

**CITY OF HOMER  
HOMER, ALASKA**

Community Development  
Director

**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.

WHEREAS, To enhance sidewalk connectivity in Homer's central residential and  
business district, the City of Homer applied for federal Transportation Alternatives Program  
(TAP) funds through the Alaska Department of Transportation and Public Facilities (DOT&PF)  
to design and construct the All Ages and Abilities Pathway (HAAP), as authorized by Resolution  
23-013; and

WHEREAS, In April 2024, DOT&PF announced that the HAAP project had been awarded  
\$3,486,787 in Federal TAP funds with a required City of Homer match of 10.03% or \$388,713 for  
a total project cost of \$3,875,500; and

WHEREAS, Implementation of the HAAP project is proposed to advance in three phases,  
beginning with the design and permitting phase followed by a utility relocation phase and a  
construction phase, with each phase to be governed by a separate Memorandum of Agreement  
(MOA) between DOT&PF and the City of Homer defining project scope and cost before  
progressing; and

WHEREAS, Homer City Council will authorize the MOA for each subsequent phase of the  
HAAP project; and

WHEREAS, The City of Homer and DOT&PF have been working together to draft a MOA  
that defines the scope and responsibilities for the design phase of the HAAP project; and

WHEREAS, Obligation of Federal TAP funds to initiate work on each phase also requires  
that the City of Homer remain committed to local match funding for the estimated cost of that  
phase; and

WHEREAS, The HAAP design phase estimate of \$543,000 requires a local match of  
\$54,300; and

WHEREAS, The City of Homer is presently completing the design of the Svedlund Street sidewalk facility within the scope of the HAAP project with an approved budget of \$75,000 (ORD 23-23(A-3)); and

WHEREAS, The City of Homer has requested that DOT&PF credit the Svedlund Street sidewalk design cost as a work-in-kind donation towards the local match requirement; and

WHEREAS, The City of Homer acknowledges the availability of the local matching funds required, if any, for the design phase once the work-in-kind negotiation is finalized and the total match obligation is determined.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby acknowledges 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 under the Transportation Alternative Program.

BE IT FURTHER RESOLVED that the City Council of Homer, Alaska authorizes the City Manager to negotiate and execute the appropriate Memorandum of Agreement document.

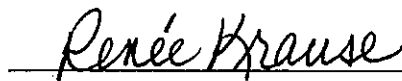
BE IT FURTHER RESOLVED that the City Council of Homer, Alaska is committed to its local match for the design phase once negotiations are complete.

PASSED AND ADOPTED by the City Council of Homer, Alaska this 28th day of July, 2025.

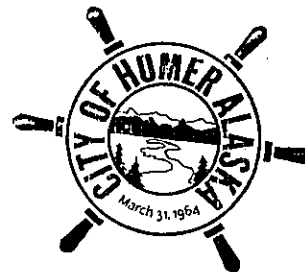
CITY OF HOMER

  
RACHEL LORD, MAYOR

ATTEST:

  
RENEE KRAUSE, MMC, CITY CLERK

Fiscal Note: Refer to Memorandum CC-25-193





# MEMORANDUM

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**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

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**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.)

