _____</p> <p>Is the Corporation authorized to do business in Alaska? <input type="checkbox"/> No <input type="checkbox"/> Yes. Is so, as of what Date? _____</p> <p>Corporation is held? <input type="checkbox"/> Publicly <input type="checkbox"/> Privately If publicly held, how and where is the stock traded? _____</p> <p>Officers & Principal Stockholders [10%+]:</p> <table border="1"> <thead> <tr> <th data-bbox="511 1165 592 1207">Name</th> <th data-bbox="795 1165 860 1207">Title</th> <th data-bbox="1015 1165 1120 1207">Address</th> <th data-bbox="1372 1165 1453 1207">Share</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table> <p><input type="checkbox"/> Please furnish a copy of Articles of Incorporation and By-laws. Please furnish name and title of officer authorized by Articles and/or By-laws to execute contracts and other corporate commitments.</p> <table border="1"> <thead> <tr> <th data-bbox="511 1617 592 1659">Name</th> <th data-bbox="941 1617 1006 1659">Title</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table> | Name | Title | Address | Share | | | | | | | | | | | | | | | | | Name | Title | | | | | | | | |
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11. Applicant References

Please list four persons or firms with whom the Applicant or its owners have conducted business transactions with during the past three years. Two references named shall have knowledge of your financial management history, of which at least one must be your principal financial institution. Two of the references must have knowledge of your business expertise.

Name: Autumn B Johnson
Firm: Wells Fargo Bank
Title: Personal Banker
Address: 88 Sterling Hwy Homer AK 99603
Telephone: 907-953-2659
Nature of business association with Applicant: member in good standing since 1996.

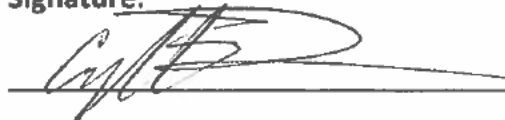
Name: Todd Strand
Firm: Bob's Trophy Charters
Title: owner
Address: 9952 East Gold Dust Pl Gold Canyon, AZ 85118
Telephone: 1-651-402-6606
Nature of business association with Applicant: owner of the charter company that I fish for.

Name: Keith Kalke
Firm: Ocean Hunter Charters
Title: owner
Address: P.O. Box 1900 Homer AK 99603
Telephone: 907-299-1735
Nature of business association with Applicant: Charter Fishing

Name: Brad Needham
Firm: Tenacious Charters
Title: owner
Address: 5545 Saper AVE Homer AK
Telephone: 1-919-744-7080
Nature of business association with Applicant: Charter Fishing

I hereby certify that the above information is true and correct to the best of my knowledge.

Signature:



Date:

6-8-22

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE REGULAR PERIODIC GENERAL PLANNING COMMISSION OF THE CITY OF HOMER, ALASKA, ON 4/12/93 AT THE REQUEST OF Richard L. Leard BY Richard L. Leard AUTHORIZED OFFICIAL

NOTES

1. BASIS OF RECORDING IS THE CITY OF HOMER ZONING ORDINANCE, AS SHOWN ON PLAT D-2-98 AND CITY OF HOMER AREA RECORD OF SURVEY.
2. NO PROPERTY ADJACENT SHALL BE DISTURBED OR PLACED UNDER AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY TO USE THE EASEMENT.
3. THESE LOTS SHALL BE SERVED BY CITY SEWER AND WATER. NO ON-SITE WATER OR SEWER SYSTEMS ARE PERMITTED.
4. NO DIRECT ACCESS TO STATE MAINTAINED HIGHWAY OR AIR IS PERMITTED UNLESS APPROVED BY THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.

