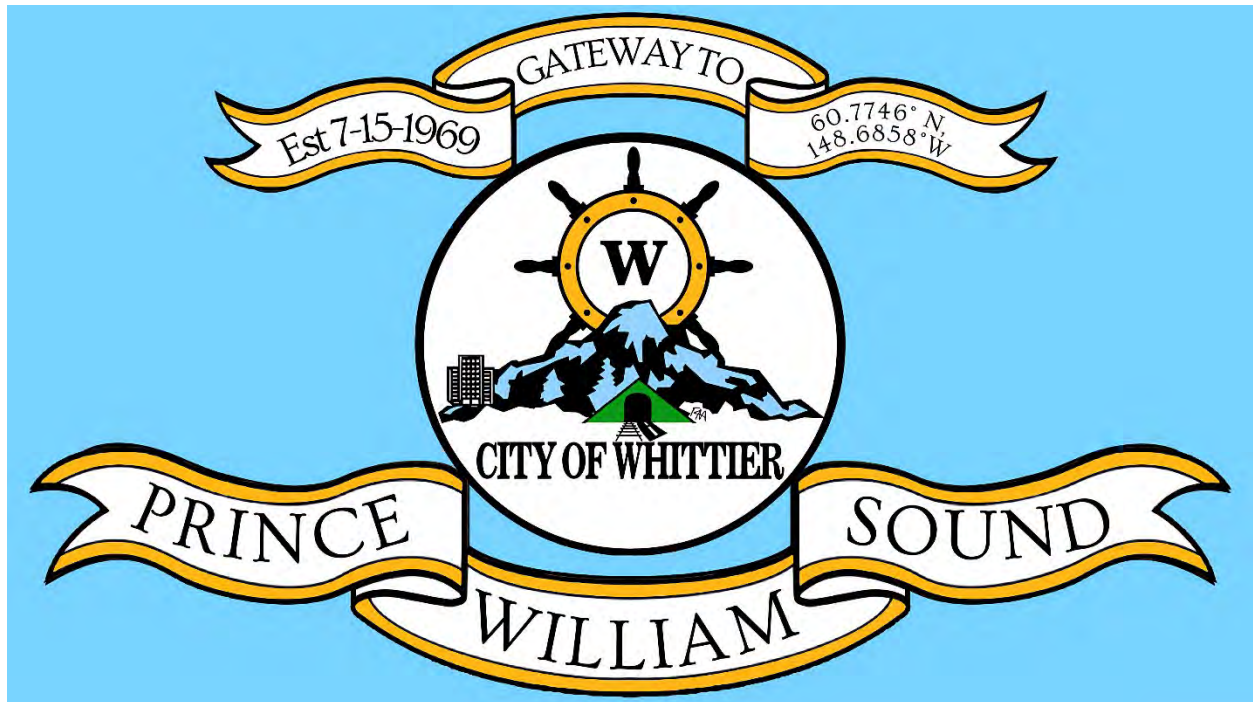




# **City of Whittier**

## **Regular Council Meeting Packet**

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**September 20, 2022**



# CITY OF WHITTIER

GATEWAY TO WESTERN PRINCE WILLIAM SOUND  
P.O. Box 608 WHITTIER, ALASKA 99693 (907) 472-2327 Fax (907) 472-2404

September 20, 2022

7:00 p.m.

Council Chamber

Dave Dickason  
Mayor  
Term Expires 2022

Peter Denmark  
Vice Mayor  
Term Expires 2023

Victor Shen  
Council Member  
Term Expires 2024

Tom Wagner  
Council Member  
Term Expires 2022

Daniel Blair  
Council Member  
Term Expires 2022

David Pinquoch  
Council Member  
Term Expires 2023

Cathy McCord  
Council Member  
Term Expires 2024

James Hunt  
City Manager

Jackie C. Wilde  
Assistant City  
Manager/Acting City  
Clerk

Holly Wells  
City Attorney

## 1. CALL TO ORDER

## 2. OPENING CEREMONY

## 3. ROLL CALL

## 4. CITIZEN COMMENTS ON ANY SUBJECT EXCEPT THOSE ITEMS SCHEDULED FOR PUBLIC HEARING *[Those who have signed in will be given the first opportunity to speak. Time is limited to 2 minutes per speaker and 36 minutes total time for this agenda item.]*

## 5. APPROVAL OF AGENDA AND CONSENT AGENDA *[Approval of Consent Agenda passes all routine items indicated by asterisk (\*). Consent Agenda items are not considered separately unless a council member so requests. In the event of such a request, the item is returned to the Regular Agenda]*

## 6. PRESENTATIONS AND REPORTS

- A. Mayor's Report
- B. Vice Mayor's Report
- C. Parks and Recreation Committee Report
- D. City Manager Report-- *City Manager's includes, among other things, Finance Director report and the Water/Wastewater Manager Report.....Pg 4*

## 7. PUBLIC HEARINGS –

**1.ORDINANCE 2022-005** Amending WMC Chapter 2.27 Fire Department To A Fire/Ems Department With A Fire/Ems Chief As Department Head And Amending WMC Chapter 2.30 Department Of Public Safety To Remove Responsibility For Fire And Ems From The Director Of Public Safety In Order To Expand Fire And Ems Services For The Benefit Of The Community..... **Pg 12**

**2.ORDINANCE 2022-006** Amending WMC Chapter 3.12 To Adopt WMC 3.12.05 Provide A Property Tax Exemption For Property Developed In Furtherance Of Economic Development Within The City.....**Pg 21**

**8. UNFINISHED BUSINESS- *Postponed from 8/16/2022 Regular Council Meeting***

1. **RESOLUTION 2022-026** - A Resolution of The City Council of the City of Whittier, Alaska, Appropriating Funds For Two Paid Fire & EMS Positions As Authorized By WMC 2.27.010.....**Pg 25**

**9. NEW BUSINESS**

**A. ORDINANCES FOR INTRODUCTION-None**

**B. RESOLUTIONS**

- \* 1. **RESOLUTION 2022-027** - A Resolution of The City Council of the City of Whittier, Alaska, Authorizing the City Manager to Continue Professional Services With Appraisal Company Of Alaska, LLC. To Provide Financial Personal and Real Property Appraisal Services for The FY2023 Tax Year, For Related Purposes For An Amount Not To Exceed \$14,000 And Appropriating Funds.....**Pg 27**
- \* 2. **RESOLUTION 2022-028** A Resolution Of The City Council Of The City Of Whittier, Alaska, Appointing The City Election Officials and Canvass Board For The October 4, 2022 Regular City Election...**Pg 28**

**C. Other New Business Items**

- \* 1. Discussion of current and future dispatch needs of the City (*requested by Council member Blair*)
- \* 2. Appoint Brian Fleenor to Planning and Zoning Commission Seat D expiring 2025.....**Pg 32**
- \* 3. Appoint Anna Dickason to Planning and Zoning Commission Seat F expiring 2025.....**Pg 33**

**9. INFORMATIONAL ITEMS AND REPORTS (*No Action Required*)**

1. July 2022 Financial Reports for the City of Whittier *Please see City Council packet which contains monthly Financial Statements* ..... **Pg 34**
2. 2023 Budget Calendar..... **Pg 80**
3. Federal Lobbyist report..... **Pg 81**
4. State Lobbyist Report..... **Pg 86**
5. Copy Alaska Railroad Corporation Head of the Bay Lease..... **Pg 101**
6. Copy of Glacier Creek Development Head of the Bay Lease..... **Pg 157**
7. Whittier School Calendar and QR code for CSD's 2-2-2 Survey..... **Pg 286**
8. Notice of Election..... **Pg 288**

**10. COUNCIL COMMENTS**

**11. CITIZEN COMMENTS** [*Those who have signed in will be given the first opportunity to speak. Time is limited to 5 minutes per speaker*]

**12. COUNCIL AND ADMINISTRATION RESPONSE TO CITIZEN COMMENTS**

**13. EXECUTIVE SESSION**

- a.** Per WCC 2.08.040 (b) (1) Matters that, if immediately disclosed, would clearly have an adverse effect upon the finances of the of the city relating to leases and city land.

**14. ADJOURNMENT**



To: Whittier City Council  
From: City Manager Jim Hunt  
Re: City Manager Report for September 2022 Council Meeting

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## **Introduction**

The purpose of this report is to provide the Whittier City Council, and the public, a brief summary of the City of Whittier ('City') projects that the City Administration worked on and advanced during August and September 2022, and to provide City Council and the public a brief introduction to the projects the City anticipates tackling in the near future.

## **Summary of Projects**

The following is a summary of the projects to which I, and City Staff, dedicated significant portions of time this month:

Our Federal Lobbyists have informed us the Notice of Funding Opportunities from the Federal Government we have been waiting for is now open and we are working to submit an application for Shotgun Cove Road.

We have continued communication with the new port project as work begins.

Attended AML Zooms covering the Federal funding opportunities, reporting requirements.

Attended AML seminars/continuing ed

We have participated in several meetings regarding the Buckner Building grant efforts

## **Council lobbying and legal reform Priorities**

I, along with the staff, worked diligently on several projects identified by City Council as priorities, including:

- We continue D.C. followup activities
- Our Federal and State lobbyists are working well together on common causes
- Our State lobbyist is regularly in contact with us as 2023 legislative effort begins now on our end.
- Continued communication and meetings with our legal firm

## **Additional Projects**

The following is a brief itemization of other projects completed this month:

1. Work continues with our collaboration with USFS on regarding conveyance of lands discussion near Portage Pass Trailhead and opportunities.

2. Participated in Barry Arm USGS NOAA meetings
3. Our Local Hazard Mitigation Plan approved by FEMA
4. We continue CRW meetings to explore and exploit grant funding opportunities
5. Attended World Trade Center lunch/seminar

#### **Assistant City Manager Monthly report**

- Continued work with Municode
- Continued work on Code updates and possible revisions
- We Hired a Seasonal employee for Open Gym with hopes to start early October ending in Late March. The City is working closely with the School to provide opportunities for all ages and activities for the winter months.
- Continued work on education regarding the Buckner building and safety. We have purchased cameras, motion lights and additional security measures to ensure that individuals DO NOT TRESSPASS. Any individual found trespassing will be fined according to the City and State laws.
- Worked with Public Works to start clearing the end of Glacier Road this space will provide additional snow storage area in the winter and open up the area in the summer for possible park



- Administration has been working with our talented city staff to create a new city logo and flag. The logo and flag are the starting point on having a design for future beautification in the city.



- Recently we cleaned up and removed an area at Smitty's Cove. There is NO dumping or burning allowed at Smitty's cove. Myself, Harbor Crew and Public works cleaned the area. Which required 3 dumpsters and the use of heavy equipment to remove the items.

Fires are allowed if in a designated fire ring. The city will continue to work on abatement issues. The individuals responsible for the dumping have been notified and ticketed.



## Harbor

The Harbor has installed an AED in our main hallway. This location is suitable as it is open to the public 24/7. Thank you, Tami, for taking this potentially lifesaving project on and making our community safer. We have also added an OSHA Grade 1<sup>st</sup> Aid Kit for Harbor, a second set of eye wash stations for upstairs at harbor and non-slip pads on stairs in Harbor office.



Camera system is up and running, developing a plan to rollout access to the public via an application found on Apple/Google.

We continue to have issues with the WiFi system due in part to firewall security issues. We continue to explore options and hope to have it resolved soon.

Season is coming to a close and we have seen a reduction of activity in the Harbor

Received two reports of injuries on G float resulting from trips/falls due to uneven/degraded surfaces

Completed Harbor/Delong Dock capital improvement plan and associated white papers submitted to Finance Director

Continued work on developing 2023 budget for upcoming October work sessions

### **Harbor Operations**

Kyle Loan has reported to work in the Harbor Officer III position. He has hit the ground running.

Despite our best efforts we are still having issues with bears getting in to trash.

A black bear was dispatched while attempting to aggressively enter a vessel in the harbor with people aboard. WPD/AST were notified and assumed the investigation into the incident.

Replaced the cutting board surface on one of the cleaning tables

City Dock crane update, Alaska Hydraulics is sourcing difficult to find ram parts, many of which need to be fabricated. Estimating 6-8 weeks out. Machining of base has been completed

Seasonal decommissioning will commence after the 15<sup>th</sup> of Sept with the departure of the last cruise ship

We are patching areas on G/H float utilizing pressure treated ply. While this is not considered the best application it is the most cost-effective way to reducing the hazard and will allow us to conduct snow removal operations this winter. Leading edges will be sealed and cut at angles to reduce the chance of tripping.

### **Finance Monthly Report**

This report reflects an abbreviated look at finance-related activities through the end of August 2022, plus preliminary 2022 financial results through July 31, 2022. The financial results include all 2022 Budgeted interfund transfers and all supplemental 2022 appropriations passed by the City Council in resolutions subsequent to approval of the 2022 budget.

### **Revenue Sharing / Community Assistance**

The City received notification from the State of Alaska of a supplemental distribution from the State, of FY23 Community Assistance Program (CAP) funds. The City was originally slated to receive \$65,621.89 but due to the supplemental appropriation of \$15,533.22, total CAP funding for FY23 is estimated at \$81,155.11.

### **PERS Census Data Audit**

Staff concluded the PERS desk audit by submitting census data as requested. Governmental Accounting Standards Board (GASB) Statement No. 68 and No. 75 require employers participating in a Cost-Sharing Multiple-Employer Pension Plan to report their share of net pension liability and postemployment benefits (e.g. healthcare) on their financial statements. The State of Alaska performs this calculation for all employers participating in PERS using data reported to it by each employer. Detailed information on selected test samples was provided to KPMG to assist them in verifying the accuracy of the State's allocation of net pension liabilities among employers.

#### **IRS Audit of 2017 Harbor Bonds**

The City and the State of Alaska Municipal Bond Bank completed and submitted their respective responses to the IRS related to an audit of the Bond Bank's 2017 Series Two Bonds which includes an audit of the underlying issuers within that bond series. The City of Whittier was a participant in that issue, having issued \$2 million in Harbor Float Replacement Bonds.

#### **2023 Budget Preparation – Operating Budget**

Finance staff have provided department heads with budget templates to begin preparing their requests for the 2023 operating budget. Staff will bring forward a draft budget calendar for Council approval at the September Council meeting.

#### **2023 Budget Preparation – Creation of Capital Improvement Plan**

Staff have finalized a five-year proposed Capital Improvement Plan for the period 2023 to 2027 and have completed presentation of the initial draft Plan to the City Council in a work session on September 13, 2022. The administration will request Council approval of the Plan during the annual budget approval process.

#### **2023 Budget Preparation –Proposed Revisions to Pay Plan**

During the previous budget process, Council requested a revision to the City's Pay Plan. The administration has forwarded an initial proposal for revisions to the Compensation Plan to the City Council in a work session on September 13, 2022.

#### **Grant Application - Harbor Float Replacement**

On August 5 the City submitted a State Municipal Harbor Matching Grant application to the State of Alaska. The grant is a 50/50 matching grant which requests grant funding in the amount of \$4.5 million to complete Phase III of the Harbor Float Replacement Project at an estimated cost of \$9.0 million. The project proposes to replace Floats A, G and H and to replace all creosote pilings in the harbor with approximately 79 steel pipe piles.

#### **Grant Application - Shotgun Cove Road construction project**



The City is preparing an application for submission in October, proposing the continuation of construction of the remaining section of Mile 2.0 to 4.5 of Shotgun Cove Road at a remaining estimated construction cost of \$43 million.

#### **Grant Application - Buckner Building**

Staff have participated in multiple meetings in August and September related to the Buckner Building mitigation, remediation and repurposing of the building project. Meetings included a debrief with the EPA regarding a recent grant submission, seeking input on areas to strengthen the application for the next round of grant applications. That was followed by a meeting of additional partners (including PWSEDD, CCLR, ADEC, EPA) focused on strategies to break the mega-Brownfield project into manageable components to improve the likelihood of success in future grant applications through phased incremental progress on the project. The partners are meeting again in September to continue developing the best strategy for funding given available grant opportunities.

#### **Insurance - Earthquake**

The City continues to work to obtain all eligible earthquake coverage from our insurance provider, APEI. We are not satisfied with the insurance company's coverage offer and as the City is obliged to obtain all available insurance coverage for earthquake damages from our insurance carrier prior to seeking reimbursement from the State, we are involving the State to understand the significant efforts made by the City to obtain what we believe to be insurance coverage due to the City.

#### **Insurance – July 27 Launch Ramp Fire**

The City is working with our broker HUB and our insurance provider APEI, on a claim for damages to the launch ramp float caused by the July 27 fire. An insurance adjuster visited Whittier on July 30 to assess the extent of damages to the float. Harbor staff will take the ramp out of service after the season ends in order to inspect damage and develop a plan as to the advisability of performing necessary repairs and/or replacement of three or more impacted float sections.

#### **Water/Wastewater Enterprise Fund Financial Analysis**

Through July, the Water and Wastewater Enterprise Fund has brought in \$274,832 of the budgeted \$372,441 revenues and transfers-in, representing 74% of the annual budget. Through August, preliminary figures show revenues at 98% of the annual budget, suggesting that the Fund will meet its budgetary revenue projections for the year.

Through July, expenses in the Fund are at 76%, assuming that annual depreciation equals the budgeted depreciation. Overall, the Fund is expected to end the year slightly under budget. From a cash perspective, the Enterprise Fund has a balance at the end of July of \$519,236, plus the Water/Wastewater Major Repair and Replacement Fund has a cash balance of \$1,051,410.

## **Monthly Public Works Report**

During the past month the Publics Works & W/WW Department has been focused on the following:

### **Equipment:**

Mechanic left 8-26-2022 to work on the slope. Job opening has been advertised and we have interviews scheduled for the week of 9-19

Push blades have been serviced, wear parts replaced, and the connecting arms have been cross welded to allow both loaders to utilize equipment

L150 Loader –Quick disconnect cylinder repaired-Snow Bucket cracks welded-PM and oil service completed

Skid Steer-Radiator needs to be removed and repaired – October

### **Sanitary Sewer**

Lift Stations #5 – Working with CRW to develop Design / Construction Budget to replace the lift station. The concrete is severally degraded and non-repairable, piping is at the end of its useful life and the control house is prone to flooding. W/WW will be seeking funding to perform this work

### **Water**

Seasonal meters – Turn off 6 each

Annual Maintenance Meter and Backflow inspections

Continue to seek funding for Water Projects

### **Roads**

Brush cut ROW

Pothole patching

Start removing seasonal signage and put-up snow markers

Glacier Ave / Snow Dump

Move bolder piles as directed – 32 Loader Hours

Place boulders on the side of Glacier Street to prevent vehicles from driving through the ditch

### **Construction Projects**

SCR (Second Salmon Run to Emerald)

Seek Funding

Well Field Upgrades –

Seek Funding

Whittier Core Upgrades

Scope – Design and create the following:

Storm System replacement and upgrades

Ensure water and sewer is extended for future needs

Pavement replacement

Sidewalks ADA standard

ROW / Easements Validation

Address current operating and maintenance issues

CRW to survey existing condition when the.

EMC -Emergency Management – Earthquake Repairs -Protsman Pavilion & Ocean Dock –

Welding. We are currently waiting on contractors to return RFP / RFQ and engineers’

recommendation to award.

**Notes from the PW Director**

With the loss of our Mechanic / Operator in late August and a staff being on vacation the Public Works has severely short staffed. Most of my time has been out in the field, filling in as the mechanic, or operating equipment.



Sponsored by: Administration  
Introduction Date: August 16, 2022  
Public Hearing September 20, 2022  
2<sup>nd</sup> reading/Enactment Date: October 18, 2022

**CITY OF WHITTIER, ALASKA  
CODE ORDINANCE 2022-005**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA, AMENDING WMC CHAPTER 2.27 FIRE DEPARTMENT TO A FIRE/EMS DEPARTMENT WITH A FIRE/EMS CHIEF AS DEPARTMENT HEAD AND AMENDING WMC CHAPTER 2.30 DEPARTMENT OF PUBLIC SAFETY TO REMOVE RESPONSIBILITY FOR FIRE AND EMS FROM THE DIRECTOR OF PUBLIC SAFETY IN ORDER TO EXPAND FIRE AND EMS SERVICES FOR THE BENEFIT OF THE COMMUNITY**

**WHEREAS**, the Whittier Municipal Code provides for the division of volunteer fire services and the division of emergency medical services as divisions of a broader department of public safety supervised by the director of public safety; and

**WHEREAS**, the community of Whittier is experiencing growth in population, in activities and especially in the number of summer visitors to Whittier participating in boating, fishing, hiking, cruises, outdoor recreation and other outdoor and water-based Alaskan adventure activities; and

**WHEREAS**, it is necessary for Whittier to expand its ability to ensure prompt response to emergencies, whether they be fire or emergency service-related in order to protect local citizens and remain an attractive community for businesses and visitors; and

**WHEREAS**, the local community health center is currently closed due to an inability to attract and retain healthcare providers making it all the more important that Whittier have emergency responders capable of providing local emergency medical services; and

**WHEREAS**, the community has experienced a number of serious fire and emergency medical events that could have resulted in the loss of life and did result in severe injuries and damage to property, highlighting the need to expand local capacity to respond to such emergencies; and

**WHEREAS**, it is in the community's interest to supplement a declining number of volunteer fire and EMS responders, with additional paid fire and EMS positions in order to expand coverage of emergency fire and emergency medical service needs in Whittier and be better able to support consistent training and development of community volunteers.

NOW, THEREFORE, THE CITY OF WHITTIER ORDAINS that:

**Section 1.** Whittier Municipal Code Chapter 2.27 entitled "Fire Department "is amended to read as follows: (*New language is in bold, italic and underlined* and ~~deleted language is stricken through and bold~~)

## **CHAPTER 2.27 FIRE/EMS DEPARTMENT**

### **2.27.010 Established.**

There shall be a fire department in and for the city to be known as the "Whittier Fire/EMS Department, *"the head of which shall be the Fire/EMS chief.* It shall consist of a Fire/EMS chief and ~~assistant chief (or chiefs), and~~ as many other officers and firefighters as the city manager may deem necessary for the effective operation of the department.

### **2.27.020 Fire/EMS Chief.**

*The Fire/EMS chief shall be appointed by the city manager and shall hold office at the discretion of the city manager.*

### **2.27.030 Duties of the Fire/EMS Chief.**

*Under the supervision of the city manager, the Fire/EMS chief shall have the following duties:*

- A. *Supervise all activities of the divisions of fire and emergency medical services; and*
- B. *Perform other such duties as may be specified in this Code or by the city manager.*

### **2.27.040 Duties of the division of volunteer fire services.**

*It shall be the duty of the division of volunteer fire services, among others, to do the following:*

- A. *Attempt to extinguish fires;*
- B. *Attempt to rescue persons endangered by fire; and*
- C. *Promote fire prevention.*

### **2.27.045 Staffing of the division of volunteer fire services.**

*The Fire/EMS chief may appoint and supervise others to administer the division of volunteer fire services. The Fire/EMS chief will recruit and supervise the volunteer staff.*

### **2.27.050 Rules and regulations of the division of volunteer fire services.**

*The Fire/EMS chief shall establish a set of rules and regulations governing the discipline, training, and operation of the division of volunteer fire services.*

**2.27.020 060 Volunteer fire department—Organization.**

Members of the fire department who are not regular department officers may organize into a voluntary association with the right to elect their own officers and adopt by-laws. This association shall be known as the volunteer fire department.

**2.27.030 070 Volunteer fire department—Generally.**

The functions and duties of the officers of the volunteer fire department shall not interfere with those of the regular department officers who are charged with responsibility for all fire service activities of the department. The volunteer fire department shall in no way limit the power of the Fire/EMS chief. All property used by the volunteer fire department shall be paid by check upon proper voucher by the regular city authorities.

**2.27.040 080 Volunteer fire department—Reimbursement.**

From time to time in such amounts as the city manager deems advisable, payments may be made to the volunteer fire department for the purpose of giving that association funds with which to reimburse members for personal property damaged while attending fires and for such other purposes in keeping with its functions.

**2.27.050 Fire chief—Appointment.**

~~The fire chief shall be elected by the members of the volunteer fire department and confirmed by the director of public safety and shall be responsible to the director of public safety. His/her appointment shall be for a two-year term, depending on his/her good conduct and efficiency. He/she shall be technically qualified through training and experience and shall have the ability to command other volunteers. He/she shall be removed only for just cause by members of the volunteer fire department upon the recommendation of the public safety director.~~

~~(Prior code § 10.05.030(a); Ord. No. 165-90, § 1, 1990; Ord. No. 347-97, § 2, 1997)~~

~~Note(s)—Formerly § 2.26.050.~~

**2.27.060 090 Fire/EMS chief—Composition of companies.**

The fire/EMS chief shall determine the number and kind of companies of which the department is to be composed and the response of such companies to alarms.

**2.27.070 100 Fire/EMS chief—Officer appointments.**

The fire/EMS chief shall appoint all other officers and firefighters (both paid and volunteer). Such appointments shall be, insofar as possible, following fair and impartial competitive examination. All officers shall be accountable to the fire/EMS chief or his representative

**2.27.080 110 Fire/EMS chief—Budget submittal.**

The fire/EMS chief shall annually submit a tentative budget for his department.

**2.27.090 120 Fire/EMS chief—Arson suppression.**

The fire/EMS chief shall assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires.

**2.27.100 130 Fire/EMS CHIEF—Rules and regulations.**

The fire/EMS chief shall maintain and enforce an up-to-date, comprehensive set of rules and regulations governing the discipline, training and operation of the fire department. Such rules, regulations and any elections, changes or additions shall be effective when approved by and filed with the ~~public safety~~ FIRE/EMS director Chief with the concurrence of the city manager.

**2.27.110 140 Fire/EMS chief—Training requirements.**

The fire/EMS chief or his representative shall, at least two times per month, provide for suitable drills covering the operation and handling of all equipment essential for efficient department operation. In addition, he shall provide, at least four times per year, quarterly sessions of instructions to include such subjects as first aid, water supplies, and other subjects related to fire suppression.

**2.27.120 150 Fire/EMS chief—Records maintenance.**

The fire/EMS chief shall see that complete records are kept of all apparatus, equipment, personnel, training, inspections, fires and other department activities.

**2.27.130 160 Annual report.**

Current records and comparative data for previous years and recommendations for improving the effectiveness of the department shall be included in an annual report. Such other reports as may be required concerning the department in general, giving suggestions and recommendations for major improvements, and listing other data so as to maintain a complete record of the activities of the department shall also be prepared

**2.27.140 170 Equipment—Responsibility.**

The fire/EMS chief shall be responsible ~~to the public safety director~~ for recommending such apparatus or other firefighting equipment as may be required to maintain fire department efficiency, and for providing suitable arrangements and equipment for reporting fires or emergencies, and for notifying all members of the department to assure prompt response to such incidents

**2.27.150 180 Equipment—Assignment authority.**

The fire/EMS chief or his authorized representative shall have power to assign equipment for response to calls for outside aid where agreements are in force and in other cases only when the absence of such equipment will not jeopardize protection of the city.

**2.27.160 190 Equipment—Prohibited uses.**

No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department.

**2.27.170 195 Equipment—Use permitted—When.**

No person shall enter any place where fire apparatus is housed or handle apparatus or equipment belonging to the department unless accompanied by or having the special permission of an officer or authorized member of the department.

**2.27.180~~200~~ Private vehicle—Insignia issuance.**

Each member of the volunteer fire department driving a private car shall be issued a suitable insignia to be attached to the car designating him as a member of the department.

**2.27.190 205 Private vehicle—Equipment—Right-of-way privilege.**

All personal cars of volunteer fire department members shall be equipped with a flashing blue light and shall have right-of-way over all other traffic when responding to an alarm but shall observe all city traffic ordinances.

**2.27.200 210 Establishment of fire service fee schedule.**

The fire/EMS chief ~~public safety director~~ for the Whittier Fire/EMS Department shall adopt a fee schedule for fire services. The fees shall be based on the costs involved in providing services.

- A. All charges for services shall be the obligation of the individual or entity requiring service.
- B. Billing to insurance companies for such services ~~shall not be the responsibility of the city,~~ shall be coordinated through a third-party billing service and ~~although~~ incident reports required for insurance filing will be provided.

**2.27.250 Duties of the division of emergency medical services.**

**It shall be the duty of the division of emergency medical services, among others, to do the following:**

- A. Attempt to ensure ambulance response to requests for emergency assistance; and
- B. Maintain adequate membership of emergency medical technicians in the volunteer ambulance service.

**2.27.260 Staffing of the division of emergency medical services.**

**The fire/EMS Chief may appoint and supervise a coordinator(s) to administer the division of emergency medical services. The coordinator(s) will recruit and supervise the volunteer staff.**

**2.27.270 Rules and regulations of the division of emergency medical services.**

**The fire/EMS chief shall establish a set of rules and regulations governing the discipline, training, and operation of the division of emergency medical services.**

**Section 2.** Whittier Municipal Code Chapter 2.30 entitled “Department of Public Safety  
“is amended to read as follows:

**CHAPTER 2.30 DEPARTMENT OF PUBLIC SAFETY**

**2.30.010 Department of public safety.**

There is created a department of public safety, the head of which shall be the director of public safety.

**2.30.020 Director of public safety.**

The director of public safety shall be appointed by the city manager and shall hold office at the discretion of the city manager.

**2.30.030 Duties of the director of public safety.**

Under the supervision of the city manager, the director of public safety shall have the following duties:

- A. Supervise all activities of the divisions of police, ~~fire, and emergency medical services~~; and
- B. Perform other such duties as may be specified in this Code or by the city manager.

\*\*\*\*\*

**~~2.30.080 Duties of the division of volunteer fire services.~~**

**~~It shall be the duty of the division of volunteer fire services, among others, to do the following:~~**

- ~~A.— Attempt to extinguish fires;~~
- ~~B.— Attempt to rescue persons endangered by fire; and~~
- ~~C.— Promote fire prevention.~~

~~(Ord. No. 535-08, § 7, 2008)~~

#### ~~2.30.090 Staffing of the division of volunteer fire services.~~

~~The director of public safety may appoint and supervise a fire chief to administer the division of volunteer fire services. The fire chief will recruit and supervise the volunteer staff.~~

~~(Ord. No. 535-08, § 7, 2008)~~

#### ~~2.30.100 Rules and regulations of the division of volunteer fire services.~~

~~The director of public safety shall establish a set of rules and regulations governing the discipline, training, and operation of the division of volunteer fire services.~~

~~(Ord. No. 535-08, § 7, 2008)~~

#### ~~2.30.110 Duties of the division of emergency medical services.~~

~~It shall be the duty of the division of emergency medical services, among others, to do the following:~~

- ~~A.— Attempt to ensure ambulance response to requests for emergency assistance; and~~
- ~~B.— Maintain adequate membership of emergency medical technicians in the volunteer ambulance service.~~

~~(Ord. No. 535-08, § 7, 2008)~~

#### ~~2.30.120 Staffing of division of emergency medical services.~~

~~The director of public safety may appoint and supervise a coordinator to administer the division of emergency medical services. The coordinator will recruit and supervise the volunteer staff.~~

~~(Ord. No. 535-08, § 7, 2008)~~

.       **Section 3.**     This Ordinance is a permanent code ordinance.

**Section 4.**     This ordinance shall become effective upon adoption

**ENACTED BY THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA** this  
18<sup>th</sup> of October, 2022

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**Dave Dickason**  
Mayor

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

ATTEST:

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**Jackie Wilde**  
Assistant City Manager/Acting City Clerk



# Council Agenda Statement



**Meeting Date:** August 16, 2022  
**To:** City Council  
**From:** Jim Hunt, City Manager  
**Agenda Item:** Funding for Fire Chief and EMS Coordinator positions

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## **BACKGROUND JUSTIFICATION & INTENT:**

The community of Whittier has recently experienced a major traffic accident and a fire on the launch ramp in the Small Boat Harbor, resulting in significant bodily injury and major damage or destruction to personal property. The community is also dealing with the recent closure of the community health center due to the inability of the clinic to attract qualified medical personnel to consistently staff the clinic.

These events highlight the need to improve our emergency services response capacity in Whittier. Fire and EMS departments around Alaska and the country are experiencing the adverse impact of fewer individuals willing to serve as emergency response volunteers. Given the growth in visitor traffic, the lack of a medical care facility, a too-small contingent of available volunteers, and the need to offer more consistent and reliable emergency response services in Whittier, the administration recommends funding two additional full-time positions in Fire and EMS.

One full-time, paid EMS Coordinator currently offers leadership, training and oversight for the fire and ems volunteers. The administration recommends hiring a full-time Fire/EMS Chief and a second full-time EMS Coordinator. The addition of two positions will allow for staffing overlap, improved availability of a trained response team, improved coordinated emergency response with nearby departments, and a better focus on training, recruitment and retention. For Council's consideration is a companion ordinance recommending separation of the oversight of the fire and ems services from the police function. However, it is not necessary that Council pass the ordinance to hire a new Fire/EMS Chief and EMS Coordinator. If Council does not approve the change in management of the Fire and EMS services to its own department supervised by the Fire/EMS Chief rather than the Director of Public Safety, the Fire and EMS services will remain under supervision of the Director of Public Safety.

<b><u>CONSISTENCY CHECKLIST:</u></b>		Yes	No	N/A
1.	2020 Comprehensive Plan ( <i>document source here</i> ): 2020 pp. 20-21	X		
2.	Whittier Code: 2.27.010	X		
3.	Other ( <i>list</i> ):			

**FISCAL NOTE:** The estimated cost to fund these two positions including salary and benefits is \$259,000 which includes \$132,931 for the Fire/EMS Chief and \$126,069 for the EMS Coordinator. The Fire/EMS Chief will be a department-head level position in the City's classification plan and the EMS Coordinator will be equivalent in rank to the current EMS Coordinator position.

**ATTORNEY REVIEW:** Yes\_\_\_ No \_\_X\_\_

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**RECOMMENDATION:** The Administration recommends Council approve the request to create and fill two paid full-time positions in Fire and EMS.

**CITY OF WHITTIER, ALASKA  
ORDINANCE 2022-006**

**AN ORDINANCE OF THE CITY COUNCIL OF WHITTIER, ALASKA  
AMENDING WMC CHAPTER 3.12 TO ADOPT WMC 3.12.055 PROVIDE A  
PROPERTY TAX EXEMPTION FOR PROPERTY DEVELOPED IN  
FURTHERANCE OF ECONOMIC DEVELOPMENT WITHIN THE CITY**

**WHEREAS**, it is in the best interests of the City of Whittier (“City”) and its taxpayers to incentivize economic development within its borders; and

**WHEREAS**, Alaska Statute permits certain property tax exemptions, including an exemption from property tax for trades or businesses, where the use of property is intended to cause an increase in, or avoid a decrease of, economic activity, gross domestic product, or the tax base within the City,

**NOW, THEREFORE, THE WHITTIER CITY COUNCIL ORDAINS:**

**Section 1.** Whittier Municipal Code Chapter 3.12 is amended to add Whittier Municipal Code 3.12.055 entitled “Economic development property exemptions” to read as follows:

**3.12.055 - Economic development property exemptions.**

- A. The assessed value of property used for economic development, as defined in this section, may be exempt from City property taxes, under the conditions listed in this section.
- B. "Property used for economic development," as used in this section, means the use of property intended to cause an increase in, or avoid a decrease of, economic activity, gross domestic product, or the tax base within the City.
- C. “Economic development property” means:
  - 1. the property has not previously been taxed as real or personal property by the municipality; or
  - 2. the property is used in a trade or business in a way that
    - i. creates employment in the municipality;
    - ii. generates sales outside of the municipality of goods or services produced in the municipality; or
    - iii. materially reduces the importation of goods or services from outside the municipality; or

3. an exemption or deferral on the property enables a significant capital investment in physical infrastructure that
  - i. expands the tax base of the municipality; and
  - ii. will generate property tax revenue after the exemption expires; or
4. that has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed. This subsection (4) does not apply if the property was used in the same trade or business in an area that has been annexed to the municipality within six months before the application for deferral or exemption is filed; this paragraph does not apply to inventories.

- D. The exemption shall be for up to one hundred percent of the assessed value of the property, for up to five consecutive years at the discretion of City Council. The City may also defer payment of taxes for up to five years on property used for economic development. Tax payments shall become due as specified by the City at the time the deferral is granted.
- E. In order to qualify for this exemption, an applicant must file a written application for the exemption with the City Manager no later than January 15 of each assessment year for which the exemption is sought. The application shall be on a form prescribed by the City Manager and shall include all information determined to be necessary by the City Manager to determine eligibility of the property for the exemption. If the applicant fails or refuses to provide information required or requested by the City Manager within the time period set by the City Manager, the exemption shall be denied. The City Manager may make an independent investigation of the application or property in making a determination under this section. The City Manager shall notify the applicant, in writing, of the City Manager's determination on the application for exemption.
- F. After the City Manager determines that the applicant is eligible for a tax exemption and/or deferral and the application is complete, the City Manager shall submit a copy of the application to the City Clerk with a written recommendation to be submitted to City Council.
- G. An applicant delinquent in the registration for, filing of a return, or payment of, any City property or sales tax, City special assessment, or City utility bill may not be granted an exemption and/or deferral under this section.
- H. Any entity requesting a tax exemption or deferral pursuant to this section shall pay to the City an initial application fee of Three Hundred Dollars, which shall be submitted at the same time the application form under subsection (D) is submitted. In addition, any entity that has been granted a tax exemption or

deferral under this section shall pay an annual review fee in the amount of One Hundred Fifty Dollars at a date specified by the City Manager.

- I. All property receiving a tax exemption or deferral under this section shall be annually assessed by the city assessor in the same manner as if it were not exempt. Any tax exemption or deferral granted under this section shall be subject to annual review by the [city assessor] to ensure that the ownership and use of the property and any other qualifying criteria for the tax exemption or deferral continue to exist. Information justifying the continued exemption or deferral shall be submitted annually to the city assessor at the same time the review fee required under subsection (G) of this section is due. If the city assessor determines that the property no longer qualifies for an exemption or deferral under this section, the assessor's determination may be reversed by a majority vote of the City Council.
- J. An entity may request a construction deferral under this section if the entity is in the process of developing or building property used for economic development but has not yet completed construction on such property. In addition to the application required under subsection (D) of this section, an entity seeking a construction deferral must also submit a development plan to be approved by the City Manager. Upon construction of the economic development property satisfactory to the City, the City may change deferral under this subsection into an exemption which shall not exceed the remainder of the five-year period from the date the deferral was approved. If economic development property is not developed or created within the time specified in the application, the City may immediately terminate the deferral and take any other action permitted by law including, but not limited to, collecting all property taxes accrued on the property during the construction deferral, collecting penalties and interest on the taxes owed from the date such taxes would have been due if no deferral had been granted, and attach a tax lien to the property.
- K. Upon the failure of any entity to fully and timely pay the taxes due as may be required by any City ordinance, or to provide reports or other information requested by the City Manager or assessor and reasonably necessary for the implementation of this section, the City Manager shall immediately revoke and not renew any exemptions or deferrals under this section to which such entity would otherwise be entitled and shall require immediate payment of the pro-rata share of taxes thereby due for any portion of the year remaining and any previously deferred taxes.
- L. City Council reserves the right to grant or not to grant a tax exemption or deferral under circumstances beyond the scope of this section or to waive any other requirement not mandated by state law. However, no such action or

waiver shall be taken or made except upon a finding by City Council that such action or waiver is found and declared to be vital to the public interest.

- M. As of the date of any change in majority ownership, sale, or substantive change in use of any property subject to a tax exemption or deferral under this section, the City shall revoke such tax exemption or deferral and require immediate payment of the property taxes thereby due. Any property owner who fails to notify the city assessor of any such change in ownership, use, or sale by the date of such change in ownership, use, or sale shall be subject to a fine of not more than Three Hundred Dollars per day for each day thereafter.
- N. An applicant's completion of the application process for tax exemption or deferral shall not give rise to any right or claim against the City for its failure to grant the exemption or deferral. The grant or denial of a tax exemption or deferral application under this section is a discretionary act by the City.

**Section 2. Classification.** This Ordinance is a permanent code ordinance.

**Section 3. Severability.** If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

**Section 4. Effective Date.** This ordinance shall become effective upon adoption.

**Section 5. Repeal By Referendum.** This ordinance, if adopted, may be repealed by the voters through referendum.

**PASSED AND APPROVED** by a duly constituted quorum of the Whittier City Council on this 18<sup>th</sup> day of October 2022.

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Dave Dickason  
MAYOR

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

ATTEST:

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Jackie C. Wilde  
Assistant City Manager/ Acting City Clerk

**CITY OF WHITTIER, ALASKA  
RESOLUTION 2022- 026**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WHITTIER, ALASKA, APPROPRIATING FUNDS FOR TWO  
PAID FIRE & EMS POSITIONS AS AUTHORIZED BY WMC  
2.27.010**

**WHEREAS**, the City has recently experienced two significant accidents resulting in serious bodily injury that could have resulted in multiple fatalities; and

**WHEREAS**, during a July 27 fire at the harbor launch ramp, City response vehicles were located on the other side of the Tunnel transporting patients from the cruise ship, leaving reduced coverage for fire and EMS in Whittier; and

**WHEREAS**, Whittier Municipal Code 2.27.010 established a fire department with a fire chief and assistant fire chief position and the City has not historically funded those positions; and

**WHEREAS**, the City's fire and EMS services are currently staffed by a single paid full-time EMS Coordinator position and with the closure of the Whittier Clinic, it is imperative that the City seek solutions to ensure more consistent and reliable response to emergencies; and

**WHEREAS**, the City Council desires to address the potential life/safety concerns resulting from insufficient full-time emergency responders through the creation of two additional full-time positions in Fire/EMS; and

**WHEREAS**, the City Council desires to separate the Fire/EMS Department from the Police Department in order to enhance the focus on fire and EMS coverage, training, volunteer recruitment and retention, and emergency response, and recommends creation of a Fire/EMS Chief position and a second EMS Coordinator position.

**NOW, THEREFORE, BE IT RESOLVED** by the Whittier City Council that:

**Section 1.** Two new positions are added to the City's full-time exempt employee roster, a Fire/EMS Chief and a second EMS Coordinator.

**Section 2.** The Fire/EMS Chief shall be an exempt position equivalent to a department head in the City's classification plan, and responsible to oversee all aspects

of the fire and emergency response functions and those functions shall no longer reside under the supervision of the director of public safety.

**Section 3.** The EMS Coordinator shall be at the same classification as the existing EMS Coordinator position to avoid the creation of a position that could be subject to PERS termination costs should the City elect to eliminate the position in the future.

**Section 4.** Funding in the amount of \$259,000 is hereby approved and appropriated from the Commercial Passenger Vessel Tax reserves account no. 20-000-3000 as follows: 1) \$132,931 to the General Fund Fire salary and benefit accounts 01-520-6XXX; and \$126,069 to the General Fund EMS salary and benefit accounts 01-530-6XXX, to restore two full-time positions.

**Section 5.** This resolution shall take effect immediately upon adoption.

**PASSED AND APPROVED** by a duly constituted quorum of the Whittier City Council on this 16<sup>th</sup> day of August, 2022.

---

Dave Dickason, Mayor

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

**ATTEST:**

---

Jackie Wilde  
Assistant City Manager/Acting City Clerk

**Sponsored by: Administration**

**CITY OF WHITTIER, ALASKA  
RESOLUTION 2022- 027**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER ALASKA, AUTHORIZING THE CITY MANAGER TO CONTINUE PROFESSIONAL SERVICES WITH APPRAISAL COMPANY OF ALASKA, LLC. TO PROVIDE FINANCIAL PERSONAL AND REAL PROPERTY APPRAISAL SERVICES FOR THE FY2023 TAX YEAR, FOR RELATED PURPOSES FOR AN AMOUNT NOT TO EXCEED \$14,000 AND APPROPRIATING FUNDS.**

**WHEREAS**, the City annually complies with requirements of Whittier Municipal Code with regard to property appraisal and tax assessment; and

**WHEREAS**, the City has previously contracted for appraisal services with Appraisal Company of Alaska, LLC, and

**WHEREAS**, the Whittier Municipal Code provides that consultants and professional service providers can be hired on a sole source basis without competitive process; and

**WHEREAS**, the City Manager recommends that the City continue its contractual relationship with Appraisal Company of Alaska, LLC for the purposes of conducting personal and real property appraisals for tax assessments.

**NOW, THEREFORE, BE IT RESOLVED** by the Whittier City Council that:

**Section 1.** The City Manager is hereby authorized to enter into a contract with Appraisal Company of Alaska, LLC. to provide financial personal and real property appraisal services for the FY2023 tax year, in the amount of \$14,000



**Section 2.** Funding in the amount of \$14,000 is hereby approved and appropriated

**Section 3.** This resolution shall take effect immediately upon adoption.

**PASSED AND APPROVED** by a duly constituted quorum of the Whittier City Council on this 20<sup>th</sup> day of September, 2022.

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Dave Dickason, Mayor

AYES:

NAYS:

ABSENT:

ABSTAIN:

**ATTEST:**

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Jackie Wilde

Assistant City Manager/Acting City Clerk

# Council Agenda Statement



**Meeting Date:** September 20, 2022

**To:** City Council

**Through:** Jim Hunt, City Manager

**Agenda Item:** **Resolution 2022-027** Authorizing the City Manager to Continue Professional Services with Appraisal Company of Alaska, LLC. To Provide Financial Personal and Real Property Appraisal Services for The FY2023 Tax Year, And Related Purposes for An Amount Not to Exceed \$14,000 And Appropriating Funds.

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## **BACKGROUND JUSTIFICATION & INTENT:**

The City annually complies with requirements of Whittier Municipal Code with regard to property appraisal and tax assessment.

Appraisal Company of Alaska, LLC has previously contracted for appraisal services with the City. Whittier Municipal Code provides that consultants and professional service providers can be hired on a sole source basis without competitive process; and

Administration recommends that the City continue its contractual relationship with Appraisal Company of Alaska, LLC for the purposes of conducting personal and real property appraisals for tax assessments.

<b><u>CONSISTENCY CHECKLIST:</u></b>		Yes	No	N/A
1.	2020 Comprehensive Plan ( <i>document source here</i> ):	X		
2.	Whittier Code:	X		
3.	Other ( <i>list</i> ):	X		

**FISCAL NOTE:** Funding for this item is anticipated in the 2023 Budget. Staff recommends an appropriation of \$14,000.

**ATTORNEY REVIEW:** Yes\_\_\_\_ No X

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**RECOMMENDATION:** The City Manager recommends that the City continue its contractual relationship with Appraisal Company of Alaska, LLC for the purposes of conducting personal and real property appraisals for tax assessments.

Sponsored by: Administration

**CITY OF WHITTIER, ALASKA  
RESOLUTION 2022- 028**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WHITTIER, ALASKA, APPOINTING THE CITY ELECTION  
OFFICIALS AND CANVASS BOARD FOR THE OCTOBER 4,  
2022 REGULAR CITY ELECTION**

**WHEREAS**, the City of Whittier will hold its regular City election on October 4, 2022; and

**WHEREAS**, the City Clerk is appointed city election official. Any properly authorized assistant to the City Clerk shall be an assistant city election official and may perform any functions set out in this chapter as being performed by the City and will be appointed by City Council and.

**WHEREAS**, before each election, the council shall appoint three judges in each precinct to constitute the election board for that precinct and may appoint two election clerks for each precinct.

**WHEREAS**, the city election official may appoint up to three additional election clerks at any polling place where additional election clerks are required to conduct an orderly election or to relieve the judges or clerks serving of undue hardship.

**WHEREAS**, immediately following the closing of the polls in each precinct, the judges shall open the ballot box and count the number of ballots cast. This number shall be checked against the number of signatures in the registration book. All ballots then shall be replaced in the ballot box.

**WHEREAS**, the ballots shall again be removed from the ballot box, one by one, by the election judges. As each ballot is removed, it shall be opened, and the name of each person voted for read aloud.

**WHEREAS**, the judges shall write down each office to be filled and the name of each person who is a candidate for such office, and shall keep the number of votes by tallies, as they are read aloud.

**WHEREAS**, Tuesday September 11, 2022 per the city election official and two additional election clerks will count early and absentee ballots

**NOW, THEREFORE, BE IT RESOLVED BY THE WHITTIER CITY COUNCIL,**  
that:

The City Council of the City of Whittier, Alaska hereby appoints the following persons to serve as election officials for the October 4, 2022 regular city election:

Jackie Wilde, Amy Pantaleon, Dyanna Pratt, Charlene Arneson, Jesse Alk, Alexandra Matsumiya, Vernadette Macal tao, and Catrina Pantaleon

**NOW, THEREFORE, BE IT RESOLVED** by the Whittier City Council that:

1. This resolution shall take effect immediately upon adoption.

**PASSED AND APPROVED** by a duly constituted quorum of the Whittier City Council on this 20<sup>th</sup> day of September, 2022.

---

Dave Dickason, Mayor

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

**ATTEST:**

---

Jackie Wilde  
Assistant City Manager/Acting City Clerk

SEP 07 2022

BY: \_\_\_\_\_



CITY OF WHITTIER, ALASKA  
APPLICATION FOR THE  
WHITTIER COMMISSION SEAT

Commission seat applying for: Check One ☒ Planning and Zoning ☐ Port and Harbor

NAME: BRIAN D. FLEENOR

STREET ADDRESS: 100 KENAI ST. Apt. 611 WHITTIER, AK 99693

MAILING ADDRESS: PO BOX 768 WHITTIER, AK 99693

HOME TELEPHONE: 812 498 3498 BUSINESS PHONE: SAME

E-MAIL ADDRESS: BRFLEE58@gmail.com

Have you resided in the City of Whittier for at least six months? ☒ Yes ☐ No

Are you a qualified voter in the City of Whittier? ☒ Yes ☐ No

List any special training, education, or background you have which may help you as a member of the Commission. I HAVE A CERTIFICATE IN PROJECT MANAGEMENT  
W/ THE U.S. GOV (CAN PROVIDE IF NEEDED) I ALSO MANAGED  
CONTRACTS FOR THE U.S. GOV IN EXCESS OF 10 MILLION DOLLARS  
(CAN ALSO PROVIDE PROOF OF SAME)

Have you ever developed real property, other than your own personal residence? If so, briefly describe the development: NONE

I am specifically interested in serving on the Select one P & Z Commission because:  
I WANT TO ENSURE PROPER PLANNING AND ZONING TO HELP  
WHITTIER GROW AND BE RESPONSIBLE

Have you ever served on a similar commission elsewhere? ☐ Yes ☒ No  
If so, where? \_\_\_\_\_ And when? \_\_\_\_\_

CERTIFICATION

I certify under penalty of perjury that the foregoing is true and that the information in this statement is, to the best of my knowledge, true, correct and complete. A person who makes a false sworn certification which he or she does not believe to be true is guilty of perjury.

SIGNATURE: Brian D. Fleenor

BRIAN D. FLEENOR 9-7-2022 WHITTIER, AK  
PRINT NAME OF FILER DATE AND PLACE SIGNED

CITY OF WHITTIER, ALASKA  
APPLICATION FOR THE  
WHITTIER COMMISSION SEAT



Commission seat applying for: *Check One* ☒ Planning and Zoning ☐ Port and Harbor

NAME: Anna Dickason

STREET ADDRESS: 100 Kenai Street #1011, Whittier, AK 99693

MAILING ADDRESS: PO Box 744, Whittier, AK 99693

HOME TELEPHONE: (907) 441-6991 BUSINESS PHONE: (907) 472-2575

E-MAIL ADDRESS: anna.dickason@yahoo.com

Have you resided in the City of Whittier for at least six months? ☒ Yes ☐ No

Are you a qualified voter in the City of Whittier? ☒ Yes ☐ No

List any special training, education, or background you have which may help you as a member of the Commission. I have a Bachelor's Degree in Human Services, extensive administration experience and have served on the Begich Towers Board of Directors several times.

Have you ever developed real property, other than your own personal residence? If so, briefly describe the development: N/A

I am specifically interested in serving on the Planning and Zoning Commission because:  
I am passionate about cleaning up Whittier and addressing compliance issues and would like to help with rewriting our code.

Have you ever served on a similar commission elsewhere? ☐ Yes ☒ No  
If so, where? \_\_\_\_\_ And when? \_\_\_\_\_

CERTIFICATION

I certify under penalty of perjury that the foregoing is true and that the information in this statement is, to the best of my knowledge, true, correct and complete. A person who makes a false sworn certification which he or she does not believe to be true is guilty of perjury.

SIGNATURE: Anna Dickason

Anna Dickason

PRINT NAME OF FILER

09/13/22  
DATE AND PLACE SIGNED

CITY OF WHITTIER  
COMBINED CASH INVESTMENT  
JULY 31, 2022

COMBINED CASH ACCOUNTS

99-000-1000	COMBINED CASH CHECKING	3,228,207.66
99-000-1001	XPRESS DEPOSIT ACCOUNT	2,032.37
99-000-1020	COMBINED INVESTMENTS	6,497,683.65
		<hr/>
	TOTAL COMBINED CASH	9,727,923.68
99-000-1800	CASH CLEARING - ACCT REC	( 71,176.80)
99-000-1850	CASH CLEARING - UTILITIES	( 564.70)
99-000-0100	CASH ALLOCATED TO OTHER FUNDS	( 9,656,182.18)
		<hr/>

TOTAL UNALLOCATED CASH	<hr/> <hr/>	.00
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CASH ALLOCATION RECONCILIATION

1	ALLOCATION TO GENERAL FUND	2,310,620.85
14	ALLOCATION TO PUBLIC WORKS EQUIP FUND	295,912.44
20	ALLOCATION TO CRUISE SHIP TAX	1,611,621.11
21	ALLOCATION TO COVID19 GRANT FUND	( 14,939.34)
24	ALLOCATION TO NEW CITY PARK FUND	88,760.45
30	ALLOCATION TO SHOTGUN COVE	( 71,939.87)
31	ALLOCATION TO 2019 EARTHQUAKE	( 1,210,473.25)
50	ALLOCATION TO WATER AND WASTEWATER	519,236.12
51	ALLOCATION TO SMALL BOAT HARBOR	1,692,333.20
53	ALLOCATION TO DELONG DOCK	1,032,181.44
60	ALLOCATION TO MOTOR POOL	49,517.00
61	ALLOCATION TO COMPENSATED ABSENCES	112,855.68
72	ALLOCATION TO GENERAL FUND MRRF	974,900.00
73	ALLOCATION TO HARBOR MRRF	1,214,186.43
75	ALLOCATION TO WATER/WASTEWATER MRRF	1,051,409.92
		<hr/>

TOTAL ALLOCATIONS TO OTHER FUNDS	9,656,182.18
ALLOCATION FROM COMBINED CASH FUND - 99-000-1000	( 9,656,182.18)
	<hr/>

ZERO PROOF IF ALLOCATIONS BALANCE	<hr/> <hr/>	.00
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## CITY OF WHITTIER

## BALANCE SHEET

JULY 31, 2022

## GENERAL FUND

ASSETS

01-000-0100	CASH - COMBINED FUND	2,310,620.85	
01-000-1090	PETTY CASH	250.00	
01-000-1200	ACCOUNTS RECEIVABLE - GENERAL	65,706.91	
01-000-1201	AR- NOT THRU AR JOURNAL CASELL	54,019.91	
01-000-1210	ACCOUNTS REC PROPERTY TAX REAL	427,135.12	
01-000-1212	ACCOUNTS REC PROPERTY TAX PERS	423,013.13	
01-000-1215	UNAPPLIED PAYMENT - PROP TAX	( 20,911.29)	
01-000-1220	ACCOUNTS REC - BUSINESS TAX	9,595.29	
01-000-1230	ACCOUNTS RECEIVABLE - LEASES	677.12	
01-000-1250	ACCOUNTS REC TUNNEL CONTRACT	15,538.88	
01-000-1299	ALLOWANCE FOR DOUBTFUL ACCOUN	( 84,817.13)	
01-000-1710	PREPAID WORKER'S COMP.	75,766.36	
01-000-1720	PREPAID INSURANCE	116,221.81	
TOTAL ASSETS			3,392,816.96

LIABILITIES AND EQUITYLIABILITIES

01-000-2000	ACCOUNTS PAYABLE	15,708.03	
01-000-2050	FEDERAL PAYROLL TAXES PAYABLE	12,266.63	
01-000-2060	ESC TAXES PAYABLE	( 6,728.01)	
01-000-2075	HEALTH & LIFE INSURANCE PAYABL	( 17,674.01)	
01-000-2080	PERS PAYABLE	7,865.42	
01-000-2090	AFLAC/GUARDIAN INSURANCE LIAB	( 1,151.15)	
01-000-2310	UNEARNED REVENUE - PROPERTY TA	78,001.76	
01-000-2320	UNEARNED REVENUE - OTHER	856.59	
01-000-2330	UNEARNED REVENUE - LEASES	10,156.14	
TOTAL LIABILITIES			99,301.40

FUND EQUITY

01-000-3000	FUND BALANCE	1,904,231.10	
01-000-3201	F/B-ASSIGNED OPERATING RESERVE	326,831.96	
01-000-3202	F/B-ASSIGNED PARKS AND REC	43,700.88	
01-000-3203	F/B-ASSIGNED EXXON SETTLEMENT	84,427.57	
REVENUE OVER EXPENDITURES - YTD		934,324.05	
BALANCE - CURRENT DATE		3,293,515.56	
TOTAL FUND EQUITY			3,293,515.56
TOTAL LIABILITIES AND EQUITY			3,392,816.96



CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>TAXES</u>					
01-310-4005 FISH TAX	.00	22,151.54	50,000.00	27,848.46	44.3
01-310-4006 MOTOR VEHICLE REGISTRATION	173.88	1,834.48	3,500.00	1,665.52	52.4
01-310-4007 LIQUOR TAX	.00	6,550.00	5,000.00	( 1,550.00)	131.0
01-310-4009 ELEC & TELE CO-OP TAX	.00	.00	3,500.00	3,500.00	.0
01-310-4200 SALES TAX	281,951.16	286,917.98	575,000.00	288,082.02	49.9
01-310-4201 PROPERTY TAX - REAL	409,748.64	409,480.46	380,000.00	( 29,480.46)	107.8
01-310-4202 PROPERTY TAX - PERSONAL	269,892.07	327,345.82	340,000.00	12,654.18	96.3
01-310-4205 BUSINESS TRANSPORTATION TAX	124,488.00	137,544.00	405,000.00	267,456.00	34.0
TOTAL TAXES	1,086,253.75	1,191,824.28	1,762,000.00	570,175.72	67.6
<u>LICENSES &amp; PERMITS</u>					
01-320-4250 BUSINESS LICENSES	250.00	2,950.00	4,000.00	1,050.00	73.8
01-320-4251 USER FEES & PERMITS	750.00	1,496.25	1,000.00	( 496.25)	149.6
01-320-4312 AMBULANCE FEES	.00	.00	2,000.00	2,000.00	.0
TOTAL LICENSES & PERMITS	1,000.00	4,446.25	7,000.00	2,553.75	63.5
<u>INTERGOVERNMENTAL REVENUE</u>					
01-330-4000 GRANT REVENUE - MISCELLANEOUS	750.00	750.00	.00	( 750.00)	.0
01-330-4002 STATE REVENUE SHARING	.00	.00	50,000.00	50,000.00	.0
01-330-4003 STATE PAY-IN-LIEU OF TAXES	42,625.46	42,625.46	55,000.00	12,374.54	77.5
01-330-4006 STATE OF ALASKA GRANT DCCED	.00	447,990.04	.00	( 447,990.04)	.0
01-330-4025 NAT'L FOREST SERVICE RECEIPTS	.00	28,292.38	21,000.00	( 7,292.38)	134.7
TOTAL INTERGOVERNMENTAL REVENUE	43,375.46	519,657.88	126,000.00	( 393,657.88)	412.4
<u>LEASES</u>					
01-345-4512 LEASE INCOME - ARRC AGREEMENT	.00	13,691.45	.00	( 13,691.45)	.0
01-345-4513 LEASE CREDITS (CONTRA)	.00	.00	( 4,000.00)	( 4,000.00)	.0
01-345-4515 LEASE INCOME - CITY LAND	5,589.58	109,806.55	272,751.00	162,944.45	40.3
01-345-4517 LEASES - ARRC LAND	1,176.49	8,235.43	.00	( 8,235.43)	.0
01-345-4520 LEASE INCOME - CONDOMINIUMS	471.16	2,751.84	12,000.00	9,248.16	22.9
01-345-4525 LAND USE RENT	105.00	12,483.08	12,250.00	( 233.08)	101.9
TOTAL LEASES	7,342.23	146,968.35	293,001.00	146,032.65	50.2
<u>FINES &amp; CITATIONS</u>					
01-350-4261 PSD FINES & CITATIONS	300.00	450.00	500.00	50.00	90.0
01-350-4262 PSD PARKING TICKETS CIVIL	.00	1,600.00	500.00	( 1,100.00)	320.0
TOTAL FINES & CITATIONS	300.00	2,050.00	1,000.00	( 1,050.00)	205.0

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>MISCELLANEOUS</u>					
01-360-4099 MISCELLANEOUS REVENUE	194.20	17,442.35	2,500.00	( 14,942.35)	697.7
01-360-4204 INTEREST & PENALTIES	.00	385.33	.00	( 385.33)	.0
01-360-4900 INTEREST ON BANK ACCOUNTS	2,355.59	6,930.37	50,000.00	43,069.63	13.9
01-360-4914 TRANSFIELD - TUNNEL CONTRAC	7,769.44	32,827.13	77,825.00	44,997.87	42.2
01-360-4915 GIRDWOOD-POLICE CONTRACT	59,006.25	413,043.75	675,000.00	261,956.25	61.2
TOTAL MISCELLANEOUS	69,325.48	470,628.93	805,325.00	334,696.07	58.4
<u>TRANSFERS &amp; OTHER</u>					
01-390-4990 TRANSFER IN FROM CVP FUND	.00	347,287.00	347,287.00	.00	100.0
01-390-4991 TRANSFER IN	.00	100,000.00	100,000.00	.00	100.0
01-390-4994 TRANSFER IN FROM HARBOR	13,091.66	91,641.62	157,100.00	65,458.38	58.3
01-390-4995 TRANSFER IN FROM VVWS	2,909.16	20,364.12	34,910.00	14,545.88	58.3
01-390-4996 TRANSFER IN FROM DELONG DOCK	3,241.66	22,691.62	38,900.00	16,208.38	58.3
TOTAL TRANSFERS & OTHER	19,242.48	581,984.36	678,197.00	96,212.64	85.8
TOTAL FUND REVENUE	1,226,839.40	2,917,560.05	3,672,523.00	754,962.95	79.4

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>ADMIN</u>					
01-400-6000 SALARIES & WAGES	28,686.01	196,111.69	338,650.00	142,538.31	57.9
01-400-6030 FICA TAXES	400.57	4,620.15	4,829.00	208.85	95.7
01-400-6040 WORKER'S COMP.	.00	( 1,455.05)	1,596.00	3,051.05	( 91.2)
01-400-6050 ESC TAXES	174.53	2,162.29	3,330.00	1,167.71	64.9
01-400-6060 HEALTH & LIFE INSURANCE	.00	40,592.43	67,906.00	27,313.57	59.8
01-400-6070 PERS RETIREMENT	5,404.81	42,933.55	72,608.00	29,674.45	59.1
01-400-6205 ADVERTISING	.00	735.00	5,000.00	4,265.00	14.7
01-400-6220 BANK SERVICES CHARGES	449.24	2,731.52	7,000.00	4,268.48	39.0
01-400-6240 COMMUNITY SUPPORT-DONATIONS	.00	.00	2,000.00	2,000.00	.0
01-400-6280 DUES & SUBSCRIPTIONS	.00	2,858.97	5,000.00	2,141.03	57.2
01-400-6410 INSURANCE - LIABILITY	11,059.67	18,997.38	8,750.00	( 10,247.38)	217.1
01-400-6440 INSURANCE - PROPERTY	199.06	372.37	.00	( 372.37)	.0
01-400-6540 LICENSES & PERMITS	.00	.00	250.00	250.00	.0
01-400-6541 PENALTIES & FEES	.00	.00	1,200.00	1,200.00	.0
01-400-6565 OUTSIDE CONTRACTORS	3,100.00	6,868.44	15,000.00	8,131.56	45.8
01-400-6570 PHYSICAL EXAMS & BACKGROUND CK	.00	53.00	400.00	347.00	13.3
01-400-6580 POSTAGE	500.00	1,520.37	2,500.00	979.63	60.8
01-400-6610 PROF. FEES - ACCOUNTING	.00	4,800.00	25,200.00	20,400.00	19.1
01-400-6620 PROF. FEES - APPRAISAL	.00	12,000.00	12,500.00	500.00	96.0
01-400-6625 PROF. FEES - FINANCIAL SOFTWARE	4,266.00	21,212.00	22,000.00	788.00	96.4
01-400-6635 PROF. FEES - COMPUTER SUPPORT	.00	.00	7,500.00	7,500.00	.0
01-400-6636 PROF FEES - WEB SITE SUPPORT	3,508.70	3,933.95	4,800.00	866.05	82.0
01-400-6640 PROF. FEES-ENGINEERING	.00	.00	30,000.00	30,000.00	.0
01-400-6650 PROF. FEES - LEGAL	4,891.34	22,837.65	62,000.00	39,162.35	36.8
01-400-6700 PUBLICATIONS & SUBSCRIPTIONS	.00	514.99	1,200.00	685.01	42.9
01-400-6735 EQUIPMENT AND FURNISHINGS	.00	3,000.00	.00	( 3,000.00)	.0
01-400-6770 TRAVEL, TRAINING & DEV.	63.75	17,978.60	10,000.00	( 7,978.60)	179.8
01-400-7100 REPAIRS - BUILDING	.00	439.68	.00	( 439.68)	.0
01-400-7351 EQUIPMENT MAINT. AGREEMENTS	.00	.00	2,000.00	2,000.00	.0
01-400-7450 REPAIRS-OFFICE EQUIPMENT	.00	.00	1,000.00	1,000.00	.0
01-400-8150 SUPPLIES - CONSUMABLE	.00	1,253.28	.00	( 1,253.28)	.0
01-400-8550 SUPPLIES - OFFICE	1,637.00	6,680.39	5,000.00	( 1,680.39)	133.6
01-400-8750 SUPPLIES - PRINTING	82.76	1,825.94	500.00	( 1,325.94)	365.2
01-400-9000 UTILITIES - INTERNET	1,664.82	10,493.98	14,000.00	3,506.02	75.0
01-400-9070 UTILITIES - TELEPHONE	1,038.34	5,522.77	9,500.00	3,977.23	58.1
01-400-9100 MISCELLANEOUS EXPENSES	.00	.00	2,000.00	2,000.00	.0
01-400-9520 CAPITAL OUTLAY - EQUIPMENT	.00	5,648.57	13,000.00	7,351.43	43.5
01-400-9530 CAPITAL OUTLAY-COMPUTER EQUIP	.00	.00	5,000.00	5,000.00	.0
TOTAL ADMIN	67,126.60	437,243.91	763,219.00	325,975.09	57.3

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>COUNCIL</u>					
01-401-6240 CITY COUNCIL-COMMUNITY SUPPORT	1,275.00	4,812.16	4,000.00	( 812.16)	120.3
01-401-6241 WEBSITE - CODE UPDATES	.00	.00	2,500.00	2,500.00	.0
01-401-6280 DUES & SUBSCRIPTIONS	1,453.90	1,453.90	600.00	( 853.90)	242.3
01-401-6325 FIREWORKS	12,500.00	12,500.00	12,500.00	.00	100.0
01-401-6600 PROF. FEES - AUDIT	9,142.99	39,010.08	42,000.00	2,989.92	92.9
01-401-6636 PROF FEES - WEB SITE SUPPORT	.00	350.00	.00	( 350.00)	.0
01-401-6650 PROF. FEES - LEGAL	.00	.00	10,000.00	10,000.00	.0
01-401-6710 PUBLIC RELATIONS	.00	62.81	2,500.00	2,437.19	2.5
01-401-6770 TRAVEL, TRAINING & DEV.	.00	3,206.15	3,000.00	( 206.15)	106.9
01-401-6800 COUNCIL CHAMBER IMPROV	.00	.00	1,500.00	1,500.00	.0
01-401-8550 SUPPLIES - OFFICE	.00	.00	800.00	800.00	.0
01-401-9500 LOBBYIST FEES	14,000.00	74,000.00	120,000.00	46,000.00	61.7
TOTAL COUNCIL	38,371.89	135,395.10	199,400.00	64,004.90	67.9
<u>ELECTIONS</u>					
01-420-6100 VOLUNTEER SUPPORT	.00	.00	1,200.00	1,200.00	.0
01-420-6205 ADVERTISING	.00	.00	600.00	600.00	.0
01-420-8150 SUPPLIES - CONSUMABLE	.00	.00	550.00	550.00	.0
TOTAL ELECTIONS	.00	.00	2,350.00	2,350.00	.0

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>PUBLIC SAFETY</u>					
01-510-6000 SALARIES & WAGES	65,873.35	422,113.23	851,273.00	429,159.77	49.6
01-510-6030 FICA TAXES	1,055.26	7,892.83	22,870.00	14,977.17	34.5
01-510-6040 WORKER'S COMP.	.00	9,190.59	41,417.00	32,226.41	22.2
01-510-6050 ESC TAXES	190.01	5,413.74	8,203.00	2,789.26	66.0
01-510-6060 HEALTH & LIFE INSURANCE	492.60	47,963.93	106,542.00	58,578.07	45.0
01-510-6070 PERS RETIREMENT	14,698.06	83,583.88	142,041.00	58,457.12	58.8
01-510-6091 UNIFORM ALLOWANCE	.00	1,240.00	2,000.00	760.00	62.0
01-510-6100 VOLUNTEER SUPPORT	.00	.00	1,000.00	1,000.00	.0
01-510-6205 ADVERTISING	.00	.00	250.00	250.00	.0
01-510-6210 B.T.I. CONDO FEES	.00	.00	1,200.00	1,200.00	.0
01-510-6280 DUES & SUBSCRIPTIONS	.00	59.96	500.00	440.04	12.0
01-510-6410 INSURANCE - LIABILITY	15,669.12	25,624.47	17,500.00	( 8,124.47)	146.4
01-510-6420 INSURANCE - AUTO	5,955.40	9,470.42	9,000.00	( 470.42)	105.2
01-510-6540 LICENSES & PERMITS	.00	50.00	2,000.00	1,950.00	2.5
01-510-6565 OUTSIDE CONTRACTORS	.00	37,747.30	55,000.00	17,252.70	68.6
01-510-6570 PHYSICAL EXAMS	.00	466.00	2,000.00	1,534.00	23.3
01-510-6580 POSTAGE	.00	9.45	300.00	290.55	3.2
01-510-6635 PROF. FEES - COMPUTER SUPPORT	.00	.00	1,000.00	1,000.00	.0
01-510-6700 PUBLICATIONS & SUBSCRIPTIONS	.00	.00	500.00	500.00	.0
01-510-6735 EQUIPMENT PURCHASE	.00	.00	6,000.00	6,000.00	.0
01-510-6740 SMALL TOOLS	.00	.00	3,000.00	3,000.00	.0
01-510-6761 TRAINING - EMS SUPVSG MD	.00	.00	2,000.00	2,000.00	.0
01-510-6770 TRAVEL, TRAINING & DEV.	.00	( 5,668.48)	5,000.00	10,668.48	(113.4)
01-510-7100 BUILDING MAINT.	.00	293.80	1,500.00	1,206.20	19.6
01-510-7150 REPAIRS - COMMUNICATION EQUIPM	.00	60.00	2,000.00	1,940.00	3.0
01-510-7200 REPAIRS-COMPUTER SYSTEM	.00	.00	1,500.00	1,500.00	.0
01-510-7350 REPAIRS - EQUIPMENT	.00	.00	8,000.00	8,000.00	.0
01-510-7400 REPAIRS - VEHICLES	.00	426.54	5,000.00	4,573.46	8.5
01-510-7750 GAS & OIL - VEHICLES	2,854.86	11,600.47	15,000.00	3,399.53	77.3
01-510-8020 SUPPLIES - AMMUNITION	.00	.00	5,000.00	5,000.00	.0
01-510-8100 SUPPLIES - COMPUTERS	.00	.00	2,500.00	2,500.00	.0
01-510-8150 SUPPLIES - CONSUMABLE	.00	3,069.44	4,000.00	930.56	76.7
01-510-8550 SUPPLIES - OFFICE	.00	477.42	2,000.00	1,522.58	23.9
01-510-8650 SUPPLIES & DRUGS BILLABLE	.00	169.48	.00	( 169.48)	.0
01-510-8950 SUPPLIES - UNIFORMS	337.94	4,232.51	4,000.00	( 232.51)	105.8
01-510-9000 UTILITIES - INTERNET	1,298.65	8,078.75	14,000.00	5,921.25	57.7
01-510-9070 UTILITIES - TELEPHONE	855.02	5,668.42	8,000.00	2,331.58	70.9
01-510-9525 CAPITAL - MOTOR POOL FUNDING	.00	15,000.00	15,000.00	.00	100.0
TOTAL PUBLIC SAFETY	109,280.27	694,234.15	1,368,096.00	673,861.85	50.7

