

AGREEMENT FOR OPERATION OF NOME SENIOR CENTER

Recitals:

WHEREAS, the Nome Community Center, Inc. (“**NCC**”) is willing to operate the Nome Senior Citizen facility owned by the City of Nome (“**City**”) commonly known as the XYZ Center located on Lot 5A, Block E, Plat No. 81-16, Nome Recording District, Second Judicial District, State of Alaska at 104 Division Street; and to undertake efforts to provide and promote participation in programs to benefit senior citizens; and

WHEREAS, the City of Nome has from time to time appropriated funds for operation of the Nome Senior Citizen Center (“**XYZ Center**”) and anticipates making future annual appropriations for operation of the XYZ Center.

In consideration of the above recitals and purposes named the parties hereby agree as follows:

A. City of Nome Obligations.

Commencing July 1, 2021, City shall:

1. Subject to annual appropriation by the City Council, maintain the exterior of the XYZ Center including, but not limited to, sidewalk and stair and mobility ramp snow removal, exterior painting, and structural integrity.
2. Continue to provide NCC a month to month no cost lease on all furniture, fixtures, and equipment in the XYZ Center that are owned by the City. A listing of what is owned by the City is attached to this agreement as Exhibit A. The City may remove or utilize such items at any time in the future as the City deems advisable upon giving reasonable notice to the NCC.
3. Continue to allow use of the XYZ Center by NCC for rent of \$0 per month.
4. Subject to annual appropriation by the City Council, provide and pay for utility service (heat, electricity, water, sewer and garbage) to the XYZ Center.
5. Subject to annual appropriation by the City Council, maintain certain fixtures and improvements in the XYZ Center including, but not limited to, freezers, plumbing, and heating and ventilation systems.

B. NCC Obligations.

1. Commencing July 1, 2021, the NCC shall:

- a. Continue to operate the XYZ Center and provide programs in accordance with state and federal grants and contracts either attached hereto or on file. The programs shall be for the exclusive use of senior citizens and persons with disabilities and shall be conducted in compliance with the requirements of State and Federal law.
- b. NCC shall mark or otherwise identify all NCC owned furniture or equipment placed in the XYZ Center so as to avoid confusion as to ownership. Furniture and equipment not so marked or identified shall be presumed to be City property.
- c. Provide and pay for telephone, propane, cable television and internet service at the XYZ Center;
- d. Provide and pay for all interior maintenance of the XYZ Center, including, but not limited to janitorial service and window washing with the exception of the elevator and fire suppression and alarm system.
- e. Submit written reports covering operations of the XYZ Center to the Nome City Council on or before January 31 and July 31 each year.

C. Additional Obligations of Parties.

1. **Term and Option to Renew.** This Agreement shall commence July 1, 2021, and shall expire June 30, 2026, unless earlier terminated pursuant to Section C(2), below. This term may be extended for an additional five (5) years if both parties agree to such an extension.

2. **Termination.**

- a. Either party may terminate this Agreement upon six (6) months prior written notice.
- b. At termination or expiration of this Agreement, the NCC shall provide City all documents and data files of NCC related to its performance under this Agreement.
- c. Upon expiration or termination of this Agreement, the NCC shall, surrender and deliver the XYZ Center to the City in as good condition as when received by the NCC or as thereafter improved, excepting only: 1) ordinary wear and tear; 2) deterioration or functional obsolescence of improvements due to age; and 3) any defects objected to in a writing signed by the NCC and delivered to the City prior to the NCC's execution of this Agreement.
- d. Not later than the expiration or termination date of this Agreement, or of any extended term, NCC shall remove all of its property from the XYZ Center. Any damage caused to the XYZ Center by reason of such removal shall be immediately paid by NCC. Any property not so removed by NCC may become the property of the City at the City's option.

any time during the term of this Agreement or any extension or renewal thereof a competent insurance agent deems this amount of coverage inadequate, NCC will immediately increase its coverage to an adequate level.

(c) All insurance provided by NCC under this Agreement shall (1) contain a waiver of subrogation by the insurer in favor of the City; (2) provide that an act or omission of the City will not void the policy or be a condition to recovery; and (3) provide primary insurance coverage.

(d) City shall procure and maintain property insurance covering the XYZ Center and all personal property of City in the XYZ Center and shall procure and maintain public liability insurance coverage.