LEGEND

- DESIGNATED LOT OR PARCELS TO BE CARED
- DESIGNATED 50' WIDE UTILITY EASEMENT
- DESIGNATED 10' X 30' WIDE UTILITY EASEMENT

LINE TABLE

| LINE NO. | BEARING | DISTANCE | AREA |
|----------|-----------------|----------|-----------|
| 1 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 2 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 3 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 4 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 5 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 6 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 7 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 8 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 9 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 10 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 11 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 12 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 13 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 14 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 15 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 16 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 17 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 18 | S 89° 15' 30" E | 100.00 | 10,000.00 |
| 19 | N 89° 15' 30" W | 100.00 | 10,000.00 |
| 20 | S 89° 15' 30" E | 100.00 | 10,000.00 |

CURVE TABLE

| CHORD | ARC | ANGLE | CHORD BEARING | CHORD LENGTH | CHORD AREA |
|--------|--------|-------|-----------------|--------------|------------|
| 100.00 | 100.00 | 90.00 | N 45° 00' 00" W | 141.42 | 7,071.06 |
| 100.00 | 100.00 | 90.00 | S 45° 00' 00" E | 141.42 | 7,071.06 |

CERTIFICATE OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

RECEIVED APPROVAL: DIRECTLY-SUBMITTED TREATMENT AND DISPOSAL SYSTEMS FOR THE PROPOSED DEVELOPMENT OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION. THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION APPROVES THIS SUBDIVISION FOR ALTIMTS.

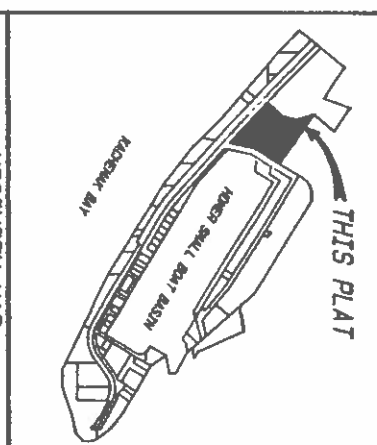
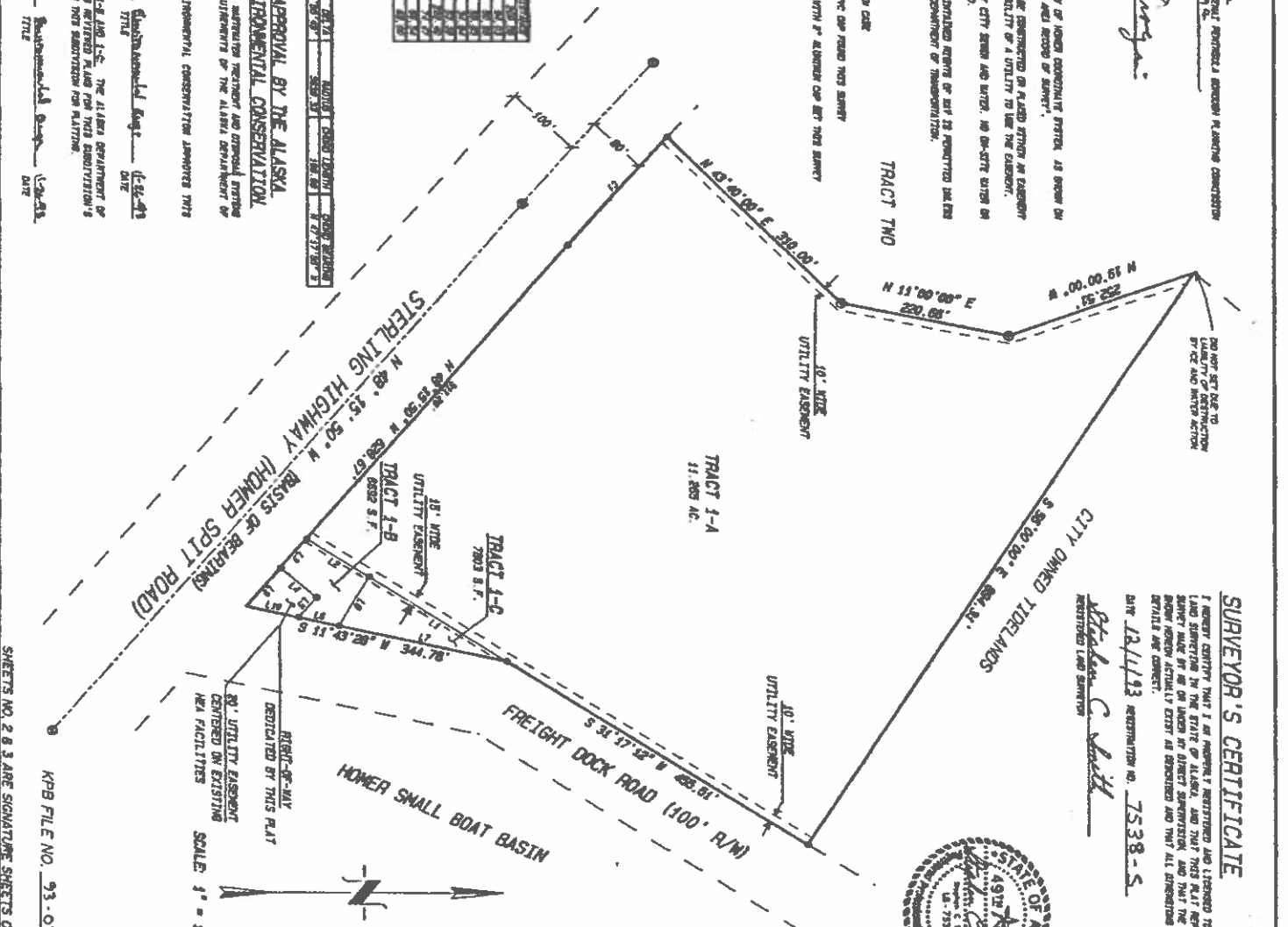
Richard L. Leard 4/12/93
STATE ENGINEER

