

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

3 City Manager

4 **RESOLUTION 22-045**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
7 APPROVING A JOINT USE OF EQUIPMENT AND FACILITIES
8 AGREEMENT WITH THE KENAI PENINSULA BOROUGH SCHOOL
9 DISTRICT FOR THE PERIOD OF JULY 1, 2022 THROUGH JUNE 30,
10 2025, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND
11 EXECUTE THE APPROPRIATE DOCUMENTS.
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13 WHEREAS, The Kenai Peninsula Borough School District and the City of Homer share
14 common goals to provide opportunities and activities for the physical, mental, educational
15 and cultural development of the citizens of Homer through the City of Homer Community
16 Recreation Program; and
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18 WHEREAS, The City of Homer Community Recreation program has a mission to promote
19 community involvement and life-long learning through educational and recreational
20 opportunities for people of all ages; and
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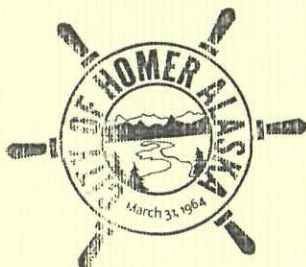
22 WHEREAS, The mission will be accomplished through maximizing usage of all
23 community facilities and resources. While utilizing, expanding and uniting local business and
24 school resources and expertise; and
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26 WHEREAS, The City and the District have agreed that the best way to maximize
27 resources and achieve common goals is for the City to offer year-round educational and
28 recreational programs for youth and adults through the Community Recreation Program and
29 for the District to provide use of District equipment and facilities; and
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31 WHEREAS, District and City staff have collaborated on a draft Agreement for Joint Use
32 of Equipment and Facilities for the period July, 1 2022 through June 30, 2025.
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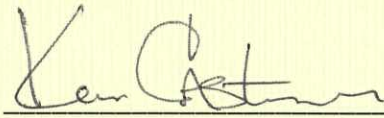
34 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby
35 approves the Kenai Peninsula Borough School District Agreement for Joint Use of Equipment
36 and Facilities for the period July, 1 2022 through June 30, 2025, a copy of which is attached and
37 incorporated herein, and authorizes the City Manager to execute the appropriate documents.
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39 PASSED AND ADOPTED by the Homer City Council this 23rd day of May, 2022.
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CITY OF HOMER



KEN CASTNER, MAYOR

ATTEST:



RENEE KRAUSE, MMC, ACTING CITY CLERK

Fiscal Note: Annual budgeted expenses \$6,000; the fee for custodial services and supplies.

**AGREEMENT FOR JOINT USE OF EQUIPMENT
AND FACILITIES AND SUMMER FIELDS SCHEDULING**

THIS AGREEMENT, made this May 9, 2022, is between the Kenai Peninsula Borough School District, hereinafter referred to as “KPBSD” and the City of Homer, Alaska, hereinafter referred to as “CITY”.

WHEREAS, the KPBSD and the CITY share common goals to provide opportunities and activities for the physical, mental and cultural development of their respective client groups through the Community Recreation Program, and

WHEREAS, there is a need for scheduling school field use during the summer when school administrators may be unavailable, and

WHEREAS, the benefits from limited financial resources can be maximized by the KPBSD and the CITY working together to provide facilities and programs to achieve their common goals.

NOW, THEREFORE, WITNESSETH:

In consideration of the premises and agreements contained herein, the parties hereto agree as follows:

ARTICLE 1 – COMMUNITY RECREATION PROGRAM

- 1.1. CITY OF HOMER-COMMUNITY RECREATION PROGRAM.** The CITY agrees to provide year-round educational and recreational programs among children, youth, young adults and adults in various sports, special events, hobbies, educational and other recreational activities known as the Community Recreation Program. Recognizing that this program uses school buildings, fields, infrastructure and equipment, the extent, content, and management of the program shall be decided by the CITY with guidance and advice provided by the KPBSD and the Homer Middle School and Homer High School principals. Use of Homer High and Homer Middle Schools and equipment for this program is subject to the advance approval of the appropriate KPBSD administrator(s) who are responsible for such buildings and equipment.
- 1.2. COMMUNITY RECREATION PROGRAM CONTENT.** This program is comprised of the following:
 - a. Community Recreation Program classes; and
 - b. Scheduled physical activities such as basketball, pickleball and volleyball; and
 - c. Scheduled educational classes such as Spanish, art programs, Boating Safety;
 - d. Periodic special events held in the school’s theater, such as film festivals and musical performances, etc. (limit 2 per school year as available).
- 1.3 PERSONNEL.** The CITY of Homer shall hire qualified personnel to organize, supervise, direct and implement the educational and recreational program services and help ensure building security. Such personnel shall be located in the schools (except when Homer Middle School is not in session – May through August). The Recreation Program Manager will work under the supervision of the City Manager, or his/her designee, and both the Program Manager and City

Manager shall ensure that all activities of the Program Manager are done in cooperation with the KPBSD and the Homer Middle School and Homer High School principals, and in accordance with the provisions of this agreement and school board policy. All personnel employed with the Community Recreation Program shall be employees, staff and volunteers of the City of Homer and the personnel regulations and evaluation procedures of the CITY shall apply. All Community Recreation employees, staff and volunteers shall complete and pass an annual background check through the KPBSD background check system at no cost to the City in addition to completing the online concussion training requirement.