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>FIRE</u>					
01-520-6000 SALARIES & WAGES	1,151.98	8,873.59	14,677.00	5,803.41	60.5
01-520-6030 FICA TAXES	16.70	132.66	1,102.00	969.34	12.0
01-520-6040 WORKERS COMP	.00	( 34.23)	874.00	908.23	( 3.9)
01-520-6050 ESC TAXES	.00	64.60	144.00	79.40	44.9
01-520-6100 VOLUNTEER SUPPORT	.00	.00	8,000.00	8,000.00	.0
01-520-6410 INSURANCE - LIABILITY	534.97	940.86	1,000.00	59.14	94.1
01-520-6420 INSURANCE - AUTO	1,803.86	3,289.96	4,500.00	1,210.04	73.1
01-520-6735 EQUIPMENT PURCHASE	.00	.00	5,000.00	5,000.00	.0
01-520-6750 TESTING	.00	.00	2,500.00	2,500.00	.0
01-520-6770 TRAVEL, TRAINING & DEV.	.00	290.00	1,000.00	710.00	29.0
01-520-7350 REPAIRS - EQUIPMENT	.00	380.68	2,000.00	1,619.32	19.0
01-520-7400 REPAIRS - VEHICLES	.00	.00	1,500.00	1,500.00	.0
01-520-7750 GAS & OIL - VEHICLES	.00	.00	1,000.00	1,000.00	.0
01-520-8550 SUPPLIES - OFFICE	.00	.00	150.00	150.00	.0
01-520-8950 SUPPLIES - UNIFORMS	.00	1,690.00	2,750.00	1,060.00	61.5
TOTAL FIRE	3,507.51	15,628.12	46,197.00	30,568.88	33.8

<u>EMS</u>					
01-530-6000 SALARIES & WAGES	9,906.83	76,441.28	133,996.00	57,554.72	57.1
01-530-6030 FICA TAXES	309.79	2,568.79	5,698.00	3,129.21	45.1
01-530-6040 WORKER'S COMP.	.00	5,354.33	12,378.00	7,023.67	43.3
01-530-6050 ESC TAXES	125.14	1,064.71	1,324.00	259.29	80.4
01-530-6060 HEALTH & LIFE INSURANCE	.00	7,893.27	15,611.00	7,717.73	50.6
01-530-6070 PERS RETIREMENT	1,209.82	9,192.63	15,981.00	6,788.37	57.5
01-530-6091 UNIFORM ALLOWANCE	.00	280.00	600.00	320.00	46.7
01-530-6100 EMS VOLUNTEER SUPPORT	.00	.00	6,000.00	6,000.00	.0
01-530-6410 INSURANCE - LIABILITY	7,846.01	10,007.26	8,000.00	( 2,007.26)	125.1
01-530-6420 INSURANCE - AUTO	921.99	2,362.02	3,500.00	1,137.98	67.5
01-530-6570 PHYSICAL EXAMS	.00	.00	400.00	400.00	.0
01-530-6735 EQUIPMENT PURCHASE	.00	.00	1,000.00	1,000.00	.0
01-530-6750 TESTING	.00	.00	250.00	250.00	.0
01-530-6761 TRAINING - EMS SUPVSG MD	1,000.00	7,000.00	10,000.00	3,000.00	70.0
01-530-6770 TRAVEL, TRAINING & DEV.	.00	1,175.00	2,000.00	825.00	58.8
01-530-7350 REPAIRS - EQUIPMENT	.00	776.89	.00	( 776.89)	.0
01-530-7400 REPAIRS - VEHICLES	.00	218.79	1,500.00	1,281.21	14.6
01-530-7750 GAS & OIL - VEHICLES	319.84	1,282.73	2,500.00	1,217.27	51.3
01-530-8150 SUPPLIES - CONSUMABLE	.00	236.97	3,000.00	2,763.03	7.9
01-530-8550 SUPPLIES - OFFICE	.00	9.02	250.00	240.98	3.6
01-530-8650 SUPPLIES AND DRUGS BILLABLE	63.92	1,852.46	2,500.00	647.54	74.1
01-530-8950 SUPPLIES - UNIFORMS	.00	.00	2,000.00	2,000.00	.0
01-530-9000 UTILITIES - INTERNET	632.12	3,823.42	6,500.00	2,676.58	58.8
01-530-9070 UTILITIES - TELEPHONE	50.50	351.82	500.00	148.18	70.4
TOTAL EMS	22,385.96	131,891.39	235,488.00	103,596.61	56.0

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>CLINIC</u>					
01-535-6210 B.T.I. CONDO FEE	.00	2,646.07	6,879.00	4,232.93	38.5
01-535-6440 INSURANCE - PROPERTY	.00	.00	1,200.00	1,200.00	.0
TOTAL CLINIC	.00	2,646.07	8,079.00	5,432.93	32.8
<u>PUBLIC WORKS</u>					
01-600-6000 SALARIES & WAGES	17,296.98	122,791.85	310,666.00	187,874.15	39.5
01-600-6030 FICA TAXES	250.79	1,843.17	5,498.00	3,654.83	33.5
01-600-6040 WORKER'S COMP.	.00	7,136.90	21,124.00	13,987.10	33.8
01-600-6050 ESC TAXES	166.76	1,709.08	3,063.00	1,353.92	55.8
01-600-6060 HEALTH & LIFE INSURANCE	.00	21,591.94	58,540.00	36,948.06	36.9
01-600-6070 PERS RETIREMENT	3,805.35	27,306.95	64,595.00	37,288.05	42.3
01-600-6410 INSURANCE - LIABILITY	6,977.50	11,580.15	7,750.00	( 3,830.15)	149.4
01-600-6420 INSURANCE - AUTO	1,917.93	3,530.73	4,800.00	1,269.27	73.6
01-600-6430 INSURANCE EQUIPMENT	1,862.41	3,606.20	5,000.00	1,393.80	72.1
01-600-6440 INSURANCE - PROPERTY	233.02	435.89	1,000.00	564.11	43.6
01-600-6540 LICENSES & FEES	.00	.00	250.00	250.00	.0
01-600-6565 OUTSIDE CONTRACTORS	.00	1,798.05	8,000.00	6,201.95	22.5
01-600-6570 PHYSICAL EXAMS	78.00	261.00	750.00	489.00	34.8
01-600-6635 PROF. FEES - COMPUTER SUPPORT	.00	.00	2,000.00	2,000.00	.0
01-600-6740 SMALL TOOLS	.00	.00	3,000.00	3,000.00	.0
01-600-6770 TRAVEL, TRAINING & DEV.	.00	127.00	2,000.00	1,873.00	6.4
01-600-7100 REPAIRS	.00	76.44	5,000.00	4,923.56	1.5
01-600-7210 REPAIRS - ROADS	51,873.86	81,183.64	107,000.00	25,816.36	75.9
01-600-7350 REPAIR & MAINTENANCE	.00	23,878.60	32,896.17	9,017.57	72.6
01-600-7750 GAS & OIL - VEHICLES	594.90	10,448.01	25,000.00	14,551.99	41.8
01-600-8150 SUPPLIES - CONSUMABLE	.00	68.59	1,000.00	931.41	6.9
01-600-8550 SUPPLIES - OFFICE	.00	.00	500.00	500.00	.0
01-600-8950 SUPPLIES - UNIFORMS	.00	.00	750.00	750.00	.0
01-600-8970 SUPPLIES - SAFETY	.00	247.40	5,000.00	4,752.60	5.0
01-600-8995 SUPPLIES & MATERIALS	.00	1,143.65	15,000.00	13,856.35	7.6
01-600-9000 UTILITIES - INTERNET	898.73	5,685.57	9,500.00	3,814.43	59.9
01-600-9010 UTILITIES - ELECTRICITY	1,076.97	7,676.98	14,000.00	6,323.02	54.8
01-600-9070 UTILITIES - TELEPHONE	648.07	2,454.21	1,750.00	( 704.21)	140.2
01-600-9095 UTILITIES - WATER/SEWER	.00	.00	5,000.00	5,000.00	.0
01-600-9520 CAPITAL OUTLAY - EQUIPMENT	.00	7,180.04	30,000.00	22,819.96	23.9
01-600-9900 INTERDEPARTMENT SUPPORT	.00	( 35,000.00)	( 35,000.00)	.00	(100.0)
TOTAL PUBLIC WORKS	87,681.27	308,762.04	715,432.17	406,670.13	43.2

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>PROPERTY &amp; FACILITIES</u>					
01-700-6210	B.T.I. CONDO FEES	.00	6,596.24	13,099.00	6,502.76	50.4
01-700-6410	INSURANCE - LIABILITY	1,738.61	3,048.63	1,500.00	( 1,548.63)	203.2
01-700-6440	INSURANCE - PROPERTY	11,968.02	21,624.15	22,000.00	375.85	98.3
01-700-6565	PROP & FAC-CONTRACTED SERVICES	740.00	9,850.05	14,000.00	4,149.95	70.4
01-700-7100	REPAIRS - BUILDINGS	.00	876.75	5,000.00	4,123.25	17.5
01-700-7350	REPAIRS - EQUIPMENT	.00	1,170.27	5,000.00	3,829.73	23.4
01-700-8150	SUPPLIES - CONSUMABLE	.00	4,036.24	1,500.00	( 2,536.24)	269.1
01-700-8550	JANITORIAL SUPPLIES	.00	99.14	500.00	400.86	19.8
01-700-8970	SUPPLIES - SAFETY	.00	.00	500.00	500.00	.0
01-700-9010	UTILITIES - ELECTRICITY	2,243.27	18,439.49	35,000.00	16,560.51	52.7
01-700-9040	UTILITIES - HEATING FUEL	720.95	11,563.04	22,000.00	10,436.96	52.6
01-700-9050	UTILITIES - SOLID WASTE	73.91	504.93	2,000.00	1,495.07	25.3
01-700-9095	UTILITIES - WATER/SEWER	.00	405.81	2,000.00	1,594.19	20.3
	<u>TOTAL PROPERTY &amp; FACILITIES</u>	<u>17,484.76</u>	<u>78,214.74</u>	<u>124,099.00</u>	<u>45,884.26</u>	<u>63.0</u>
	<u>PARKS AND RECREATION</u>					
01-800-6000	SALARIES AND WAGES	972.64	1,600.39	6,448.00	4,847.61	24.8
01-800-6030	FICA TAXES	74.39	122.41	493.00	370.59	24.8
01-800-6040	WORKER'S COMP	.00	.00	31.00	31.00	.0
01-800-6050	ESC TAX	14.89	24.49	64.00	39.51	38.3
01-800-6565	OUTSIDE CONTRACTORS	.00	.00	3,000.00	3,000.00	.0
01-800-7340	PROFESSIONAL SERVICES	.00	.00	20,000.00	20,000.00	.0
01-800-7350	REPAIRS EQUIPMENT	28.30	28.30	3,000.00	2,971.70	.9
01-800-8950	SUPPLIES AND MATERIALS	318.19	5,303.89	5,000.00	( 303.89)	106.1
01-800-9510	CAPITAL OUTLAY - EQUIPMENT	.00	.00	5,000.00	5,000.00	.0
	<u>TOTAL PARKS AND RECREATION</u>	<u>1,408.41</u>	<u>7,079.48</u>	<u>43,036.00</u>	<u>35,956.52</u>	<u>16.5</u>
	<u>GF ADMN CAPITAL OUTLAY</u>					
01-910-9540	CAPITAL OUTLAY - LAND & IMPROV	63,800.00	63,800.00	63,800.00	.00	100.0
	<u>TOTAL GF ADMN CAPITAL OUTLAY</u>	<u>63,800.00</u>	<u>63,800.00</u>	<u>63,800.00</u>	<u>.00</u>	<u>100.0</u>
	<u>TRANSFERS TO OTHER FUNDS</u>					
01-990-9990	TRANSFER OUT	.00	23,341.00	23,341.00	.00	100.0
01-990-9991	TRANSFER TO F 14 EQUIP REP PW	.00	25,000.00	25,000.00	.00	100.0
01-990-9992	CAPITAL EQUIPMENT SET ASIDE	.00	60,000.00	60,000.00	.00	100.0
	<u>TOTAL TRANSFERS TO OTHER FUNDS</u>	<u>.00</u>	<u>108,341.00</u>	<u>108,341.00</u>	<u>.00</u>	<u>100.0</u>
	<u>TOTAL FUND EXPENDITURES</u>	<u>411,046.67</u>	<u>1,983,236.00</u>	<u>3,677,537.17</u>	<u>1,694,301.17</u>	<u>53.9</u>



CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
NET REVENUE OVER EXPENDITURES	815,792.73	934,324.05	( 5,014.17)	( 939,338.22)	18633.

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

PUBLIC WORKS EQUIP FUND

ASSETS

14-000-0100	CASH - COMBINED FUND	295,912.44	
	TOTAL ASSETS		295,912.44

LIABILITIES AND EQUITY

FUND EQUITY

14-000-3000	FUND BALANCE	270,912.44	
	REVENUE OVER EXPENDITURES - YTD	25,000.00	
	BALANCE - CURRENT DATE	295,912.44	
	TOTAL FUND EQUITY		295,912.44
	TOTAL LIABILITIES AND EQUITY		295,912.44

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

PUBLIC WORKS EQUIP FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>TRANSFERS FROM OTHER FUNDS</u>					
14-390-4990	TRANSFER FROM GENERAL FUND	.00	25,000.00	25,000.00	.00	100.0
	TOTAL TRANSFERS FROM OTHER FUNDS	.00	25,000.00	25,000.00	.00	100.0
	TOTAL FUND REVENUE	.00	25,000.00	25,000.00	.00	100.0
	NET REVENUE OVER EXPENDITURES	.00	25,000.00	25,000.00	.00	100.0

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

CRUISE SHIP TAX

ASSETS

20-000-0100	CASH - COMBINED FUND	1,611,621.11	
	TOTAL ASSETS		1,611,621.11

LIABILITIES AND EQUITY

LIABILITIES

20-000-2000	ACCOUNTS PAYABLE	698.75	
	TOTAL LIABILITIES		698.75

FUND EQUITY

20-000-3000	UNDESIGNATED-FUND BALANCE	1,900,379.95	
	REVENUE OVER EXPENDITURES - YTD	( 289,457.59)	
	BALANCE - CURRENT DATE	1,610,922.36	
	TOTAL FUND EQUITY		1,610,922.36
	TOTAL LIABILITIES AND EQUITY		1,611,621.11

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

CRUISE SHIP TAX

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>TAXES - REVENUE</u>					
20-310-4008	CRUISE SHIP TAX	.00	958,385.00	500,000.00	( 458,385.00)	191.7
	TOTAL TAXES - REVENUE	.00	958,385.00	500,000.00	( 458,385.00)	191.7
	TOTAL FUND REVENUE	.00	958,385.00	500,000.00	( 458,385.00)	191.7

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

CRUISE SHIP TAX

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	EXPENDITURES					
20-400-6240	MUSEUM SUPPORT - DONATIONS	.00	15,000.00	15,000.00	.00	100.0
20-400-6565	CONTRACTED SERVICES	1,979.65	381,935.81	656,629.79	274,693.98	58.2
20-400-6650	PROF. FEES - LEGAL	3,031.50	83,890.85	.00	( 83,890.85)	.0
20-400-9520	CAPITAL EQUIPMENT	.00	201,920.00	225,000.00	23,080.00	89.7
	TOTAL EXPENDITURES	5,011.15	682,746.66	896,629.79	213,883.13	76.2
	TRANSFERS OUT					
20-990-9990	TRANSFER TO OTHER FUNDS	698.75	349,945.93	347,287.00	( 2,658.93)	100.8
20-990-9992	TRANSFER TO HARBOR FUND #51	.00	215,150.00	221,050.00	5,900.00	97.3
	TOTAL TRANSFERS OUT	698.75	565,095.93	568,337.00	3,241.07	99.4
	TOTAL FUND EXPENDITURES	5,709.90	1,247,842.59	1,464,966.79	217,124.20	85.2
	NET REVENUE OVER EXPENDITURES	( 5,709.90)	( 289,457.59)	( 964,966.79)	( 675,509.20)	( 30.0)

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

COVID19 GRANT FUND

ASSETS

21-000-0100	CASH - COMBINED FUND	(	14,939.34)	
21-000-1200	ACCOUNTS RECEIVABLE		14,939.34	
TOTAL ASSETS				.00

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

NEW CITY PARK FUND

ASSETS

24-000-0100	CASH - COMBINED FUND	88,760.45	
	TOTAL ASSETS		88,760.45

LIABILITIES AND EQUITY

FUND EQUITY

24-000-3000	FUND BALANCE	88,760.45	
	TOTAL FUND EQUITY		88,760.45
	TOTAL LIABILITIES AND EQUITY		88,760.45



CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

SHOTGUN COVE

ASSETS

30-000-0100	CASH - COMBINED FUND	(	71,939.87)	
30-000-1205	GRANT RECEIVABLE		71,740.00	
	TOTAL ASSETS			( 199.87)

LIABILITIES AND EQUITY

LIABILITIES

30-000-2000	ACCOUNTS PAYABLE		4,483.75	
	TOTAL LIABILITIES			4,483.75

FUND EQUITY

	REVENUE OVER EXPENDITURES - YTD	(	4,683.62)	
	BALANCE - CURRENT DATE	(	4,683.62)	
	TOTAL FUND EQUITY			( 4,683.62)
	TOTAL LIABILITIES AND EQUITY			( 199.87)

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

SHOTGUN COVE

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>FEDERAL GRANT REVENUE WFL</u>					
30-350-4063	WFL DLG GRANT 3303A70007700000	71,740.00	167,865.93	.00	( 167,865.93)	.0
30-350-4064	WFL FLAP REVENUE 6905671950011	.00	21,453.20	.00	( 21,453.20)	.0
	TOTAL FEDERAL GRANT REVENUE WFL	71,740.00	189,319.13	.00	( 189,319.13)	.0
	TOTAL FUND REVENUE	71,740.00	189,319.13	.00	( 189,319.13)	.0

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

SHOTGUN COVE

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>FEDERAL GRANT EXPENDITURES WFL</u>					
30-850-9543	WFL DLG GRANT DTFH70-03A170077	4,483.75	172,549.55	.00	( 172,549.55)	.0
30-850-9544	FLAP 1 SCR DESIGN	.00	21,453.20	.00	( 21,453.20)	.0
	TOTAL FEDERAL GRANT EXPENDITURES W	4,483.75	194,002.75	.00	( 194,002.75)	.0
	TOTAL FUND EXPENDITURES	4,483.75	194,002.75	.00	( 194,002.75)	.0
	NET REVENUE OVER EXPENDITURES	67,256.25	( 4,683.62)	.00	4,683.62	.0

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

2019 EARTHQUAKE

ASSETS

31-000-0100	CASH - COMBINED FUND	(	1,210,473.25)	
31-000-1205	GRANT RECEIVABLE		649,044.77	
	TOTAL ASSETS			( 561,428.48)

LIABILITIES AND EQUITY

LIABILITIES

31-000-2002	AP OTHER NOT THRU JOURNAL		467.80	
	TOTAL LIABILITIES			467.80

FUND EQUITY

31-000-3000	FUND BALANCE		25,000.00	
	REVENUE OVER EXPENDITURES - YTD	(	586,896.28)	
	BALANCE - CURRENT DATE	(	561,896.28)	
	TOTAL FUND EQUITY			( 561,896.28)
	TOTAL LIABILITIES AND EQUITY			( 561,428.48)

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

2019 EARTHQUAKE

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	STATE GRANT EXPENDITURES					
31-820-9200	GRANT EXPENDITURES	.00	586,896.28	.00	( 586,896.28)	.0
	TOTAL STATE GRANT EXPENDITURES	.00	586,896.28	.00	( 586,896.28)	.0
	TOTAL FUND EXPENDITURES	.00	586,896.28	.00	( 586,896.28)	.0
	NET REVENUE OVER EXPENDITURES	.00	( 586,896.28)	.00	586,896.28	.0

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

WATER AND WASTEWATER

ASSETS

50-000-0100	CASH - COMBINED FUND	519,236.12	
50-000-1200	ACCT REC - WATER WASTEWATER	148,490.38	
50-000-1800	SYSTEMS	12,666,103.20	
50-000-1810	BUILDINGS & FACILITIES	1,288,370.61	
50-000-1820	MACHINERY & EQUIPMENT	115,753.81	
50-000-1830	CONSTRUCTION IN PROGRESS	257,105.00	
50-000-1890	ACCUMULATED DEPRECIATION	( 7,909,900.76)	
	TOTAL ASSETS		7,085,158.36

LIABILITIES AND EQUITY

LIABILITIES

50-000-2000	ACCOUNTS PAYABLE	3,919.35	
50-000-2050	FEDERAL PAYROLL TAXES PAYABLE	842.41	
50-000-2060	ESC TAXES PAYABLE	( 583.62)	
50-000-2075	HEALTH & LIFE INSURANCE PAYABL	( 1,469.84)	
50-000-2080	PERS PAYABLE	1,472.64	
50-000-2090	AFLAC/GUARDIAN INSURANCE LIAB	( 128.46)	
50-000-2095	ACCRUED LEAVE	13,872.78	
50-000-2320	UNEARNED REVENUE	417.66	
	TOTAL LIABILITIES		18,342.92

FUND EQUITY

50-000-3000	RETAINED EARNINGS	( 1,269,358.65)	
50-000-3350	NET INVESTMENT CAPITAL ASSETS	8,248,949.93	
	REVENUE OVER EXPENDITURES - YTD	87,224.16	
	BALANCE - CURRENT DATE	7,066,815.44	
	TOTAL FUND EQUITY		7,066,815.44
	TOTAL LIABILITIES AND EQUITY		7,085,158.36

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

WATER AND WASTEWATER

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>CHARGES FOR SERVICES</u>					
50-340-4300	WATER SERVICE CHARGES	73,417.67	194,430.89	250,000.00	55,569.11	77.8
50-340-4350	WASTE WATER SERVICE CHARGES	11,116.39	53,336.47	80,000.00	26,663.53	66.7
50-340-4500	ENTERPRISE-PERMIT FEES	.00	.00	100.00	100.00	.0
	TOTAL CHARGES FOR SERVICES	84,534.06	247,767.36	330,100.00	82,332.64	75.1
	<u>MISCELLANEOUS</u>					
50-360-4901	INTEREST ON BANK ACCOUNTS	.00	.00	17,500.00	17,500.00	.0
50-360-4910	MISCELLANEOUS INCOME	235.70	3,723.80	1,500.00	( 2,223.80)	248.3
	TOTAL MISCELLANEOUS	235.70	3,723.80	19,000.00	15,276.20	19.6
	<u>PROPERTY &amp; SURPLUS SALES</u>					
50-390-4990	TRANSFERS IN	.00	23,341.00	23,341.00	.00	100.0
	TOTAL PROPERTY & SURPLUS SALES	.00	23,341.00	23,341.00	.00	100.0
	TOTAL FUND REVENUE	84,769.76	274,832.16	372,441.00	97,608.84	73.8

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

WATER AND WASTEWATER

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>WATER &amp; WASTE WATER OPERATING</u>					
50-800-6000 SALARIES & WAGES	10,550.31	74,996.87	140,535.00	65,538.13	53.4
50-800-6030 FICA TAXES	152.55	1,124.38	2,517.00	1,392.62	44.7
50-800-6040 WORKER'S COMP.	.00	1,723.35	5,724.00	4,000.65	30.1
50-800-6050 ESC TAXES	72.01	902.00	1,383.00	481.00	65.2
50-800-6060 HEALTH & LIFE INSURANCE	.00	9,934.79	19,123.00	9,188.21	52.0
50-800-6070 PERS RETIREMENT	2,126.55	15,915.29	28,020.00	12,104.71	56.8
50-800-6260 BAD DEBT EXPENSE	.00	280.46	.00	( 280.46)	.0
50-800-6270 DEPRECIATION	.00	.00	330,898.00	330,898.00	.0
50-800-6280 DUES & SUBSCRIPTIONS	.00	.00	500.00	500.00	.0
50-800-6410 INSURANCE - LIABILITY	3,473.51	5,912.37	3,600.00	( 2,312.37)	164.2
50-800-6430 INSURANCE - EQUIP	.00	.00	250.00	250.00	.0
50-800-6440 INSURANCE - PROPERTY	2,457.10	4,585.60	3,500.00	( 1,085.60)	131.0
50-800-6540 LICENSES & PERMITS	.00	1,075.00	1,200.00	125.00	89.6
50-800-6565 OUTSIDE CONTRACTORS	.00	.00	10,000.00	10,000.00	.0
50-800-6570 PHYSICAL EXAMS	.00	.00	500.00	500.00	.0
50-800-6580 POSTAGE	.00	.00	1,300.00	1,300.00	.0
50-800-6635 PROF. FEES - COMPUTER SUPPORT	.00	.00	1,200.00	1,200.00	.0
50-800-6740 SMALL TOOLS	.00	.00	4,000.00	4,000.00	.0
50-800-6750 TESTING WATER/SEWER	.00	4,839.00	9,000.00	4,161.00	53.8
50-800-6770 TRAVEL, TRAINING & DEV.	.00	125.98	5,500.00	5,374.02	2.3
50-800-7100 REPAIRS - BUILDING	.00	.00	5,000.00	5,000.00	.0
50-800-7350 REPAIRS - EQUIPMENT	.00	350.71	5,000.00	4,649.29	7.0
50-800-7650 REPAIRS - SYSTEM	.00	.00	5,000.00	5,000.00	.0
50-800-7750 GAS & OIL - VEHICLES	582.29	3,055.76	4,000.00	944.24	76.4
50-800-8550 SUPPLIES - OFFICE	.00	259.98	500.00	240.02	52.0
50-800-8950 UNIFORMS	.00	.00	500.00	500.00	.0
50-800-8970 SUPPLIES - SAFETY	.00	414.67	1,500.00	1,085.33	27.6
50-800-8995 SUPPLIES & MATERIALS	.00	.00	3,500.00	3,500.00	.0
50-800-9000 UTILITIES -INTERNET	498.81	3,690.11	1,500.00	( 2,190.11)	246.0
50-800-9010 UTILITIES - ELECTRICITY	3,558.73	15,937.65	30,000.00	14,062.35	53.1
50-800-9040 UTILITIES - HEATING FUEL	182.12	1,425.65	5,000.00	3,574.35	28.5
50-800-9070 UTILITIES - TELEPHONE	99.80	694.26	600.00	( 94.26)	115.7
50-800-9900 TRANSFER OUT TO GF	2,909.16	20,364.12	34,910.00	14,545.88	58.3
50-800-9901 TRANSFERS OUT - OTHER	.00	20,000.00	20,000.00	.00	100.0
TOTAL WATER & WASTE WATER OPERATING	26,662.94	187,608.00	685,760.00	498,152.00	27.4
TOTAL FUND EXPENDITURES	26,662.94	187,608.00	685,760.00	498,152.00	27.4
NET REVENUE OVER EXPENDITURES	58,106.82	87,224.16	( 313,319.00)	( 400,543.16)	27.8



CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

SMALL BOAT HARBOR

ASSETS

51-000-0100	CASH - COMBINED FUND	1,692,333.20	
51-000-0110	2017 HARBOR BOND RESERVE	159,025.00	
51-000-1090	PETTY CASH	350.00	
51-000-1200	ACCOUNTS RECEIVABLE - CASELLE	3,450.35	
51-000-1201	ACCTS REC FROM HARBOR	( 202,663.81)	
51-000-1230	ACCOUNTS RECEIVABLE - LEASES	21,015.77	
51-000-1299	ALLOWANCE FOR DOUBTFUL ACCOUNT	( 4,635.88)	
51-000-1720	PREPAID INSURANCE	13,842.46	
51-000-1810	BUILDINGS & FACILITIES	24,086,913.66	
51-000-1820	MACHINERY & EQUIPMENT	267,230.46	
51-000-1824	EQUIPMENT - COMPUTER	65,424.10	
51-000-1890	ACCUMULATED DEPRECIATION	( 11,385,168.56)	
TOTAL ASSETS			14,717,116.75

LIABILITIES AND EQUITY

LIABILITIES

51-000-2000	ACCOUNTS PAYABLE	6,817.82	
51-000-2002	AP OTHER NOT THRU JOURNAL	3,124.61	
51-000-2050	FEDERAL PAYROLL TAXES PAYABLE	6,610.59	
51-000-2060	ESC TAXES PAYABLE	( 2,078.16)	
51-000-2075	HEALTH & LIFE INSURANCE PAYABL	( 7,225.33)	
51-000-2080	PERS PAYABLE	1,539.43	
51-000-2090	AFLAC/GUARDIAN INSURANCE LIAB	( 449.60)	
51-000-2095	ACCRUED LEAVE	44,426.00	
51-000-2178	ACCRUED INTEREST PAYABLE	13,670.83	
51-000-2180	CURRENT PORT.2017 BOND PREMIUM	8,843.00	
51-000-2182	CURRENT PORT. 2017 HARBOR BOND	75,000.00	
51-000-2186	NET PREMIUM-2017 BOND ISSUANCE	123,802.45	
51-000-2188	L/T PORTION. 2017 HARBOR BOND	1,660,000.00	
51-000-2320	UNEARNED REVENUE - MOORAGE	223,975.77	
TOTAL LIABILITIES			2,158,057.41

FUND EQUITY

51-000-3000	RETAINED EARNINGS	( 4,093,840.35)	
51-000-3350	NET INVESTMENT CAPITAL ASSETS	16,362,156.74	
REVENUE OVER EXPENDITURES - YTD		290,742.95	
BALANCE - CURRENT DATE			12,559,059.34
TOTAL FUND EQUITY			12,559,059.34
TOTAL LIABILITIES AND EQUITY			14,717,116.75

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

SMALL BOAT HARBOR

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>CHARGES FOR SERVICES</u>					
51-340-4399 MOORAGE - TRANSIENT WINTER	.00	1,641.24	20,000.00	18,358.76	8.2
51-340-4401 MOORAGE - PREFERENTIAL	( 3,439.97)	484,650.65	545,000.00	60,349.35	88.9
51-340-4402 MOORAGE - TRANSIENT	92,111.38	386,913.86	425,000.00	38,086.14	91.0
51-340-4403 BOAT LIFT FEES	.00	3,755.75	.00	( 3,755.75)	.0
51-340-4404 UTILITY FEES	4,249.18	38,406.28	60,000.00	21,593.72	64.0
51-340-4406 WHARFAGE FEES	216.40	3,038.87	15,000.00	11,961.13	20.3
51-340-4407 VESSEL TOW FEES	.00	.00	1,000.00	1,000.00	.0
51-340-4409 WAITING LIST FEES	150.00	16,250.00	16,000.00	( 250.00)	101.6
51-340-4410 PUMP OUT FEES	75.00	225.00	500.00	275.00	45.0
51-340-4411 LAUNCH FEES	200.00	49,650.00	150,000.00	100,350.00	33.1
51-340-4412 SHOWERS	1,109.80	2,524.92	3,000.00	475.08	84.2
51-340-4413 GRID	513.04	1,614.14	2,000.00	385.86	80.7
51-340-4414 VESSEL MAINTENANCE	25.00	325.00	7,000.00	6,675.00	4.6
51-340-4415 DRY STORAGE FEES	.00	1,912.92	5,000.00	3,087.08	38.3
51-340-4416 PARKING - ANNUAL	1,750.00	30,750.00	45,000.00	14,250.00	68.3
51-340-4426 PARKING DAILY	1,210.00	39,325.00	60,000.00	20,675.00	65.5
51-340-4445 MISC. SERVICES	314.25	4,263.74	3,000.00	( 1,263.74)	142.1
TOTAL CHARGES FOR SERVICES	98,484.08	1,065,247.37	1,357,500.00	292,252.63	78.5
<u>LEASES INCOME</u>					
51-345-4512 LEASE - ARRC NET OF RR SHARE	25,159.87	111,544.11	95,000.00	( 16,544.11)	117.4
51-345-4513 LEASE CREDITS (CONTRA)	.00	( 54,571.72)	.00	54,571.72	.0
51-345-4515 LEASE - GARBAGE REVENUE	2,775.00	21,875.00	30,000.00	8,125.00	72.9
TOTAL LEASES INCOME	27,934.87	78,847.39	125,000.00	46,152.61	63.1
<u>OTHER REVENUE</u>					
51-360-4416 STORAGE IN LIEU OF LEASE	.00	.00	25,000.00	25,000.00	.0
51-360-4417 FUEL FLOAT INCOME	17,299.58	19,842.52	25,000.00	5,157.48	79.4
51-360-4430 CAMPING	3,143.00	10,792.00	12,000.00	1,208.00	89.9
51-360-4900 INTEREST & LATE FEES ON A/R	.00	50.12	1,500.00	1,449.88	3.3
51-360-4901 INTEREST ON BANK ACCO	.00	.00	10,000.00	10,000.00	.0
51-360-4910 MISCELLANEOUS INCOME	.00	.00	15,000.00	15,000.00	.0
51-360-4957 AMORTIZATION OF BOND PREMIUM	.00	.00	8,843.00	8,843.00	.0
TOTAL OTHER REVENUE	20,442.58	30,684.64	97,343.00	66,658.36	31.5
<u>TRANSFERS IN AND OTHER</u>					
51-390-4991 TRANSFER FROM CPV FUND	.00	215,150.00	221,050.00	5,900.00	97.3
TOTAL TRANSFERS IN AND OTHER	.00	215,150.00	221,050.00	5,900.00	97.3

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

SMALL BOAT HARBOR

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
TOTAL FUND REVENUE	146,861.53	1,389,929.40	1,800,893.00	410,963.60	77.2

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

SMALL BOAT HARBOR

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>HARBOR OPERATIONS EXP</u>					
51-800-6000 SALARIES & WAGES	45,467.10	296,127.77	494,503.00	198,375.23	59.9
51-800-6030 FICA TAXES	1,276.13	6,320.03	11,291.00	4,970.97	56.0
51-800-6040 WORKER'S COMP.	.00	7,984.54	20,584.00	12,599.46	38.8
51-800-6050 ESC TAXES	466.97	3,706.09	4,888.00	1,181.91	75.8
51-800-6060 HEALTH & LIFE INSURANCE	.00	47,517.17	103,264.00	55,746.83	46.0
51-800-6070 PERS RETIREMENT	6,518.04	54,685.25	96,561.00	41,875.75	56.6
51-800-6205 ADVERTISING	.00	.00	500.00	500.00	.0
51-800-6220 BANK SERVICE CHARGES	9,078.78	32,219.12	38,000.00	5,780.88	84.8
51-800-6260 BAD DEBT EXPENSE	.00	.00	10,000.00	10,000.00	.0
51-800-6265 BOND INTEREST EXPENSE	.00	41,012.50	80,150.00	39,137.50	51.2
51-800-6270 DEPRECIATION	.00	.00	940,000.00	940,000.00	.0
51-800-6280 DUES & SUBSCRIPTIONS	.00	518.56	500.00	( 18.56)	103.7
51-800-6410 INSURANCE - LIABILITY	26,307.30	47,605.52	32,000.00	( 15,605.52)	148.8
51-800-6420 INSURANCE - AUTO	524.92	751.66	1,000.00	248.34	75.2
51-800-6430 INSURANCE EQUIPMENT	81.18	329.15	600.00	270.85	54.9
51-800-6440 INSURANCE - PROPERTY	23,105.53	44,431.53	40,000.00	( 4,431.53)	111.1
51-800-6490 INSURANCE CLAIMS-DEDU	.00	.00	5,000.00	5,000.00	.0
51-800-6540 ENTERPRISE-LICENSES & PERMITS	.00	.00	125.00	125.00	.0
51-800-6565 OUTSIDE CONTRACTORS	3,175.00	31,870.56	49,046.00	17,175.44	65.0
51-800-6570 PHYSICAL EXAMS	.00	.00	500.00	500.00	.0
51-800-6580 POSTAGE	.00	1,000.00	2,500.00	1,500.00	40.0
51-800-6635 PROF. FEES - COMPUTER SUPPORT	.00	869.44	3,000.00	2,130.56	29.0
51-800-6636 PROF FEES - WEB SITE	.00	.00	250.00	250.00	.0
51-800-6650 PROF. FEES - LEGAL	.00	.00	2,000.00	2,000.00	.0
51-800-6700 PUBLICATIONS&SUBS.	.00	.00	350.00	350.00	.0
51-800-6730 EQUIPMENT RENTAL	.00	.00	1,000.00	1,000.00	.0
51-800-6740 SMALL TOOLS	.00	.00	2,500.00	2,500.00	.0
51-800-6770 TRAVEL, TRAINING & DEV.	.00	907.97	3,000.00	2,092.03	30.3
51-800-6780 WASTE DISPOSAL - EVOS	.00	.00	4,000.00	4,000.00	.0
51-800-7100 REPAIRS - BUILDINGS	.00	52.38	6,000.00	5,947.62	.9
51-800-7350 REPAIRS - EQUIPMENT	.00	894.24	15,000.00	14,105.76	6.0
51-800-7400 REPAIRS - VEHICLES	.00	399.20	2,000.00	1,600.80	20.0
51-800-7500 PARKING LOT MAINTENANCE	.00	110.00	1,000.00	890.00	11.0
51-800-7610 REPAIRS - UTILITIES	.00	.00	10,000.00	10,000.00	.0
51-800-7750 GAS & OIL - VEHICLES	705.38	2,998.84	6,000.00	3,001.16	50.0
51-800-7820 REPAIRS - DOCKS	.00	77.44	20,000.00	19,922.56	.4
51-800-8150 SUPPLIES - CONSUMABLE	559.03	11,009.49	30,000.00	18,990.51	36.7
51-800-8200 SUPPLIES - PARKING	.00	.00	1,000.00	1,000.00	.0
51-800-8400 SUPPLIES - FIRE SUPPRESSION	.00	555.00	3,000.00	2,445.00	18.5
51-800-8550 SUPPLIES - OFFICE	.00	249.89	6,000.00	5,750.11	4.2
51-800-8950 SUPPLIES - UNIFORMS	.00	661.72	2,500.00	1,838.28	26.5
51-800-8970 SUPPLIES - SAFETY	459.05	1,919.91	5,000.00	3,080.09	38.4
51-800-9000 UTILITIES - INTERNET	1,980.58	12,061.83	17,000.00	4,938.17	71.0
51-800-9010 UTILITIES - ELECTRICITY	3,556.95	43,662.76	83,000.00	39,337.24	52.6
51-800-9040 UTILITIES - HEATING FUEL	91.92	1,986.26	7,000.00	5,013.74	28.4
51-800-9050 UTILITIES - SOLID WASTE	18,497.09	65,825.12	108,000.00	42,174.88	61.0
51-800-9070 UTILITIES - TELEPHONE	55.66	1,283.26	2,400.00	1,116.74	53.5
51-800-9095 UTILITIES - WATER/WASTEWATER	.00	9,801.14	35,000.00	25,198.86	28.0
51-800-9213 HARBOR EMERGENCY REPAIR	.00	.00	10,000.00	10,000.00	.0
51-800-9510 SNOW REMOVAL	.00	35,000.00	35,000.00	.00	100.0
51-800-9515 CAPITAL - PARKING METERS	.00	.00	2,000.00	2,000.00	.0
51-800-9900 TRANSFER OUT TO GF	13,091.66	91,641.62	157,100.00	65,458.38	58.3

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

SMALL BOAT HARBOR

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
51-800-9901	TRANSFERS OUT - OTHER	.00	60,000.00	60,000.00	.00	100.0
	TOTAL HARBOR OPERATIONS EXP	154,998.27	958,046.96	2,571,112.00	1,613,065.04	37.3
	<u>DEPARTMENT 801</u>					
51-801-7750	GAS & OIL - VEHICLES	.00	399.20	.00	( 399.20)	.0
51-801-8150	SUPPLIES - CONSUMABLE	.00	191.29	.00	( 191.29)	.0
51-801-8400	SUPPLIES - FIRE SUPPRESSION	.00	149.00	.00	( 149.00)	.0
	TOTAL DEPARTMENT 801	.00	739.49	.00	( 739.49)	.0
	<u>CAPITAL OUTLAY - FROM RESERVE</u>					
51-900-9510	CAPITAL OUTLAY - BLDG & FACIL	.00	.00	31,000.00	31,000.00	.0
51-900-9520	CAPITAL OUTLAY - EQUIPMENT	32,700.00	65,400.00	65,900.00	500.00	99.2
51-900-9530	CAPITOL OUTLAY - COMP	.00	.00	2,000.00	2,000.00	.0
51-900-9575	BOND PRINCIPAL	.00	75,000.00	75,000.00	.00	100.0
	TOTAL CAPITAL OUTLAY - FROM RESERVE	32,700.00	140,400.00	173,900.00	33,500.00	80.7
	TOTAL FUND EXPENDITURES	187,698.27	1,099,186.45	2,745,012.00	1,645,825.55	40.0
	NET REVENUE OVER EXPENDITURES	( 40,836.74)	290,742.95	( 944,119.00)	( 1,234,861.95)	30.8

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

DELONG DOCK

ASSETS

53-000-0100	CASH - COMBINED FUND	1,032,181.44	
53-000-1201	ACCTS REC FROM DELONG DOCK	356,078.12	
53-000-1810	BUILDINGS & FACILITIES	5,529,048.95	
53-000-1820	MACHINERY & EQUIPMENT	4,259.00	
53-000-1890	ACCUMULATED DEPRECIATION	( 1,618,548.09)	
TOTAL ASSETS			<u>5,303,019.42</u>

LIABILITIES AND EQUITY

LIABILITIES

53-000-2000	ACCOUNTS PAYABLE	4,359.95	
53-000-2050	FEDERAL PAYROLL TAXES PAYABLE	1,085.51	
53-000-2060	ESC TAXES PAYABLE	( 342.98)	
53-000-2075	HEALTH & LIFE INSURANCE PAYABL	( 1,470.19)	
53-000-2080	PERS PAYABLE	894.64	
53-000-2090	AFLAC/GUARDIAN INSURANCE LIAB	( 86.96)	
TOTAL LIABILITIES			4,439.97

FUND EQUITY

53-000-3000	RETAINED EARNINGS	5,365,726.81	
REVENUE OVER EXPENDITURES - YTD		( 67,147.36)	
BALANCE - CURRENT DATE		5,298,579.45	
TOTAL FUND EQUITY			<u>5,298,579.45</u>
TOTAL LIABILITIES AND EQUITY			<u>5,303,019.42</u>

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

DELONG DOCK

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>DELONG DOCK CHARGES FOR SERVIC</u>					
53-341-4251 USER FEES & PERMITS	.00	11,000.00	9,000.00	( 2,000.00)	122.2
53-341-4402 MOORAGE - TRANSIENT	1,462.37	5,517.68	5,000.00	( 517.68)	110.4
53-341-4404 UTILITY FEES	4,561.55	9,863.52	15,000.00	5,136.48	65.8
53-341-4406 WHARFAGE FEES	.00	.00	360,000.00	360,000.00	.0
TOTAL DELONG DOCK CHARGES FOR SERV	6,023.92	26,381.20	389,000.00	362,618.80	6.8
TOTAL FUND REVENUE	6,023.92	26,381.20	389,000.00	362,618.80	6.8

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

DELONG DOCK

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>DEPARTMENT 801</u>					
53-801-6000 SALARES & WAGES	7,594.42	29,399.10	54,945.00	25,545.90	53.5
53-801-6030 FICA/MEDICARE	177.64	629.26	1,255.00	625.74	50.1
53-801-6040 WORKER'S COMP.	.00	.00	2,287.00	2,287.00	.0
53-801-6050 ESC TAXES	73.37	302.22	543.00	240.78	55.7
53-801-6060 HEALTH & LIFE INSURANCE	.00	4,102.66	11,474.00	7,371.34	35.8
53-801-6070 PERS RETIREMENT	1,219.98	5,134.15	10,729.00	5,594.85	47.9
53-801-6410 INSURANCE - LIABILITY	4,848.19	10,025.11	15,000.00	4,974.89	66.8
53-801-6440 INSURANCE - PROPERTY	5,698.05	11,427.50	10,000.00	( 1,427.50)	114.3
53-801-6565 OUTSIDE CONTRACTORS	.00	.00	20,000.00	20,000.00	.0
53-801-6730 EQUIPMENT RENTAL	.00	.00	2,500.00	2,500.00	.0
53-801-6740 SMALL TOOLS	.00	.00	1,000.00	1,000.00	.0
53-801-7750 GAS & OIL - VEHICLES	.00	.00	500.00	500.00	.0
53-801-7820 REPAIRS - DOCKS	.00	.00	20,000.00	20,000.00	.0
53-801-8150 SUPPLIES - CONSUMABLE	.00	.00	2,500.00	2,500.00	.0
53-801-8400 SUPPLIES - FIRE SUPPRESSION	.00	.00	1,000.00	1,000.00	.0
53-801-8950 SUPPLIES - UNIFORMS	.00	.00	1,000.00	1,000.00	.0
53-801-8970 SUPPLIES - SAFETY	.00	.00	2,000.00	2,000.00	.0
53-801-9010 UTILITIES - ELECTRICITY	4,359.95	9,816.94	19,000.00	9,183.06	51.7
53-801-9050 UTILITIES - SOLID WASTE	.00	.00	1,500.00	1,500.00	.0
53-801-9095 UTILITIES - WATER/WASTEWATER	.00	.00	5,000.00	5,000.00	.0
53-801-9900 TRANSFER OUT TO GF	3,241.66	22,691.62	38,900.00	16,208.38	58.3
TOTAL DEPARTMENT 801	27,213.26	93,528.56	221,133.00	127,604.44	42.3
<u>CAPITAL OUTLAY</u>					
53-900-9504 CAPITAL IMPROVEMENTS	.00	.00	45,000.00	45,000.00	.0
53-900-9540 CAP EXP EMERGENCY REPAIRS	.00	.00	5,000.00	5,000.00	.0
TOTAL CAPITAL OUTLAY	.00	.00	50,000.00	50,000.00	.0
TOTAL FUND EXPENDITURES	27,213.26	93,528.56	271,133.00	177,604.44	34.5
NET REVENUE OVER EXPENDITURES	( 21,189.34)	( 67,147.36)	117,867.00	185,014.36	( 57.0)



CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

MOTOR POOL

ASSETS

60-000-0100	CASH - COMBINED FUND	49,517.00	
60-000-1820	MACHINERY & EQUIPMENT	303,500.00	
60-000-1823	EQUIPMENT - VEHICLES	60,000.00	
60-000-1890	ACCUMULATED DEPRECIATION	( 28,804.75)	
TOTAL ASSETS			384,212.25

LIABILITIES AND EQUITY

FUND EQUITY

60-000-3000	RETAINED EARNINGS	369,212.25	
	REVENUE OVER EXPENDITURES - YTD	15,000.00	
	BALANCE - CURRENT DATE	384,212.25	
TOTAL FUND EQUITY			384,212.25
TOTAL LIABILITIES AND EQUITY			384,212.25

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

MOTOR POOL

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>OTHER REVENUE</u>					
60-360-4910	VEHICLE RENT	.00	15,000.00	15,000.00	.00	100.0
	TOTAL OTHER REVENUE	.00	15,000.00	15,000.00	.00	100.0
	TOTAL FUND REVENUE	.00	15,000.00	15,000.00	.00	100.0
	NET REVENUE OVER EXPENDITURES	.00	15,000.00	15,000.00	.00	100.0

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

COMPENSATED ABSENCES

ASSETS

61-000-0100	CASH - COMBINED FUND	112,855.68	
	TOTAL ASSETS		112,855.68

LIABILITIES AND EQUITY

LIABILITIES

61-000-2095	ACCRUED LEAVE	112,855.68	
	TOTAL LIABILITIES		112,855.68
	TOTAL LIABILITIES AND EQUITY		112,855.68

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

GENERAL FUND MRRF

ASSETS

72-000-0100	CASH - COMBINED FUND	974,900.00	
	TOTAL ASSETS		974,900.00

LIABILITIES AND EQUITY

FUND EQUITY

72-000-3000	FUND BALANCE	1,014,900.00	
	REVENUE OVER EXPENDITURES - YTD	( 40,000.00)	
	BALANCE - CURRENT DATE	974,900.00	
	TOTAL FUND EQUITY		974,900.00
	TOTAL LIABILITIES AND EQUITY		974,900.00

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND MRRF

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>SOURCE 390</u>					
72-390-4990	TRANSFERS-IN	.00	60,000.00	60,000.00	.00	100.0
	TOTAL SOURCE 390	.00	60,000.00	60,000.00	.00	100.0
	TOTAL FUND REVENUE	.00	60,000.00	60,000.00	.00	100.0

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

GENERAL FUND MRRF

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>DEPARTMENT 900</u>					
72-900-9200	CAPITAL EXPENDITURES	.00	.00	180,000.00	180,000.00	.0
	TOTAL DEPARTMENT 900	.00	.00	180,000.00	180,000.00	.0
	<u>DEPARTMENT 990</u>					
72-990-9990	TRANSFER TO OTHER FUNDS	.00	100,000.00	100,000.00	.00	100.0
	TOTAL DEPARTMENT 990	.00	100,000.00	100,000.00	.00	100.0
	TOTAL FUND EXPENDITURES	.00	100,000.00	280,000.00	180,000.00	35.7
	NET REVENUE OVER EXPENDITURES	.00	( 40,000.00)	( 220,000.00)	( 180,000.00)	( 18.2)

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

HARBOR MRRF

ASSETS

73-000-0100	CASH - COMBINED FUND	1,214,186.43	
	TOTAL ASSETS		1,214,186.43

LIABILITIES AND EQUITY

FUND EQUITY

73-000-3000	FUND BALANCE	1,154,186.43	
	REVENUE OVER EXPENDITURES - YTD	60,000.00	
	BALANCE - CURRENT DATE	1,214,186.43	
	TOTAL FUND EQUITY		1,214,186.43
	TOTAL LIABILITIES AND EQUITY		1,214,186.43

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

HARBOR MRRF

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>TRANSFERS FROM OTHER FUNDS</u>					
73-390-4992	TRANSFER FROM HARBOR FUND	.00	60,000.00	60,000.00	.00	100.0
	TOTAL TRANSFERS FROM OTHER FUNDS	.00	60,000.00	60,000.00	.00	100.0
	TOTAL FUND REVENUE	.00	60,000.00	60,000.00	.00	100.0



CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

HARBOR MRRF

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>NON-GRANT EXPENDITURES</u>					
73-800-6565	OUTSIDE CONTRACTORS	.00	.00	15,000.00	15,000.00	.0
	TOTAL NON-GRANT EXPENDITURES	.00	.00	15,000.00	15,000.00	.0
	TOTAL FUND EXPENDITURES	.00	.00	15,000.00	15,000.00	.0
	NET REVENUE OVER EXPENDITURES	.00	60,000.00	45,000.00	( 15,000.00)	133.3

CITY OF WHITTIER  
BALANCE SHEET  
JULY 31, 2022

WATER/WASTEWATER MRRF

ASSETS

75-000-0100	CASH - COMBINED FUND	1,051,409.92	
	TOTAL ASSETS		1,051,409.92

LIABILITIES AND EQUITY

LIABILITIES

75-000-2000	ACCOUNTS PAYABLE	16,409.00	
	TOTAL LIABILITIES		16,409.00

FUND EQUITY

75-000-3000	FUND BALANCE	1,031,409.92	
	REVENUE OVER EXPENDITURES - YTD	3,591.00	
	BALANCE - CURRENT DATE	1,035,000.92	
	TOTAL FUND EQUITY		1,035,000.92
	TOTAL LIABILITIES AND EQUITY		1,051,409.92

CITY OF WHITTIER  
REVENUES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

WATER/WASTEWATER MRRF

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>TRANSFERS FROM OTHER FUNDS</u>					
75-390-4992	TRANSFERS-IN OTHER	.00	20,000.00	20,000.00	.00	100.0
	TOTAL TRANSFERS FROM OTHER FUNDS	.00	20,000.00	20,000.00	.00	100.0
	TOTAL FUND REVENUE	.00	20,000.00	20,000.00	.00	100.0

CITY OF WHITTIER  
EXPENDITURES WITH COMPARISON TO BUDGET  
FOR THE 7 MONTHS ENDING JULY 31, 2022

WATER/WASTEWATER MRRF

		<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET</u>	<u>UNEXPENDED</u>	<u>PCNT</u>
	<u>NON-GRANT EXPENDITURES</u>					
75-800-7350	REPAIRS - EQUIPMENT	<u>16,409.00</u>	<u>16,409.00</u>	<u>25,000.00</u>	<u>8,591.00</u>	<u>65.6</u>
	TOTAL NON-GRANT EXPENDITURES	<u>16,409.00</u>	<u>16,409.00</u>	<u>25,000.00</u>	<u>8,591.00</u>	<u>65.6</u>
	TOTAL FUND EXPENDITURES	<u>16,409.00</u>	<u>16,409.00</u>	<u>25,000.00</u>	<u>8,591.00</u>	<u>65.6</u>
	NET REVENUE OVER EXPENDITURES	<u>( 16,409.00)</u>	<u>3,591.00</u>	<u>( 5,000.00)</u>	<u>( 8,591.00)</u>	<u>71.8</u>



## City of Whittier 2023 Budget Calendar

September 9, 2022	Department Heads Final Capital Improvement Plan Requests to Admin
September 13, 2022	City Council Capital Improvement Plan and Compensation Plan Budget Work Session
September 14, 2022	Finance Transmits budget directions and forms to Department Heads
September 27, 2021	Department budgets due to finance department
September 28 - 30	City manager and finance director meet with Department Heads to discuss budget requests
October 1 – October 8	Finance department develops personnel budget, revenue projections and determines estimated costs of insurance, administrative fees, cost allocations, debt service, vehicle leases, etc.
October 12 (Wednesday)	City Council Budget Work Session
October 13 (Thursday)	City Council Budget Work Session
October 18	City Council Regular Meeting – Introduction of Budget Ordinance
November 15	City Council Regular Meeting – Public hearing and adoption of budget

Please note: Alaska Municipal League Conference will be held in Anchorage December 7 - 9.

To: The Honorable Dave Dickason  
The Whittier City Council  
Jim Hunt, City Manager  
Jackie Wilde, Asst. City Manager

From: Brad Gilman, Sebastian O’Kelly & Rick Marks

Re: Washington Report

Date: August 3, 2022

**1. FY 2023 Federal Budget/Appropriations:** The appropriations process has been moving gradually, with all the appropriation bills through Committee in the House, with several passing as a group by the full House last month. The Senate Appropriations Committee released its bills in draft form at the end of the July. They include \$1.6 billion in funding (\$850 in defense spending, \$653 billion in non-defense). These figures represent an 8.7 percent and 10.1 percent increase, respectively, above FY 2022 levels. There are still differences between the Democrats and Republicans on increases for defense and non-defense spending. We are likely to see passage of a short-term Continuing Resolution in late September to keep the Federal government operating past the November election. Once the parties reach agreement on “topline” spending, there will most likely be consideration of a final Omnibus Appropriations Bill, considered in either a post-election Lame Duck session, or at the start of the new Congress in the first quarter of 2023. This has become standard operating procedure.

The draft Senate Interior Appropriations Bill includes \$1.23 million in EPA funding for Whittier’s Well Field Upgrades Project. This request was submitted to the Appropriations Committee by Senator Murkowski.

**2. Army Tank Farm Property Conveyance:** Whittier’s City Manager and Assistant City Manager traveled to Washington, DC to meet with Army Corps senior officials and Senator Murkowski to formalize conveyance of the property transfer along with the necessary documentation.

**3. The Infrastructure Investment and Jobs Act/Bipartisan Infrastructure Law (BIL) Implementation:** The Department of Transportation, along with other relevant agencies, continues to roll out grant opportunities in a number of areas funded in the BIL. Some of the more recent opportunities and awards are highlighted below. In some programs, funds are being made available to the States for further distribution to local governments and projects, while others are available for direct applications from localities. Should the community submit an application for funding, please keep us informed as we can inquire as to whether the Alaska Senators will submit a letter of support to the agency.

- **Rural Ferry Funding:** As part of implementing its requirements and funding under the BIL, DOT’s Federal Transit Administration has announced \$200 million in grant application availability for States seeking both capital and operating assistance for ferry

service that operated a regular schedule at any time during the five-year period ending March 1, 2020 and served not less than two rural areas located more than 50 sailing miles apart. An additional \$800 million will be available over the next 4 years.

- **PROTECT Formula Grants:** DOT has announced the distribution to the States \$1.4 billion in funds from this new program to help make surface transportation more resilient to natural hazards, including climate change, sea level rise, flooding, extreme weather events, and other natural disasters through support of planning activities, resilience improvements, community resilience and evacuation routes, and at-risk coastal infrastructure. Project decisions will be made by the States. An additional \$5.9 billion will be available over the next 4 years.
- **Airport Terminals Program:** DOT has announced \$1 billion in FY 2022 grant awards for airport terminal upgrades from this program nationally, with one award in AK (\$2.4 million for Ted Stevens International Airport). \$4 billion in funding will be spent over the next 4 years. Rural air terminals are eligible to apply provided they are eligible to receive FAA Airport Improvement Program funding.
- **Bridge Investment Program:** DOT has announced a grant opportunity for a new program that focuses on funding improvement or replacement of existing bridges to reduce the overall number of bridges in poor or fair condition. \$2.5 billion is available this year, with an additional \$10 billion over the next 4 years. Local governments are eligible to apply for this competitive funding. The deadline for bridge construction projects is on Sept. 8, with details at the link. A separate formula bridge program to the States has already been awarded by DOT, with the State of Alaska receiving \$45 million this year. <https://www.fhwa.dot.gov/bridge/bip/qa.cfm>
- **Safe Streets For All:** This program is focused on transportation projects that will improve vehicle, pedestrian and bicycle safety. Local governments can apply directly, with applications due September 15. Up to \$1 billion is available this year, with another \$4 billion over the next 4 years. <https://www.transportation.gov/grants/SS4>

4. **PILT:** The Department of Interior released PILT payments for FY 2022 in June. Both the House and Senate Interior Appropriations Bills fully fund PILT for FY 2023.

5. **Build Back Better Bill 3.0 – Port Emissions Grants:** Now titled the Inflation Reduction Act, the Senate Democratic Leadership has reached an agreement with Senator Joe Manchin (D-WV) on clean energy, healthcare, prescription drug reform, minimum corporate tax and deficit reduction legislation. The bill will be considered under reconciliation procedures to avoid a Senate filibuster but still must receive support from all 50 Democrats and almost all Democrats in the House in order to pass. It is not expected to receive any Republican votes. Included in the measure is \$3 billion for a new EPA grant program to reduce port emissions. This program will present funding opportunities for Alaska coastal communities with cruise ship and cargo vessel visitation that are interested in setting up plug in power facilities to reduce vessel emissions while in port. A pair of summaries of the 745 page bill are below.

[https://www.democrats.senate.gov/imo/media/doc/summary\\_closing\\_tax\\_loopholes\\_in\\_the\\_inflation\\_reduction\\_act\\_of\\_2022.pdf?utm\\_source=substack&utm\\_medium=email](https://www.democrats.senate.gov/imo/media/doc/summary_closing_tax_loopholes_in_the_inflation_reduction_act_of_2022.pdf?utm_source=substack&utm_medium=email)

[https://www.democrats.senate.gov/imo/media/doc/summary\\_of\\_the\\_energy\\_security\\_and\\_climate\\_change\\_investments\\_in\\_the\\_inflation\\_reduction\\_act\\_of\\_2022.pdf?utm\\_source=substack&utm\\_medium=email](https://www.democrats.senate.gov/imo/media/doc/summary_of_the_energy_security_and_climate_change_investments_in_the_inflation_reduction_act_of_2022.pdf?utm_source=substack&utm_medium=email)

**6. Alaska Broadband Summit:** Senator Sullivan is holding a broadband summit in Anchorage on August 9 to discuss funding opportunities and planning for broadband deployment and upgrades in the State. Attendance can be in person or virtual and is free. USDA, NTIA and FCC broadband officials will be in attendance. Details and registration at the link.

<https://www.eventbrite.com/e/alaska-broadband-summit-workshop-tickets-381046910567>

**7. COVID Relief – American Rescue Plan (ARP):** The House Budget Committee has issued a State-by-State analysis of the funds provided in the main initiatives from the ARP. For Alaska, they include -- \$1.4 billion to State and local governments; \$358.8 million for AK K-12 schools and \$42.3 million for its colleges and universities; \$880 million in economic impact payments to 355,339 Alaskans; and \$94.7 million in aid to 385 AK restaurants from a total of 937 applications to the Restaurant Revitalization Fund.

## **8. Fisheries & Oceans**

- **Fishery Disaster Assistance:** NOAA has allocated a little more than \$131 million to recently declared Alaska fishery disasters. The next step will be for ADF&G to develop expenditure plans. The fisheries receiving funding are—
  - Upper Cook Inlet East Side Set Net (2018) and Upper Cook Inlet salmon fisheries (2020)--\$9,414,087
  - Copper River and Prince William Sound salmon fisheries (2018 and 2020)--\$34,360,624
  - Eastern Bering Sea Tanner crab (2019/2020)--\$12,948,148
  - Pacific cod in the Gulf of Alaska (2020)--\$17,790,330
  - Alaska Norton Sound, Yukon River, Chignik, Kuskokwim River, and Southeast Alaska salmon fisheries (2020 and 2021)--\$55,984,834

These are pending Alaska fisheries disaster requests under review by the Secretary of Commerce.

- Alaska Kuskokwim River Salmon Fishery, 2021
- Alaska Norton Sound Red King Crab Fisheries, 2020 and 2021
- Alaska Norton Sound Chum & Coho Salmon Fisheries, 2021
- Alaska Bering Sea Crab Fisheries, 2021/2022
- Alaska Chignik Salmon Fishery, 2021



The House and the Senate are still working on a final version of legislation to reform the national Federal fisheries disaster process, including expediting the multiple steps in the relief process.

- **Alaska Salmon Research Task Force:** The House has passed H.R. 6651, the Alaska Salmon Task Force Act. This was Representative Don Young's (R-AK) final legislative initiative and passed the House after his death. Senator Dan Sullivan (R-AK) was successful in moving the companion measure, S. 3429, out of the Senate Commerce Committee in May. The bill is intended to prioritize research needs for Pacific salmon in Alaska; create a coordinated salmon research strategy; and promote collaboration and coordination of Pacific salmon conservation efforts in Alaska. The Task Force would be comprised of representatives from NOAA, the North Pacific Council, the U.S. Section of the Pacific Salmon Commission, the State of Alaska, subsistence users, harvesters, processors, charter and recreational users, prohibited species salmon bycatch users, hatcheries, and scientists with specific expertise in Pacific Salmon.
- **Pribilof National Marine Sanctuary Nomination:** NOAA's Office of National Marine Sanctuaries has issued a notice in the Federal Register adding the proposed Alagum Kanuux (Heart of the Ocean) national marine sanctuary nomination to the inventory of acceptable nominations. The NOAA action does not create a new national marine sanctuary, but it does make the proposal eligible for consideration in the future. The St. Paul Tribal Government originally requested a sanctuary designation within a 100 nautical mile circular boundary around St. Paul and St. George Island. This was subsequently amended to drop specific boundary recommendations in favor of future discussions between St. Paul and St. George on future boundaries and co-management arrangements. The Heart of the Ocean proposal is now part of the inventory of potential new national marine sanctuaries.
- **NOAA Equity and Environmental Justice Strategy:** NOAA has issued its draft Equity and Environmental Justice Strategy to guide the agency's actions in promoting these concepts. The stated goals are to prioritize identification, equitable treatment, and meaningful involvement of underserved communities; provide equitable delivery of services; and prioritize equity and environmental justice in NOAA's mandated and mission work. The agency has requested public comments on the draft strategy. Comments are due August 19.
- **Kuskokwim River Subsistence Lawsuit:** The Federal Government has sued the State of Alaska over conflicting interpretations of federal and state authority to regulate subsistence salmon on the Yukon River. The Federal Government's position is that the Alaska National Interest Lands Act ("ANILCA") provides only for subsistence use by rural residents on the river within the boundaries of the Yukon Delta National Wildlife Refuge. The State's position is that the Alaska constitution requires the State to allow for subsistence by all residents of the State, not just rural subsistence users. The Federal Government is seeking an injunction to limit the subsistence fishery to rural residents pursuant to its interpretation of ANILCA.

- **IUU Fishing and Forced Labor:** On June 27 the White House issued a National Security Memorandum to combat Illegal, Unreported, and Unregulated Fishing (“IUU”), including an expansion of U.S. policy to address forced labor in the seafood supply chain. The Memorandum provides specific instructions to multiple Federal Departments on actions to be taken. NOAA is to seek resources to post law enforcement officials to areas which would aid regional efforts to combat IUU fishing. NOAA has been instructed to go forward with a rulemaking by the end of 2022 to expand the Seafood Import Monitoring Program to include additional species. The departments have also been instructed to evaluate existing trade tools and statutory authorities to combat forced labor in the seafood supply chain.
- **Fish Passage Funding:** The Bipartisan Infrastructure Law provided significant Federal funding to improve fish passage in the Nation’s streams, rivers and other waterways. From its amount of \$200 million, the Fish & Wildlife Service National Fish Passage Program has announced the award this year of \$38 million to 40 projects in 23 States and Puerto Rico, including 13 projects in AK, ID, OR and WA. Separately, NOAA has issued Notices of Funding Availability for grant applications for \$87 million in fish passage funding, with \$12 million of that amount reserved for Tribes. Grant awards are expected to range from \$2 million to \$5 million and will be administered by the Community-based Restoration Program within the NOAA Office of Habitat Conservation with a focus on improved passaged for ESA-listed and NOAA Fisheries-managed species.
- **Alaska Seafood Buy:** The USDA has announced a \$52 million buy in Alaska groundfish products for its Section 32 food assistance programs. Section 32 purchases of Alaska seafood products have grown in recent years as they have shown to be both popular and nutritious in school lunch, emergency food assistance and other hunger programs across the U.S.
- **Coast Guard & Magnuson-Stevens Act (MSA) Reauthorization:** There have been no significant new developments since our last report. The Senate Coast Guard Bill is expected to be introduced in September. Rep. Jared Huffman (D-CA), the lead House sponsor of MSA reauthorization has withheld further legislative action on the bill until he has an opportunity to engage with the new Representative elected by Alaskan voters later this month.



## Confluence Strategies

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### City of Whittier

State of Alaska

#### Interim Update

September 11, 2022

#### Division of Elections – update posted as of AUGUST 31<sup>st</sup>

*Begich's 53,756 first-place votes were redistributed according to the second choice marked on each ballot. Palin picked up an additional 27,042 bringing her cumulative total to 85,987. Peltola picked up an additional 15,445 votes giving her 91,206 — putting her 51.47% of votes cast above the 50% threshold needed to name Peltola as the winner.*

*Note: 11,222 of Begich votes were “exhausted” (there were no rank-choice-votes made).*

**View Election Results for U.S. House Special General:**

<https://www.elections.alaska.gov/results/22SSPG/RcvDetailedReport.pdf>

## Administration

### **Governor's Office: Governor's Press Releases ~**

#### ***2022 Permanent Fund Dividend Hits a Record \$3,284.00***

*September 8, 2022*

*Governor Mike Dunleavy announced today that the 2022 Permanent Fund Dividend will be \$3284.00. That makes this year's dividend the largest in the program's 41-year history. Alaskans who selected direct deposit on their application will receive their dividend beginning Tuesday, September 20. All other applications and disbursement methods that have been determined by September 28, including applicants receiving a paper check, will be distributed starting the week of October 6.*

*Governor Mike Dunleavy decided to release this year's PFD early so Alaskans can receive sorely needed economic relief from runaway inflation. The amount was announced at the Three Bears Alaska store in Palmer. The Governor was joined by Miranda Wagoner, a young mother who counts on the PFD to make ends meet and fund her children's education.*

*"I know that there is a lot of politics and debate around the PFD, but to me this isn't a political issue," said Alaskan Miranda Wagoner. "For me personally, it's important that I receive my PFD because it's the law, and it will help me and my children move forward."*

*The 2022 PFD will inject \$2.1 billion into the state's economy. For small business owners, it means a welcome spike in economic activity for the remainder of the year.*

*"Infusions of cash into the local economy will always be a boon to small businesses. From families buying heating fuel for the winter, to completing back-to-school shopping for their kids, shopping early for the holidays, or making those large purchases they put off all summer, locally owned businesses statewide benefit when Alaskans have PFD money in their pockets," said Jessica Viera, executive director, Wasilla Chamber of Commerce.*

*"The PFD at \$3,284, a total of \$13,000 for a family of four, can go a long way in offsetting the record-high costs of energy and food we're experiencing, preparing for winter, paying off debt, saving for college, or any number of other purposes," said Governor Dunleavy. "Alaskans need to remember the amount wasn't determined by the traditional PFD formula – or any other formula. It was a political decision made in the capitol building during the legislative session. My position on the statutory PFD formula has been consistent: the Legislature needs to either follow the law or change the law, and if the law is changed, it must be done with the consent of the people.*

*From my first day as your governor, I have been committed to working with legislators on a solution Alaskans agree with that continues to transfer to the people their share of the resource wealth, while preserving essential state services. The two public policy goals are not in conflict with each other, we just need the political will to make it happen."*

*Alaskans are encouraged to use the state's website, MyPFD to check the status of their PFD application.*

***Alaska Revenue Commissioner Lucinda Mahoney announced Thursday she will resign effective Friday, Sept. 9.***

*"I want to acknowledge and celebrate Commissioner Mahoney's many contributions to the people of Alaska," said Gov. Dunleavy. "Under her leadership, the state's credit rating and overall fiscal health significantly improved. Oil tax credits have been paid off, the state's public employee pension obligation has been significantly reduced, and school bond debt reimbursement is reinstated. She came into office just as the global pandemic was appearing in Alaska, and successfully managed the distribution of early PFD payments to assist Alaskans in 2020, and again this year for families struggling to make ends meet due to rampant inflation. The people of Alaska thank Commissioner Mahoney for her contributions to our great state."*

*Governor Dunleavy will appoint an acting commissioner in the near future.*

***Agencies Announcements~***

***Press Releases/Reports/Public Notices:***

***ADL 233782 - Grant Lake Hydroelectric Project - Easement Final Finding and Decision - AEED/KHL - Moose Pass, AK***

*State of Alaska*

*Department of Natural Resources*

*Division of Mining, Land & Water*

*Southcentral Region Land Office*

*550 W. 7<sup>th</sup> Ave., Suite 900C*

*Anchorage, AK 99501-3577*

*This is a courtesy notice that the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has made a Final Finding and Decision to issue an indefinite public access easement for the Grant Lake Hydroelectric Project which proposes the construction and long-term operation of hydroelectric facility using the waters of Grant Lake near the community of Moose Pass. The site is located within Section 7, Township 4 North, Range 1 East, Seward Meridian, and Section 12 Township 4 North, Range 1 West, Seward Meridian.*

[\*https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=207987\*](https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=207987)

***September is Suicide Prevention Awareness Month***

*September 7, 2022, ANCHORAGE – September is Suicide Prevention Awareness Month – a time for mental health advocates, prevention organizations, survivors, allies and community members to unite to promote suicide prevention awareness.*

*This year, the Alaska Department of Health (DOH) and our suicide prevention partners will be celebrating and raising awareness of 988, the new, easy-to-remember dialing code that connects people experiencing thoughts of suicide, mental health or substance abuse crisis and/or emotional distress with highly trained and compassionate call center professionals through the [\*988 Suicide & Crisis Lifeline\*](#).*

The department is also pleased to announce that the Division of Behavioral Health has been awarded the federal Garrett Lee Smith State/Tribal Youth Suicide Prevention and Early Intervention grant providing \$3.6 million over the next five years. The grant, "Strengthening Pathways to Care for Alaska's Youth," is aimed at preventing suicide and suicide attempts among Alaska's youth and young adults, ages 10-24. Suicide is a leading cause of death for younger Alaskans.

A growing number of people of all ages nationwide and in Alaska are experiencing mental health challenges for multiple reasons, including the COVID-19 pandemic. The good news, however, is that more people than ever are reaching out for help. Since July 1, when the Suicide and Crisis Lifeline transitioned to 988, Alaska has observed a 22% increase in call volume. Careline is the Lifeline member in Alaska that answers 988 calls.

