



MEMORANDUM

Resolution 25-069, A Resolution of the City Council of Homer, Alaska Acknowledging a Memorandum of Agreement with the Alaska Department of Transportation and Public Facilities for the Design Phase of the Homer All Ages and Abilities Pathway, Authorizing the City Manager to Negotiate and Execute the Appropriate Documents and Committing Match Funds for the Design Phase. Community Development Director.

Item Type: Informational Memorandum
Prepared For: Mayor Lord and City Council
Date: July 22, 2025
From: Jenny Carroll, Special Projects & Communication Coordinator
Through: Melissa Jacobsen, City Manager

Purpose: To inform the Council of Alaska Department of Transportation and Public Facilities (DOT&PF) discussions regarding a Memorandum of Agreement for the Homer All Ages and Abilities Pathway (HAAP) project and seek approval of a Resolution authorizing the City Manager to negotiate and execute a design phase agreement and confirming commitment to match funds.

Synopsis: Since the grant was applied for in 2023, costs have escalated rapidly. If this project is going to stay in budget and within the match amount Council has already allocated, the scope of the project will have to be reduced. There will not be enough federal funding to build everything that was included in the grant application. AKDOT&PF has made this project a priority and wants to get this project moving. To do so, the Council needs to pass a resolution and for the City to sign a Memorandum of Agreement (MOA). The final details of the MOA are still being worked on, but postponing the Resolution will result in the project being delayed, potentially significantly. More delay will result in higher future costs, and a further reduction in construction. Staff would like to work in good faith with AKDOT&PF to reach a mutually agreeable MOU, and to capitalize on their desire to make this project a priority. The rest of this memorandum discusses the finer points of the MOU and the types of details staff is working through.

Background: In February 2023, the City applied to the DOT&PF for Federal FY23 Transportation Alternatives Program (TAP) funds to help construct the Homer All-Ages and Abilities Pedestrian Pathway (HAAP). At the time of application, the City estimated the total project cost at \$4.2M and set aside \$500,000 in HART road funds for potential grant match. See map attached.

In April 2024, DOT&PF announced that the HAAP project had been awarded \$3,486,787 in Federal TAP funds with a required City match of 10.03% or \$388,713 for a total project cost of \$3,875,500. See award letter and Statewide Transportation Improvement Program project description, attached. Essential elements of Alaska's TAP:

- TAP projects are implemented by DOT&PF under a Memorandum of Agreement with the City.
- DOT&PF has only Federal TAP funds to support the project, no State funds to cover cost overruns.
- DOT&PF takes some overhead from the federal funds. The total Federal award is subject to DOT&PF's annual Indirect Cost Allocation Plan (ICAP), which is deducted from the award when the State requests/receives the federal funds. The ICAP rate presently reduces the funds available for direct project costs by 5.17%. ICAP is recalculated annually.
- Under the award, the City is responsible to match Federal funds at 10.03, and any cost overruns.

MOA Discussions: On June 27, 2025, DOT&PF reached out to staff with a draft MOA for City input, with the goal of reaching agreement and obligating Federal HAAP funds by the Federal deadline in early August 2025.

Project costs have increased significantly between the time the City applied to TAP and now, and numerous uncertainties surround future costs, including:

- the need for design completion before DOT&PF can accurately estimate construction costs;
- uncertain timeframes for DOT&PF implementation of TAP projects;
- likely cost escalation over the implementation period; and
- the potential for limited City match fund availability for later construction phases of the HAAP project.

Staff's primary negotiating points in the MOA discussions included fiscal control mechanisms to protect city interest in containing costs on a project we do not directly manage, while still ensuring completion of at least one HAAP sidewalk segment.

Central Region DOT&PF planners have demonstrated willingness to work collaboratively with the City to adjust project scope to fit available funding through a phased approach to project implementation, with a separate MOA and match commitment Ordinance for each subsequent phase.

The draft MOA (attached) is for the Design Phases. It has gone through four revisions and identifies total design phase costs at \$543,000 for P2a and \$323,000 for P2b (as demonstrated in the STIP attached). Local match is \$54,300 and \$23,200 respectively, for a total of \$77,500.

The agreement calls for a review of project costs and scope with DOT&PF at 35% design, after which a determination will be made on a revised scope of work to ensure that we stay within our cost cap and timelines. The scope revision could downsize the design phase (and thus construction phase of the project) to stay within budget to the best of our ability; our understanding is that any unused federally-budgeted funds and city match from the design phases can be rolled over to the construction phase.

The State also builds contingencies into the budget; any contingency not used rolls into the next phase.

Within this framework, City staff preliminarily discussed the prioritization of two HAPP sidewalk segments: first is Main Street Sidewalk, which requires DOT&PF partnership as it is state-owned and cannot proceed without their involvement. The second is Svedlund Street, for which the City has nearly completed design work and has requested that the State credit this cost (\$60,000) as an in-kind match contribution. (No State determination has been made to date.)