- 1.4. THE MANAGEMENT COMMITTEE.** The KPBSD will form a Management Committee consisting of Homer Middle School and Homer High School principals and the Homer High School Athletic/Activities Director. The Management Committee will meet annually or as needed with the City Manager or his/her designee and the Recreation Program Manager. At meetings the CITY will submit for review by the Management Committee a written and/or oral narrative of the programs and activities conducted during the previous year and those planned for the future. The Program Manager will provide weekly communication with building administrators regarding programming schedules and related facility use topics. The KPBSD retains the right to review the proposed programs and activities and make suggestions concerning same, and to reject proposals that are inconsistent with KPBSD policies or applicable law related to the use of KPBSD facilities and equipment by the public. Reasonable progress reports shall be made by the Program Manager upon request in addition to the reports provided during the annual meetings.
- 1.5. USE OF FACILITIES.** The KPBSD agrees to make its facilities at Homer Middle and Homer High Schools available for use by the Recreation Program subject to the terms and conditions of this agreement and applicable KPBSD policies. The KPBSD will be responsible for building and grounds maintenance, utilities to include water, sewer, electricity, and heating fuel, provided that the Recreation Manager shall promptly notify the KPBSD and building administrator of any damage done to KPBSD facilities by either the Recreation Program instructors or participants, or otherwise observed by the Coordinator.

Except as otherwise agreed herein, the KPBSD agrees to make the above mentioned public school facilities available for education/recreation program activities according to the stipulations of BP 1330, Use of School Facilities and Properties, with the provision that preference in the scheduling of them shall be given to the organized activities of the Kenai Peninsula Borough schools. For those activities requiring the use of the high school's swimming pool the building use form will be utilized and the appropriate fees assessed according to BP 1330 on a case by case basis. No later than April 30 of each contract year, the CITY agrees to pay to the KPBSD technical fees charged to the CITY for the use of the Mariner Theater, and an annual fee of six thousand (\$6,000) dollars for custodial services and supplies that are used by the Recreation Program. The District will determine the distribution of the annual fee between the school sites as appropriate. Should a scheduling conflict arise, the appropriate principal shall give the Recreation Program Manager at least one week notice when possible. The Homer High School and Homer Middle School principals will consult with the Recreation Program

Manager prior to booking private rentals within the facilities and fields (with the exception of the theater and pool) to avoid potential scheduling conflicts.

As circumstances allow, the KPBSD agrees to provide the Recreation Manager with office space, use of copier, and office supplies provided that the Manager may not use KPBSD office supplies other than those provided to the Manager by the KPBSD, or the copier for more than 150 copies per month, without first obtaining advance approval of the building administrator. The CITY shall promptly reimburse the KPBSD for any unauthorized costs incurred by the Recreation Manager.

The Recreation Manager, staff or volunteers will be responsible for building security when activities are held after hours or they are the sole occupants of the school. The Recreation Manager will not be responsible for security in areas where KPBSD events are concurrently running or activities of groups not associated with Community Recreation are being held.

The Recreation Manager is not authorized by this agreement, except summer activities otherwise specified in Article 2 or by amendment, to schedule any events or programs that are not part of the Recreation Program and is prohibited from using the KPBSD facilities, equipment, computer, copier, office space or supplies in any way to schedule any such events or programs. Further, the Manager and Recreation Program are not authorized to expand their program offerings in KPBSD facilities beyond the scope of the present status quo for the duration of this agreement without the written consent of respective building administrators..

- 1.6. FISCAL AGENT.** The CITY shall act as the sole fiscal agent for the conduct of the Recreation Program Coordinator position in Homer.
- 1.7. HOLD HARMLESS.** The CITY shall hold harmless the KPBSD and its officers, directors and employees from and against any and all damages, losses, claims, lawsuits, or liability, including attorney's fees and costs, of every kind arising out of loss, damages, whether tangible or intangible, or injury, including death, to persons or property sustained by the KPBSD, its employees and its volunteers, or any or all of them, from any cause arising out of or in the course of or in connection with its negligent use of KPBSD facilities, equipment and supplies and the performance or negligent performance of both its obligations and those of the Coordinator under this agreement, subject to the appropriation and availability of funds.

