



AGENDA ITEM REPORT

Resolution 23-020, A Resolution of the City Council of Homer, Alaska Approving a Five Year Land Lease Extension with the State Of Alaska Department of Transportation and Public Facilities (ADOT&PF) for the Homer Airport Terminal Building and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager.

Item Type: Resolution
Prepared For: Mayor & City Council
Meeting Date: 27 Feb 2023
Staff Contact: Julie Engebretsen, Economic Development Manager
Through: Rob Dumouchel, City Manager

Summary Statement:

The City of Homer has a 30 year agreement with the State of Alaska Department of Transportation and Public Facilities (DOT) for the Homer Airport Terminal Building. The City owns the building, and has a long term lease with the State for the land. The lease is nearing the expiration of the 30 year term. The City would like to exercise the option to extend the lease for a 5 year term; that is the maximum term available under our current lease agreement. The purpose of this resolution is to authorize the City Manager to enter in to a five year lease agreement, extending the terms of the City's existing lease.

Long term, the Administration intends to pursue a new long term lease of up to 30 years. To prepare for this, the City is in the process of identifying the improvements and investments the City will make to the terminal. Currently, Public Works is working on sidewalk, parking lot and ADA restroom designs and cost estimates. Staff is also researching the potential for a large grant that would cover a majority of the expenses; that grant cycle begins in the fall. Lastly, the current cooperative agreement with the State needs to be updated – it is likely not in compliance with modern FAA requirements. All of these topics are being worked on by various staff members, with the goal of having enough information by the fall to determine if a large airport terminal improvement grant is a reasonable goal. For now, continuing the existing lease for a five year term will keep things going for the City and the tenants at the airport terminal.

Fiscal Note:

The City pays a ground lease, and generates revenue from subleases. None of these of those numbers are expected to make a significant change in the near term.

Staff Recommendation:

Adopt Resolution 23-020

Attachments:

[Resolution 23-020](#)

[SOA & COH 1993 Land Lease Agreement](#)

**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 23-020

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA APPROVING A FIVE YEAR LAND LEASE EXTENSION WITH THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (ADOT&PF) FOR THE HOMER AIRPORT TERMINAL BUILDING AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The City and the State entered into a thirty year lease for the City to construct and operate the Homer Airport Terminal Building on Airport property in 1993; and

WHEREAS, This lease is near expiration and the City can exercise the option of a five year lease renewal; and

WHEREAS, This five year agreement will allow the City to continue to plan for long term improvements such as ADA accessible restrooms and major maintenance projects with the intention of a new thirty year lease in the future.

NOW, THEREFORE, BE IT RESOLVED by the Homer City Council approves a five year land lease extension with the ADOT&PF for the Homer Airport Terminal Building and authorizes the City Manager to negotiate and execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 27th day of February, 2023.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

RACHEL TUSSEY, CMC, ACTING CITY CLERK

Fiscal Note: n/a

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

HOMER AIRPORT

LEASE NO. ADA-06600

LEASE AGREEMENT
LAND

This 30th day of March, 1993, the State of Alaska, Department of Transportation and Public Facilities, hereinafter called the Lessor, whose address is P.O. Box 196900, Anchorage, Alaska 99519-6900, and the City of Homer, hereinafter called the Lessee, whose address is 491 East Pioneer Avenue, Homer, Alaska 99603-7624 do enter into this agreement of 16 pages, including exhibit(s) and signature page(s), and agree as follows:

A. BASIC PROVISIONS

PREMISES

1. The Lessor leases to the Lessee, and the Lessee leases from the Lessor, the following described property, hereinafter called the "Premises", located on the Homer Airport, hereinafter referred to as the "Airport", in the Homer Recording District, Third Judicial District, Alaska:

Lot 5A, Block 800 consisting of approximately 162,882 square feet as shown on Exhibit "A", sheet 1 of 1, dated February 25, 1993, attached hereto and made a part hereof.

AUTHORIZED USES

2. This lease is issued for the following authorized uses:

The construction, operation, and maintenance of a public passenger/air cargo terminal building, aircraft loading and unloading of air cargo and passengers, vehicle parking, along with any function or service which is normally performed in a public terminal facility and is authorized under Title 17 of the Alaska Administrative Code.

TERM

3. The term of this agreement is 30 years, from the 30th day of March, 1993, to the 30th day of March, 2023.

RENT

4. (a) The annual rental for the Premises will be \$14,007.85, calculated at the rate of \$.086 per square foot per year payable annually, in advance, on March 30, 1993 and on the anniversary date of each year thereafter. Any additional fees will be specified in Special Covenants herein. All payments required by this lease must be made in U.S. currency.

