

## **CITY OF VALDEZ**

### **BUILDING LEASE AGREEMENT VALDEZ SENIOR CITIZEN'S HOUSING AND MULTI-PURPOSE FACILITY**

This Building Lease Agreement made and entered into this 6th day of November, 2001, by and between the City of Valdez, (Lessor) a municipal corporation organized under the laws of the State of Alaska, whose address is P. O. Box 307, Valdez, AK 99686, and the Valdez Senior Citizen's Center, Inc., (Lessee) whose address is P. O. Box 1635, Valdez, AK 99686.

Lessor and Lessee agree as follows:

#### **Section 1. Building Lease Agreement**

Lessee shall lease from Lessor the Valdez Senior Center Housing and Multi-purpose facility located on A.S.L.S. 82-141, Tract A-1.

#### **Section 2. Term**

The term of this Building Lease Agreement shall commence on the 6th day of November, 2001, and shall expire upon mutual consent by both parties, except according to Section 15.

#### **Section 3. Rent**

The LESSEE agrees to pay to LESSOR an annual rent of one dollar (\$1.00) per year. The said \$1.00 per year shall be payable to the City commencing on the date of the lease and continuing each year thereafter for the duration of this lease.

#### **Section 4. Maintenance and Repair**

(A) Lessor agrees to make repairs to maintain the Property in a structurally sound condition, to replace and perform major repairs on the foundation, floors, walls, roof, boiler/heating and water system, electrical system, elevator, fire system/alarms, sprinkler system and drainage system, which are not destroyed or damaged due to the negligence or acts of the Lessee. The Lessor also agrees to replace or make major repairs to and provide snow removal of the drive and parking areas. Lessee shall use the Property in a reasonable manner so as not to unduly increase the Lessor's cost of repair and maintenance.

(B) Lessee agrees to keep and maintain the Property in good order and condition and to deliver the Property to Lessor in as good a state of repair and condition as when first occupied by the Lessee, reasonable wear and tear and damage by the elements, fire or other casualty excepted. The Lessee shall be responsible for all routine maintenance and repair of the facility including interior painting, annual boiler/heating maintenance, lighting fixtures, electrical devices/switches/receptacles,

water facets/fixtures and minor repairs of water lines, window and door repair and replacement, and landscaping immediately adjacent to the Center. Lessee shall also be responsible for repair and replacement of all appurtenances to the facility, including appliances, furniture, carpets, telephone and TV systems.

(C) Except in an emergency, Lessee shall not perform structural maintenance without obtaining permission from the City Manager or his/her designee. For structural maintenance in an emergency, Lessee may proceed if reasonable efforts to contact the City Manager or his/her designee have been unsuccessful. Written notification of emergency repairs will be furnished to the City Manager within 24 hours of the initiation of the repairs. Lessor shall reimburse the Lessee for expenditures for emergency structural repairs.

#### **Section 5. Capital Improvements**

The Lessor shall be responsible for determining and scheduling Capital Improvement Projects (CIP) as they relate to major maintenance of the Valdez Senior Citizens Center facility.

(A) The Lessor shall, in conjunction with the Lessee, develop a 5-year CIP plan. This plan shall be updated annually as part of the City of Valdez's overall CIP process.

(B) Any proposals for new construction, not related to maintenance of the existing facility, shall be the responsibility of the Lessee and approved by the Lessor. Proposals must be approved by the Lessor prior to submitting it for funding through the CIP process.

(C) All CIP projects must be submitted within the deadlines identified by the City of Valdez.

#### **Section 6. Utilities**

Lessee shall directly pay for heating fuel, janitorial, electrical and telephone service.

#### **Section 7. Assignment and Subletting**

Lessee may not assign or sublet the whole or any part of the Property without prior approval from the Lessor. Rental of the housing apartments shall be in conformance with established policies of the Senior Center Board of Directors. Changes in rental policies shall be reported to the Valdez City Council immediately following approval of the Board.

#### **Section 8. Liens**

Lessee shall keep the Property and the building free from any liens arising out of any work performed, materials ordered, or obligations incurred by Lessee.

### **Section 9. Lessor/Lessee Remedies in Event of Default**

In the event of any default by Lessee/Lessor, Lessor/Lessee shall have such rights and remedies that Lessor/Lessee may be given by statute, common law, or otherwise.

### **Section 10. Notices**

All notices required or permitted to be given under this Building Lease Agreement shall be in writing, signed on behalf of sender; shall be either delivered personally or sent by certified mail, return receipt requested, postage prepaid; and shall be sent to the parties at the following address:

If to Lessor:                      City Manager  
    City of Valdez  
    P.O. Box 307  
    Valdez, AK 99686

If to Lessee:                      Program Manager  
    Valdez Senior Citizen's Center  
    P.O. Box 1635  
    Valdez, AK 99686

Either party may change the address to which notices shall be sent or the persons to whose attention the notices shall be addressed by notice in writing to the other party.

### **Section 11. Insurance**

(A) Lessee shall maintain, at its expense, contractual and broad form comprehensive general liability insurance. Such insurance shall insure against liability for personal injury, death, and property damage occurring on the Property. The policy shall provide single limits coverage in the amount of at least \$1,000,000.00 for personal injury or death. Lessor shall be named as an additional insured, and will be given at least 30 days prior notice of any cancellation of said insurance policy.