Richard L. Leard 4/12/93
STATE ENGINEER

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION AND THAT THE DIMENSIONS FROM HEREON ACTUALLY EXIST AS DESCRIBED AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT.

DATE: 12/1/93 REGISTRATION NO. 7538-S
REGISTERED LAND SURVEYOR: Richard C. Hill



VICINITY MAP
LOCATED WITHIN THE CITY OF HOMER

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY AGREE THIS PLAT OF SUBDIVISION AND BY MY FREE CHOICE, WITHOUT ALL RESERVE OF SAY AND PUBLIC ACRES TO PAR. D-2-93 AND DONATE ALL EASEMENTS TO THE USE SHOW HEREON.

CITY OF HOMER

BY: Richard L. Leard
HOMER CITY ENGINEER

NOTARY'S ACKNOWLEDGEMENT

WITNESSED AND SIGNED TO BEFORE ME THIS 11th DAY OF 1993.

FOR: Richard L. Leard
NOTARY PUBLIC FOR ALASKA

BY: Richard L. Leard
BY: Richard L. Leard

HOMER RECORDING DISTRICT

THE FISHIN' HOLE NO. 2

A REPLAT OF TRACT ONE, THE FISHIN' HOLE ACCORDING TO PLAT NO. 92-38, HRD LOCATED WITHIN THE SE1/4 S. 35, T6S, R13W, SEWARD MERIDIAN, ALASKA AND WITHIN THE CITY OF HOMER

CONTAINING 11,867 ACRES

HERNDON & THOMPSON, INC.
STEPHEN C. SMITH, PLS
41745 BEAR CREEK DRIVE
HOMER, ALASKA 99603
907-233-8741

DRAWN BY: SCS COMP BY: SCS JOB #92-12
DATE: 4/12/93 SCALE: 1" = 100' SHEET #1 OF 3

NOTARY'S ACKNOWLEDGEMENT

WITNESSED AND SIGNED TO BEFORE ME THIS 11th DAY OF 1993.