7. **Use of XYZ Center.** The NCC may use the XYZ Center solely for purposes related to the performance of this Agreement. NCC shall not use the XYZ Center for residential purposes.

8. **Compliance with Laws and Care of Premises/Indemnity.**

(a) NCC shall comply with all applicable laws, ordinances and regulations now or hereafter enacted in any manner affecting the XYZ Center, or the use thereof. NCC agrees to defend, indemnify, and hold the City, its agents or employees financially harmless (a) from all consequences of any violation of such laws, ordinances and/or regulations, and (b) from all claims for damages on account of injuries, death or property damage resulting from such violation.

(b) NCC shall not permit any unlawful occupation, business or trade to be conducted at the XYZ Center, or any use to be made thereof contrary to any law, ordinance or regulation.

(c) NCC shall neither use nor permit any assignee to use the XYZ Center for any purpose which poses a substantial risk of damage by means of fire or otherwise.

9. **Default.**

(a) If NCC at any time during the term of this Agreement or any holdover period shall (a) fail to observe or perform any of NCC's other obligations hereunder, and if within thirty (30) days after the City shall have mailed to NCC written notice specifying such default or defaults, NCC shall not have commenced to cure such default and proceed diligently to cure the same, then the City may give NCC notice of termination of this Agreement. In such a case, on a date specified in such notice, which date shall not be less than thirty (30) days after the date of mailing of such notice ("termination date"), the term of this Agreement shall come to an end.

e. The City may, in its sole discretion, remove and store any or all property not timely removed from the Center. Storage shall be for the account and at the expense of NCC, and without liability for loss thereof or damage thereto on the part of the City. If after a period of thirty (30) days or more NCC has not retrieved its property from storage and paid City the reasonable cost of storage, the City may sell any or all of such property at a public or private sale. The City shall mail written notice of such sale to NCC at least ten (10) days prior to sale. The notice shall state the date, time and place of the sale. The City may set the time, place and manner of the sale in its sole discretion. The proceeds of any such sale shall be applied first to the costs of sale (including reasonable attorney's fees), and then to storage charges. Any remaining balance shall be mailed to NCC.

3. **Improvements to XYZ Center.** NCC may make improvements to the interior of the XYZ Center, however, removal or relocation of doors, walls or windows requires the written permission of the City of Nome.

4. **Non-Discrimination.** The NCC shall not discriminate against any person or persons or exclude any persons from participation in the Center's operations, programs, or activities conducted on the City's premises because of race, color, sex, handicap, national origin, or religion.

5. **Indemnification/Insurance.**

(a) NCC shall defend, indemnify and save harmless the City, its agents or employees from and against any and all claims, demands and causes of action of any nature whatsoever, and any expenses incident to defense of and by the City therefrom, for any injury to or death of persons or loss of or damage to property in any manner arising out of NCC's use and occupation of the XYZ Center or performance of this Agreement, except to the extent caused by the sole negligence of the City.

(b) In addition, NCC shall procure and maintain commercial general liability insurance coverage written by responsible insurer(s) licensed to do business in the State of Alaska, naming the City as an additional named insured, which coverage, shall not be less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate, including death, property damage and personal injury liability. NCC shall also obtain "all risks" property insurance for all contents of the XYZ Center whether NCC's personal property or City's personal property, in an amount at least equal to the replacement cost of all NCC's fixtures and improvements in the XYZ Center. Such insurance shall also be written by responsible insurer(s) licensed to do business in the State of Alaska, and shall name the City as an additional named insured. NCC agrees to furnish certificates of insurance evidencing such insurance coverage to the City at or before the effective date of this Agreement. NCC further agrees to immediately notify the City of any cancellation, termination or decrease in its insurance. The certificates of insurance shall contain an endorsement providing for not less than thirty (30) days' notice to the City of intent to cancel or decrease the insurance. NCC shall also maintain required Workers' Compensation insurance. If

hereto, and any purported amendment or modification is without effect until reduced to a writing signed by both parties hereto.

17. **Governing Law/Construction.** This Agreement shall be construed and governed by the laws of the State of Alaska. This Agreement was negotiated between the parties and shall not be strictly construed against either party.

18. **Covenants and Conditions.** Each term and each provision of this Agreement shall be construed to be both a covenant and a condition.

19. **Time of the Essence.** Time is of the essence as to each term and provision of this Agreement to be performed by NCC.