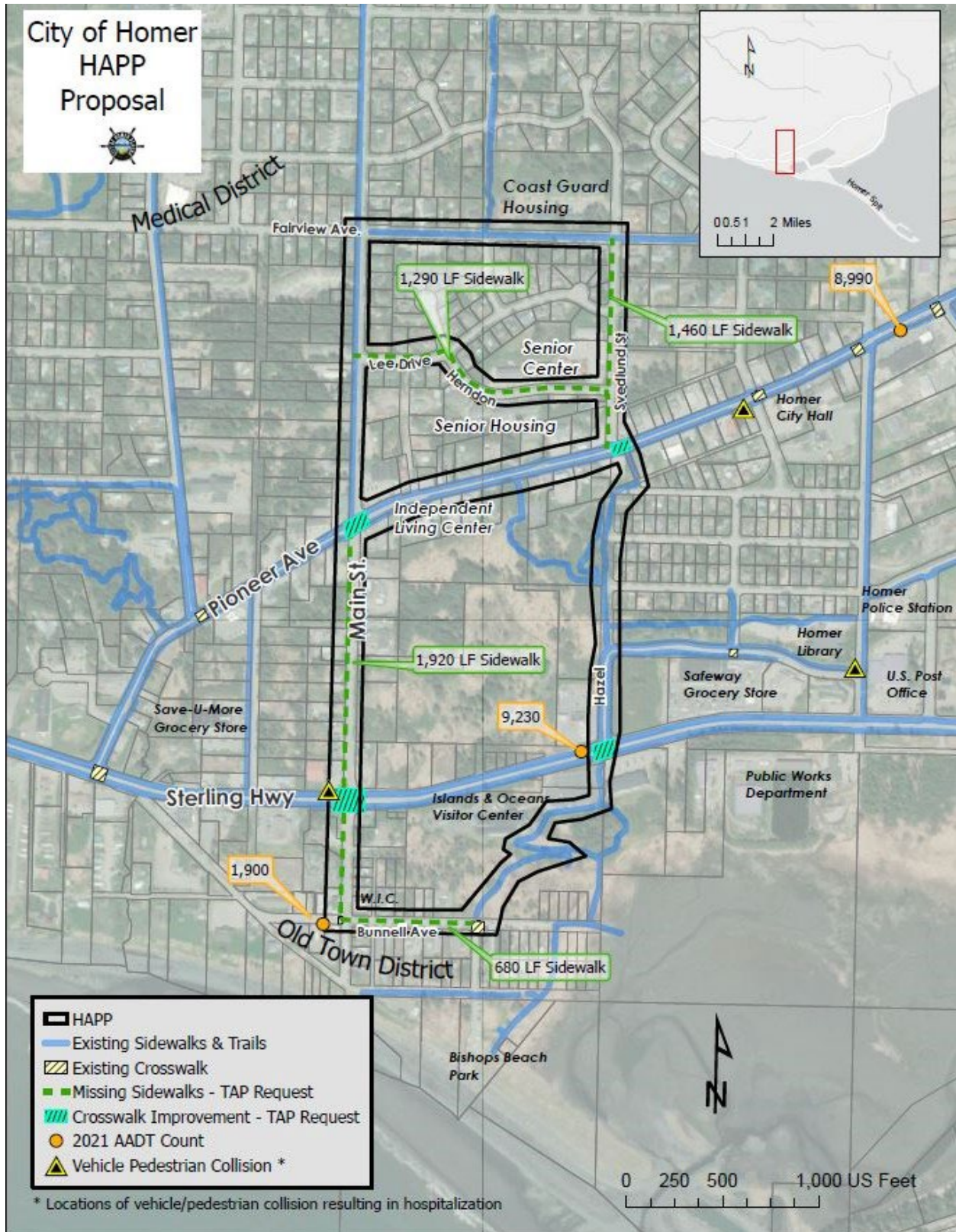
The Resolution before Council contains the assurances DOT&PF needs (acknowledging the MOA, authorizing the City Manager to complete final negotiation (including legal review) and execute the MOA and reaffirming City commitment to match funds) to obligate the Federal design funds. If anything major changes through the final negotiations, the City Manager will not proceed to execution without agreement from Council. At a later date, staff will bring an Ordinance to City Council for appropriation of the City's match funds for the design phase.

Staff Recommendation: Review the draft MOA, ask for clarifications needed and provide feedback to the City Manager regarding areas of concern for continued negotiation or hard stops. Approve the Resolution if you want the City to move forward with negotiations and allow DOT&PF to obligate Federal funds for the project.

Attachments:

1. Map
2. TAP Award Letter
3. STIP HAAP Project Description
4. Draft MOU

City of Homer HAPP Proposal



* Locations of vehicle/pedestrian collision resulting in hospitalization



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Transportation and
Public Facilities
PROJECT DELIVERY DIVISION

3132 Channel Drive, Suite 200
P.O. Box 112500
Juneau, Alaska 99811-2500
Main: 907-465-4070
Fax: 970-465-6984
dot.alaska.gov

April 16, 2024

Jenny Carroll, Special Projects, City of Homer
491 E Pioneer Ave, Homer, AK, 99603, USA jcarroll@ci.homer.ak.us
(907) 435-3101

Dear Ms.Carroll,

On behalf of The Department of Transportation and Public Facilities (DOT&PF) and the Transportation Alternatives Program (TAP) Project Evaluation Board, I am pleased to inform you that your project nomination has been accepted for award.