(b) Checks, bank drafts, or postal money orders are to be made payable to the State of Alaska and delivered to Accounting Section, Department of Transportation and Public Facilities, P.O. Box 196900, Anchorage, Alaska 99519-6900, or any other address which the Lessor may designate in writing.

(c) All unpaid rents and fees will accrue interest at 10.5% per annum beginning thirty (30) days after payment is due.

(d) Any rent, charge, fee, or other consideration which is due and unpaid at the expiration, termination, or cancellation of this lease will be a charge against the Lessee.

(e) During the first five years of the term stated in Basic Provision No. 3, the Lessor may not change the rents or fees payable under this lease. At any time after the end of the fifth year of the lease term, the Lessor may, in its sole discretion, increase or decrease the rents or fees, provided that the Lessor may not change the rents or fees more than once in any 12 month period. Any change is effective upon written notice to the Lessee. If the Lessee believes that the changed rent exceeds the fair market rent for the Premises, the Lessee may appeal to the Lessor according to the following procedures:

(i) The Lessee must pay the changed rent beginning on the effective date stated in the Lessor's rent change notice and continue paying the changed rent throughout the appeal process.

(ii) Within 30 days after the date of the Lessor's written notice of the rent increase or decrease, the Lessee must submit a written appeal to the Lessor. The appeal must include the name, address, telephone number and professional qualifications of the real estate appraiser the Lessee intends to retain to perform a fair market rent appraisal of the Premises.

(iii) The Lessor will review the appraiser's qualifications and approve or disapprove the appraiser in writing to the Lessee. If the Lessor disapproves the appraiser, the Lessee will have 30 days from the date of the Lessor's written disapproval to continue the appeal by submitting the name, address, phone number, and professional qualifications of another appraiser.

(iv) If the Lessor approves the Lessee's appraiser, the Lessee shall, at the Lessee's sole expense, cause the Premises to be appraised according to appraisal instructions furnished by the Lessor;

provided that any appraisal shall exclude the value of any improvements constructed by the Lessee. The written appraisal must be received by the Lessor within 90 days following the date of the Lessor's written approval of the Lessee's appraiser.

(v) The Lessor will review the appraisal for conformance with the appraisal instructions and issue a written approval or rejection to the Lessee. Upon approval of the appraisal, the fair market rent determined by the appraisal will be the rent for the Premises, retroactive to the effective date of the Lessor's rent change notice. Rejection of the appraisal by the Lessor will constitute a denial of the Lessee's appeal.

(vi) The Lessor has no obligation to appraise the Premises under any circumstances.

B. GENERAL COVENANTS

IMPROVEMENTS

1. Any construction on the Premises must be neat, presentable, and compatible with its use and surroundings. Before placing fill material or beginning construction of any improvements on the Premises, the Lessee must first obtain the written approval of the Lessor in the form of an approved building permit. Detailed drawings of the proposed development on the Premises must be submitted to the Lessor. If a building is contemplated, the Lessee must also submit comprehensive structural drawings showing front and side elevation views and floor plan, materials to be used, dimensions, elevations, the location of all proposed utility lines, and any additional data requested by the Lessor. The Lessor will review and approve or disapprove the proposed construction. Approval will not be withheld except where proposed construction does not comply with valid engineering principles, fire or building codes, generally recognized principles of sound airport development, or the proposed construction is inconsistent with the purposes of this lease. The Lessee shall submit to the lessor evidence of the Lessee's compliance with the Federal Aviation Regulations, 14 C.F.R. Part 77, and all other municipal, state, or federal regulations governing construction of improvements on the airport.

2. No building or other permanent structure may be constructed or placed within ten (10) feet of any boundary line of the Premises. In addition, no building or other permanent structure may be constructed or placed within 975 feet of the airport runway centerline.

3. The Lessee, within sixty (60) days after completion of construction or placement of improvements upon the Premises, shall deliver to the Lessor an as-built drawing showing the location and

dimensions of the improvements, giving bearings and distances to an established survey point. Furthermore, if the Lessee constructs underground improvements the Lessee shall appropriately mark the surface of the land with adequate surface markers. The type, quantity, and distance between such markers will be subject to the approval of the Lessor.

LIVING QUARTERS

4. The establishment or maintenance of any kind of temporary or permanent living quarters on the Premises is expressly prohibited.

MAINTENANCE AND CONSTRUCTION

5. The Lessee shall keep the Premises and all improvements neat and presentable at the Lessee's own expense. The Lessee shall not strip, waste, or remove any material from the Premises without the prior written permission of the Lessor.

6. At no cost to the Lessor, all structures on the Premises must be painted, finished, or covered with a permanent exterior surface and be maintained by the Lessee.

7. At no cost to the Lessor, the Lessee shall provide for all utilities, services, and maintenance (including snow removal) as is necessary to facilitate the Lessee's use of the Premises.