FOR: Richard L. Leard
NOTARY PUBLIC FOR ALASKA

BY: Richard L. Leard
BY: Richard L. Leard

AS-BUILT
CITY OF HOMER

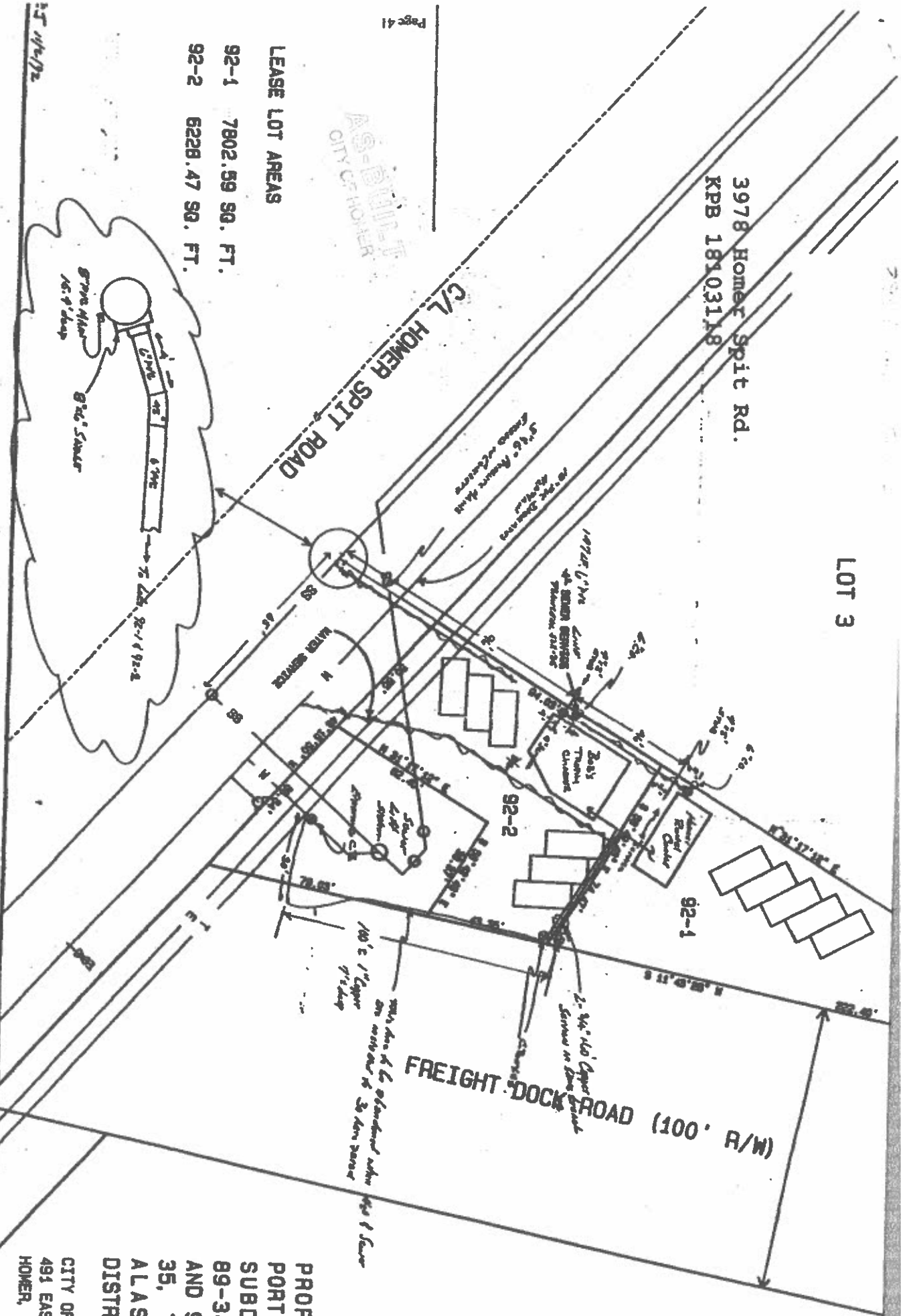
3978 Homer Spit Rd.
KPB 18103118

LOT 3

LEASE LOT AREAS

- 92-1 7802.59 SQ. FT.
- 92-2 6228.47 SQ. FT.