20. **Severability.** Any provision of this Agreement which shall prove to be invalid, void or illegal, shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

Dated this 1st day of October, 2021.

CITY OF NOME

BY:

Glenn Steckman
Glenn Steckman

ITS: CITY MANAGER

NOME COMMUNITY CENTER, INC.

BY:

Rhonda Schneider
Rhonda Schneider

ITS: EXECUTIVE DIRECTOR

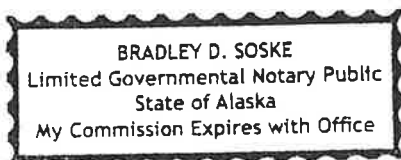
STATE OF ALASKA)

)ss

SECOND JUDICIAL DISTRICT)

The Foregoing Instrument was acknowledged before me by Glenn Steckman, City Manager of the City of Nome this 1st day of October, 2021.

Witness my hand and seal.



Bradley D Soske
Notary Public for Alaska
My Commission Expires: with office

(b) The City shall not be in default of any of its obligations hereunder unless and until it shall have unreasonably failed to perform said obligation within thirty (30) days, or such additional time as may be reasonably required, after receipt of written notice by the City specifying the default.

10. **Notices.** Any and all notices required or permitted under this Agreement, unless otherwise specified in writing by the party whose address is changed, shall be addressed as follows:

THE CITY: City of Nome
P. O. Box 281
Nome, AK 99762
Attn: City Manager

THE NCC: Nome Community Center, Inc.
P.O. Box 98
Nome, AK 99762
Attn: Executive Director

11. **Rights or Remedies.** No right or remedy herein conferred upon or reserved to the NCC or City is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

12. **Waiver and Forbearance.** Except to the extent that such party may have otherwise agreed in writing, no waiver by a party of any breach by the other party of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach.

13. **Inspection.** The City will retain a key to the Center. City may inspect the XYZ Center at its convenience without prior notice to NCC.

14. **Successors in Interest.** This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

15. **Assignment or Subletting.** NCC shall not assign or sublet or grant a security interest in this Agreement without the prior written consent of the City.

16. **Integration and Modification.** This document contains the entire agreement of the parties hereto. All negotiations, statements, representations, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this Agreement or the performance of either party hereto are merged and integrated into the terms of this document. This Agreement may not be modified or amended except by a writing signed by both parties

STATE OF ALASKA)
)ss
SECOND JUDICIAL DISTRICT)

The Foregoing Instrument was acknowledged before me by _____
_____ of the Nome Community Center, Inc. this ____ day of June,
2021.

Witness my hand and seal.

Notary Public for Alaska
My Commission Expires: _____

INVENTORY - NOME COMMUNITY CENTER
Office Furniture and Equipment

1. DESKS – 10
2. ROLLING DESK CHAIRS - 9
3. COMPUTERS – 8 plus those in the IT room
4. FILE CABINETS, 4-DRAWER – 8
5. FILE CABINETS, 2-DRAWER – 4
6. FILE CABINET – 1 extra large, double wide, tall; 1 double wide, short
7. BOOKSHELVES, TALL – 4
8. PRINTERS – 2
9. COPIERS, CANON – 2
10. LAMINATOR – 1
11. TELEPHONES – 9
12. PAPER SHREDDERS – 2
13. PAPER CUTTERS – 2
14. LARGE DINING ROOM TABLE – 1
15. TALL PADDED BAR STOOLS – 12
16. WAITING ROOM CHAIRS, padded, arms – 6
17. SMALL TABLE WITH 2 CHAIRS
18. SMALL SHELF UNITS – 3
19. LARGE DISPLAY CASE – 2
20. SMALL WAITING ROOM TABLES – 2
21. FANS – 3
22. MAILBOX SHELVING UNIT – 1
23. WOOD HIGH-BACK ARMCHAIRS – 2

IT ROOM:

24. SERVERS
25. TELEPHONE EQUIPMENT
26. COMPUTERS
27. HARDWARE & SOFTWARE
28. PLOTTER
29. PHOTOGRAPHY EQUIPMENT
30. LARGE WOOD TOP TABLE
31. LARGE LAMINATOR
32. TALL BOOKSHELF
33. FILE CABINETS, 4-DRAWER – 2
34. ROLLING DESK CHAIRS - 3