8. The disposal on the airport of waste materials generated by the Lessee, including slash, overburden, and construction waste, is prohibited.

9. The Lessee agrees to coordinate its snow removal and maintenance activities on the Premises with the Lessor's Airport personnel. The Lessee further agrees to comply with all reasonable decisions and directions of the Lessor's Airport management personnel regarding snow removal, maintenance, and general use of the Premises by the Lessee, its agents, contractors or employees.

DISPOSITION OF IMPROVEMENTS

10. (a) At the expiration, termination, or cancellation of this lease, improvements or other property, real or personal, owned by the Lessee on the Premises will either:

- (i) be removed by the Lessee at Lessee's sole expense within thirty (30) days; or
- (ii) automatically vest in the Lessor; or
- (iii) with Lessor's consent, be sold to a succeeding Lessee

(b) The Lessor may grant additional time for the removal of improvements if hardship is established by the Lessee.

(i) if additional time is granted to Lessee to remove its improvements, Lessee hereby agrees to pay Lessor an administrative fee equal to 150% of an amount equal to the annual rent charged under the lease prorated for the number of days the Lessee's improvements remain on the Premises; however, no administrative fee shall be owed if Lessor consents to the sale of such improvements to a succeeding Lessee.

(ii) the granting of additional time for removal of Lessee's improvements does not operate as a renewal or extension of the term of the agreement but only creates a tenancy until the improvements are removed, or Lessee is given written notice that the extension period for the removal of the improvements has expired and title to all remaining improvements or property on the Premises vests in the Lessor.

11. Title to any improvements or other property owned by the Lessee which is not disposed of pursuant to General Covenant No. 10 will vest in the Lessor.

HAZARDOUS MATERIALS

12. If hazardous materials are handled on the Premises, the Lessee agrees to have properly trained personnel and adequate procedures for safely storing, dispensing, and otherwise handling hazardous materials in accordance with the National Fire Protection Code and all applicable federal, state, and local laws.

13. In the event of a hazardous materials spill on the Premises, the Lessee shall immediately notify the Lessor and act promptly to contain the spill, repair any damage, absorb and clean up the spill area, and restore the Premises to a condition satisfactory to the Lessor and otherwise comply with the applicable portions of Title 17 and Title 18 of the Alaska Administrative Code.

14. The storage and/or sale of aviation, jet, or vehicle fuel or lubricating oils on the Premises is prohibited.

ENVIRONMENTAL INDEMNIFICATION

15. If contamination of the Premises or other properties by Hazardous Material otherwise occurs from the Lessee's operations on the Premises, the Lessee shall indemnify, defend, and hold the Lessor harmless from any and all claims, judgements, damages, penalties, fines, costs, liabilities, or losses, including, but not limited to, sums paid in settlement of claims, attorney's fees, consultant fees, and expert fees, which arise during or after the term of this lease as a result of such contamination. This indemnification of the Lessor by the Lessee includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal, or restorative work required by any federal, state, or local governmental

agency because of Hazardous Material present in the soil or groundwater on or under the Premises or other affected properties. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises results in any contamination of the Premises or other properties, the Lessee shall promptly take all actions, at its sole expense, as is necessary to remediate the contamination and restore the area.

Remediation and restoration of the affected area must meet all applicable local, state, and federal laws and regulations and must meet the requirements of all governing regulatory authorities. Remediation and restoration of the affected area must not adversely impact the maintenance, operations, and future development of the Airport as determined by the Lessor.

LIABILITY

16. The Lessee shall indemnify, defend, and hold the Lessor harmless from any liability, action, claim, suit, loss, property damage, or personal injury of whatever kind resulting from or arising out of any act of commission or omission by the Lessee, its agents, employees, or customers or arising from or connected with the Lessee's use and occupation of the Premises or the exercise of the rights and privileges granted by this lease.

INSURANCE

17. (a) At no expense to the Lessor, the Lessee shall secure and keep in force during the term of this lease adequate insurance to protect both the Lessor and the Lessee against comprehensive general liability and property damage in no less than the following amounts:

- (i) Property damage arising from one occurrence in the amount of not less than \$1,000,000.00; and
- (ii) personal injury or death in an amount of not less than \$1,000,000.00 per person and \$3,000,000.00 per occurrence.

(b) The Lessee shall provide the Lessor with proof of insurance coverage in the form of an insurance policy or a certificate of insurance. All insurance required by this covenant must:

- (i) name the Lessor as an additional assured; and
- (ii) provide that the Lessor be notified at least thirty (30) days prior to any termination, cancellation, or material change in the insurance coverage.

(c) The requirement of insurance coverage does not relieve the Lessee of any other obligations under this agreement.