15/16/92



FREIGHT DOCK ROAD (100' R/W)

CI
 PROPOSED
 PORTION OF
 SUBDIVISION
 89-34), IN
 AND 92-2,
 35, T. 6 N.,
 ALASKA,
 DISTRICT

CITY OF HOMER
 491 EAST PIONE
 HOMER, ALASKA



THE STATE of ALASKA

Department of Commerce, Community, and Economic Development
Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806
(907) 465-2550 • Email: corporations@alaska.gov
Website: corporations.alaska.gov

FOR DIVISION USE ONLY

Domestic Limited Liability Company Initial Biennial Report

Entity Name: EAGLE EYE CHARTERS LLC

Entity Number: 10196710

Home Country: UNITED STATES

Home State/Prov.: ALASKA

Physical Address: 4225 RONDA ST., APT #4, HOMER, AK
99603

Mailing Address: PO BOX 2592, HOMER, AK 99603

Registered Agent information cannot be changed on this form. Per Alaska Statutes, to update or change the Registered Agent information this entity must submit the Statement of Change form for this entity type along with its filing fee.

Name: Cory DeCook

Physical Address: 4225 RONDA ST., APT #4, HOMER, AK
99603

Mailing Address: PO BOX 2592 , HOMER, AK 99603

Officials: The following is a complete list of officials who will be on record as a result of this filing.

- **Provide all officials and required information. Use only the titles provided.**
- **Mandatory Members:** this entity must have at least one (1) Member. A Member must own a %. In addition, this entity must provide all Members who own 5% or more of the entity. A Member may be an individual or another entity.
- **Manager:** If the entity is manager managed (per its articles or amendment) then there must be at least (1) Manager provided. A Manager may be a Member if the Manager also owns a % of the entity.

| Full Legal Name | Complete Mailing Address | % Owned | Member |
|-----------------|------------------------------|---------|--------|
| CORY DECOOK | PO Box 2592, Homer, AK 99603 | 100 | X |

If necessary, attach a list of additional officers on a separate 8.5 X 11 sheet of paper.

NAICS Code: 487210 - SCENIC AND SIGHT-SEEING TRANSPORTATION, WATER

New NAICS Code (optional):

This form is for use by the named entity only. Only persons who are authorized by the above Official(s) of the named entity may make changes to it. If you proceed to make changes to this form or any information on it, you will be certifying under penalty of perjury that you are authorized to make those changes, and that everything on the form is true and correct. In addition, persons who file documents with the commissioner that are known to the person to be false in material respects are guilty of a class A misdemeanor. Continuation means you have read this and understand it.

Name: Noah Mery

State of Alaska
Department of Commerce, Community, and Economic Development
Corporations, Business, and Professional Licensing

Certificate of Organization

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

EAGLE EYE CHARTERS LLC



IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective **May 25, 2022**.

A handwritten signature in black ink, appearing to read "Julie Sande". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Julie Sande
Commissioner

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

EAGLE EYE CHARTERS LLC DBA BOB'S TROPHY CHARTERS

PO Box 2592, Homer, AK 99603

owned by

EAGLE EYE CHARTERS LLC

is licensed by the department to conduct business for the period

May 25, 2022 to December 31, 2023
for the following line(s) of business:

48 - Transportation and Warehousing



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 Sande
Commissioner

ASSIGNMENT AND 1st AMENDMENT TO LEASE AGREEMENT

This Assignment and First Amendment to Lease Agreement (“Assignment”) is made and entered into as of December 1, 2022 (“Effective Date”) by and among the City of Homer, an Alaska municipal corporation (“Landlord”) whose address is 491 East Pioneer Avenue, Homer, Alaska 99603, and Kachemak Corporation, dba Bob’s Trophy Charters, an Alaska Business Corporation (“Tenant”) whose address is 24075 Lofton Avenue N, Chisago City, MS 55013, and Eagle Eye Charters LLC, dba Bob’s Trophy Charters, an Alaska Limited Liability Company (“Assignee”) whose address is P.O. Box 2592 Homer, Alaska 99603, and assigns and amends the Lease recorded on December 30, 2016, Number 2016-003955-0, Homer Recording District 309, Alaska.

RECITALS

WHEREAS, Tenant and Landlord are parties to that certain Ground Lease and Security Agreement (“Lease”) dated January 1, 2017 (a copy of which is attached hereto as Exhibit A) for the property designated as Tract 1-B The Fishing Hole Subdivision No. 2, for a term of twenty (20) years which expires December 31, 2036 with two (2) additional five (5) year renewal terms.