Some Alaska activities for Suicide Prevention Awareness Month and Suicide Prevention Week include:

- **Governor Mike Dunleavy** has issued a [proclamation](#) pronouncing Sept. 4-10 Suicide Prevention Week in Alaska.
- **The Alaska chapter of the American Foundation for Suicide Prevention** is hosting the [Out of Darkness Anchorage Walk](#) at 11 a.m. on Saturday, Sept. 10, at Cuddy Family Midtown Park. The event unites our communities and provides an opportunity to acknowledge the ways in which suicide and mental health conditions have affected our lives and the lives of those we love and care about. Media members are encouraged to attend. Please contact Dustin Morris at [dmorris@afsp.org](mailto:dmorris@afsp.org).
- **The Juneau Suicide Prevention Coalition**, along with partner organizations, is inviting community members to come together from 11 a.m. – 2:30 p.m. on Saturday, Sept. 10, at Sandy Beach in Juneau for International Suicide Prevention and Awareness Day. The event includes a community BBQ and canoe-healing journeys for suicide loss and attempt survivors. Learn more about this event and other Juneau events [here](#).
- **The Alaska Native Tribal Health Consortium (ANTHC)** is inviting all Alaskans during September to join in wellness activities that focus on self-care, creating connections to improve your overall mental health, and how to help yourself and others who may be having thoughts of suicide and experiencing a mental health crisis. After completing the activities, participants are invited to complete a survey for a chance to win a \$100 Visa gift card. Look for weekly posts from ANTHC's [Facebook](#) page and [Instagram](#), and visit [ANTHC's webpage](#) in September to participate.
- **The Statewide Suicide Prevention Council** is now accepting feedback on the five-year Statewide Suicide Prevention Plan update. Please take the survey [here](#).

To learn more about the 988 Suicide & Crisis Lifeline in Alaska, visit [988.alaska.gov](https://988.alaska.gov). At this site you can find videos, fact sheets and other resources about 988 in Alaska, as well as information about suicide warning signs and suicide prevention resources.

If you or someone you know is having thoughts of suicide, experiencing a mental health or substance use crisis, call or text 988, or chat [988Lifeline.org](https://988lifeline.org). You can also contact the Alaska Careline at 877-266-HELP.

### **Notice of Proposed Changes in the Regulations of Workers' Compensation**

#### **NOTICE OF PROPOSED CHANGES ON FEES FOR MEDICAL TREATMENT AND SERVICES IN THE REGULATIONS OF THE ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT AND THE ALASKA WORKERS' COMPENSATION BOARD**

The Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board proposes to adopt regulation changes in 8 AAC 45 of the Alaska Administrative Code, dealing with fees for medical treatment and services, including the following:

1. 8 AAC 45.083 is proposed to be amended to update and clarify the medical fee schedule and material adopted by reference for treatment and services provided to injured workers.

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=208039>

## **NOTICE OF PUBLIC MEETING: WORKERS' COMPENSATION BOARD, ALASKA**

STATE OF ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

WORKERS' COMPENSATION DIVISION

WORKERS' COMPENSATION BOARD

*NOTICE OF PUBLIC MEETING: The Alaska Workers' Compensation Board will conduct a full board meeting, on October 13-14, 2022. This meeting is open to the public and will begin at 9:00 am. This meeting will be held in person and by Zoom video conference.*

*The meeting will be held in person at the following location:*

*Department of Labor Building*

*3301 Eagle Street*

*Hearing Room 208*

*Anchorage, Alaska*

- *To participate telephonically, call 888-788-0099, Webinar ID: 834 5351 6981*
- *To participate by Zoom Video Conference: <https://us02web.zoom.us/j/83453516981>*

*The agenda consists of the regular business of the Workers' Compensation Board and Division, consisting of but not limited to discussion of issues pertaining to the Alaska Workers' Compensation Act, and approval of potential changes to regulations. The Board will also conduct other business as necessary and useful.*

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=208040>

## **Oil Prices and Production**

*Oil and Gas Prices for 9/8/2022 (\$/barrel)*

<a href="#">ANS West Coast</a>	\$92.67	\$0.92 ↑
<a href="#">West Texas</a>	\$83.54	\$1.60 ↑
<a href="#">Intermediate</a>		
<a href="#">Brent</a>	\$89.15	\$1.15 ↑
<a href="#">Henry Hub (mmBTU)</a>	\$7.92	\$0.07 ↑
	(BBLs)	
<a href="#">ANS Production</a>	482,116	9/7/2022

## **Boards and Commissions**

*Welcome to the Office of Boards and Commissions within the Office of Governor Mike Dunleavy. On this site, you will find a list of active State boards and commissions to which Governor Dunleavy makes appointments. Through this list, you can learn more about State of Alaska boards and commissions, access fact sheets that describe the functions and structure of each board, view rosters that list board membership, and find websites for specific boards.*

**Click on link below to access any State Board or Commission:**

<https://gov.alaska.gov/services/boards-and-commissions/>

- *For example, access to Broadband Task Force or Advisory Board:*

[https://gov.alaska.gov/services/boards-and-commissions/active-boards-commissions/?board name=broadband](https://gov.alaska.gov/services/boards-and-commissions/active-boards-commissions/?board%20name=broadband)

## ***Legislature***

### ***Majority press releases & announcements:***

#### ***Senate Majority***

##### ***Senator President Peter Micciche***

*SOLDOTNA – Today, **Senate President Peter Micciche** lauded the promotion of Captain Maurice “Mo” Hughes to the rank of Colonel of the Alaska State Troopers, which will continue the Alaska Department of Public Safety’s tradition of excellence and commitment to ensuring the safety of all Alaskans. The appointment is effective on September 1.*

*Governor Mike Dunleavy announced Department of Public Safety leadership changes during a [livestream on Facebook](#) today. Deputy Commissioner Leon Morgan announced his retirement after more than 25 years of distinguished service to the Department of Public Safety. Alaska State Trooper (AST) Colonel Bryan Barlow has been promoted as the Department’s Deputy Commissioner. Colonel Hughes replaces Colonel Barlow.*

*Colonel Hughes has served Alaskans as a State Trooper for 32 years. Since 2016, he has served the Kenai Peninsula and southeast Alaska as the AST Commander of Detachment E. During his state service, he has*



supervised Western Alaska State Troopers, worked in the recruitment unit, and managed Court Service Officers in the Anchorage area. Additionally, Colonel Hughes has been a firearms instructor, a K9 handler and a member of the Tracking Team. A graduate of the FBI National Academy, Colonel Hughes is a certified police instructor in Alaska and holds an advanced police certificate.

**Senate President Peter Micciche**, (R-Soldotna), said, "I congratulate Captain Maurice Hughes on his promotion to the rank of Colonel. Colonel Hughes has served the Peninsula as commander of our local Trooper Detachment E in Soldotna for many years," said **Senator Peter Micciche**. "I have worked with the Colonel through many tough issues over the years ranging from natural disasters to violent crimes and on many constituent issues. He is the consummate Trooper, always willing to respectfully engage and inspiring to those following in his footsteps. I am proud of Colonel Hughes' promotion to the Colonel of the AST and congratulate the Governor for the wise choice. I'm fully confident of Colonel Hughes' abilities to continuously improve the AST organization and therefore, public safety service for Alaskans.

## **Legislative Finance**

September 9, 2022

### **September Newsletter**

Welcome to LFD's interim newsletter. You can sign up [here](#) to receive email alerts when new information is posted.

### **Conference Committee Books (Mostly) Posted**

LFD publishes two annual post-session publications: the Summary of Appropriations and Conference Committee books. [The Summary of Appropriations will likely be released later this month and the Conference Committee Books were mostly released in August](#), with only a few agencies still outstanding as of this publication. In addition to the online versions, hard copies are available in the legislative print shop.

[Conference Committee Books](#) are published for each agency and provide detailed information on what happened in each agency's budget. They contain a narrative summary of major changes, plus budget reports showing funding information and transactions for each agency. These are a useful reminder of what happened this session.

### **Implications of Updated Permanent Fund Earnings**

The Alaska Permanent Fund Corporation (APFC) released its actual FY22 earnings figures and updated projections for FY23-32. The updated [History and Projections sheet](#) has a few implications for Alaska's budget.

The headline is that FY22 earnings were negative for the first time in over a decade, with accounting net income of negative \$3.0 billion (or a negative 1.32% return).

This loss should be put in perspective, however: APFC's performance was stronger than some benchmarks. For example, the Department of Revenue's (DOR) Treasury Division

posted a loss of 12.86% for the Power Cost Equalization Fund, a loss of 4.08% for the Public Employees' Retirement System (PERS) Fund, and a loss of 4.10% for the Teachers' Retirement System (TRS) Fund. The Permanent Fund's relatively strong performance stems from its investments in private markets, which may see a delayed impacts in asset valuations due to economic downturns compared to public markets, which have higher trading volumes.

The FY22 performance should also be put in the context of a historic positive performance in FY21, in which the fund earned a record 29.73%. Over the two-year period, APFC generated a total of \$16.4 billion of gains, still significantly higher than the forecast, and the fund grew from \$65.3 billion at the end of FY20 to \$76.3 billion at the end of FY22.

<http://www.legfin.akleg.gov/Newsletters/previousNewsletters.php>

### *Alaska Legislative Audit*

*A Special Review of the Department of Commerce, Community, and Economic Development, Alaska Coronavirus Aid, Relief, and Economic Security Act, Small Business Relief Program:*

***“Results of testing found a high rate of unallowable grant awards. Auditors tested 155 grants and identified at least one error for 39 percent of the grants tested. The program design increased the risk of unallowable grants and post-payment controls were ineffective. In total, 13 percent of the grant amounts tested were unallowable. The audit did not find evidence that grants were awarded in violation of the State’s ethics laws.”***

<https://legaudit.akleg.gov/document/08-30103-22/>

## **Major News Articles / Political Items of Interest**

### Fishing

#### **Small victories**

The 2022 fishing season might have left some commercial fishermen in Upper Cook Inlet mad as hell and [wanting to do battle with the Alaska Department of Fish and Game in court](#), but state fishery managers are claiming a small victory for late-run Kenai River king salmon, the biggest of the salmon species.

<https://craigmedred.news/2022/09/01/small-victories/>

## Health

### **Alaskans who lost relatives to fentanyl grieve together during Anchorage event**

Athena Fulton put up a white cross on Anchorage's Delaney Park Strip, fighting back tears. After her son Braeden died from fentanyl overdose over a year ago, Fulton came to the Connection Overcomes Addiction event on Sunday to honor his memory and share her grief with others who lost their loved ones to drug misuse.

<https://www.adn.com/alaska-news/anchorage/2022/09/04/alaskans-who-lost-relatives-to-fentanyl-overdose-grieve-together-during-anchorage-weekend-event/>

### **New booster shot that targets widespread COVID-19 variants now available around Alaska**

The new shot is for Alaskans 12 and older who are at least two months out from completing their primary two-dose vaccine series or any previous booster shot.

## Business/Economy

### **OPINION: How to create a shared approach to Alaska's future prosperity**

The draft Comprehensive Economic Development Strategy, or CEDS, for 2022-2027 is available online at <https://ua-ced.org/statewide-ceds>. The lead state agency is the Department of Commerce, Community, and Economic Development. The University of Alaska Center for Economic Development is facilitating the process, which began in January 2022. The mission of the CEDS is "to create a shared approach to Alaska's future prosperity that is locally based, regionally driven, and state connected."

<https://www.adn.com/opinions/2022/09/03/opinion-how-to-create-a-shared-approach-to-alaskas-future-prosperity/>

## State Budget

### **Alaskans will receive \$3,284 dividend and energy relief checks starting Sept. 20**

The exact amount of the checks, which include the annual Permanent Fund dividend and a one-time energy relief payment, was announced Thursday

### **Murkowski: \$2 Million announced by USDA to support Agriculture in Alaska**

Juneau, Alaska (KINY) - U.S. Senator Lisa Murkowski announced Friday that the U.S. Department of Agriculture will award \$2 million to the Alaska Division of Agriculture for the Micro-Grants for Food Security Program, which will be available to fund grants for eligible Alaskans next calendar year

### **OPINION: Infrastructure bill shows Alaska wins when we work across party lines**

By [Bryce Edgmon](#)

Good things happen when partisan politics are cast aside, like when our congressional delegation worked in a bipartisan manner to secure “Ted Stevens-like” funding for Alaska in last year’s federal infrastructure bill. I think the significance of the Infrastructure Investment and Jobs Act and what it means for our state has not gotten its full due.

<https://www.adn.com/opinions/2022/09/07/opinion-infrastructure-bill-shows-alaska-wins-when-we-work-across-party-lines/>

## Politics/Policy Calls

### **Dunleavy tries to intimidate Anchorage Daily News and its reporters**

Gov. Mike Dunleavy had one of his state-paid campaign workers try to intimidate the Anchorage Daily News and its reporters, deflecting attention from Dunleavy’s unethical practice of using state employees and contractors as “volunteers” on his campaign.

<https://www.dermotcole.com/reportingfromalaska/2022/8/28/zmvt6422mro18966631g50dnwt8oj8>

### **Dunleavy transition-firings lawsuit, begun in 2019, won’t end before 2023**

A legal dispute that began when Gov. Mike Dunleavy took office in 2018 will not be resolved before this year’s gubernatorial election.

### **The Dunleavy for Governor campaign has penned a letter to the leadership of Anchorage Daily News over conflict of interest concerns regarding one of the newspaper's reporters.**

The [letter](#), written by campaign spokesperson Andrew Jensen, alleges the appearance of a conflict of interest regarding the reporter assigned to cover the gubernatorial race, Sean Maguire. According to Jensen, Maguire’s wife, City and Borough of Juneau Assembly Member Carole Triem, is actively and publicly supporting one of the candidates in this race, former state Rep. Les Gara.

<https://www.kinyradio.com/news/news-of-the-north/dunleavy-campaign-cites-conflict-of-interest-with-adn-reporter/>

### **Mary Peltola goes home to the Kuskokwim**

If Peltola wins, she’ll be the first Alaska Native ever elected to Congress. But right now, all she wants to do is fish.

### **Palin leads the league in sharing unreliable information**

Sarah Palin is a “super-sharer of unreliable sources,” [according to a new study of Facebook posts by candidates for Congress](#) by the Center for Social Media and Politics at New York University.

[Read More](#)

## **OPINION: Making sure every Alaskan is heard is worth the wait**

By Alan Austerman and Reggie Joule

As a Democrat from Kotzebue and a Republican from Kodiak, the two of us certainly had disagreements while serving in the Legislature over the years. Our rural coastal communities had many things in common, and we often found consensus on issues that affected those interests and our state as a whole.

<https://www.adn.com/opinions/2022/08/31/opinion-making-sure-every-alaskan-is-heard-is-worth-the-wait/>

### **Democrat Mary Peltola wins special U.S. House election, will be first Alaska Native elected to Congress**

Peltola, a former state lawmaker from Bethel, led Republican former Gov. Sarah Palin after ballots were tallied and votes for third-place GOP candidate Nick Begich III were redistributed to his supporters' second choices.

<https://www.adn.com/politics/2022/08/31/democrat-mary-peltola-wins-special-us-house-election-will-be-first-alaska-native-elected-to-congress/>

### **Peltola makes history**

Democrat set to become first Alaska Native elected to Congress in ranked choice win

### **Interior Republicans: Uniquely independent**

Interior Republicans in Fairbanks, Districts 31-36, have organized separately from the Alaska Republican Party, creating their own group, and renting a temporary headquarters to last through Nov. 15. This move to create a separate operating group is so they can provide resources to people interested in running for local and state offices, to provide central location for meetings and to get candidate information out to the public.

<https://mustreadalaska.com/interior-republicans-uniquely-independent/>

### **OPINION: As a civil rights lawyer who sued Walker and Dunleavy, I'm ranking Gara No. 1**

As plaintiffs' counsel in *Hamby v. Parnell*, I brought the lawsuit challenging Alaska's same-sex marriage ban laws as unconstitutional. As plaintiffs' counsel in *Smith v. Dunleavy et al*, I sued to stop the state from denying military spouses and kids their Permanent Fund dividends. Based on my litigation for civil rights against multiple governors, including Bill Walker and Mike Dunleavy, I am ranking Les Gara No. 1 as the candidate to protect same-sex marriage and reproductive rights.

<https://www.adn.com/opinions/2022/09/01/opinion-as-a-civil-rights-lawyer-who-sued-walker-and-dunleavy-im-ranking-gara-no-1/>

### **Palin calls on Begich to drop out of November Congressional election**

Juneau, Alaska (KINY) - Sarah Palin has called on her Republican opponent, Nick Begich, to withdraw from the race for Alaska's at-large congressional seat

### **Wasilla state lawmaker stays on ballot for now amid challenge over Oath Keepers membership**

An Anchorage Superior Court judge has said he will not determine whether Republican Rep. David Eastman is eligible to hold state office before ballots are printed for the Nov. 8 general election.

<https://www.adn.com/politics/alaska-legislature/2022/09/01/wasilla-state-lawmaker-stays-on-ballot-for-now-amid-challenge-over-oath-keepers-membership/>

### **Sixty percent of Alaskans voted Republican in August, yet a Democrat was elected to Congress; national Republicans condemn ranked choice as a scam, unfair...**

Although 60% of voters chose a Republican -- Nick Begich or Sarah Palin -- during the Aug. 16 special general election for the vacant...

### **Murkowski, Tshibaka, Chesbro meet in first U.S. Senate debate**

In their first time sharing a debate stage, U.S. Sen. Lisa Murkowski and Trump-backed challenger Kelly Tshibaka presented their visions for representing Alaska as Republicans. They were joined by Democrat Pat Chesbro.

### **Many Alaska Native people say new Representative Peltola brings long-sought representation**

Alaska Twitter lit up after Democratic candidate [Mary Peltola won the special general election](#) to fill the remainder of Don Young's term as Alaska's U.S. House Representative. Democrats and progressives were excited about Peltola representing Alaskans, and some Alaska Native people were also happy about her win due to a different kind of representation.

<https://www.ktoo.org/2022/09/02/many-alaska-native-people-say-new-representative-peltola-brings-long-sought-representation/>

### **Watch: Candidates for Alaska governor debate at oil and gas conference**

Candidates for Alaska governor — Republican Gov. Mike Dunleavy, Democrat former state Rep. Les Gara and independent former Gov. Bill Walker — debated on Thursday, Sept. 1., at the Alaska Oil and Gas Association conference at the Dena'ina Center in Anchorage. (Video by Loren Holmes, Anchorage Daily News).

<https://www.adn.com/politics/2022/09/02/watch-candidates-for-alaska-governor-debate-at-oil-and-gas-conference/>

### **Surprise: Kenai Borough Assembly votes in Navarre as temporary mayor**

Former Mayor Mike Navarre will take over as mayor when Kenai Borough Mayor Charlie Pierce steps away at the end of September to focus his efforts on his campaign for governor. The vote was taken at Tuesday night's Assembly meeting and was something of a surprise.

<https://mustreadalaska.com/surprise-kenai-borough-assembly-votes-in-navarre-as-temporary-mayor/>

### **Dunleavy accused of using state funds to pay campaign staffers and violating campaign finance rules**

A nonpartisan watchdog group says Republican Gov. Mike Dunleavy's re-election campaign is coordinating with a super PAC working to get him elected. The Alaska Public Research Interest Group and a new organization called 907 Initiative filed the complaint on Tuesday with the Alaska Public Offices Commission

<https://www.ktoo.org/2022/09/07/dunleavy-accused-of-using-state-funds-to-pay-campaign-staffers-and-violating-campaign-finance-rules/>

### **11 Alaska legislative candidates withdraw from the general election**

Eleven candidates for the Alaska Legislature withdrew before Monday's deadline, finalizing who will appear on the general election ballot and run for control of the state House of Representatives and Senate.

<https://www.adn.com/politics/2022/09/06/11-alaska-legislative-candidates-withdraw-from-the-general-election/>

### **OPINION: Alaska's constitution — if it ain't broke, don't fix it**

By [Frank Murkowski](#)

As a conservative, I subscribe to the principle to leave alone things in government that are working well. We have enough important things that need to change, like high inflation and the Biden administration's efforts to close down drilling in the Arctic National Wildlife Refuge, block the Ambler Road and reimpose the Roadless Rule on the Tongass National Forest.

<https://www.adn.com/opinions/2022/09/06/opinion-alaskas-constitution-if-it-aint-broke-dont-fix-it/>

### **Palin lashes out at reporters, demands Nick Begich resign from congressional race immediately**

She lectured the media and told them if they don't respect her property they won't be invited back, and scolded them to stop hiding out in the woods by her home. If they want to get pictures, she said, contact Kris Perry, her campaign manager, and Perry will help them with pictures.

<https://mustreadalaska.com/palin-lashes-out-at-reporters-demands-nick-begich-resign-from-congressional-race-immediately/>

### **Peltola to be sworn in Sept. 13**

Special U.S. House race certified; Palin, Begich repeat demands the other drop out of Nov. election

Congresswoman-elect Mary Peltola will be sworn in Sept. 13 to serve the remaining four months of the late Rep. Don Young's term following the certification late last week of Alaska's first ranked choice election, her campaign spokesperson said Monday.

<https://www.juneauempire.com/news/peltola-to-be-sworn-in-sept-13/>

**OPINION: As our state melts and burns, Murkowski is gung-ho on fossil fuels**

Record heat in Anchorage. Record drought causing record wildfires one Interior resident likened to a [“war zone.”](#) Hazardous smoke as far away as Nome that one climate expert called [“stunning.”](#) Then, in “weather whiplash extraordinaire,” our state was slammed by record rainfall that [flooded Mat-Su homes](#). Alaska's summer from hell has arrived, and it's only a glimpse of the suffering to come, as Alaska warms twice as fast as the Lower 48. As a hunter, fisherman, and lover of wild places, I fear every day for our Alaskan way of life.

<https://www.adn.com/opinions/2022/09/08/opinion-as-our-state-melts-and-burns-murkowski-is-gung-ho-on-fossil-fuels/>

**OPINION: School closures are the inevitable result of Dunleavy's education vetoes**

The Anchorage School District, or ASD, is facing devastating choices as a result of Gov. Mike Dunleavy's education vetoes and years of declining education funding. Over the next few months, the Anchorage School Board will consider proposals from ASD administration to close multiple schools.

<https://www.adn.com/opinions/2022/09/09/opinion-school-closures-are-the-inevitable-result-of-dunleavys-education-vetoes/>

**OPINION: A historic PFD still leaves work to be done**

By [Mike Dunleavy](#)

A uniquely Alaska event — the distribution of the annual Permanent Fund Dividend — is coming up on Sept. 20 and I'm pleased to announce that it will be the largest in state history.

<https://www.adn.com/opinions/2022/09/09/opinion-a-historic-pfd-still-leaves-work-to-be-done/>

**Gov. Mike Dunleavy has named Deven Mitchell, a 30-year state employee and Alaska's current debt manager, as the temporary head of the Alaska Department of Revenue, following the resignation of Commissioner Lucinda Mahoney.**

Mahoney previously said she would retire Sept. 9. As commissioner, Mitchell will be in charge of collecting state taxes. The commissioner also fills a seat on the Alaska Permanent Fund Corp. board of directors. Mitchell, who joined the department in 1992, lives in Juneau and for the past several years has been the official in charge of overseeing the state's credit rating and bond sales.



<https://www.kinyradio.com/news/news-of-the-north/longtime-state-employee-is-named-interim-revenue-commissioner/>

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***GROUND LEASE***

**Between**

***ALASKA RAILROAD CORPORATION***

**and**

***CITY OF WHITTIER***

***CONTRACT NO. 20753***

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## **GROUND LEASE**

**THIS GROUND LEASE** (herein called "this Lease") is made on the day executed by the last signatory hereto, by and between the **ALASKA RAILROAD CORPORATION** (herein called "ARRC"), a public corporation created pursuant to AS 42.40, whose mailing address is P.O. Box 107500, Anchorage, Alaska 99510-7500, and the **CITY OF WHITTIER**, (herein called "the City"), a second class city organized and existing under the laws of the State of Alaska, whose mailing address is P.O. Box 608, Whittier, Alaska 99693-0608.

### **RECITALS**

- A. ARRC has agreed to lease to the City a parcel of land located within the boundaries of the City of Whittier, Alaska, in the Anchorage Recording District, Third Judicial District, State of Alaska, and more specifically described in paragraph 1.01 of this Lease and on Schedule 1 attached to and for all purposes made a part of this Lease ("Leased Premises").
- B. ARRC owns approximately two hundred fifty (250) acres of land within the boundaries of the City of Whittier, including approximately one hundred and five (105) acres in the city core and waterfront district.
- C. The ARRC and City are parties to a Ground Lease and Management Agreement dated November 13, 1998 (the "Master Lease") which established certain terms and recitals agreed upon by the parties in 1998 that provide context for this Lease, including;
  - a. The City had (and still has) a relatively small tax base and operates under a limited annual budget due to its small population and few taxable business entities; and
  - b. Within the City limits much of the land, including land owned by ARRC, was undeveloped and thus generated minimal property and sales taxes, and no payments-in-lieu-of-tax or other revenues on which to support critical City services and public infrastructure; and
  - c. The City did then and does now believe that it can only be financially viable by assuming control of ARRC's unleased lands and managing land development activities for City-owned and ARRC-owned land in a manner that maximizes economic development and generates increased property and other taxes, and lease rent; and
  - d. Under the Master Lease, the City would manage development of all identified ARRC-owned lands and would share 40% of the revenues from subleases with the ARRC, as a means to develop financial sustainability for the City; and

- e. The City would develop and maintain a "Comprehensive Plan," operation of which allows the City to establish development goals and then pursue its development objectives on ARRC lands without ARRC approval so long as its actions are aligned with the Comprehensive Plan.
- D. The City is pursuing redevelopment of both City-owned and ARRC-owned land located at the head of the bay in the City of Whittier, it being the City's intent to permit development and construction of new cruise ship facilities and related infrastructure and improvements (the "Project"), which Project is intended to bring economic and other benefits to the City of Whittier and to the State of Alaska.
- E. It is the City's position that the Master Lease remains in effect in all respects at the time of execution of this Lease, including with respect to the Leased Premises, and that the City has demonstrated, through significant financial and other valuable actions and contributions, that it has and continues to comply with the terms of the Master Lease.
- F. It is ARRC's position that the Leased Premises and most other ARRC land at the head of the bay are no longer subject to the provisions of the Master Lease due to the City's failure to adequately develop the property in accordance with the terms of the Master Lease.
- G. In light of the differing positions of the parties as described in Recitals E and F, above, a dispute has arisen between ARRC and the City regarding whether the Leased Premises, upon which a portion of the Project may be constructed, remain under the City's control pursuant to the Master Lease or whether such control reverted back to ARRC under the terms of the Master Lease.
- H. ARRC and the City have agreed to set aside their dispute regarding the application of the Master Lease only as to the Leased Premises to facilitate the Project, without making any acknowledgements, admissions, or concessions regarding their competing claims as to the current status of the parties' rights and interests pursuant to the Master Lease.
- I. By entering into this Lease, neither the City nor ARRC waives any of their respective rights under the Master Lease or legal positions or arguments with respect thereto.
- J. At the time of execution of this Lease, ARRC has a gravel extraction agreement ("Gravel Agreement") with Mass Excavation ("Mass-Ex") that affects a portion of the Leased Premises. The parties intend that Mass-Ex shall be allowed a right of entry under this Lease to perform gravel extraction on said portion of the Leased Premises during the initial stages of the Lease Term, with all parties coordinating with respect to such activities and without changing the consideration to either ARRC or Mass-Ex under the Gravel Agreement, as provided in paragraph 1.10 of this Lease.

- K. The parties intend that the rents for the initial lease term of thirty-five (35) years be the lump sum amount of three hundred fifty-six thousand six hundred twenty-nine and 79/100 Dollars (\$356,629.79), which amount shall be prepaid upon the execution of this Lease.
- L. The parties intend that the rental rate for any extension terms exercised by the City's option to be multiplied against the fee simple value as determined in accordance with paragraph 2.02 of this Lease is eight percent (8%).

NOW, THEREFORE, in consideration of the mutual promises contained herein, and such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## ARTICLE 1

### LEASED PREMISES AND TERM

1.01 Leased Premises. ARRC, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by the City, hereby leases to the City, and the City hereby leases from ARRC, the vacant, unimproved (except as noted in paragraph 1.03 of this Lease) land situated in the Anchorage Recording District, Third Judicial District, State of Alaska, more particularly described on Schedule 1 attached to and for all purposes made a part of this Lease, and comprising approximately twenty and four-tenths (20.4 acres of land, together with all rights, easements, privileges, both subterranean and vertical, and appurtenances attaching or belonging to the described land, but subject to the reservation contained in paragraph 1.02 of this Lease (herein called the "Leased Premises").

1.02 Reservation of Minerals. All oil, gas, coal, geothermal resources and minerals of whatever nature in or under the above-described land are excluded from the Leased Premises and reserved to ARRC. Notwithstanding the foregoing, the City shall have the right, subject to the terms of this Lease, to use earth materials on or in the above-described land to a depth not to exceed twenty (20) feet below the surface, and to move and recontour such materials on the Leased Premises. During the term of this Lease, ARRC shall not have the right to enter on the surface of the Leased Premises, without the City's prior written consent, for the purpose of mining and/or extracting such oil, gas, coal, geothermal resources, or other minerals and shall not mine and/or extract the same by any means at a depth less than twenty-five (25) feet below the surface of the Leased Premises. If ARRC mines and/or extracts such oil, gas, coal, geothermal resources, or other minerals, the mining and/or extraction shall not interfere with the business, use and/or activities of the City or any of its Qualified Subtenants (as defined in paragraph 7.07) on the Leased Premises, parking or access to the Leased Premises.

1.03 Improvements Owned by ARRC. ARRC does not claim any improvements on the Leased Premises at the commencement of this Lease, but ARRC anticipates that The following described improvements ("ARRC Improvements") are situated on and are a part of the Leased



Premises and are and shall remain throughout the term of this Lease the property of ARRC, provided, however, the City has, subject to the limitations stated below, the right to use, develop, repair, maintain, remove, and or improve the ARRC Improvements during the Term of this Lease as provided herein:

All retaining walls, berms, earth contours, and all other below-surface improvements situated on the Leased Premises on the date of this Lease; excepting however, any utility service connections and any underground storage tank(s) on the Leased Premises or appurtenances to such tank(s).

Notwithstanding the foregoing, the City's removal of any ARRC Improvements (i) shall not result in damage to the Leased Premises or otherwise reduce its property value; and (ii) shall be conducted such that any ARRC Improvements that retain financial value following their removal shall be relocated onto adjacent ARRC land as indicated by ARRC. Any subsurface improvements to the Leased Premises during the Lease Term shall become the property of ARRC (and included within the term ARRC Improvements) immediately upon installation, except underground storage tank(s) (and their appurtenances) and utility service connections, which shall be and remain the sole property of the City.

1.04 Improvements Owned by the City. "City Improvements" are any and all improvements constructed by the City or its Qualified Subtenants on the Leased Premises in connection with the Project, including, without limitation, cruise ship facilities, retail businesses, boardwalk and tourism and other related infrastructure, utilities, and improvements as described below, and shall remain throughout the term of this Lease the property of the City. At the commencement of this Lease no City Improvements exist on the Leased Premises.

As used hereafter, the term "improvements" without reference to ARRC or the City shall mean all buildings, structures, fixtures and other above surface or subsurface improvements made to or added to the Leased Premises by ARRC or the City, including, without limitation, the ARRC Improvements and/or the City Improvements.

1.05 Use of Leased Premises.

A. Permitted Uses/Conformity with Comprehensive Plan. The City shall have full and general management authority over the Leased Premises and improvements, except as otherwise limited by this Lease. The City shall use the Leased Premises for construction, development and operation of cruise ship facilities and related infrastructure and improvements, which improvements are deemed by the parties to be consistent with the City of Whittier's Comprehensive Plan (the "Comprehensive Plan") and expressly permitted by this Lease, as well as for other uses permitted by the Comprehensive Plan that relate to the Project. ARRC acknowledges that prior to the execution of this Lease, it had an opportunity to review conceptual plans for the project and determined them to be consistent with the Comprehensive Plan and to be expressly permitted by the terms of this Lease. The conceptual plans reviewed by ARRC for this purpose are appended to this Lease as Schedule 3 of this Lease. During the term of the Lease, the City shall not be required to obtain the approval of ARRC for any subleases or developments which are consistent

with the uses allowed by this Lease and the Comprehensive Plan, provided that the City complies with paragraph 7.07 of this Lease. The City may undertake development of the Leased Premises consistent with its rights hereunder by itself, by joint venture or by other business arrangement in which the City is a participant along with other private or public entities, including by subleasing portions of the Leased Premises to one or more developers or businesses for development consistent with the Comprehensive Plan. Nothing in this subparagraph 1.05.A shall be interpreted to limit or modify the parties' respective termination rights under paragraph 1.08 of this Lease.

B. Nonconforming Development. In the event the City seeks to sublease or develop a portion of the Leased Premises in a manner not in conformity with the Comprehensive Plan, the City shall first consult with ARRC and seek ARRC's approval of such proposed sublease or development. ARRC shall consider such a proposed sublease or development in good faith and shall have the right and a reasonable opportunity to comment, to suggest modifications to the proposed non-conforming use and/or to suggest modifications to this Lease to accommodate the proposed sublease or development. ARRC shall have the right to approve or disapprove non-conforming uses, although approval shall not be unreasonably withheld or delayed.

1.06 Lease Term. This Lease shall be and continue in full force and effect for a term of thirty-five (35) years (the "Lease Term" or "Term") commencing as of April 13, 2022, and expiring as of April 12, 2057, unless earlier terminated as provided in this Lease, including but not limited to the provisions of paragraph 1.08. This Lease may be extended at the City's option in accordance with Paragraph 1.07.

1.07 The City's Options to Extend Lease Term. The City shall be entitled to extend the term of this Lease, at its option, for either one (1) or two (2) additional twenty-five (25) year terms (each referred to herein as an "Extension Term"), provided that at the time of the City's attempt to exercise any such option (A) the Lease has not been previously terminated; and (B) that the City is not in material default under the terms of the Lease. With respect to each such option to extend, the City shall notify ARRC by the date eighteen (18) months prior to expiration of the then-current term that the City is interested in potentially extending the Lease. Such notice shall not obligate the City to enter into an extension. If the City so notifies ARRC, ARRC shall obtain the appraisal report provided for in paragraph 2.02 of this Lease and provide it to the City not later than twelve (12) months before the expiration of the then-current term. The City shall provide written notice of the exercise of such option to ARRC, at the address provided herein, following receipt of said appraisal report and not less than one-hundred eighty (180) days prior the expiration of the then-current Term. If the appraised value of the Leased Premises is disputed at the time the City is required to exercise its option to extend, the City may reserve its option to extend until such time as the appraised value has been established through arbitration or litigation, as provided for in Article 8 of this Lease. If the appraisal report is provided on time, per the requirements of this paragraph, yet the appraised value is not established until after the expiration of the term, the holdover provisions of paragraph 4.13 shall apply until the City exercises its option to extend or declines such option, except as otherwise expressly stated in this paragraph 1.07. The annual Basic Rents that would apply in such circumstances shall be thirty thousand dollars (\$30,000). All terms and conditions provided in this Lease shall continue to apply during any Extension Term. The parties agree and acknowledge that

the pre-payment of rent by the City of the Basic Rents for the entire initial thirty-five (35) year term of this Lease shall constitute sufficient consideration for the City's extension options provided in this paragraph 1.07.

1.08 Parties' Rights to Terminate Lease Related to Project Construction.

A. City's Project-Related Right to Terminate Lease. The City shall have the right to terminate this Lease without penalty, at the City's option, which may be exercised by the City in its sole and absolute discretion in the event that the Project does not proceed, or in the event that the Project is modified in such a manner so that use of the Leased Premises is not necessary for the Project. The City shall provide written notice of the exercise of such right to terminate to ARRC, at the address provided herein, at least thirty (30) days prior date specified for termination in the notice. The City's termination rights under this subparagraph shall expire on the date that is seven (7) years from the date of execution of this Lease.

B. ARRC's Project-Related Right to Terminate Lease. ARRC shall have the right to terminate this Lease without penalty, at ARRC's option, which may be exercised by the ARRC in its sole and absolute discretion in the event that either (i) construction of the Project does not commence within four (4) years of the execution date of this Lease; or (ii) construction of the Project is not completed within seven (7) years of the execution of this Lease. ARRC shall provide written notice of the exercise of such right to terminate to the City, at the address provided herein, at least thirty (30) days prior date specified for termination in the notice. For purposes of this subparagraph 1.08.B, commencement of construction of the Project shall be deemed to be established by the installation of twenty percent (20%) of the pilings to be used to accommodate a new cruise ship dock. For purposes of this subparagraph 1.08, completion of construction of the Project shall be deemed to be established by the docking of ocean-going cruise ships (capable of accommodating at least one thousand [1,000] passengers) on the adjacent tidelands. ARRC's termination rights under this subparagraph shall expire if not exercised within one-hundred eighty (180) days of the four (4) and seven (7) year milestones outlined herein.

1.09 Construction of City Improvements.

A. Acceptance of Leased Premises. The City has inspected the Leased Premises and accepts the same as of the commencement date of this Lease in its present condition, but subject to the provisions regarding environmental contamination contained in paragraph 4.06 of this Lease.

B. Commencement of Construction. The City may, in its sole discretion, and/or through and by its Qualified Subtenants, commence and proceed with the permitting, construction and completion of City Improvements on the Leased Premises, provided that such improvements comply with all applicable requirements and conditions set forth herein.

C. Permits; Compliance with Codes. The City shall cause to be secured, with no cost to ARRC, all necessary building permits, or other permits, licenses, permissions, consents and/or approvals required to be obtained from any state or federal governmental entities or agencies,

or third parties, in connection with construction of any improvements, or repairs or replacements to the Leased Premises as required by applicable laws, ordinances or regulations. The City shall cause all work on the Leased Premises during the Term to be performed in accordance with all laws, ordinances and regulations of any governmental agencies and the representatives of such agencies having jurisdiction over such work. The provisions of this subparagraph 1.09.D are in furtherance of, and do not modify or limit in any way the City's more general compliance obligations under subparagraph 4.06.A of this Lease.

D. Control and Indemnification. Except as specifically provided otherwise herein, during the Term of this Lease, the City shall have exclusive control and possession of the Leased Premises, and ARRC shall have no liabilities, obligations or responsibilities whatsoever with respect thereto or with respect to any of the City's development or construction plans. ARRC's approval of a proposed development or construction plans, if required, shall not render ARRC liable therefore, and the City agrees to indemnify, defend and hold harmless ARRC from and against any and all claims arising out of or related to such development or construction plans. Nothing in this paragraph shall be construed as a release or waiver of liability of any contractor with respect to any and all claims arising out of or relating to the use of such development or construction plans.

E. Communication Regarding Project Construction. The City and ARRC agree that from the date of execution of this Lease through completion of construction, the parties will strive to communicate in good faith about the Project in order to avoid surprise, misunderstandings or disputes regarding changes or alterations to the Project.

F. Alterations, Additions, Demolition or Reconstruction. The City and its Qualified Subtenants shall have the right at any time and from time to time during the Term of the Lease to make or permit, at their expense, any changes, renovations, additions, alterations, reconstruction, replacements or demolition of or to any of the City's Improvements, or any part thereof, constructed or to be constructed on the Leased Premises, provided that the same are consistent with the Comprehensive Plan and the uses of the Leased Premises expressly allowed under this Lease. Nothing in this paragraph shall modify in any way the City's compliance obligations under subparagraph 4.06 or any other provision of this Lease.

G. As-Built Drawings. Upon completion of any improvement(s), the City shall deliver to ARRC one copy of as-built drawings for the improvement(s) together with an as-built survey showing the location of the improvements on the Leased Premises, including any underground improvements. One hard copy of as-built drawings and surveys shall be delivered or mailed to ARRC's Real Estate Department, and one digital copy in AutoCAD shall be provided, which can be emailed to the ARRC Land Services Manager at [LandServices@akrr.com](mailto:LandServices@akrr.com). In addition to such as-built drawings, ARRC may, in its reasonable discretion, request that the City provide GPS data or other locational information the City at its own option acquires regarding the completed improvement(s) and the City agrees to provide such data or information upon ARRC's reasonable request.

1.10 Mass-Ex Right of Entry. Mass-Ex shall have a right-of-entry to the Leased Premises to extract gravel under the Gravel Agreement described in Recital J of this Lease on that portion of

the Leased Premises that is included in the area subject to the Gravel Agreement. Said right-of-entry shall include access to said portion of the Leased Premises and to such other area in the Leased Premises reasonably necessary for Mass-Ex to extract gravel as provided in the Gravel Agreement. The City agrees that it and its Qualified Subtenants and/or contractors will provide reasonable cooperation to Mass-Ex in the planning and accomplishment of gravel excavation in this area. ARRC agrees that it will use reasonable efforts to ensure that Mass-Ex meets its site reclamation obligations under the Gravel Agreement with respect to the portion of the Leased Premises from which Mass-Ex extracts gravel. The right of entry granted in this paragraph shall terminate once gravel extraction activities on the Leased Premises have concluded, which shall occur not later than September 30, 2023. Mass-Ex will make reasonable accommodations for construction occurring on the area subject to the Gravel Agreement beginning July 1, 2023, so long as such construction does not limit its ability to mine or reclaim the area. Nothing in this Lease shall be construed to modify or affect in any way the terms of the Gravel Agreement or the consideration to be paid to ARRC by Mass-Ex thereunder.

## ARTICLE 2

### RENTS

#### 2.01 Rents.

The City shall pay the following rents (herein called "Basic Rents") to ARRC in legal tender of the United States of America, without deduction and without notice or demand, required to be paid by the City under this Lease with respect to the Leased Premises. The Basic Rents shall be as follows:

A. Basic Rents – Initial Lease Term. For the initial Lease Term of thirty-five (35) years, commencing on the effective date of this Lease and continuing through and including April 12, 2057, Basic Rents shall be the lump sum amount of Three Hundred Fifty-Six Thousand Six Hundred Twenty-Nine and 79/100 Dollars (\$356,629.79), which amount shall be prepaid upon the execution of this Lease.

B. Basic Rents – Extension Terms. For any Extension Term of this Lease, as provided in paragraph 1.07 of this Lease, the annual Basic Rents shall be a percentage of fair market value determined as provided in paragraph 2.02 of this Lease. Said fair market value rent for a particular Extension Term shall be determined by means of an appraisal to be conducted in accordance with paragraph 2.02 prior to the date the City must exercise its option to extend the Lease for that Extension Term, as specified in paragraph 1.07. Once fair market value rent is determined as described above, and the City exercises its option to extend, the City shall have the option, at its discretion, to elect one of the two alternative rent payment schedules set forth below in subparagraphs 2.01.B.1 and 2.01.B.2. The City's right to make said election must be exercised before the commencement of the Extension Term and is irrevocable. The alternative payment schedules for Basic Rents during an Extension Term are as follows:

1. Discounted Prepaid Rent Option. If the City elects this option, Basic Rents for the Extension Term shall be a single discounted prepaid lump sum payment calculated based on the appraised fair market value rent determined as described above. Said lump sum payment shall be paid on or before the commencement date of the Extension Term. To calculate the lump sum prepaid rent ARRC shall apply an 8% discount rate to the annual Basic Rents for Extension Terms determined pursuant to paragraph 2.02.B. of this Lease.

2. Annual Rent Option. If the City elects this option, Basic Rents for the Extension Term shall be paid annually, with each installment of annual rent to equal the annual fair market rent determined by appraisal as described above. The first annual installment shall be due on or before the first day of the Extension Term, with subsequent installments due on or before the succeeding anniversary dates of the Extension Term.

C. Partial Refunds of Prepaid Basic Rents.

1. Initial Term. In the event that either party exercises its discretionary right to terminate this Lease set forth in paragraph 1.08 of this Lease, the City shall be entitled to a partial refund of its initial lump-sum prepaid Basic Rents payment pursuant to subparagraph 2.01.A of this Lease. The amount of such refund shall depend on the lease year in which the Lease is terminated, and shall be paid according to the schedule set forth in Schedule 2 to this Lease. If the Lease is terminated on the basis of a default, the City shall be entitled to a partial refund of its initial lump-sum prepaid Basic Rents payment calculated based on the final lease year for which the City is obligated to pay Basic Rents under this Lease pursuant to the remedy or remedies exercised or obtained for said default. The amount of such refund shall also be paid according to Schedule 2 to this Lease.

2. Extension Terms. If the City exercises one or both of its options to extend the Lease Term as provided in paragraph 1.07 and elects the prepaid lump-sum Basic Rents option set forth in subparagraph 2.01.B.1 of this Lease, the City shall be entitled to a partial refund of such prepaid Basic Rents payment if the Lease is terminated on the basis of a default, with such partial refund calculated based on the final year during that Extension Term for which the City is obligated to pay Basic Rents under this Lease pursuant to the remedy or remedies exercised or obtained for said default. The amount of such refund shall also be paid according to a revised Schedule 2, which shall be updated at the beginning of each Extension Term to reflect the adjusted Basic Rents for that Extension Term.

3. No Other Credits Based on Pre-Paid Rent Amounts. The City acknowledges and agrees that, except for purposes of the partial refunds of Basic Rents provided for in subparagraphs 2.01.C.1 and 2.01.C.2 of this Lease, no portion of the City's initial and/or subsequent lump-sum prepaid Basic Rents payments shall be repaid or credited to the City or any Qualified Assignee as defined in Article 7.

2.02 Determination of Fair Market Value Rent and Appraisal Procedures. Where paragraph 2.01 of this Lease provides that the City shall pay fair market value rent based on

appraisal, the fair market value upon which the City's obligation to pay Basic Rents under paragraph 2.01 is based, shall be determined as follows:

A. Scope of Appraisal. The parties acknowledge and agree that this Lease is a ground lease between the City and ARRC that will contribute to the development and economic benefit of the City of Whittier. The parties also acknowledge and agree that the fair market value appraisal described in this paragraph 2.02 that will be used to determine Basic Rents during any Extension Period will be based on the fair market value of the raw land itself, excluding those improvements the City or its Qualified Subtenants place on the land. The parties further recognize and acknowledge that certain infrastructure or improvements, such as the provision of water or electrical service, can increase the value of raw land. Therefore, although no such improvements are planned at this time by ARRC and this Lease does not obligate ARRC to make any such improvements on the Leased Premises, the parties agree that if at any time during the Lease Term, infrastructure or similar improvements are made by ARRC that increase the fair market value of the Leased Premises (such as, but not limited to, the provision of water service to the Leased Premises), the appraisal used to determine Basic Rents for an Extension Term shall take into consideration any increase in the raw land value, including any increase attributable to improvements made by ARRC.

B. Appraisal of Fair Market Value of Fee Simple Interest. ARRC shall select an appraiser from a list of qualified appraisers compiled by ARRC and kept available for public inspection at ARRC's office. The appraiser shall determine, by the date twelve (12) months before the expiration of the Initial Term or the first Extension Term, the fair market value of the fee simple interest in the Leased Premises, unencumbered by this Lease, and including improvements owned by ARRC (identified in paragraph 1.03 of this Lease), and excluding improvements owned by the City (identified in paragraph 1.04 of this Lease). The appraiser shall value the Premises on an "as if clean" basis, i.e. the land is to be appraised as if unaffected by environmental contaminants; provided, however, that if known environmental contamination precludes what would otherwise be the highest and best use of the Premises at the time of appraisal, the appraiser shall make the value determination based on the highest and best use of the property that can be made at the time of appraisal taking into account the environmental contamination. A copy of the appraisal report shall be provided by ARRC to the City.

C. Fair Market Value Rent. The annual fair market value rent shall be the product derived from multiplying the fair market value of the Leased Premises (established in accordance with subparagraph 2.02.B of this Lease) by eight percent (8 %).

D. Appeal and Arbitration of Rent Increases. ARRC must provide the City its appraisal report and notice of fair market rent no later than the date twelve (12) months before the end of the Initial Term and before the end of the first Extension Term, as applicable. In the event the City disagrees with an appraisal of fee simple value made by ARRC pursuant to subparagraph 2.02.B of this Lease, the City may appeal the value determined in such appraisal by notifying ARRC in writing of its demand for appeal within ten (10) days of receiving ARRC's notice of change in rent. The City's failure to give said notice will constitute a waiver of the City's right to appeal a change in rent based on such appraisal, and the City shall be bound by ARRC's determination of the fair market value rent.

In the event the City so appeals a change in rent, the City shall, at its own expense, obtain an appraisal of the fair market value of the fee simple interest in the Leased Premises, unencumbered by this Lease, and including ARRC's Improvements and excluding the City's Improvements, and provide the same to ARRC no later than sixty (60) days after receiving ARRC's appraisal report and notice of change in rent. Said appraisal shall be performed in accordance with ARRC's Standard Appraisal Instructions in effect at the time of appraisal. If within fifteen (15) days after ARRC receives the City's appraisal, the parties are unable to agree as to the fair market value of the fee simple interest, the City may, at its option, refer the matter to arbitration in accordance with the procedures contained in Article 8 of this Lease by notifying ARRC in writing of its demand for arbitration within ten (10) days after expiration of the 15-day period provided above. Otherwise, the City shall have no right to refer a rent dispute to arbitration and shall be bound by ARRC's determination of rent under this Lease.

E. Retroactive Rent. Until ARRC issues its notice of a change in Basic Rents for an Extension Term as determined under subparagraph 2.01.A of this Lease, the City shall pay the Basic Rents during an Extension Term as follows. At the beginning of the first Extension Term, the City shall pay the undiscounted annual lease term rent of Thirty Thousand and 00/100 Dollars (\$30,000.00). When the adjusted Basic Rents have been determined, and the City notified, such Basic Rents as so determined shall be due and payable to ARRC retroactive to the commencement of the Extension Term for which such rent adjustment is made. If the City elects the lump sum discounted prepaid rent option for an Extension Term under paragraph 2.01.A, it will be given credit toward that payment for any amount already paid by the City for the Extension Term Basic Rents. If the City elects the annual rent payment option under paragraph 2.01.B, any deficiency resulting from such rent adjustment shall be payable by the City to ARRC within thirty (30) days after the giving of such notice to the City; provided, however, that at no time will the City be responsible for more than ninety (90) days of unbilled retroactive rent at an increased level. Any surplus payment resulting from such rent adjustment shall be applied within thirty (30) days after the giving of such notice to the City toward the annual rent for the next lease year for which full rent has not yet been paid by the City.

2.03 Absolutely Net Rent. When a Basic Rent becomes effective under this Lease, such rent shall not thereafter be reduced for any reason, except in the event of (1) condemnation or (2) as the result of a rent adjustment under paragraph 2.01 of this Lease. It is the purpose and intent of ARRC and the City that the Basic Rents established under this Lease shall be absolutely net to ARRC so that this Lease shall yield, net to ARRC, the rent specified herein during the Term of this Lease, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Leased Premises, which may arise or become due during the Lease Term, except as otherwise expressly provided in this Lease, and except costs, expenses, and obligations (other than those to be borne by the City as herein provided) incurred by ARRC in connection with the sale or mortgaging of the Leased Premises, shall be paid by the City, and that ARRC shall be indemnified and held harmless by the City from and against the same.



## ARTICLE 3

### QUIET ENJOYMENT

Upon timely payment by the City of all of such rents and other payments required to be paid by the City under this Lease, and upon full and faithful observance and performance by the City of all of its covenants contained in this Lease, and so long as such observance and performance continues, the City shall peaceably hold and enjoy the Leased Premises during the Lease Term without hindrance or interruption by ARRC or anyone lawfully claiming by, through, or under ARRC.

## ARTICLE 4

### CITY'S COVENANTS

4.01 Use of Leased Premises. The City specifically agrees that for the Term of this Lease, its use of the Leased Premises shall comply with the provisions of paragraph 1.05 of this Lease.

4.02 Taxes, Assessments and Charges.

A. The City shall require its Qualified Subtenants, permittees and licensees who occupy or use the Leased Premises to pay, before they become delinquent, all real property taxes, assessments, special assessments or other charges of every description for which the Leased Premises, or any improvement thereon or any use thereof, that are now or during the Lease Term may be assessed or become liable, whether made by governmental authority or by any public utility or community service company, and whether assessed to or payable by ARRC or the City, subject to said Qualified Subtenants, permittee's or licensee's option to pay in installments hereinafter provided. Such taxes and assessments include, but are not limited to, any increased real property tax resulting from any classification of the Leased Premises during the Lease Term to a higher use (other than a classification occurring at the initiative of ARRC or its agents), for which classification the City's Qualified Subtenant, permittee or licensee shall be deemed to be the petitioner and upon request by ARRC shall so notify the appropriate governmental authorities. Payments of real property taxes and assessments due during the first and last years of the Lease Term shall be prorated as of the dates the Lease Term begins and ends. Upon request by ARRC, the City shall cause its Qualified Subtenants, permittees and licensees to deposit with ARRC true and complete copies of receipts for such real property taxes and assessments evidencing their timely payment.

B. If at any time during the Lease Term any new or additional taxes (other than federal or state net income taxes or any other taxes existing on the commencement date hereof) are assessed against the Leased Premises, or any improvement thereon, or any rents payable to ARRC under this Lease, or against ARRC with respect thereto, the City shall use its best efforts to cause its Qualified Subtenants, permittees or licensees to pay to the taxing authority or ARRC, before they become delinquent and as additional rents, all of such new taxes.

C. Nothing contained in this Lease shall prevent the City's Qualified Subtenants, permittees or licensees from contesting in good faith the validity or the amount of such real property taxes or assessments by appropriate proceedings commenced before such real property taxes or assessments become delinquent; provided, however, that (1) the City shall give written notice to ARRC of such contest within ten (10) days of being informed of the protest; (2) concurrently with such written notice, the City shall require its Qualified Subtenant, permittee or licensee to provide and continue to provide the City with security approved by the City as to quality and quantity to assure full payment of all of such real property taxes or assessments and all interest and penalties which may accrue or be assessed thereon or with respect to such taxes, which security the City hereby agrees to use to pay any such amounts out of said security; and (3) ARRC, as long as the City obtain such security, shall not be entitled to pay such real property taxes or assessments for the account and at the expense of the City or its Qualified Subtenant, permittee or licensee. The City shall not be deemed in default under this Lease because of a failure of its Qualified Subtenants, permittees or licensees to pay any property taxes or assessments subject to a pending appeal of such taxes or assessments.

D. If there is an option given to pay assessments or special assessments in installments, the City may elect to require its Qualified Subtenants, permittees and/or licensees to pay such installments as shall accrue during the Lease Term and/or any Extension Term.

E. Subject to the exception set out in subparagraph 4.02.C of this Lease, ARRC may elect, in its sole discretion and after giving written notice to the City and any Qualified Mortgagee (as defined in subparagraph 7.06.B of this Lease), to pay any delinquent tax, assessment or charge for which the City's Qualified Subtenants, permittees or licensees are liable under this paragraph 4.02 for the account and at the expense of such Qualified Subtenants, permittees or licensees, and may further elect, upon such payment: (1) to terminate this Lease under Article 9, after giving thirty (30) days' written notice and allowing an opportunity for cure as provided therein, and bring an appropriate action against the City for recovery of the sum paid; (2) to continue this Lease in force and charge the City with the payment as additional rent; or (3) to continue this Lease in force and bring an appropriate action against the City for recovery of the sum paid. The above-enumerated elections are not in derogation of, and do not limit, any other rights or remedies ARRC may have under this Lease or applicable law. Nothing in this subparagraph 4.02.E requires ARRC to pay any delinquent tax, assessment, or charge for which the City's Qualified Subtenants, permittees or licensees are liable.

4.03 Improvements Required by Law. the City or its Qualified Subtenants, at their own expense, during the Lease Term and subject to the requirements of paragraph 4.06 of this Lease, shall make, build, maintain and repair all fences, sewers, drains, roads, road widening, driveways, sidewalks, water, underground electric and telephone lines, curbs, gutters and other installations which may be required by law to be made, built, maintained, or repaired upon, or adjoining and in connection with, or for use of the Leased Premises or any part of it, and regardless of whether the same were erected by ARRC or in existence at the inception of this Lease. In case any such installations required by law shall be made, built, maintained or repaired by ARRC: (1) ARRC shall communicate its intention to conduct such work and allow the City the option of conducting the work

itself or through one of its Qualified Subtenants; and (2) the City shall reimburse ARRC for the reasonable cost thereof, including reasonable overhead, upon presentation of a bill therefor, as additional rent.

4.04 Intentionally Omitted.

4.05 Repair and Maintenance. The City or its Qualified Subtenants shall, at their expense and without notice from ARRC and at all times during the Lease Term, keep all improvements now or hereafter built on the Leased Premises (including but not limited to exterior building walls, windows, doors, fences, signs, landscaping and yard areas, refuse disposal equipment and facilities, pavement, curbs, gutters, exterior lighting, and drainage facilities), in good order, condition, maintenance, operability, and repair. Without limiting any other indemnities provided by the City herein, including but not limited to those set forth in paragraphs 4.06 and 4.11, the City shall indemnify, defend and hold ARRC harmless from any and all claims arising from or connected any failure or alleged failure to adequately maintain and repair any improvements on the Leased Premises to the extent permitted by law.

4.06 Observance of Laws; Environmental Provisions.

A. General Compliance. The City, at all times during the Lease Term, at its own expense, and with all due diligence, shall observe and comply with all laws, ordinances, rules, regulations and administrative agency or court orders and requirements of all federal, state and municipal governments having jurisdiction over the Leased Premises or any portion thereof, which are now in effect or may later be adopted by any such governmental authority, and which may be applicable to the Leased Premises or any improvement on it or any use of it. In the event the use or occupancy of the Leased Premises by the City or any subtenant shall constitute a violation of such laws, ordinances, rules, regulations, court orders or requirements, the City shall, upon receiving notice of any alleged violation, promptly take all steps reasonably necessary to remedy or prevent the same as the case may be.

B. Environmental Provisions.

1. General Obligations.

(a) In furtherance and not in limitation of subparagraph 4.06.A of this Lease, the City shall comply with all laws, orders and regulations of federal, state and local authorities relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, water quality and/or air quality, and with any directives issued pursuant to law by any public officer thereof, which shall impose any order or duty upon the City pertaining to the construction, use or occupancy of the Leased Premises or any improvements thereon by the City or any of its sublessees.

(b) The City shall have the right to contest any obligations imposed upon the City pursuant to the provisions of this paragraph, and to defer compliance during

the pendency of the contesting proceedings, provided that the City's deferral will not subject ARRC to civil fine or criminal penalty.

(c) Notwithstanding the foregoing, in the event that the City's failure to promptly fulfill the contested obligations would pose an imminent threat to public health, safety and/or the environment, the City shall immediately perform whatever actions may be required to abate the immediate threat. Thereafter, the City may contest the obligations and defer further compliance, as set forth above.

2. Definitions. For purposes of this paragraph 4.06 and elsewhere in this Lease, the following terms are defined as set forth below.

(a) Affected Property. Any properties identified to be contaminated or having Hazardous Substance(s) in, on, or under the surface.

(b) Environmental Baseline. The totality of any Environmental Site Assessments the parties obtain of the Leased Premises. Previous Environmental Site Assessments of property adjacent to or otherwise impacting the Leased Premises may also be considered part of the Environmental Baseline. The environmental baseline serves to inform the parties of the current environmental condition of the Leased Premise and to support the parties' resolution of disputes regarding current or future identification regarding responsibility and indemnification for the presence of Hazardous Substance(s) in, on, or under the surface of the Leased Premises.

(c) Environmental Site Assessment. An assessment of property, consistent with generally accepted professional practices, which determines the environmental condition and is supported by reports and tests that describe the environmental condition and the presence, type, concentration, and extent of Hazardous Substance(s) in, on, and under the surface of the property.

(d) Hazardous Substance(s). Any hazardous or toxic substance(s), material or waste, including but not limited to those substances, materials and wastes listed in the U.S. Department of Transportation Hazardous Materials Table (49 CFR § 172.101) or by the U.S. Environmental Protection Agency as hazardous substances (40 CFR Part 302), or as hazardous wastes (40 CFR Part 261.3), or that qualify as hazardous substances pursuant to Alaska Statutes 46.09.900(4), and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

(e) Materially Contribute. The release of Hazardous Substance(s) of a reportable quantity as defined by any federal, state, or local agency with such authority and jurisdiction.

3. Special Provisions for Existing contamination. The parties acknowledge the existence of an agreement dated November 28, 1990, between ARRC and the

Federal Railroad Administration acting on behalf of the United State Government, which allocates between those two parties the respective responsibilities for environmental liabilities which accrued prior to the date of the transfer of the Alaska Railroad from the United States and the State of Alaska in 1985. The City acknowledges that it was previously provided a copy of this agreement.

4. Developing an Environmental Baseline. The City and/or ARRC shall be entitled to, but neither shall be required to, conduct Environmental Site Assessments upon the Leased Premises, which in turn may be used to create an Environmental Baseline for the Leased Premises to aid in determining the respective rights and responsibilities of the parties with respect to any environmental contamination discovered on the Leased Premises during the Term of this Lease. Although such Environmental Site Assessments are typically conducted before the execution of a ground lease, the parties recognize and acknowledge that doing so with respect to this Lease may not be possible given the compressed timeline for execution of this Lease. Accordingly, the parties agree that such Environmental Site Assessments may be conducted for purposes of setting an environmental baseline for this Lease at any time prior to any excavation or heavy construction undertaken by the City or its Qualified Subtenants on the Leased Premises.

5. Establishing an Environmental Baseline for the Leased Premises. If either party wishes to contribute to the Environmental Baseline for all or any portion of the Leased Premises, that party shall, (1) provide any existing relevant Environmental Site Assessments in its possession relevant to the Leased Premises; and/or (2) at its own expense, obtain an Environmental Site Assessment for such portion of the Leased Premises. If an Environmental Site Assessment discovers contamination or the presence of Hazardous Substance(s) in, on, or under the surface of the Leased Premises, the party who obtained the Environmental Site Assessment shall provide such assessment to the other party and the parties shall, based on the information available and subject to the terms of paragraph 4.06.C., determine the parties' respective responsibilities and indemnities. Either party may perform additional environmental testing to verify the environmental condition of that portion of the Leased Premises being assessed. If the results of the receiving party's tests conflict with the other party's Environmental Site Assessment, the parties will negotiate in good faith an understanding of the Environmental Baseline for that portion of the Leased Premises being assessed. If the parties cannot agree on such an understanding, the Environmental Site Assessments and associated testing results will not become part of the Environmental Baseline, but may be used, subject to the applicable agency or court rules, by either party in any agency or court actions in which the responsibility for the contamination in question is being adjudicated or otherwise allocated.

6. Supplements to the Environmental Baseline. If, after an Environmental Baseline is established for any portion of the Leased Premises, additional contamination or the presence of Hazardous Substance(s) is discovered in, on, or under the surface of that portion of the Leased Premises that the City has reasonable cause to believe occurred during the Lease Term, the City shall, at its own cost, investigate the matter. If additional contamination or the presence of Hazardous Substance(s) is discovered in, on, or under the surface of that portion of the Leased Premises that the City has reasonable cause to believe has not been caused by the City or its sublessees and has not occurred after the commencement of this Lease, ARRC shall

investigate the matter at its own cost and expense. Such investigation may result in the production of new environmental assessments or data which shall be considered supplements to the Environmental Baseline. Neither party shall be limited from pursuing additional testing at its own cost as it deems necessary. Responsibility for such contamination shall be governed by sub paragraph 4.06.C.

7. End of Lease Environmental Testing. If an Environmental Baseline is established hereunder, ARRC may, in its discretion and at its own expense, perform an Environmental Site Assessment of the Leased Premises upon the cancellation, termination, or expiration of this Lease. If the City elects not to contribute to the Environmental Baseline through the submission of Environmental Site Assessment(s), the City agrees that it shall be solely responsible for all costs and expenses associated with the performance of an Environmental Site Assessment of the Leased Premises, which may be required at ARRC's sole discretion, upon the expiration or other termination of this Lease.

The City shall be responsible to ARRC for any contamination or presence of Hazardous Substance(s) in, on, and under the Leased Premises and any Affected Property, except for contamination or presence of Hazardous Substance(s) that was previously identified in the Environmental Baseline as being the responsibility of parties other than the City. In addition, if the Site Assessment reveals new contamination, the City shall reimburse ARRC for the expense of the foregoing Environmental Site Assessment or the portion thereof attributable to the newly identified contamination or presence of Hazardous Substance(s). The provisions of this paragraph are without prejudice to the City's right to seek contribution or indemnity from either prior lessees of the Leased Premises and Affected Property, or other potentially responsible parties.

8. Hazardous Substance(s) on Leased Premises. The City shall not cause or permit any Hazardous Substance to be brought upon, kept or used in or about the Leased Premises by the City, its sublessees, agents, employees, contractors or invitees except as necessary or useful for the City's or its sublessee's business. Such Hazardous Substances shall be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Substance(s). The City shall keep or cause to be kept records of Hazardous Substance(s) stored, used or disposed of on the Leased Premises.

C. Environmental Indemnities.

1. Parties' General Agreements Regarding Environmental Liability. The parties acknowledge and agree that, despite their disagreement as to whether the Master Lease still applies to the Leased Premises as of the date of execution of this Lease, their respective responsibilities and liabilities, if any, with respect to any contamination occurring or discovered on the Leased Premises before and during the term of the Master Lease is controlled by the terms of Section 8 of the Master Lease. The parties further acknowledge and agree that during the Term of this Lease, the provisions in this subparagraph 4.06.C shall apply to determine the parties' respective liabilities for contamination discovered during the Term of this Lease. Due to the parties underlying dispute regarding the applicability of the Master Lease to the Leased Premises, the parties disagree

as to which Lease governs any contamination that may be determined to have occurred between November 2012 and the execution of this Lease.

2. Parties' Mutual Agreement Regarding Liability with Respect to Contamination Occurring Before or During the Term of the Master Lease. ARRC and the City expressly agree that their respective rights and obligations with respect to environmental contamination on the Leased Premises that is established either by an Environmental Baseline developed in conjunction with this Lease, or otherwise as occurring before or during the term of the Master Lease shall be determined in accordance with Section 8 of the Master Lease. The foregoing agreement shall survive the expiration or earlier termination of this Lease.

3. City's Agreement to Indemnify ARRC for Contamination Not Covered Under the Master Lease. The City agrees to indemnify, hold harmless and defend ARRC against all liability, cost and expense (including, without limitation, any fines, penalties, diminution in value of the Leased Premises, assessment and clean-up costs, judgments, litigation costs and attorneys' fees, otherwise known as "Remediation Effort") incurred by or levied against ARRC as a result of (i) the City's breach of this paragraph 4.06; or (ii) as a result of any discharge, leakage, spillage, emission, contamination or pollution on or discharged from the Leased Premises during the Lease Term, without regard to whether such liability, cost or expense arises during or after the Lease Term; provided, however, that the City shall not be required to indemnify ARRC under this subparagraph (i) if and to the extent that the parties agree or a court of competent jurisdiction determines that such liability, cost or expense was caused directly by the willful conduct or active negligence of ARRC; or (ii) if the City proves that the contamination occurred before the effective date of the Master Lease. This indemnity obligation shall include the affirmative duty to undertake the Remediation Effort. This indemnity shall also apply to further migration, flowing, percolation, diffusion or other movement of such contamination under or from the Leased Premises. The foregoing indemnity shall survive the expiration or earlier termination of this Lease. For purposes of the foregoing indemnity provision, contamination included in an Environmental Baseline established under the terms of this Lease shall be conclusively presumed to have occurred before the commencement of this Lease. Also for purposes of this Lease, contamination not included in an Environmental Baseline shall be rebuttably presumed to have occurred during the Term of this Lease.

4. ARRC's Agreement to Indemnify the City for Contamination Not Covered Under the Master Lease or Occurring During the Term of This Lease. ARRC agrees to indemnify, hold harmless and defend the City against all liability, cost and expense (including, without limitation, any fines, penalties, assessment and clean-up costs, judgments, litigation costs and attorneys' fees, otherwise known as "Remediation Effort") incurred by or levied against ARRC as a result of any discharge, leakage, spillage, emission, contamination or pollution on or discharged from the Leased Premises that is established by agreement of the parties or a court of competent jurisdiction to have occurred prior to the Lease Term, but not at a time when the Master Lease applied to the Leased Premises, without regard to whether such liability, cost or expense arises during or after the Lease Term; provided, however, that ARRC shall not be required to indemnify the City under this subparagraph if and to the extent that the parties agree or a court of competent jurisdiction determines that such liability, cost or expense was caused directly by the willful conduct or

negligence of the City. The foregoing indemnity obligation shall include the affirmative duty to undertake the Remediation Effort. This indemnity shall also apply to further migration, flowing, percolation, diffusion or other movement of such previously existing contamination onto or under the leased Premises during the Term of the Lease (whether from off the Leased Premises or from other parts of the Leased Premises), but only if the existence of such contamination is established by an Environmental Baseline developed in conjunction with this Lease or is otherwise conclusively shown to be attributable to ARRC. The parties expressly agree that this provision does not apply to any contamination that is determined to have occurred before or during the term of the Master Lease, and that the rights and obligations of the parties thereto shall be determined under the Master Lease as provided in subparagraph 4.06.C.2 of this Lease. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

5. ARRC's Covenant Not to Sue. ARRC covenants and agrees that it will not assert any claim or action, including without limitation any claims for contribution, against the City, its officers, employees, or agents, for any environmental impairment resulting from the contamination revealed by the Baseline Data in the Master Lease unless, and to whatever extent, the City may aggravate or increase the deleterious effect of such contamination by its willful or negligent actions. The parties agree that claims arising from activities that occur or have occurred during the terms of the Master Lease and this Lease shall be governed by the provisions of subparagraph 4.06.C.1 through 4.06.C.4 of this Lease, and any provisions of the Master Lease referred to therein.

D. Water Rights. Any application to the State of Alaska or other governmental entity for water rights appurtenant to the Leased Premises shall be made by the City on behalf of and in the name of ARRC. The City shall give ARRC notice of its proposed application for such water rights thirty (30) days before submission of the application. The City shall bear the costs associated with such application and shall have the rights accruing from such application, if granted, for the entire Lease Term, without payment of additional compensation to ARRC.

4.07 Notice of Substantial Endangerment. In the event ARRC notifies the City of any condition relating to the Leased Premises that in the reasonable opinion of ARRC substantially endangers either the person or property of ARRC or a third party, or human health or the environment, the City shall investigate the matter in good faith and, if such substantial endangerment is determined to be present, shall commence immediately any repairs or maintenance necessary to eliminate said substantial endangerment and shall continue its efforts to cure the associated condition within a reasonable time period thereafter. The initial notice to the City by ARRC of a condition posing substantial endangerment under the preceding sentence may be verbal, but ARRC shall provide written notice of same to the City as soon as reasonably possible. The foregoing shall not be interpreted to impose an affirmative duty on ARRC to monitor or inspect the Leased Premises during the Lease Term.

4.08 Waste and Wrongful Use. The City shall not commit or suffer any strip or waste of the Leased Premises. The City shall not use or occupy, or permit or suffer all or any part of the Leased Premises or any improvements to be used or occupied (1) for any unlawful or illegal business, use, or purpose; (2) in any such manner as to constitute a public or private nuisance of



any kind; or (3) for any purpose or in any way in violation of any certificate of occupancy. The prohibitions of this paragraph shall not be interpreted to restrict the City's right to demolish and/or remove any and all improvements on the Leased Premises as specifically provided herein, including but not limited to the provisions of paragraphs 1.03 and 1.04 of this Lease.

4.09 Setback. The City and its Qualified Subtenants shall observe all setback lines applicable to the Leased Premises.

4.10 Liens. The City shall not commit or suffer any act or neglect whereby the Leased Premises or the interest of ARRC or the City therein at any time during the Lease Term may become subject to any attachment, execution, lien, charge, or other encumbrance, other than a statutory lien for nondelinquent real property taxes or assessments or a leasehold mortgage, and shall indemnify, defend and hold ARRC harmless against any loss, cost, charge, expense of any nature (including reasonable attorneys' fees paid or incurred by ARRC), lien and/or liability incurred by ARRC in connection therewith. The City shall not incur any cost or expense with respect to the Leased Premises which, if not timely paid, may subject the Leased Premises or the interest of ARRC or the City therein to any lien or other encumbrance except as allowed with respect to leasehold mortgages under paragraph 7.06 of this Lease. Notwithstanding the foregoing, the City shall not be required or obligated to file or post a bond in favor of ARRC to protect ARRC against any mechanic's liens, materialman's or other such lien(s) placed against the Leased Premises by reason of any work, labor, service or material performed or furnished for or to the City or anyone occupying the Leased Premises through or under the City.