RENEWAL

18. In order to renew this lease, the Lessee must file a written application with the Lessor at least thirty (30) days before the expiration of the lease. The application must state the purpose of the renewal and any other information which the Lessor may require. Any filing fees or deposits which the Lessor then requires must be submitted with the application for renewal. The filing of an application which fully conforms to the requirements stated herein will extend the term, subject to written approval of Lessor, of this lease on a month to month basis until one of the following occurs:

- (a) a lease renewal document is executed by both parties;
- (b) the Lessor sends the Lessee written notice that the request for renewal has been rejected, stating the reasons for rejection; or
- (c) the Lessor sends written notice to the Lessee that by law, regulation, or the public interest, the Lessor is required to offer the lease at public auction.

HOLDING OVER

19. If the Lessee holds over and remains in possession of the Premises after the expiration of this agreement without a written renewal, the holding over will not operate as a renewal or extension of the term of this agreement but only creates a tenancy from month to month, regardless of any rent payments accepted by the Lessor. The Lessee's obligations for performance under this lease will continue until the month to month tenancy is terminated by the Lessor. The Lessor may terminate the tenancy at any time by giving the Lessee at least ten (10) days prior written notice.

ASSIGNMENT OR SUBLEASE

20. The Lessee may not assign nor sublet, either by grant or implication, the whole or any part of the Premises or any improvements thereon without the written consent of the Lessor. Any proposed assignment, lease, or sublease must be submitted to the Lessor for approval in four (4) originals, each bearing the original notarized signature of all parties. Lessor shall approve or disapprove in writing an assignment or sublease within thirty (30) days after its submission by Lessee and shall state the reasons for any disapproval. All covenants and provisions in this agreement extend to and bind the legal representatives, successors, and assigns of the parties.

CONDEMNATION

21. If the Premises are condemned by any proper authority, the term of this lease will end on the date the Lessee is required to surrender possession of the Premises. The Lessor is entitled to all the

condemnation proceeds except the Lessee will be paid the portion of the proceeds attributable to the fair market value of any improvements placed on the Premises by the Lessee according to the provisions of 17 AAC 40.330, amended. Rent will also be adjusted according to the provisions of 17 AAC 40.330, as amended.

CANCELLATION

22. The Lessor may cancel this lease and recover possession of the Premises by giving the Lessee thirty (30) days prior written notice upon the happening of any of the events listed below, unless the breach is cured within said thirty (30) days:

- (a) the Lessee's failure to pay when due the rents or fees specified in this lease, including any increases made pursuant to this lease;
- (b) the return of checks for insufficient funds for payment of rents or fees;
- (c) the use of the Premises by the Lessee for any purpose not authorized by this lease;
- (d) the filing of a petition in bankruptcy by or against the Lessee;
- (e) the entry by any court of a judgment of insolvency against the Lessee;
- (f) the appointment of a trustee or receiver for the Lessee's assets in a proceeding brought by or against the Lessee;
- (g) the failure of the Lessee to perform any provision or covenant in this lease.

VACATION

23. At the expiration, cancellation or termination of this lease, the Lessee must peaceably and quietly vacate the Premises and return possession to the Lessor. The Premises must be left in a clean, neat, and presentable condition to the satisfaction of the Lessor.

CANCELLATION BY LESSEE

24. The Lessee may cancel this lease by giving the Lessor at least thirty (30) days advanced written notice, provided however that if the Lessee's interest is encumbered by a mortgage or assignment for security, such cancellation shall not be effective without the written consent of the mortgagee or assignee delivered to the Lessor.

EASEMENTS

25. The Lessor reserves the right to make grants to third parties or reserve to the Lessor easements or rights of way through, on, or above the Premises, provided that no such easement or rights of way may be granted or reserved which unreasonably interferes with the Lessee's use of the Premises.

RESERVATION OF RIGHTS

26. The Lessor specifically reserves the right to grant to others the rights and privileges not specifically and exclusively granted to the Lessee. The rights and privileges granted to the Lessee in this lease are the only rights and privileges granted to the Lessee by this lease. The Lessee has no easements, rights or privileges, express or implied, other than those specifically granted by this lease.

DISCRIMINATION

27. The Lessee covenants and agrees that, with respect to Lessee's use of and operations at the Premises, discrimination on the grounds of race, color, religion, national origin, ancestry, age, or sex will not be permitted against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or state law. The Lessee recognizes the right of the Lessor to take any action necessary to enforce this covenant, including actions required pursuant to any federal or state law.