STIP ID: 34426 Project Title: Homer All-ages and Abilities Pedestrian pathway (HAAP)

The purpose of this project is to combine two high priority sidewalk projects to connect two major gaps in Homer's non-motorized pathways which significantly improves pedestrian access to everyday destinations, key facilities and recreational opportunities.

Federal Award:	\$3,486,787
<u>Required Match:</u>	<u>\$ 388,713</u>
Your total project cost:	\$3,875,500

The federal-aid agreement requires federal and matching shares as percentages. **The matching share for this project is 10.03%.** The City of Homer is expected to maintain this matching share through the life of the project, including if the total project cost changes. A match waiver, signed by the Commissioner, is required for any decrease to the matching share and may come with penalties as described in 17 AAC 05.175(l).

This project has been programmed into the 2024-2027 Statewide Transportation Improvement Program (STIP) with the design and construction phases in the STIP programmed years (2024-2027) Funding is expected to be available for the construction phase in FFY27 These dates are subject to change pending project development and funds availability.

"Keep Alaska Moving through service and infrastructure."

Next steps:

- DOT&PF Central Region Field Office and the City of Homer will work together to prepare the Project Memorandum of Agreement (MOA) detailing match and maintenance commitments and roles and responsibilities.
- The City of Homer must provide matching funds including contingency (by phase) to DOT&PF.
- After these steps are completed (signed MOA is in place; project is in an approved STIP; matching funds received by DOT&PF), the project may begin.

Please expect to hear from your Regional Planner, Joselyn Biloon, to initiate the Project Agreement within the next few weeks. You may contact your planner at Joselyn.biloon@alaska.gov or 907 269-0508.

Sincerely,



Ben White, Central Region Planning Chief
Project Delivery Division

cc: Karin McCoy, Acting STIP Manager, DOT&PF
Sara Lucey, Planning Manager, DOT&PF
Region Pre-construction Engineer, DOT&PF
Judy Chapman, Deputy Director of Planning, Project Delivery Division, DOT&PF
Ben White, Central Region Planning Chief, DOT&PF

Project Deep-Dives

34426

Homer All-ages and Abilities Pedestrian Pathway (HAPP) [TAP Award 2023]

The Homer All-ages and Abilities Pedestrian Pathway project, funded by the Transportation Alternatives Program via DOT&PF, entails the construction of a 5-foot wide, approximately 4,950 feet long asphalt sidewalk with crosswalk improvements across various locations to enhance pedestrian safety. This initiative includes adding concrete curbs, gutters, ADA-compliant ramps, and upgrading crosswalks with Rectangular Rapid Flashing Beacons and high-visibility markings. Additionally, it requires renovating certain city-maintained storm drains for effective stormwater management. Key areas of work are Main Street, Bunnell Avenue, Sterling Highway at Hazel Avenue, Svedlund Street, and the local streets of Herndon Drive and Lee Drive, aiming to improve connectivity and safety for pedestrians.

Strategic Investment Area		Work Type	Place Name		Bridge Condition		
Sustainability			Homer		Bridge #	Year Built	Condition
Landscape			Pavement Condition				
Rural			Current Condition	Expected Condition			
Toll Credits	PEB Score		Not Available	Not Available			
\$0	363/500			No Bridge Work	n/a	No Rating or N/A	

2024-2027 STIP Funding by Phase			2024-2027 STIP Funding by Source		
Phase Total		\$3,875,000	Fund Source Total		\$3,875,000
FY	Phases	Planned Obligation	FY	Fund Source	Programmed
FY25	P2a	\$543,000	FY25	Transportation Alternatives Program: Population 5-49,999K	\$488,700
FY26	P2b	\$232,000	FY25	Local Match (Community-Driven Projects)	\$54,300
FY27	P4	\$3,100,000	FY26	Surface Transportation Block Grant: FLEX	\$208,800
			FY26	Local Match (Community-Driven Projects)	\$23,200
			FY27	Carbon Reduction Program FLEX	\$2,341,450
			FY27	Surface Transportation Block Grant: FLEX	\$448,550
			FY27	Local Match (Community-Driven Projects)	\$310,000

Additional Project Details									
STIP ID #	IRIS Code	Total Project Cost by Stage	Obligated Prior to FY25	FY25-27 Planned Obligation w/o ACC	Post FY27 Planned Obligations	Start	Finish	AC Balance Prior to FY25	Post FY27 ACC
34426-Single Project	34426 New TAP	\$3,875,000	\$0	\$3,875,000	\$0			\$0	\$0

**Memorandum of Agreement
Between the [City of Homer]
& the Alaska Department of Transportation & Public Facilities
For Homer All-Ages and Abilities Pedestrian Pathway (HAAP)
(AKDOT&PF Project #XXXX)**

I. INTRODUCTION

The Alaska Department of Transportation and Public Facilities (hereafter DOT&PF) and the City of Homer, mutually agree to the terms and conditions of this Memorandum of Agreement (MOA) for the Homer All-Ages and Abilities Pedestrian Pathway, (“Project”). Alaska Statute 44.42.020 authorizes DOT&PF to cooperate, coordinate, and enter into agreements with the federal government and local government agency to plan, design, and construct transportation facilities. Subsequently, the Project was included in the 2024-2027 DOT&PF Statewide Transportation Improvement Plan (STIP Need ID 34426).