4.11 Indemnification.

A. Except as otherwise provided herein, the City does hereby covenant and agree with ARRC that it will indemnify and hold ARRC harmless from and against any and all liability, damages, penalties, costs, expenses attorney's fees or judgments first arising from injury to person or property sustained by anyone in and about the Leased Premises during the Term of this Lease, to the extent permitted by law. The claims covered by this indemnification and hold harmless provision include, but are not limited to, any and all claims arising from (1) the City's and/or its sublessees' use of the Leased Premises, or from the conduct of the City's or its sublessees' business, or from any activity, work or things done, permitted or suffered by City or its sublessees in or about the Leased Premises; (2) any breach or default in the performance of any obligation on the City's part to be performed under the terms of this Lease; (3) any negligence of the City and/or its sublessees, or any of their respective agents, contractors, customers, employees, or any person claiming by, through or under the City and/or its sublessees; and (4) any accident on or in connection with the Leased Premises, or any fire thereon, or any nuisance made or suffered thereon. The City shall, at its own cost and expense, defend any and all suits or actions which may be brought against ARRC because of any such above-mentioned matter, claim or claims. ARRC shall not be responsible or liable for any damages to any property, fixtures, buildings or other improvements, or for any injury to any person or persons on the Leased Premises, including any injury to the City or to any of the City's officers, agents, servants, employees, contractors, customers or assignees, except to the extent that the claim or injury (A) first arose prior to the commencement date of this Lease; or (B) arose from any negligent act or acts or omissions of ARRC or ARRC's officers, agents, servants, employees,

assignees or contractors. The limitation of this indemnity and hold harmless provision to claims arising during the term of this Lease shall not be interpreted to so limit the timeframe for accrual of claims with respect to any other applicable indemnity and hold harmless obligations of the City under this Lease.

B. The City acknowledges that, before entering this Lease, it has fully inspected or been provided with an opportunity to fully inspect the Leased Premises and all documents in the possession of ARRC relating to the condition of the Leased Premises, and to test or examine all conditions of or on the Leased Premises. The City further acknowledges that, at the time this Lease is entered into and on the basis of the foregoing inspection or opportunity to inspect, the City is as knowledgeable about the condition of the Leased Premises as ARRC and, on that basis, assumes all risks relating to the condition of the Leased Premises, including but not limited to latent defects that may be unknown both to the City and ARRC at the time this Lease is entered into. ARRC represents and warrants that it has provided the City with an opportunity to inspect all documentation maintained by ARRC in its records concerning the condition of the Leased Premises.

4.12 Costs and Expenses of ARRC. Except as provided herein, the City shall forthwith pay to ARRC all costs and expenses, including reasonable attorneys' fees, which are (1) paid or incurred by ARRC but are required to be paid by the City under any provision of this Lease; and (2) paid or incurred by ARRC in enforcing any covenant of the City contained in this Lease, in protecting itself against or remedying any breach thereof, in recovering possession of the Leased Premises or any part thereof, or in collecting or causing to be paid any delinquent rents, real property taxes, assessments, or rates. The term "costs and expenses" as used in this Lease shall include but not be limited to all of ARRC's out-of-pocket expenditures attributable to the matter involved. Except as otherwise expressly provided herein, all costs and expenses of ARRC shall be payable by the City to ARRC forthwith after mailing or personal delivery of statements therefor to the City and shall bear interest from the date which is thirty (30) days after the date of such mailing or personal delivery at the rate of ten and one-half percent (10½%) per annum, accruing from the date of mailing or delivery as the case may be. Such obligations and interest shall constitute additional rents.

4.13 Holdover. If the City remains in possession of the Leased Premises after expiration of the Lease Term without the execution of a new lease or of an extension of this Lease, and in such a manner as to create a valid holdover tenancy, and if no notice of termination has been delivered by ARRC to the City, the City shall be deemed to occupy the Leased Premises only as a tenant at will from month-to-month, upon and subject to all of the provisions of this Lease which may be applicable to a month-to-month tenancy, including but not limited to the provisions of Article 2 and of paragraph 11.02 of this Lease, excepting only that the rent payable during the holdover tenancy shall be one hundred fifty percent (150%) of the rental rate in effect immediately prior to expiration of the Lease Term.

4.14 City's Improvements as Security for Obligations to ARRC. ARRC and the City covenant and agree that all of City's Improvements, as identified in paragraph 1.04 of this Lease, that are actually owned by the City and are in any way affixed or attached to the Leased Premises or to a structure thereon (including, but not limited to, buildings, drains, walls, fences, pavement, roadways, signs, and machinery) are real property. The City hereby grants to ARRC a security

interest in all improvements and fixtures actually owned by City and in any way affixed or attached, whether now or later, to the Leased Premises. Such security interest is granted and made as security for the payment of rent and all other payments of whatever nature for which the City may be or become obligated to ARRC under the terms of this Lease, without regard to whether such obligation arises before or after the termination of this Lease. The security interest shall expire and be released only (1) upon recordation of ARRC's release of such interest to the City or a person claiming under the City, or (2) removal of such improvements and fixtures from the Leased Premises upon termination of the Lease with the prior consent of ARRC.

#### 4.15 Maintenance and Repair.

A. Throughout the Term of this Lease, ARRC shall have no obligation to repair or maintain the Leased Premises or any improvements to the Leased Premises by the City; provided, however, that nothing in this paragraph shall relieve ARRC of any environmental obligations or liabilities it may have as provided in paragraph 4.06 of this Lease.

B. ARRC shall not be required to furnish to the City any facilities or services of any kind whatsoever during the Term of this Lease, including, but not limited to, water, steam heat, gas, hot water, electricity, light and/or power. ARRC shall in no event be required to make any alterations, reconstruction, rebuilding, replacement, changes, additions, improvements, alterations, and/or repairs to any improvements during the Term of this Lease.

C. ARRC assigns to the City, without recourse, such rights, if any, as ARRC may have against any parties causing damage to any improvements on the Leased Premises to sue for and recover amounts expended by or on behalf of the City as a result of such damages. This provision shall not be interpreted to modify or limit in any manner the City's obligations under any indemnification provision in this Lease, including but not limited to those set forth in paragraphs 4.06 and 4.11.

## ARTICLE 5

### INSURANCE

5.01 Workers' Compensation. The City shall ensure that, with respect to all personnel performing work for the City on the Leased Premises, the City or its contractor maintains in effect at all times during the term of this Lease, coverage or insurance in accordance with the applicable laws relating to workers' compensation and employer's liability insurance.

5.02 General Liability Insurance and Risk of Loss to Improvements. The parties acknowledge that the City is a governmental entity which maintains public liability insurance to cover risks of general liability and part or all of the City's risks of loss or damage. The insurance requirements of this Article 5 shall be applicable to the City and any Qualified Assignee. Failure of ARRC to require additional insurance coverage of the City shall not be deemed to limit the liability of

the City under this Lease in any manner. The City shall, however, require any contractor or subcontractor performing work for the City or on the City's behalf on or about the Leased Premises to keep in full force and effect a policy or policies of general liability insurance with respect to the Leased Premises and the work being performed by the City or its contractors in the limits and otherwise in accordance with the requirements of paragraph 5.03 of this Lease. Failure of the City and/or its contractor to provide and maintain such coverage will be grounds for immediate work stoppage, which stoppage shall continue until evidence of insurance is provided, and will be a default which shall be grounds for termination of this Lease if the default continues uncured.

#### 5.03 Liability Insurance.

A. Liability Insurance to be Maintained by the City. The City shall maintain at all times during the Term of this Lease public liability insurance on the Leased Premises in at least the amount of Five Million Dollars (\$5,000,000) per occurrence.

B. Liability Insurance to be Maintained by Assignees and Contractors. During the Lease Term and any holdover thereafter, whether or not authorized by ARRC, any person or entity other than the City required by paragraph 5.02 of this Lease to meet the insurance requirements of this Article 5 shall keep in full force and effect a policy or policies of general liability insurance which includes bodily injury, property damage, and personal injury acceptable to the City with respect to the Leased Premises and any business operated by said person or entity in which the limits for each shall be not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) aggregate; provided, however, that no such limit shall in any way limit said person's or entity's liability or be construed as a representation of sufficiency to fully protect the City, ARRC or any person or entity required by paragraph 5.02 of this Lease to meet the insurance requirements of this Article 5. The policy or policies purchased pursuant to this paragraph shall name ARRC as an additional insured, with respect to the Leased Premises and the business operated by said person or entity on the Leased Premises. Pursuant to paragraph 5.02 of this Lease, the City shall impose the insurance requirements set forth in this paragraph 5.03 on any contractor or subcontractor performing work for the City or on the City's behalf on or about the Leased Premises.

5.04 Property Insurance. During the Lease Term and any holdover thereafter, whether or not authorized by ARRC, any person or entity required by paragraph 5.02 of this Lease to meet the insurance requirements of this Article 5 shall keep all improvements now or hereafter erected or placed on the Leased Premises insured against loss or damage on an all risk basis in an amount equal to the full replacement cost of all such improvements and shall pay all premiums thereon at the time and place the same are payable. All compensation, indemnity or other monies paid on account of any loss or damage, other than rental value insurance, shall with all convenient speed be paid out in rebuilding, repairing or otherwise reinstating the same improvements or in constructing different improvements unless the person or entity does not rebuild such improvements. The City shall have no obligation to maintain fire or casualty insurance of any kind for the Leased Premises or any City Improvements or personal property thereon.

5.05 Policy Provisions. Each policy of commercial general liability or property insurance described in paragraphs 5.03 and 5.04 of this Lease shall:

A. Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim, any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for ARRC, the City, or any person claiming by, through or under any of them;

B. Provide that such policy requires not less than ten (10) days' notice to the City of any proposed cancellation, expiration, or change in material terms thereof; and

C. Contain a waiver by the insurer of any right of subrogation to proceed against ARRC or against any person claiming by, through or under ARRC.

Upon notice to the City from the insurer of any proposed cancellation, expiration, or change in material terms of any insurance policy required under this Lease, the City shall provide written notice to ARRC of such proposed cancellation, expiration or change in material terms.

5.06 Proof of Insurance. The City shall deliver to ARRC certificates of insurance on or before the commencement date of this Lease or at such other date as agreed to in writing by ARRC. Additionally, the City shall deliver to ARRC photocopies of the policy or policies of insurance, certificates of insurance, or copies of endorsements as requested by the ARRC from time to time.

5.07 Force Placement of Insurance. In the event the City fails to secure such insurance as it is required to maintain pursuant to subparagraph 5.03.A of this Lease, ARRC may, following written notice of any deficiency to the City, obtain the same and charge the premiums to the City as additional rent.

5.08 Adjustment of Required Insurance Amount. ARRC may from time to time, but not more frequently than once every three (3) years, require that the amount of public liability insurance to be maintained by the City under Section 5.03.A, be increased so that the amount adequately protects ARRC's interest based on the amounts of coverage required by comparable leases with governmental entities.

## ARTICLE 6

### EMINENT DOMAIN

#### 6.01 Effect of Eminent Domain on Lease.

A. The terms "taking" and "to take" (in any of its forms) as used in this subparagraph refer to any competent authority's acquisition by the power of eminent domain, including inverse condemnation, of all or any part of the Leased Premises or an interest therein, at any time during the Lease Term. The transfer of title effecting the taking may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation in avoidance of an exercise of

eminent domain, made before or while condemnation proceedings are pending. The time of taking shall be determined by application of the law of the State of Alaska.

B. In the event of a taking of all or materially all of the Leased Premises, this Lease shall terminate on the earlier of vesting of title in, or the taking of possession by, the condemner.

C. Subject to the exception set out in subparagraph 6.01.D of this Lease, if less than materially all of the Leased Premises are taken (herein called a "partial taking"), this Lease shall continue in effect except as to the portion so taken or condemned, but the rent to be paid by the City shall thereafter be reduced by the same ratio as the value of the portion of the Leased Premises so taken bears to the value of the Leased Premises before taking. If no portion of the net usable area of the Leased Premises is taken, or if the portion thereof so taken is subterranean or aerial and does not interfere with the use of the surface, then the City shall not be entitled to any adjustment of rent hereunder. If ARRC and the City disagree as to whether a taking is a partial taking, either of them may submit the matter to arbitration under Article 8 of this Lease.

D. If a partial taking renders the remaining Leased Premises unsuitable for the purposes for which the City's improvements were designed or occurs during the last five (5) years of the term of this Lease or any extension thereof, then the City, upon sixty (60) days' written notice to ARRC and compliance with Article 11 of this Lease, and subject to the rights of any Qualified Mortgagee, may terminate this Lease after vesting of title in the condemnor or taking of possession by the condemner. If the City does so, the rent and other charges under this Lease shall be apportioned as of the date of termination.

#### 6.02 Disposition of Proceeds.

A. Total Taking. In the event of a total taking, the rights of ARRC and the City to share in the net proceeds of any and all awards for land, building, improvements and damages shall be in the following order of priority:

1. To ARRC, a sum equal to the fair market value of the fee simple interest in the Leased Premises unencumbered by this Lease or any sublease, and including ARRC's Improvements and excluding the City's Improvements.

2. To the City, a sum representing the fair market value of the City's Improvements. In no event shall the City be entitled to any claim for its leasehold interest, and any compensation therefor is hereby assigned to ARRC.

3. To ARRC, the balance of the award, excluding interest. Interest shall be allocated between the parties in proportion to their respective shares of the total award provided above. If the value of such respective interests of ARRC and the City have been separately determined in such condemnation proceeding, the values so determined shall be conclusive upon ARRC and the City. If such values have not been so determined, they may be fixed by agreement

between ARRC and the City, or if the parties cannot agree, then by arbitration under Article 8 of this Lease.

B. Partial Taking. In the event of a partial taking, rental shall be abated as provided in subparagraph 6.01.C of this Lease, and the net proceeds of the award shall be divided between ARRC and the City as follows:

1. To ARRC, a sum representing the fair market value of the fee simple interest of the part or parts of the Leased Premises so taken, unencumbered by this Lease, including ARRC's Improvements and excluding the City's Improvements; plus an amount representing consequential damages to the part or parts of the land remaining after such taking, considered as if vacant and unimproved.

2. To the City, the balance of the award, which shall be applied by the City first to restoration of City's Improvements as nearly as reasonably possible to their condition before such taking, unless the City terminates this Lease as provided in subparagraph 6.01.D of this Lease.

C. Rights on Termination. Notwithstanding anything in this Lease to the contrary, if the City exercises its right to terminate the Lease under subparagraph 6.01.D of this Lease, the award balance attributable to the City's Improvements other than the principal balance, if any, and other proper charges of a Qualified Mortgagee shall belong to ARRC free of any claim of the City. In no event shall the City be entitled to any compensation for its improvements if the taking occurs after expiration of the Lease Term or termination of this Lease.

6.03 Temporary Taking. If the whole or any part of the Leased Premises, or of the City's interest under this Lease, is taken by any competent authority for its temporary use or occupancy, this Lease shall not terminate by reason thereof and the City shall continue to pay all rental payments and other charges payable by the City hereunder, and to perform all other terms, covenants, and conditions contained herein, except to the extent the City is prevented from so doing by the terms of the order of the taking authority. In the event of a temporary taking, the City shall be entitled to receive the entire amount of the award and may, at its sole expense, restore the Leased Premises as nearly as may be reasonably possible to the condition in which they existed immediately prior to such taking; provided, however, that if the period of temporary use or occupancy extends beyond the expiration of the Lease Term, the award shall be apportioned between ARRC and the City as of said date of expiration, after ARRC shall have received the entire portion of the award attributable to physical damage to the Leased Premises (excluding the City's Improvements) and to the restoration thereof to the condition existing immediately prior to the taking or condemnation. Upon expiration of the temporary taking, the City shall have the rights and obligations provided in Article 11 of this Lease, including but not limited to removal of the City's Improvements within a reasonable time to be negotiated by ARRC and the City.

## ARTICLE 7

### ASSIGNMENTS, MORTGAGES, SUBLEASES AND SUBDIVISION

7.01 Limitations on Assignment. The City shall not voluntarily or by operation of law sell, assign, or in any manner transfer the City's entire interest in this Lease or, except as expressly provided otherwise in this Article 7, any part of the City's interest in this Lease, except in strict compliance with this Article 7. Such consent will not be unreasonably withheld or delayed.

7.02 The City's Right to Assign. The City shall have the right to assign or otherwise transfer the City's entire interest in this Lease and the estate created by this Lease to a Qualified Assignee, upon compliance with the provisions of paragraph 7.03 of this Lease and only upon the written consent of ARRC. Such consent will not be unreasonably withheld or delayed. The foregoing consent requirement shall not apply to assignments or transfers of the Lease expressly allowed in this Article 7, including in the context of leasehold mortgages and subleases as provided in paragraphs 7.06 and 7.07, respectively.

A Qualified Assignee is any person or entity who can demonstrate to ARRC, in the exercise of prudent business judgment, that they or it is financially capable of meeting the City's obligations under this Lease.

7.03 Conditions Precedent to Assignment. The following are conditions precedent to the City's right of assignment set forth in paragraph 7.02 of this Lease:

A. The City shall give ARRC reasonable notice of the proposed assignment with appropriate documentation as evidence that the proposed assignee qualifies as a Qualified Assignee. If the proposed assignee is an entity that issues certified financial statements, such documentation shall include, at the request of ARRC, a certified financial statement prepared independently and in accordance with generally accepted accounting principles fairly representing the existing financial condition of the proposed assignee. Prior years' income tax returns may be an acceptable substitute for the certified financial statement. Review of past tax returns shall not extend more than three (3) years prior to the proposed assignment.

B. The proposed assignee shall, in recordable form, expressly assume all the covenants and conditions of this Lease.

C. The City or the proposed assignee shall pay ARRC an administrative fee at the rate then in effect to offset ARRC's costs to investigate the proposed assignee's qualifications to be a Qualified Assignee. ARRC shall not be required to account for the use of the sum paid.

D. The City shall not be in default on any obligation owed to ARRC under this Lease.

7.04 The City's Nonliability after Assignment. Upon an assignment made in accordance with the provisions and conditions of this Lease, the City shall have no further obligation under this Lease and, as between ARRC and the City, shall be considered to have assigned to the Qualified



Assignee all claims against ARRC arising under this Lease; provided, however, that an assignment does not release the City of any obligations that may have arisen or accrued or be based on events which occurred during the Term of this Lease but before the assignment, including but not limited to, an obligation to pay delinquent rent or an obligation to pay all costs associated with cleaning up any environmental contamination, unless ARRC expressly releases the City from the same in writing. Upon assignment, the Qualified Assignee shall assume all rights and obligations of the City under this Lease, including unsatisfied obligations to cure any delinquency in rent or other charges under this Lease. The Qualified Assignee's satisfaction of any of the City's obligations to ARRC that accrued prior to assignment shall subrogate the Qualified Assignee to ARRC's cause of action against the City with respect to such satisfied obligation. Notwithstanding the foregoing, nothing in this Article 7 shall be construed to have any effect whatsoever on the rights, obligations and liabilities of either ARRC or the City under the Master Lease as it may have applied to the Leased Premises before the commencement date of this Lease.

7.05 ARRC's Disapproval of Assignment. The effective date of the assignment shall be sixty (60) days after the City's notice of the proposed assignment, unless, within that time, ARRC gives notice of a valid objection that a proposed assignee is not a Qualified Assignee. ARRC's failure to give notice within that time shall constitute a waiver of objection to the assignment.

7.06 Leasehold Mortgages. The City, its successors, assigns and/or Qualified Subtenants, shall have the unrestricted right at any time, and from time to time, and without consent of ARRC, to subject the City's leasehold interest in this Lease and any or all of the City's Improvements situated on the Leased Premises to one or more mortgages (or deed of trust) or assignments as security for a loan or loans or other obligation of the City, or its successors, assigns and/or Qualified Subtenants (each of which instruments is herein called a "Leasehold Mortgage"), provided that:

A. Subordinate to Lease. The Leasehold Mortgage and all rights acquired under it shall be subject and subordinate to each and all the covenants, conditions, and restrictions stated in this Lease, and to all rights and interests of ARRC except as otherwise provided in this Lease.

B. Institutional Lender. The Leasehold Mortgage is made to an institutional lender ("Qualified Mortgagee").

C. Notice of Default and Opportunity to Cure. Upon any default on any of the terms of the Lease by the City, ARRC, in addition to notifying the City pursuant to paragraph 9.02 of this Lease, shall also notify each Qualified Mortgagee of such default. Upon receipt of a written notice of default, any such Qualified Mortgagee shall have the length of time set forth in subparagraph 9.02.C of this Lease to cure the default.

D. Possession by Qualified Mortgagee. A Qualified Mortgagee may take possession of the Leased Premises and vest in the interest of the City in the Lease upon the performance of the following conditions:

1. The payment to ARRC of any and all sums due to ARRC under the Lease, including but not limited to accrued unpaid rent.

2. The sending of a written notice to ARRC and the City of the Qualified Mortgagee's intent to take possession of the Leased Premises and assume the Lease.

3. The curing of all defaults not remediable by the payment of money within an additional thirty (30) days of the date upon which such default was required to be cured by the City under the terms of this Lease.

E. No Liability of Mortgagee Without Possession. A Qualified Mortgagee shall have no liability or obligation under the Lease unless and until it sends to ARRC the written notice described in subparagraph 7.06.D.2 of this Lease. Nothing in this Lease or in the taking of possession of the Leased Premises and assumption of the Lease by a Qualified Mortgagee or a subsequent assignee shall relieve the City of any duty or liability to ARRC under the Lease.

F. Subsequent Transfer by Qualified Mortgagee. In the event a Qualified Mortgagee forecloses the Leasehold Mortgage and acquires an interest in the Lease or any portion thereof, the Qualified Mortgagee may assign such lease without regard as to the number of assignments or the character of the assignee so long as (1) each assignee assumes all the City's obligations under such lease; and (2) the assignee or transferee of the Lease proposed by the Qualified Mortgagee shall be approved by ARRC, which consent may be withheld in ARRC's sole discretion; provided, however, that such discretion must nevertheless be exercised in good faith and not arbitrarily or capriciously. Upon meeting the foregoing conditions, the Qualified Mortgagee shall thereupon be released, from and after the date of such assignment, from all liability for the performance or observance of the covenants and conditions required hereunder to be performed and observed by the City, provided that the assignee from such Qualified Mortgagee shall have assumed this Lease in accordance with this paragraph.

7.07 Right to Sublet. Notwithstanding anything to the contrary contained herein, the City shall have the absolute right during the Lease Term to rent, sublet, sublease, or underlet all or a portion of the Leased Premises to a third party, subject to the terms set forth below.

A. Limits on ARRC's Right to Review Subtenants and Subleases. Provided that the City complies with the following requirements, the City shall have the absolute right to sublease the Leased Premises, or a portion thereof, for development purposes without approval from ARRC:

1. The use permitted by the sublease complies with the City of Whittier Comprehensive Plan (the "Comprehensive Plan") and all other use provisions of paragraph 1.05 of this Lease; and

2. The sublease of the Leased Premises is to a person or entity with experience, knowledge and expertise in developing the kind of project(s) or conducting the kind(s) of business for which the sublease is being entered into; and

3. The City complies with its own procurement code and policies and uses an open and public process in approving the sublease; and

4. The City includes in the sublease terms reasonably calculated to ensure that the development project for which the sublease is entered into is timely completed by the developer or the sublease will be terminated; and

5. The City has provided ARRC with information sufficient to establish the City's compliance with the foregoing terms.

B. Form and Content of Sublease. Each sublease entered into by the City for all or a portion of the Leased Premises shall (i) be for a term, or term, that expires on or before the expiration of the Term of this Lease then in effect, whether that be the initial Term or an Extended Term; (ii) be in writing and shall be subject and subordinate to the rights of ARRC under this Lease; (iii) be for a purpose consistent with the Comprehensive Plan and paragraph 1.05 of this Lease or for a non-conforming purpose approved by both ARRC and the City under subparagraph 1.05.B; (iv) include a provision for independent general liability and environmental indemnity to both the City and ARRC; (v) include a provision that the subtenant proceed in a timely manner with development, and further that the City will retain the right to terminate the sublease if the subtenant fails to comply with such terms; (vi) include a waiver of claims against ARRC which might arise due to ARRC's status as a ground lessor; and (vii) contain a provision requiring the subtenant to attorn to ARRC if the City defaults under this Lease and if the sublessee is notified of the City's default and is instructed to make the subtenant's rental payments to ARRC. The City shall provide ARRC with the name and other identifying information of each subtenant and information sufficient for ARRC to understand the location and nature of the use to be made by the subtenant of the Leased Premises. A subtenant under a sublease meeting the requirements of this subparagraph 7.07 shall be referred to elsewhere in this Lease as a "Qualified Subtenant."

No sublease shall relieve the City of any of its covenants or obligations under this Lease, and any provision of a sublease purporting to do so shall be deemed a nullity as between ARRC and the City.

7.08 Subdivision of Leased Premises. The City shall not, under any circumstances whatsoever, unilaterally seek to formally subdivide the Leased Premises or any part thereof. If the City proposes a formal, platted subdivision of the Leased Premises or a portion thereof in the context of particular projects or developments, it shall submit such proposal to ARRC for its review. ARRC shall have the absolute discretion with respect to whether such a platting proposal should proceed. The foregoing restriction on formal subdivision shall not be interpreted to restrict the City's ability to configure portions of the Leased Premises into sublease parcels utilizing metes and bounds legal descriptions.

## ARTICLE 8

### ARBITRATION

8.01 Appointment of Arbitrators and Conduct of Arbitration. If ARRC and the City fail to agree upon (1) the appraisal of a fee simple interest under Article 2 of this Lease; or (2) the value of the respective interests of ARRC and the City in a condemnation action under Article 6 of this Lease, the matter of disagreement, upon the election of either of them, shall be submitted for non-binding arbitration to a single arbitrator, mutually appointed by them. If ARRC and the City fail to mutually appoint a single arbitrator, the matter shall be submitted to and determined by three (3) arbitrators, in which event either ARRC or the City may give to the other written notice of election to have the matter of disagreement so arbitrated and shall appoint therein one of the arbitrators. The other party shall, within twenty (20) days after the receipt of such written notice, appoint a second arbitrator. If that party fails to do so, the party who has already appointed an arbitrator may have the second arbitrator appointed by any judge of the Superior Court of Alaska resident in the district where the Leased Premises are situated. The two arbitrators so appointed in either manner shall appoint the third arbitrator, and if the first two arbitrators fail to appoint a third arbitrator within twenty (20) days after the appointment of the second arbitrator, either ARRC or the City may have the third arbitrator appointed by any judge of the Superior Court of Alaska resident in the district where the Leased Premises are situated. Each of the arbitrators appointed under this paragraph shall possess the professional qualifications provided in paragraph 8.02 of this Lease.

The three arbitrators so appointed shall thereupon proceed to arbitrate the matter of disagreement, upon such rules of procedure as they may adopt, and shall render a written decision containing their findings and conclusions. The ARRC and the City shall share equally the costs associated with the arbitration.

8.02 Special Qualifications of Arbitrators. Each arbitrator appointed pursuant to paragraph 8.01 of this Lease shall be a person who (1) has not less than five [5] years appraisal experience in the State of Alaska prior to his appointment; (2) has appraised similar classes of property throughout the State of Alaska; and (3) is a member of the American Institute of Real Estate Appraisers with an MAI designation (RM designation alone is not sufficient), a Senior Real Estate Analyst (SREA), or a Senior Real Property Appraiser (SRPA) of the Society of Real Estate Appraisers. It is understood and agreed that if any of such institutes or societies is merged or otherwise consolidated with another duly qualified appraisal or counseling organization, and thereby loses its name or designation, the arbitrator may be appointed from among the members of such other organization.

8.03 Judicial Review of Arbitration Decision. If after forty-five (45) days from the date of the award, no party files a separate lawsuit in a court of competent jurisdiction to resolve the dispute, controversy or claim, the award will become final and non-appealable and the award may be enforced by any state court having jurisdiction over the party against which the award has been rendered.

## ARTICLE 9

### DEFAULT AND DEFEASANCE

9.01 Events of Default. Each of the following events shall be a default by the City and breach of this Lease:

A. Failure to Perform Lease Covenants. The City's abandonment or surrender of the Leased Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by the City, or to perform as required by any other covenant or condition of this Lease.

B. Appointment of Receiver. The appointment of a receiver or trustee to take possession of the Leased Premises or improvements or of the City's interest in the leasehold estate or of the City's operations on the Leased Premises for any reason.

C. Insolvency, Bankruptcy. An assignment by the City for the benefit of creditors or the filing of a voluntary or involuntary petition by or against the City under any provision of the U. S. Bankruptcy Code.

#### 9.02 Notice and Right to Cure.

A. Notices. As a precondition to pursuing any remedy for an alleged default by the City, ARRC shall, before pursuing any remedy, give notice of default to the City. Each notice of default shall state the alleged event of default and the intended remedy. The identification of an intended remedy in such notice shall not limit or waive ARRC's right to seek or use any other available remedy not identified in the notice, however, ARRC will provide a revised notice of default if it seeks to use a different or additional remedy provided for in this Lease.

B. Method of Giving Notice. ARRC shall give notice of default in accordance with subparagraph 9.02.A of this Lease by personal delivery to each party required to receive it; or by (1) mailing by certified mail (return receipt requested) a copy of the notice to each party required to receive it at the last address provided by that party to ARRC and (2) mailing by first class mail a copy of the same notice to each such party at the same address. To be effective, personal delivery shall be documented by written acknowledgment of receipt by the City or by an affidavit of the personal delivery by ARRC's representative.

#### C. The City's Right to Cure Defaults.

1. If the alleged default is nonpayment of rent or other sums to be paid by the City as provided in Articles 2 and 4 of this Lease or elsewhere in this Lease directed to be paid as rent, the City shall have thirty (30) days after the notice is given to cure the default.

2. If, in the reasonable opinion of ARRC, the alleged default substantially endangers either the person or property of ARRC or a third party, or human health or the environment, the City shall commence curing the default immediately upon notice and complete the

cure within such reasonable time period as is imposed by ARRC or any governmental body having jurisdiction in the matter.

3. For the cure of any other default, the City shall promptly and diligently after the notice commence curing the default and shall have sixty (60) days after notice is given to complete the cure.

9.03 Nonwaiver. Acceptance by ARRC or its agents of any rents, whether basic or additional, shall not be deemed to be a waiver by it of any breach by the City of any of its covenants contained in this Lease or of the right of ARRC to reenter the Leased Premises or to declare a forfeiture for any such breach. Waiver by ARRC of any breach by the City shall not operate to extinguish the covenant the breach of which is so waived, nor be deemed to be a waiver of the right of ARRC to declare a forfeiture for any other breach thereof or of any other covenant.

9.04 Right of ARRC to Protect Against Default. If the City fails to observe or perform any of its covenants contained herein, ARRC, at any time thereafter and without notice, shall have the right but not the obligation to observe or perform such covenant for the account and at the expense of the City, and shall not be liable to ARRC or anyone claiming by, through, or under it for any loss or damage by reason thereof to the occupancy, business, or property of any of them. All costs and expenses paid or incurred by ARRC in observing or performing such covenant shall constitute additional rents, which the City shall forthwith pay to ARRC upon statements therefor.

9.05 ARRC's Remedies. If any default by the City shall continue uncured, following notice of default as required by this Lease, for the period applicable to the default under paragraph 9.02 of this Lease, ARRC has the following remedies in addition to all other rights and remedies provided by law or equity or other provisions of this Lease, to which ARRC may resort cumulatively or in the alternative. The election of one remedy for any one default shall not foreclose an election of any other remedy for another default or for the same default at a later time.

A. Termination. ARRC may, at ARRC's election, terminate this Lease by giving the City notice of termination in accordance with the procedures specified in paragraph 9.02 of this Lease. On the giving of the notice, all the City's rights in the Leased Premises and in all improvements thereon shall terminate, unless ARRC expressly and in writing requires the City to remove specified improvements (in which event the City's rights shall continue in the improvements required to be removed). Promptly after notice of termination, the City shall surrender and vacate the Leased Premises and all improvements not required to be removed in a broom-clean condition, and ARRC may reenter and take possession of the Leased Premises and all remaining improvements and eject all parties in possession, or eject some and not others, or eject none. Termination under this subparagraph shall not relieve the City, or any of its guarantors, insurers, or sureties, from the payment of any sum then due to ARRC or from any claim for damages previously accrued or then accruing against the City.

B. Re-entry Without Termination. ARRC may, at ARRC's election, reenter the Leased Premises, and, without terminating this Lease, at any time and from time to time relet the Leased Premises and improvements, or any part or parts of them, for the account and in the name

of the City or otherwise. ARRC may, at ARRC's election, eject all persons or eject some and not others or eject none. Any reletting may be for the remainder of the Lease Term or for a longer or shorter term. ARRC may execute any leases made under this provision either in ARRC's name or in the City's name, and shall be entitled to all rents from the use, operation, or occupancy of the Leased Premises or improvements or both. ARRC shall apply all rents from reletting as provided in paragraph 9.07 of this Lease. The City shall nevertheless pay to ARRC on the due dates specified in this Lease, the equivalent of all sums required of the City under this Lease, plus ARRC's expenses, less the proceeds of any reletting. If, at any point following ARRC's re-entry to the Leased Premises, the City shall have paid all amounts described in the preceding sentence and have either cured all non-monetary defaults or reimbursed ARRC for its expenses made to rectify any and all such defaults, with interest at the rate of ten and one-half percent (10½%) per annum from the date of such expense, the City shall have the right to re-enter the Leased Premises, provided however that the City must honor any and all leases entered into by ARRC under this provision for the full remaining terms of said leases and otherwise on the terms and conditions thereof. No act by or on behalf of ARRC under this provision shall constitute a termination of this Lease unless ARRC gives the City notice of termination.

C. Recovery of Rent. ARRC shall be entitled, at ARRC's election, to each installment of rent or to any combination of installments for any period before termination, plus interest at the rate of ten and one-half percent (10½%) per annum from the due date of each installment. If ARRC elects to relet the Leased Premises without terminating this Lease, as provided in subparagraph 9.05.B of this Lease, the proceeds of such reletting shall be applied, when received, as provided in paragraph 9.07 of this Lease.

D. The City's Personal Property. ARRC may, at ARRC's election, use the City's personal property and trade fixtures on the Leased Premises, or any of such property and fixtures, without compensation and without liability for use or damage, or, after written notice, store them for the account and at the cost of the City.

E. Damages. ARRC shall also be entitled, at ARRC's election, to damages in the following sums: (1) for a termination under this Article 9 during an Extension Term during which the City is paying rent on an annual basis, all amounts that would have fallen due as rent between the time of termination and the time the property is relet; provided that ARRC shall exert reasonable efforts to relet the property at prevailing market value and provided that the total time during which such rent may accrue is not to exceed eighteen (18) months beyond termination; and (2) all administrative, marketing, brokerage, repair, cleaning and similar costs incurred by ARRC and necessary or useful to reletting the Leased Premises or placing it in good and marketable condition.

9.06 Assignment of Subrents. The City assigns to ARRC all subrents and other sums falling due from subtenants, licensees and concessionaires (referred to collectively as "Subtenants" solely for purposes of this paragraph 9.06) during any period in which ARRC has the right under this Lease, whether exercised or not, to reenter the Leased Premises for the City's default, and the City shall not have any right to such sums during that period. ARRC may at ARRC's election reenter the Leased Premises and improvements with or without process of law, without terminating this Lease, and either, or both, collect these sums or bring action for the recovery of the sums directly from

Subtenants. ARRC shall apply all such collected subrents as provided in paragraph 9.07 of this Lease. The City shall nevertheless pay to ARRC on the due dates specified in this Lease the equivalent of all sums required of the City under this Lease, plus ARRC's expenses, less the sums assigned and actually collected under this paragraph 9.06. ARRC may proceed to collect either the assigned sums or The City's balances, or both, or any installment or installments of them, either before or after expiration of the Lease Term, but the period of limitations shall not begin to run on the City's payments until the due date of the final installment to which ARRC is entitled under this Lease, nor shall it begin to run on the payments of the sums assigned under this paragraph 9.06 until the due date of the final installment due from the respective Subtenants.

9.07 Application of Sums Collected by ARRC. ARRC shall apply all subrents and proceeds of reletting as follows: first, to the payment of reasonable expenses (including attorneys' fees and brokers' commissions or both) paid or incurred by or on behalf of ARRC in recovering possession, placing the Leased Premises and improvements in good condition, and preparing or altering the Leased Premises or improvements for reletting; second, to the reasonable expense of securing new lessees; third, to the fulfillment of the City's covenants to the end of the Lease Term; and fourth, to the City's uses and purposes.

## ARTICLE 10

### GENERAL PROVISIONS

10.01 ARRC's Right to Entry, Inspection and Repair. ARRC shall have the right to submit to the City a request that ARRC or its authorized agents be allowed access to the Leased Premises during regular business hours solely for the purpose of investigating specific matters which ARRC reasonably believes may present a significant risk of adversely affecting its interest in either the Leased Premises or other land of ARRC. Such request will include information about the situation adequate to inform the City of the purpose of ARRC's request and to allow the City to evaluate the request. The City shall not unreasonably delay or deny such a request, but shall have the right to place a reasonable time and other reasonable restrictions and conditions on any approved inspection. All inspections shall be conducted in a manner that does not unreasonably interfere with the business operations of the City and its Qualified Subtenants. ARRC's rights hereunder shall not be exercised in connection with matters related to environmental contamination, which will be addressed as provided in paragraph 4.06. In the event of an emergency, ARRC may enter and inspect the Leased Premises on reasonable notice (including verbal notice to the City if the circumstances warrant) and make such repairs or institute such measures, on the account and at the expense of the City, as may be necessary to avert or terminate the emergency. An emergency is any action, event, or condition, either extant or imminent, that threatens significant damage to property or the environment or injury to persons on or near the Leased Premises, and includes but is not limited to flood, fire, explosion, avalanche, earthquake, uncontrolled or dangerous discharge or release of water or other fluids or hazardous or toxic materials, unauthorized or illegal placement of hazardous or toxic materials on the Leased Premises, and shifting, settling or loss of earth or



support on the Leased Premises. Under such circumstances, the parties would endeavor to work together to secure the Leased Premises and limit damages to property and occupants.

10.02 Notices. Any notice, other than notice of default under subparagraphs 9.02.A and 9.02.B of this Lease, or demand to ARRC or the City provided for in this Lease, may be given sufficiently for all purposes in writing, mailed by registered or certified mail, return receipt requested, and addressed to such party or its agent at its mailing address specified herein or at the last such address specified by such party in writing to the other, or may be delivered personally within the State of Alaska to such party or its agent. Except as otherwise expressly provided herein, such notice shall be conclusively deemed to have been given on the date of such mailing or personal delivery.

10.03 Covenants and Conditions. Every provision in this Lease which imposes an obligation upon either ARRC or the City or invests an option, power, or right in either ARRC or the City shall be deemed to be a covenant of that party and in favor of the other party, and the time of observance and performance by each party of each such covenant shall be of the essence. Full and faithful observance and performance by each party of each of its covenants contained in this Lease shall be a condition hereof.

10.04 Integration and Amendments. Except as otherwise expressly provided in this Lease and except for the provisions of the Memorandum of Lease, this Lease is a complete integration of every agreement and representation made by or on behalf of ARRC and the City with respect to the Leased Premises, and no implied covenant or prior oral or written agreement shall be held to vary the provisions of this Lease, any law or custom to the contrary notwithstanding. In the event of any conflict between this Lease and the Memorandum of Lease, the provisions of the Memorandum of Lease shall control. No amendment or other modification of the provisions of this Lease shall be effective unless incorporated in a written instrument duly executed and acknowledged by ARRC and the City.

10.05 Approvals of ARRC. Except as otherwise expressly provided in this Lease and except for amendments or modifications of this Lease, ARRC shall neither unreasonably, capriciously, nor arbitrarily withhold any approval required to be obtained by the City hereunder, nor require any consideration therefor as a condition thereof other than payment forthwith by the City to ARRC of all costs and expenses paid or incurred by ARRC in connection with the review of the matter for which such approval is sought and the processing of such approval.

10.06 Survival and Severability. The rights and obligations of ARRC and the City provided in paragraphs 4.06 and 4.11 through 4.15 of this Lease, and in the Memorandum of Lease, except to the extent expressly varied or superseded by a subsequent instrument executed by ARRC and the City, shall survive the expiration or earlier termination of this Lease. If any provision of this Lease is held to be void or otherwise unenforceable by any court or other tribunal of competent jurisdiction, other than at the initiative or with the support of ARRC, within sixty (60) days after receipt of written notice of such holding ARRC shall have the right and option, exercisable by written notice thereof to the City, to terminate this Lease effective as of the date of such written notice of exercise. It is

understood and agreed that otherwise this Lease, except for such provision so held to be void or otherwise unenforceable, shall remain in full force and effect.

10.07 Binding Effect. This Lease shall be binding upon and shall inure to the benefit of ARRC and City and their respective successors and assigns. The designations "ARRC" and "the City" include their respective successors and assigns and shall be so construed that the use of the singular number includes the plural number, and vice versa, and the use of any gender includes the other genders. If at any time during the Lease Term, a Qualified Assignee who has taken assignment of this Lease pursuant to Article 7 of this Lease is more than one person or entity, including persons who are partners and operate the Qualified Assignee as a partnership, their liability hereunder shall be joint and several.

10.08 ARRC's Authority to Convey Fee Title. ARRC retains the absolute and unconditional right to convey fee title in the Leased Premises, or an interest or estate therein, subject to this Lease and the interest of any Qualified Mortgagee or Qualified Subtenant under this Lease.

10.09 Powers of ARRC as Public Corporation. Nothing in this Lease restricts or limits the authority of ARRC, the Alaska Railroad Corporation, in the exercise of governmental authority delegated to it by the Alaska Railroad Corporation Act, AS 42.40, or by any other applicable law or regulation.

10.10 Captions. The captions of the articles and paragraphs hereof are for convenience only, are not an operative part hereof, and neither limit nor amplify in any way the provisions hereof.

## ARTICLE 11

### DUTIES UPON TERMINATION OR EXPIRATION

11.01 Surrender of Leased Premises. Upon expiration or early termination of this Lease, the City shall surrender to ARRC the possession of the Leased Premises. The City shall leave the surrendered Leased Premises and any improvements in a broom-clean condition, as noted in paragraph 11.02 of this Lease. If the City fails to surrender the Leased Premises at expiration or termination, the City shall defend and indemnify ARRC from all liability and expense resulting from the delay or failure to surrender, including but not limited to claims made by any succeeding tenant founded on or resulting from the City's failure to surrender. In the event of failure or refusal of the City to surrender possession of the Leased Premises, ARRC shall have the right to reenter the Leased Premises and remove therefrom the City or any person, firm or corporation claiming by, through or under the City and to obtain damages for trespass from the City, to the extent permitted by law.

11.02 Removal of Improvements Upon Termination.

A. Upon the expiration or termination of this Lease or any extension thereof, including termination resulting from the City's breach ("termination"), City shall leave the Leased

Premises in a broom-clean and leasable condition, which shall include removal of all improvements, buildings, foundations and footings to buildings, personal property, trash, vehicles, and equipment, except as noted in subparagraphs 11.02.B, 11.02.C and 11.02.D of this Lease. Any excavation on the property, including excavation to remove the City's Improvements, shall be filled and compacted with material approved by ARRC.

B. ARRC may, at its option, allow the City to leave some or all of the City's Improvements on the Leased Premises upon termination. If ARRC so elects, such improvements shall become the property of ARRC upon termination.

C. Pursuant to any security interest granted under paragraph 4.14 of this Lease during an Extension Term, ARRC may, at its option, require the City to leave some or all of the City's Improvements that are actually owned by the City on the Leased Premises upon termination, with ARRC becoming the owner of such improvements, when at the time of termination, the City has failed to make payments to ARRC required under this Lease.

D. Any improvements owned by ARRC and identified in paragraph 1.03 of this Lease, or added to the Leased Premises by ARRC after execution of this Lease, and that remain on the Leased Premises at the termination of the Lease shall not be removed by the City, unless so directed by ARRC.

11.03 Abandonment of the City's Property. All property that the City is not required or allowed to leave on the Leased Premises shall, on the tenth (10th) day following termination, be conclusively deemed abandoned. Abandoned property shall, at the election of ARRC, become the property of ARRC or be destroyed or removed by ARRC.

11.04 Liability for Cleanup Expenses. The City shall be liable for all costs and expenses incurred by ARRC to remove or destroy abandoned property and improvements not required or expressly allowed by ARRC in writing to be left on the Leased Premises, and for the removal of trash or other debris left thereon. In addition, nothing in this Lease shall relieve the City of any obligation or liability for removal of hazardous substances (including wastes) or inappropriate fill material placed on the Leased Premises during the term of the Lease, regardless of when such hazardous substance (including waste) or inappropriate fill material is discovered. Nothing in this Paragraph is intended to modify any of the parties' respective obligations under the environmental provisions found in paragraph 4.06 of this Lease.

## ARTICLE 12

### EXECUTION AND MEMORANDUM OF LEASE

12.01 Execution and Counterparts. This Lease is executed in two or more counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument.


12.02 Recordation of Memorandum of Lease. This Lease shall not be recorded. The parties shall execute in suitable form for recordation a memorandum of this Lease ("Memorandum of Lease"), which shall be recorded. The Memorandum of Lease shall be in a form that satisfies ARRC's standards and complies with City code and practice or, with the agreement of the parties, a Memorandum of Lease in a form proposed by a title insurance company insuring the City's leasehold interest or the interest of any Qualified Mortgagee sufficient to give constructive notice of this Lease to subsequent purchasers and mortgagees.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, ARRC and the City have duly executed and acknowledged this Ground Lease.


**ALASKA RAILROAD CORPORATION**

Dated: April 13, 2022

By:   
William G. O'Leary  
President & Chief Executive Officer

**THE CITY OF WHITTIER**

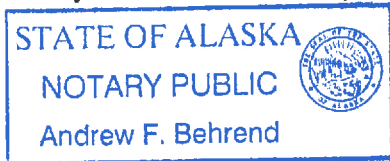
Dated: April 13, 2022

By:   
Jackie Wilde  
Acting City Manager

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STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT )

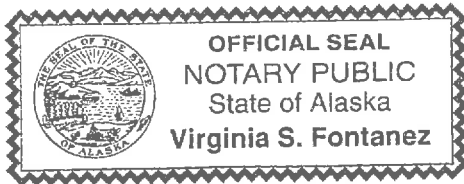
The foregoing instrument was acknowledged before me this 13th day of April, 2022, by William G. O'Leary, President & Chief Executive Officer of the Alaska Railroad Corporation, a public corporation created by Alaska Statute 42.40, on behalf of the corporation.



Andrew F. Behrend  
Notary Public in and for Alaska  
My Commission expires: 9-15-2023

STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this 13th day of April, 2022, by Jackie Wilde, Acting City Manager of the City of Whittier, Alaska, a second class city, on behalf thereof.



Virginia S. Fontanez  
Notary Public in and for Alaska  
My Commission expires: 7-21-25

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**Lease Contract No. 20753**  
**City of Whittier**

SCHEDULE 1

LEGAL DESCRIPTION  
(prepared 3/9/2022)

A Lease Parcel of land located within Lot 1, USS 9008, officially filed October 12, 1995, Alaska Railroad Whittier Terminal Reserve, Anchorage Recording District, Third Judicial District, State of Alaska, shown on the drawing attached hereto as Exhibit A, comprising 887,705 sq. ft., more or less, and being more particularly described as follows:

Beginning at Corner No. 3 of Lot 1, USS 9008; thence running,

N17°30'00"E            794.97 feet, along the line between said Corner No. 3 and the  
unmonumented Corner No. 2 of Lot 1, USS 9008 to said Corner No. 2;  
thence,

N90°00'00"E            314.69 feet, along the line between said Corner No. 2 and Corner No. 1 of  
Lot 1, USS 9008 to the Witness Corner to Corner No. 1, Lot 1, USS 9008,  
a Meander Corner; thence,

N90°00'00"E            78.47 feet, continuing along said line between Corner No. 2 and Corner  
No. 1, to the unmonumented Corner No. 1 of Lot 1, USS 9008; thence,

Thence, southerly along the meanders of the mean high tide line of Passage Canal approximately  
1340' the follow nine (9) courses:

S17°41'00"E	55.44 feet; thence,
S02°35'00"E	87.12 feet; thence,
S01°15'00"W	45.54 feet; thence,
S14°42'00"E	317.46 feet; thence,
S09°15'00"E	253.44 feet; thence,
S07°20'00"E	196.68 feet; thence,
S09°26'00"E	150.48 feet; thence,

S09°46'00"W          109.56 feet; thence,

S13°23'00"W          127.56 feet; thence,

N90°00'00"W          691.52 feet; thence,

N18°40'59"W          420.00 feet; thence,

N17°30'00"E          170.00 feet, along the extension of said line between Corner No. 2 and  
Corner No. 3 to the Point of Beginning, containing 887,705 sq. ft.±.

The bearings and distances contained in this legal description are based on those shown in U.S.  
Survey 9008.

Subject to all valid pre-existing rights.

The Lease Parcel is a portion of Lot 1, U.S. Survey 9008 as described in US Patent No. 50-2005-  
0045 to the Alaska Railroad Corporation.

For indexing purposes the land lies within:

The E1/2 of Section 15, Township 8 North, Range 4 East, Seward Meridian

Recorder's Office, return to:

ALASKA RAILROAD CORPORATION

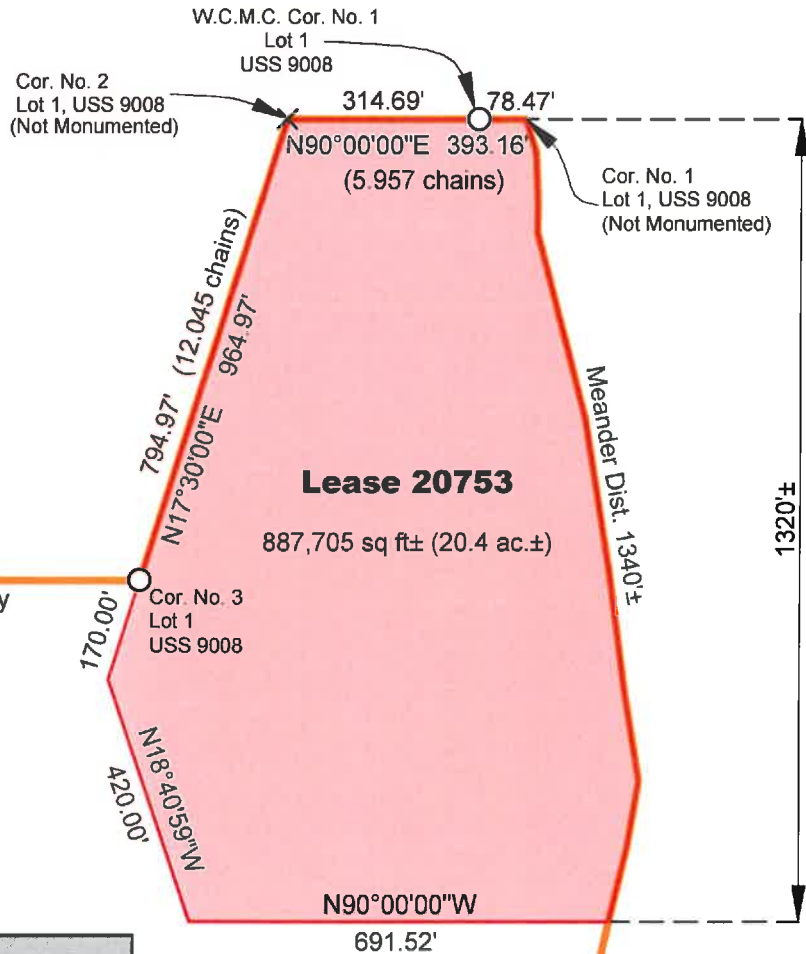
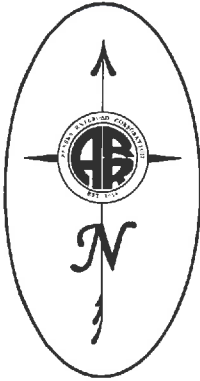
P.O. BOX 107500

ANCHORAGE, AK 99510-7500

State Business - No Charge

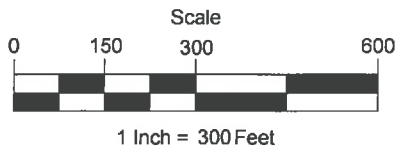


# ALASKA RAILROAD



- Record Corner (Monumented)
- × Record Corner (Not Monumented)

Alaska Railroad Boundary



The bearings and distances of this exhibit are based on U.S. Survey 9008.

For indexing purposes this property is located in the E1/2 Sec. 15 T8N, R4E, S.M.



**ALASKA RAILROAD CORPORATION**  
REAL ESTATE DEPARTMENT, LAND SERVICES  
P.O. BOX 107500, ANCHORAGE, ALASKA 99510-7500

Contract No. 20753 - Exhibit A  
City of Whittier  
**Area = 887,705 sq ft± (20.4 ac±)**

ARRC title - Patent 50-2005-0045 - USS 9008, Lot 1

DRAWN BY: AMB	SCALE: 1" = 300'	DATE: 2022-03-17
CHECKED BY: DCA	Whittier Terminal Reserve	
APPROVED BY: AMB	R:\00 RED\LEASES\WHI\20753-L.dwg	

**AlaskaRailroad.com**

## Schedule 2

LEASE YEAR	Refund Remaining Beginning of Lease Year
1	
2	\$ 328,296.42
3	\$ 302,061.85
4	\$ 277,770.59
5	\$ 255,278.68
6	\$ 234,452.83
7	\$ 215,169.64
8	\$ 197,314.84
9	\$ 180,782.61
10	\$ 165,475.00
11	\$ 151,301.28
12	\$ 138,177.46
13	\$ 126,025.79
14	\$ 114,774.23
15	\$ 104,356.12
16	\$ 94,709.73
17	\$ 85,777.88
18	\$ 77,507.65
19	\$ 69,850.03
20	\$ 62,759.64
21	\$ 56,194.47
22	\$ 50,115.60
23	\$ 44,487.03
24	\$ 39,275.38
25	\$ 34,449.78
26	\$ 29,981.63
27	\$ 25,844.46
28	\$ 22,013.74
29	\$ 18,466.78
30	\$ 15,182.56
31	\$ 12,141.62
32	\$ 9,325.92
33	\$ 6,718.80
34	\$ 4,304.80
35	\$ 2,069.62

## **SCHEDULE 3**

### **CONCEPTUAL PLAN**



**WHITTIER HEAD OF BAY  
DEVELOPMENT CONCEPTS  
WHITTIER, ALASKA**

**CONCEPT  
DESIGN  
DRAWINGS**

**Turnagain**  
Marine Construction  
5541 DENARD DRIVE, SUITE 100  
ANCHORAGE, AK 99507  
PHONE: (907) 258-8863  
PROJECT NUMBER:  
20-009

REV#	DESCRIPTION	DATE

ISSUE DATE:  
MARCH 4, 2022

SHEET TITLE:  
SITE AREA

SHEET NUMBER:  
**001**

### MEMORANDUM OF LEASE

**PLEASE TAKE NOTICE** that the **ALASKA RAILROAD CORPORATION** (herein called "ARRC"), a public corporation created pursuant to AS 42.40, whose mailing address is P.O. Box 107500, Anchorage, Alaska 99510-7500, and the **CITY OF WHITTIER** (herein called "City"), a second class city organized and existing under the laws of the State of Alaska, whose mailing address is P.O. Box 608 , Whittier, Alaska 99693-0608, have entered into a lease (herein called "the Lease") dated April 13, 2022, which affects the real property known as:

A parcel of land located within the Alaska Railroad Whittier Reserve situated in the Anchorage Recording District, Third Judicial District, State of Alaska and more specifically described on Schedule 1 attached to and for all purposes made a part of this Memorandum of Lease.

The term of the Lease is Thirty-Five (35) years commencing as of April 13, 2022, and ending on April 12, 2057. There are options to extend the lease term for two (2) additional lease terms of twenty-five (25) years each. There is no right to purchase the real property subject to the Lease. The complete terms and conditions of the lease agreement are contained in documents which are in the possession of the parties at the above addresses.


The Lease also grants a security interest to ARRC in all improvements and fixtures actually owned by the City (including buildings) and in any way affixed or attached, whether now or later, to the Leased Premises for the payment of rent and other obligations of the Lease.

**IN WITNESS WHEREOF**, ARRC and the City have duly executed and acknowledged this Memorandum of Lease.

### ALASKA RAILROAD CORPORATION

Dated: April 13, 2022

By: \_\_\_\_\_

  
William G. O'Leary  
President & Chief Executive Officer



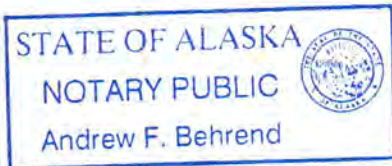
CITY OF WHITTIER

Dated: April 13, 2022

By Jackie C. Wilde  
Jackie Wilde  
Acting City Manager

STATE OF ALASKA           )  
  )ss.  
THIRD JUDICIAL DISTRICT )

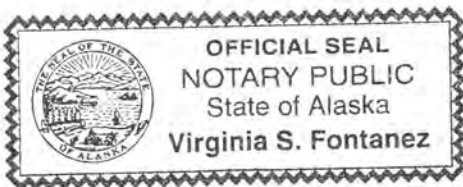
The foregoing instrument was acknowledged before me this 13th day of April, 2022, by William G. O'Leary, President & Chief Executive Officer of the Alaska Railroad Corporation, a public corporation created by Alaska Statute 42.40, on behalf of the corporation.



Andrew F. Behrend  
Notary Public in and for Alaska  
My Commission expires: 9-15-2023

STATE OF ALASKA           )  
  )ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this 13th day of April, 2022, by Jackie Wilde, Acting City Manager of the City of Whittier, Alaska, a second class city, on behalf thereof.



Virginia S. Fontanez  
Notary Public in and for Alaska  
My Commission expires: 7-21-25

**Lease Contract No. 20753**  
**City of Whittier**

SCHEDULE 1

LEGAL DESCRIPTION  
(prepared 3/9/2022)

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Beginning at Corner No. 3 of Lot 1, USS 9008; thence running,

N17°30'00"E	794.97 feet, along the line between said Corner No. 3 and the unmonumented Corner No. 2 of Lot 1, USS 9008 to said Corner No. 2; thence,
N90°00'00"E	314.69 feet, along the line between said Corner No. 2 and Corner No. 1 of Lot 1, USS 9008 to the Witness Corner to Corner No. 1, Lot 1, USS 9008, a Meander Corner; thence,
N90°00'00"E	78.47 feet, continuing along said line between Corner No. 2 and Corner No. 1, to the unmonumented Corner No. 1 of Lot 1, USS 9008; thence,

Thence, southerly along the meanders of the mean high tide line of Passage Canal approximately 1340' the follow nine (9) courses:

S17°41'00"E	55.44 feet; thence,
S02°35'00"E	87.12 feet; thence,
S01°15'00"W	45.54 feet; thence,
S14°42'00"E	317.46 feet; thence,
S09°15'00"E	253.44 feet; thence,
S07°20'00"E	196.68 feet; thence,
S09°26'00"E	150.48 feet; thence,

S09°46'00"W      109.56 feet; thence,

S13°23'00"W      127.56 feet; thence,

N90°00'00"W      691.52 feet; thence,

N18°40'59"W      420.00 feet; thence,

N17°30'00"E      170.00 feet, along the extension of said line between Corner No. 2 and  
Corner No. 3 to the Point of Beginning, containing 887,705 sq. ft.±.

The bearings and distances contained in this legal description are based on those shown in U.S.  
Survey 9008.

Subject to all valid pre-existing rights.

The Lease Parcel is a portion of Lot 1, U.S. Survey 9008 as described in US Patent No. 50-2005-  
0045 to the Alaska Railroad Corporation.

For indexing purposes the land lies within:

The E1/2 of Section 15, Township 8 North, Range 4 East, Seward Meridian

Recorder's Office, return to:

ALASKA RAILROAD CORPORATION

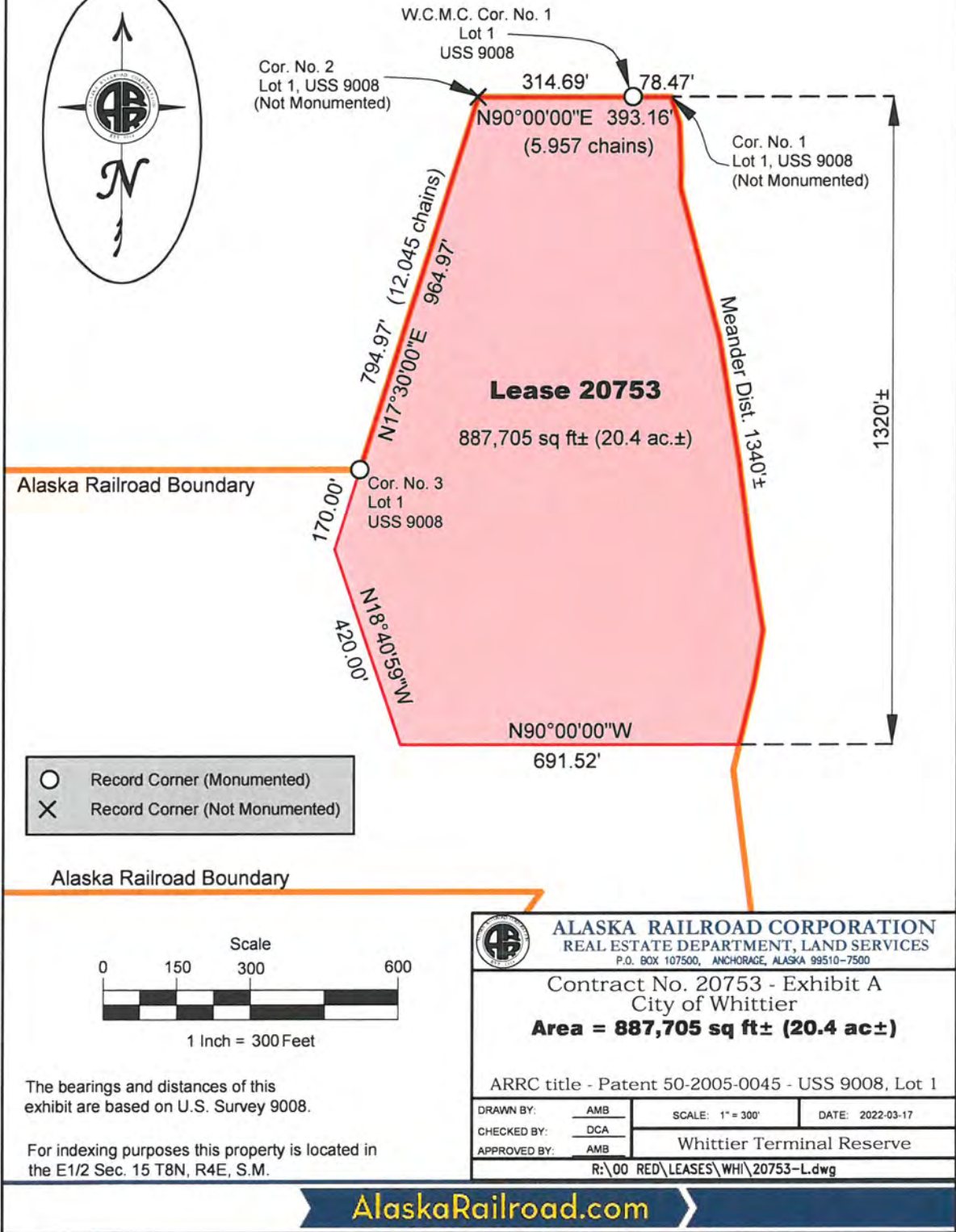
P.O. BOX 107500

ANCHORAGE, AK 99510-7500

State Business - No Charge



# ALASKA RAILROAD





# **LEASE AGREEMENT**

**BETWEEN**

**THE  
CITY OF WHITTIER  
AND  
GLACIER CREEK  
DEVELOPMENT, LLC**

---

**HEAD OF BAY  
TIDELANDS AND UPLANDS CRUISE PARCEL  
(2022)**

**LEASE AGREEMENT BETWEEN  
CITY OF WHITTIER, ALASKA AND  
GLACIER CREEK DEVELOPMENT, LLC,  
A WHOLLY-OWNED SUBSIDIARY OF  
HUNA TOTEM CORPORATION**

THIS HEAD OF BAY TIDELANDS AND UPLANDS LEASE AGREEMENT – CRUISE PARCEL – (2022) (“Lease”) is made and entered into this 12<sup>th</sup> day of August, 2022, with an effective date of April 13, 2022 (the “Effective Date”), by and between the City of Whittier, Alaska, 600 Whittier Street, Whittier, Alaska 99693-0608 (“Whittier” or “Lessor”), and Glacier Creek Development, LLC a wholly owned subsidiary of Huna Totem Corporation, 9301 Glacier Highway, Suite 200, Juneau, AK 99801-9306, (“Glacier Creek” or “Lessee”), collectively (“The Parties”). This Lease consists of the Recitals, the Exhibits, and the Agreement Provisions.

**RECITALS**

- A. Lessor is the owner of certain real property located in Whittier, Alaska known as a portion of Tracts A and B as shown on Alaska Tidelands Survey ATS) 1545, Anchorage Recording District, Third Judicial District, State of Alaska and situated within Sections 14 and 15, Township 8 North, Range 4 East, Seward Meridian, and legally described and shown in Exhibit A (the “Tidelands”).
- B. Certain land described in Exhibit B is owned by the Alaska Railroad Corporation (“ARRC Uplands”) and subject to the Ground Lease between Alaska Railroad Corporation and City of Whittier, Contract No. 20753 dated April 13, 2022 (“Ground Lease”). The Ground Lease is attached hereto as Exhibit G.
- C. Lessee desires to lease the Tidelands and sublease the ARRC Uplands from Lessor to construct certain Improvements consisting of Cruise Ship Facilities and Terminal Facilities. The Tidelands, the ARRC Uplands and the Improvements now or hereafter located thereon are collectively referred to herein as the “Leasehold Premises”.
- D. Lessee’s desired use of the Leasehold Premises is consistent with the Whittier Comprehensive Plan and would further Whittier’s economic and tourism objectives.
- E. Capitalized terms used but not defined in these Recitals have the meanings given to them below in this Lease.

**EXHIBITS**

- Exhibit A – Survey and Legal Description for the Tidelands
- Exhibit B – Legal Description and Map for the ARRC Uplands
- Exhibit C – Conceptual Drawing of Improvements
- Exhibit D – Preliminary Construction Plans
- Exhibit E – Construction Schedule
- Exhibit F – Limited Assignment for Security Purposes, if applicable
- Exhibit G – Ground Lease between City of Whittier and Alaska Railroad Corporation Contract No. 20573

## AGREEMENT

NOW, THEREFORE, it is mutually agreed by and between Lessor and Lessee as follows:

### ARTICLE I GRANT AND TERM

#### Section 1.1 Lease.

For and in consideration of Lessee's promise to pay the rent and other sums provided for in this Lease and Lessee's promise to perform the other covenants contained in this Lease, Lessor leases and subleases to Lessee and Lessee leases and subleases from Lessor, the Leasehold Premises, subject to (i) all liens, encumbrances, easements, rights-of-way, covenants, conditions, restrictions, obligations and liabilities as may appear of record as of the Effective Date, made of record hereafter in accordance with the terms of this Lease, or otherwise disclosed by this Lease, (ii) all matters which would be revealed or disclosed in an accurate survey or physical inspection of the Leasehold Premises, (iii) the effect of all current building regulations, current and future Applicable Laws, (iv) the condition of the Leasehold Premises on the Effective Date, (v) all taxes, duties, assessments and special assessments and any other impositions, accrued or unaccrued, fixed or not fixed, as of the Effective Date, and as described herein. The Leasehold Premises shall be used as a commercial cruise ship operation and to encourage and support creation of related tourism businesses and other related uses. The Leasehold Premises is shown and described more particularly as follows:

1.1.1 City of Whittier Tidelands. Exhibit A shows the boundaries of the Tidelands, containing approximately 29.494 acres. The Tidelands are being leased for the purpose of constructing and operating the Cruise Ship Facilities (defined below), including a dock and boardwalk consistent with the conceptual drawings attached to the Lease as Exhibit C.

1.1.2 ARRC Uplands. Exhibit B describes and shows the boundaries of the ARRC Uplands, containing approximately 20.4 acres. The Parties acknowledge that the ARRC Uplands are subleased to Lessee subject to the Ground Lease between the City of Whittier and ARRC. The ARRC Uplands are to be used for the construction and operation of the Terminal (defined below), including, but not limited to, a cruise ship terminal/railroad depot, parking lot, roads, boardwalk, and any other economic development amenities consistent with Exhibit C.

1.1.3 Access to Tidelands. Lessor assigns and grants, without warranty of any kind whatsoever, to Lessee, a nonexclusive right to use Lessor's rights of access to the Tidelands. Notwithstanding the foregoing, with respect to such nonexclusive use (including any right of the public to access the beach, as provided in Section 1.1.4 below) Lessor shall not prevent Lessee from complying with Security Laws (defined in Section 1.8 below) related to the Cruise Ship Facilities or in connection with the Permitted Use.

1.1.4 Public Access to Beach. The Parties acknowledge that the appeal of Whittier to cruise ships and their passengers is the natural beauty of Prince William Sound, Passage Canal, and the surrounding area. To allow guests to fully experience the ocean, beaches, mountains and forests, and to protect the natural environment for the continued enjoyment of Alaskans and visitors in the future, Lessee agrees to partner with Lessor to promote measures to protect and enhance the Lease Agreement Between City of Whittier and Glacier Creek Development, LLC



natural beauty of Whittier, including ensuring beach access to the public other than during periods of construction of the Improvements, and to take steps necessary to protect and preserve the natural state of the beach. The Parties desire, to the extent possible, to locate the boardwalk off the beach further west onto ARRC Uplands, to preserve and protect public access to the beach.

1.1.5 Utility Easement. During the Lease Term, Lessee shall have the nonexclusive right to use the utility easement approximately depicted on Exhibit C for the provision of utilities to the Leasehold Premises. Lessor shall not restrict or interfere with Lessee's use of the utility easement and represents and warrants that Lessor has the right and authority to grant to Lessee the nonexclusive right to use the easement.

## **Section 1.2 Lease Term.**

1.2.1 Initial Lease Term. The initial term of the Lease is thirty-five (35) years commencing on April 13, 2022 (the "Effective Date") and ending on April 12, 2057, unless sooner terminated or extended as provided in this Lease (the "Lease Term"). The Lease Term may be extended, based on the Lessee's Renewal Options in Section 1.3.

1.2.2 Lessee Obligation to Construct Improvements. Lessee shall, at a minimum, construct the Cruise Ship and Terminal Facilities more particularly described in Exhibit D. Lessee's failure to commence or thereafter to diligently pursue construction of the Improvements as required under Section 14.1.2, shall be a breach of this Lease. The estimated timetable for Lessee to commence and construct the new Cruise Ship Facilities is set forth in Exhibit E. Subject to the rights of a Leasehold Mortgagee under Section 4.6 below and to Force Majeure events, this Lease is subject to termination in the event construction of the Improvements is not materially complete by March 31, 2026. If delays to construction outside the control of Lessee occur (including without limitation Force Majeure events), Lessor shall extend the deadline for completion by further agreement between the Parties.

1.2.3 Lease Term to Be Inclusive. Whenever "Lease Term" is used in this Lease it shall be deemed to include the term described in Section 1.2.1, together with any exercised Renewal Option(s) as described in Section 1.3.

## **Section 1.3 Lessee's Right to Renew.**

1.3.1 Renewal Options. Unless there exists a material Event of Default hereunder on the part of the Lessee which is not cured or Lessee is undertaking a good faith effort to cure, Lessee shall have the right and option ("Renewal Option") to renew and extend the initial Lease Term described in Section 1.2.1 for one (1) Renewal Period of twenty-five (25) years, or if extended, for a second (2<sup>nd</sup>) Renewal Period of twenty-five (25) years (each a "Renewal Period"), subject to the notice provisions in Section 1.3.2.

1.3.2 Notice. Lessee shall communicate its interest in exercising a Renewal Option to Lessor in writing prior to the beginning of the twentieth (20<sup>th</sup>) month preceding the date the then current Lease Term is to end. If Lessor has not received a notice exercising a Renewal Option from Lessee prior to the beginning of the twelfth (12<sup>th</sup>) month preceding the date the then current Lease Term shall expire, Lessor shall send written notice to Lessee to inquire and confirm that Lessee does not intend to exercise a Renewal Option. Lessee may exercise a Renewal Option by giving notice within thirty (30) days of Lessor's inquiry notice.

1.3.3 ARRC Uplands Sublease. If Lessee exercises a Renewal Option, Lessor shall timely exercise its option to extend the Ground Lease, in accordance with Section 1.07 thereof (including, without limitation, by timely providing notice of its interest in extending the term of the Ground Lease and, following receipt of the appraisal, giving written notice of its exercise of the option ("Exercise Notice")). Lessor shall provide written confirmation of its extension of the Ground Lease within ten (10) business days of Lessor's Exercise Notice to ARRC. Notwithstanding the foregoing, Lessor shall have the right to dispute the appraised value as provided in Section 1.07 of the Ground Lease, so long as Lessor reserves its option to extend the Ground Lease during the pendency of the dispute and ultimately exercises its option to extend the Ground Lease. During the Lease Term, Lessor shall not consent to any amendment or modification of the Ground Lease that would shorten the term thereof, or consent to a voluntary termination or surrender of the Ground Lease, without the written agreement of Lessee.