AFFIRMATIVE ACTION

28. The Lessee agrees that it will undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, to insure that no person will be excluded from participating in any employment activities covered by 14 C.F.R. Part 152, Subpart E on the grounds of race, creed, color, national origin, or sex. The Lessee hereby agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by said subpart. The Lessee further agrees that it will require that its covered suborganization(s) provide assurance to the Lessor to the same effect that they will also undertake affirmative action programs and require assurances from their suborganizations, as required by 14 C.F.R. Part 152, Subpart E.

RADIO INTERFERENCE

29. At the Lessor's request, the Lessee shall discontinue the use of any machine or device which may interfere with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

EXECUTION BY LESSOR

30. This lease is of no effect until it has been signed by the Commissioner of the Department of Transportation and Public Facilities or its designated representative.

LAWS AND TAXES

31. This lease is issued subject to all requirements of the laws and regulations of the State of Alaska relating to the leasing of lands and facilities and the granting of privileges at State airports.

32. At no expense to the Lessor, the Lessee will conduct all activities or business authorized by this lease in compliance with all federal, state, and local laws, ordinances, rules and regulations now or hereafter in force which apply to the activities or business authorized herein or to the use, care, operation, maintenance, and protection of the Airport, including but not limited to matters of health, safety, sanitation, and pollution. The Lessee must obtain all necessary licenses and permits, pay all taxes and special assessments lawfully imposed upon the Premises, and pay any other fees and charges assessed under applicable public statutes or ordinances.

33. In any dispute between the parties, the laws of the State of Alaska will govern and any lawsuit must be brought in the Superior Courts of the State of Alaska, in the Municipality of Anchorage.

34. The Lessee agrees to notify the Lessor of any claim, demand, or lawsuit arising out of the Lessee's occupation or use of the Premises. Upon the Lessor's request the Lessee will cooperate and assist in the investigation and litigation of any claim, demand, or lawsuit affecting the Premises.

35. The Lessor makes no specific warranties, express or implied, concerning the condition of the property, including survey, access, or suitability for any use, including those uses authorized by this lease. The Lessee takes the Premises subject to any and all of the covenants, terms, and conditions affecting the Lessor's title to the Premises.

LIENS

36. The Lessee shall keep the Premises free of all liens, pay all costs for labor and materials arising out of any construction or improvements by the Lessee on the Premises, and hold the Lessor harmless from liability for any liens, including costs and attorney fees. By this provision, the Lessor does not recognize that it is in any way liable for any liens on the Premises.

NO WAIVER

37. The failure of the Lessor to insist in any one or more instances upon the strict performance by the Lessee of any provision or covenant in this lease may not be considered as a waiver or relinquishment for the future, but the provision or covenant will continue in full force. The waiver by the Lessor of any provision or covenant in this lease cannot be enforced or relied upon unless the waiver is in a writing signed on behalf of the Lessor.

MODIFICATION

38. The Lessor may modify this lease to meet the revised requirements of federal or state grants or to conform to the requirements of any revenue bond covenant to which the State of Alaska is a party, provided that a modification may not act to reduce the rights or privileges granted the Lessee by this lease nor act to cause the Lessee financial loss.

VALIDITY OF PARTS

39. If any provision or covenant of this lease is declared to be invalid by a court of competent jurisdiction, the remaining covenants and provisions will continue in full force.

INTERRELATIONSHIP OF PROVISIONS

40. The basic provisions, general covenants, special covenants, supplements, addendums, and drawings attached as exhibits are essential parts of this lease and are intended to be co-operative, to provide for the use of the Premises, and to describe the respective rights and obligations of the parties to this agreement. In case of a discrepancy, figured dimensions govern over scaled dimensions unless obviously incorrect. Special covenants govern over basic provisions, both of which govern over general covenants.

NATURAL DISASTERS

41. In the event any cause which is not due to the fault or negligence of either Lessee or Lessor renders the Premises unusable and makes the performance of this lease impossible, this agreement may be terminated by either party upon written notice to the other party. Causes include but are not restricted to acts of God or the public enemy, acts of the United States, fires, floods, epidemics, quarantine restrictions, or strikes.

NOTICES

42. Any notice required by this agreement must be hand delivered or sent by registered or certified mail to the appropriate party at the address set forth on page one of this lease or to any other address which the parties subsequently designate in writing.

INTEGRATION AND MERGER

43. This agreement sets forth all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Premises whether oral or written. No modification or amendments of this lease is effective unless in writing and signed by both the parties.

NATIONAL EMERGENCY

44. In case of any national emergency declared by the federal government, the Lessee may not hold the Lessor liable for any inability to perform any part of this agreement as a result of the national emergency.

APPROVAL BY LESSOR

45. Any approvals required of the Lessor by this lease will not be unreasonably withheld.

INGRESS, EGRESS

46. The Lessor reserves the right of ingress to and egress from the Premises and the right to enter any part of the Premises, including buildings thereon, for the purpose of inspection at any reasonable time. Except in the case of an emergency, all inspections will be coordinated with the Lessee in order to minimize interference with the Lessee's activities on the Premises.