This MOA is being executed to facilitate the planning, design and construction of said Project. Federal Highway Administration (FHWA) funding will participate in the Project. Pursuant to the requirements of 17 AAC 05.175(l), the City of Homer, (“City”/ “Borough” etc) has by resolution or ordinance authorized the execution of this agreement (Attachment B) promising that the City of Homer will perform specific actions related to the Project.

II. PROJECT SCOPE:

The Project will plan, design, and construct 5-foot wide asphalt sidewalk (approximately 4,950 feet) and provides crosswalk improvements in the locations listed below. Work includes addition of concrete curbs and gutter to support the sidewalk along the existing street with ADA-compliant curb ramps at pedestrian crossings and upgrades to pedestrian crosswalks for pedestrian safety. Some existing City-maintained storm drains will need renovating as well to properly direct storm water runoff.

- a) Main Street, between Pioneer Avenue and Bunnell Avenue (approximately 1,920 LF) – Sidewalk will be located on the west side of Main Street with crosswalk upgrades to

1 include Rectangular Rapid Flashing Beacons and high-visibility pavement markings
2 where Main Street sidewalk intersects the Sterling Highway and Pioneer Avenue.

3 b) Bunnell Avenue, between Main Street and Beluga Place (approximately 680 LF) –
4 Sidewalk will be located on the south side of Bunnell Avenue to connect with the Beluga
5 Slough Trail System with a crosswalk on Bunnell Avenue at Beluga Place.

6 c) Sterling Highway at Hazel Avenue crosswalk to include Rectangular Rapid Flashing
7 Beacons and high-visibility pavement markings.

8 d) Svedlund Street, between Pioneer Avenue and Fairview Avenue (approximately 1,060
9 LF) – Sidewalk will be located on the west side of Svedlund Street with high-visibility
10 pedestrian crosswalk enhancements on Pioneer Avenue at Svedlund Street.

11 (E) Herndon Drive and Lee Drive (approximately 1,290 LF) – Sidewalk will be located
12 on the north side of these local streets to connect Svedlund Street to existing on Main
13 Street.

14 The Project will use Federal Highway Administration (FHWA) funds for planning, design,
15 and construction. The federal-aid highway funds allocated to the State requires a local match. The
16 local match must consist of local funding only, as other federal funds are not eligible for use as
17 match. Neither FHWA nor match funds shall be used for activities determined ineligible for federal
18 funding.

19 Both City of Homer and DOT&PF (“the Parties”) will review and approve Project budgets.
20 The Project budgets are estimates only, and the Parties recognize and acknowledge that actual
21 costs may exceed the original estimated budgets.

22 23 **III. PLANNING, DESIGN, CONSTRUCTION**

24
25 a) Within the limits of the approved funding, the DOT&PF shall fund, plan, design, and
26 construct the Project as per current State and Federal standards in the Alaska
27 Preconstruction Manual. It will provide all labor, material, and equipment necessary to
28 construct the Project according to the provisions in the Project documents and plans.

29
30 b) Project phases categorized as Design (Preliminary Engineering) Phase 2, Right-of-
31 Way- Phase 3, Construction Phase 4 and Utilities Phase 7. Each phase must receive

1 authority to processed (ATP) from the FHWA and the City of Homer before work
2 may proceed.

- 3 c) The City of Homer shall be provided with an opportunity to participate in all phases
4 of development, including status meetings and design reviews. The City of Homer
5 and the DOT&PF will work together to resolve needs for funding or scope
6 adjustments. In the event of disagreement relating to issues impacting project
7 delivery, both agencies agree to make every effort to be partners through the project
8 and to resolve disagreements at the lowest level possible. In the event of
9 disagreement, elevation process will be as follows:

10 Level 1: DOT&PF Project Manager and City of Homer Project Manager.

11 Level 2: DOT&PF Preconstruction Engineer and City of Homer Public Works
12 Director.

13 Level 3: DOT&PF Regional Director and City of Homer City Manager.

14 Upon completion and final closeout of the Project, if the final cost is less than the
15 programmed amount, the City of Homer contribution will be recalculated and any excess
16 City of Homer contribution will be refunded to the City of Homer.

17 d) DOT&PF's Responsibilities

- 18 i. Ensure that the FHWA funds used for the Project are expended in accordance with
19 Federal and State laws and regulations.
- 20 ii. Provide the City of Homer with a workplan with deliverables and milestones for each
21 phase of the project, and
- 22 a. In Phase 2 provide updated designs and cost estimates at 35%, 65% and 95%
23 design stages.
- 24 iii. Plan, design, and construct the Project.
- 25 iv. Acquire all necessary rights of way
- 26 v. Acquire all permits necessary for the Project.
- 27 vi. Include the Project in the STIP and update STIP as necessary.