WHEREAS, Under Section 8.01 of the Lease Tenant shall not assign or sublease its interest in this Lease or in the Property without first obtaining the written consent of City Council, which will not be withheld unreasonably, and in accordance with Section 18.08.160(b) of the Code of Ordinances of the City of Homer, Alaska (“Homer City Code”), Tenant submitted to Landlord a written Request for Assignment on June 13, 2022.

WHEREAS, Landlord has reviewed the request and determined Tenant is in good standing and eligible to assign the lease, and Assignee’s application (attached hereto as Exhibit C) and determined the Assignee can fulfill the terms of the Lease and requirements under Homer City Code Chapter 18.08.

WHEREAS, Tenant and Assignee have an agreed-upon closing date of December 1, 2022, known as the Effective Date, for the sale of Bob’s Trophy Charters, at which time the Assignee must provide Landlord sufficient documentation verifying the transfer of business assets and Certificate of Insurance to satisfy the requirements of Homer City Code Chapter 18.08 and the City Lease Application.

NOW, THEREFORE in consideration of the mutual consent of all listed parties and the receipt and legal sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Assignment/Assumption. Effective as the Effective Date, Tenant hereby assigns and transfers to Assignee all of Tenant’s (a) right, title and interest, claim and demand in the Lease including, but not limited to, all renewal rights thereunder, and (b) rights to all improvements, tenements, hereditaments, and appurtenances belonging or appertaining to the Property. Assignee hereby accepts such Assignment, expressly assumes Tenant’s interest in the Lease and agrees to perform all the obligations

imposed on the Tenant under the Lease (as amended by this Agreement) as a direct obligation to Landlord.

2. Landlord's Consent. Landlord provides its written consent dated November 14, 2022 (a copy of which is attached hereto as Exhibit B), to the Assignment as set forth in Section 1 above.

3. Amendment to Lease.

3.1 ARTICLE 6 USE AND IMPROVEMENT OF PROPERTY, Section 6.01 Use of Property, shall be amended to read as follows:

Tenant's undertaking to use and improve the Property as described in Tenant's proposal to Landlord is a material inducement to Landlord leasing the Property to Tenant. Tenant shall improve and use the Property in the manner described in Tenant's Proposal in ~~Exhibit D~~ **Exhibit C of the First Amendment to this Ground Lease Agreement.** Tenant's proposed use of the Property is to ~~continue operating a fish charter business~~ **operate a booking office and seasonal overnight accommodations for their fishing charter business.** Tenant shall not use or improve the Property for any purpose other than as described in Tenant's proposal without Landlord's written consent, which consent Landlord may withhold in its sole discretion.

3.2 ARTICLE 6 USE AND IMPROVEMENT OF PROPERTY, Section 6.02 Required Improvements, shall be amended to read as follows:

Tenant shall, at Tenant's sole expense, construct and at all times during the Term and any Renewal Term keep and maintain as the minimum development on the Property the following improvements ("Required Improvements"):

- Exterior painting of the building by October 1, 2017
- Compliance with City of Homer's Sign Code, HCC 21.60 by October 1, 2017

The Required Improvements also are depicted in the site plan and floor plans in Exhibit E. Tenant shall commence construction of the Required Improvements within one year after the date of the commencement of the Term, prosecute the construction of the Required Improvements with diligence, and Complete construction within one additional year.

Tenant shall, at Tenant's sole expense, keep and maintain compliance with Fire Marshal to utilize second floor for residential or hotel occupancy. Documentation of Fire Marshal's approval must be submitted to Landlord before any overnight accommodations are permitted under this Lease.

3.3 ARTICLE 14 GENERAL PROVISIONS, Section 14.04 Addresses for Notices, shall be amended to read as follows:

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

Robert Dumouchel, City Manager
City of Homer
491 East Pioneer Avenue

Homer, Alaska 99603
Facsimile: (907) 235-3148
Email: citymanager@cityofhomer-ak.gov

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

Cory DeCook
Eagle Eye Charters LLC, dba Bob's Trophy Charters
P.O. Box 2592
Homer, Alaska 99603
Email: corydecook@yahoo.com

Each party may, from time to time, designate a different address or different agent for service of process by notice given in conformity with Section 14.03.