SPECIAL COVENANTS

1. The Lessee hereby agrees to complete land development and construction of a passenger/air cargo facility on the Premises by no later than October 1, 1994. When completed, said land development and improvements must have an aggregate value of at least \$300,000. In addition to the as-built drawings required by General Covenant No. 3 herein, the Lessee must submit to the Lessor evidence that it has completed development and improvements on the Premises with an aggregate value of not less than \$300,000. Evidence of value shall consist of documentation that the Lessee has actually incurred costs for land development and improvements in an amount not less than the aggregate value set forth in this paragraph. Said as-built drawings and evidence of value must be submitted to the Lessor within sixty (60) days of the completion of said development and improvements, but by no later than December 1, 1994. Completion shall be defined as the date on which the architect of the passenger/air cargo facility issues a certificate of completion for that facility. Pursuant to Title 17, Alaska Administrative Code [17 AAC 40.330(b)], failure by the Lessee to fully comply with the requirements of this special covenant will be sufficient grounds for cancellation of the lease by the Lessor.

2. The Lessee hereby acknowledges the undeveloped condition of the Premises. Lessee is hereby authorized to place gravel fill on the Premises subject to General Covenant No. 1 herein, in such a manner that the surface drainage does not flow towards the aircraft apron or towards an adjoining lease lot unless such surface drainage is intercepted by a drain.

3. All costs associated with the purchase and placement of gravel fill on the Premises shall be the responsibility of the Lessee. All gravel fill must be obtained from an off-airport source.

4. The Lessee shall provide adequate auto parking space on the leased Premises for the needs of its business. The parking of vehicles owned and/or operated by the Lessee, its employees, customers, guests and invitees shall be limited to designated areas of the Premises and to such other areas on the Airport as may be designated in writing by the Lessor.

5. The Lessee and Lessor acknowledge that the Premises are unsurveyed, and the Lessee hereby agrees, at its sole expense, to cause the Premises to be surveyed by a Land Surveyor registered in the State of Alaska to establish the corners and boundaries of the Premises as shown on Exhibit "A" attached hereto, and to place suitable permanent markers on said corners and at other appropriate locations such that the leased Premises can be readily identified by others. The Lessee further agrees to complete said survey and submit a plat of survey to the Lessor by no later than July 1, 1992 or prior to the commencement of any construction on the Premises, whichever event occurs first. Said plat of survey must conform to the survey plat requirements attached to this lease as Exhibit "B." Said plat of survey must also provide survey ties to the centerline stationing of the Airport Runway. Upon approval of said plat by the Lessor, the Lessor and Lessee hereby agree to execute a supplement to this lease which shall amend the Premises description herein as appropriate to conform with said survey.

6. Use of the Premises for outside storage of junk, inoperative equipment, salvage aircraft parts or trash or debris of whatever kind is prohibited.

7. The Lessee is hereby required to operate its "terminal operation" business on the Premises on a continuous basis, uninterrupted by periods of non-operation exceeding 45 consecutive days or 60 aggregate days in a 365 day period effective the date of the Lease. This provision does not apply to any period during which the Lessee is unable to operate its business on the Premises as a result of an act or directive of the Lessor or other higher authority, or as a direct result of a natural disaster which affects the tenability of the Premises.

8. The Lessee hereby agrees to make space within the terminal building available, without discrimination, for use by air carriers and commuter airline operators for passenger related services, subject to space limitations. Provided that nothing in this covenant shall be construed as prohibiting the Lessee from charging reasonable rent or fees for such use of said terminal space.

9. The Lessee hereby agrees to limit the parking of light aircraft on the Premises to periods not to exceed two (2) hours. However, Lessee may authorize light aircraft to park on the Premises for periods exceeding two hours if the aircraft is having mechanical problems.

For purposes of this agreement, light aircraft mean any aircraft that has a Certificated Maximum Gross Take-off Weight of 12,500 pounds or less.

