

**Regular Meeting**  
**Tuesday, July 25, 2023**  
**6:00 p.m.**



**Unalaska City Hall**  
**Council Chambers**  
**43 Raven Way**

**Council Members**  
Thomas D. Bell  
Darin Nicholson  
Daneen Looby

**Council Members**  
Dennis M. Robinson  
Alejandro R. Tungul  
Shari Coleman

*To Provide a Sustainable Quality of Life  
Through Excellent Stewardship of Government*

## **UNALASKA CITY COUNCIL**

P. O. Box 610 • Unalaska, Alaska 99685  
Tel (907) 581-1251 • Fax (907) 581-1417 • [www.ci.unalaska.ak.us](http://www.ci.unalaska.ak.us)

**Mayor:** Vincent M. Tutiakoff, Sr. **City Manager:** William Homka  
**Acting City Clerk:** Estkarlen P. Magdaong [emagdaong@ci.unalaska.ak.us](mailto:emagdaong@ci.unalaska.ak.us)

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### **COUNCIL MEETING ATTENDANCE**

The community is encouraged to attend meetings of the City Council:

- In person at City Hall
- Online via ZOOM (link, meeting ID & password below)
- By telephone (toll and toll free numbers, meeting ID & password below)
- Listen on KUCB TV Channel 8 or Radio Station 89.7

### **PUBLIC COMMENT**

The Mayor and City Council value and encourage community input at meetings of the City Council. There is a time limit of 3 minutes per person, per topic. Options for public comment:

- In person
- By telephone or ZOOM - notify the City Clerk if you'd like to provide comment using ZOOM features (chat message or raise your hand); or \*9 by telephone to raise your hand; or you may notify the City Clerk during regular business hours in advance of the meeting
- Written comment is accepted up to one hour before the meeting begins by email, regular mail, fax or hand delivery to the City Clerk, and will be read during the meeting; include your name

**ZOOM MEETING LINK:** <https://us02web.zoom.us/j/86592135942>

**Meeting ID:** 865 9213 5942 / **Passcode:** 275033

**TELEPHONE: Meeting ID:** 865 9213 5942 / **Passcode:** 275033

Toll Free numbers: (833) 548-0276; or (833) 548-0282; or (877) 853-5247; or (888) 788-0099

Non Toll-Free numbers: (253) 215-8782; or (346) 248-7799; or (669) 900-9128

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## **AGENDA**

1. **Call to order**
2. **Roll call**
3. **Pledge of Allegiance**
4. **Recognition of Visitors**
5. **Adoption of Agenda**
6. **Approve Minutes of Previous Meeting [July 11, 2023](#)**

7. [City Manager Report](#)
8. **Community Input & Announcements** *Members of the public may provide information to council or make announcements of interest to the community. Three-minute time limit per person.*
9. **Public Comment on Agenda Items** *Time for members of the public to provide information to Council regarding items on the agenda. Alternatively, members of the public may speak when the issue comes up on the regular agenda by signing up with the City Clerk. Three-minute time limit per person.*
10. **Regular Agenda** *Persons wishing to speak on regular agenda items must sign up with the City Clerk. Three-minute time limit per person.*
  - a. [Resolution 2023-32](#): Authorizing the City Manager to enter into a five-year Master Services Agreement with GCI Communication Corp. for Dedicated Internet Services
  - b. [Ordinance 2023-08](#): An Ordinance of the Unalaska City Council amending Unalaska Code of Ordinances § 3.56 Executives to allow the City Manager to negotiate the amount of personal leave for new executive level employees
11. **Council Directives to City Manager**
12. **Community Input & Announcements** *Members of the public may provide information to council or make announcements of interest to the community. Three-minute time limit per person.*
13. **Adjournment**

**Regular Meeting**  
**Tuesday, July 11, 2023**  
**6:00 p.m.**



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**43 Raven Way**

**Council Members**  
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**Mayor:** Vincent M. Tutiakoff, Sr. **City Manager:** William Homka  
**City Clerk:** Marjie Veeder, [mveeder@ci.unalaska.ak.us](mailto:mveeder@ci.unalaska.ak.us)

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## **MINUTES**

1. **Call to order.** Mayor Tutiakoff called the regular meeting of the Unalaska City Council to order on June 27, 2023 at 5:59 p.m.  
  