1.3.4 Terms and Conditions. During the Renewal Period all terms and conditions of this Lease shall continue to apply, including the rental rate terms established in Article 2.

**Section 1.4 Lessor's Warranties.** Lessor represents and warrants that:

1.4.1 As of the Effective Date the Leasehold Premises is free of all liens and encumbrances except those of record; and

1.4.2 Lessor has the authority to enter into this Lease and its execution and delivery by Lessor has been duly authorized; and

1.4.3 Lessor has complied with all procedures required under Section 7.07(A) of the Ground Lease for the granting of a Sublease with respect to the ARRC Uplands; and

1.4.4 Lessee shall at all times from and after the Effective Date and for the balance of the Lease Term have the right to peacefully and quietly have, hold and enjoy the Leasehold Premises.

**Section 1.5 Lessee's Warranties.** Lessee represents and warrants that Lessee has the authority to enter into this Lease and its execution and delivery by Lessee has been duly authorized.

**Section 1.6 Use and Protection of the Leasehold Premises; Compliance with Laws.**

1.6.1 Use of Leasehold Premises. The Leasehold Premises are Leased to Lessee for the purpose of constructing and thereafter operating and maintaining the Improvements, including any Subleases which may be entered into by Lessee with a Cruise Line Operator and for tourism-related economic development as described in Article 5, and for no other purpose unless such use is approved by Lessor in writing prior to commencement of such use. Lessee acknowledges that it has examined the Leasehold Premises and is aware of the lack of public improvements thereon and accepts them in their present condition without representations or warranties of any kind or nature whatsoever by Lessor as to their condition or as to the use or occupancy which may be contemplated by Lessee. The foregoing shall not be deemed to relieve Lessor of its general municipal obligations, or of its other obligations under this Lease.

1.6.2 Compliance with Laws. Lessee, a Sublessee, and all licensees, shall comply with all Applicable Laws to the extent applicable to Lessee's use, operation and maintenance of the Improvements and occupancy of the Leasehold Premises whether or not any such Applicable Laws involve a change of policy on the part of the Governmental Authority enacting the same. Lessee

agrees to defend and hold Lessor harmless from any third-party claims, suits, demands, damages and judgements to the extent attributable to Lessee's violation of Applicable Laws. Lessee further agrees that it will not permit any unlawful occupation, business, or trade to be conducted on the Leasehold Premises or any use to be made thereof contrary to any law, ordinance, or regulation. The operation and maintenance of all sanitation, food service, and water supply and wastewater disposal systems and facilities by Lessee shall comply with the standards of the State of Alaska Department of Environmental Conservation and the United States Public Health Service as well as any and all other government entities regulating the same.

In the event the use or occupancy of the Leasehold Premises by Lessee, Sublessee, or a licensee, shall constitute a violation of any such Governmental Authority, Lessee shall take all steps, promptly upon knowledge of such violation, reasonably necessary to remedy or prevent the same, as the case may be.

1.6.3 Compliance with Insurance Requirements. Lessee covenants that it will observe and comply with the requirements of all policies of liability, fire and other policies of insurance required to be maintained by Lessee at any time in force with respect to the Leasehold Premises, and Lessee shall, in the event of any violation or attempted violation of the provisions of this section by any Sublessee, take steps promptly upon knowledge of such violation or attempted violation to remedy or prevent the same, as the case may be.

1.6.4 Contests. Lessee shall have the right, after prior written notice to Lessor, to contest by appropriate legal proceedings diligently conducted in good faith, in the name of the Lessee or Lessor or both, without cost or expense to Lessor, the validity or application of any law, ordinance, order, rule, regulation or requirement of the nature referred to in Section 1.6, or elsewhere herein, subject to the following:

- (a) If by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith pending the prosecution of any such proceeding may legally be delayed without the incurrence of any lien, charge or liability of any kind against the Leasehold Premises or any part thereof and without subjecting Lessee or Lessor to any liability, civil or criminal, for failure so to comply therewith, Lessee may delay compliance therewith until the final determination of such proceeding; or
- (b) If any lien, charge, or civil liability would be incurred by reason of any such delay, Lessee nevertheless may contest as aforesaid and delay as aforesaid, provided that such delay would not subject Lessor to criminal liability or fine, and Lessee (i) furnishes to Lessor security, reasonably satisfactory to Lessor, against any loss or injury by reason of such contest or delay, and (ii) prosecutes the contest with due diligence. Lessor, without cost to it, shall, subject to the foregoing, execute and deliver any appropriate papers which may be necessary or proper to permit Lessee so to contest the validity or application of any such law, ordinance, order, rule, regulation, or requirement.

1.6.5 Notification to Lessor's City Manager of Discovery of Contamination. Lessee shall promptly notify Lessor's City Manager within 24 hours upon discovery of any contaminated soils or other contaminated materials that require special handling if any are encountered during construction or other activities.



1.6.6 Obligations and Limitations Specific to ARRC Uplands. This sublease of the ARRC Uplands is subject and subordinate to the rights of ARRC under the Ground Lease. Lessee hereby waives any and all claims against ARRC that might arise due to ARRC's status as a ground lessor. If an Event of Default occurs under the Ground Lease and Lessee is notified of the Event of Default and instructed to make rent payments to ARRC, Lessee shall recognize and attorn to ARRC as Lessor and the Ground Lease shall continue in full force and effect as a direct lease.

**Section 1.7 Maintenance and Repairs.** Lessee at its expense will keep the Leasehold Premises in good and clean order and condition and will promptly make or cause others to make all necessary or appropriate repairs, replacements, or renewals thereof, whether interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen. All repairs, replacements and renewals shall be substantially equal in quality and class to the original work. Lessee's repair, replacement and renewal obligations are subject to reasonable wear and tear. Lessee waives any rights created by any law now or hereafter in force to make repairs to the Leasehold Premises at Lessor's expense, in that Lessor and Lessee have by this Lease made specific provision for such repairs and have their respective obligations thereto. Lessee, at its expense, will do or cause others to do every act necessary or appropriate for the preservation and safety of the Leasehold Premises by reason of or in connection with any excavation or other building operation upon the Leasehold Premises or any adjoining property by Lessee, including, without limitation, all shoring up of foundations and walls of the Improvements or of the ground adjacent thereto, whether or not the owner of the adjoining property shall be required by any legal requirement to take such action or be liable for failure to do so.

**Section 1.8 Local Management and Security.**

1.8.1. Lessee agrees that the business of the Lessee within or upon the Leasehold Premises shall have local management and a manager or agent named by the Lessee who shall be responsible for operations of the Improvements and authorized by Lessee to make all appropriate business and management decisions insofar as those decisions relate to or bear upon Lessee's relationship with Lessor. On or before Lessee's execution hereof, Lessee shall furnish to Lessor, in writing, the name, address, and phone number of its local agent and shall notify Lessor within thirty (30) days, of any change in that information.

1.8.2 Lessee agrees to accept responsibility for any alterations or costs related to security requirements imposed by any Governmental Authority through Applicable Laws applicable to the Leasehold Premises and the Permitted Use.

1.8.3 Lessor shall not interfere with any of Lessee's or Sublessee's actions taken in order to comply with security requirements under Applicable Laws ("Security Laws"), including, but not limited to, the Maritime Transportation Security Act and/or requirements promulgated by the U.S. Coast Guard ("USCG"). Lessor shall reasonably cooperate with any USCG-approved facility security plan ("Facility Security Plan") as may be necessary for the compliance therewith. Lessor shall maintain the confidentiality of the Facility Security Plan, if applicable, unless disclosure is required under Applicable Laws. Lessor is not responsible for theft or vandalism.

**Section 1.9 Additional Conditions of Lease.**

- (a) Lease Payments. Lease payments will be made annually in advance in cash or by check, bank draft or money order made available to the City of Whittier, Alaska. Installments to be delivered or mailed to PO Box 608, 660 Whittier Street, Whittier, Alaska 99693 by the



due date.

- (b) Lessor Invoices. Lessor will only invoice if Lease payments are delinquent in excess of thirty (30) days past due date.
- (c) Sales Tax. Sales tax rates, limits, exemptions, and exclusions are subject to change by Lessor City Council.
- (d) Reservation of Minerals. All oil, gas, coal, geothermal resources and minerals of whatever nature in or under the above-described land are excluded from the Leased Premises and reserved to Lessor, or as to the ARRC Uplands, ARRC. Lessee shall not excavate to a depth greater than twenty (20) feet.
- (e) Material Removal. Lessee is prohibited from removing native material, including mining and export of rock, from the Leasehold Premises without written approval from Lessor, which shall not be unreasonably withheld to the extent the activity relates to the removal of overburden and its disposal off site.
- (f) Clean and Orderly Premises. Lessee shall take reasonable measures to ensure that its own operations and that of Sublessees maintain clean and orderly operations and do not unnecessarily attract the Leasehold Premises to rodents or wildlife.
- (g) Bear-Resistant Trash Cans. Lessee and its Sublessees shall be responsible for providing bear-resistant garbage containers to contain trash resulting from operations on the Leasehold Premises.
- (h) Tourism Best Management Practices. Lessee agrees to support community efforts to establish and implement a Tourism Best Management Program to minimize and mitigate adverse impacts of tourism in a manner that addresses both residents' and industry concerns.
- (i) Parking. Lessee accepts responsibility for all parking (passenger, guest, employee, longshore labor, or otherwise) associated with cruise ship and other commercial activities at Leasehold Premises.
- (j) Replacement of State Commercial Passenger Vessel (CPV) Tax. The Parties acknowledge that a primary incentive for Lessor to enter into this Agreement is the ability to utilize State CPV Tax funding to offset visitor and infrastructure impacts to the community. In the event the State of Alaska CPV tax is reduced, Lessee agrees to use its best efforts to work with its partners to support the City's efforts to impose its own equivalent per person head tax to approximate the revenues received under the State CPV tax as of the Effective Date.
- (k) Commitment to Clean Water. Lessee agrees to follow all local, state and federal environmental laws with regard to discharge into waters of Passage Canal, as protection of water and shorelines is a vital component of environmental stewardship.
- (l) Protection of Viewshed. To the extent practicable, and taking into account the need to

ensure efficient traffic flow, snow removal, etc., Lessor agrees to consider ways to enhance the viewshed (from the water) through use of native vegetation, landscaping, buffer zones, or other means to enhance viewshed.

## **ARTICLE 2     RENT**

**Section 2.1     Annual Rent.** Annually beginning November 1, 2024, Lessee shall pay Lessor Annual Rent in the amount of Two Hundred Thousand Dollars and 00/100 Dollars (\$200,000.00) per Lease Year for the Leasehold Premises ("Rent"), consisting of \$13,200 for ARRC Uplands and \$186,800 for Tidelands. The first payment shall be made on or before November 1, 2024 for the full year Rent covering the period November 1, 2024 – October 31, 2025.

**Section 2.2     Rent Adjustments (CPI Adjustment).** Rent will be adjusted every five (5) years (in years 2029, 2034, 2039, 2044, and so on) taking effect November 1<sup>st</sup> based on the change in the previous five (5) years' cumulative annual percent change for Anchorage, Alaska (also referred to as Urban Alaska) for All Urban Consumers (CPI-U) as published by the U.S Department of Labor, Bureau of Labor Statistics, capped at 2.5% per year and not to exceed 12.5% for the five-(5)-year period. If the CPI is revised or ceases to be published, the Lessor shall instead use such revised or other index as most nearly approximates the CPI for the relevant period and make whatever adjustment in its application as may be necessary, in the Lessor's sole reasonable discretion, to accomplish as nearly the same result as if the CPI had not been revised or ceased to be published.

**Section 2.3     Rent Payments.** Rent is due and payable on November 1 of each calendar year, and if such date is a weekend or holiday, Rent shall be due on the first business day thereafter. All payments of Rent shall be made by Lessee to Lessor without notice or demand, at the place provided in Section 1.9(a). In the event any payment of Rent shall not be paid on or before five (5) days following the due date as provided in this Section, the delinquent amount shall be due together with interest accruing at the rate established pursuant to Section 17.14 from the due date until the date of payment.

**Section 2.4     Offset of Rent.** Rent shall not be withheld in whole or part because of an offset or counterclaim by Lessee.

**Section 2.5     Acknowledgement.** Lessor acknowledges and agrees that Lessee will charge port fees, special facility fees, boardwalk lease fees and the like, as Lessee deems necessary, for use of the Leasehold Premises.

## **ARTICLE 3     ASSESSMENTS, UTILITIES, IMPOSITIONS, CONTEST OF IMPOSITIONS**

### **Section 3.1     Utilities and Rates for Utility Services Provided by Lessor.**

3.1.1 Lessee shall pay or cause to be paid when due, and shall indemnify, protect, defend, and hold harmless Lessor and the Leasehold Premises from and against, all charges for public or private utility services to or for the Leasehold Premises during the Lease Term, including without limiting the generality of the foregoing, all charges for heat, light, electricity, water, gas, telephone service, garbage collection and sewage service. Lessor shall have no liability whatsoever for the failure of any such service for any reason.

3.1.2 With respect to utilities and roads on the Leasehold Premises:

- (a) Utility Rates. Utility rates charged by Lessor for utility services shall be those set forth in the City of Whittier's Tariff and/or Whittier Municipal Code. The Whittier City Council may change utility rates from time to time by amending Tariffs and/or Whittier Municipal Code after public hearing.
- (b) Potable Water. All potable water services will be metered and protected by approved backflow prevention in accordance with ADEC regulations and/or Whittier Municipal Code or Tariff.
- (c) Shore Power. Lessee agrees to work with cruise lines and Chugach Electric Association to explore the feasibility of installing shore power to reduce carbon emissions. The Parties acknowledge that Lessee is not obligated to immediately install shore power and the Parties agree to engage in good faith negotiations regarding same going forward.
- (d) Water and Wastewater Infrastructure. The Parties shall coordinate to seek grant funding and/or to identify financing to construct a Head of Bay water system and wastewater collection and disposal system to be owned by the City, excluding all internal utilities necessary to support the Cruise Ship Facilities and Improvements, which shall be at the sole cost and installation by Lessee, and which shall be identified within Construction Plans attached hereto as Exhibit D. The Parties acknowledge that the City does not have the unilateral financial capacity to construct or to finance construction of major water and sewer infrastructure without identification of a revenue source for repayment.
- (e) Utility Disruption. Lessor may, upon at least ten (10) days prior written notice to Lessee, temporarily suspend the supply of water, wastewater service, or the use of the Improvements to perform routine maintenance and, in all events, subject to unavoidable delays, in the event Lessee connects to City-owned water and sewer service. Such interruptions shall be of as short duration as necessary to perform such maintenance, and Lessor shall not be responsible for any such costs or expenses resulting from suspending such utilities. Lessor shall coordinate with Lessee as to the timing and duration of any such suspensions to the greatest extent practicable.
- (f) Roadways. Lessee agrees to coordinate with the ARRC and the City of Whittier in constructing roadways and/or rail necessary to accommodate the needs of the Cruise Ship Facilities and Improvements and shall ensure that roadways are constructed according to Applicable Laws and Alaska roadway construction standards. The City shall be provided two (2) hard copies and one digital copy in AutoCAD of As-Built Surveys upon completion of construction. Lessor is responsible to obtain any required easements, rights-of-way, rail crossing permit or other permits related to roadways constructed on the Leasehold Premises. The City shall not be responsible or required to maintain roads on the Leasehold Premises, nor be responsible for maintaining any facility or infrastructure containing a railroad crossing, except by written agreement between the Parties.

**Section 3.2 Impositions.** Lessee shall pay when due and before any interest, penalty, fine or cost which may be added for nonpayment, each one of the following ("Impositions"):

(a) Lessee will be responsible to pay Lessor real property taxes for its possessory interest in the Leasehold Premises, subject to the provisions of Section 3.5;

(b) Taxes imposed upon the leasehold estate created by this Lease, the rents payable or paid by Lessee to Lessor, or a tax in any form against Lessor measured by income derived from the leasing or rental of the Leasehold Premises, specifically including without limitation any leasehold excise taxes and any business and occupation tax imposed upon Lessor with respect to rentals, but excluding any taxes on net income or taxes in lieu thereof imposed on Lessor;

(c) All taxes imposed on or with respect to personal property and intangibles located in or used in connection with the Leasehold Premises other than such property owned by Sublessees who shall be liable for payment of personal property tax for their own personal property;

(d) All assessments for public improvements or benefits including but not limited to all road improvement district and utility local improvement district taxes which are assessed during the Lease Term, and any similar assessments and charges;

(e) All other rents, rates and charges, excises, levies, license fees, permit fees, inspection fees and other fees and charges, in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every character (including interest and penalties thereon), which at any time during or in respect of the Lease Term may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon the Leasehold Premises or any part thereof, or any estate, right or interest therein, or any occupancy, use or possession of or activity conducted on the Leasehold Premises or any part thereof.

3.2.1 Installments. If by law any Imposition may at the option of the taxpayer be paid in installments, Lessee may exercise such option, and shall pay all such installments (and interest, if any) becoming due during the Lease Term as the same become due and before any additional interest or any penalty, fine or cost may be added thereto, and shall at the end of the Lease Term deposit with Lessor an amount sufficient to pay Lessee's pro rata share of all Impositions for the Lease Year in which this Lease terminates.

3.2.2 Proof of Payment. Lessee will furnish to Lessor, upon request, for inspection, within thirty (30) days after the date any Imposition would become delinquent (unless being contested in conformity with Section 3.3), official receipts of the appropriate taxing authority or other proof satisfactory to Lessor evidencing the payment of such Imposition.

**Section 3.3 Permitted Contests.** Lessee at its sole cost and expense may, after prior written notice to Lessor, by appropriate legal proceedings conducted in good faith and with due diligence, contest the amount or validity or application, in whole or in part, of any Imposition or lien therefor, or any other lien, encumbrance or charge against the Leasehold Premises arising from work done or materials provided to or for Lessee, if, and only if:

(a) Neither the Leasehold Premises nor any part thereof or interest therein is or will be

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in any danger of being sold, forfeited, or lost.

(b) Such delay would not subject Lessor to criminal liability or fine; and

(c) Lessee shall have furnished such security, if any, as may be required in legal proceedings or as may be reasonably requested by Lessor.

Lessee shall indemnify, protect, defend, and hold harmless Lessor and the Leasehold Premises from any lien or liability with respect to any such Imposition or contest thereof, including all costs and expenses related thereto.

**Section 3.4. Subdivision and Survey Costs.** In accordance with the timetable in Exhibit E, Lessee shall survey and plat the exterior boundaries of the Tidelands in accordance with applicable ordinances of the City of Whittier. Lessor reserves the right to require further subdivision of the Tidelands, corrections, modifications and adjustments to the survey and plat.

**Section 3.5. Property Tax Relief.** The Lessor hereby declares the Leasehold Premises to be "economic development property" pursuant to the terms of AS 29.45.050(m), and will take action under that statute to exempt or defer the payment of taxes as provided herein, subject to the requirements of law and potential repeal by referendum. Subject to the foregoing, Lessor shall take action, to the extent permitted by law, to exempt the Leasehold Premises from property taxes for a period of three (3) years after the Effective Date (Year 2023, 2024, 2025), and shall defer property taxes for years four and five (2026, 2027). During each of the sixth and seventh Lease Years (2028, 2029), Lessee (and any other entity which has received written approval from Lessor to defer property taxes), shall pay Lessor one-half (1/2) of the total amount of property tax deferred during the preceding two years, in addition to the total property tax owed for the then-current year.

#### **ARTICLE 4 LESSEE FINANCING OF IMPROVEMENTS AND ASSIGNMENT**

**Section 4.1 Leasehold Mortgages.** Lessee, and its successors and assigns, shall have the unrestricted right to mortgage (which term shall include a deed of trust), pledge, and assign Lessee's leasehold interest in this Lease and the Improvements to a Qualified Leasehold Mortgagee without Lessor approval, and to any other lender with prior written approval of Lessor, which approval will not be unreasonably withheld, conditioned or delayed. In no event shall Lessor subordinate its fee simple interest in the Tidelands or its leasehold in the ARRC Uplands which are the subject of this Lease. In no event shall ARRC subordinate its fee simple interest in the ARRC Uplands which are the subject of this Lease.

**Section 4.2 Assignment by Leasehold Mortgagee.** If any Leasehold Mortgagee shall acquire Lessee's interest in this Lease and/or the Improvements, by foreclosure of a mortgage thereon or by assignment in lieu of foreclosure or by an assignment to a designee or wholly owned subsidiary corporation of such mortgagee, such Leasehold Mortgagee may assume Lessee's interest in this Lease, or may assign this Lease without limitation as to the number of assignments so long as the assignee assumes the obligations under this Lease and Lessor approves of the assignment, which consent shall not be unreasonably withheld, conditioned or delayed. The Leasehold Mortgagee shall thereupon be released from all liability for the performance or observance of the covenants and conditions of this Lease contained on Lessee's part to be performed and observed from and after the date of such assignment, provided that the assignee from such mortgagee shall have assumed this Lease in accordance with Section 4.3 hereof and shall have complied otherwise with Section Lease Agreement Between City of Whittier and Glacier Creek Development, LLC

4.3. The foregoing release of liability shall not include a release of liability for damages, injury, fines, or penalties arising under any federal, state or local environmental law, rule or regulation for which the mortgagee has, or may have liability, by reason of its possession or occupancy of the Leasehold Premises.

**Section 4.3 Assignment for Security Purposes.** Lessor recognizes that Lessee may have a need, in lieu of encumbering its leasehold interest with a Leasehold Mortgagee as provided for herein, to assign to a lender, for security purposes, Lessee's interest contained herein. To the extent that such an assignment for security purposes is required, the Parties agree that such an assignment is permissible, with Lessor's consent, which consent shall not be unreasonably withheld, conditioned or delayed, provided the assignment generally adheres to the terms and conditions set forth in the form attached hereto as Exhibit F.

**Section 4.4 Covenant Against Assignments.** Except as expressly permitted by Section 4.1, 4.2, and Section 4.3 hereof, Lessee shall not, without the prior written consent of Lessor (which consent shall not be unreasonably withheld, conditioned or delayed), sell, assign, transfer, dispose of, mortgage, pledge or grant a security interest in this Lease, the leasehold estate it creates, or any of Lessee's rights hereunder, in whole or in part, nor shall Lessee's rights or interests under or in this Lease pass or be transferred or assigned by operation of law or otherwise. Lessee's request to assign must be in writing and must show the name and address of the proposed assignee, as well as the financial history and operating plan of said assignee.

**Section 4.5 Covenants Binding on Successors and Assigns.** All the terms, conditions and covenants of this Lease shall inure to the benefit of and be binding upon any permitted successors and assigns of the Parties (including a Leasehold Mortgagee who succeeds to Lessee's leasehold interest). If there occurs any assignment permitted hereunder, or made with the consent of Lessor, Lessee shall cause to be delivered to Lessor concurrently with or prior to such assignment, an instrument in writing signed and duly acknowledged by the assignee or successor by which such assignee or successor agrees to perform all terms and provisions of this Lease applicable to Lessee.

**Section 4.6 Notice of Default and Opportunity to Cure.** Upon the occurrence of a breach and/or an Event of Default under this Lease, Lessor, in addition to notifying Lessee pursuant to Article 14 of this Lease, shall also notify in writing any Leasehold Mortgagee and Sublessee of such Event of Default. Upon receipt of such written notice from Lessor, any such Leasehold Mortgagee (or Sublessee if no Leasehold Mortgage exists) shall have the right, but not the obligation, to cure the Event of Default on behalf of Lessee. If a Leasehold Mortgagee or Sublessee elects to cure (which election shall be made in writing to Lessor within thirty (30) days after receipt of the notice of the Event of Default from Lessor), Leasehold Mortgagee or Sublessee shall have an additional period equal to the greater of (a) sixty (60) days or (b) the length of the cure period given to Lessee in Article 14 of this Lease applicable to the circumstances constituting the Event of Default, to cure the Event of Default on behalf of Lessee.

## **ARTICLE 5 SUBLEASES PERMITTED**

**Section 5.1 Subleases.** The Lessee shall have full and general management authority over the Leasehold Premises with respect to Subleases and shall be required to obtain approval of Lessor for such Subleases or developments only to the extent necessary to ensure compliance with the

original intent of this Lease and the terms of the Ground Lease, attached hereto as Exhibit G, which approval shall not be unreasonably withheld, conditioned, or delayed. Provided the Lessee complies with the following requirements with respect to the Sublease(s), it shall have the right to Sublease the Leasehold Premises, or a portion thereof, for development purposes, and Lessor approval shall not be unreasonably withheld, conditioned, or delayed in recognition of the importance of Sublease revenue to the overall financing strategy of Lessee:

(a) The Sublease is for purposes consistent with the Permitted Use as established in Section 1.6.1.

(b) The Sublease is to a Sublessee with experience, knowledge, and expertise in developing the kind of Improvements or conducting the type of business for which the Sublease is being executed, including, a Cruise Line Operator.

(c) The Sublease includes terms reasonably calculated to ensure that the work, whether construction or other services, for which the Sublease is entered into is timely completed by Lessee or Lessee's contractor(s) or the Sublease shall be terminated.

(d) Lessee provides the Lessor with information sufficient to establish Lessor's compliance with the ARRC Ground Lease (Exhibit G) prior to executing a Sublease.

(e) The Sublease shall be in writing and shall not exceed the term of this Lease. The Sublease shall be subject and subordinate to the rights of the Lessor under this Lease with respect to the Leasehold Premises and, additionally, to the rights of ARRC under the Ground Lease with respect to the ARRC Uplands.

(f) The Sublease shall contain provisions requiring Sublessees conducting business in Whittier to be registered with the City of Whittier and hold a valid, unexpired business license during the term of their operations and to comply with all local laws.

**Section 5.2 Preferential Subleases.** The Parties acknowledge Lessor's preference to promote economic development opportunities for local residents and businesses wishing to establish or relocate to the Leasehold Premises. To the extent practical, Lessee agrees to provide an initial Sublease preference to existing local Whittier residents (both residing and registered to vote in Whittier) and local Whittier businesses holding current and valid business licenses with the City of Whittier and in compliance with all terms of their lease with the City at the time of execution of this Lease; provided however that the Sublessee shall not expect to receive preferential financial terms relative to competing Sublease proposals. The Parties acknowledge their mutual preference to further offer Alaskan businesses the opportunity to lease property in Whittier for the purpose of supporting the Alaska tourism industry and related businesses and Lessor agrees to use its best efforts to execute Subleases with Alaskan companies, to the extent permitted by law.

## **ARTICLE 6 CONSTRUCTION OF IMPROVEMENTS**

**Section 6.1 Acceptance of Premises.** Lessee has inspected Leasehold Premises and accepts the same as of the Effective Date in its present "AS IS" condition, without representation or warranty from Lessor, whether express or implied.



**Section 6.2 Commencement of Construction; Lessee's Financial Capability.**

Lessee shall commence and proceed with construction and completion of the Cruise Ship Facilities and Improvements substantially in accordance with the construction plans and schedule approved by Lessor and attached hereto as Exhibit D and Exhibit E, and otherwise in accordance with and subject to the terms of this Lease and subject to delays caused by Force Majeure as defined in Article 16.

In accordance with the schedule set forth in Exhibit F, Lessee shall provide to Lessor: (i) an enforceable letter of commitment from an Institutional Lender; (ii) contract from a Cruise Line Operator evidencing the ability and agreement to provide the financing necessary for completion of the Improvements; or (iii) such other assurances of such financial capability to complete the Improvements as may be approved by Lessor's sole discretion, which approval shall not be unreasonably withheld, conditioned, or delayed. Failure to provide evidence of financial capability to complete said construction shall be deemed an Event of Default under Article 14.

**Section 6.3. Approval of Plans and Schedule.** Lessee shall construct the Improvements described in the Preliminary Construction Plans (Exhibit D) according to the Construction Schedule attached hereto as Exhibit E, which are both hereby approved by Lessor.

- (a) No material changes shall be made in the Preliminary Construction Plans or Construction Schedule without the prior written approval of Lessor. Any material changes shall be reviewed by Lessor within ten (10) working days.
- (b) Approvals by Lessor under this Section 6.3 shall not be unreasonably withheld or delayed. Provided, however, that the Lessor shall have the absolute and unfettered right to deny approval of 1) any changes to the Construction Schedule which when combined with previously approved changes, will result in a delay in the Construction Schedule of more than twelve (12) months; or 2) changes to the Improvements which would result in Lessee's failure to construct the Improvements identified in the Preliminary Construction Plans.
- (c) Lessee, its successors and assigns, is granted without charge the right to utilize earth materials (including sand, gravel, soil, armor rock and other similar products) located on the Leasehold Premises, or on other lands owned by the Lessor, to the extent such earth materials are necessary or beneficial to Lessee's construction of the Cruise Ship Facilities and Improvements within the Leasehold Premises and, to the extent that such earth materials are on other lands owned by Lessor, only if such earth materials are not at the time or in the reasonably foreseeable future required by the Lessor for a specifically identified project to be constructed within four (4) years, and only if agreed to in advance, in writing, by Lessor.
- (d) Lessee shall conduct an active community recruitment program for both construction and operations activities, such that all qualified Whittier residents shall be considered for Lessee's available construction and operations employment. However, such employment shall be subject to Lessee's personnel management rights, including but not limited to hiring, assigning, directing, commending, disciplining, promoting, demoting, suspending, or terminating employment of any resident, so long as such



action is consistent with any similar action that might be taken by Lessee with respect to an employee who is a non-resident in similar circumstances.

- (e) Lessee agrees to make a good faith effort to promote and support environmental stewardship by considering, to the extent practicable, energy efficient construction, use of renewal energy, measures to mitigate sound pollution, promotion of air quality, etc.

**Section 6.4 Hold Harmless.** Lessee shall indemnify, protect, and hold harmless Lessor and the Leasehold Premises from and against all claims and liabilities arising by virtue of, or relating to, construction of the Cruise Ship Facilities and Improvements, repairs made at any time to the Leasehold Premises (including repairs, restoration, and rebuilding) or the use and/or operation of the Leasehold Premises, unless caused or arising by virtue of Lessor or its agents, employees, contractors and assigns.

**Section 6.5 Permits; Compliance with Codes.** Lessee shall secure at its sole cost all building permits, tideland and other permits, licenses, permissions, consents, and approvals required to be obtained from any Governmental Authority, governmental agencies or third parties in connection with construction of the Improvements maintaining, modifying and/or operating the Improvements, or repairs, replacements or renewals to the Leasehold Premises as required by Applicable Laws, including a Corps 404 Permit for such construction. In that regard, Lessor hereby assigns to Lessee any existing permit authorities, if any, including applicable Corps 404 Permit(s), and agrees to cooperate with Lessee with respect to Lessee's effort to obtain future permits, to the extent permitted by law. Lessee shall cause all work on the Leasehold Premises during the Lease Term to be performed in accordance with all Applicable Laws.

**Section 6.6 Control and Indemnification.** Lessor's approval of the Preliminary Construction Plans including any changes thereto, and Construction Schedule shall not render Lessor liable therefor, and Lessee shall indemnify, defend, and hold harmless Lessor from and against any and all claims arising out of or from the use of such Preliminary Construction Plans, unless caused or arising by virtue of Lessor or its respective agents, employees, contractors and assigns. Nothing within this Section 6.6 shall be construed as a release or waiver of liability of any contractor with respect to any and all claims arising out of or from the use of such Preliminary Construction Plans.

**Section 6.7 Ownership of Improvements.** During the Lease Term, all Improvements on the Leasehold Premises, including without limitation all additions, alterations, and improvements thereto or replacements thereof and all appurtenant fixtures, machinery and equipment installed therein, other than such property which is owned by Sublessees, shall be the property of Lessee. At the expiration or earlier termination of this Lease, the Improvements and all additions, alterations, and improvements thereto or replacements thereof and all appurtenant fixtures, machinery and equipment installed therein, other than such property which is owned by Sublessees, shall become the property of Lessor, subject to the provisions of Section 6.9.

**Section 6.8 Alterations and Additions.**

6.8.1 Alterations and Additions. Lessee shall have the right at any time and from time to time during the Lease Term, so long as no Event of Default exists hereunder, to make, at its expense, changes, renovations, alterations and additions to the Improvements or any part thereof; provided, however, that any such change, renovation, alteration, or addition:

(a) shall not change the use of the Leasehold Premises or reduce the fair market value of the Improvements below their value immediately prior to such change, alteration or addition, or impair their usefulness.

(b) shall be undertaken with due diligence and in good and workmanlike manner, and in compliance with all legal requirements and insurance requirements.

(c) shall be promptly and fully paid for by Lessee; and

(d) shall be made, if the estimated cost of such change, renovation, alteration or addition exceeds One Hundred Thousand and 00/100 Dollars (\$100,000.00) (exclusive of any changes made in connection with any Subleases not involving any structural change), in accordance with plans and specifications and modifications thereto prepared by an architect or engineer selected by Lessee and satisfactory to Lessor, provided that such plans and specifications and modifications thereto and all cost estimates have been approved in writing by Lessor and Lessee shall have furnished to Lessor such security as is satisfactory to Lessor to assure the completion of such change, renovation, alteration or addition. In the event Lessor does not approve any such change, alteration, or addition, it shall, within such fifteen (15) days of the receipt of plans and specifications or modifications thereto, so notify Lessee in writing, giving the reasons for such lack of approval. The Parties shall then forthwith negotiate in good faith to resolve these difficulties. If a satisfactory resolution is not reached within an additional fifteen (15) days, the reasonableness of Lessor's disapproval shall be submitted to arbitration pursuant to Article 15 below. Each party shall bear the cost of such submittal incurred by it and the cost of the arbitrators shall be borne equally by the Parties.

6.8.2 Demolition and Reconstruction. Lessee shall have the right at any time and from time to time during the Lease Term, so long as no Event of Default exists hereunder, at its expense, to demolish part or all of the Improvements then existing if Lessee shall forthwith construct improvements upon the Land (the "Replacement Improvements") to replace such demolished Improvements, provided that (i) such Replacement Improvements shall be similar in type and quality to the facilities described in Exhibit D hereto, and (ii) in Lessor's judgment the Replacement Improvements will provide sufficient income to pay the Rent, provided that:

(a) prior to the commencement of any such demolition, Lessor shall have (i) received at least three (3) months' prior written notice from Lessee of the proposed demolition and construction, (ii) approved in writing the plans and specifications and modifications thereto for the proposed Replacement Improvements, prepared by an architect or engineer licensed in the State of Alaska selected by Lessee and satisfactory to Lessor, (iii) approved in writing the cost estimates for the proposed demolition and construction, and (iv) received a contractor's completion bond from Lessee as shall be satisfactory to Lessor to assure the lien-free completion of such proposed demolition and construction;

(b) any such demolition and the construction of Replacement Improvements in connection therewith shall comply with the provisions of subsections (b) and (c) of Section 6.8.1; and

(c) Evidence of compliance of such demolition and reconstruction with the provisions of this Lease, including, without limitation, insurance, and legal requirements.

Lessee shall not demolish any portion of the Improvements, other than strictly in accordance with the provisions of this Section 6.8.2, without the prior written consent of Lessor, except for minor demolitions in connection with alterations or additions as are performed in compliance with the provisions of Section 6.8.1.

**Section 6.9 Disposition of Improvements and Lessee's Personal Property Following Term of Lease.** Upon expiration or earlier termination of this Lease, Lessee shall remove Lessee's personal property and equipment and shall surrender the Leasehold Premises to Lessor; provided however that Lessor may require that Lessee remove all Improvements. Should Lessor not exercise its right to require the removal of all Cruise Ship Facility and Improvements, Lessee shall then, not remove any appurtenances, fixtures, machinery or equipment contained within the Improvements, or any additions to or replacements thereof made during the Lease Term, it being the intent of the Parties that upon expiration or earlier termination of this Lease, Lessor shall have the right to receive, or not, an operating cruise ship facility as set forth in Exhibit D, or any amendments thereto. Lessee's personal property and equipment not removed by Lessee after thirty (30) days have passed after termination of this Lease shall be deemed abandoned and Lessor may take title to and use such property or at Lessor's sole discretion dispose of such property in any reasonable manner and Lessee shall reimburse Lessor for all costs and expenses of such disposal.

**Section 6.10 As-Built Drawings.** Upon completion of construction of Improvements, Lessee shall deliver to Lessor two copies each of as-built drawings for such Improvements and an as-built survey showing the location of the Improvements, including all underground Improvements and fill. Lessee shall also provide a digital copy of the as-built drawings and survey in AutoCAD format.

**Section 6.11 Discharge of Liens.** Lessee will not directly or indirectly create or permit to be created or to remain, and will discharge any mortgage, lien, security interest, encumbrance or charge on, pledge of or conditional sale or other title retention agreement with respect to the Leasehold Premises or any part thereof; or with respect to Rent, or any other sums payable under this Lease, other than (a) this Lease; (b) liens for Impositions not yet payable, or payable without the addition of any fine, penalty interest or cost for nonpayment, or being contested as permitted by Section 3.3; (c) liens of mechanics, materialmen, suppliers or vendors, or rights thereto, incurred in the ordinary course of business for sums which under the terms of the related contracts are not at the time due, provided that adequate provision for the payment thereof shall have been made; (d) a Leasehold Mortgage permitted by Section 4.1; (e) a security interest in furniture, fixtures and equipment given as additional security for a Leasehold Mortgage permitted by Section 4.1; (f) any purchase money security interest in furniture, fixtures and equipment given to any vendor thereof; (g) any interest in furniture, fixtures and equipment given as security for the payment of money borrowed for the purchase price thereof; and (h) arising solely from the conduct of Lessee. Lessee shall have the right to post notices of non-responsibility in conspicuous places on the Leasehold Premises. Lessor shall give Lessee no less than twenty (20) days prior notice in writing before commencing the work or the furnishing of materials for any change, renovation, alteration, addition or restoration so that Lessee may post notices of non-responsibility in conspicuous places on the Leasehold Premises.

## **ARTICLE 7 DAMAGE OR DESTRUCTION**

**Section 7.1 Repairs and Alterations.** In the event of damage to or destruction of the Lease Agreement Between City of Whittier and Glacier Creek Development, LLC



## Improvements:

7.1.1 Lessee's Obligation to Repair. If the same can be made under Applicable Laws (or can be so made with minor and nonmaterial changes to the former condition and form of property damaged or destroyed), Lessee shall effect, and Lessor and Lessee agree that the funds derived from insurance acquired pursuant to Article 8 shall be made available to effect, the repair and reconstruction of the Improvements so damaged or destroyed to substantially its condition prior to said damage or destruction. If insurance funds are not adequate, Lessor may require Lessee to escrow prior to the commencement of any construction work a sufficient sum so that taken together with the insurance funds available for construction purposes, is equal to or exceeds the cost of all labor, materials, and other construction costs, direct and indirect to fully complete the repairing, restoring and/or rebuilding of the Improvement as aforesaid.

All such repair work shall be carried on in accordance with plans and specifications prepared by a licensed architect or engineers approved by Lessor which will not be unreasonably withheld, delayed or conditioned if such an architect or engineer is reasonably required, given the scope and nature of the work. No material extras or changes in plans and specifications shall be made by Lessee without first (A) giving written notice of such changes to Lessor and obtaining Lessor's approval thereof (which approval shall not be unreasonably withheld, delayed or conditioned), and (B) depositing into escrow additional funds sufficient to pay for such extras or changes or providing other assurances of the availability of funds to pay for the changes, and (C) as to any such changes which, together with all other changes theretofore made, involve over Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00), and as to any changes which involve fundamental or material changes in the Permitted Use, obtaining the written consent of Lessor (which consent shall not be unreasonably withheld, delayed or conditioned).

7.1.2 Lessee's Election to Repair. If funds in excess of Four Million and 00/100 Dollars (\$4,000,000.00) would be required in addition to available insurance proceeds to effect the repairs or reconstruction described in Section 7.1.1 or if such reconstruction or rebuilding cannot be made under Applicable Laws (and cannot be so made with changes to the former condition and form of the Improvements damaged or destroyed such that the repaired or reconstructed Improvements have substantially the same economic value as the Improvements had immediately prior to the damage or destruction), and, in either such event, the Parties hereto are unable during a period of sixty (60) days after the determination of the insurance surveyor with respect to such damage or destruction to agree in writing on a construction program, then the Lease Term shall end as of the date of such damage or destruction and the insurance proceeds collected as a result of such damage or destruction shall be distributed as provided in Section 8.6; provided, however, if such reconstruction or rebuilding can be made under such Applicable Laws (or can be so made with changes to the former condition and form of the Improvements damaged or destroyed such that the repaired or reconstructed Improvements have substantially the same economic value as the Improvements had immediately prior to the damage or destruction), but the cost of so repairing or reconstructing such damage or destruction (after deducting available insurance proceeds) is in excess of Four Million and 00/100 Dollars (\$4,000,000.00), Lessee shall have the right to effect the repair and restoration as provided in Section 7.1.1, and the Lease Term shall not end as of the date of such damage or destruction, if Lessee (i) gives notice to that effect to Lessor within sixty (60) days after the determination of the insurance surveyor with respect to said damage or destruction; and (ii) promptly demonstrates to the reasonable satisfaction of Lessor that it can deposit into escrow the funds required or that will be required under the provisions of Section 7.1.1, whereupon

the provisions of said Section 7.1.1 shall be fully applicable to such damage or destruction.

**Section 7.2 Prompt Repair.** If Lessee, pursuant to the terms hereof, is obligated or elects to repair, replace, reconstruct or rebuild any structures, improvements or other property as hereinabove provided, the same shall be effected at Lessee's cost and expense (which may be paid from insurance proceeds available as above provided and subject to the provisions of Section 7.1.1), and Lessee shall diligently commence and continuously carry out such repair, replacement, reconstruction or rebuilding, to full completion as soon as possible, except to the extent of delays due to strikes, lockouts, shortages of labor or materials after due diligence in obtaining the same, governmental restrictions, fire, casualty, riot, act of God, act of the public enemy, or other causes beyond the reasonable control of Lessee after the exercise of due diligence, including diligence in contracting, and the exercise of rights under contracts, with contractors and suppliers.

**Section 7.3 No Abatement.** This Lease and the Lease Term shall not terminate or be terminated because of damage to or destruction of any structure or Improvement on or in the Leasehold Premises except under and in accordance with the provisions herein contained.

**Section 7.4 Damage During Last Ten (10) Years of Lease Term.** If there occurs during the last ten (10) years of the Lease Term damage or destruction to any structure or Improvement on or in the Leasehold Premises and the costs of repairing, restoring, replacing or rebuilding the same exceed Five Hundred Thousand and 00/100 Dollars (\$500,000.00), Lessee may elect to terminate the Lease Term and, in such event, Lessee shall give notice to Lessor of its election within sixty (60) days after the determination by the insurance surveyor of the amount of damage, the Lease Term shall thereupon terminate as of the date of such notice and Lessor shall be entitled to receive the full amount of any insurance proceeds collected as a result of such damage or destruction.

## **ARTICLE 8 INSURANCE**

**Section 8.1 Acquisition of Insurance Policies.** Lessee shall, at its sole cost and expense, procure and maintain, or cause to be procured and maintained, during the Lease Term, the insurance described in this Article 8 (or its then available equivalent), which insurance shall be subject to Lessor's review and approval, which approval shall not be unreasonably withheld, and shall name Lessor as an additional insured. Policy limits may be reviewed annually by Lessor and may be adjusted if prudent, considering levels of inflation, risk of loss, premium expenses, and other relevant factors. Any dispute regarding policy limits shall be resolved by Arbitration as provided in Article 15 hereof.

**Section 8.2 Types of Required Insurance.** Lessee shall procure and maintain the following:

8.2.1 Comprehensive General Liability Insurance. Comprehensive general liability insurance covering all claims with respect to injuries or damages to persons or property sustained in, on or about the Leasehold Premises and the appurtenances thereto, including sidewalks and alleyways adjacent thereto, if any, with limits of liability (which limits shall be adjusted as provided in Section 7.1 above) no less than the following:

Bodily and Personal Injury and Property Damage Liability  
Five Million and 00/100 Dollars (\$5,000,000.00)  
each occurrence and aggregate.

8.2.2 Physical Property Damage Insurance. All risk physical loss and damage insurance covering all real and personal property, excluding property paid for by Sublessee or paid for by Lessee for which a Sublessee has reimbursed Lessee, located on or in, or constituting a part of, the Leasehold Premises, in an amount equal to at least one hundred percent (100%) of replacement value of all such property (or such lesser amount as Lessor may approve in writing). Such insurance shall afford coverage for damages resulting from (a) fire, (b) perils normally covered by extended coverage insurance used in the state of Alaska, (c) earthquake and flood, and (d) explosion of steam and pressure boilers and mechanical and electrical apparatus located in the Leasehold Premises. Lessee shall not be required to maintain insurance for war risks; provided, however, if Lessee shall obtain any such coverages, then, for as long as such insurance is maintained by Lessee, Lessor shall be entitled to the benefits of (i) the first sentence of Section 8.3 hereof, and (ii) subparagraph (c) of such Section 8.3.

8.2.3 Builder's Risk or Course of Construction Insurance. During construction of Improvements and during any restorations, alterations or changes in the Leasehold Premises that may be made by Lessee at a cost more than Two Hundred Thousand and 00/100 Dollars (\$200,000.00) per job, contingent liability and builder's risk insurance or course of construction insurance in an amount reasonably satisfactory to Lessor. During construction of the Improvements, the builder's risk insurance shall include insurance for earthquake risks.

8.2.4 Workers' Compensation Insurance. Lessee and its Sublessees must maintain workers' compensation and employer's liability insurance in accordance with Applicable Laws with respect to any work by employees of Lessee or its Sublessees on or about the Leasehold Premises.

**Section 8.3 Terms of Insurance.** The policies required under Section 8.2, excluding workers' compensation, shall name Lessor as an additional insured and Lessee shall provide to Lessor certificates of insurance and copies of policies obtained by Lessee hereunder promptly upon the request of Lessor. Further, all policies of insurance described in Section 8.2 shall:

(a) Be written as primary plus umbrella policies not contributing with, and not in excess of, coverage that Lessor may carry;

(b) Contain a replacement cost endorsement without deduction for depreciation;

(c) Contain an endorsement providing that such insurance may not be materially changed, amended, or cancelled with respect to Lessor except after thirty (30) days' prior written notice from insurance company to Lessor; and

(d) Contain an endorsement including an express waiver of any right of subrogation by the insurance company against Lessor and Lessor's officers, agents, and employees to the extent such waiver is reasonably obtainable. This provision does not apply to claims arising solely from Lessor's own negligence or willful acts.

**Section 8.4 Lessor's Acquisition of Insurance.** If Lessee at any time during the Lease Term fails to procure or maintain such insurance or to pay the premiums therefor, Lessor shall have the right to procure the same and to pay any and all premiums thereon, and Lessee shall pay to Lessor upon demand the full amount so paid and expended by Lessor, together with interest thereon at the rate



provided in Section 17.14 hereof, from the date of such expenditure by Lessor until repayment thereof by Lessee.

**Section 8.5 Insurance Money and other Funds Held in Trust.** All insurance money or condemnation proceeds as provided in Article 8, shall be held in trust and shall be applied as follows: First, for the purpose of defraying the cost of repairing, restoring, replacing and/or rebuilding any structure or improvement on or in the Leasehold Premises as hereinafter provided; and second, if the damaged or destroyed structure or improvement is not repaired, restored, replaced or rebuilt as hereinafter provided, said funds shall, except as provided in Section 7.4, be disposed of as provided in Section 8.6(b).

**Section 8.6 Application of Proceeds of Physical Damage Insurance.**

(a) In the event of any repair, replacement, restoration or rebuilding pursuant to Section 7.1.1 or 7.1.2, the proceeds of the insurance shall be applied to the cost of such work upon certificate of progress by the licensed architect or engineer in charge of the work. Any amounts payable to Lessee or any Affiliate of Lessee for work or services performed or materials provided as part of any such repair, replacement, restoration, or rebuilding shall not exceed competitive rates for such services or materials and Lessee shall, upon request of Lessor, make available to Lessor all books and records of Lessee relating to such work, services and materials. Upon completion of such repair, replacement, restoration or rebuilding in accordance with the provisions of this Lease, and the full payment therefor (so no liens, encumbrances or claims with respect thereto can be asserted against the Leasehold Premises, this Lease, Lessor or Lessee), any insurance proceeds received with respect to the damage or destruction involved, and not used, shall be paid to Lessee.

(b) In the event any damaged or destroyed structure or improvement is not restored, repaired, or replaced, the proceeds of any insurance collected with respect to such damage or destruction shall, except as provided in Section 6.4, be applied:

(i) First, to the payment of any monetary obligation(s) secured by a Leasehold Mortgage (or as otherwise directed by Leasehold Mortgagee, up to the amount of such secured obligations),

(ii) Second, to Lessor, up to an amount sufficient to restore the Leasehold Premises to its condition as of the Effective Date, and,

(iii) Third, the balance of such proceeds, if any, shall be paid to Lessee.

**Section 8.7 Insurance Surveyor.** The determinations required under Section 7 and this Section 8 shall be made by an independent qualified insurance appraiser selected by the Parties, whose decision shall not be subject to arbitration. If the Parties cannot agree on the insurance appraiser within thirty (30) days after the date of such damage or destruction, then the same shall be appointed by the Presiding Judge of the Superior Court of Anchorage, Alaska upon the application of either party.

**ARTICLE 9 CONDEMNATION**

**Section 9.1 Total Taking.** In the event of the taking or condemnation by any Governmental  
Lease Agreement Between City of Whittier and Glacier Creek Development, LLC

Authority for any public or quasi-public use or purpose of the whole of Leasehold Premises at any time during the Lease Term, the Lease Term shall cease as of the date of taking by the condemner and all rental and other payments shall be apportioned as of the date of taking and the right of Lessor and Lessee to share in the proceeds of any award for Leasehold Premises, Improvements and damages upon any such taking, shall be as follows:

9.1.1 Lessor's Share. The Lessor shall first receive a sum equal to the fair market value, as of the day prior to commencement of the condemnation proceedings, of Leasehold Premises taken, considered as unimproved, unencumbered land (except for Lessee's interest under this Lease), as then restricted by applicable zoning laws, together with interest thereon from the date of taking to the date of payment at the rate paid on the award, and together with amounts owing Lessor from Lessee under this Lease as rental, damages for Lessee's breach or otherwise. Lessor shall collect and assign those sums due to ARRC per the Ground Lease, attached as Exhibit G.

9.1.2 Balance of Award. The balance of the award ("Award Balance") shall first be applied to the payment of any monetary obligation(s) secured by a Leasehold Mortgage (or as otherwise directed by Leasehold Mortgagee, up to the amount of such secured obligations); the remainder of the Award Balance, if any, shall be paid to Lessee.

9.1.3 Determination of Lessee and Lessor Shares. If the values of the respective interests of Lessor and Lessee shall be determined with finality according to the provisions of Sections 9.1.1 and 9.1.2 in the proceeding pursuant to which Leasehold Premises shall have been taken or condemned, the values so determined shall be conclusive upon Lessor and Lessee. If such values shall not have been thus separately determined, such values shall be fixed by agreement between the Lessor and Lessee or if they are unable to agree within thirty (30) days following the date of the award, then the controversy shall be resolved by Arbitration under Article 15.

**Section 9.2 Substantial Taking.** In the event of the taking in condemnation of less than the whole of Leasehold Premises but materially all of Leasehold Premises (which, as used herein is defined in Section 9.2.1. below), and the part of Leasehold Premises that remains includes a part of the Improvements, then the Lease Term shall cease as of the date of possession by the condemner, and the award shall be apportioned as provided in Section 9.1.1 and Section 9.1.2 with respect to the portion of the award attributable to the part of the Leasehold Premises so taken. As to the untaken portion of the Improvements, the Parties shall endeavor to agree on the fair market value of such portion of the Improvements as of the day prior to commencement of the condemnation proceeding, and if they fail to agree within ninety (90) days after either party requests negotiations to reach agreement, then the controversy shall be resolved by Arbitration as provided in Article 15. The value so agreed or determined in Arbitration as the fair market value of the untaken Improvements shall be paid by Lessor to Lessee to be applied to the payment of any obligation(s) secured by a Leasehold Mortgage (or as otherwise directed by Leasehold Mortgagee, up to the amount of such secured obligations); such payments shall be a charge on the share of the award to which Lessor shall be entitled in the condemnation proceeding pursuant to this Section 9.2 but shall be payable only out of the proceeds of such award and Lessor shall have no further liability therefor.

9.2.1 Determination of Substantial Taking. For the purposes of this Section, a taking or condemnation of materially all of Leasehold Premises, as distinguished from a taking or condemnation of the whole of said Leasehold Premises, means a taking of such scope that the

Lease Agreement Between City of Whittier and Glacier Creek Development, LLC



remaining part of the Leasehold Premises not taken cannot be adequately restored, repaired or reconstructed so as to constitute a complete functional unit of property of substantially the same usefulness, design and construction, having regard to the taking, as immediately before such taking, capable of producing, after the payment of all operating expenses thereof, the annual Rent and other charges herein reserved, the debt service charges on any then-existing Leasehold Mortgage (but not including a purchase money Leasehold Mortgage given on the sale of the Lessee's leasehold interest hereunder), and after the performance of all covenants, terms, agreements and provisions herein and by law provided to be performed and paid by the Lessee, a fair and reasonable net annual income. To the extent permitted by law, for purposes of this Section 9.2.1, "fair and reasonable net annual income" is defined as a sum equal to ninety percent (90%) of either (a) the average net annual income produced by the Leasehold Premises during the three (3) year period immediately preceding such taking, during which three (3) year period Lessee was conducting full operations from the Leasehold Premises, or (b) if such taking occurs before Lessee and any Sublessee has completed three (3) full operational years, the projection of the average net annual income that would have been produced over a theoretical three (3) year period, as reasonably determined by Lessee.

**Section 9.3 Partial Taking.** In the event of a partial taking or condemnation, e.g., a taking or condemnation of less than materially all of Leasehold Premises:

(a) The Lease Term (except as hereinafter provided) shall, nevertheless continue, but the annual Rent to be paid by Lessee under Section 2 shall thereafter be reduced in the ratio that the rental value of the portion of Leasehold Premises taken or condemned bears to the rental value of the entire Leasehold Premises at the time of the taking or condemnation. If the Parties cannot agree upon a just proportion of rent to be abated, the amount shall be determined in accordance with the Arbitration provisions of Article 15.

(b) The award shall be divided and apportioned as provided in Section 9.1.1 and 9.1.2 hereof.

(c) The Lessee shall have the right, to be exercised by written notice to the Lessor within sixty (60) days after the date of taking, to terminate this Lease as to such remaining part of Leasehold Premises not so taken on a date to be specified in said notice not earlier than the date of such taking. In such case the Lessee shall pay and satisfy all Rent due and accrued hereunder up to such date of such termination and shall perform all the obligations of the Lessee hereunder to such date and thereupon this Lease shall terminate. Should the Parties be unable to agree as to whether the part not taken is susceptible of adequate restoration, repair or reconstruction as aforesaid, such controversy shall be determined by Arbitration in the manner provided in Article 15 of this Lease.

(d) If this Lease is not terminated as hereinabove provided, and if such taking occurs prior to the last fifteen (15) years of the Lease Term, then, as to the Leasehold Premises not taken in such condemnation proceeding, the Lessee shall proceed diligently, to the extent the portion of the condemnation award paid to Lessee is sufficient for such purpose, to make an adequate restoration, repair or reconstruction of the part of the Improvements not taken so as to restore, repair or reconstruct the Leasehold Premises, to the extent practicable, to a condition having the per square foot income generating capability of the Leasehold Premises prior to such taking.

**Section 9.4 Successive Takings.** In case of a second or any other additional partial taking or Lease Agreement Between City of Whittier and Glacier Creek Development, LLC

takings from time to time, the provisions hereinabove contained shall apply to each partial taking.

**Section 9.5 Temporary Taking.** If the whole or any part of the Leasehold Premises or of the Lessee's interest under this Lease be taken or condemned by any competent authority for its temporary use or occupancy, Lessee shall continue to pay, in the manner and at the times herein specified, the full amounts of the Rent and charges payable by Lessee hereunder, and this Lease shall continue and, except only to the extent that Lessee may be prevented from so doing pursuant to the terms of the order of the condemning authority, Lessee shall perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of Lessee to be performed and observed, as though such taking or condemnation had not occurred. In the event of any such temporary taking, or condemnation Lessee shall be entitled to receive the entire amount of any award made for such taking, whether paid by way of damages, rent or otherwise, unless such period of temporary use or occupancy shall extend to or beyond the expiration date of the Lease Term, in which case such award shall be apportioned between the Lessor and the Lessee as of such date of expiration of the Lease Term.

## **ARTICLE 10 INSPECTION BY LESSOR**

**Section 10.1 Inspection of Premises.** Lessor, or its agents and representatives shall be entitled, from time to time, upon reasonable notice to Lessee, to go upon and into the Leasehold Premises during normal business hours for the purpose of:

(a) Inspecting the same; or

(b) Inspecting the performance by Lessee of the agreements and conditions of this Lease.

During the last thirty-six (36) months of the Lease Term, Lessee shall permit inspection of the Leasehold Premises at reasonable times and for reasonable periods by or on behalf of prospective Lessees and prospective purchasers.

**Section 10.2 Rights of Sublessees.** Notwithstanding the provisions of Section 10.1, the rights of Lessor to enter any portion of the Leasehold Premises which are subject to an approved Sublease from Lessee to any approved subtenant, shall be subject to reasonable restrictions contained in such Sublease which are applicable to Lessee.

**Section 10.3 Substantial Endangerment.** Lessor has the right and obligation to investigate those matters that may constitute substantial endangerment on the ARRC Uplands per Section 4.07 of the Ground Lease.

## **ARTICLE 11 INDEMNIFICATION**

**Section 11.1 Lessee to Indemnify Lessor.** Notwithstanding that joint or concurrent liability may be imposed upon Lessor by statute, ordinance, rule, regulation or order, Lessee shall upon demand indemnify, defend, hold harmless and reimburse Lessor from and against and for any and all liabilities, obligations, penalties, fines, suits, claims, demands, actions, costs and expenses of any kind or nature including without limitation reasonable architects', engineers', and attorneys' fees which may be imposed upon or asserted against Lessor by reason of any damage to any property or the Improvements on the Leasehold Premises, or injury, including death, to any person or persons occurring on or about the Leasehold Premises, unless caused or arising by virtue of the

negligent acts of Lessor or its agents, employees, contractors and assigns.

**Section 11.2 Legal Proceedings.** If Lessee is required to defend any action or proceeding pursuant to this Article to which action or proceeding Lessor is made a party, Lessor shall also be entitled to appear, defend, or otherwise take part in the matter involved, at its election, by counsel of its own choosing, and to the extent Lessor is indemnified under this Article 11, Lessee shall bear the reasonable costs of Lessor's defense, including attorneys' fees.

## **ARTICLE 12 ENVIRONMENTAL PROVISIONS**

### **Section 12.1 General Obligations.**

(a) Lessee shall comply with all Hazardous Materials Laws, which shall impose any order or duty upon Lessee pertaining to the construction, use or occupancy of the Leasehold Premises or any Improvements thereon by Lessee or any of its Sublessees.

(b) Lessee shall have the right to contest any obligations imposed upon Lessee pursuant to the provisions of this section, and to defer compliance during the pendency of the contesting proceedings, provided that the failure of Lessee to comply will not subject Lessor to civil fine or criminal penalty.

(c) Notwithstanding the foregoing, in the event of Lessee's failure to promptly fulfill the contested obligations would pose an imminent threat to public health, public safety and/or the environment, Lessee shall immediately perform whatever actions may be required to abate the immediate threat. Thereafter, Lessee may contest the obligations and defer further compliance, as set forth above.

(d) Lessee shall provide Lessor with copies of all documents served upon Lessee or its counsel by, and served by Lessee or its counsel upon, the governmental authority.

(e) Failure of Lessee to comply with the provisions of this Section shall be an Event of Default under the terms of this Lease and shall entitle Lessor to pursue all applicable remedies. In addition, Lessor shall be entitled to collect from Lessee any fines, penalties, expenses of defense (including legal fees), expenses of compliance and other damages incurred by Lessor by reason of Lessee's failure to comply with this Section.

**Section 12.2 Procedure to Follow upon Discovery of Potential Contamination.** In the event Lessee discovers any condition during the course of excavation or construction that would indicate the possible existence of Hazardous Materials on the Leasehold Premises (hereafter referred to as "contamination"), Lessee shall immediately suspend the work and notify Lessor. If Lessee knows or has reasonable cause to believe that the contamination occurred during the Lease Term, then Lessee shall investigate the matter at its sole cost and expense and the responsibility for such contamination shall be governed by Section 12.3 below. If, however, the time of occurrence of the contamination is unknown, the Lessor shall investigate the matter at Lessor's initial cost and expense. If the substances are indeed Hazardous Materials, as defined under any Hazardous Materials Laws (including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., or AS 46.04.010, 46.08.010, or 46.09.010), then the following shall apply:



(a) The obligation to pay rent as to those lands shall be suspended from the date of discovery by Lessee of the evidence of Hazardous Materials to the extent specified in subsection (b)(2) below.

(b) If the Parties agree or Lessee proves by a preponderance of the evidence either that the contamination occurred prior to the effective date of this Lease, or that the contamination occurred during the Lease Term and is attributable to the negligence or willful act of Lessor, its employees or agents, then:

(i) Lessor shall bear full responsibility for any negligent or willful actions as required by law in the same manner as if the existence of the contamination were known prior to execution of this Lease and as provided in subsection 12.3 below. The environmental indemnity terms and provisions of Contract No. 20573, attached here as Exhibit G, shall be applicable between Lessor and ARRC as to any discovery of contamination found to have occurred prior to the effective date of this Lease on the ARRC Uplands.

(ii) Either party shall be entitled to terminate this Lease as to those lands which are contaminated by giving written notice of its election to do so within sixty (60) days after receipt of notice that such substances are Hazardous Materials or the date of determination that the contamination predated Lessee's occupancy or resulted from actions attributable to Lessor, whichever last occurs, but only if the direct costs of remediation and other response to such contamination exceed the total remaining rent to be paid by Lessee under the then current term. The decision to terminate shall be exercised consistent with the covenant of good faith and fair dealing. If neither party elects to terminate, Lessor shall take whatever actions are required by law to remediate, remove, or otherwise clean up the premises when and as required under Section 12.3 below. The obligation to pay rent as to those lands shall be suspended from the date of discovery of the evidence of Hazardous Materials until remediation is complete, but only if and to the extent the Leasehold Premises are not usable, and Lessee is not receiving rents from any Sublessees with respect to such contaminated land.

(iii) If none of the conditions stated in subparagraph 12.2(b) above apply, then Section 12.3 shall govern responsibility for remediating the contamination and Lessee shall reimburse Lessor for the cost of the initial investigation.

**Section 12.3 Lessee's Indemnity for Contemporaneous Contamination.** Lessee agrees to indemnify, hold harmless and defend Lessor against all liability, cost and expense (referred to hereafter as "costs" and including, without limitation, any fines, penalties, diminution in value of the Leasehold Premises, assessment and clean-up costs, judgments, litigation costs and attorneys' fees) incurred by or levied against Lessor to the extent such costs arise as a result of Lessee's breach of Section 12.1 of this Lease or as a result of any discharge, leakage, spillage, emission or pollution on or from the Leasehold Premises by Lessee during the Lease Term; provided, however, that Lessee shall not be required to indemnify Lessor under this paragraph if or to the extent (1) the Parties agree or a court of competent jurisdiction determines that such liability, cost or expense is caused by Lessor or a party other than Lessee, or (2) if Lessee proves that the contamination occurred before occupancy by the Lessee of the Leasehold Premises. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

## **ARTICLE 13 LESSOR AND LESSEE TO FURNISH STATEMENT**

**Section 13.1 Lessor's Statement.** Lessor within twenty (20) days after written request to Lessor from Lessee or any mortgagee or prospective mortgagee, will furnish a written statement, duly acknowledged, which shall specify to the best of Lessor's knowledge:

- (a) The amount of the Rent due, if any.
- (b) Whether or not this Lease is unmodified and in full force and effect (or, if there have been modifications, whether or not the same are in full force and effect as modified and identifying the modifications);
- (c) Whether or not Lessee is in default and specifying the nature of any such default; and
- (d) Such other matters as Lessee or the mortgagee may reasonably request and which relate to the actual knowledge of Lessor.

**Section 13.2 Lessee's Statement.** Lessee, within twenty (20) days after written request of the Lessor, will furnish a written statement, duly acknowledged, as to:

- (a) Whether this Lease is unmodified and in full force and effect (or, if there have been modifications, whether or not the same are in full force and effect as modified and identifying the modifications);
- (b) Whether there are any defaults thereunder on the part of Lessor to the knowledge of Lessee and specifying the nature of such defaults, if any; and
- (c) Such other matters as Lessor may reasonably request and which relate to the actual knowledge of Lessee.

## **ARTICLE 14 DEFAULT AND TERMINATION**

**Section 14.1 Event of Default.** The occurrence of any of the following shall constitute an Event of Default:

14.1.1 Payments to Lessor. Failure of Lessee to duly and punctually make any payment owing to Lessor hereunder, or to pay any Imposition (except when non-payment or delay is expressly permitted by Section 3) or any other payment which if not paid may result in a lien on the Leasehold Premises as and when the same becomes due and payable, or the failure to maintain any of the insurance coverage required hereunder or pay any of the premiums required to be paid with respect thereto, and such occurrence or failure continues for a period of fifteen (15) days after notice thereof given to Lessee by Lessor.

14.1.2 Construction of Improvements and Construction Schedule. Lessee's failure to commence construction of the Improvements in the manner described in the Preliminary Construction Plans on or before the "Start Date" as defined in the Construction Schedule, Exhibit E, or, after commencing construction, Lessee's failure to continue and maintain substantial

compliance with its construction obligations for the Improvements in accordance with Lessee's Construction Schedule and such failure continues for a period of more than 120 days after Lessor has given Lessee notice that it is not in substantial compliance with the Construction Schedule and/or the Preliminary Construction Plans for the Improvements. Such requirements shall be deferred for reason of the occurrence of a Force Majeure as described in Section 16.

14.1.3 Other Covenants. Lessee being in breach of, or Lessee failing to perform, comply with, or observe any other material term, covenant, warranty, condition, agreement or undertaking contained in or arising under this Lease and such failure continues for a period of thirty (30) days after notice thereof is given to Lessee.

**Section 14.2 Termination of Lease.** In addition to all other rights and remedies available to Lessor by law or equity, Lessor may, at any time after the occurrence of any Event of Default, and while the same remains unremedied, give notice to Lessee of its intention to terminate this Lease, in which case, subject to the provisions of Section 4.2, unless within fifteen (15) days after the giving of such notice, the condition creating or upon which it is based such an Event of Default is cured, this Lease shall terminate as of the expiration of such fifteen (15) days and Lessor may reenter upon the Leasehold Premises and have possession thereof; provided, however, if the Event of Default is one described in Section 14.1.3 and is one which can be cured, but cannot with due diligence (without regard to the availability of funds or the financial condition of Lessee) be cured prior to the expiration of the period provided herein, and Lessee proceeds promptly and thereafter prosecutes with all due diligence the curing of such default, then the time for curing of such Event of Default shall be extended for such period as may be necessary to complete the same with all due diligence. Notwithstanding the foregoing provisions of this Section 14.2 or the provisions of Section 14.1.3 hereof, if the asserted default is subject to arbitration pursuant hereto, and the existence of such default is being contested by the party assertedly in default through arbitration, if and so long as such party is cooperating and acting in good faith to complete the arbitration proceeding with respect thereto as expeditiously as possible, the time for curing such default shall commence upon the rendering of the arbitration decision with respect thereto, or other resolution thereof, whichever occurs first; provided, however, if the matter being arbitrated is capable of performance to the extent not reasonably in dispute (e.g., the undisputed portion of monies owing), performance to the extent not in dispute shall be a condition precedent to the effectiveness of this sentence.<sup>1</sup>

**Section 14.3 Effect of Termination.** Upon Termination of this Lease by expiration of the Lease Term or pursuant to this Section 14, all rights and privileges of Lessee and all duties and obligations of Lessor hereunder shall terminate. Immediately upon such termination, and without further notice to any other party, Lessor shall have the right to assert, perfect, establish and confirm all rights reverting to Lessor by reason of such termination by any means permitted by law, including the right to take possession of the Leasehold Premises together with all Improvements thereto, fixtures therein (including trade fixtures) and any and all alterations and Improvements which may be constructed upon or to the Leasehold Premises, with or without process of law, and to remove all personal property from the Leasehold Premises and all persons occupying the same and to use all necessary lawful force therefor and in all respects to take the actual, full and exclusive possession of the Leasehold Premises and every part thereof as Lessor's original estate, thereby wholly terminating any right, title, interest or claim of or through Lessee as to the Leasehold

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<sup>1</sup> NTD: Discuss ability of NCL to step-in, cure, and have a direct Lease, such as provided in Section 1.6.6.



Premises and the improvements, fixtures and alterations thereto, and all personal property located on the Leasehold Premises, all without incurring any liability to Lessee or to any person occupying or using the Leasehold Premises for any damage caused or sustained by reason of such entry or such removal, except for damage resulting from Lessor's negligence in effecting such removal, and Lessee agrees to indemnify, protect and save harmless Lessor, and all employees, agents and representatives of Lessor, from all costs, loss or damage arising or occasioned thereby to Lessee, or its agents, employees, officers, guests, invitees or Lessees, except as limited hereinabove.

**Section 14.4 Damages and Remedies.** The exercise by Lessor of any remedy arising by virtue of an Event of Default shall not be considered exclusive, and Lessor may exercise any and all other rights or remedies provided by this Lease or by law or equity. The termination of this Lease by expiration of the Lease Term or pursuant to this Section 14 shall not extinguish the right of either party to collect damages arising from the breach of this Lease by the other party. Lessee shall be liable for rentals accruing up to the end of the term specified in this Lease notwithstanding the earlier termination of this Lease due to an Event of Default and the reentry of Lessor before the normal expiration of the Lease Term as established herein or pursuant hereto, except that Lessor shall make reasonable and diligent efforts to re-rent the Leasehold Premises upon such terms as it sees fit in its reasonable discretion and for a term which may expire either before or after the specified termination date of the term herein, and Lessee shall pay to Lessor all rent and other sums which would be payable hereunder by Lessee if no such termination and reentry had occurred, less the net proceeds, if any, of any such reletting after deducting Lessor's expenses in connection with such reletting, including but not limited to repossession costs, brokerage commissions, legal expenses, employee costs and expenses, alteration costs and other such reletting preparation expenses, and Lessee shall pay such current damages to Lessor on the days on which such rental would have been payable hereunder if no such termination and repossession and reentry had occurred.

**Section 14.5 Assignment of Sub-rents.** Lessee assigns to Lessor all sub-rents and other sums falling due from Sublessees, licensees, and concessionaires (referred to as "Sublessees" in this paragraph 14.5) during any period in which Lessor has the right under this Lease, whether exercised or not, to reenter the Leasehold Premises for Lessee's default, and Lessee shall not have any right to such sums during that period. Lessor may at Lessor's election reenter the Leasehold Premises and Improvements with or without process of law, without terminating this Lease, and either, or both, collect these sums or bring action for the recovery of the sums directly from Sublessees. Lessor shall apply all such collected sub-rents as provided in Section 14.6. Lessee shall nevertheless pay to Lessor on the due dates specified in this Lease the equivalent of all sums required of Lessee under this Lease, plus Lessor's expenses, less the avails of the sums assigned and collected under this Section 14.5. Lessor may proceed to collect either the assigned sums or Lessee's balances, or both, or any installment or installments of them, either before or after expiration of the Lease Term, but the period of limitations shall not begin to run on Lessee's payment until the due date of the final installment to which Lessor is entitled under this Lease, nor shall it begin to run on the payments of the sums assigned under this Section 14.5 until the due date of the final installment due from the respective Sublessees.

**Section 14.6 Application of Sums Collected by Lessor.** Lessor shall apply all sub-rents and proceeds of reletting as follows: first, to the payment of reasonable expenses (including attorneys' fees and brokers' commissions or both) paid or incurred by or on behalf of Lessor in recovering possession, placing the Leasehold Premises and Improvements in good condition, and preparing or

altering the Leasehold Premises or Improvements for reletting; second, to the reasonable expense of securing new lessees; third, to the fulfillment of Lessee's covenants to the end of the Lease Term; and fourth, to Lessee's uses and purposes.

**Section 14.7 Reasonable Rental Value Determination.** Lessor may at any time after a termination of this Lease pursuant to this Section 14, recover from Lessee the worth at such time (discounted to value at the time of termination) of the excess, if any, of the amount of the rent reserved in this Lease for the balance of the Lease Term (had such termination not occurred) over the then-reasonable rental value of the Leasehold Premises for the same period, such "reasonable rental value" being the amount of rental which Lessor can reasonably be expected to obtain as rent for the remaining balance of the Lease Term (to its normal expiration date had such termination not occurred). Upon re-renting of the Leasehold Premises by Lessor, Lessee shall be liable to Lessor for the costs and expenses of re-renting and of such alterations and repairs as may be reasonably incurred by Lessor in readying the Leasehold Premises for such re-renting.