4. No Further Verification. Except as set forth in this Agreement, all of the terms and provisions of the Lease shall continue to apply and shall remain unmodified and in full force and effect. Effective as of the date hereof, all references to the "Lease" shall refer to the Lease as amended by this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

LESSOR: CITY OF HOMER

By: _____
Robert Dumouchel, City Manager

TENANT: KACHEMAK CORPORATION, DBA BOB'S TROPHY CHARTERS

By: _____
Todd Strand, President and Shareholder

ASSIGNEE: EAGLE EYE CHARTERS LLC, DBA BOB'S TROPHY CHARTERS

By: _____
Cory DeCook, Owner

STATE OF ALASKA)
) SS.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on _____, 20__ by Robert Dumouchel, 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 Todd Strand, President and Shareholder of Kachemak Corporation, dba Bob's Trophy Charters, an Alaska Business Corporation.

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 Cory DeCook, Owner of Eagle Eye Charters LLC, dba Bob's Trophy Charters, an Alaska Limited Liability Company.

Notary Public in and for Alaska
My Commission Expires: _____

After recording return to:
Melissa Jacobsen, MMC, City Clerk
City of Homer
491 E. Pioneer Avenue
Homer, AK 99603

10.B. Meeting Schedule for 2023
Agenda Item Report PHC 22-002

Vice Chair Siekaniec introduced the agenda item by reading the title and deferred to Deputy City Clerk Tussey to give report.

Ms. Tussey spoke to the commission's proposed 2023 regular meeting schedule in the draft resolution. She noted that sometimes throughout the year the commission talks about scheduling concerns so this is their opportunity to change their regular meeting schedule, while still being able to schedule special meetings as needed later down the line.

Commissioner Zeiset commented on how in the past there was no November meeting because of Fish expo, but that may not be a necessity anymore with this particular commission and there's enough going on to justify having a November meeting. He noted that July seems to be the month many commissioners are absent.

Commissioner Pitzman rejoined the meeting at 6:30 p.m.

Ms. Tussey shared available dates in November 2023 if the commission opted to hold a regular meeting on a different day other than the fourth Wednesday, given its proximity to Thanksgiving Day.

Discussion ensued on amending the regular meeting schedule to cancel, keep, or reschedule the meetings in July, November, and December.

ZEISET/FRIEND MOVED TO CHANGE THE MEETING SCHEDULE TO ADD A REGULAR MEETING IN NOVEMBER FOR THE 2ND WEDNESDAY, NOVEMBER 8TH.

There was discussion on the current motion and deciding to leave the July meeting.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

SHAVELSON/ZEISET MOVED TO APPROVE THE 2023 SCHEDULE AS AMENDED AND RECOMMEND TO COUNCIL FOR APPROVAL.

There was no further discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

10.C. Assignment of Lease Request for Bob's Trophy Charters
Agenda Item Report PHC 22-004

Vice Chair Siekaniec introduced the agenda item by reading the title and deferred to Deputy City Clerk Tussey to give report.

Ms. Tussey explained how this is the first lease review using the new process after the transition of lease management duties from the Port to City Hall. What hasn't changed is the PHC still reviews applications per Homer City Code. Under Chapter 18.08 the City Manager submits any recommendation for approval of a proposal for property located on the Homer Spit to the PHC for review and comment prior to

recommending a proposal to Council. The commission also provides recommendations on improvements that weren't included in a lease agreement or approved by Council, and on Assignments of Lease. Ms. Tussey pointed out that the PHC is acting in an advisory capacity to the City Manager and Council on the development of the City port and harbor facilities per Chapter 2.64.040, clarifying that when evaluating lease proposals it's the commission's duty to focus on the following key things: the applicant's proposed use of the land, their development plan if there is one, and if these items are consistent with the Commission's goals for the planning and use of harbor facilities. It is the responsibility of the City Manager and the designated staff to evaluate the lease application for completeness or an applicant's financial capability.