IN WITNESS WHEREOF, the parties hereto have set their hands and year stated in the acknowledgments below. Page 18 of 25

(CORPORATE SEAL)

LESSEE: City of Homer,

[Handwritten Signature]

STATE OF Alaska)
) ss.
3rd)
(Judicial District or County)

THIS IS TO CERTIFY that on this 24th day of March, 1993, before me, the undersigned, a Notary Public in and for the State of ALASKA, duly commissioned and sworn, personally appeared Richard J. Letano, known to me and to me known to be an officer of the above mentioned corporation which executed the within instrument, and (he)(she) acknowledged to me that (he)(she) executed the same for and on behalf of said corporation, and that (he)(she) is fully authorized by said corporation so to do; and that the corporation seal affixed to said instrument is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

[Handwritten Signature]

Notary Public in and for: ALASKA
My Commission Expires: 01/07/95

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

STATE OF ALASKA)
) ss.
3RD JUDICIAL DISTRICT)

[Handwritten Signature: Michael M. O'Brien]

THIS IS TO CERTIFY that on this 25 day of March, 1993, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Michael M. O'Brien, known to me and to me known to be the Chief, Leasing & Property Management, Department of Transportation and Public Facilities, and he acknowledged to me that he executed the foregoing instrument freely and voluntarily on behalf of the State of Alaska, Department of Transportation and Public Facilities, for the uses and purposes therein set forth and that he is authorized by said State of Alaska so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

[Handwritten Signature: Debra L. Epperson]

Notary Public in and for Alaska
My Commission Expires: 4/25/96

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

SUPPLEMENT NO. 1

HOMER AIRPORT

AGREEMENT NO. ADA-06600

THIS SUPPLEMENT to Agreement No. ADA-06600, made and entered into by and between the State of Alaska, Department of Transportation and Public Facilities, hereinafter referred to as the Lessor, and City of Homer, whose address is 491 East Pioneer Avenue, Homer, Alaska 99603-7645 hereinafter referred to as the Lessee,

WITNESSETH:

WHEREAS, on the 3rd day of March, 1993, the parties hereto entered into a principal agreement, designated as Agreement No. ADA-06600, covering the following:

Lot 5A, Block 800 consisting of 162,882 attached to and made a part of the principal agreement; and

WHEREAS, the Lessor and Lessee desires to modify the above described principal agreement; and

WHEREAS, the parties find it will be to their mutual advantage to amend said Agreement;

NOW, THEREFORE, in consideration of the foregoing, the said Agreement is hereby amended in the following particulars only:

I. Basic Provision No. 2, AUTHORIZED USES is hereby amended to read:

2. "The construction, operation, and maintenance of a public passenger/air cargo terminal building, loading and unloading of air cargo and passengers, fuel storage and aircraft fueling subject to provisions herein, customer and employee vehicle parking, along with any function or service which is normally performed in a public terminal facility and is authorized under Title 17 of the Alaska Administrative Code, as amended."

II. General Provision No. 14, "HAZARDOUS MATERIALS" is deleted.

III. The following are hereby added to the principal agreement as Special Covenants Nos. 10 through 24:

REMEDIATION

10. Remediation and restoration of the affected area must meet all applicable local, state, and federal laws and regulations and must meet the requirements of all governing regulatory authorities.

11. In the event of a hazardous substance spill on the Premises, the Lessee will immediately notify the Lessor and act promptly to contain the spill, repair any damage, absorb and clean up the spill area, and restore the Premises to a condition satisfactory to the Lessor and otherwise comply with the applicable portions of Title 17 and Title 18 of the Alaska Administrative Code.

12. If a fuel spill is not immediately remedied to the satisfaction of the State, the State may take action to clean up the fuel spill. The Lessee will reimburse the State for the cost to clean up and restore the spill area.

ENVIRONMENTAL AUDIT

13. The Lessee will provide the Lessor all investigative data, test results, reports, and any other information gathered or analyzed as part of or in relation to any environmental site assessment, characterization or audit which the Lessee performs or causes to be performed on the Premises after the starting date of this lease. The Lessee will submit the data, result, report or information to the Lessor within 60 days following the date on which it becomes available to the Lessee.

FUELING REQUIREMENTS

14. The Lessee is authorized to store mobile fueler(s) on the Premises in accordance with the National Fire Protection Association codes and all applicable federal, state, and local laws, ordinances, and regulations.

15. Drip pans must be placed under the mobile fueler(s) to avoid ground contamination.

16. Placarding and signage of the fuel storage tank/mobile fueler(s) will include: "No Smoking" signs, the type of fuel, and specified volume or capacity of the tank(s) on all sides of the tank(s) and the owner, including name and contact number on at least two sides of the tank. The lettering must be at least 2" in height on a contrasting background.

17. All dispensing operations will meet current requirements for fuel dispensing and fire safety as described in the National Fire Protection Association Codes and other applicable federal, state, or local laws, regulations, and ordinances.

18. During aircraft fueling operations, all aircraft and fuel-dispensing apparatus must be bonded to a point or points of zero electrical potential.

19. Fire extinguishers of an adequate size and type must be within ready reach of all persons engaged in fueling operations.

20. The Lessee will provide petroleum product absorbent pads or similar equipment and materials on site, and in sufficient quantity so as to provide immediate clean-up capability should a spill of petroleum products occur.