- vii. Include the Project in the State capital budgeting process, contingent on the City of Homer fulfilling its funding obligations contained herein, and obtain Legislative Authority to spend the funding.
- viii. Obtain NEPA documentation as needed and keep an interested parties list along with a public involvement summary.
- ix. Develop Requests for Proposals (“RFPs”) needed to solicit professional services for Project development. The written State of Services and Price Estimate shall be submitted to the City of Homer for comment prior to advertising.
- x. Schedule and invite a City of Homer representative to participate in all proposal evaluation committees with advance notice.
- xi. Design engineering and environmental services and construction management will be completed by DOT&PF personnel.
- xii. Execute and manage any professional services agreements as necessary.
- xiii. Charge staff time and expenses to the Project.
- xiv. Include the City of Homer in all review assembly distributions.
- xv. Deduct the appropriate rate of ICAP to the Project to cover DOT&PF indirect expenses. The current ICAP rate for a FHWA project is 5.17% of the total Project cost.
- xvi. DOT&PF will share cost estimates at milestone reviews and at construction. DOT&PF will update the City of Homer on significant cost changes during construction.

e) City of Homer’s Responsibilities

- i. Establish a primary and secondary point-of-contact with sufficient authority and responsibility to communicate to DOT&PF all decisions or notifications required by this agreement.
- ii. Participate with DOT&PF on all decisions required by this agreement.
- iii. Participate with DOT&PF during the Substantial Completion inspection to ensure the Project is built in substantial conformance with the approved contract documents.

IV. CITY OF HOMER MAINTENANCE AND OPERATIONS

1 a) The City of Homer at its sole cost and expense agrees to maintain and operate the
2 Project Consistent with 23 CFR § 1.27 and the DOT&PF's 2014 Alaska Highway Maintenance
3 and Operations Handbook, commencing upon Substantial Completion of the Project and until the
4 next DOT&PF capital improvement of the Project.

5 i. "Substantial Completion" means formal Letter of Substantial Completion of
6 issued by DOT&PF Construction Division. This letter is issued at the time at
7 which the Project or a portion of the Project (a) can be safely and effectively used
8 by the public without further delays, disruption, or other impediments, and (b)
9 pavement structure, shoulder, drainage, sidewalk, pathway, permanent signing
10 and marking, guardrail and other traffic barrier safety appurtenances, utilities,
11 and lighting work is complete.

12 ii. DOT&PF remains responsible for the corridor.

13 iii. The City of Homer may choose to designate the Project maintenance priority at
14 a higher or lower priority level than DOT&PF's maintenance priority, while the
15 City of Homer is responsible for Project maintenance, including winter
16 maintenance.

17 b) The City of Homer may enter contract with third parties to accomplish these
18 responsibilities, including temporary, seasonal, or permanent alterations or improvements, at the
19 discretion of the City of Homer.

20 c) Sole remedy for the City of Homer's failure to meet its maintenance obligation. In
21 the event DOT&PF and/or FHWA give notice that the City of Homer is failing to properly maintain
22 the Project improvements, the City of Homer will correct the identified deficiencies within 60 days
23 of the date of that notice. Failure by the City of Homer to do so will result in DOT&PF suspending
24 all future federally-funded improvements to roads controlled by the City of Homer until: (1) all
25 maintenance deficiencies are corrected by the City of Homer: and (2) the City of Homer brings
26 current all past-due payments, and/or reimburse DOT&PF for costs it incurred (if any) in
27 correcting the deficiencies to the satisfaction of FHWA. The parties agree that such suspension is
28 DOT&PF's sole remedy for the City of Homer's failure to meet its maintenance obligations

1 d) The City of Homer shall perform its maintenance and operation obligations under
2 this Agreement at its sole cost and expense without reimbursement from the other party.

3
4
5 **VI. MATCH OBLIGATIONS**
6

- 7 a) The City of Homer's sole financial participation in the planning, design, and construction
8 of the Project is the Local Match contribution as stated in the nomination package and as
9 formalized in this Agreement.
- 10 b) The Memorandum of Agreement is for the Design Phases P2a and P2b as documented in
11 the STIP. The City of Homer's local match amount for the P2a will be \$54,300 and P2b
12 will be \$23,200. This Memorandum of Agreement will be amended as the project advances
13 to later phases of development (ex. construction).
- 14 c) The City of Homer agrees to provide the minimum federal-aid match commitment of 9.03%
15 and a supplemental contribution of 1.0% more than the minimum required federal-aid
16 match commitment, which will provide a total Local Match contribution not less than
17 10.03% of the DOT&PF's engineer's estimate or \$3,875,000, whichever is greater.
- 18 d) Prior to initiation of each phase of the Project, and as condition precedent to the obligation
19 of Federal-aid highway funding the City of Homer must transfer the Local Match funding
20 for the estimated cost of that phase.
- 21 e) The City of Homer's funding responsibility includes 50% contingency for the pre-
22 construction phases (Design, Environmental, and Right-of-Way) and 15% contingency for
23 construction phases (Utilities and Construction). Current Project total estimate and Local
24 Match responsibilities, including contingency, are included in "Attachment C". If cost
25 estimates change "Attachment C" shall be updated. Local match percentage is expected to
26 remain the same unless a match waiver is approved by the DOT&PF Commissioner.
- 27 f) The City of Homer is aware that any Project cost increase between the date of the TAP
28 Award and programming of the Project for design and construction that impact the overall
29 amount of match required shall be added into the total Local Match contribution obligation,
30 within the limits described above in paragraph 4(b).