(B) Lessee shall maintain the statutory limits for Worker's compensation and Employer's Liability, if applicable.

(C) The Lessor shall have the responsibility of insuring the facility's replacement, if it chooses not to self-insure. The Lessee shall be responsible for providing insurance coverage for any contents they feel may be necessary.

### **Section 12. Indemnity**

Lessee shall indemnify, defend and hold Lessor harmless from all damages arising out of any injury to any person or damage to, or destruction of, property occurring to, in, on or about the Premises, Building or Property arising out of the activities or negligence of Lessee, its employees,

contractors, suppliers, customers, invitees, guests, and representatives.

### **Section 13. Use of Property**

Lessee shall have the right to use the Property for housing and multi-purpose public activities for senior citizens.

### **Section 14. Relationship of Parties**

The Lessee shall perform its obligations hereunder as an independent contractor of the Lessor. The Lessor may administer the agreement and monitor the Lessee's compliance with its obligations hereunder. The Lessor shall not supervise or direct the Lessee in areas other than specified in this Agreement. Employees of the Lessee are not employees of the City of Valdez. The City Manager or his/her designee shall serve as a Liaison to the Senior Center Board of Directors.

### **Section 15. Termination**

This agreement may be terminated:

- (A) By mutual consent of both parties.
- (B) For the convenience of the Lessor, provided that the Lessor notifies the Lessee in writing of its intent to terminate under this paragraph at least sixty (60) days prior to the effective date of the termination.
- (C) Upon failure of a party to perform in a material way, either the Lessor or the Lessee may terminate this agreement by notifying the other party in writing at least sixty (60) days before the date upon which the termination is to be effective. Such notice shall include a detailed description of the claimed deficiency and shall allow the other party thirty (30) days to correct the same. If the deficiency continues on the thirtieth day after notice has been given, the termination shall be effective. If the deficiency has been corrected by the end of thirty (30) days, the notice shall become null and void.

### **Section 16. Amendment**

No amendment, deletion, or addition to or of this agreement shall be effective unless it is completely contained in writing executed by all of the parties to this agreement.

### **Section 17. Marginal Titles and Headings**

The marginal titles, subtitles, headings and subheadings of the paragraphs, subparagraphs, sections and subsections herein are intended to be for reference and for the sake of convenience only and shall not be construed to narrow or broaden the scope or affect whatever interpretation or construction would otherwise be given to the plain and ordinary meanings of the words herein.

### **Section 18. Entire Agreement**

This written agreement is fully integrated, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all other prior and contemporaneous agreements, contracts, representations, promises, acknowledgments, warranties and covenants, oral and written, by and between the parties with respect to such matters which are included herein.

### **Section 19. Ownership**

The Facility and any related facilities or property placed upon premises by the Lessor, shall remain the sole property of the City of Valdez at all times and the Lessee shall acquire no proprietary interest therein.

### **Section 20. Permits, Laws and Taxes**

The Lessee shall acquire and maintain in good standing all permits, licenses and other entitlement necessary to its performance under this agreement. All actions taken by the Lessee under this agreement shall comply with all applicable City, State and Federal statutes, ordinances, rules and regulations. The Lessee shall pay all applicable taxes pertaining to its performance under this agreement.

### **Section 21. Exclusive Jurisdiction/Venue**

In the event that a question, dispute, or requirement for interpretation or construction should arise with respect to this agreement, the jurisdiction and venue therefore shall lie exclusively with the courts of the Third Judicial District for the State of Alaska, at Valdez, Alaska, or alternatively, with the United States District Court for the District of Alaska at Anchorage, Alaska, unless a non-waivable federal or Alaska state law should require to the contrary.

### **Section 22. Waiver**

The failure by any party to object to a default under or breach of this agreement shall not constitute a waiver, either express or implied, of the right to do so in the event of any future or continuing default under or breach of this agreement.

### **Section 23. Interpretation**

The language in all parts of this agreement shall be construed (a) according to its fair meaning and common usage and (b) not strictly for or against any party to this agreement.

### **Section 24. Severability**

In the event that any term or condition of this agreement is declared by a court of competent

jurisdiction to be void or unenforceable, the remaining terms and conditions shall nevertheless be valid and enforceable as if such void or unenforceable term or condition had been omitted from the agreement when it was formed; provided, however, that if such void or unenforceable term or condition goes to the essence of this agreement, this agreement shall be rescinded and the party shall, to the extent possible, be returned to the status quo ante.

IN WITNESS WHEREOF, Lessor and Lessee have executed, delivered, and formed this agreement effective the 6<sup>th</sup> day of November, 2001.

**LESSEE**

Valdez Senior Citizen's Center, Inc.

By: [Signature]

Title: President

Date: 11/21/2001

P.O. Box 1635  
Mailing Address

Valdez, AK 99686  
City, State, Zip Code

92-00822-75  
Federal I.D. or S.S. #

**CORPORATE SEAL**

Attest: \_\_\_\_\_  
Corporate Secretary

**CITY OF VALDEZ, ALASKA  
AUTHORIZED:**

By: [Signature]

Mayor

Date: 12-4-01

Attest:

By: [Signature]

City Clerk

**RECOMMENDED:**

By: [Signature] NHVP

City Manager

Date: 11/27/01

**APPROVED AS TO FORM:**

[Signature]

Attorney for the City of Valdez