The KPBSD shall hold harmless the CITY and its officers and employees from and against any and all damages, losses, claims, lawsuits, or liability, including attorney's fees and costs, of every kind arising out of loss, damage, or injury, including death, to persons or property sustained by the KPBSD, its employees and its volunteers, or any or all of them, from any cause arising out of or in the course of the KPBSD's performance or negligent performance of its obligations under this agreement, subject to the appropriation and availability of funds.

- 1.8. INSURANCE.** The KPBSD will maintain comprehensive general liability insurance for claims arising against the activities of the KPBSD pursuant to this agreement. The CITY will maintain

comprehensive general liability insurance for claims arising against the CITY concerning the Recreation Program pursuant to this agreement. CITY must name KPBSD as an additional insured. KPBSD must name CITY as an additional insured.

- 1.9. **EQUIPMENT.** The KPBSD has various equipment and supplies used in the conduct of its programs that may, upon request and approval, be made available to facilitate and support the provision of recreational and educational programs conducted under this agreement. It is understood by both the KPBSD and the CITY that equipment or supplies traditionally provided to the Recreation Program will continue to be made available. Any equipment used by the CITY will be stored as found and any damage to equipment must be reported within 24 hours to the Building Principal. The CITY agrees to repair or replace any equipment that may be damaged while in their use or care.

ARTICLE 2 – SUMMER FIELD USE

- 2.1. **SCHEDULING OF SUMMER FIELDS.** The CITY will schedule and issue facility use agreements in the summer months for the KPBSD.
- 2.2. **SERVICES.** The CITY will provide personnel to schedule various group usages of the Homer High School and Homer Middle School fields within the City of Homer and issue related facility use agreements, waivers and perform incidental related tasks for dates where school is not in session in the months of May through August.
- 2.3. **COMPENSATION.** The KPBSD will compensate the CITY \$500.00 per summer for these summer scheduling services by June 30th.
- 2.4. **HOLD HARMLESS.** In recognition that the CITY is only providing scheduling services on behalf of the KPBSD and not administering any of the programs or persons that may be using the fields under a KPBSD facility use agreement the KPBSD, to the extent allowed by law and subject to appropriation, shall indemnify, hold harmless, and defend the CITY from and against any claims of, or liability for, any wrongful or negligent act, error, or omission of the KPBSD or any subcontractor with regards to summer use of the fields under a KPBSD facility use agreement. The KPBSD shall not be required to defend or indemnify the CITY for any claims of, or liability for, any wrongful or negligent act, error, or omission solely due to the independent negligence of the CITY. If there is a claim of, or liability for, the joint negligence of KPBSD and the independent negligence of the CITY, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. Apportionment shall be determined upon final determination of percentage of fault. If any such determination is by settlement, the percentage of fault attributed to each party for purposes of this indemnification provision shall only be binding upon the parties included in the settlement agreement. "KPBSD" and the "CITY" as used in this article include the employees, agents, officers, directors, and other contractors who are directly responsible, respectively, to each.

ARTICLE 3 – GENERAL CLAUSES

- 3.1. **TERM.** This Agreement is effective for a term commencing July 1, 2022 and ending on June 30, 2025, unless terminated earlier pursuant to Article 3.3 of this Agreement, or unless extended as hereinafter provided in Article 3.2.
- 3.2. **RENEWAL.** This Agreement may be extended on a year-by-year basis by mutual written agreement of the parties.
- 3.3. **TERMINATION.** Either party may terminate this Agreement in whole or in part at any time without cause by giving written notice to the other party of such termination at least thirty (30) days before the effective date of such termination.
- 3.4. **AMENDMENT.** This Agreement may be amended only by a written document executed by the parties.
- 3.5. **AUTHORIZED AGENTS.** The individuals authorized to act as the agents on behalf of the parties to this agreement are:

KENAI PENINSULA BOROUGH SCHOOL DISTRICT
 Kari Dendurent, Assistant Superintendent
 148 North Binkley Street
 Soldotna, Alaska 99669
 (907) 714-8888

CITY OF HOMER
 Rob Dumouchel, City Manager
 491 East Pioneer Avenue
 Homer, Alaska 99603
 (907) 235-8121

The parties do hereby set their hands and seals on the dates provided below.

 Kari Dendurent

 Rob Dumouchel

STATE OF ALASKA)
) ss
 THIRD JUDICIAL DISTRICT)

STATE OF ALASKA)
) ss
 THIRD JUDICIAL DISTRICT)

SUBSCRIBED AND SWORN TO before me
 this ____ day of _____, 20 ____.

SUBSCRIBED AND SWORN TO before me
 this ____ day of _____, 20 ____.

 NOTARY PUBLIC
 My Commission Expires: _____

 NOTARY PUBLIC
 My Commission Expires: _____