- 1 g) DOT&PF agree to track costs associated with the Project for the preliminary engineering,
2 right-of-way, and construction phases so the total Local Match contribution obligation is
3 verifiable.
- 4 h) TAP Projects (Construction Phase) will be removed from the final STIP if Local Match
5 contribution commitments in their entirety for active phases are not received by the
6 DOT&PF and will remain un-programmed until receipt of funds.
- 7 i) The City of Homer shall provide funding at the match rate to cover the costs of all Project
8 related litigation, including legal fees and costs, including challenges to Federal permits or
9 decisions, condemnation or right-of-way matters, procurement claims, and constructions
10 claims. The City of Homer shall assist the DOT&PF as necessary during the Project related
11 administrative or civil proceedings and shall have the right to actively participate in the
12 control of the litigation, including participating in strategy and settlement discussions, if it
13 elects to do so.

14 15 **VI. LACK OF FUDNING**

- 16
17 a. Any withdrawal or inability of the City of Homer to provide the minimum Local Match
18 Contribution shall result in the project not advancing.

19 20 **VII. TITLE TRANSFER**

- 21 a. There will not be title transfer of any portions of this project.

22 23 **VIII. INCORPORATION CLAUSE**

24
25 The City of Homer shall comply with all applicable Federal and State laws, regulations,
26 executive orders, stewardship agreements, and applicable DOT&PF manuals and guidelines,
27 including those provisions that would apply to the DOT&PF if the DOT&PF were to perform
28 those tasks to be performed under this MOA by the City of Homer. This obligation is in addition
29 to compliance with any law, regulation, or executive order specifically referenced in this MOA.

30 This obligation includes, but is not limited to, compliance with Federal and State uniform
31 relocation assistance and real property acquisition policies; compliance with provisions of the

1 Federal-Aid Policy Guide (“FAPG”); and compliance with the requirements of Title 23 of the
2 United States Code and related implementing regulations, as set forth in the Code of Federal
3 Regulations.

4 5 **IX. INDEMNIFICATION**

- 6
7 a) To the maximum extent allowed by the law, The City of Homer shall indemnify,
8 defend, and hold DOT&PF, its officers, employees, and agents (collectively the
9 “Indemnified Parties”) harmless from all liability, claims, cause of action, and costs
10 (including attorney’s fees) arising out of the City of Homer’s maintenance and
11 operation obligations under this agreement.
- 12 b) To the maximum extent allowed by the law, the DOT&PF shall indemnify, defend,
13 and hold the City of Homer, its officers, employees, and agents (collectively the
14 “Indemnified Parties”) harmless from all liability, claims, causes of action, and costs
15 (including attorney’s fees) arising out of its planning, design, and construction
16 obligations under this Agreement.

17 18 19 **X. EACH PARTY IS AN INDEPENDENT CONTRACTOR**

20
21 For the purposes of this Agreement and all services to be provided hereunder, each party
22 shall be, and shall be deemed to be, an independent contractor and not a partner, agent, or employee
23 of the other party. Neither party shall have authority to make any statements, representations, or
24 commitments of any kind, or take any action, which shall be binding on the other party, except as
25 may be explicitly provided for herein or authorized by the other party in writing.

26 **XI. CANCELLATION REMEDIES**

- 27 a) If the City of Homer is the primary cause of the cancellation of any professional services,
28 consultant or construction contracts entered into by the DOT&PF, the City of Homer shall
29 be responsible for those costs not accepted for reimbursement by the FHWA, amounts the
30 FHWA expects to be reimbursed for, and any other costs or expenses incurred by the City

of Homer or the DOT&PF in the Project to the date of cancellation or related to finalizing cancellation and Project termination.

- b) If the DOT&PF is the primary cause of the cancellation, the DOT&PF shall bear those costs not accepted for reimbursement by the FHWA, amounts the FHWA expects to be reimbursed for, and any other costs or expenses incurred by the City of Homer or the DOT&PF in the Project to the date of cancellation or related to finalizing cancellation and Project termination.
- c) If it is determined that the cancellation was caused by third parties or circumstances beyond the control of the DOT&PF or the City of Homer, the parties shall meet in good faith to negotiate a fair and equitable allocation of responsibility for those costs not accepted for reimbursement by the FHWA, amounts the FHWA expects to be reimbursed for, and any other costs or expenses incurred by the City of Homer or the DOT&PF in the Project to the date of cancellation or related to finalizing cancellation and Project termination. The foregoing remedies are in addition to any other remedies referenced in this MOA, and do not bar or limit the parties from resorting to any other remedy available at law or equity.