**Section 14.8 No Waivers.** No failure by any party hereto to insist upon the strict performance of any provision of this Lease or to exercise any right, power or remedy consequent to any breach thereof, and no waiver of any such breach, or the acceptance of full or partial rent during the continuance thereof, shall constitute a waiver of any such breach or of any such provision. No waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect, or the rights of any party hereto with respect to any other then existing or subsequent breach.

**Section 14.9 No Offsets.** Lessee shall not assert any breach of an obligation, warranty, or duty of Lessor as, and no such breach shall constitute, a defense, offset, excuse or counterclaim to any obligation of Lessee hereunder, but Lessee may, subject to the other provisions of this Lease, pursue independent remedies for any such breach by Lessor.

**Section 14.10 Payment by Lessor of Lessee's Defaulted Payments.** In case of default on the part of Lessee to pay any money, or do any act to satisfy any of the obligations or covenants which it is required to pay, do, or satisfy under the provisions of this Lease, Lessor may, at its option, after notice to Lessee, pay any or all such sums, or do any or all such acts which require the payment of money, or incur any expense whatsoever to remedy the failure of Lessee to perform any one or more of the covenants herein contained. Lessee shall repay the same to Lessor on demand together with interest at the rate provided in Section 17.14 hereof, such interest to be calculated from the date payment is made by Lessor.

## **ARTICLE 15 ARBITRATION AND MEDIATION**

**Section 15.1 Arbitration.** The disputes described in Sections 6.8.1, 8.1, 9.1.3, 9.2, 9.3, and 14.2 and no other, shall be subject to arbitration. Such arbitration ("Arbitration") shall be in accordance with the Arbitration Rules for the Real Estate Industry promulgated by the American Arbitration Association as then in effect, each party to appoint one arbitrator and those two arbitrators to appoint a third arbitrator. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof, subject, however, to the provisions of AS 09.43.010 et seq. (the "Alaska Uniform Arbitration Act") which are not in conflict with said Rules; provided, however, if such Association is not then functioning or such Rules are not then in effect, Arbitration shall be conducted in accordance with the requirements of the Alaska Uniform Arbitration Act, or such other provisions of the statutory laws of the State of Alaska as may be



enacted in lieu of the Alaska Uniform Arbitration Act, one arbitrator to be appointed by each of the Parties hereto, and those two arbitrators to promptly appoint a third arbitrator. All such arbitration proceedings shall take place in Anchorage, Alaska. In any such arbitration proceeding, each party shall have full access to the books and records of the other party and the power to call for testimony any employee, agent or officer of any other party and all other rights to discovery afforded under the then applicable Alaska Rules of Civil Procedure or rules or laws applicable to Alaska Superior Court proceedings adopted in lieu thereof, shall be applicable, all of which shall be fully enforceable by the arbitrators or, if they fail to effect such enforcement, by the Superior Court of the State of Alaska at Anchorage, Alaska.

**Section 15.2 Mediation.** In addition to the foregoing provisions for arbitration, Lessor and Lessee agree that, with the exception of any claim for payment of Rent, when due, arbitration must be preceded by a mandatory mediation session provided that such mediation occurs within fifteen (15) days of either party serving notice upon the other a demand for mediation and provided further that the Parties are able to agree upon a mediator acceptable to each of them. Lessor and Lessee agree that the mediation shall occur in Anchorage, Alaska, and that they will, in goodfaith, use the mediation process in the event they are unable to agree with respect to any Event of Default or other claim involving non-performance by either party under the Lease. If a demand for arbitration is filed before mediation occurs, either party may seek and obtain an order from a court of appropriate jurisdiction or the arbitrator staying all such legal proceedings until the conclusion of the mediation process.

## **ARTICLE 16 FORCE MAJEURE**

**Section 16.1 Force Majeure.** If the performance by either of the Parties of their respective obligations under this Lease (excluding monetary obligations) is delayed or prevented in whole or in part by any acts of God, fire or other casualty, floods, storms, explosions, accidents, epidemics), war, civil disorders, strikes or other labor difficulties, shortage or failure of supply of materials, labor, fuel, power, equipment, supplies or transportation, or by any other cause not reasonably within the party's control, whether or not specifically mentioned ("Force Majeure"), the party shall be excused, discharged, and released of performance to the extent such performance or obligation is so limited or prevented by such occurrence without liability of any kind. In the event Lessee fails to commence construction in accordance with Exhibit E, or after commencing construction has not completed more than twenty percent (20%) of the Cruise Ship Facilities in accordance with Exhibit E and is more than 365 days behind schedule then, subject to the rights of a Leasehold Mortgagee, Lessor may terminate this Lease immediately upon the giving of written notice of its decision to do so, even if such delays are due to Force Majeure.

**Section 16.2 No Current Force Majeure.** Lessor and Lessee acknowledge there are no conditions or events of Force Majeure in existence on the date of execution of this instrument.

## **ARTICLE 17 MISCELLANEOUS**

**Section 17.1 No Partnership.** Nothing contained herein or in any instrument relating hereto shall be construed as creating a partnership or joint venture between Lessor and Lessee or between Lessor and any other party, or cause Lessor to be responsible in any way for debts or obligations of Lessee or any other party.

**Section 17.2 Time of the Essence.** Time is hereby expressly declared to be of the essence of this Lease and of each term, covenant, agreement, condition and provision hereof.

**Section 17.3 Captions.** The captions of this Lease and the table of contents preceding this Lease are for convenience and reference only, and are not a part of this Lease, and in no way amplify, define, limit, or describe the scope or intent of this Lease, nor in any way affect this Lease.

**Section 17.4 Meaning of Terms.** Words of any gender in this Lease shall be held to include any other gender and words in the singular number shall be held to include the plural when the sense requires.

**Section 17.5 Lease Construed as a Whole.** The language in all parts of this Lease shall in all cases be construed in whole according to its fair meaning and neither strictly for nor against Lessor or Lessee.

**Section 17.6 Severability.** If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, and shall not thereby materially interfere with the reasonably expected benefits to be received under this Lease, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law; provided, however, that if any provision of this Lease relating to the payment of rents is to any extent found invalid or unenforceable, Lessor and Lessee agree to modify this Lease to provide for payment of rents comparable to the rents provided for herein. Should Lessor and Lessee be unable to agree as to any such modification, such controversy shall be determined by Arbitration in the manner provided in Article 15.

**Section 17.7 Effect of Assignment.** The term "Lessor" means the person who from time to time holds all of the original Lessor's right, title and interest in and to the Leasehold Premises. Lessor shall have the right to freely assign or, otherwise transfer such right, title and interest and upon notice of such transfer given by the Lessor to the Lessee, the Lessor shall be entirely freed and relieved of all future covenants and obligations of Lessor hereunder except to the extent that the transfer is for purposes of security only; provided that the release shall be effective only upon the assignee or transferee having expressly assumed, by duly recorded documents, all obligations of Lessor hereunder.

**Section 17.8 Survival.** Each provision of this Lease which may require the payment of money by, to or on behalf of Lessor or Lessee or third parties after the expiration of the term hereof or its earlier termination shall survive such expiration or earlier termination.

**Section 17.9 Memorandum of Lease.** The Parties agree to execute and acknowledge an appropriate memorandum of this Lease for public recordation purposes, so that public notice is given of the names and address of the Parties involved, the Leased Premises, the start and end dates of the Lease Term, easements granted to the Lessee, if any, and any option or option(s) to renew or extend the Lease.

**Section 17.10 Amendment of Lease.** This Lease shall not be amended, changed, or extended

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**Section 17.15 Governing Law.** This Lease shall be construed according to and governed by the laws of the State of Alaska.

**Section 17.16 Counterparts.** This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

## **ARTICLE 18 ANTI-DISCRIMINATION CLAUSE**

### **Section 18.1 During the performance of this Lease, the Lessee agrees:**

18.1.1 In connection with the performance of work under this Lease including construction, maintenance, and operation of the facility, the Lessee will not discriminate against any employee or applicant from employment because of age, race, color, religion, sex, marital status, or any other subsequently adopted protected class.

18.1.2 The Lessee and its employees shall not discriminate, by segregation or otherwise, against any person based on race, color, religion, sex, nationality, or any other subsequently adopted protected class by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally.

18.1.3 The Lessee shall include and require compliance with the above non-discrimination provisions in any subcontract made with respect to the operations under this Lease.

## **ARTICLE 19 DEFINED TERMS**

For the purposes of this Lease, the following words shall have the meanings attributed to them in this Article:

- (a) Applicable Laws. "Applicable Laws" means and is limited to any applicable laws, ordinances, regulations, and requirements now, or hereafter enacted, which are promulgated or enforced by a Governmental Authority.
- (b) ARRC. "ARRC" means the Alaska Railroad Corporation.
- (c) ARRC Uplands. "ARRC Uplands" is defined in Recital B.
- (d) Affiliate. "Affiliate" means any subsidiary, officer, director, member, or shareholder of Lessee and any entity of which Lessee is a subsidiary, officer, director, member, or shareholder.
- (e) Agreement. "Agreement" means this Lease Agreement together with all Exhibits attached hereto.
- (f) Corps 404 Permit. "Corps 404 Permit" means permit(s) issued by the U.S. Army Corps of Engineers in compliance with Section 404 of the federal Clean Water Act of 1976, as amended.
- (g) Cruise Line Operator. "Cruise Line Operator" means a cruise line with a net worth of over

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\$1,000,000,000, with fifteen (15) or more ocean cruise vessels, and 40,000 or more vessel berths in a calendar year (excluding years of a pandemic), or an entity that controls, is controlled by, or is under common control with, such party.

- (h) Cruise Ship Facilities. "Cruise Ship Facilities" means the facilities to be constructed by Lessee in the Tidelands, including the dock and boardwalk, and more particularly shown on Exhibit D attached hereto.
- (i) Exhibit. "Exhibit" means each and every document attached to this Lease as described herein and, by this reference, each such Exhibit is incorporated into this Lease as if fully set forth herein.
  - Exhibit A – Legal Description for Tidelands
  - Exhibit B – Legal Description and Map for ARRC Uplands
  - Exhibit C – Conceptual Drawing of Improvements
  - Exhibit D – Preliminary Construction Plans
  - Exhibit E – Construction Schedule
  - Exhibit F – Limited Assignment for Security Purposes, if applicable
  - Exhibit G – Ground Lease and Management Agreement between City of Whittier and Alaska Railroad Corporation, Contract No. 20753
- (j) Force Majeure. "Force Majeure" is defined in Article 16.
- (k) Governmental Authority. "Governmental Authority" means federal, state and municipal governments having jurisdiction over a matter in question pursuant to Applicable Laws.
- (l) Ground Lease. "Ground Lease" refers to that certain Ground Lease between the City of Whittier and the ARRC, Contract No. 20753 (attached hereto as Exhibit G).
- (m) Hazardous Material. "Hazardous Material" means and includes petroleum, asbestos, polychlorinated biphenyls, urea formaldehyde, and any flammable explosives, radioactive materials or hazardous, toxic, or dangerous wastes, substances or related materials or any other chemicals, materials, or substances, exposure to which is regulated by any Governmental Authority. This includes substances defined as such in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, et seq.); the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.); the Toxic Substances Control Act, 15 USC § 2601 et seq. or AS 46.04.010, 46.08.010, or 46.09.010), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.); any so-called "Superfund" or "Super-lien" law; or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material.
- (n) Hazardous Materials Laws. "Hazardous Materials Laws" means all federal, state, and local environmental laws, ordinances, codes, rules and regulations, orders or decrees relating to Hazardous Materials and applicable to the Leasehold Premises.
- (o) Impositions. "Impositions" means all taxes, assessments, excises, levies, and fees by any Governmental Authority which become due or payable during the Lease Term against the



Leasehold Premises and Improvements as provided in Section 3.2.

- (p) Improvements. "Improvements" means, collectively, the Cruise Ship Facilities and the Terminal Facilities. "Improvements" does not include personal property of Lessee, a Sublessee or a licensee.
- (q) Institutional Lender. "Institutional Lender" means a governmental entity; an Alaska chartered bank; a nationally chartered bank, a bank created and operating under and pursuant to the laws of the United States of America; a federal savings and loan association; a commercial finance lender; a bank holding company or a subsidiary of a bank holding company which is not a bank; a trust company, savings and loan association, insurance company or investment banker; college or university; and a Real Estate Investment Trust as defined in Section 856 of the Internal Revenue Code of 1986, as amended, provided such Trust is listed on the New York Stock Exchange.
- (r) Lessor. "Lessor" means the City of Whittier, Alaska. Lessor shall designate a contract administrator or representative who shall act on behalf of Lessor for purposes of this Agreement.
- (s) Lease. "Lease" means this Lease Agreement together with all Exhibits attached hereto.
- (t) Lease Term. "Lease Term" means the term of this Lease described in Section 1.2, including the Renewal Terms as provided in Section 1.3.
- (u) Lease Year. "Lease Year" means each twelve (12) month period beginning November 1 of each year and ending October 31 the following year.
- (v) Leasehold Mortgage. "Leasehold Mortgage" means any mortgage, deed of trust, or other security instrument encumbering Lessee's leasehold estate created hereby and which is in favor of a Qualified Leasehold Mortgagee.
- (w) Leasehold Mortgagee. "Leasehold Mortgagee" means the holder, trustee or beneficiary of a Leasehold Mortgage who is a Qualified Leasehold Mortgagee.
- (x) Leasehold Premises. "Leasehold Premises" means the Tidelands, the ARRC Uplands and the Improvements that will be constructed thereon.
- (y) Lessee. "Lessee" means Glacier Creek Development, LLC, its successors, and assigns.
- (z) Permitted Use. "Permitted Use" means the use of the Leasehold Premises permitted pursuant to the provisions of Section 1.6.1.
- (aa) Qualified Leasehold Mortgagee. "Qualified Leasehold Mortgagee" means either an Institutional Lender or a Cruise Line Operator.
- (bb) Rent. "Rent" shall mean the amounts paid by Lessee to Lessor pursuant to the provisions of Section 2.
- (cc) Renewal Option and Renewal Period. "Renewal Option" and "Renewal Period" are defined

in Section 1.3.1.

- (dd) Replacement Improvements. "Replacement Improvements" shall refer to improvements upon the land which are constructed for the purpose of replacing demolished and reconstructed improvements, provided that such replacement improvements are similar in type and quality to the facilities described in Exhibit D attached hereto and will provide sufficient income to pay Rent.
- (ee) Security Laws. "Security Laws" is defined in Section 1.8.3.
- (ff) Sublease. "Sublease" shall refer to the Lessee's ability to sublet (or, with respect to the ARRC Uplands, sub-sublet) portions of the Leasehold Premises and/or of the Improvements at any time, and the sublease agreement(s) entered into in accordance therewith, provided that each Sublease complies with the requirements of Section 5.1.
- (gg) Sublessees. "Sublessees" shall refer to the parties with whom the Lessee enters into a Sublease.
- (hh) The Parties. "The Parties" shall collectively refer to the Lessor City of Whittier, and the Lessee Glacier Creek Development, LLC, a wholly owned subsidiary Huna Totem Corporation.
- (ii) Terminal Facilities. "Terminal Facilities" means the cruise ship passenger terminal / rail depot, bus tour pick-up area, related commercial and parking facilities, buildings, structures, fixtures, fences, interior roads, fountains, utility installations, fill, excavations, surfacing, water banks or channels, landscaping, plantings, grading and subsurface improvements, from time to time located on the ARRC Uplands.
- (jj) Tidelands. "Tidelands" is defined in Recital A.

#### **SIGNATURES ON THE FOLLOWING PAGES**

IN WITNESS WHEREOF, Lessor and Lessee have executed this Head of Bay Tidelands and Uplands Cruise Parcel Lease (2022) on this 12 day of August, 2022.

LESSOR:

**CITY OF WHITTIER**

By: Jackie C. Wilde  
For Its: City Manager-Jim Hunt

LESSEE:

**GLACIER CREEK DEVELOPMENT, LLC**

By: [Signature]  
Its: PRESIDENT

THIRD JUDICIAL DISTRICT )

On the 12 day of August, 2022, Jim Hunt, the City Manager of the City of Whittier; who is personally known to me, appeared and acknowledged before me that they signed the Head of Bay Tidelands and Uplands Cruise Parcel Lease (2022) on behalf of the municipal corporation.



*Asm*

Notary Public in and for the State of Alaska

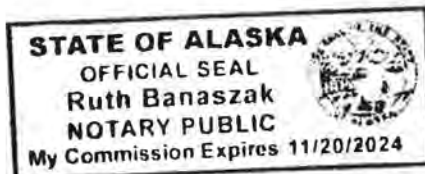
My Commission expires: 6/6/2026

STATE OF Alaska )

) ss.

COUNTY OF Tulare

On the 13<sup>th</sup> day of August, 2022, Russell Dick, the President of Glacier Creek Development, LLC, who is personally known to me, appeared and acknowledged before me that they signed the Head of Bay Tidelands and Uplands Cruise Parcel Lease (2022) on behalf of Glacier Creek Development, LLC.



Notary Public in and for the State of  
My Commission expires: 11/20

Notary Public in and for the State of Alaska

My Commission expires: 11/20/2024



## EXHIBIT A

### Head of Bay City Tidelands – Survey and Legal Description

#### LEGAL DESCRIPTION FOR A TIDELAND LEASE

Being a portion of Tracts A and B as shown on Alaska Tidelands Survey (ATS) 1545, recorded as Plat 2003-49, Anchorage Recording District, State of Alaska and situated within Sections 14 and 15, Township 8 North, Range 4 East, Seward Meridian, more particularly described as follows:

**BEGINNING** at the southwest terminus of meander line M49 as shown on said ATS;

THENCE along the easterly boundary of Lot 1 as shown on U.S. Survey 9008 also being the westerly boundary of said Tract B, also being meander lines M49 – M58 and a portion of M59 as shown on said ATS respectively, the following courses:

North 05° 22' 06" East, a distance of 77.83 feet;  
North 25° 00' 06" East, a distance of 52.10 feet;  
North 38° 08' 06" East, a distance of 32.98 feet;  
North 03° 47' 06" East, a distance of 107.50 feet;  
North 07° 24' 54" West, a distance of 299.43 feet;  
North 13° 21' 06" East, a distance of 180.05 feet;  
North 09° 44' 06" East, a distance of 109.48 feet;  
North 09° 27' 54" West, a distance of 150.37 feet;  
North 07° 21' 54" West, a distance of 196.54 feet;  
North 09° 16' 54" West, a distance of 253.26 feet;  
North 14° 43' 54" West, a distance of 196.85 feet;

THENCE leaving said westerly boundary, entering into and passing through said Tract B, and entering into said Tract A, North 47° 07' 03" East, a distance of 1,766.10 feet;

THENCE continuing within said Tract A, South 42° 52' 57" East, a distance of 265.89 feet;

THENCE continuing within said Tract A, entering into and continuing within said Tract B, along the following courses:

South 47° 07' 03" West, a distance of 1,296.77 feet;  
South 05° 19' 16" East, a distance of 1,751.70 feet;  
South 89° 49' 37" West, a distance of 624.67 feet to said **POINT OF BEGINNING**.

Containing 29.499 acres, more or less.

The BASIS OF BEARINGS for this description is identical to Alaska Tidelands Survey 1545.

December 9, 2021

END OF DESCRIPTION

PLAT TO ACCOMPANY  
DESCRIPTION

GOVT. LOT 1  
SECTION 15

GOVT. LOT 2  
SECTION 15

LOT 1  
U.S.S. 9008

POINT OF BEGINNING

**TIDELAND LEASE AREA  
29.499± ACRES**

SEE SHEET 2. — T — SEE SHEET 3.

TRACT B  
ATS 1545

TRACT C  
ATS 1545

EXISTING RUNWAY

PASSAGE CANAL



12501 OLD SEWARD, D ANCHORAGE, AK 99515  
Phone (907) 344-5990 Fax (907) 344-7794  
12/9/2021 PROJ. 21-251 SHT 1 OF 3

# EXHIBIT A-1

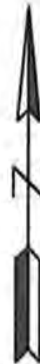
PLAT TO ACCOMPANY  
DESCRIPTION

SEE SHEET 2

TRACT B  
ATS 1545

LOT 1  
U.S.S. 9008

50' PUBLIC ACCESS  
EASEMENT PER.  
AS 38.05.127



1" = 100'

S05°19'16"E 1751.70'

PASSAGE CANAL

109.48'  
N09°44'06"E

N13°21'06"E 180.05'

N07°24'54"W 299.43'

N03°47'06"E  
107.50'

N38°08'06"E  
32.98'

N25°00'06"E  
52.10'

N05°22'06"E  
77.83'

S89°49'37"W 624.67'

POINT OF BEGINNING  
SOUTHWEST TERMINUS  
OF M49 ATS 1545

TRACT B  
ATS 1545

SEE DESCRIPTION FOR  
COURSE INFORMATION



12501 OLD SEWARD, D ANCHORAGE, AK 99515  
Phone (907) 344-5990 Fax (907) 344-7794  
12/9/2021 PROJ. 21-251 SHT 2 OF 3

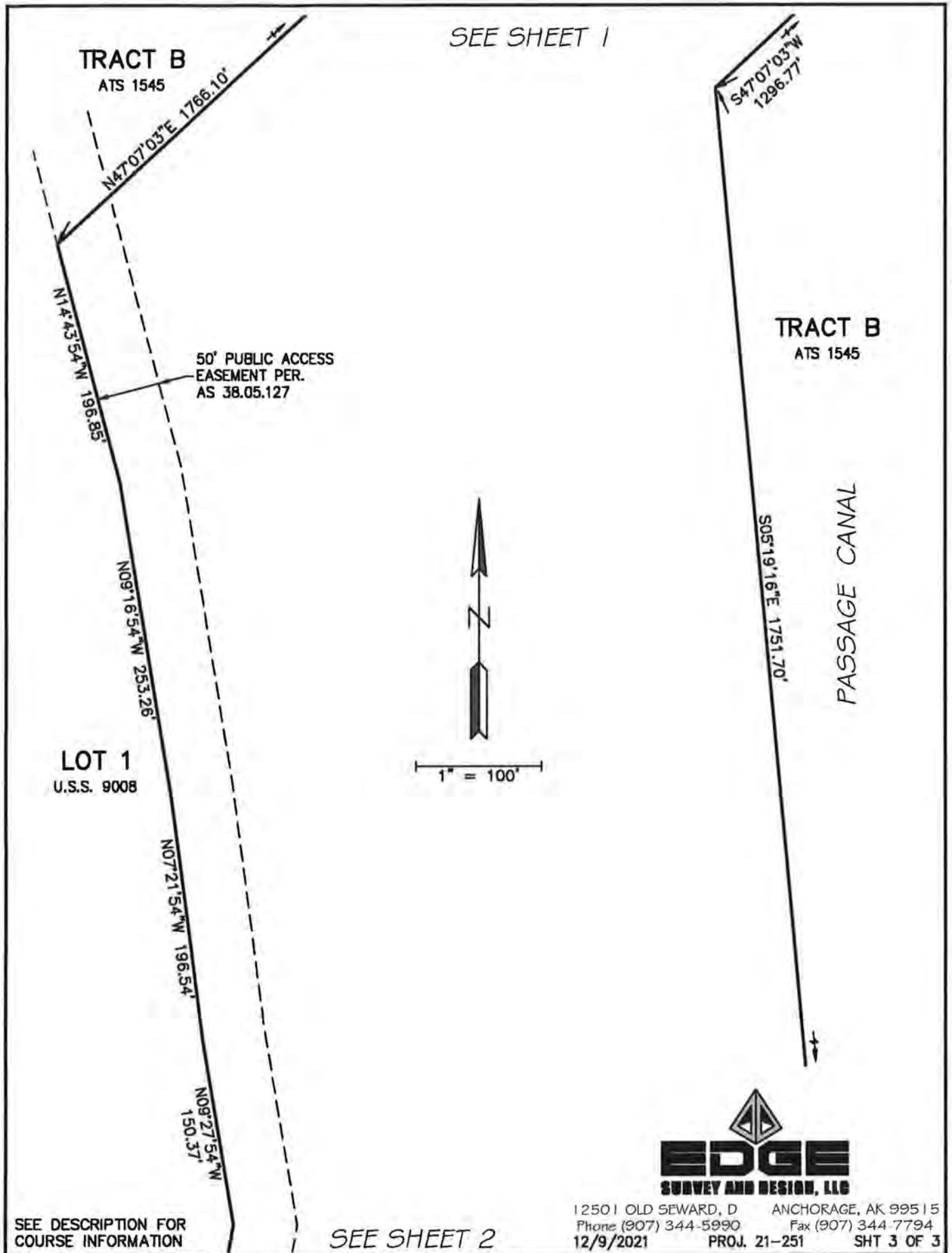


EXHIBIT B  
LEGAL DESCRIPTION AND MAP  
FOR ARRC SUBLEASE

**Lease Contract No. 20753**  
**City of Whittier**

SCHEDULE I

LEGAL DESCRIPTION  
(prepared 3/9/2022)

A Lease Parcel of land located within Lot 1, USS 9008, officially filed October 12, 1995, Alaska Railroad Whittier Terminal Reserve, Anchorage Recording District, Third Judicial District, State of Alaska, shown on the drawing attached hereto as Exhibit A, comprising 887,705 sq. ft., more or less, and being more particularly described as follows:

Beginning at Corner No. 3 of Lot 1, USS 9008; thence running,

N17°30'00"E	794.97 feet, along the line between said Corner No. 3 and the unmonumented Corner No. 2 of Lot 1, USS 9008 to said Corner No. 2; thence,
-------------	--

N90°00'00"E	314.69 feet, along the line between said Corner No. 2 and Corner No. 1 of Lot 1, USS 9008 to the Witness Corner to Corner No. 1, Lot 1, USS 9008, a Meander Corner; thence,
-------------	---

N90°00'00"E	78.47 feet, continuing along said line between Corner No. 2 and Corner No. 1, to the unmonumented Corner No. 1 of Lot 1, USS 9008; thence,
-------------	--

Thence, southerly along the meanders of the mean high tide line of Passage Canal approximately 1340' the follow nine (9) courses:

S17°41'00"E	55.44 feet; thence,
S02°35'00"E	87.12 feet; thence,
S01°15'00"W	45.54 feet; thence,
S14°42'00"E	317.46 feet; thence,
S09°15'00"E	253.44 feet; thence,
S07°20'00"E	196.68 feet; thence,
S09°26'00"E	150.48 feet; thence,

S09°46'00"W          109.56 feet; thence,  
S13°23'00"W          127.56 feet; thence,  
N90°00'00"W          691.52 feet; thence,  
N18°40'59"W          420.00 feet; thence,  
N17°30'00"E          170.00 feet, along the extension of said line between Corner No. 2 and  
Corner No. 3 to the Point of Beginning, containing 887,705 sq. ft.±.

The bearings and distances contained in this legal description are based on those shown in U.S. Survey 9008.

Subject to all valid pre-existing rights.

The Lease Parcel is a portion of Lot 1, U.S. Survey 9008 as described in US Patent No. 50-2005-0045 to the Alaska Railroad Corporation.

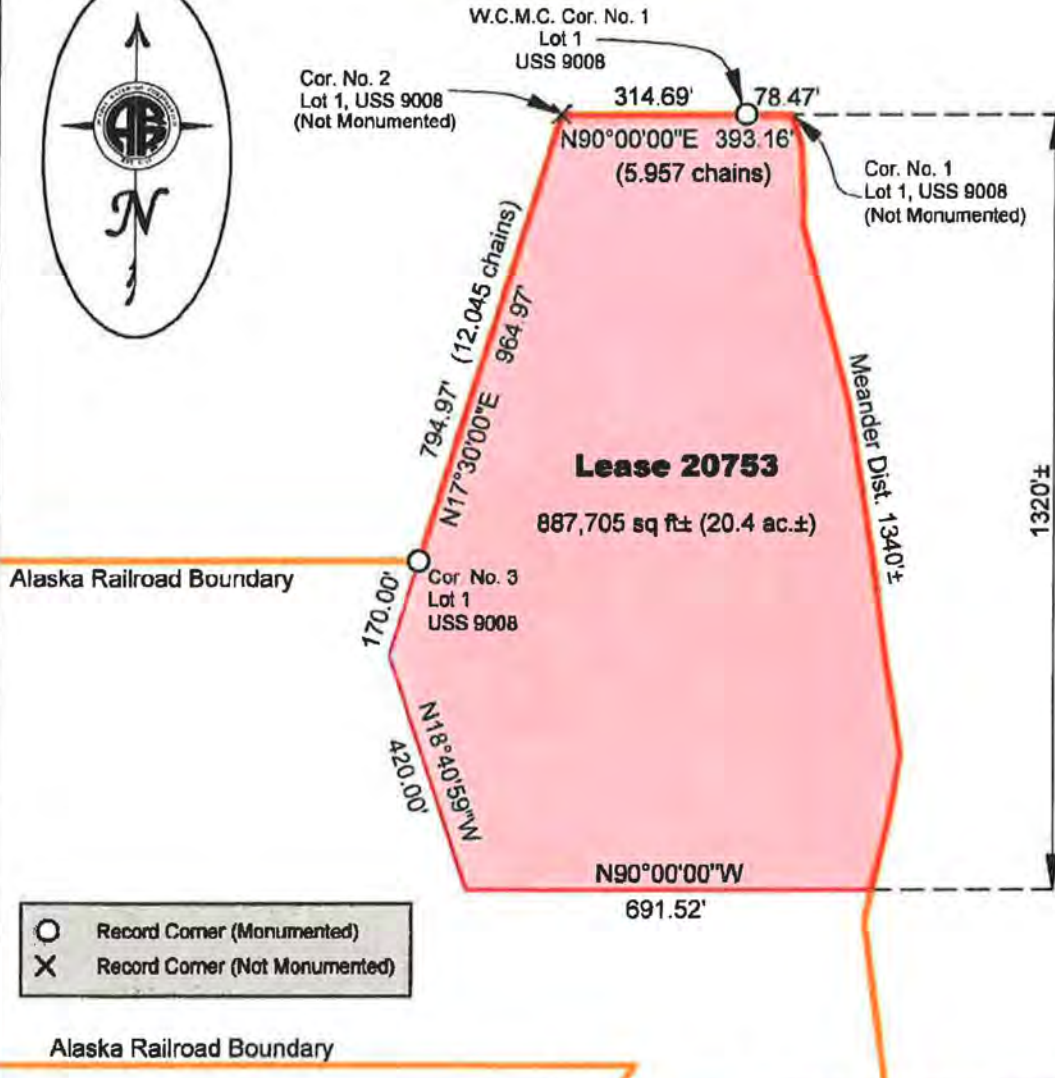
For indexing purposes the land lies within:

The E1/2 of Section 15, Township 8 North, Range 4 East, Seward Meridian

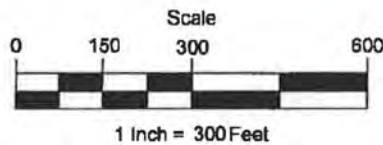
Recorder's Office, return to:  
ALASKA RAILROAD CORPORATION  
P.O. BOX 107500  
ANCHORAGE, AK 99510-7500  
State Business - No Charge



# ALASKA RAILROAD



- Record Corner (Monumented)
- ✕ Record Corner (Not Monumented)



The bearings and distances of this exhibit are based on U.S. Survey 9008.

For indexing purposes this property is located in the E1/2 Sec. 15 T8N, R4E, S.M.



**ALASKA RAILROAD CORPORATION**  
REAL ESTATE DEPARTMENT, LAND SERVICES  
P.O. BOX 107500, ANCHORAGE, ALASKA 99510-7500

Contract No. 20753 - Exhibit A  
City of Whittier  
**Area = 887,705 sq ft± (20.4 ac±)**

ARRC title - Patent 50-2005-0045 - USS 9008, Lot 1

DRAWN BY: AMB	SCALE: 1" = 300'	DATE: 2022-03-17
CHECKED BY: DCA	Whittier Terminal Reserve	
APPROVED BY: AMB	R:\00 RED\LEASES\WHI\20753-L.dwg	

[AlaskaRailroad.com](http://AlaskaRailroad.com)

EXHIBIT C  
Conceptual Drawings of Project

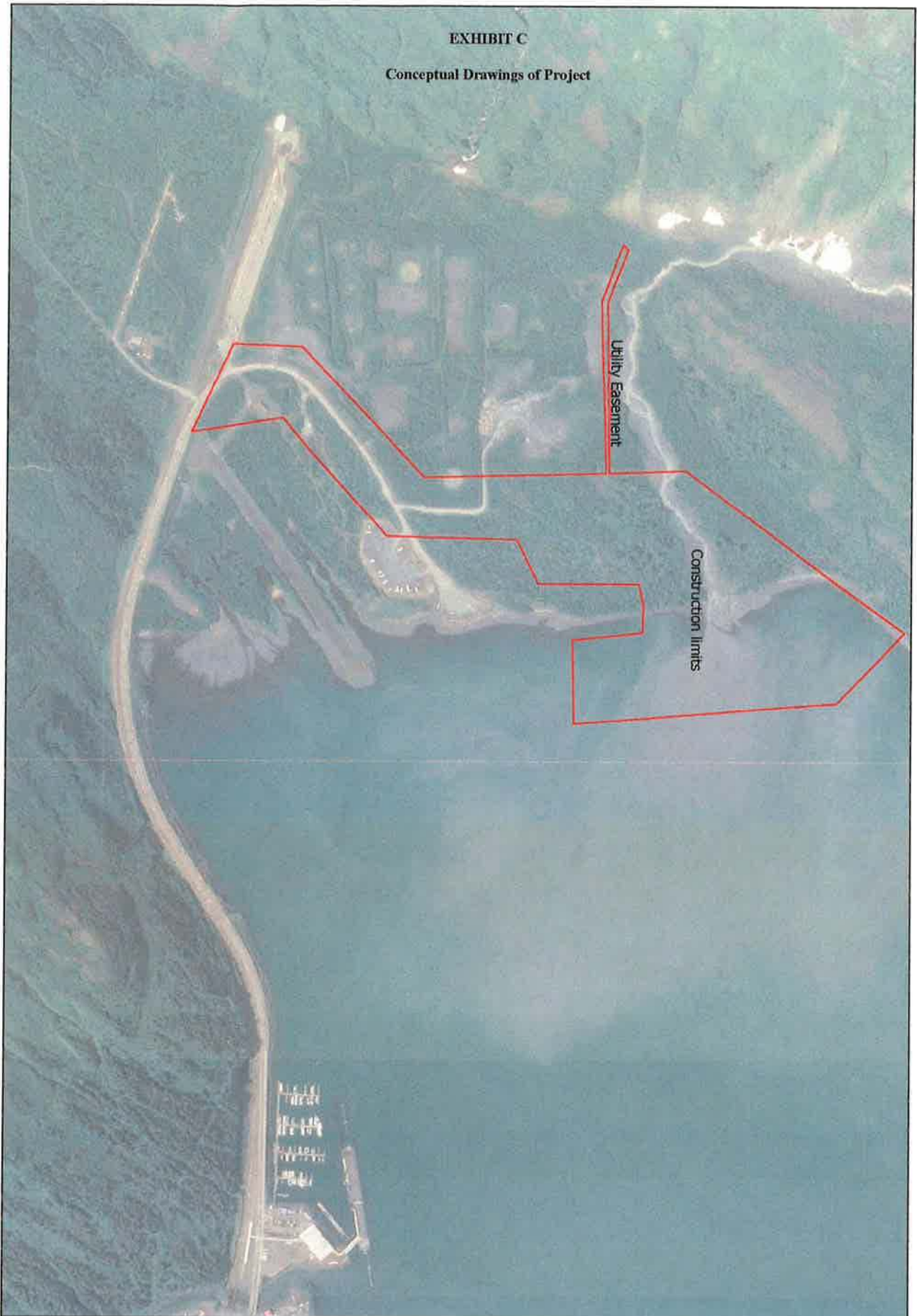
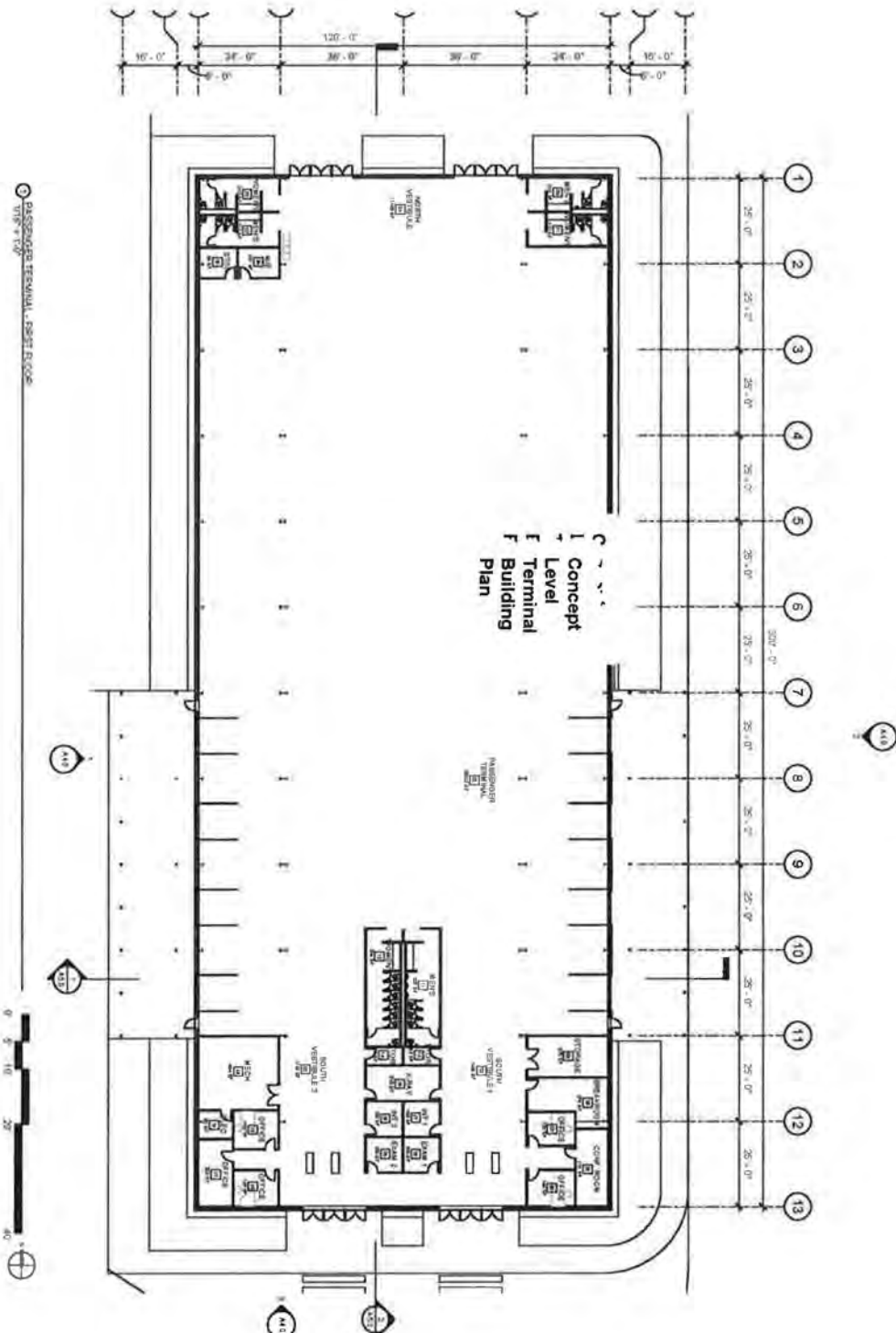




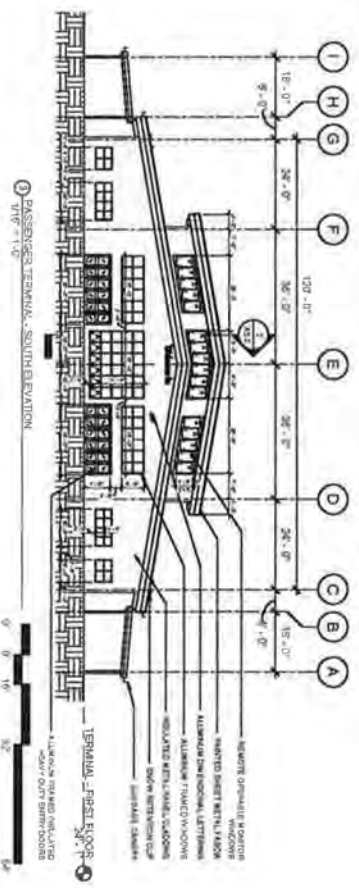
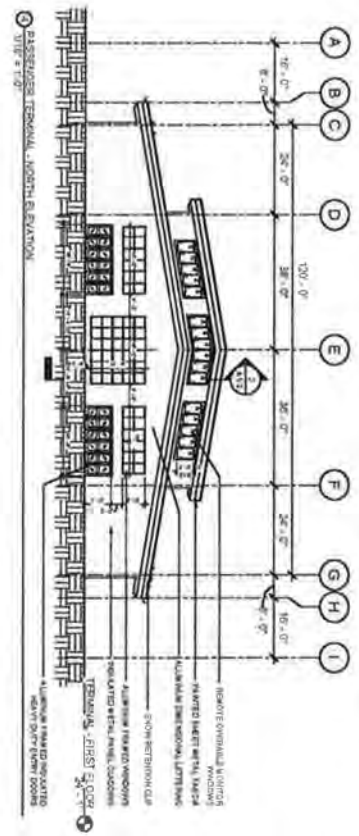
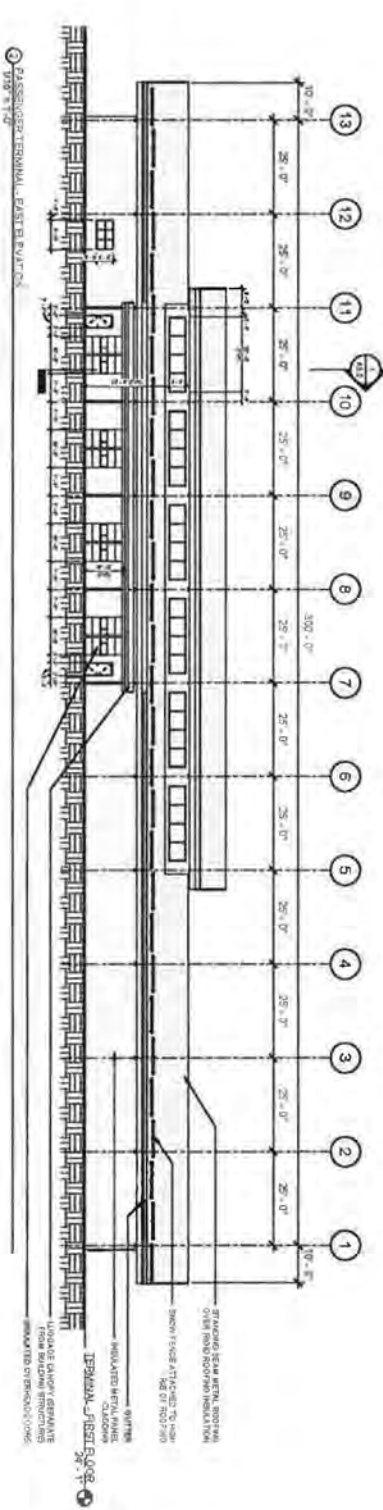
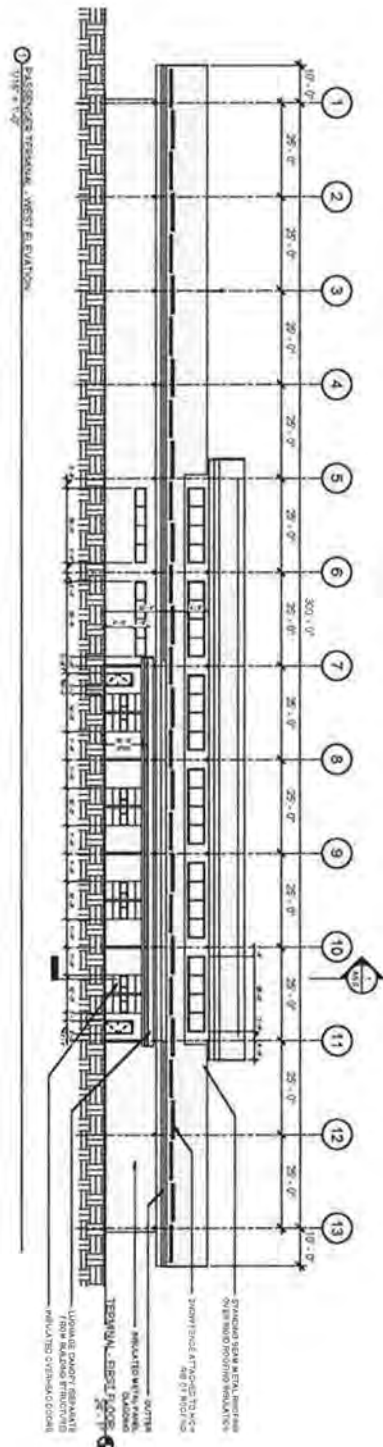
Exhibit C



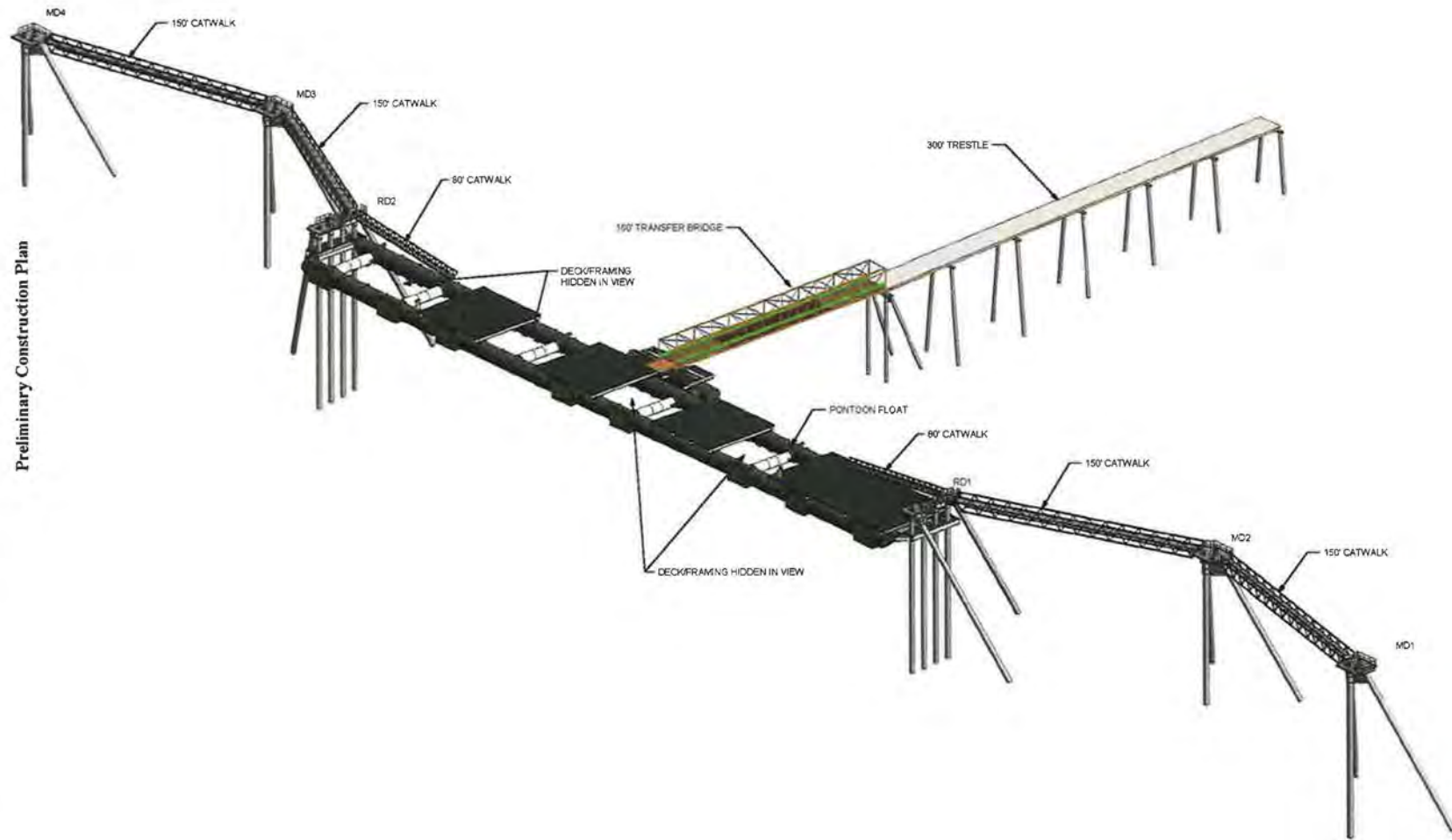
Concept  
Level  
Terminal  
Building Plan



Concept  
Level  
Terminal  
Building  
Plan



## Preliminary Construction Plan



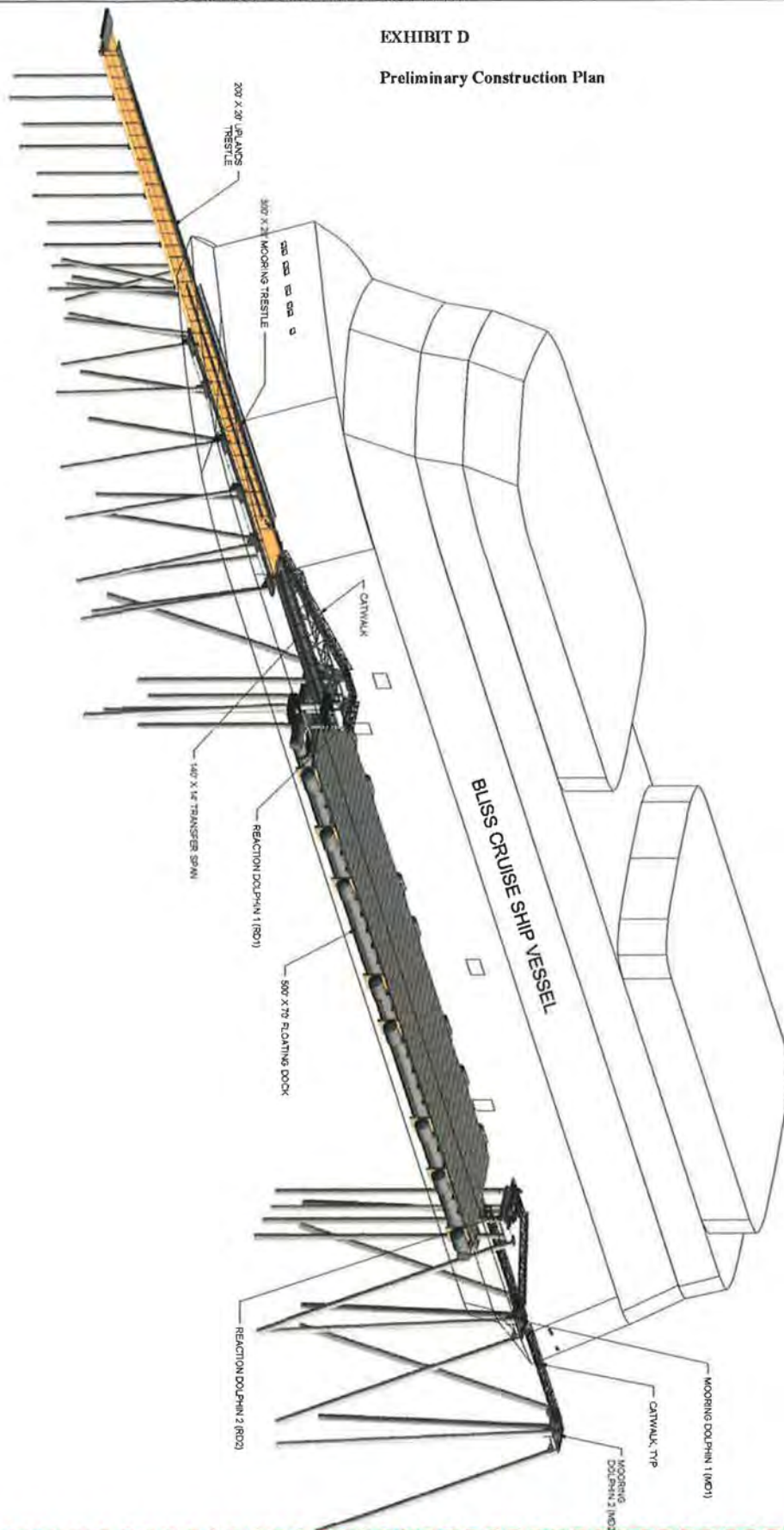
① SHEET ISOMETRIC

Page 207 of 288

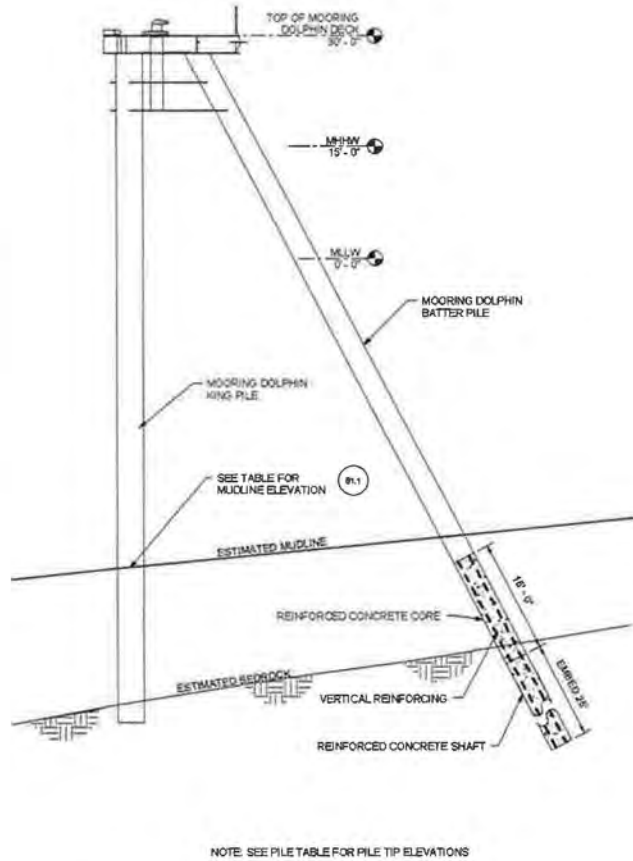


# EXHIBIT D

## Preliminary Construction Plan



# EXHIBIT D Preliminary Construction Plan



① TYPICAL MOORING DOLPHIN ELEVATION  
1/8" = 1'-0"

Sample

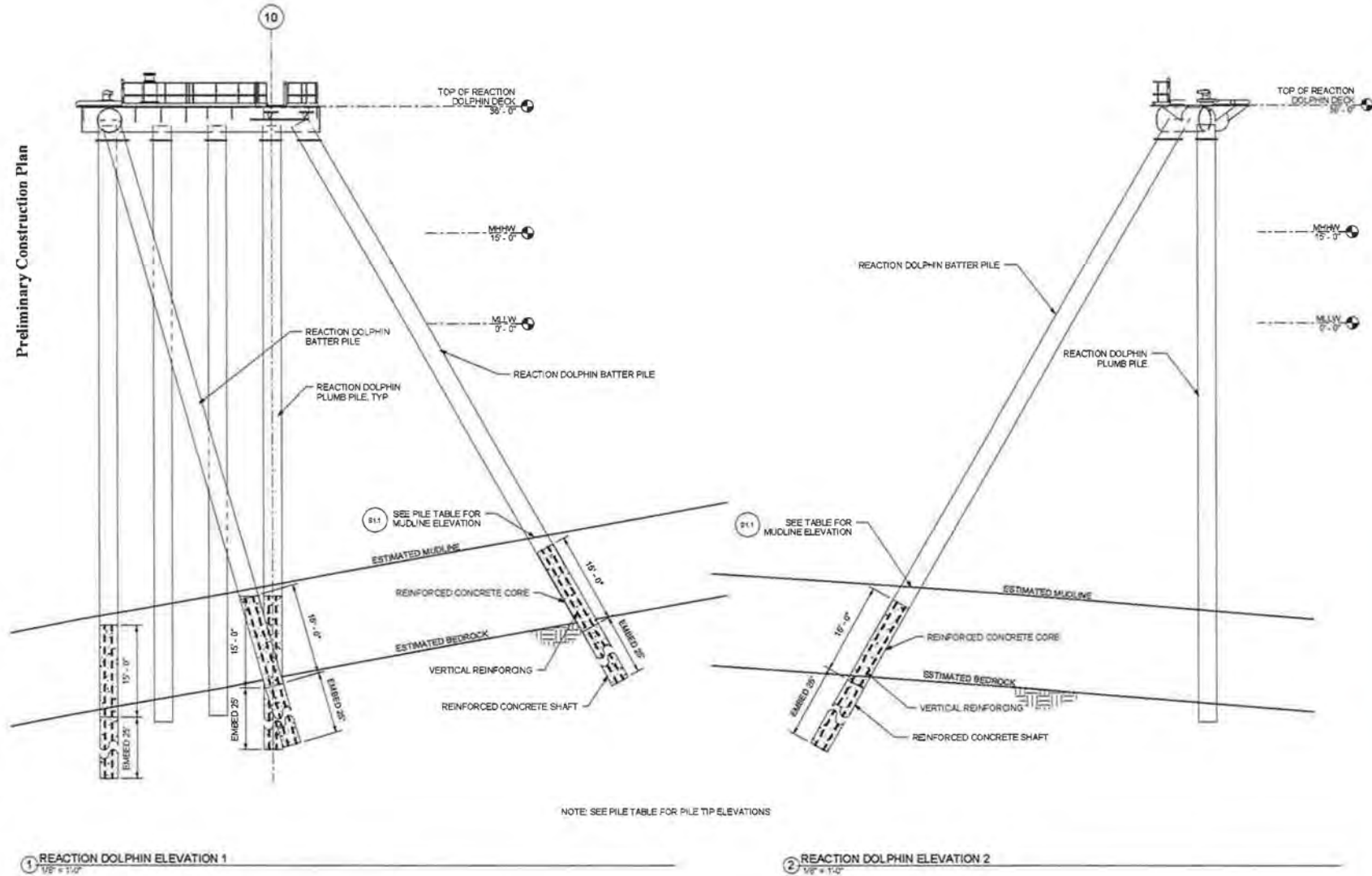
## Preliminary Construction Plan





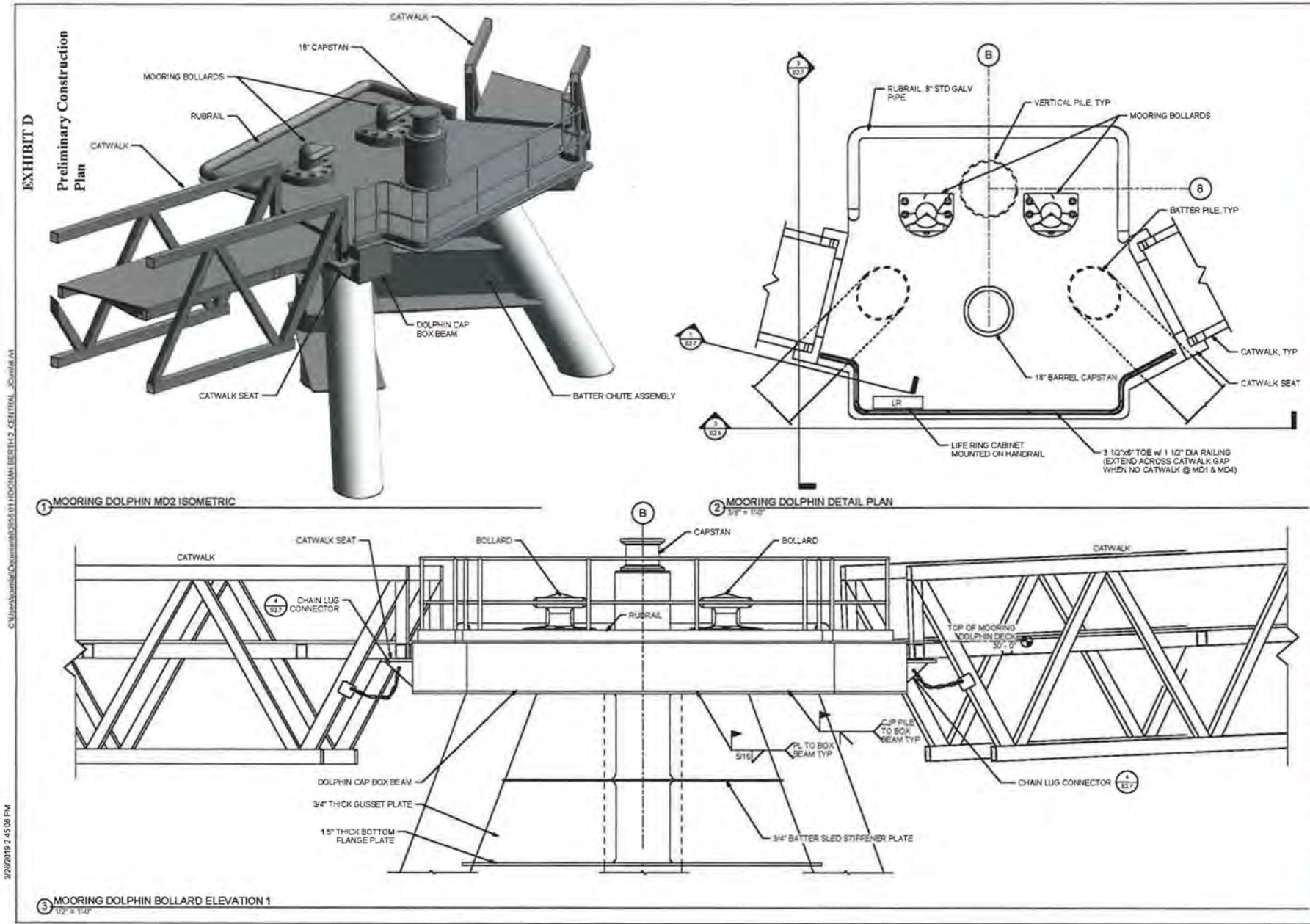
EXHIBIT D

Preliminary Construction Plan



Sample

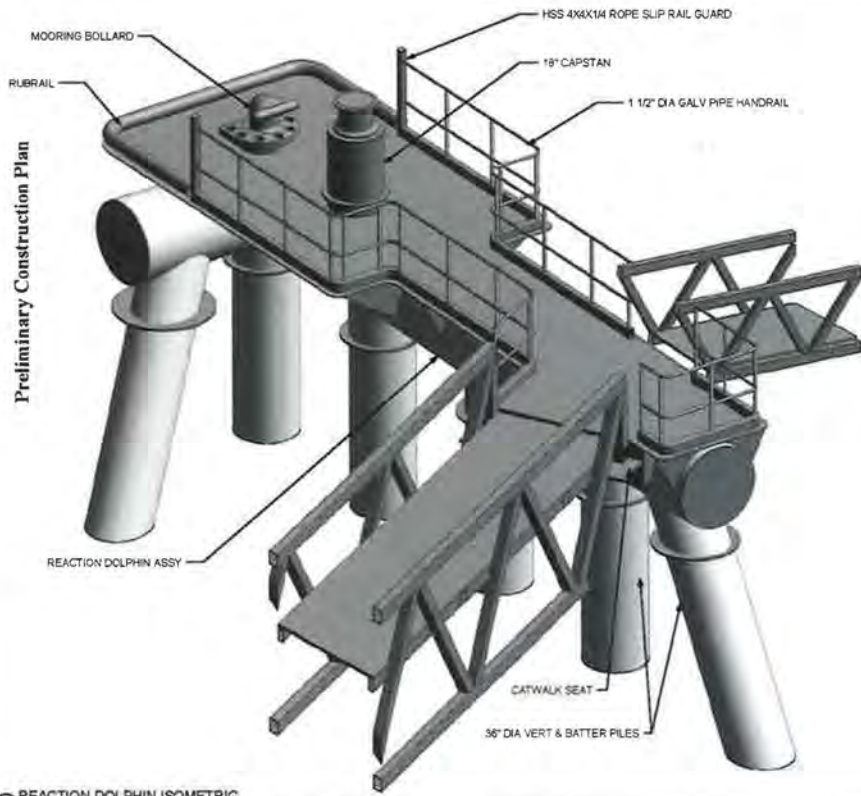




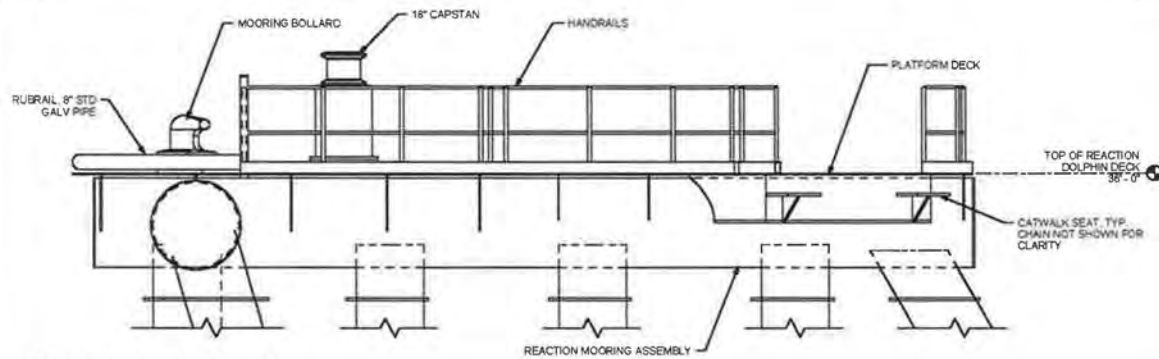
Sample

EXHIBIT D

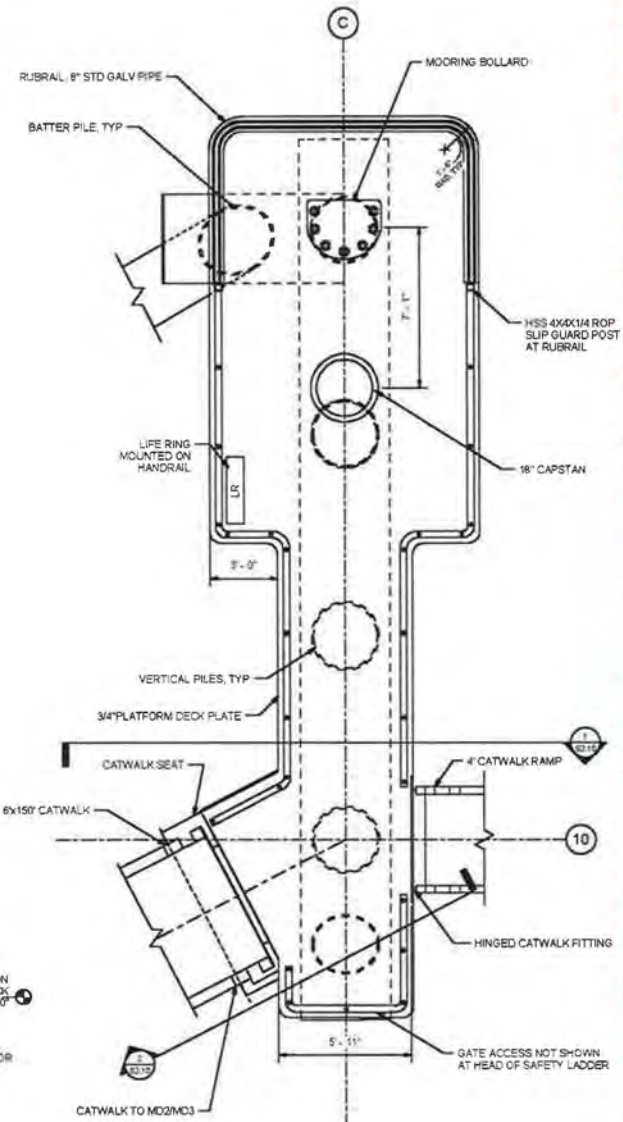
Preliminary Construction Plan



① REACTION DOLPHIN ISOMETRIC



③ REACTION DOLPHIN DETAIL ELEVATION  
3/8\"/>

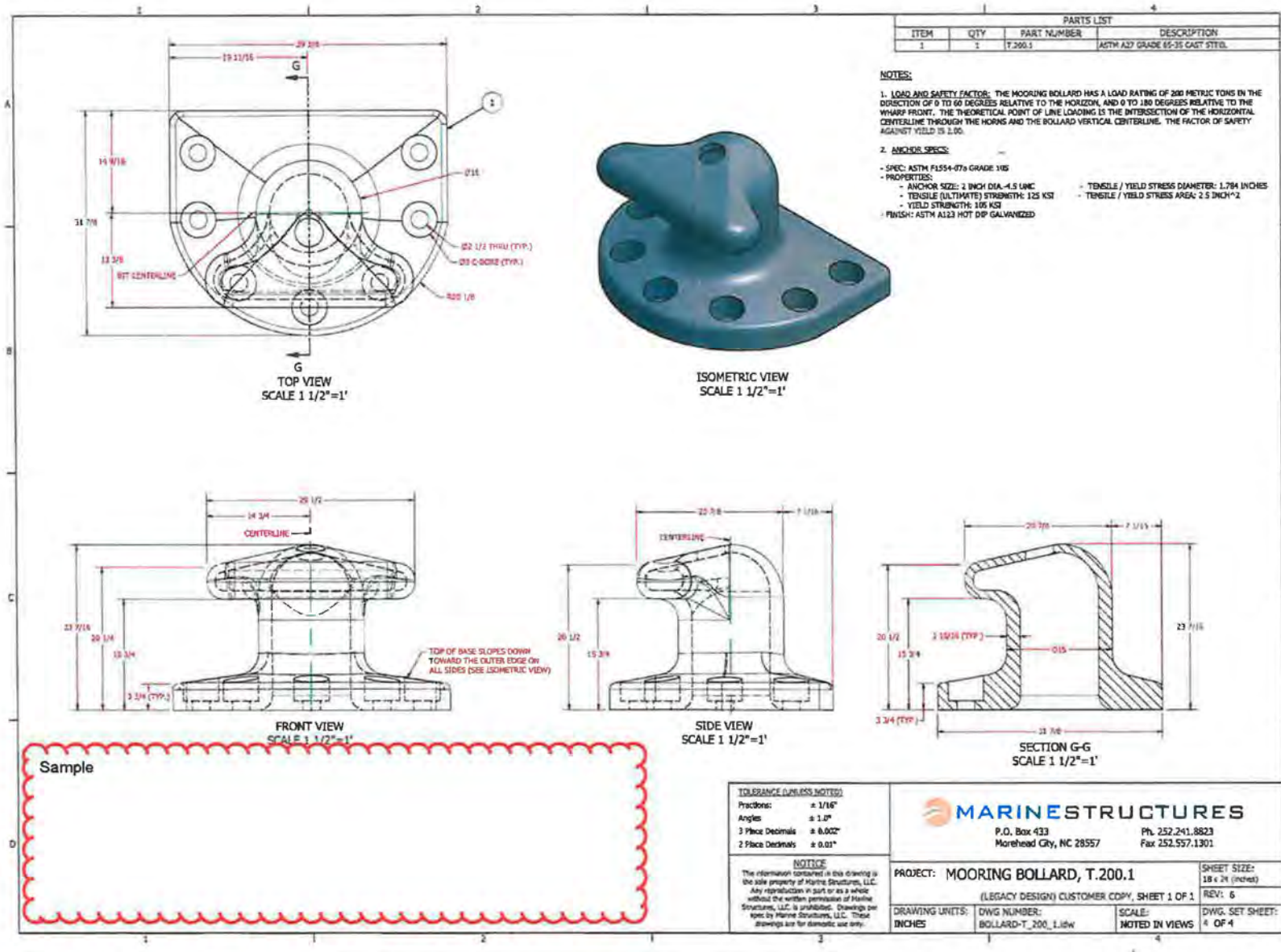


② REACTION DOLPHIN DETAIL PLAN  
3/8\"/>

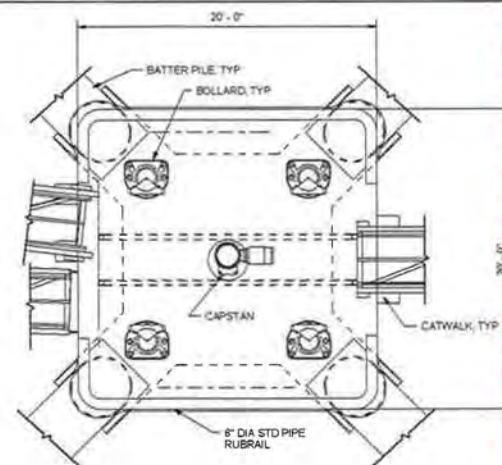
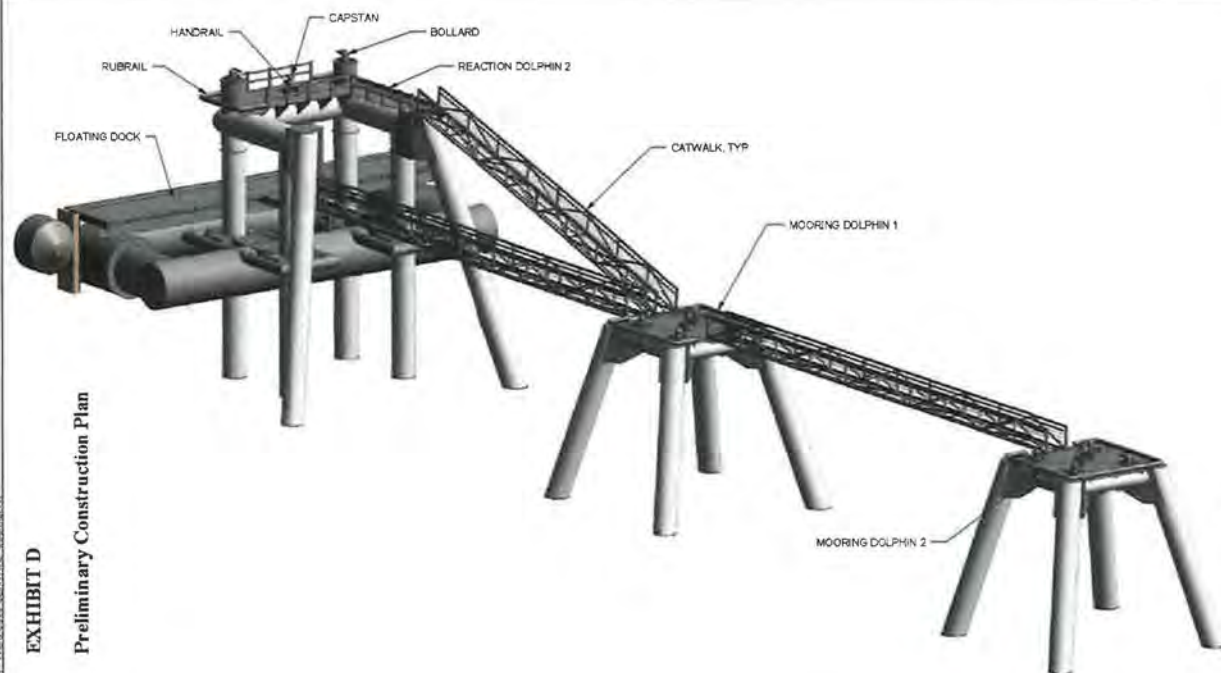
Sample



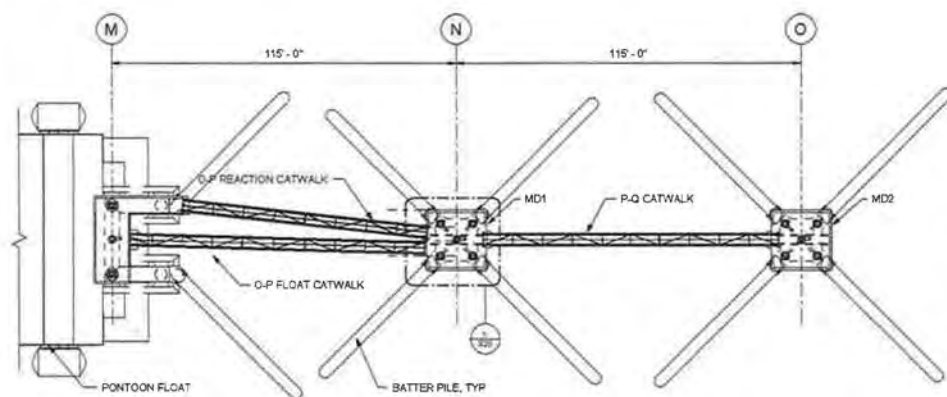
EXHIBIT D  
Preliminary Construction Plan



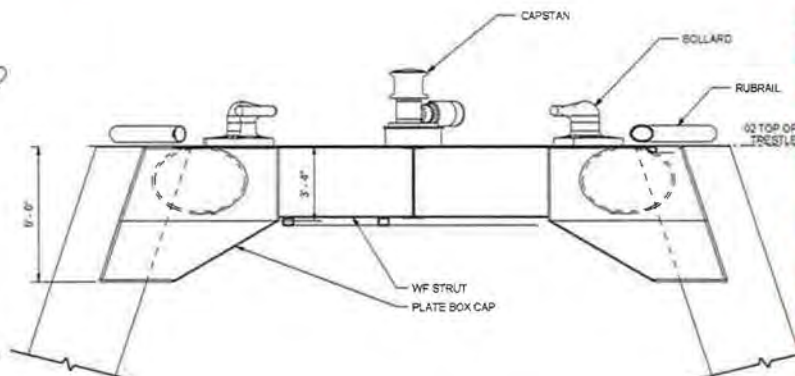
# **EXHIBIT D** **Preliminary Construction Plan**



① CALL OUT MOORING DOLPHIN DETAIL PLAN  
1/4" = 1'-0"



② CALL OUT MOORING DOLPHIN PLAN  
1" = 20'-0"



③ MOORING DOLPHIN FRAMING SECTION  
3/8" = 1'-0"

Sample



## Preliminary Construction Plan



### Sample

APPROVED BY:
DATE:
COMPANY:
TITLE:

**PRELIMINARY**



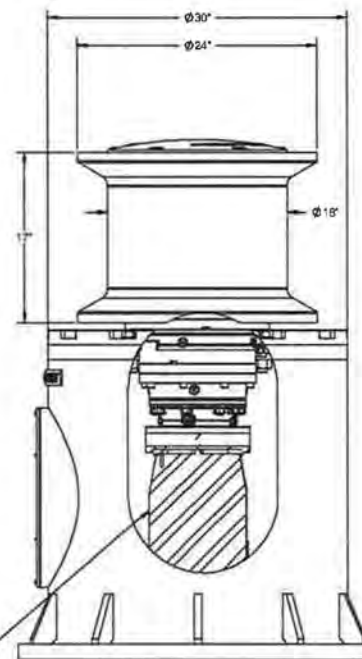
**OPERATION CHARACTERISTICS**  
(ALL VALUES ARE APPROXIMATE)

- RUNNING LINE PULL: 3,600 LBS @ 75 FPM
- STARTING LINE PULL: 7,200 LBS

### GENERAL NOTES

1. ALL MATERIAL WORKMANSHIP, AND TESTING WILL BE OF THE HIGHEST INDUSTRIAL STANDARD.
2. BREAK ALL SHARP EDGES.
3. ALL WELDING IS TO BE CONTINUOUS AND IN ACCORDANCE WITH ANS/AWS D11, GMAW PROCESS, ALL WELDS TO BE 1/2 FILLLET WELDS.
4. AFTER FABRICATION ALL MATERIAL WILL BE THOROUGHLY CLEANED TO REMOVE ALL DIRT, DEBRIS, WELD SPATTER, ETC.
5. ASSEMBLY SUBJECT TO TESTING AS DIRECTED BY SCHOELLHORN-ALBRECHT.