Ms. Tussey summarized her review of the lease application and proposal in the packet, what staff's recommendation is to the commission, and noted the applicant Mr. Cory DeCook was in attendance in case the commission had questions for him.

ZEISET/SHAVELSON MOVED TO SUPPORT AN ASSIGNMENT OF LEASE FROM KACHEMAK CORPORATION TO EAGLE EYE CHARTERS DBA BOB'S TROPHY CHARTERS, AND RECOMMEND FOR CITY COUNCIL APPROVAL.

SHAVELSON/ZEISET MOVED TO SUSPEND THE RULES TO ALLOW THE APPLICANT CORY DECOOK TO PARTICIPATE IN THE DISCUSSIONS.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Commissioner Shavelson commented that he does not have issues with Mr. DeCook's application or proposal itself, his issue is with how the City looks and evaluates long term leases. He inquired with the applicant Mr. DeCook if the overnight accommodations is a different use than historically has been on that site. Mr. DeCook responded that it's not different; it has always been the two upstairs rooms for seasonal rentals, at least for the duration of his employment there.

Commissioner Shavelson spoke to the City's evaluation criteria and how the applicant has no proposed improvements to the property. Because the lease would go through 2046, his concern is the City engaging in such a long term lease without any criteria that allows us to move with the times in case there is radical change to the use of that property; we could find ourselves stuck. Commissioner Zeiset countered that from a business owner's perspective, the bank doesn't want to see a 5-year lease. The City needs to be careful they don't limit it too much.

Ms. Tussey noted that Commissioner Shavelson brings up a valid point and is exactly one of the commission's responsibilities: to review the use of a property and see if it matches their future goals for the harbor facilities. She explained how the Land Allocation Plan will be coming before the commission at one of their next meetings and they can use that opportunity to discuss future/current uses of the land, whether they would limit leases to shorter terms in select areas, and using that document to help make decisions when it comes to approving/not approving lease application.

There was further discussion on potential issues with businesses not wanting to invest in a business or developing City property if the City were to have the unilateral right to cease a long-term lease if a

“higher” priority for the lot comes up; a good conversation for the Land Allocation Plan or a Spit Development Plan.

In response to performance standard concerns, commissioners and City staff discussed the following:

- There are contingencies built into the City’s base lease and in City Code that allow the City and/or lessee to not extend a lease if it’s in the City’s best interest to do so. Examples include not approving an option-to-renew or not approving a new lease.
- The base lease and City Code includes standard requirements that a lessee must comply with local and state laws regarding the operation of their business and use of the property, and maintain their improvements/property. If you have a dilapidated building then technically you would be in default of your lease.
- There are performance standards; to say there isn’t is not accurate. The main concern would be staff time and resources to enforce those regulations already in place.
- The lease should include detailed requirements that you are going to operate the business as promised at the beginning. Ms. Tussey noted that the approved use is included in the lease exhibits, the resolution that approves the lease, and operating outside of that constitutes default; lease violations should then be reported to the City Manager as the City’s property manager to address. Commissioner Shavelson believes that it’s not clear or detailed enough to hold a lessee more accountable; Ms. Tussey pointed out that would then be up to lease staff to ensure the purpose of the lease is detailed out at the signing of the lease.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Student Representative Stonorov left the meeting at 6:58 p.m.

11. INFORMATIONAL MATERIALS

- 11.A. Capital Improvements Projects Update
- 11.B. Think Tank Discussion Areas from Chair Matthews
- 11.C. Port & Harbor Monthly Statistical Report
- 11.D. Water/Sewer Bills Report
- 11.E. Ice & Crane Report
- 11.F. Dock Activity Report
- 11.G. PHC 2022 Meeting Calendar

Port and Harbor Director Hawkins provided updates on Port Capital Improvement projects that are currently in progress. There was discussion on the status of awarding a contract to HDR and updates on parking improvements. Mr. Hawkins commented that harbor staff is still working on bringing the commission’s recommendations to City Council.

Mr. Hawkins recapped valuable information he learned from HEA at the Think Tank group that was called together for community-wide pre-planning efforts on harbor expansion. Discussion ensued on the harbor expansion.