XII. MISCELLANEOUS PROVISIONS

a) Amendment or modification of Agreement:

This MOA may only be modified or amended by written agreement signed by authorized representatives for both Parties.

b) The Whole Agreement:

This MOA constitutes the entire agreement between the Parties. There are no other understandings or agreements between the Parties, either oral or memorialized in writing regarding the matters addressed in this MOA. This MOA may not be amended by the Parties unless an amendment is agreed to in writing, with both Parties signing through their authorized representatives.

c) Assignment:

Without the written consent of the DOT&PF, this MOA is not assignable by the City of Homer either in whole or in part.

1 **d) Third Parties and Responsibilities for Claims:**

2 Nothing in this MOA shall be construed as conferring any legal rights, privileges, or
3 immunities, or imposing any legal duties or obligations, on any person or persons other than the
4 Parties named in this MOA, whether such rights, privileges, immunities, duties or obligations be
5 regarded as contractual, equitable, or beneficial in nature as to such other person or persons.
6 Nothing in this MOA shall be construed as creating any legal relations between the DOT&PF and
7 any person performing services or supplying any equipment, materials, goods, or supplies for the
8 Project.

9 **e) Duty of Cooperation:**

10 The City of Homer agrees to provide reasonable access to the Project and to relevant Project
11 records, to any authorized representatives of the DOT&PF or U.S. Government. The parties agree
12 to cooperate in good faith with inquiries and requests for information relating to the Project or its
13 obligations under this agreement.

14 **f) Necessary Approvals:**

15 In the event that any election, referendum, ordinance, approval, permit, notice, or other
16 proceeding or authorization is requisite under applicable law to enable the City of Homer to enter
17 into this MOA or to undertake the Project, or to observe, assume or carry out any of the provisions
18 of the MOA, the City of Homer will initiate and consummate, as provided by law, all actions
19 necessary with respect to any such matters so requisite.

20 **g) Joint Drafting:**

21 This MOA has been jointly drafted by the Parties, and each party has had the ability and
22 opportunity to consult with its legal counsel prior to signature. The MOA shall not be construed
23 for or against either party.

24 **h) Third Party Beneficiary Status:**

25 The City of Homer is not an intended beneficiary of any contracts between the DOT&PF
26 and any contractors, subcontractors or consultants or any other third parties, and has no contractual
27 rights with respect to such contracts or any provisions thereof, unless expressly stated otherwise.

28 **XIV. CONTACTS**

1 The DOTPF's contact is [person] (person@alaska.gov); XXX-XXXX), [position] for the
2 [DOT&PF Region], or as may be re-designated in writing from time to time.

3 The City of Homer's primary contact is [person] (person@ ; XXX-XXXX), [position]; the
4 City of Homer's secondary contact is [person] (person@ ; XXX-XXXX), [position] or as may be
5 re-designated in writing from time to time.

6
7 The undersigned agree to the terms of this Memorandum of Agreement:

8
9 STATE OF ALASKA,
10 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

11
12 Dated: _____ By: _____
13 [Person]
14 Regional Director, _____ Region

15
16
17 SUBSCRIBED AND SWORN TO OR AFFIRMED before me by [person], who is Regional
18 Director for the _____ Region of the Alaska Department of Transportation & Public
19 Facilities, an agency established under Alaska law, on this _____ day of _____,
20 20____.

21
22
23 _____
24 Notary Public, State of Alaska
25 My commission expires: _____

26
27 [City Of Homer]

28
29 Dated: _____ By: _____
30 [person]
31 City Manager, City of Homer

32
33 SUBSCRIBED AND SWORN TO OR AFFIRMED before me by [person], who is City Manager
34 of the City of Homer, a [xxxxxxx] established under Alaska law, on this _____ day of
35 _____, 20____.

36
37
38 _____
39 Notary Public, State of Alaska
40 My commission expires: _____

1
2 ACKNOWLEDGMENT OF AUTHORIZATION BY THE City of Homer ASSEMBLY
3
4
5

6 By adoption of City of Homer Resolution Serial No. XXXX, adopted on [month day, year], the
7 City of Homer Assembly authorized execution of this agreement and committed to providing
8 match funds for this project to the extent permitted by the City of Homer charter, and
9 acknowledged the City of Homer's promise to perform specific actions related to the Project.
10
11
12
13
14

15 Dated: _____

16 Clerk, City of Homer
17
18
19

20 Content Approved by: _____, City of Homer, Public Works Director

21 Form Approved by: _____, City of Homer, Law Department

22 Risk Management Review: _____, City of Homer, Risk Management
23

- 1 Attachment B – Resolution
- 2

DRAFT

**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 23-013

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA IN
SUPPORT OF THE CITY OF HOMER'S APPLICATION TO THE STATE
OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC
FACILITIES (AKDOT&PF) TRANSPORTATION ALTERNATIVES
PROGRAM (TAP) FOR THE HOMER ALL AGES AND ABILITIES
PEDESTRIAN PATH (HAPP) AND COMMITTING LOCAL MATCH
FUNDS.