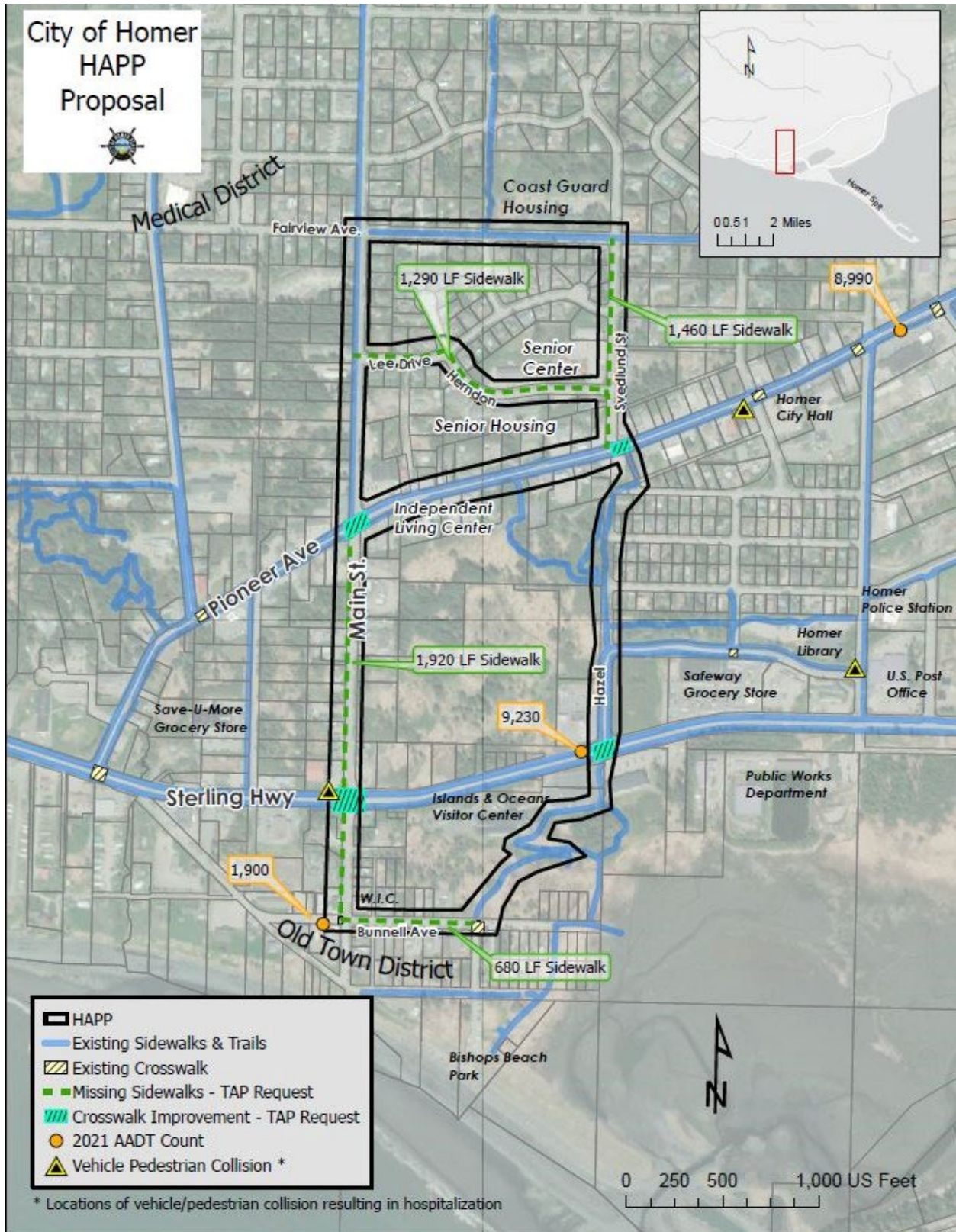
The Resolution before Council contains the assurances DOT&PF needs (acknowledging the MOA, authorizing the City Manager to complete final negotiation (including legal review) and execute the MOA and reaffirming City commitment to match funds) to obligate the Federal design funds. If anything major changes 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.

<b>Federal Award:</b>	\$3,486,787
<b><u>Required Match:</u></b>	<u>\$ 388,713</u>
<b>Your total project cost:</b>	\$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](mailto: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						

2024-2027 STIP Funding by Phase		
Phase Total	\$3,875,000	
FY	Phases	Planned Obligation
FY25	P2a	\$543,000
FY26	P2b	\$232,000
FY27	P4	\$3,100,000

2024-2027 STIP Funding by Source		
Fund Source Total		\$3,875,000
FY	Fund Source	Programmed
FY25	Transportation Alternatives Program: Population 5-49,999K	\$488,700
FY25	Local Match (Community-Driven Projects)	\$54,300
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

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

3 b) If the DOT&PF is the primary cause of the cancellation, the DOT&PF shall bear those  
4 costs not accepted for reimbursement by the FHWA, amounts the FHWA expects to be  
5 reimbursed for, and any other costs or expenses incurred by the City of Homer or the  
6 DOT&PF in the Project to the date of cancellation or related to finalizing cancellation and  
7 Project termination.

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

## 16 **XII. MISCELLANEOUS PROVISIONS**

### 17 **a) Amendment or modification of Agreement:**

18 This MOA may only be modified or amended by written agreement signed by authorized  
19 representatives for both Parties.  
20

### 21 **b) The Whole Agreement:**

22 This MOA constitutes the entire agreement between the Parties. There are no other  
23 understandings or agreements between the Parties, either oral or memorialized in writing regarding  
24 the matters addressed in this MOA. This MOA may not be amended by the Parties unless an  
25 amendment is agreed to in writing, with both Parties signing through their authorized  
26 representatives.  
27

### 28 **c) Assignment:**

29 Without the written consent of the DOT&PF, this MOA is not assignable by the City of  
30 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](mailto: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.

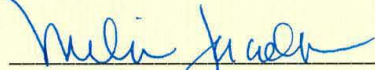
PASSED AND ADOPTED by the Homer City Council this 13<sup>th</sup> day of February, 2023.

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
	<b>SUBTOTALS</b>	\$ 0.00	\$ 0.00	\$ 0,000
			<b>TOTAL</b>	<b>\$3,875,000</b>

**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
<b>TOTALS:</b>	<b>\$ 3,875,000.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>		<b>\$ 0.00</b>	<b>\$ 0.00</b>

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