MATERIAL: STEEL, ASTM A36, ASTM A500 GR. C  
CALCULATED WEIGHT: 2.500 LBS (APPROX MATE)  
COATING: CAPSTAN TO BE BLAST CLEANED TO  
SSPC SP 10 AND COATED WITH ONE (1)  
COAT OF SHOP PRIMER



**SIDE VIEW**

UNLESS OTHERWISE SPECIFIED:

FRACTIONS:  $<5^\circ \pm 1/16^\circ$ ,  $<15^\circ \pm 1/8^\circ$ ,  $>15^\circ \pm 3/16^\circ$   
 DECIMAL: X = .1 XX = .01 XXX = .005

BREAK ALL SHARP EDGES  
SURFACE FINISH 125  
OR BETTER

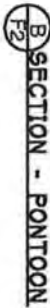


1141 RECO AVE.	
57. LOUIS. MD-63128	
DRAIN BY	R. KING
CH-RED BY	E. MOORE
APPROVED BY	E. MOORE

TABLE 1
---------

18" BARREL CAPSTAN  
MODEL SA1817-10E-75  
GENERAL ARRANGEMENT

NO.	CAGE CODE	QWL NO.	
D	0MKF7	SA1817-10E-75-G	
SCALE: 1:1	PROJECT: 13-1036	SHEET 1 OF 1	



MATERIAL  
PIPE AND GENERAL PLATE AND SHAPES A56  
PLATE FLANGES A571-50  
PIPE A562 GR 3

WELDED  
UNLESS OTHERWISE NOTED, ALL EXTERIOR WELDS SHALL BE  
CONTINUOUSLY TIG WELDED, ALL INTERIOR WELDS SHALL BE  
MIG 5/55<sup>th</sup> FILLET WELDS SPACED 2" IN Ø.

### Sample

### Preliminary Construction Plan

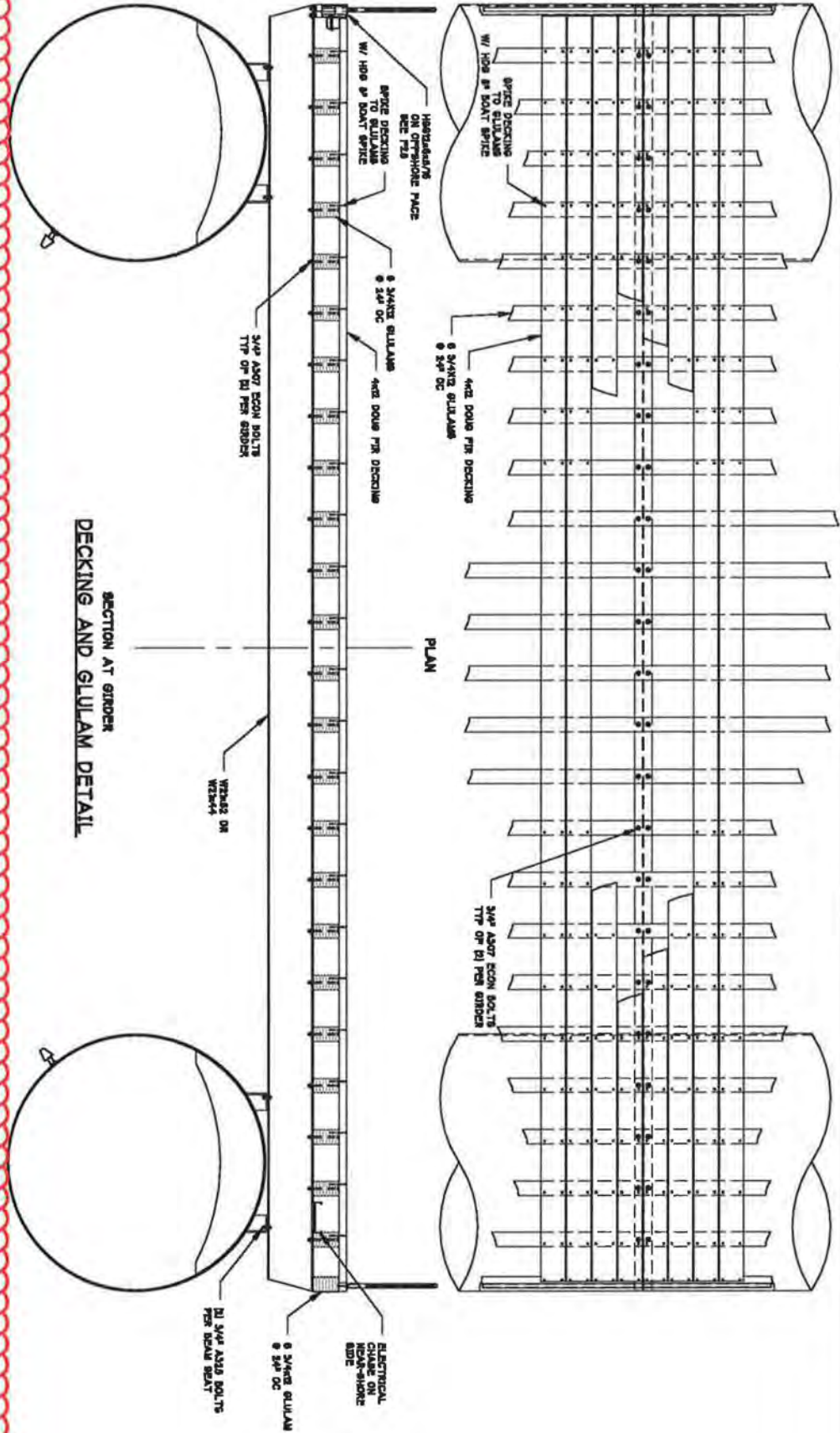




# EXHIBIT D

## Preliminary Construction Plan

Sample









### Preliminary Construction Plan





EXHIBIT E  
CONSTRUCTION SCHEDULE

2021												2022												2023													
Permit Preparation Wharfer	February	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	January	February
Permit Process Wharfer																																					
Contract Team Wharfer																																					
65% Structural Design Wharfer																																					
Pile and Steel Fab Procurement Wharfer																																					
On-Site Berth Construction Wharfer																																					
Terminal Building																																					

## Exhibit F

### Limited Assignment for Security Purposes

The CITY OF WHITTIER ("Landlord") whose mailing address is PO Box 608, Whittier, Alaska 99693, under that certain Head of Bay Tidelands and Uplands – Cruise Parcel (2022) Lease Agreement ("Lease") dated \_\_\_\_\_, 2022, with \_\_\_\_\_, a wholly-owned subsidiary of Huna Totem Corporation ("Assignor"), whose mailing address is 9301 Glacier Highway, Suite 200, Juneau, AK 99801-9306, of the following real property:

See the attached Exhibit "A"

See the attached Exhibit "B"

hereby consents to the assignment of the Lease by ASSIGNOR to \_\_\_\_\_  
("ASSIGNEE")

The purpose of this consent is to allow ASSIGNOR to secure a loan, the total proceeds of which are to be used for leasehold development and/or operations on the property described above.

1. Possession by Assignee. ASSIGNEE may take possession of the leased premises and vest in the interest of the ASSIGNOR in the Lease upon the performance of the following conditions:
  - a) The payment to LANDLORD of any and all sums due to LANDLORD under the lease, including but not limited to accrued unpaid rent.
  - b) The sending of a written notice to LANDLORD and ASSIGNOR of ASSIGNEE'S intent to take possession of the premises and assume the Lease.
  - c) The curing of all defaults not remediable by the payment of money within an additional thirty (30) days of the date upon which such default was required to be cured by the Lessee under the terms of the Lease.
2. No Liability of Assignee Without Possession. ASSIGNEE shall have no liability or obligation under the Lease pursuant to this Assignment unless and until it sends to LANDLORD the written notice described in paragraph 1(b) above. Nothing in this Assignment nor in the taking of possession of the leased premises and assumption of the Lease by ASSIGNEE or a subsequent assignee shall relieve ASSIGNOR of any duty or liability to LANDLORD under the Lease.
3. Notice of Default and Opportunity to Cure. Upon any default of any of the terms of the Lease by ASSIGNOR, LANDLORD, in addition to notifying ASSIGNOR (the Lessee)

# **EXHIBIT G**

---

## ***GROUND LEASE***

**Between**

***ALASKA RAILROAD CORPORATION***

**and**

***CITY OF WHITTIER***

***CONTRACT NO. 20753***

---

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- 1.01 Leased Premises
- 1.02 Reservation of Minerals
- 1.03 Improvements Owned by ARRC
- 1.04 Improvements Owned by the City
- 1.05 Use of Leased Premises
- 1.06 Lease Term
- 1.07 The City's Options to Extend Lease Term
- 1.08 Parties' Rights to Terminate Lease Related to Project Construction
- 1.09 Construction of City Improvements
- 1.10 Mass-Ex Right of Entry

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- 2.01 Rents
- 2.02 Determination of Fair Market Value Rent and Appraisal Procedures
- 2.03 Absolutely Net Rent

### ARTICLE 3 QUIET ENJOYMENT

### ARTICLE 4 LESSEE'S COVENANTS

- 4.01 Use of Leased Premises
- 4.02 Taxes, Assessments and Charges
- 4.03 Improvements Required by Law
- 4.04 [Intentionally Omitted]
- 4.05 Repair and Maintenance
- 4.06 Observance of Laws; Environmental Provisions
- 4.07 Notice of Substantial Endangerment
- 4.08 Waste and Wrongful Use
- 4.09 Setback
- 4.10 Liens
- 4.11 Indemnification
- 4.12 Costs and Expenses of ARRC
- 4.13 Holdover
- 4.14 City's Improvements as Security for Obligations to ARRC
- 4.15 Maintenance and Repair



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- 5.01    Workers' Compensation
- 5.02    General Liability Insurance and Risk of Loss to Improvements
- 5.03    Liability Insurance
- 5.04    Property Insurance
- 5.05    Policy Provisions
- 5.06    Proof of Insurance
- 5.07    Force Placement of Insurance
- 5.08    Adjustment of Required Insurance Amount

ARTICLE 6    EMINENT DOMAIN

- 6.01    Effect of Eminent Domain on Lease
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## **GROUND LEASE**

**THIS GROUND LEASE** (herein called "this Lease") is made on the day executed by the last signatory hereto, by and between the **ALASKA RAILROAD CORPORATION** (herein called "ARRC"), a public corporation created pursuant to AS 42.40, whose mailing address is P.O. Box 107500, Anchorage, Alaska 99510-7500, and the **CITY OF WHITTIER**, (herein called "the City"), a second class city organized and existing under the laws of the State of Alaska, whose mailing address is P.O. Box 608, Whittier, Alaska 99693-0608.

### **RECITALS**

- A. ARRC has agreed to lease to the City a parcel of land located within the boundaries of the City of Whittier, Alaska, in the Anchorage Recording District, Third Judicial District, State of Alaska, and more specifically described in paragraph 1.01 of this Lease and on Schedule 1 attached to and for all purposes made a part of this Lease ("Leased Premises").
- B. ARRC owns approximately two hundred fifty (250) acres of land within the boundaries of the City of Whittier, including approximately one hundred and five (105) acres in the city core and waterfront district.
- C. The ARRC and City are parties to a Ground Lease and Management Agreement dated November 13, 1998 (the "Master Lease") which established certain terms and recitals agreed upon by the parties in 1998 that provide context for this Lease, including;
  - a. The City had (and still has) a relatively small tax base and operates under a limited annual budget due to its small population and few taxable business entities; and
  - b. Within the City limits much of the land, including land owned by ARRC, was undeveloped and thus generated minimal property and sales taxes, and no payments-in-lieu-of-tax or other revenues on which to support critical City services and public infrastructure; and
  - c. The City did then and does now believe that it can only be financially viable by assuming control of ARRC's unleased lands and managing land development activities for City-owned and ARRC-owned land in a manner that maximizes economic development and generates increased property and other taxes, and lease rent; and
  - d. Under the Master Lease, the City would manage development of all identified ARRC-owned lands and would share 40% of the revenues from subleases with the ARRC, as a means to develop financial sustainability for the City; and

- e. The City would develop and maintain a "Comprehensive Plan," operation of which allows the City to establish development goals and then pursue its development objectives on ARRC lands without ARRC approval so long as its actions are aligned with the Comprehensive Plan.
- D. The City is pursuing redevelopment of both City-owned and ARRC-owned land located at the head of the bay in the City of Whittier, it being the City's intent to permit development and construction of new cruise ship facilities and related infrastructure and improvements (the "Project"), which Project is intended to bring economic and other benefits to the City of Whittier and to the State of Alaska.
- E. It is the City's position that the Master Lease remains in effect in all respects at the time of execution of this Lease, including with respect to the Leased Premises, and that the City has demonstrated, through significant financial and other valuable actions and contributions, that it has and continues to comply with the terms of the Master Lease.
- F. It is ARRC's position that the Leased Premises and most other ARRC land at the head of the bay are no longer subject to the provisions of the Master Lease due to the City's failure to adequately develop the property in accordance with the terms of the Master Lease.
- G. In light of the differing positions of the parties as described in Recitals E and F, above, a dispute has arisen between ARRC and the City regarding whether the Leased Premises, upon which a portion of the Project may be constructed, remain under the City's control pursuant to the Master Lease or whether such control reverted back to ARRC under the terms of the Master Lease.
- H. ARRC and the City have agreed to set aside their dispute regarding the application of the Master Lease only as to the Leased Premises to facilitate the Project, without making any acknowledgements, admissions, or concessions regarding their competing claims as to the current status of the parties' rights and interests pursuant to the Master Lease.
- I. By entering into this Lease, neither the City nor ARRC waives any of their respective rights under the Master Lease or legal positions or arguments with respect thereto.
- J. At the time of execution of this Lease, ARRC has a gravel extraction agreement ("Gravel Agreement") with Mass Excavation ("Mass-Ex") that affects a portion of the Leased Premises. The parties intend that Mass-Ex shall be allowed a right of entry under this Lease to perform gravel extraction on said portion of the Leased Premises during the initial stages of the Lease Term, with all parties coordinating with respect to such activities and without changing the consideration to either ARRC or Mass-Ex under the Gravel Agreement, as provided in paragraph 1.10 of this Lease.

- K. The parties intend that the rents for the initial lease term of thirty-five (35) years be the lump sum amount of three hundred fifty-six thousand six hundred twenty-nine and 79/100 Dollars (\$356,629.79), which amount shall be prepaid upon the execution of this Lease.
- L. The parties intend that the rental rate for any extension terms exercised by the City's option to be multiplied against the fee simple value as determined in accordance with paragraph 2.02 of this Lease is eight percent (8%).

NOW, THEREFORE, in consideration of the mutual promises contained herein, and such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## **ARTICLE 1**

### **LEASED PREMISES AND TERM**

1.01 Leased Premises. ARRC, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by the City, hereby leases to the City, and the City hereby leases from ARRC, the vacant, unimproved (except as noted in paragraph 1.03 of this Lease) land situated in the Anchorage Recording District, Third Judicial District, State of Alaska, more particularly described on Schedule 1 attached to and for all purposes made a part of this Lease, and comprising approximately twenty and four-tenths (20.4 acres of land, together with all rights, easements, privileges, both subterranean and vertical, and appurtenances attaching or belonging to the described land, but subject to the reservation contained in paragraph 1.02 of this Lease (herein called the "Leased Premises").

1.02 Reservation of Minerals. All oil, gas, coal, geothermal resources and minerals of whatever nature in or under the above-described land are excluded from the Leased Premises and reserved to ARRC. Notwithstanding the foregoing, the City shall have the right, subject to the terms of this Lease, to use earth materials on or in the above-described land to a depth not to exceed twenty (20) feet below the surface, and to move and recontour such materials on the Leased Premises. During the term of this Lease, ARRC shall not have the right to enter on the surface of the Leased Premises, without the City's prior written consent, for the purpose of mining and/or extracting such oil, gas, coal, geothermal resources, or other minerals and shall not mine and/or extract the same by any means at a depth less than twenty-five (25) feet below the surface of the Leased Premises. If ARRC mines and/or extracts such oil, gas, coal, geothermal resources, or other minerals, the mining and/or extraction shall not interfere with the business, use and/or activities of the City or any of its Qualified Subtenants (as defined in paragraph 7.07) on the Leased Premises, parking or access to the Leased Premises.

1.03 Improvements Owned by ARRC. ARRC does not claim any improvements on the Leased Premises at the commencement of this Lease, but ARRC anticipates that The following described improvements ("ARRC Improvements") are situated on and are a part of the Leased



Premises and are and shall remain throughout the term of this Lease the property of ARRC, provided, however, the City has, subject to the limitations stated below, the right to use, develop, repair, maintain, remove, and or improve the ARRC Improvements during the Term of this Lease as provided herein:

All retaining walls, berms, earth contours, and all other below-surface improvements situated on the Leased Premises on the date of this Lease; excepting however, any utility service connections and any underground storage tank(s) on the Leased Premises or appurtenances to such tank(s).

Notwithstanding the foregoing, the City's removal of any ARRC Improvements (i) shall not result in damage to the Leased Premises or otherwise reduce its property value; and (ii) shall be conducted such that any ARRC Improvements that retain financial value following their removal shall be relocated onto adjacent ARRC land as indicated by ARRC. Any subsurface improvements to the Leased Premises during the Lease Term shall become the property of ARRC (and included within the term ARRC Improvements) immediately upon installation, except underground storage tank(s) (and their appurtenances) and utility service connections, which shall be and remain the sole property of the City.

1.04 Improvements Owned by the City. "City Improvements" are any and all improvements constructed by the City or its Qualified Subtenants on the Leased Premises in connection with the Project, including, without limitation, cruise ship facilities, retail businesses, boardwalk and tourism and other related infrastructure, utilities, and improvements as described below, and shall remain throughout the term of this Lease the property of the City. At the commencement of this Lease no City Improvements exist on the Leased Premises.

As used hereafter, the term "improvements" without reference to ARRC or the City shall mean all buildings, structures, fixtures and other above surface or subsurface improvements made to or added to the Leased Premises by ARRC or the City, including, without limitation, the ARRC Improvements and/or the City Improvements.

1.05 Use of Leased Premises.

A. Permitted Uses/Conformity with Comprehensive Plan. The City shall have full and general management authority over the Leased Premises and improvements, except as otherwise limited by this Lease. The City shall use the Leased Premises for construction, development and operation of cruise ship facilities and related infrastructure and improvements, which improvements are deemed by the parties to be consistent with the City of Whittier's Comprehensive Plan (the "Comprehensive Plan") and expressly permitted by this Lease, as well as for other uses permitted by the Comprehensive Plan that relate to the Project. ARRC acknowledges that prior to the execution of this Lease, it had an opportunity to review conceptual plans for the project and determined them to be consistent with the Comprehensive Plan and to be expressly permitted by the terms of this Lease. The conceptual plans reviewed by ARRC for this purpose are appended to this Lease as Schedule 3 of this Lease. During the term of the Lease, the City shall not be required to obtain the approval of ARRC for any subleases or developments which are consistent

with the uses allowed by this Lease and the Comprehensive Plan, provided that the City complies with paragraph 7.07 of this Lease. The City may undertake development of the Leased Premises consistent with its rights hereunder by itself, by joint venture or by other business arrangement in which the City is a participant along with other private or public entities, including by subleasing portions of the Leased Premises to one or more developers or businesses for development consistent with the Comprehensive Plan. Nothing in this subparagraph 1.05.A shall be interpreted to limit or modify the parties' respective termination rights under paragraph 1.08 of this Lease.

B. Nonconforming Development. In the event the City seeks to sublease or develop a portion of the Leased Premises in a manner not in conformity with the Comprehensive Plan, the City shall first consult with ARRC and seek ARRC's approval of such proposed sublease or development. ARRC shall consider such a proposed sublease or development in good faith and shall have the right and a reasonable opportunity to comment, to suggest modifications to the proposed non-conforming use and/or to suggest modifications to this Lease to accommodate the proposed sublease or development. ARRC shall have the right to approve or disapprove non-conforming uses, although approval shall not be unreasonably withheld or delayed.

1.06 Lease Term. This Lease shall be and continue in full force and effect for a term of thirty-five (35) years (the "Lease Term" or "Term") commencing as of April 13, 2022, and expiring as of April 12, 2057, unless earlier terminated as provided in this Lease, including but not limited to the provisions of paragraph 1.08. This Lease may be extended at the City's option in accordance with Paragraph 1.07.

1.07 The City's Options to Extend Lease Term. The City shall be entitled to extend the term of this Lease, at its option, for either one (1) or two (2) additional twenty-five (25) year terms (each referred to herein as an "Extension Term"), provided that at the time of the City's attempt to exercise any such option (A) the Lease has not been previously terminated; and (B) that the City is not in material default under the terms of the Lease. With respect to each such option to extend, the City shall notify ARRC by the date eighteen (18) months prior to expiration of the then-current term that the City is interested in potentially extending the Lease. Such notice shall not obligate the City to enter into an extension. If the City so notifies ARRC, ARRC shall obtain the appraisal report provided for in paragraph 2.02 of this Lease and provide it to the City not later than twelve (12) months before the expiration of the then-current term. The City shall provide written notice of the exercise of such option to ARRC, at the address provided herein, following receipt of said appraisal report and not less than one-hundred eighty (180) days prior the expiration of the then-current Term. If the appraised value of the Leased Premises is disputed at the time the City is required to exercise its option to extend, the City may reserve its option to extend until such time as the appraised value has been established through arbitration or litigation, as provided for in Article 8 of this Lease. If the appraisal report is provided on time, per the requirements of this paragraph, yet the appraised value is not established until after the expiration of the term, the holdover provisions of paragraph 4.13 shall apply until the City exercises its option to extend or declines such option, except as otherwise expressly stated in this paragraph 1.07. The annual Basic Rents that would apply in such circumstances shall be thirty thousand dollars (\$30,000). All terms and conditions provided in this Lease shall continue to apply during any Extension Term. The parties agree and acknowledge that



the pre-payment of rent by the City of the Basic Rents for the entire initial thirty-five (35) year term of this Lease shall constitute sufficient consideration for the City's extension options provided in this paragraph 1.07.

1.08 Parties' Rights to Terminate Lease Related to Project Construction.

A. City's Project-Related Right to Terminate Lease. The City shall have the right to terminate this Lease without penalty, at the City's option, which may be exercised by the City in its sole and absolute discretion in the event that the Project does not proceed, or in the event that the Project is modified in such a manner so that use of the Leased Premises is not necessary for the Project. The City shall provide written notice of the exercise of such right to terminate to ARRC, at the address provided herein, at least thirty (30) days prior date specified for termination in the notice. The City's termination rights under this subparagraph shall expire on the date that is seven (7) years from the date of execution of this Lease.

B. ARRC's Project-Related Right to Terminate Lease. ARRC shall have the right to terminate this Lease without penalty, at ARRC's option, which may be exercised by the ARRC in its sole and absolute discretion in the event that either (i) construction of the Project does not commence within four (4) years of the execution date of this Lease; or (ii) construction of the Project is not completed within seven (7) years of the execution of this Lease. ARRC shall provide written notice of the exercise of such right to terminate to the City, at the address provided herein, at least thirty (30) days prior date specified for termination in the notice. For purposes of this subparagraph 1.08.B, commencement of construction of the Project shall be deemed to be established by the installation of twenty percent (20%) of the pilings to be used to accommodate a new cruise ship dock. For purposes of this subparagraph 1.08, completion of construction of the Project shall be deemed to be established by the docking of ocean-going cruise ships (capable of accommodating at least one thousand [1,000] passengers) on the adjacent tidelands. ARRC's termination rights under this subparagraph shall expire if not exercised within one-hundred eighty (180) days of the four (4) and seven (7) year milestones outlined herein.

1.09 Construction of City Improvements.

A. Acceptance of Leased Premises. The City has inspected the Leased Premises and accepts the same as of the commencement date of this Lease in its present condition, but subject to the provisions regarding environmental contamination contained in paragraph 4.06 of this Lease.

B. Commencement of Construction. The City may, in its sole discretion, and/or through and by its Qualified Subtenants, commence and proceed with the permitting, construction and completion of City Improvements on the Leased Premises, provided that such improvements comply with all applicable requirements and conditions set forth herein.

C. Permits; Compliance with Codes. The City shall cause to be secured, with no cost to ARRC, all necessary building permits, or other permits, licenses, permissions, consents and/or approvals required to be obtained from any state or federal governmental entities or agencies,

or third parties, in connection with construction of any improvements, or repairs or replacements to the Leased Premises as required by applicable laws, ordinances or regulations. The City shall cause all work on the Leased Premises during the Term to be performed in accordance with all laws, ordinances and regulations of any governmental agencies and the representatives of such agencies having jurisdiction over such work. The provisions of this subparagraph 1.09.D are in furtherance of, and do not modify or limit in any way the City's more general compliance obligations under subparagraph 4.06.A of this Lease.

D. Control and Indemnification. Except as specifically provided otherwise herein, during the Term of this Lease, the City shall have exclusive control and possession of the Leased Premises, and ARRC shall have no liabilities, obligations or responsibilities whatsoever with respect thereto or with respect to any of the City's development or construction plans. ARRC's approval of a proposed development or construction plans, if required, shall not render ARRC liable therefore, and the City agrees to indemnify, defend and hold harmless ARRC from and against any and all claims arising out of or related to such development or construction plans. Nothing in this paragraph shall be construed as a release or waiver of liability of any contractor with respect to any and all claims arising out of or relating to the use of such development or construction plans.

E. Communication Regarding Project Construction. The City and ARRC agree that from the date of execution of this Lease through completion of construction, the parties will strive to communicate in good faith about the Project in order to avoid surprise, misunderstandings or disputes regarding changes or alterations to the Project.

F. Alterations, Additions, Demolition or Reconstruction. The City and its Qualified Subtenants shall have the right at any time and from time to time during the Term of the Lease to make or permit, at their expense, any changes, renovations, additions, alterations, reconstruction, replacements or demolition of or to any of the City's Improvements, or any part thereof, constructed or to be constructed on the Leased Premises, provided that the same are consistent with the Comprehensive Plan and the uses of the Leased Premises expressly allowed under this Lease. Nothing in this paragraph shall modify in any way the City's compliance obligations under subparagraph 4.06 or any other provision of this Lease.

G. As-Built Drawings. Upon completion of any improvement(s), the City shall deliver to ARRC one copy of as-built drawings for the improvement(s) together with an as-built survey showing the location of the improvements on the Leased Premises, including any underground improvements. One hard copy of as-built drawings and surveys shall be delivered or mailed to ARRC's Real Estate Department, and one digital copy in AutoCAD shall be provided, which can be emailed to the ARRC Land Services Manager at [LandServices@akrr.com](mailto:LandServices@akrr.com). In addition to such as-built drawings, ARRC may, in its reasonable discretion, request that the City provide GPS data or other locational information the City at its own option acquires regarding the completed improvement(s) and the City agrees to provide such data or information upon ARRC's reasonable request.

1.10 Mass-Ex Right of Entry. Mass-Ex shall have a right-of-entry to the Leased Premises to extract gravel under the Gravel Agreement described in Recital J of this Lease on that portion of



the Leased Premises that is included in the area subject to the Gravel Agreement. Said right-of-entry shall include access to said portion of the Leased Premises and to such other area in the Leased Premises reasonably necessary for Mass-Ex to extract gravel as provided in the Gravel Agreement. The City agrees that it and its Qualified Subtenants and/or contractors will provide reasonable cooperation to Mass-Ex in the planning and accomplishment of gravel excavation in this area. ARRC agrees that it will use reasonable efforts to ensure that Mass-Ex meets its site reclamation obligations under the Gravel Agreement with respect to the portion of the Leased Premises from which Mass-Ex extracts gravel. The right of entry granted in this paragraph shall terminate once gravel extraction activities on the Leased Premises have concluded, which shall occur not later than September 30, 2023. Mass-Ex will make reasonable accommodations for construction occurring on the area subject to the Gravel Agreement beginning July 1, 2023, so long as such construction does not limit its ability to mine or reclaim the area. Nothing in this Lease shall be construed to modify or affect in any way the terms of the Gravel Agreement or the consideration to be paid to ARRC by Mass-Ex thereunder.

## ARTICLE 2

### RENTS

#### 2.01 Rents.

The City shall pay the following rents (herein called "Basic Rents") to ARRC in legal tender of the United States of America, without deduction and without notice or demand, required to be paid by the City under this Lease with respect to the Leased Premises. The Basic Rents shall be as follows:

A. Basic Rents – Initial Lease Term. For the initial Lease Term of thirty-five (35) years, commencing on the effective date of this Lease and continuing through and including April 12, 2057, Basic Rents shall be the lump sum amount of Three Hundred Fifty-Six Thousand Six Hundred Twenty-Nine and 79/100 Dollars (\$356,629.79), which amount shall be prepaid upon the execution of this Lease.

B. Basic Rents – Extension Terms. For any Extension Term of this Lease, as provided in paragraph 1.07 of this Lease, the annual Basic Rents shall be a percentage of fair market value determined as provided in paragraph 2.02 of this Lease. Said fair market value rent for a particular Extension Term shall be determined by means of an appraisal to be conducted in accordance with paragraph 2.02 prior to the date the City must exercise its option to extend the Lease for that Extension Term, as specified in paragraph 1.07. Once fair market value rent is determined as described above, and the City exercises its option to extend, the City shall have the option, at its discretion, to elect one of the two alternative rent payment schedules set forth below in subparagraphs 2.01.B.1 and 2.01.B.2. The City's right to make said election must be exercised before the commencement of the Extension Term and is irrevocable. The alternative payment schedules for Basic Rents during an Extension Term are as follows:

1. Discounted Prepaid Rent Option. If the City elects this option, Basic Rents for the Extension Term shall be a single discounted prepaid lump sum payment calculated based on the appraised fair market value rent determined as described above. Said lump sum payment shall be paid on or before the commencement date of the Extension Term. To calculate the lump sum prepaid rent ARRC shall apply an 8% discount rate to the annual Basic Rents for Extension Terms determined pursuant to paragraph 2.02.B. of this Lease.

2. Annual Rent Option. If the City elects this option, Basic Rents for the Extension Term shall be paid annually, with each installment of annual rent to equal the annual fair market rent determined by appraisal as described above. The first annual installment shall be due on or before the first day of the Extension Term, with subsequent installments due on or before the succeeding anniversary dates of the Extension Term.

C. Partial Refunds of Prepaid Basic Rents.

1. Initial Term. In the event that either party exercises its discretionary right to terminate this Lease set forth in paragraph 1.08 of this Lease, the City shall be entitled to a partial refund of its initial lump-sum prepaid Basic Rents payment pursuant to subparagraph 2.01.A of this Lease. The amount of such refund shall depend on the lease year in which the Lease is terminated, and shall be paid according to the schedule set forth in Schedule 2 to this Lease. If the Lease is terminated on the basis of a default, the City shall be entitled to a partial refund of its initial lump-sum prepaid Basic Rents payment calculated based on the final lease year for which the City is obligated to pay Basic Rents under this Lease pursuant to the remedy or remedies exercised or obtained for said default. The amount of such refund shall also be paid according to Schedule 2 to this Lease.

2. Extension Terms. If the City exercises one or both of its options to extend the Lease Term as provided in paragraph 1.07 and elects the prepaid lump-sum Basic Rents option set forth in subparagraph 2.01.B.1 of this Lease, the City shall be entitled to a partial refund of such prepaid Basic Rents payment if the Lease is terminated on the basis of a default, with such partial refund calculated based on the final year during that Extension Term for which the City is obligated to pay Basic Rents under this Lease pursuant to the remedy or remedies exercised or obtained for said default. The amount of such refund shall also be paid according to a revised Schedule 2, which shall be updated at the beginning of each Extension Term to reflect the adjusted Basic Rents for that Extension Term.

3. No Other Credits Based on Pre-Paid Rent Amounts. The City acknowledges and agrees that, except for purposes of the partial refunds of Basic Rents provided for in subparagraphs 2.01.C.1 and 2.01.C.2 of this Lease, no portion of the City's initial and/or subsequent lump-sum prepaid Basic Rents payments shall be repaid or credited to the City or any Qualified Assignee as defined in Article 7.

2.02 Determination of Fair Market Value Rent and Appraisal Procedures. Where paragraph 2.01 of this Lease provides that the City shall pay fair market value rent based on

appraisal, the fair market value upon which the City's obligation to pay Basic Rents under paragraph 2.01 is based, shall be determined as follows:

A. Scope of Appraisal. The parties acknowledge and agree that this Lease is a ground lease between the City and ARRC that will contribute to the development and economic benefit of the City of Whittier. The parties also acknowledge and agree that the fair market value appraisal described in this paragraph 2.02 that will be used to determine Basic Rents during any Extension Period will be based on the fair market value of the raw land itself, excluding those improvements the City or its Qualified Subtenants place on the land. The parties further recognize and acknowledge that certain infrastructure or improvements, such as the provision of water or electrical service, can increase the value of raw land. Therefore, although no such improvements are planned at this time by ARRC and this Lease does not obligate ARRC to make any such improvements on the Leased Premises, the parties agree that if at any time during the Lease Term, infrastructure or similar improvements are made by ARRC that increase the fair market value of the Leased Premises (such as, but not limited to, the provision of water service to the Leased Premises), the appraisal used to determine Basic Rents for an Extension Term shall take into consideration any increase in the raw land value, including any increase attributable to improvements made by ARRC.

B. Appraisal of Fair Market Value of Fee Simple Interest. ARRC shall select an appraiser from a list of qualified appraisers compiled by ARRC and kept available for public inspection at ARRC's office. The appraiser shall determine, by the date twelve (12) months before the expiration of the Initial Term or the first Extension Term, the fair market value of the fee simple interest in the Leased Premises, unencumbered by this Lease, and including improvements owned by ARRC (identified in paragraph 1.03 of this Lease), and excluding improvements owned by the City (identified in paragraph 1.04 of this Lease). The appraiser shall value the Premises on an "as if clean" basis, i.e. the land is to be appraised as if unaffected by environmental contaminants; provided, however, that if known environmental contamination precludes what would otherwise be the highest and best use of the Premises at the time of appraisal, the appraiser shall make the value determination based on the highest and best use of the property that can be made at the time of appraisal taking into account the environmental contamination. A copy of the appraisal report shall be provided by ARRC to the City.

C. Fair Market Value Rent. The annual fair market value rent shall be the product derived from multiplying the fair market value of the Leased Premises (established in accordance with subparagraph 2.02.B of this Lease) by eight percent (8 %).

D. Appeal and Arbitration of Rent Increases. ARRC must provide the City its appraisal report and notice of fair market rent no later than the date twelve (12) months before the end of the Initial Term and before the end of the first Extension Term, as applicable. In the event the City disagrees with an appraisal of fee simple value made by ARRC pursuant to subparagraph 2.02.B of this Lease, the City may appeal the value determined in such appraisal by notifying ARRC in writing of its demand for appeal within ten (10) days of receiving ARRC's notice of change in rent. The City's failure to give said notice will constitute a waiver of the City's right to appeal a change in rent based on such appraisal, and the City shall be bound by ARRC's determination of the fair market value rent.



In the event the City so appeals a change in rent, the City shall, at its own expense, obtain an appraisal of the fair market value of the fee simple interest in the Leased Premises, unencumbered by this Lease, and including ARRC's Improvements and excluding the City's Improvements, and provide the same to ARRC no later than sixty (60) days after receiving ARRC's appraisal report and notice of change in rent. Said appraisal shall be performed in accordance with ARRC's Standard Appraisal Instructions in effect at the time of appraisal. If within fifteen (15) days after ARRC receives the City's appraisal, the parties are unable to agree as to the fair market value of the fee simple interest, the City may, at its option, refer the matter to arbitration in accordance with the procedures contained in Article 8 of this Lease by notifying ARRC in writing of its demand for arbitration within ten (10) days after expiration of the 15-day period provided above. Otherwise, the City shall have no right to refer a rent dispute to arbitration and shall be bound by ARRC's determination of rent under this Lease.

E. Retroactive Rent. Until ARRC issues its notice of a change in Basic Rents for an Extension Term as determined under subparagraph 2.01.A of this Lease, the City shall pay the Basic Rents during an Extension Term as follows. At the beginning of the first Extension Term, the City shall pay the undiscounted annual lease term rent of Thirty Thousand and 00/100 Dollars (\$30,000.00). When the adjusted Basic Rents have been determined, and the City notified, such Basic Rents as so determined shall be due and payable to ARRC retroactive to the commencement of the Extension Term for which such rent adjustment is made. If the City elects the lump sum discounted prepaid rent option for an Extension Term under paragraph 2.01.A, it will be given credit toward that payment for any amount already paid by the City for the Extension Term Basic Rents. If the City elects the annual rent payment option under paragraph 2.01.B, any deficiency resulting from such rent adjustment shall be payable by the City to ARRC within thirty (30) days after the giving of such notice to the City; provided, however, that at no time will the City be responsible for more than ninety (90) days of unbilled retroactive rent at an increased level. Any surplus payment resulting from such rent adjustment shall be applied within thirty (30) days after the giving of such notice to the City toward the annual rent for the next lease year for which full rent has not yet been paid by the City.

2.03 Absolutely Net Rent. When a Basic Rent becomes effective under this Lease, such rent shall not thereafter be reduced for any reason, except in the event of (1) condemnation or (2) as the result of a rent adjustment under paragraph 2.01 of this Lease. It is the purpose and intent of ARRC and the City that the Basic Rents established under this Lease shall be absolutely net to ARRC so that this Lease shall yield, net to ARRC, the rent specified herein during the Term of this Lease, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Leased Premises, which may arise or become due during the Lease Term, except as otherwise expressly provided in this Lease, and except costs, expenses, and obligations (other than those to be borne by the City as herein provided) incurred by ARRC in connection with the sale or mortgaging of the Leased Premises, shall be paid by the City, and that ARRC shall be indemnified and held harmless by the City from and against the same.

### ARTICLE 3

#### QUIET ENJOYMENT

Upon timely payment by the City of all of such rents and other payments required to be paid by the City under this Lease, and upon full and faithful observance and performance by the City of all of its covenants contained in this Lease, and so long as such observance and performance continues, the City shall peaceably hold and enjoy the Leased Premises during the Lease Term without hindrance or interruption by ARRC or anyone lawfully claiming by, through, or under ARRC.

### ARTICLE 4

#### CITY'S COVENANTS

4.01 Use of Leased Premises. The City specifically agrees that for the Term of this Lease, its use of the Leased Premises shall comply with the provisions of paragraph 1.05 of this Lease.

4.02 Taxes, Assessments and Charges.

A. The City shall require its Qualified Subtenants, permittees and licensees who occupy or use the Leased Premises to pay, before they become delinquent, all real property taxes, assessments, special assessments or other charges of every description for which the Leased Premises, or any improvement thereon or any use thereof, that are now or during the Lease Term may be assessed or become liable, whether made by governmental authority or by any public utility or community service company, and whether assessed to or payable by ARRC or the City, subject to said Qualified Subtenants, permittee's or licensee's option to pay in installments hereinafter provided. Such taxes and assessments include, but are not limited to, any increased real property tax resulting from any classification of the Leased Premises during the Lease Term to a higher use (other than a classification occurring at the initiative of ARRC or its agents), for which classification the City's Qualified Subtenant, permittee or licensee shall be deemed to be the petitioner and upon request by ARRC shall so notify the appropriate governmental authorities. Payments of real property taxes and assessments due during the first and last years of the Lease Term shall be prorated as of the dates the Lease Term begins and ends. Upon request by ARRC, the City shall cause its Qualified Subtenants, permittees and licensees to deposit with ARRC true and complete copies of receipts for such real property taxes and assessments evidencing their timely payment.

B. If at any time during the Lease Term any new or additional taxes (other than federal or state net income taxes or any other taxes existing on the commencement date hereof) are assessed against the Leased Premises, or any improvement thereon, or any rents payable to ARRC under this Lease, or against ARRC with respect thereto, the City shall use its best efforts to cause its Qualified Subtenants, permittees or licensees to pay to the taxing authority or ARRC, before they become delinquent and as additional rents, all of such new taxes.



C. Nothing contained in this Lease shall prevent the City's Qualified Subtenants, permittees or licensees from contesting in good faith the validity or the amount of such real property taxes or assessments by appropriate proceedings commenced before such real property taxes or assessments become delinquent; provided, however, that (1) the City shall give written notice to ARRC of such contest within ten (10) days of being informed of the protest; (2) concurrently with such written notice, the City shall require its Qualified Subtenant, permittee or licensee to provide and continue to provide the City with security approved by the City as to quality and quantity to assure full payment of all of such real property taxes or assessments and all interest and penalties which may accrue or be assessed thereon or with respect to such taxes, which security the City hereby agrees to use to pay any such amounts out of said security; and (3) ARRC, as long as the City obtain such security, shall not be entitled to pay such real property taxes or assessments for the account and at the expense of the City or its Qualified Subtenant, permittee or licensee. The City shall not be deemed in default under this Lease because of a failure of its Qualified Subtenants, permittees or licensees to pay any property taxes or assessments subject to a pending appeal of such taxes or assessments.

D. If there is an option given to pay assessments or special assessments in installments, the City may elect to require its Qualified Subtenants, permittees and/or licensees to pay such installments as shall accrue during the Lease Term and/or any Extension Term.

E. Subject to the exception set out in subparagraph 4.02.C of this Lease, ARRC may elect, in its sole discretion and after giving written notice to the City and any Qualified Mortgagee (as defined in subparagraph 7.06.B of this Lease), to pay any delinquent tax, assessment or charge for which the City's Qualified Subtenants, permittees or licensees are liable under this paragraph 4.02 for the account and at the expense of such Qualified Subtenants, permittees or licensees, and may further elect, upon such payment: (1) to terminate this Lease under Article 9, after giving thirty (30) days' written notice and allowing an opportunity for cure as provided therein, and bring an appropriate action against the City for recovery of the sum paid; (2) to continue this Lease in force and charge the City with the payment as additional rent; or (3) to continue this Lease in force and bring an appropriate action against the City for recovery of the sum paid. The above-enumerated elections are not in derogation of, and do not limit, any other rights or remedies ARRC may have under this Lease or applicable law. Nothing in this subparagraph 4.02.E requires ARRC to pay any delinquent tax, assessment, or charge for which the City's Qualified Subtenants, permittees or licensees are liable.

4.03 Improvements Required by Law. the City or its Qualified Subtenants, at their own expense, during the Lease Term and subject to the requirements of paragraph 4.06 of this Lease, shall make, build, maintain and repair all fences, sewers, drains, roads, road widening, driveways, sidewalks, water, underground electric and telephone lines, curbs, gutters and other installations which may be required by law to be made, built, maintained, or repaired upon, or adjoining and in connection with, or for use of the Leased Premises or any part of it, and regardless of whether the same were erected by ARRC or in existence at the inception of this Lease. In case any such installations required by law shall be made, built, maintained or repaired by ARRC: (1) ARRC shall communicate its intention to conduct such work and allow the City the option of conducting the work

itself or through one of its Qualified Subtenants; and (2) the City shall reimburse ARRC for the reasonable cost thereof, including reasonable overhead, upon presentation of a bill therefor, as additional rent.

4.04 Intentionally Omitted.

4.05 Repair and Maintenance. The City or its Qualified Subtenants shall, at their expense and without notice from ARRC and at all times during the Lease Term, keep all improvements now or hereafter built on the Leased Premises (including but not limited to exterior building walls, windows, doors, fences, signs, landscaping and yard areas, refuse disposal equipment and facilities, pavement, curbs, gutters, exterior lighting, and drainage facilities), in good order, condition, maintenance, operability, and repair. Without limiting any other indemnities provided by the City herein, including but not limited to those set forth in paragraphs 4.06 and 4.11, the City shall indemnify, defend and hold ARRC harmless from any and all claims arising from or connected any failure or alleged failure to adequately maintain and repair any improvements on the Leased Premises to the extent permitted by law.

4.06 Observance of Laws; Environmental Provisions.

A. General Compliance. The City, at all times during the Lease Term, at its own expense, and with all due diligence, shall observe and comply with all laws, ordinances, rules, regulations and administrative agency or court orders and requirements of all federal, state and municipal governments having jurisdiction over the Leased Premises or any portion thereof, which are now in effect or may later be adopted by any such governmental authority, and which may be applicable to the Leased Premises or any improvement on it or any use of it. In the event the use or occupancy of the Leased Premises by the City or any subtenant shall constitute a violation of such laws, ordinances, rules, regulations, court orders or requirements, the City shall, upon receiving notice of any alleged violation, promptly take all steps reasonably necessary to remedy or prevent the same as the case may be.

B. Environmental Provisions.

1. General Obligations.

(a) In furtherance and not in limitation of subparagraph 4.06.A of this Lease, the City shall comply with all laws, orders and regulations of federal, state and local authorities relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, water quality and/or air quality, and with any directives issued pursuant to law by any public officer thereof, which shall impose any order or duty upon the City pertaining to the construction, use or occupancy of the Leased Premises or any improvements thereon by the City or any of its sublessees.

(b) The City shall have the right to contest any obligations imposed upon the City pursuant to the provisions of this paragraph, and to defer compliance during

the pendency of the contesting proceedings, provided that the City's deferral will not subject ARRC to civil fine or criminal penalty.

(c) Notwithstanding the foregoing, in the event that the City's failure to promptly fulfill the contested obligations would pose an imminent threat to public health, safety and/or the environment, the City shall immediately perform whatever actions may be required to abate the immediate threat. Thereafter, the City may contest the obligations and defer further compliance, as set forth above.

2. Definitions. For purposes of this paragraph 4.06 and elsewhere in this Lease, the following terms are defined as set forth below.

(a) Affected Property. Any properties identified to be contaminated or having Hazardous Substance(s) in, on, or under the surface.

(b) Environmental Baseline. The totality of any Environmental Site Assessments the parties obtain of the Leased Premises. Previous Environmental Site Assessments of property adjacent to or otherwise impacting the Leased Premises may also be considered part of the Environmental Baseline. The environmental baseline serves to inform the parties of the current environmental condition of the Leased Premise and to support the parties' resolution of disputes regarding current or future identification regarding responsibility and indemnification for the presence of Hazardous Substance(s) in, on, or under the surface of the Leased Premises.

(c) Environmental Site Assessment. An assessment of property, consistent with generally accepted professional practices, which determines the environmental condition and is supported by reports and tests that describe the environmental condition and the presence, type, concentration, and extent of Hazardous Substance(s) in, on, and under the surface of the property.

(d) Hazardous Substance(s). Any hazardous or toxic substance(s), material or waste, including but not limited to those substances, materials and wastes listed in the U.S. Department of Transportation Hazardous Materials Table (49 CFR § 172.101) or by the U.S. Environmental Protection Agency as hazardous substances (40 CFR Part 302), or as hazardous wastes (40 CFR Part 261.3), or that qualify as hazardous substances pursuant to Alaska Statutes 46.09.900(4), and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

(e) Materially Contribute. The release of Hazardous Substance(s) of a reportable quantity as defined by any federal, state, or local agency with such authority and jurisdiction.

3. Special Provisions for Existing contamination. The parties acknowledge the existence of an agreement dated November 28, 1990, between ARRC and the

Federal Railroad Administration acting on behalf of the United State Government, which allocates between those two parties the respective responsibilities for environmental liabilities which accrued prior to the date of the transfer of the Alaska Railroad from the United States and the State of Alaska in 1985. The City acknowledges that it was previously provided a copy of this agreement.

4. Developing an Environmental Baseline. The City and/or ARRC shall be entitled to, but neither shall be required to, conduct Environmental Site Assessments upon the Leased Premises, which in turn may be used to create an Environmental Baseline for the Leased Premises to aid in determining the respective rights and responsibilities of the parties with respect to any environmental contamination discovered on the Leased Premises during the Term of this Lease. Although such Environmental Site Assessments are typically conducted before the execution of a ground lease, the parties recognize and acknowledge that doing so with respect to this Lease may not be possible given the compressed timeline for execution of this Lease. Accordingly, the parties agree that such Environmental Site Assessments may be conducted for purposes of setting an environmental baseline for this Lease at any time prior to any excavation or heavy construction undertaken by the City or its Qualified Subtenants on the Leased Premises.

5. Establishing an Environmental Baseline for the Leased Premises. If either party wishes to contribute to the Environmental Baseline for all or any portion of the Leased Premises, that party shall, (1) provide any existing relevant Environmental Site Assessments in its possession relevant to the Leased Premises; and/or (2) at its own expense, obtain an Environmental Site Assessment for such portion of the Leased Premises. If an Environmental Site Assessment discovers contamination or the presence of Hazardous Substance(s) in, on, or under the surface of the Leased Premises, the party who obtained the Environmental Site Assessment shall provide such assessment to the other party and the parties shall, based on the information available and subject to the terms of paragraph 4.06.C., determine the parties' respective responsibilities and indemnities. Either party may perform additional environmental testing to verify the environmental condition of that portion of the Leased Premises being assessed. If the results of the receiving party's tests conflict with the other party's Environmental Site Assessment, the parties will negotiate in good faith an understanding of the Environmental Baseline for that portion of the Leased Premises being assessed. If the parties cannot agree on such an understanding, the Environmental Site Assessments and associated testing results will not become part of the Environmental Baseline, but may be used, subject to the applicable agency or court rules, by either party in any agency or court actions in which the responsibility for the contamination in question is being adjudicated or otherwise allocated.

6. Supplements to the Environmental Baseline. If, after an Environmental Baseline is established for any portion of the Leased Premises, additional contamination or the presence of Hazardous Substance(s) is discovered in, on, or under the surface of that portion of the Leased Premises that the City has reasonable cause to believe occurred during the Lease Term, the City shall, at its own cost, investigate the matter. If additional contamination or the presence of Hazardous Substance(s) is discovered in, on, or under the surface of that portion of the Leased Premises that the City has reasonable cause to believe has not been caused by the City or its sublessees and has not occurred after the commencement of this Lease, ARRC shall



investigate the matter at its own cost and expense. Such investigation may result in the production of new environmental assessments or data which shall be considered supplements to the Environmental Baseline. Neither party shall be limited from pursuing additional testing at its own cost as it deems necessary. Responsibility for such contamination shall be governed by sub paragraph 4.06.C.

7. End of Lease Environmental Testing. If an Environmental Baseline is established hereunder, ARRC may, in its discretion and at its own expense, perform an Environmental Site Assessment of the Leased Premises upon the cancellation, termination, or expiration of this Lease. If the City elects not to contribute to the Environmental Baseline through the submission of Environmental Site Assessment(s), the City agrees that it shall be solely responsible for all costs and expenses associated with the performance of an Environmental Site Assessment of the Leased Premises, which may be required at ARRC's sole discretion, upon the expiration or other termination of this Lease.

The City shall be responsible to ARRC for any contamination or presence of Hazardous Substance(s) in, on, and under the Leased Premises and any Affected Property, except for contamination or presence of Hazardous Substance(s) that was previously identified in the Environmental Baseline as being the responsibility of parties other than the City. In addition, if the Site Assessment reveals new contamination, the City shall reimburse ARRC for the expense of the foregoing Environmental Site Assessment or the portion thereof attributable to the newly identified contamination or presence of Hazardous Substance(s). The provisions of this paragraph are without prejudice to the City's right to seek contribution or indemnity from either prior lessees of the Leased Premises and Affected Property, or other potentially responsible parties.

8. Hazardous Substance(s) on Leased Premises. The City shall not cause or permit any Hazardous Substance to be brought upon, kept or used in or about the Leased Premises by the City, its sublessees, agents, employees, contractors or invitees except as necessary or useful for the City's or its sublessee's business. Such Hazardous Substances shall be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Substance(s). The City shall keep or cause to be kept records of Hazardous Substance(s) stored, used or disposed of on the Leased Premises.

C. Environmental Indemnities.

1. Parties' General Agreements Regarding Environmental Liability. The parties acknowledge and agree that, despite their disagreement as to whether the Master Lease still applies to the Leased Premises as of the date of execution of this Lease, their respective responsibilities and liabilities, if any, with respect to any contamination occurring or discovered on the Leased Premises before and during the term of the Master Lease is controlled by the terms of Section 8 of the Master Lease. The parties further acknowledge and agree that during the Term of this Lease, the provisions in this subparagraph 4.06.C shall apply to determine the parties' respective liabilities for contamination discovered during the Term of this Lease. Due to the parties underlying dispute regarding the applicability of the Master Lease to the Leased Premises, the parties disagree

as to which Lease governs any contamination that may be determined to have occurred between November 2012 and the execution of this Lease.

2. Parties' Mutual Agreement Regarding Liability with Respect to Contamination Occurring Before or During the Term of the Master Lease. ARRC and the City expressly agree that their respective rights and obligations with respect to environmental contamination on the Leased Premises that is established either by an Environmental Baseline developed in conjunction with this Lease, or otherwise as occurring before or during the term of the Master Lease shall be determined in accordance with Section 8 of the Master Lease. The foregoing agreement shall survive the expiration or earlier termination of this Lease.

3. City's Agreement to Indemnify ARRC for Contamination Not Covered Under the Master Lease. The City agrees to indemnify, hold harmless and defend ARRC against all liability, cost and expense (including, without limitation, any fines, penalties, diminution in value of the Leased Premises, assessment and clean-up costs, judgments, litigation costs and attorneys' fees, otherwise known as "Remediation Effort") incurred by or levied against ARRC as a result of (i) the City's breach of this paragraph 4.06; or (ii) as a result of any discharge, leakage, spillage, emission, contamination or pollution on or discharged from the Leased Premises during the Lease Term, without regard to whether such liability, cost or expense arises during or after the Lease Term; provided, however, that the City shall not be required to indemnify ARRC under this subparagraph (i) if and to the extent that the parties agree or a court of competent jurisdiction determines that such liability, cost or expense was caused directly by the willful conduct or active negligence of ARRC; or (ii) if the City proves that the contamination occurred before the effective date of the Master Lease. This indemnity obligation shall include the affirmative duty to undertake the Remediation Effort. This indemnity shall also apply to further migration, flowing, percolation, diffusion or other movement of such contamination under or from the Leased Premises. The foregoing indemnity shall survive the expiration or earlier termination of this Lease. For purposes of the foregoing indemnity provision, contamination included in an Environmental Baseline established under the terms of this Lease shall be conclusively presumed to have occurred before the commencement of this Lease. Also for purposes of this Lease, contamination not included in an Environmental Baseline shall be rebuttably presumed to have occurred during the Term of this Lease.

4. ARRC's Agreement to Indemnify the City for Contamination Not Covered Under the Master Lease or Occurring During the Term of This Lease. ARRC agrees to indemnify, hold harmless and defend the City against all liability, cost and expense (including, without limitation, any fines, penalties, assessment and clean-up costs, judgments, litigation costs and attorneys' fees, otherwise known as "Remediation Effort") incurred by or levied against ARRC as a result of any discharge, leakage, spillage, emission, contamination or pollution on or discharged from the Leased Premises that is established by agreement of the parties or a court of competent jurisdiction to have occurred prior to the Lease Term, but not at a time when the Master Lease applied to the Leased Premises, without regard to whether such liability, cost or expense arises during or after the Lease Term; provided, however, that ARRC shall not be required to indemnify the City under this subparagraph if and to the extent that the parties agree or a court of competent jurisdiction determines that such liability, cost or expense was caused directly by the willful conduct or

negligence of the City. The foregoing indemnity obligation shall include the affirmative duty to undertake the Remediation Effort. This indemnity shall also apply to further migration, flowing, percolation, diffusion or other movement of such previously existing contamination onto or under the leased Premises during the Term of the Lease (whether from off the Leased Premises or from other parts of the Leased Premises), but only if the existence of such contamination is established by an Environmental Baseline developed in conjunction with this Lease or is otherwise conclusively shown to be attributable to ARRC. The parties expressly agree that this provision does not apply to any contamination that is determined to have occurred before or during the term of the Master Lease, and that the rights and obligations of the parties thereto shall be determined under the Master Lease as provided in subparagraph 4.06.C.2 of this Lease. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

5. ARRC's Covenant Not to Sue. ARRC covenants and agrees that it will not assert any claim or action, including without limitation any claims for contribution, against the City, its officers, employees, or agents, for any environmental impairment resulting from the contamination revealed by the Baseline Data in the Master Lease unless, and to whatever extent, the City may aggravate or increase the deleterious effect of such contamination by its willful or negligent actions. The parties agree that claims arising from activities that occur or have occurred during the terms of the Master Lease and this Lease shall be governed by the provisions of subparagraph 4.06.C.1 through 4.06.C.4 of this Lease, and any provisions of the Master Lease referred to therein.

D. Water Rights. Any application to the State of Alaska or other governmental entity for water rights appurtenant to the Leased Premises shall be made by the City on behalf of and in the name of ARRC. The City shall give ARRC notice of its proposed application for such water rights thirty (30) days before submission of the application. The City shall bear the costs associated with such application and shall have the rights accruing from such application, if granted, for the entire Lease Term, without payment of additional compensation to ARRC.

4.07 Notice of Substantial Endangerment. In the event ARRC notifies the City of any condition relating to the Leased Premises that in the reasonable opinion of ARRC substantially endangers either the person or property of ARRC or a third party, or human health or the environment, the City shall investigate the matter in good faith and, if such substantial endangerment is determined to be present, shall commence immediately any repairs or maintenance necessary to eliminate said substantial endangerment and shall continue its efforts to cure the associated condition within a reasonable time period thereafter. The initial notice to the City by ARRC of a condition posing substantial endangerment under the preceding sentence may be verbal, but ARRC shall provide written notice of same to the City as soon as reasonably possible. The foregoing shall not be interpreted to impose an affirmative duty on ARRC to monitor or inspect the Leased Premises during the Lease Term.

4.08 Waste and Wrongful Use. The City shall not commit or suffer any strip or waste of the Leased Premises. The City shall not use or occupy, or permit or suffer all or any part of the Leased Premises or any improvements to be used or occupied (1) for any unlawful or illegal business, use, or purpose; (2) in any such manner as to constitute a public or private nuisance of



any kind; or (3) for any purpose or in any way in violation of any certificate of occupancy. The prohibitions of this paragraph shall not be interpreted to restrict the City's right to demolish and/or remove any and all improvements on the Leased Premises as specifically provided herein, including but not limited to the provisions of paragraphs 1.03 and 1.04 of this Lease.

4.09 Setback. The City and its Qualified Subtenants shall observe all setback lines applicable to the Leased Premises.

4.10 Liens. The City shall not commit or suffer any act or neglect whereby the Leased Premises or the interest of ARRC or the City therein at any time during the Lease Term may become subject to any attachment, execution, lien, charge, or other encumbrance, other than a statutory lien for nondelinquent real property taxes or assessments or a leasehold mortgage, and shall indemnify, defend and hold ARRC harmless against any loss, cost, charge, expense of any nature (including reasonable attorneys' fees paid or incurred by ARRC), lien and/or liability incurred by ARRC in connection therewith. The City shall not incur any cost or expense with respect to the Leased Premises which, if not timely paid, may subject the Leased Premises or the interest of ARRC or the City therein to any lien or other encumbrance except as allowed with respect to leasehold mortgages under paragraph 7.06 of this Lease. Notwithstanding the foregoing, the City shall not be required or obligated to file or post a bond in favor of ARRC to protect ARRC against any mechanic's liens, materialman's or other such lien(s) placed against the Leased Premises by reason of any work, labor, service or material performed or furnished for or to the City or anyone occupying the Leased Premises through or under the City.

4.11 Indemnification.

A. Except as otherwise provided herein, the City does hereby covenant and agree with ARRC that it will indemnify and hold ARRC harmless from and against any and all liability, damages, penalties, costs, expenses attorney's fees or judgments first arising from injury to person or property sustained by anyone in and about the Leased Premises during the Term of this Lease, to the extent permitted by law. The claims covered by this indemnification and hold harmless provision include, but are not limited to, any and all claims arising from (1) the City's and/or its sublessees' use of the Leased Premises, or from the conduct of the City's or its sublessees' business, or from any activity, work or things done, permitted or suffered by City or its sublessees in or about the Leased Premises; (2) any breach or default in the performance of any obligation on the City's part to be performed under the terms of this Lease; (3) any negligence of the City and/or its sublessees, or any of their respective agents, contractors, customers, employees, or any person claiming by, through or under the City and/or its sublessees; and (4) any accident on or in connection with the Leased Premises, or any fire thereon, or any nuisance made or suffered thereon. The City shall, at its own cost and expense, defend any and all suits or actions which may be brought against ARRC because of any such above-mentioned matter, claim or claims. ARRC shall not be responsible or liable for any damages to any property, fixtures, buildings or other improvements, or for any injury to any person or persons on the Leased Premises, including any injury to the City or to any of the City's officers, agents, servants, employees, contractors, customers or assignees, except to the extent that the claim or injury (A) first arose prior to the commencement date of this Lease; or (B) arose from any negligent act or acts or omissions of ARRC or ARRC's officers, agents, servants, employees,

assignees or contractors. The limitation of this indemnity and hold harmless provision to claims arising during the term of this Lease shall not be interpreted to so limit the timeframe for accrual of claims with respect to any other applicable indemnity and hold harmless obligations of the City under this Lease.

B. The City acknowledges that, before entering this Lease, it has fully inspected or been provided with an opportunity to fully inspect the Leased Premises and all documents in the possession of ARRC relating to the condition of the Leased Premises, and to test or examine all conditions of or on the Leased Premises. The City further acknowledges that, at the time this Lease is entered into and on the basis of the foregoing inspection or opportunity to inspect, the City is as knowledgeable about the condition of the Leased Premises as ARRC and, on that basis, assumes all risks relating to the condition of the Leased Premises, including but not limited to latent defects that may be unknown both to the City and ARRC at the time this Lease is entered into. ARRC represents and warrants that it has provided the City with an opportunity to inspect all documentation maintained by ARRC in its records concerning the condition of the Leased Premises.

4.12 Costs and Expenses of ARRC. Except as provided herein, the City shall forthwith pay to ARRC all costs and expenses, including reasonable attorneys' fees, which are (1) paid or incurred by ARRC but are required to be paid by the City under any provision of this Lease; and (2) paid or incurred by ARRC in enforcing any covenant of the City contained in this Lease, in protecting itself against or remedying any breach thereof, in recovering possession of the Leased Premises or any part thereof, or in collecting or causing to be paid any delinquent rents, real property taxes, assessments, or rates. The term "costs and expenses" as used in this Lease shall include but not be limited to all of ARRC's out-of-pocket expenditures attributable to the matter involved. Except as otherwise expressly provided herein, all costs and expenses of ARRC shall be payable by the City to ARRC forthwith after mailing or personal delivery of statements therefor to the City and shall bear interest from the date which is thirty (30) days after the date of such mailing or personal delivery at the rate of ten and one-half percent (10½%) per annum, accruing from the date of mailing or delivery as the case may be. Such obligations and interest shall constitute additional rents.

4.13 Holdover. If the City remains in possession of the Leased Premises after expiration of the Lease Term without the execution of a new lease or of an extension of this Lease, and in such a manner as to create a valid holdover tenancy, and if no notice of termination has been delivered by ARRC to the City, the City shall be deemed to occupy the Leased Premises only as a tenant at will from month-to-month, upon and subject to all of the provisions of this Lease which may be applicable to a month-to-month tenancy, including but not limited to the provisions of Article 2 and of paragraph 11.02 of this Lease, excepting only that the rent payable during the holdover tenancy shall be one hundred fifty percent (150%) of the rental rate in effect immediately prior to expiration of the Lease Term.

4.14 City's Improvements as Security for Obligations to ARRC. ARRC and the City covenant and agree that all of City's Improvements, as identified in paragraph 1.04 of this Lease, that are actually owned by the City and are in any way affixed or attached to the Leased Premises or to a structure thereon (including, but not limited to, buildings, drains, walls, fences, pavement, roadways, signs, and machinery) are real property. The City hereby grants to ARRC a security

interest in all improvements and fixtures actually owned by City and in any way affixed or attached, whether now or later, to the Leased Premises. Such security interest is granted and made as security for the payment of rent and all other payments of whatever nature for which the City may be or become obligated to ARRC under the terms of this Lease, without regard to whether such obligation arises before or after the termination of this Lease. The security interest shall expire and be released only (1) upon recordation of ARRC's release of such interest to the City or a person claiming under the City, or (2) removal of such improvements and fixtures from the Leased Premises upon termination of the Lease with the prior consent of ARRC.

#### 4.15 Maintenance and Repair.

A. Throughout the Term of this Lease, ARRC shall have no obligation to repair or maintain the Leased Premises or any improvements to the Leased Premises by the City; provided, however, that nothing in this paragraph shall relieve ARRC of any environmental obligations or liabilities it may have as provided in paragraph 4.06 of this Lease.

B. ARRC shall not be required to furnish to the City any facilities or services of any kind whatsoever during the Term of this Lease, including, but not limited to, water, steam heat, gas, hot water, electricity, light and/or power. ARRC shall in no event be required to make any alterations, reconstruction, rebuilding, replacement, changes, additions, improvements, alterations, and/or repairs to any improvements during the Term of this Lease.

C. ARRC assigns to the City, without recourse, such rights, if any, as ARRC may have against any parties causing damage to any improvements on the Leased Premises to sue for and recover amounts expended by or on behalf of the City as a result of such damages. This provision shall not be interpreted to modify or limit in any manner the City's obligations under any indemnification provision in this Lease, including but not limited to those set forth in paragraphs 4.06 and 4.11.

## ARTICLE 5

### INSURANCE

5.01 Workers' Compensation. The City shall ensure that, with respect to all personnel performing work for the City on the Leased Premises, the City or its contractor maintains in effect at all times during the term of this Lease, coverage or insurance in accordance with the applicable laws relating to workers' compensation and employer's liability insurance.