WHEREAS, The City of Homer strives to provide and improve city-operated facilities and
services to meet the needs of the community; and

WHEREAS, Critical sidewalk facilities in Homer's central residential and business
district are disconnected and missing key sections, which creates an accessibility barrier and
safety hazards for both motorists and pedestrians where sidewalks end and pedestrian use of
roadways is necessary; and

WHEREAS, HAPP fills gaps in Homer's non-motorized pathways to address these safety
issues and provide equitable, safe and low-stress pedestrian facilities for all citizens; and

WHEREAS, Improving Homer's non-motorized transportation network is one of Homer
City Council's high priority projects, a priority shared by the community as evidenced by public
comment at City Council meetings and at many community non-motorized transportation
planning events; and

WHEREAS, HAPP is included in the City of Homer's Capital Improvement Plan; and

WHEREAS, AK DOT&PF is making design and construction funding for sidewalks
available through the 2023-2025 TAP competitive grant program; and

WHEREAS, The City of Homer is participating as an eligible project sponsor in the
ADOT&PF TAP; and

WHEREAS, The City of Homer submitted a Notice of Intent to Apply to TAP in support
of the HAPP project; and

WHEREAS, After reviewing the Notice of Intent to Apply, the AK DOT&PF invited the City
of Homer to submit a full TAP application for the HAPP project; and

WHEREAS, The City of Homer acknowledges availability of the required match of no less than 9.03%; and

WHEREAS, The City of Homer is amenable to accepting maintenance responsibility for HAPP's sidewalk on the State-owned section of Main Street; and

WHEREAS, The TAP application requires a Resolution of support and commitment to matching funds from the governing body.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council supports the HAPP project.

BE IT FURTHER RESOLVED that the Homer City Council authorizes the City Manager to prepare and submit the 2023-2025 TAP grant application for the HAPP project.

BE IT FURTHER RESOLVED that the City Council expresses its commitment of no less than 9.03% local grant matching funds.

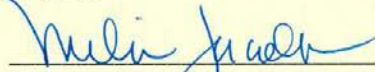
PASSED AND ADOPTED by the Homer City Council this 13th day of February, 2023.

CITY OF HOMER



KEN CASTNER, MAYOR

ATTEST:



MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal note: N/A



Attachment C
Homer All-Ages Pedestrian Pathway
[Date]

Scope, Schedule Estimate

SCOPE: The project constructs a 5-foot-wide asphalt sidewalk (approximately 4,950 feet) and provides crosswalk improvements in the locations listed below. Work includes addition of concrete curbs and gutter to support the sidewalk along the existing street with ADA-compliant curbs ramps at pedestrian crossings and upgrades to pedestrian crosswalks for pedestrian safety. Some existing City-maintained storm drains will need renovating as well to properly direct storm water runoff.

STIP SCHEDULE:

Phase	Phase Description	FFY25	FFY26	FFY27
2a	Design through Environmental	\$ 543,000	\$ 0.00	\$ 0,000
2b	Design through PS&E	\$ 0.00	\$ 232,000	\$ 0,000
3	Rights of Way	\$ 0.00	\$ 0.00	\$ 0,000
7	Utilities	\$ 0.00	\$ 0.00	\$ 0,000
4	Construction	\$ 0.00	\$ 0.00	\$ 3,100,000
	SUBTOTALS	\$ 0.00	\$ 0.00	\$ 0,000
			TOTAL	\$3,875,000

ESTIMATE:

Phase	Federal Funding	State Match ____%	Local Match ____%	Contingency %	Contingency Amount	Total Local Match
Design through Environmental	\$ 543,000	\$ 0.00	\$ 10.03	50%	\$ 0.00	\$ 0.00
Design through PS&E	\$ 232,000	\$ 0.00	\$ 10.03	50%	\$ 0.00	\$ 0.00
Utilities	\$ 0.00	\$ 0.00	\$ 0.00	15%	\$ 0.00	\$ 0.00
Rights of Way	\$ 0.00	\$ 0.00	\$ 0.00	50%	\$ 0.00	\$ 0.00
Construction	\$ 3,100,000	\$ 0.00	\$ 0.00	15%	\$ 0.00	\$ 0.00
TOTALS:	\$ 3,875,000.00	\$ 0.00	\$ 0.00		\$ 0.00	\$ 0.00

Total Local Match Required: \$0.00
Local Match Paid to Date: \$0.00

Match to be paid by City of Homer: \$0.00

DOT&PF may alter this funding schedule for reasons that are beyond its control, including, but not limited to elimination or restriction of funds at the state and local level. City of Homer and the DOT&PF may amend this agreement by mutual consent.

PROJECT SCOPE, SCHEDULE, AND ESTIMATE APPROVED BY THE FOLLOWING PROJECT CONTACTS:

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Date: _____ By: _____
_____, Regional Planning Chief

City of Homer

Date: _____ By: _____
_____, Melissa Jacobsen, City Manager