21. The Lessee will keep all equipment used in conjunction with the Lessee's fueling operations on the airport in a safe and properly functioning condition.

22. At any time, the Lessor has the right to inspect all fuel-dispensing equipment used by the Lessee or its sub lessees on the airport to determine if the fueling equipment and operations conform to the applicable laws, regulations, and codes. Any corrective action deemed necessary by the Lessor will be accomplished by the Lessee prior to any further fuel dispensing operations.

FUEL SPILL PREVENTION AND RESPONSE PLAN

23. The Lessee or its sub lessees will establish a written fuel spill prevention and response plan. The plan will, at a minimum, set forth procedures to be followed while fueling and in the event of a fuel spill. Copies of the fuel spill prevention and response plan will be maintained at Lessee's place of business, as well as all fuel dispensing equipment.

24. The fuel spill prevention and response plan must be submitted to the Lessor for review prior to the commencement of any fuel dispensing on the Airport.

VI. The effective date of this supplement shall be February 28, 2002.

ALL OTHER TERMS, PROVISIONS, AND COVENANTS REMAIN UNCHANGED.



IN WITNESS WHEREOF, the parties hereto have set their hands on this day and year stated in the acknowledgments below.

STATE OF Alaska)
)ss.
Third Judicial District
(Judicial District or County)

LESSEE: City of Homer
BY: [Signature]
TITLE: City Manager

THIS IS TO CERTIFY that on this 22nd day of April, 2002, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Ronald Dasthman, known to me and to me known to be the person(s) named in and who executed the foregoing instrument, and (he)(she)(they) acknowledged to me that (he)(she)(they) signed the same as (his)(her)(theirs) free and voluntary act and deed with full knowledge of its contents, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

[Signature]
Notary Public in and for: Alaska
My Commission Expires: 9-5-02

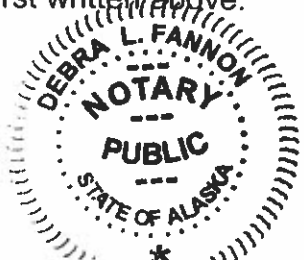
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

STATE OF ALASKA)
)ss.
3rd JUDICIAL DISTRICT)

[Signature]

THIS IS TO CERTIFY that on this 19th day of April, 2002, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Robert L. North, Jr., known to me and to me known to be the Chief of Leasing & Property Mgr, Department of Transportation and Public Facilities, and (he)(she) acknowledged to me that (he)(she) executed the foregoing instrument freely and voluntarily on behalf of the State of Alaska, Department of Transportation and Public Facilities, for the uses and purposes therein set forth and that (he)(she) is authorized by said State of Alaska so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.



[Signature]
Notary Public in and for the State of Alaska
My Commission Expires: 4/25/04

LEASEHOLD SURVEYS**SURVEY PLAT REQUIREMENTS**

To be acceptable, survey plats must be complete. To prevent the possibility of important details being omitted, the following checklist indicates the items that will be included on all survey plats. It is highly recommended that the surveyor contact the Airport Leasing staff prior to any field work.

- A. Unless otherwise authorized, the basis of bearing for the survey shall be runway centerline as established by State Airport survey control sheet. If centerline monumentation has been destroyed, surveyor shall reestablish monuments as indicated on State Airport survey control sheet. If an Airport does not have a survey control sheet the surveyor will be instructed on which information source to use.
- B. Lease lot plat shall show runway station and offset. If the lot bounds on an exterior boundary of the airport, lot will be tied by record bearing and distance to an established monument on the exterior boundary..
- C. Runway station and centerline offset data will be shown for at least one lot corner using Alaska State plane coordinates, if available.
- D. Dimensions and bearings of all lot boundaries will be indicated on the plat. Indicate Alaska State Plane grid bearing or true bearing and measured or recorded distances.
- E. Indicate area of lot or parcel (in square feet).
- F. Description of all monumentation set or recovered, for example: indicate rebar, copperweld, brass cap, etc.
- G. Show all structures located on the lot (size and location on lot with ties to lot boundaries).
- H. Show all existing utilities on the lot (label aboveground or underground).
- I. All plats must be drawn to a scale no smaller than 1" = 50'.
- J. Survey must be conducted by a surveyor registered in the State of Alaska and the plat must bear the surveyor's seal.
- K. In cases where a lease or permit includes a unique survey requirement (special ties, setback from road centerline, etc.) the plat must reflect that requirement.
- L. Tie the lease lot to any adjacent private property monuments within a 100-foot radius of the lease lot corner.
- M. A complete copy of the surveyor's field notes shall be submitted with each survey plat. No exceptions or deletions from the above requirements are allowed unless written permission has been obtained from Airport Leasing.