5.02 General Liability Insurance and Risk of Loss to Improvements. The parties acknowledge that the City is a governmental entity which maintains public liability insurance to cover risks of general liability and part or all of the City's risks of loss or damage. The insurance requirements of this Article 5 shall be applicable to the City and any Qualified Assignee. Failure of ARRC to require additional insurance coverage of the City shall not be deemed to limit the liability of



the City under this Lease in any manner. The City shall, however, require any contractor or subcontractor performing work for the City or on the City's behalf on or about the Leased Premises to keep in full force and effect a policy or policies of general liability insurance with respect to the Leased Premises and the work being performed by the City or its contractors in the limits and otherwise in accordance with the requirements of paragraph 5.03 of this Lease. Failure of the City and/or its contractor to provide and maintain such coverage will be grounds for immediate work stoppage, which stoppage shall continue until evidence of insurance is provided, and will be a default which shall be grounds for termination of this Lease if the default continues uncured.

**5.03 Liability Insurance.**

A. Liability Insurance to be Maintained by the City. The City shall maintain at all times during the Term of this Lease public liability insurance on the Leased Premises in at least the amount of Five Million Dollars (\$5,000,000) per occurrence.

B. Liability Insurance to be Maintained by Assignees and Contractors. During the Lease Term and any holdover thereafter, whether or not authorized by ARRC, any person or entity other than the City required by paragraph 5.02 of this Lease to meet the insurance requirements of this Article 5 shall keep in full force and effect a policy or policies of general liability insurance which includes bodily injury, property damage, and personal injury acceptable to the City with respect to the Leased Premises and any business operated by said person or entity in which the limits for each shall be not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) aggregate; provided, however, that no such limit shall in any way limit said person's or entity's liability or be construed as a representation of sufficiency to fully protect the City, ARRC or any person or entity required by paragraph 5.02 of this Lease to meet the insurance requirements of this Article 5. The policy or policies purchased pursuant to this paragraph shall name ARRC as an additional insured, with respect to the Leased Premises and the business operated by said person or entity on the Leased Premises. Pursuant to paragraph 5.02 of this Lease, the City shall impose the insurance requirements set forth in this paragraph 5.03 on any contractor or subcontractor performing work for the City or on the City's behalf on or about the Leased Premises.

**5.04 Property Insurance.** During the Lease Term and any holdover thereafter, whether or not authorized by ARRC, any person or entity required by paragraph 5.02 of this Lease to meet the insurance requirements of this Article 5 shall keep all improvements now or hereafter erected or placed on the Leased Premises insured against loss or damage on an all risk basis in an amount equal to the full replacement cost of all such improvements and shall pay all premiums thereon at the time and place the same are payable. All compensation, indemnity or other monies paid on account of any loss or damage, other than rental value insurance, shall with all convenient speed be paid out in rebuilding, repairing or otherwise reinstating the same improvements or in constructing different improvements unless the person or entity does not rebuild such improvements. The City shall have no obligation to maintain fire or casualty insurance of any kind for the Leased Premises or any City Improvements or personal property thereon.

**5.05 Policy Provisions.** Each policy of commercial general liability or property insurance described in paragraphs 5.03 and 5.04 of this Lease shall:

A. Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim, any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for ARRC, the City, or any person claiming by, through or under any of them;

B. Provide that such policy requires not less than ten (10) days' notice to the City of any proposed cancellation, expiration, or change in material terms thereof; and

C. Contain a waiver by the insurer of any right of subrogation to proceed against ARRC or against any person claiming by, through or under ARRC.

Upon notice to the City from the insurer of any proposed cancellation, expiration, or change in material terms of any insurance policy required under this Lease, the City shall provide written notice to ARRC of such proposed cancellation, expiration or change in material terms.

5.06 Proof of Insurance. The City shall deliver to ARRC certificates of insurance on or before the commencement date of this Lease or at such other date as agreed to in writing by ARRC. Additionally, the City shall deliver to ARRC photocopies of the policy or policies of insurance, certificates of insurance, or copies of endorsements as requested by the ARRC from time to time.

5.07 Force Placement of Insurance. In the event the City fails to secure such insurance as it is required to maintain pursuant to subparagraph 5.03.A of this Lease, ARRC may, following written notice of any deficiency to the City, obtain the same and charge the premiums to the City as additional rent.

5.08 Adjustment of Required Insurance Amount. ARRC may from time to time, but not more frequently than once every three (3) years, require that the amount of public liability insurance to be maintained by the City under Section 5.03.A, be increased so that the amount adequately protects ARRC's interest based on the amounts of coverage required by comparable leases with governmental entities.

## ARTICLE 6

### EMINENT DOMAIN

#### 6.01 Effect of Eminent Domain on Lease.

A. The terms "taking" and "to take" (in any of its forms) as used in this subparagraph refer to any competent authority's acquisition by the power of eminent domain, including inverse condemnation, of all or any part of the Leased Premises or an interest therein, at any time during the Lease Term. The transfer of title effecting the taking may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation in avoidance of an exercise of

eminent domain, made before or while condemnation proceedings are pending. The time of taking shall be determined by application of the law of the State of Alaska.

B. In the event of a taking of all or materially all of the Leased Premises, this Lease shall terminate on the earlier of vesting of title in, or the taking of possession by, the condemner.

C. Subject to the exception set out in subparagraph 6.01.D of this Lease, if less than materially all of the Leased Premises are taken (herein called a "partial taking"), this Lease shall continue in effect except as to the portion so taken or condemned, but the rent to be paid by the City shall thereafter be reduced by the same ratio as the value of the portion of the Leased Premises so taken bears to the value of the Leased Premises before taking. If no portion of the net usable area of the Leased Premises is taken, or if the portion thereof so taken is subterranean or aerial and does not interfere with the use of the surface, then the City shall not be entitled to any adjustment of rent hereunder. If ARRC and the City disagree as to whether a taking is a partial taking, either of them may submit the matter to arbitration under Article 8 of this Lease.

D. If a partial taking renders the remaining Leased Premises unsuitable for the purposes for which the City's improvements were designed or occurs during the last five (5) years of the term of this Lease or any extension thereof, then the City, upon sixty (60) days' written notice to ARRC and compliance with Article 11 of this Lease, and subject to the rights of any Qualified Mortgagee, may terminate this Lease after vesting of title in the condemnor or taking of possession by the condemner. If the City does so, the rent and other charges under this Lease shall be apportioned as of the date of termination.

#### 6.02 Disposition of Proceeds.

A. Total Taking. In the event of a total taking, the rights of ARRC and the City to share in the net proceeds of any and all awards for land, building, improvements and damages shall be in the following order of priority:

1. To ARRC, a sum equal to the fair market value of the fee simple interest in the Leased Premises unencumbered by this Lease or any sublease, and including ARRC's Improvements and excluding the City's Improvements.

2. To the City, a sum representing the fair market value of the City's Improvements. In no event shall the City be entitled to any claim for its leasehold interest, and any compensation therefor is hereby assigned to ARRC.

3. To ARRC, the balance of the award, excluding interest. Interest shall be allocated between the parties in proportion to their respective shares of the total award provided above. If the value of such respective interests of ARRC and the City have been separately determined in such condemnation proceeding, the values so determined shall be conclusive upon ARRC and the City. If such values have not been so determined, they may be fixed by agreement

between ARRC and the City, or if the parties cannot agree, then by arbitration under Article 8 of this Lease.

B. Partial Taking. In the event of a partial taking, rental shall be abated as provided in subparagraph 6.01.C of this Lease, and the net proceeds of the award shall be divided between ARRC and the City as follows:

1. To ARRC, a sum representing the fair market value of the fee simple interest of the part or parts of the Leased Premises so taken, unencumbered by this Lease, including ARRC's Improvements and excluding the City's Improvements; plus an amount representing consequential damages to the part or parts of the land remaining after such taking, considered as if vacant and unimproved.

2. To the City, the balance of the award, which shall be applied by the City first to restoration of City's Improvements as nearly as reasonably possible to their condition before such taking, unless the City terminates this Lease as provided in subparagraph 6.01.D of this Lease.

C. Rights on Termination. Notwithstanding anything in this Lease to the contrary, if the City exercises its right to terminate the Lease under subparagraph 6.01.D of this Lease, the award balance attributable to the City's Improvements other than the principal balance, if any, and other proper charges of a Qualified Mortgagee shall belong to ARRC free of any claim of the City. In no event shall the City be entitled to any compensation for its improvements if the taking occurs after expiration of the Lease Term or termination of this Lease.

6.03 Temporary Taking. If the whole or any part of the Leased Premises, or of the City's interest under this Lease, is taken by any competent authority for its temporary use or occupancy, this Lease shall not terminate by reason thereof and the City shall continue to pay all rental payments and other charges payable by the City hereunder, and to perform all other terms, covenants, and conditions contained herein, except to the extent the City is prevented from so doing by the terms of the order of the taking authority. In the event of a temporary taking, the City shall be entitled to receive the entire amount of the award and may, at its sole expense, restore the Leased Premises as nearly as may be reasonably possible to the condition in which they existed immediately prior to such taking; provided, however, that if the period of temporary use or occupancy extends beyond the expiration of the Lease Term, the award shall be apportioned between ARRC and the City as of said date of expiration, after ARRC shall have received the entire portion of the award attributable to physical damage to the Leased Premises (excluding the City's Improvements) and to the restoration thereof to the condition existing immediately prior to the taking or condemnation. Upon expiration of the temporary taking, the City shall have the rights and obligations provided in Article 11 of this Lease, including but not limited to removal of the City's Improvements within a reasonable time to be negotiated by ARRC and the City.



## ARTICLE 7

### ASSIGNMENTS, MORTGAGES, SUBLEASES AND SUBDIVISION

7.01 Limitations on Assignment. The City shall not voluntarily or by operation of law sell, assign, or in any manner transfer the City's entire interest in this Lease or, except as expressly provided otherwise in this Article 7, any part of the City's interest in this Lease, except in strict compliance with this Article 7. Such consent will not be unreasonably withheld or delayed.

7.02 The City's Right to Assign. The City shall have the right to assign or otherwise transfer the City's entire interest in this Lease and the estate created by this Lease to a Qualified Assignee, upon compliance with the provisions of paragraph 7.03 of this Lease and only upon the written consent of ARRC. Such consent will not be unreasonably withheld or delayed. The foregoing consent requirement shall not apply to assignments or transfers of the Lease expressly allowed in this Article 7, including in the context of leasehold mortgages and subleases as provided in paragraphs 7.06 and 7.07, respectively.

A Qualified Assignee is any person or entity who can demonstrate to ARRC, in the exercise of prudent business judgment, that they or it is financially capable of meeting the City's obligations under this Lease.

7.03 Conditions Precedent to Assignment. The following are conditions precedent to the City's right of assignment set forth in paragraph 7.02 of this Lease:

A. The City shall give ARRC reasonable notice of the proposed assignment with appropriate documentation as evidence that the proposed assignee qualifies as a Qualified Assignee. If the proposed assignee is an entity that issues certified financial statements, such documentation shall include, at the request of ARRC, a certified financial statement prepared independently and in accordance with generally accepted accounting principles fairly representing the existing financial condition of the proposed assignee. Prior years' income tax returns may be an acceptable substitute for the certified financial statement. Review of past tax returns shall not extend more than three (3) years prior to the proposed assignment.

B. The proposed assignee shall, in recordable form, expressly assume all the covenants and conditions of this Lease.

C. The City or the proposed assignee shall pay ARRC an administrative fee at the rate then in effect to offset ARRC's costs to investigate the proposed assignee's qualifications to be a Qualified Assignee. ARRC shall not be required to account for the use of the sum paid.

D. The City shall not be in default on any obligation owed to ARRC under this Lease.

7.04 The City's Nonliability after Assignment. Upon an assignment made in accordance with the provisions and conditions of this Lease, the City shall have no further obligation under this Lease and, as between ARRC and the City, shall be considered to have assigned to the Qualified

Assignee all claims against ARRC arising under this Lease; provided, however, that an assignment does not release the City of any obligations that may have arisen or accrued or be based on events which occurred during the Term of this Lease but before the assignment, including but not limited to, an obligation to pay delinquent rent or an obligation to pay all costs associated with cleaning up any environmental contamination, unless ARRC expressly releases the City from the same in writing. Upon assignment, the Qualified Assignee shall assume all rights and obligations of the City under this Lease, including unsatisfied obligations to cure any delinquency in rent or other charges under this Lease. The Qualified Assignee's satisfaction of any of the City's obligations to ARRC that accrued prior to assignment shall subrogate the Qualified Assignee to ARRC's cause of action against the City with respect to such satisfied obligation. Notwithstanding the foregoing, nothing in this Article 7 shall be construed to have any effect whatsoever on the rights, obligations and liabilities of either ARRC or the City under the Master Lease as it may have applied to the Leased Premises before the commencement date of this Lease.

7.05 ARRC's Disapproval of Assignment. The effective date of the assignment shall be sixty (60) days after the City's notice of the proposed assignment, unless, within that time, ARRC gives notice of a valid objection that a proposed assignee is not a Qualified Assignee. ARRC's failure to give notice within that time shall constitute a waiver of objection to the assignment.

7.06 Leasehold Mortgages. The City, its successors, assigns and/or Qualified Subtenants, shall have the unrestricted right at any time, and from time to time, and without consent of ARRC, to subject the City's leasehold interest in this Lease and any or all of the City's Improvements situated on the Leased Premises to one or more mortgages (or deed of trust) or assignments as security for a loan or loans or other obligation of the City, or its successors, assigns and/or Qualified Subtenants (each of which instruments is herein called a "Leasehold Mortgage"), provided that:

A. Subordinate to Lease. The Leasehold Mortgage and all rights acquired under it shall be subject and subordinate to each and all the covenants, conditions, and restrictions stated in this Lease, and to all rights and interests of ARRC except as otherwise provided in this Lease.

B. Institutional Lender. The Leasehold Mortgage is made to an institutional lender ("Qualified Mortgagee").

C. Notice of Default and Opportunity to Cure. Upon any default on any of the terms of the Lease by the City, ARRC, in addition to notifying the City pursuant to paragraph 9.02 of this Lease, shall also notify each Qualified Mortgagee of such default. Upon receipt of a written notice of default, any such Qualified Mortgagee shall have the length of time set forth in subparagraph 9.02.C of this Lease to cure the default.

D. Possession by Qualified Mortgagee. A Qualified Mortgagee may take possession of the Leased Premises and vest in the interest of the City in the Lease upon the performance of the following conditions:

1. The payment to ARRC of any and all sums due to ARRC under the Lease, including but not limited to accrued unpaid rent.

2. The sending of a written notice to ARRC and the City of the Qualified Mortgagee's intent to take possession of the Leased Premises and assume the Lease.

3. The curing of all defaults not remediable by the payment of money within an additional thirty (30) days of the date upon which such default was required to be cured by the City under the terms of this Lease.

E. No Liability of Mortgagee Without Possession. A Qualified Mortgagee shall have no liability or obligation under the Lease unless and until it sends to ARRC the written notice described in subparagraph 7.06.D.2 of this Lease. Nothing in this Lease or in the taking of possession of the Leased Premises and assumption of the Lease by a Qualified Mortgagee or a subsequent assignee shall relieve the City of any duty or liability to ARRC under the Lease.

F. Subsequent Transfer by Qualified Mortgagee. In the event a Qualified Mortgagee forecloses the Leasehold Mortgage and acquires an interest in the Lease or any portion thereof, the Qualified Mortgagee may assign such lease without regard as to the number of assignments or the character of the assignee so long as (1) each assignee assumes all the City's obligations under such lease; and (2) the assignee or transferee of the Lease proposed by the Qualified Mortgagee shall be approved by ARRC, which consent may be withheld in ARRC's sole discretion; provided, however, that such discretion must nevertheless be exercised in good faith and not arbitrarily or capriciously. Upon meeting the foregoing conditions, the Qualified Mortgagee shall thereupon be released, from and after the date of such assignment, from all liability for the performance or observance of the covenants and conditions required hereunder to be performed and observed by the City, provided that the assignee from such Qualified Mortgagee shall have assumed this Lease in accordance with this paragraph.

7.07 Right to Sublet. Notwithstanding anything to the contrary contained herein, the City shall have the absolute right during the Lease Term to rent, sublet, sublease, or underlet all or a portion of the Leased Premises to a third party, subject to the terms set forth below.

A. Limits on ARRC's Right to Review Subtenants and Subleases. Provided that the City complies with the following requirements, the City shall have the absolute right to sublease the Leased Premises, or a portion thereof, for development purposes without approval from ARRC:

1. The use permitted by the sublease complies with the City of Whittier Comprehensive Plan (the "Comprehensive Plan") and all other use provisions of paragraph 1.05 of this Lease; and

2. The sublease of the Leased Premises is to a person or entity with experience, knowledge and expertise in developing the kind of project(s) or conducting the kind(s) of business for which the sublease is being entered into; and

3. The City complies with its own procurement code and policies and uses an open and public process in approving the sublease; and

4. The City includes in the sublease terms reasonably calculated to ensure that the development project for which the sublease is entered into is timely completed by the developer or the sublease will be terminated; and

5. The City has provided ARRC with information sufficient to establish the City's compliance with the foregoing terms.

B. Form and Content of Sublease. Each sublease entered into by the City for all or a portion of the Leased Premises shall (i) be for a term, or term, that expires on or before the expiration of the Term of this Lease then in effect, whether that be the initial Term or an Extended Term; (ii) be in writing and shall be subject and subordinate to the rights of ARRC under this Lease; (iii) be for a purpose consistent with the Comprehensive Plan and paragraph 1.05 of this Lease or for a non-conforming purpose approved by both ARRC and the City under subparagraph 1.05.B; (iv) include a provision for independent general liability and environmental indemnity to both the City and ARRC; (v) include a provision that the subtenant proceed in a timely manner with development, and further that the City will retain the right to terminate the sublease if the subtenant fails to comply with such terms; (vi) include a waiver of claims against ARRC which might arise due to ARRC's status as a ground lessor; and (vii) contain a provision requiring the subtenant to attorn to ARRC if the City defaults under this Lease and if the sublessee is notified of the City's default and is instructed to make the subtenant's rental payments to ARRC. The City shall provide ARRC with the name and other identifying information of each subtenant and information sufficient for ARRC to understand the location and nature of the use to be made by the subtenant of the Leased Premises. A subtenant under a sublease meeting the requirements of this subparagraph 7.07 shall be referred to elsewhere in this Lease as a "Qualified Subtenant."

No sublease shall relieve the City of any of its covenants or obligations under this Lease, and any provision of a sublease purporting to do so shall be deemed a nullity as between ARRC and the City.

7.08 Subdivision of Leased Premises. The City shall not, under any circumstances whatsoever, unilaterally seek to formally subdivide the Leased Premises or any part thereof. If the City proposes a formal, platted subdivision of the Leased Premises or a portion thereof in the context of particular projects or developments, it shall submit such proposal to ARRC for its review. ARRC shall have the absolute discretion with respect to whether such a platting proposal should proceed. The foregoing restriction on formal subdivision shall not be interpreted to restrict the City's ability to configure portions of the Leased Premises into sublease parcels utilizing metes and bounds legal descriptions.



## ARTICLE 8

### ARBITRATION

8.01 Appointment of Arbitrators and Conduct of Arbitration. If ARRC and the City fail to agree upon (1) the appraisal of a fee simple interest under Article 2 of this Lease; or (2) the value of the respective interests of ARRC and the City in a condemnation action under Article 6 of this Lease, the matter of disagreement, upon the election of either of them, shall be submitted for non-binding arbitration to a single arbitrator, mutually appointed by them. If ARRC and the City fail to mutually appoint a single arbitrator, the matter shall be submitted to and determined by three (3) arbitrators, in which event either ARRC or the City may give to the other written notice of election to have the matter of disagreement so arbitrated and shall appoint therein one of the arbitrators. The other party shall, within twenty (20) days after the receipt of such written notice, appoint a second arbitrator. If that party fails to do so, the party who has already appointed an arbitrator may have the second arbitrator appointed by any judge of the Superior Court of Alaska resident in the district where the Leased Premises are situated. The two arbitrators so appointed in either manner shall appoint the third arbitrator, and if the first two arbitrators fail to appoint a third arbitrator within twenty (20) days after the appointment of the second arbitrator, either ARRC or the City may have the third arbitrator appointed by any judge of the Superior Court of Alaska resident in the district where the Leased Premises are situated. Each of the arbitrators appointed under this paragraph shall possess the professional qualifications provided in paragraph 8.02 of this Lease.

The three arbitrators so appointed shall thereupon proceed to arbitrate the matter of disagreement, upon such rules of procedure as they may adopt, and shall render a written decision containing their findings and conclusions. The ARRC and the City shall share equally the costs associated with the arbitration.

8.02 Special Qualifications of Arbitrators. Each arbitrator appointed pursuant to paragraph 8.01 of this Lease shall be a person who (1) has not less than five [5] years appraisal experience in the State of Alaska prior to his appointment; (2) has appraised similar classes of property throughout the State of Alaska; and (3) is a member of the American Institute of Real Estate Appraisers with an MAI designation (RM designation alone is not sufficient), a Senior Real Estate Analyst (SREA), or a Senior Real Property Appraiser (SRPA) of the Society of Real Estate Appraisers. It is understood and agreed that if any of such institutes or societies is merged or otherwise consolidated with another duly qualified appraisal or counseling organization, and thereby loses its name or designation, the arbitrator may be appointed from among the members of such other organization.

8.03 Judicial Review of Arbitration Decision. If after forty-five (45) days from the date of the award, no party files a separate lawsuit in a court of competent jurisdiction to resolve the dispute, controversy or claim, the award will become final and non-appealable and the award may be enforced by any state court having jurisdiction over the party against which the award has been rendered.

## ARTICLE 9

### DEFAULT AND DEFEASANCE

9.01 Events of Default. Each of the following events shall be a default by the City and breach of this Lease:

A. Failure to Perform Lease Covenants. The City's abandonment or surrender of the Leased Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by the City, or to perform as required by any other covenant or condition of this Lease.

B. Appointment of Receiver. The appointment of a receiver or trustee to take possession of the Leased Premises or improvements or of the City's interest in the leasehold estate or of the City's operations on the Leased Premises for any reason.

C. Insolvency, Bankruptcy. An assignment by the City for the benefit of creditors or the filing of a voluntary or involuntary petition by or against the City under any provision of the U. S. Bankruptcy Code.

#### 9.02 Notice and Right to Cure.

A. Notices. As a precondition to pursuing any remedy for an alleged default by the City, ARRC shall, before pursuing any remedy, give notice of default to the City. Each notice of default shall state the alleged event of default and the intended remedy. The identification of an intended remedy in such notice shall not limit or waive ARRC's right to seek or use any other available remedy not identified in the notice, however, ARRC will provide a revised notice of default if it seeks to use a different or additional remedy provided for in this Lease.

B. Method of Giving Notice. ARRC shall give notice of default in accordance with subparagraph 9.02.A of this Lease by personal delivery to each party required to receive it; or by (1) mailing by certified mail (return receipt requested) a copy of the notice to each party required to receive it at the last address provided by that party to ARRC and (2) mailing by first class mail a copy of the same notice to each such party at the same address. To be effective, personal delivery shall be documented by written acknowledgment of receipt by the City or by an affidavit of the personal delivery by ARRC's representative.

#### C. The City's Right to Cure Defaults.

1. If the alleged default is nonpayment of rent or other sums to be paid by the City as provided in Articles 2 and 4 of this Lease or elsewhere in this Lease directed to be paid as rent, the City shall have thirty (30) days after the notice is given to cure the default.

2. If, in the reasonable opinion of ARRC, the alleged default substantially endangers either the person or property of ARRC or a third party, or human health or the environment, the City shall commence curing the default immediately upon notice and complete the

cure within such reasonable time period as is imposed by ARRC or any governmental body having jurisdiction in the matter.

3. For the cure of any other default, the City shall promptly and diligently after the notice commence curing the default and shall have sixty (60) days after notice is given to complete the cure.

9.03 Nonwaiver. Acceptance by ARRC or its agents of any rents, whether basic or additional, shall not be deemed to be a waiver by it of any breach by the City of any of its covenants contained in this Lease or of the right of ARRC to reenter the Leased Premises or to declare a forfeiture for any such breach. Waiver by ARRC of any breach by the City shall not operate to extinguish the covenant the breach of which is so waived, nor be deemed to be a waiver of the right of ARRC to declare a forfeiture for any other breach thereof or of any other covenant.

9.04 Right of ARRC to Protect Against Default. If the City fails to observe or perform any of its covenants contained herein, ARRC, at any time thereafter and without notice, shall have the right but not the obligation to observe or perform such covenant for the account and at the expense of the City, and shall not be liable to ARRC or anyone claiming by, through, or under it for any loss or damage by reason thereof to the occupancy, business, or property of any of them. All costs and expenses paid or incurred by ARRC in observing or performing such covenant shall constitute additional rents, which the City shall forthwith pay to ARRC upon statements therefor.

9.05 ARRC's Remedies. If any default by the City shall continue uncured, following notice of default as required by this Lease, for the period applicable to the default under paragraph 9.02 of this Lease, ARRC has the following remedies in addition to all other rights and remedies provided by law or equity or other provisions of this Lease, to which ARRC may resort cumulatively or in the alternative. The election of one remedy for any one default shall not foreclose an election of any other remedy for another default or for the same default at a later time.

A. Termination. ARRC may, at ARRC's election, terminate this Lease by giving the City notice of termination in accordance with the procedures specified in paragraph 9.02 of this Lease. On the giving of the notice, all the City's rights in the Leased Premises and in all improvements thereon shall terminate, unless ARRC expressly and in writing requires the City to remove specified improvements (in which event the City's rights shall continue in the improvements required to be removed). Promptly after notice of termination, the City shall surrender and vacate the Leased Premises and all improvements not required to be removed in a broom-clean condition, and ARRC may reenter and take possession of the Leased Premises and all remaining improvements and eject all parties in possession, or eject some and not others, or eject none. Termination under this subparagraph shall not relieve the City, or any of its guarantors, insurers, or sureties, from the payment of any sum then due to ARRC or from any claim for damages previously accrued or then accruing against the City.

B. Re-entry Without Termination. ARRC may, at ARRC's election, reenter the Leased Premises, and, without terminating this Lease, at any time and from time to time relet the Leased Premises and improvements, or any part or parts of them, for the account and in the name



of the City or otherwise. ARRC may, at ARRC's election, eject all persons or eject some and not others or eject none. Any reletting may be for the remainder of the Lease Term or for a longer or shorter term. ARRC may execute any leases made under this provision either in ARRC's name or in the City's name, and shall be entitled to all rents from the use, operation, or occupancy of the Leased Premises or improvements or both. ARRC shall apply all rents from reletting as provided in paragraph 9.07 of this Lease. The City shall nevertheless pay to ARRC on the due dates specified in this Lease, the equivalent of all sums required of the City under this Lease, plus ARRC's expenses, less the proceeds of any reletting. If, at any point following ARRC's re-entry to the Leased Premises, the City shall have paid all amounts described in the preceding sentence and have either cured all non-monetary defaults or reimbursed ARRC for its expenses made to rectify any and all such defaults, with interest at the rate of ten and one-half percent (10½%) per annum from the date of such expense, the City shall have the right to re-enter the Leased Premises, provided however that the City must honor any and all leases entered into by ARRC under this provision for the full remaining terms of said leases and otherwise on the terms and conditions thereof. No act by or on behalf of ARRC under this provision shall constitute a termination of this Lease unless ARRC gives the City notice of termination.

C. Recovery of Rent. ARRC shall be entitled, at ARRC's election, to each installment of rent or to any combination of installments for any period before termination, plus interest at the rate of ten and one-half percent (10½%) per annum from the due date of each installment. If ARRC elects to relet the Leased Premises without terminating this Lease, as provided in subparagraph 9.05.B of this Lease, the proceeds of such reletting shall be applied, when received, as provided in paragraph 9.07 of this Lease.

D. The City's Personal Property. ARRC may, at ARRC's election, use the City's personal property and trade fixtures on the Leased Premises, or any of such property and fixtures, without compensation and without liability for use or damage, or, after written notice, store them for the account and at the cost of the City.

E. Damages. ARRC shall also be entitled, at ARRC's election, to damages in the following sums: (1) for a termination under this Article 9 during an Extension Term during which the City is paying rent on an annual basis, all amounts that would have fallen due as rent between the time of termination and the time the property is relet; provided that ARRC shall exert reasonable efforts to relet the property at prevailing market value and provided that the total time during which such rent may accrue is not to exceed eighteen (18) months beyond termination; and (2) all administrative, marketing, brokerage, repair, cleaning and similar costs incurred by ARRC and necessary or useful to reletting the Leased Premises or placing it in good and marketable condition.

9.06 Assignment of Subrents. The City assigns to ARRC all subrents and other sums falling due from subtenants, licensees and concessionaires (referred to collectively as "Subtenants" solely for purposes of this paragraph 9.06) during any period in which ARRC has the right under this Lease, whether exercised or not, to reenter the Leased Premises for the City's default, and the City shall not have any right to such sums during that period. ARRC may at ARRC's election reenter the Leased Premises and improvements with or without process of law, without terminating this Lease, and either, or both, collect these sums or bring action for the recovery of the sums directly from

Subtenants. ARRC shall apply all such collected subrents as provided in paragraph 9.07 of this Lease. The City shall nevertheless pay to ARRC on the due dates specified in this Lease the equivalent of all sums required of the City under this Lease, plus ARRC's expenses, less the sums assigned and actually collected under this paragraph 9.06. ARRC may proceed to collect either the assigned sums or The City's balances, or both, or any installment or installments of them, either before or after expiration of the Lease Term, but the period of limitations shall not begin to run on the City's payments until the due date of the final installment to which ARRC is entitled under this Lease, nor shall it begin to run on the payments of the sums assigned under this paragraph 9.06 until the due date of the final installment due from the respective Subtenants.

9.07 Application of Sums Collected by ARRC. ARRC shall apply all subrents and proceeds of reletting as follows: first, to the payment of reasonable expenses (including attorneys' fees and brokers' commissions or both) paid or incurred by or on behalf of ARRC in recovering possession, placing the Leased Premises and improvements in good condition, and preparing or altering the Leased Premises or improvements for reletting; second, to the reasonable expense of securing new lessees; third, to the fulfillment of the City's covenants to the end of the Lease Term; and fourth, to the City's uses and purposes.

## ARTICLE 10

### GENERAL PROVISIONS

10.01 ARRC's Right to Entry, Inspection and Repair. ARRC shall have the right to submit to the City a request that ARRC or its authorized agents be allowed access to the Leased Premises during regular business hours solely for the purpose of investigating specific matters which ARRC reasonably believes may present a significant risk of adversely affecting its interest in either the Leased Premises or other land of ARRC. Such request will include information about the situation adequate to inform the City of the purpose of ARRC's request and to allow the City to evaluate the request. The City shall not unreasonably delay or deny such a request, but shall have the right to place a reasonable time and other reasonable restrictions and conditions on any approved inspection. All inspections shall be conducted in a manner that does not unreasonably interfere with the business operations of the City and its Qualified Subtenants. ARRC's rights hereunder shall not be exercised in connection with matters related to environmental contamination, which will be addressed as provided in paragraph 4.06. In the event of an emergency, ARRC may enter and inspect the Leased Premises on reasonable notice (including verbal notice to the City if the circumstances warrant) and make such repairs or institute such measures, on the account and at the expense of the City, as may be necessary to avert or terminate the emergency. An emergency is any action, event, or condition, either extant or imminent, that threatens significant damage to property or the environment or injury to persons on or near the Leased Premises, and includes but is not limited to flood, fire, explosion, avalanche, earthquake, uncontrolled or dangerous discharge or release of water or other fluids or hazardous or toxic materials, unauthorized or illegal placement of hazardous or toxic materials on the Leased Premises, and shifting, settling or loss of earth or

support on the Leased Premises. Under such circumstances, the parties would endeavor to work together to secure the Leased Premises and limit damages to property and occupants.

10.02 Notices. Any notice, other than notice of default under subparagraphs 9.02.A and 9.02.B of this Lease, or demand to ARRC or the City provided for in this Lease, may be given sufficiently for all purposes in writing, mailed by registered or certified mail, return receipt requested, and addressed to such party or its agent at its mailing address specified herein or at the last such address specified by such party in writing to the other, or may be delivered personally within the State of Alaska to such party or its agent. Except as otherwise expressly provided herein, such notice shall be conclusively deemed to have been given on the date of such mailing or personal delivery.

10.03 Covenants and Conditions. Every provision in this Lease which imposes an obligation upon either ARRC or the City or invests an option, power, or right in either ARRC or the City shall be deemed to be a covenant of that party and in favor of the other party, and the time of observance and performance by each party of each such covenant shall be of the essence. Full and faithful observance and performance by each party of each of its covenants contained in this Lease shall be a condition hereof.

10.04 Integration and Amendments. Except as otherwise expressly provided in this Lease and except for the provisions of the Memorandum of Lease, this Lease is a complete integration of every agreement and representation made by or on behalf of ARRC and the City with respect to the Leased Premises, and no implied covenant or prior oral or written agreement shall be held to vary the provisions of this Lease, any law or custom to the contrary notwithstanding. In the event of any conflict between this Lease and the Memorandum of Lease, the provisions of the Memorandum of Lease shall control. No amendment or other modification of the provisions of this Lease shall be effective unless incorporated in a written instrument duly executed and acknowledged by ARRC and the City.

10.05 Approvals of ARRC. Except as otherwise expressly provided in this Lease and except for amendments or modifications of this Lease, ARRC shall neither unreasonably, capriciously, nor arbitrarily withhold any approval required to be obtained by the City hereunder, nor require any consideration therefor as a condition thereof other than payment forthwith by the City to ARRC of all costs and expenses paid or incurred by ARRC in connection with the review of the matter for which such approval is sought and the processing of such approval.

10.06 Survival and Severability. The rights and obligations of ARRC and the City provided in paragraphs 4.06 and 4.11 through 4.15 of this Lease, and in the Memorandum of Lease, except to the extent expressly varied or superseded by a subsequent instrument executed by ARRC and the City, shall survive the expiration or earlier termination of this Lease. If any provision of this Lease is held to be void or otherwise unenforceable by any court or other tribunal of competent jurisdiction, other than at the initiative or with the support of ARRC, within sixty (60) days after receipt of written notice of such holding ARRC shall have the right and option, exercisable by written notice thereof to the City, to terminate this Lease effective as of the date of such written notice of exercise. It is



understood and agreed that otherwise this Lease, except for such provision so held to be void or otherwise unenforceable, shall remain in full force and effect.

10.07 Binding Effect. This Lease shall be binding upon and shall inure to the benefit of ARRC and City and their respective successors and assigns. The designations "ARRC" and "the City" include their respective successors and assigns and shall be so construed that the use of the singular number includes the plural number, and vice versa, and the use of any gender includes the other genders. If at any time during the Lease Term, a Qualified Assignee who has taken assignment of this Lease pursuant to Article 7 of this Lease is more than one person or entity, including persons who are partners and operate the Qualified Assignee as a partnership, their liability hereunder shall be joint and several.

10.08 ARRC's Authority to Convey Fee Title. ARRC retains the absolute and unconditional right to convey fee title in the Leased Premises, or an interest or estate therein, subject to this Lease and the interest of any Qualified Mortgagee or Qualified Subtenant under this Lease.

10.09 Powers of ARRC as Public Corporation. Nothing in this Lease restricts or limits the authority of ARRC, the Alaska Railroad Corporation, in the exercise of governmental authority delegated to it by the Alaska Railroad Corporation Act, AS 42.40, or by any other applicable law or regulation.

10.10 Captions. The captions of the articles and paragraphs hereof are for convenience only, are not an operative part hereof, and neither limit nor amplify in any way the provisions hereof.

## ARTICLE 11

### DUTIES UPON TERMINATION OR EXPIRATION

11.01 Surrender of Leased Premises. Upon expiration or early termination of this Lease, the City shall surrender to ARRC the possession of the Leased Premises. The City shall leave the surrendered Leased Premises and any improvements in a broom-clean condition, as noted in paragraph 11.02 of this Lease. If the City fails to surrender the Leased Premises at expiration or termination, the City shall defend and indemnify ARRC from all liability and expense resulting from the delay or failure to surrender, including but not limited to claims made by any succeeding tenant founded on or resulting from the City's failure to surrender. In the event of failure or refusal of the City to surrender possession of the Leased Premises, ARRC shall have the right to reenter the Leased Premises and remove therefrom the City or any person, firm or corporation claiming by, through or under the City and to obtain damages for trespass from the City, to the extent permitted by law.

#### 11.02 Removal of Improvements Upon Termination.

A. Upon the expiration or termination of this Lease or any extension thereof, including termination resulting from the City's breach ("termination"), City shall leave the Leased

Premises in a broom-clean and leasable condition, which shall include removal of all improvements, buildings, foundations and footings to buildings, personal property, trash, vehicles, and equipment, except as noted in subparagraphs 11.02.B, 11.02.C and 11.02.D of this Lease. Any excavation on the property, including excavation to remove the City's Improvements, shall be filled and compacted with material approved by ARRC.

B. ARRC may, at its option, allow the City to leave some or all of the City's Improvements on the Leased Premises upon termination. If ARRC so elects, such improvements shall become the property of ARRC upon termination.

C. Pursuant to any security interest granted under paragraph 4.14 of this Lease during an Extension Term, ARRC may, at its option, require the City to leave some or all of the City's Improvements that are actually owned by the City on the Leased Premises upon termination, with ARRC becoming the owner of such improvements, when at the time of termination, the City has failed to make payments to ARRC required under this Lease.

D. Any improvements owned by ARRC and identified in paragraph 1.03 of this Lease, or added to the Leased Premises by ARRC after execution of this Lease, and that remain on the Leased Premises at the termination of the Lease shall not be removed by the City, unless so directed by ARRC.

11.03 Abandonment of the City's Property. All property that the City is not required or allowed to leave on the Leased Premises shall, on the tenth (10th) day following termination, be conclusively deemed abandoned. Abandoned property shall, at the election of ARRC, become the property of ARRC or be destroyed or removed by ARRC.

11.04 Liability for Cleanup Expenses. The City shall be liable for all costs and expenses incurred by ARRC to remove or destroy abandoned property and improvements not required or expressly allowed by ARRC in writing to be left on the Leased Premises, and for the removal of trash or other debris left thereon. In addition, nothing in this Lease shall relieve the City of any obligation or liability for removal of hazardous substances (including wastes) or inappropriate fill material placed on the Leased Premises during the term of the Lease, regardless of when such hazardous substance (including waste) or inappropriate fill material is discovered. Nothing in this Paragraph is intended to modify any of the parties' respective obligations under the environmental provisions found in paragraph 4.06 of this Lease.

## ARTICLE 12

### EXECUTION AND MEMORANDUM OF LEASE

12.01 Execution and Counterparts. This Lease is executed in two or more counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument.

12.02 Recordation of Memorandum of Lease. This Lease shall not be recorded. The parties shall execute in suitable form for recordation a memorandum of this Lease ("Memorandum of Lease"), which shall be recorded. The Memorandum of Lease shall be in a form that satisfies ARRC's standards and complies with City code and practice or, with the agreement of the parties, a Memorandum of Lease in a form proposed by a title insurance company insuring the City's leasehold interest or the interest of any Qualified Mortgagee sufficient to give constructive notice of this Lease to subsequent purchasers and mortgagees.

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**IN WITNESS WHEREOF**, ARRC and the City have duly executed and acknowledged this Ground Lease.

**ALASKA RAILROAD CORPORATION**

Dated: April 13, 2022

By:   
William G. O'Leary  
President & Chief Executive Officer

**THE CITY OF WHITTIER**

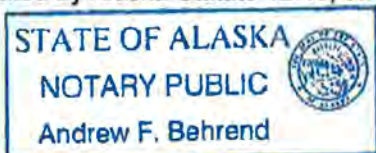
Dated: April 13, 2022

By:   
Jackie Wilde  
Acting City Manager

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STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this 13th day of April, 2022, by William G. O'Leary, President & Chief Executive Officer of the Alaska Railroad Corporation, a public corporation created by Alaska Statute 42.40, on behalf of the corporation.



Andrew F. Behrend  
Notary Public in and for Alaska  
My Commission expires: 9-15-2023

STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this 13th day of April, 2022, by Jackie Wilde, Acting City Manager of the City of Whittier, Alaska, a second class city, on behalf thereof.



Virginia S. Fontanez  
Notary Public in and for Alaska  
My Commission expires: 7-21-25

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**Lease Contract No. 20753**  
**City of Whittier**

SCHEDULE 1

LEGAL DESCRIPTION  
(prepared 3/9/2022)

A Lease Parcel of land located within Lot 1, USS 9008, officially filed October 12, 1995, Alaska Railroad Whittier Terminal Reserve, Anchorage Recording District, Third Judicial District, State of Alaska, shown on the drawing attached hereto as Exhibit A, comprising 887,705 sq. ft., more or less, and being more particularly described as follows:

Beginning at Corner No. 3 of Lot 1, USS 9008; thence running,

N17°30'00"E            794.97 feet, along the line between said Corner No. 3 and the  
unmonumented Corner No. 2 of Lot 1, USS 9008 to said Corner No. 2;  
thence,

N90°00'00"E            314.69 feet, along the line between said Corner No. 2 and Corner No. 1 of  
Lot 1, USS 9008 to the Witness Corner to Corner No. 1, Lot 1, USS 9008,  
a Meander Corner; thence,

N90°00'00"E            78.47 feet, continuing along said line between Corner No. 2 and Corner  
No. 1, to the unmonumented Corner No. 1 of Lot 1, USS 9008; thence,

Thence, southerly along the meanders of the mean high tide line of Passage Canal approximately  
1340' the follow nine (9) courses:

S17°41'00"E	55.44 feet; thence,
S02°35'00"E	87.12 feet; thence,
S01°15'00"W	45.54 feet; thence,
S14°42'00"E	317.46 feet; thence,
S09°15'00"E	253.44 feet; thence,
S07°20'00"E	196.68 feet; thence,
S09°26'00"E	150.48 feet; thence,

S09°46'00"W        109.56 feet; thence,  
S13°23'00"W        127.56 feet; thence,  
N90°00'00"W        691.52 feet; thence,  
N18°40'59"W        420.00 feet; thence,  
N17°30'00"E        170.00 feet, along the extension of said line between Corner No. 2 and  
Corner No. 3 to the Point of Beginning, containing 887,705 sq. ft.±.

The bearings and distances contained in this legal description are based on those shown in U.S. Survey 9008.

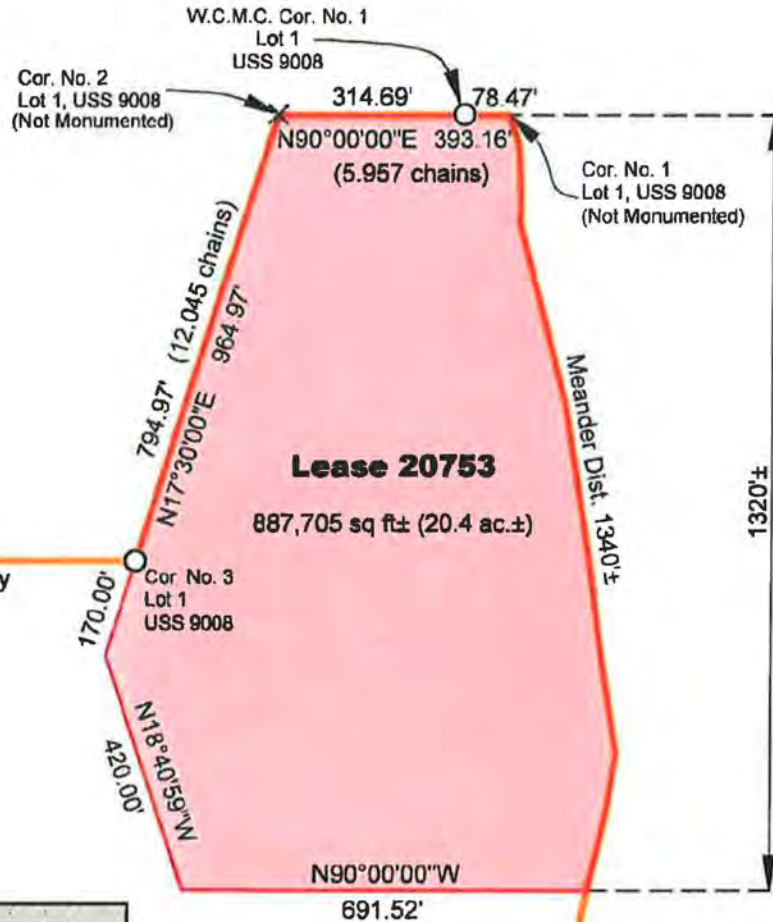
Subject to all valid pre-existing rights.

The Lease Parcel is a portion of Lot 1, U.S. Survey 9008 as described in US Patent No. 50-2005-0045 to the Alaska Railroad Corporation.

For indexing purposes the land lies within:  
The E1/2 of Section 15, Township 8 North, Range 4 East, Seward Meridian

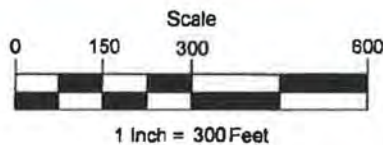
Recorder's Office, return to:  
ALASKA RAILROAD CORPORATION  
P.O. BOX 107500  
ANCHORAGE, AK 99510-7500  
State Business - No Charge

# ALASKA RAILROAD



- Record Corner (Monumented)
- × Record Corner (Not Monumented)

Alaska Railroad Boundary



The bearings and distances of this exhibit are based on U.S. Survey 9008.

For indexing purposes this property is located in the E1/2 Sec. 15 T8N, R4E, S.M.



**ALASKA RAILROAD CORPORATION**  
REAL ESTATE DEPARTMENT, LAND SERVICES  
P.O. BOX 107500, ANCHORAGE, ALASKA 99510-7500

Contract No. 20753 - Exhibit A  
City of Whittier  
**Area = 887,705 sq ft ± (20.4 ac ±)**

ARRC title - Patent 50-2005-0045 - USS 9008, Lot 1

DRAWN BY:	AMB	SCALE: 1" = 300'	DATE: 2022-03-17
CHECKED BY:	DCA	Whittier Terminal Reserve	
APPROVED BY:	AMB		
R:\00 RED\LEASES\WHI\20753-L.dwg			

AlaskaRailroad.com

## Schedule 2

LEASE YEAR	Refund Remaining Beginning of Lease Year
1	
2	\$ 328,296.42
3	\$ 302,061.85
4	\$ 277,770.59
5	\$ 255,278.68
6	\$ 234,452.83
7	\$ 215,169.64
8	\$ 197,314.84
9	\$ 180,782.61
10	\$ 165,475.00
11	\$ 151,301.28
12	\$ 138,177.46
13	\$ 126,025.79
14	\$ 114,774.23
15	\$ 104,356.12
16	\$ 94,709.73
17	\$ 85,777.88
18	\$ 77,507.65
19	\$ 69,850.03
20	\$ 62,759.64
21	\$ 56,194.47
22	\$ 50,115.60
23	\$ 44,487.03
24	\$ 39,275.38
25	\$ 34,449.78
26	\$ 29,981.63
27	\$ 25,844.46
28	\$ 22,013.74
29	\$ 18,466.78
30	\$ 15,182.56
31	\$ 12,141.62
32	\$ 9,325.92
33	\$ 6,718.80
34	\$ 4,304.80
35	\$ 2,069.62



### **SCHEDULE 3**

### **CONCEPTUAL PLAN**



**ANCHORAGE RECORDING DISTRICT****Recording requested by and  
after recording, return to:**

City of Whittier  
c/o Birch Horton Bittner & Cherot  
510 L Street, Suite 700  
Anchorage, Alaska 99501

**MEMORANDUM OF LEASE**

**PLEASE TAKE NOTICE** that the **CITY OF WHITTIER** (herein called "Lessor"), a second class city organized and existing under the laws of the State of Alaska, whose mailing address is P.O. Box 608, Whittier, Alaska 99693-0608, and **GLACIER CREEK DEVELOPMENT, LLC**, a wholly owned subsidiary of Huna Totem Corporation, 9301 Glacier Highway, Suite 200, Juneau, Alaska 99801-9306 (herein called "Lessee") have entered into a lease (herein called "the Lease") dated August 11, 2022, which affects the real property known as:

Certain real property located within the City of Whittier, situated in the Anchorage Recording District, Third Judicial District, State of Alaska and more specifically described and shown on Exhibits A and B attached to and for all purposes made a part of this Memorandum of Lease.

The term of the Lease is Thirty-Five (35) years commencing as of April 13, 2022 and ending on April 12, 2057. There are options to extend the lease term for two (2) additional lease terms of twenty-five (25) years each per the terms of the Lease. The complete terms and conditions of the lease agreement are contained in documents which are in the possession of the parties at the addresses below.

Lessor's address is: City of Whittier  
P.O. Box 608  
Whittier, Alaska 99693  
ATTN: City Manager

Lessee's address is: Glacier Creek Development, LLC  
9301 Glacier Highway, Suite 200  
Juneau, Alaska 99801  
ATTN: President

The terms and conditions set forth in the Lease control over any inconsistent term set forth in this Memorandum of Lease, which is being executed solely for the purpose of placing on record the existence of the Lease.

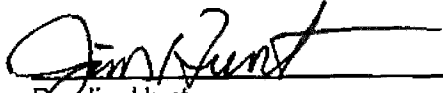
[Signatures on following page]



IN WITNESS WHEREOF, Lessor and Lessee have duly executed and acknowledged this Memorandum of Lease.


LESSOR:

CITY OF WHITTIER

  
By: Jim Hunt  
Its: City Manager

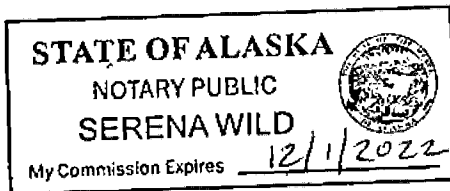
LESSEE:

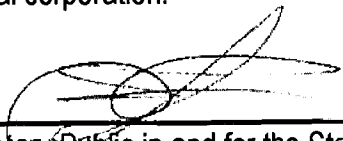
GLACIER CREEK DEVELOPMENT, LLC

  
By: Russell Dick  
Its: PRESIDENT

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

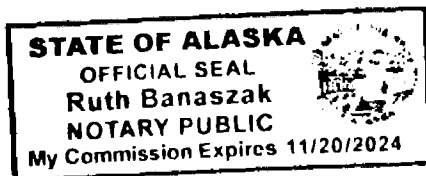
On August 11, 2022, Jim Hunt, City Manager of the City of Whittier, who is personally known to me, or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared and acknowledged before me that he signed this Memorandum of Lease on behalf of the municipal corporation.




  
Notary Public in and for the State of Alaska  
My Commission expires: 12/1/2022

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

On August 13, 2022, Russell Dick, the President of Glacier Creek Development, LLC, who is personally known to me, or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared and acknowledged before me that they signed this Memorandum of Lease on behalf of the corporation.



  
Notary Public in and for the State of Alaska  
My Commission expires: 11/20/2024



## EXHIBIT A

### Head of Bay City Tidelands – Survey and Legal Description

#### LEGAL DESCRIPTION FOR A TIDELAND LEASE

Being a portion of Tracts A and B as shown on Alaska Tidelands Survey (ATS) 1545, recorded as Plat 2003-49, Anchorage Recording District, State of Alaska and situated within Sections 14 and 15, Township 8 North, Range 4 East, Seward Meridian, more particularly described as follows:

**BEGINNING** at the southwest terminus of meander line M49 as shown on said ATS;

**THENCE** along the easterly boundary of Lot 1 as shown on U.S. Survey 9008 also being the westerly boundary of said Tract B, also being meander lines M49 – M58 and a portion of M59 as shown on said ATS respectively, the following courses:

North 05° 22' 06" East, a distance of 77.83 feet;  
North 25° 00' 06" East, a distance of 52.10 feet;  
North 38° 08' 06" East, a distance of 32.98 feet;  
North 03° 47' 06" East, a distance of 107.50 feet;  
North 07° 24' 54" West, a distance of 299.43 feet;  
North 13° 21' 06" East, a distance of 180.05 feet;  
North 09° 44' 06" East, a distance of 109.48 feet;  
North 09° 27' 54" West, a distance of 150.37 feet;  
North 07° 21' 54" West, a distance of 196.54 feet;  
North 09° 16' 54" West, a distance of 253.26 feet;  
North 14° 43' 54" West, a distance of 196.85 feet;

**THENCE** leaving said westerly boundary, entering into and passing through said Tract B, and entering into said Tract A, North 47° 07' 03" East, a distance of 1,766.10 feet;

**THENCE** continuing within said Tract A, South 42° 52' 57" East, a distance of 265.89 feet;

**THENCE** continuing within said Tract A, entering into and continuing within said Tract B, along the following courses:

South 47° 07' 03" West, a distance of 1,296.77 feet;  
South 05° 19' 16" East, a distance of 1,751.70 feet;  
South 89° 49' 37" West, a distance of 624.67 feet to said **POINT OF BEGINNING**.

Containing 29.499 acres, more or less.

The BASIS OF BEARINGS for this description is identical to Alaska Tidelands Survey 1545.

December 9, 2021

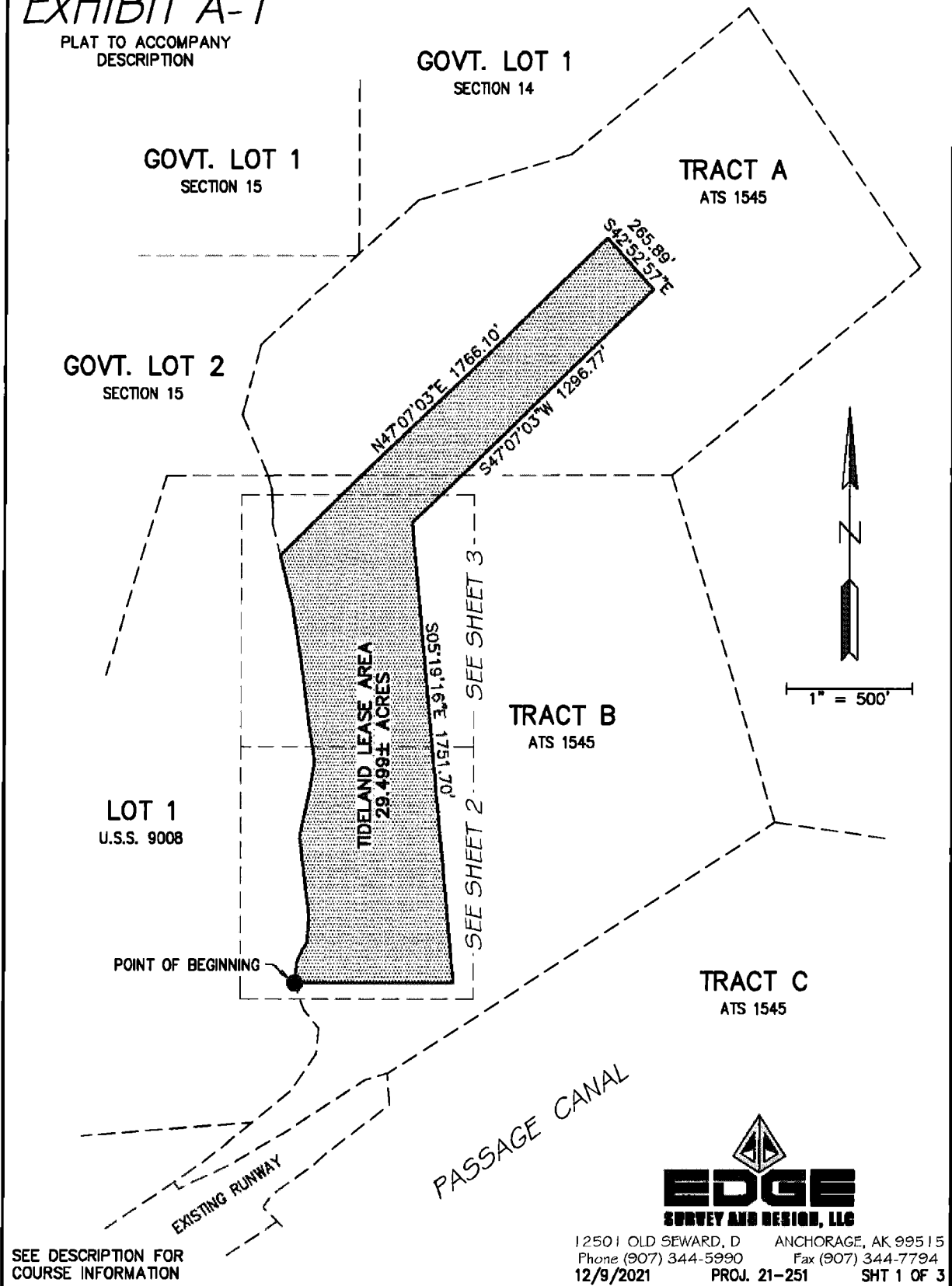
END OF DESCRIPTION





# EXHIBIT A-1

PLAT TO ACCOMPANY  
DESCRIPTION



12501 OLD SEWARD, D ANCHORAGE, AK 99515  
Phone (907) 344-5990 Fax (907) 344-7794  
12/9/2021 PROJ. 21-251 SHT 1 OF 3



SEE SHEET 2

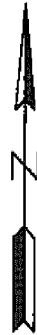
# EXHIBIT A-1

PLAT TO ACCOMPANY  
DESCRIPTION

TRACT B  
ATS 1545

50' PUBLIC ACCESS  
EASEMENT PER.  
AS 38.05.127

LOT 1  
U.S.S. 9008



1" = 100'

S05°19'16"E 1751.70'

PASSAGE CANAL

107.50'  
N03°47'06"E

N38°08'06"E  
32.98'

N25°00'06"E  
52.10'

N05°22'06"E  
77.83'

S89°49'37"W 624.67'

POINT OF BEGINNING  
SOUTHWEST TERMINUS  
OF M49 ATS 1545

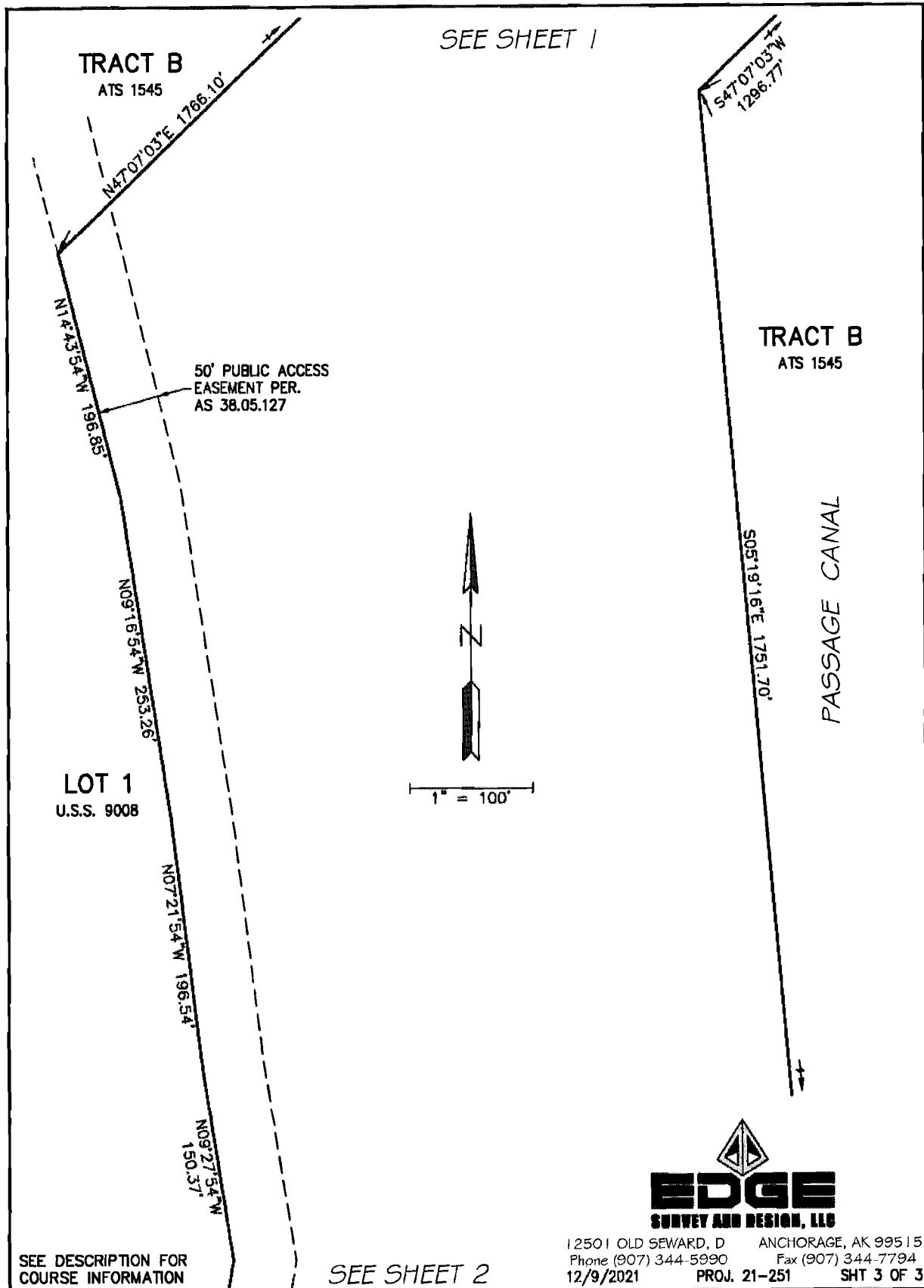
TRACT B  
ATS 1545



12501 OLD SEWARD, D ANCHORAGE, AK 99515  
Phone (907) 344-5990 Fax (907) 344-7794  
12/9/2021 PROJ. 21-251 SHT 2 OF 3

SEE DESCRIPTION FOR  
COURSE INFORMATION





**EXHIBIT B  
LEGAL DESCRIPTION AND MAP  
FOR ARRC SUBLEASE**

**Lease Contract No. 20753**  
**City of Whittier**

SCHEDULE 1

**LEGAL DESCRIPTION**  
(prepared 3/9/2022)

A Lease Parcel of land located within Lot 1, USS 9008, officially filed October 12, 1995, Alaska Railroad Whittier Terminal Reserve, Anchorage Recording District, Third Judicial District, State of Alaska, shown on the drawing attached hereto as Exhibit A, comprising 887,705 sq. ft., more or less, and being more particularly described as follows:

Beginning at Corner No. 3 of Lot 1, USS 9008; thence running,

N17°30'00"E            794.97 feet, along the line between said Corner No. 3 and the  
unmonumented Corner No. 2 of Lot 1, USS 9008 to said Corner No. 2;  
thence,

N90°00'00"E            314.69 feet, along the line between said Corner No. 2 and Corner No. 1 of  
Lot 1, USS 9008 to the Witness Corner to Corner No. 1, Lot 1, USS 9008,  
a Meander Corner; thence,

N90°00'00"E            78.47 feet, continuing along said line between Corner No. 2 and Corner  
No. 1, to the unmonumented Corner No. 1 of Lot 1, USS 9008; thence,

Thence, southerly along the meanders of the mean high tide line of Passage Canal approximately  
1340' the follow nine (9) courses:

S17°41'00"E            55.44 feet; thence,

S02°35'00"E            87.12 feet; thence,

S01°15'00"W            45.54 feet; thence,

S14°42'00"E            317.46 feet; thence,

S09°15'00"E            253.44 feet; thence,

S07°20'00"E            196.68 feet; thence,

S09°26'00"E            150.48 feet; thence,



S09°46'00"W          109.56 feet; thence,  
S13°23'00"W          127.56 feet; thence,  
N90°00'00"W          691.52 feet; thence,  
N18°40'59"W          420.00 feet; thence,  
N17°30'00"E          170.00 feet, along the extension of said line between Corner No. 2 and  
Corner No. 3 to the Point of Beginning, containing 887,705 sq. ft.±.

The bearings and distances contained in this legal description are based on those shown in U.S. Survey 9008.

Subject to all valid pre-existing rights.

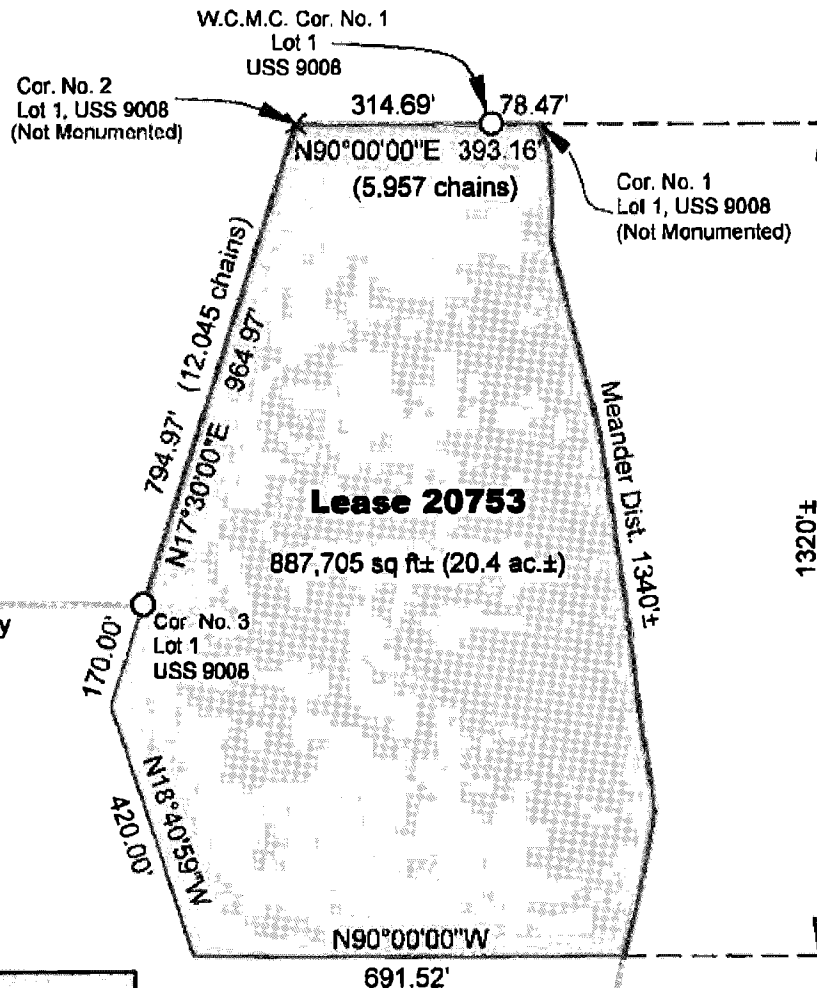
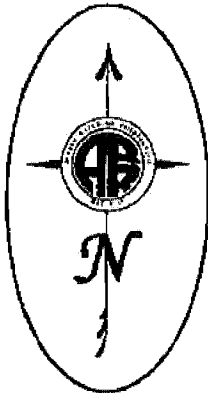
The Lease Parcel is a portion of Lot 1, U.S. Survey 9008 as described in US Patent No. 50-2005-0045 to the Alaska Railroad Corporation.

For indexing purposes the land lies within:  
The E1/2 of Section 15, Township 8 North, Range 4 East, Seward Meridian

Recorder's Office, return to:  
ALASKA RAILROAD CORPORATION  
P.O. BOX 107500  
ANCHORAGE, AK 99510-7500  
State Business - No Charge

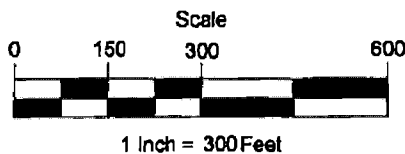


# ALASKA RAILROAD



- Record Corner (Monumented)
- ✕ Record Corner (Not Monumented)

Alaska Railroad Boundary



The bearings and distances of this exhibit are based on U.S. Survey 9008.

For indexing purposes this property is located in the E1/2 Sec. 15 T8N, R4E, S.M.



**ALASKA RAILROAD CORPORATION**  
REAL ESTATE DEPARTMENT, LAND SERVICES  
P.O. BOX 107500, ANCHORAGE, ALASKA 99510-7500

Contract No. 20753 - Exhibit A  
City of Whittier  
**Area = 887,705 sq ft± (20.4 ac±)**

ARRC title - Patent 50-2005-0045 - USS 9008, Lot 1

DRAWN BY:	AMB	SCALE:	1" = 300'	DATE:	2022-03-17
CHECKED BY:	DCA	Whittier Terminal Reserve			
APPROVED BY:	AMB				

R:\00 RED\LEASES\WHI\20753-L.dwg

AlaskaRailroad.com





# 2022-2023 Whittier School Calendar

School Year Calculation	
Days in Session:	<u>170</u>
Legal Holidays:	<u>6</u>
Teacher Work Days:	<u>4</u>
Inservice Days:	<u>10</u>
Total Days:	<u>190</u>

Calendar Key	
Inservice Days	IS
Teacher Work Days	W
School Opens	SO
End of Quarter	E
Legal Holidays	H
Vacation Days	V
School Closes	SC
Saturday School	SS
Parent-Teacher Con	PM
Russian Orthodox	R

1st Quarter Ends:	10/24/2022	38	days
2nd Quarter Ends:	01/16/2023	47	days
3rd Quarter Ends:	03/27/2023	43	days
4th Quarter Ends:	06/05/2023	42	days
Total:		170	days

July 2022	August 2022	September 2022	October 2022
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
# of Inservice Days 0 # of Student Days 0 # of Teacher Days 0	# of Inservice Days 0 # of Student Days 5 # of Teacher Days 3	# of Inservice Days 3 # of Student Days 18 # of Teacher Days 0	# of Inservice Days 0 # of Student Days 21 # of Teacher Days 0
November 2022	December 2022	January 2023	February 2023
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
# of Inservice Days 2 # of Student Days 18 # of Teacher Days 0	# of Inservice Days 0 # of Student Days 15 # of Teacher Days 0	# of Inservice Days 0 # of Student Days 19 # of Teacher Days 0	# of Inservice Days 2 # of Student Days 19 # of Teacher Days 0
March 2023	April 2023	May 2023	June 2023
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
# of Inservice Days 0 # of Student Days 18 # of Teacher Days 0	# of Inservice Days 3 # of Student Days 18 # of Teacher Days 0	# of Inservice Days 0 # of Student Days 19 # of Teacher Days 1	# of Inservice Days 0 # of Student Days 0 # of Teacher Days 0

Scan to access CSD's 2-2-2 Survey!



# CITY OF WHITTIER

## NOTICE OF ELECTION – TUESDAY, OCTOBER 4, 2022

The City of Whittier will conduct their general election on Tuesday, October 4, 2021. The following offices for Whittier City Council will be filled:

- **City Council Seat B** (3-year term ending in October 2025)  
WAGNER, Thomas "Tom"
- **City Council Seat C** (3-year term ending in October 2025)  
DICKASON David "Dave"
- **City Council Seat G** (3-year term ending in October 2025)  
LOAN, Jamie  
BLAIR, Daniel "Dan"

**POLL PLACE VOTING.** On Tuesday, October 4, 2021, qualified voters of the City of Whittier may vote at the Homeowners Lounge of the Begich Towers Building from 7 a.m. to 8 p.m.

**EARLY-ABSENTEE VOTING IN PERSON.** Voters may wish to vote an Early-Absentee ballot in-person at the:

**Whittier City Hall Clerk's Office**

- September 19, 2022 – October 3, 2022 (Monday-Friday business hours)
- October 3, 2022 (Monday) 8 a.m. – Noon

**ABSENTEE BY-MAIL VOTING.** Qualified voters may submit a completed *Absentee By-Mail Ballot Application* to have a ballot mailed to them. **The application deadline** for the October 4, 2022, election is **Monday, September 19, 2022**. Find the application on our website Document Center at [www.whittieralaska.gov](http://www.whittieralaska.gov)

**SPECIAL NEEDS OR ASSISTANCE.** If you or someone you know requires special assistance in voting due to disability, please contact the City Clerk at least 24 hours before the time of casting a ballot.

**QUALIFICATIONS OF VOTERS.** To qualify to vote in the election, you must be:

- Qualified to vote in state elections under AS 15.05.01;
- A resident of the City for 30 calendar days immediately preceding the election.
- Registered to vote in state elections at a residence address within the city at least 30 calendar days before the city election at which the person seeks to vote; and
- Not disqualified to vote under Article V of the Alaska Constitution.

**The deadline to qualify to vote** in the October 5, 2021, regular election is **Saturday, September 4, 2022**. To register to vote or update your voter registration record, you must complete and sign a *State of Alaska Voter Registration Application*. You may complete the application online with Division of Elections at: <https://voterregistration.alaska.gov> or in person at Whittier City Hall Clerk's Office during regular business hours.

**QUESTIONS?** Contact the Office of the City Clerk by phone at **907.472.2327** or by email at [cityclerk@whittieralaska.gov](mailto:cityclerk@whittieralaska.gov) with any questions.