Coleman read the City's Mission Statement: To provide a sustainable quality of life through excellent stewardship of government.
2. **Roll call.** The City Clerk called the roll. The Mayor and all Council Members were present, with Bell attending remotely. Mayor announced quorum established.
3. **Pledge of Allegiance.** Tungul led the Pledge of Allegiance.
4. **Recognition of Visitors.** No particular recognitions made.
5. **Awards & Presentations.** The Mayor recognized City Employment Anniversary of Marilou Bautista, Department of Administration, 15 years.
6. **Adoption of Agenda.** Nicholson moved to adopt the agenda, with a second by Nicholson. There being no objection, the agenda was adopted by consensus.
7. **Approve Minutes of Previous Meeting.** Robinson moved approve the proposed minutes of the council meeting held June 27, 2023 as presented; with second by Nicholson. There being no objection, the minutes were approved by consensus.
8. **City Manager Report.** Mr. Homka presented his report and responded to questions from Council about the landfill baler and the Captains Bay Road project. DPU Director Tompkins also responded to questions about the landfill baler.
9. **Community Input & Announcements** were made as follows:
  - a. Katherine McGlashan made announcements for Unalaska Visitor Bureau
  - b. Albert Burnham made announcements for the Department of Parks, Culture & Recreation

- c. Thomas Roufos made announcements for the Unalaska Chapter of the Alaska State Firefighters Association
- d. Natalie Cale of Ounalashka Corporation made announcements on behalf of OCCP, LLC
- e. Mayor made announcement regarding Camp-Q
- f. Council Member Robinson announced cancellation of a military visit today due to fog not allowing their flight to land in Unalaska
- g. City Clerk made announcements regarding property tax payment due dates and the October 3 local general election

#### 10. Public Comment on Agenda Items

- a. Jester Putterman of OptimERA commented on Resolution 2023-32

#### 11. Work Session

Tungul moved to go into work session, with second by Robinson. There being no objection, Council moved into work session at 6:27 p.m.

- a. Public Utilities Director Steve Tompkins provided an update to Council regarding the City's Water Utility and responded to questions from Council.

Robinson moved to return to regular session with second by Nicholson. There being no objection, Council returned to regular session at 6:44 p.m.

#### 12. Regular Agenda

- a. Resolution 2023-32: Authorizing the City Manager to enter into a five year Master Services Agreement with GCI Communication Corp. for Dedicated Internet Services

Tungul moved to adopt Resolution 2023-32, with second by Looby.

The City Manager introduced the resolution and provided a summary, followed by Council discussion. Information Systems Supervisor Jacob Whitaker also provided information in response to Council's questions.

Coleman moved to postpone consideration of Resolution 2023-32 to the next regular Council meeting. Second by Robinson.

Continued Council discussion.

Roll call vote on motion to postpone: all Council members voted in the affirmative, adopting the motion to postpone consideration of Resolution 2023-32.

Continued Council discussion.

- 13. **Council Directives to City Manager.** Robinson moved to direct the city manager to hire a third party to review the three proposals for broadband service and return a recommendation for said services to this Council; second by Coleman. Council discussion. City Manager commented.

Roll call vote: Looby – no; Bell – no; Nicholson – no; Robinson – yes; Tungul – no; and Coleman – yes. Motion fails with four no and 2 yes votes.

14. **Community Input & Announcements.** The Mayor provided a final opportunity for community input. None offered.

15. **Adjournment.** Having completed all items on the agenda, the Mayor adjourned the meeting at 7:28 p.m.

These minutes were approved by the Unalaska City Council on July 25, 2023.

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Marjie Veeder, CMC  
City Clerk

DRAFT

## CITY MANAGER'S REPORT

TO: Mayor Tutiakoff and City Council Members

FROM: William Homka, City Manager

DATE: July 25, 2023

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- **Audit:** We received the draft audit and met with BDO, our audit firm. Clay Darnell and the firm will present the audit at the City Council meeting on August 8, 2023.
- **Legislative Fly-In:** The fly-in is scheduled for August 17 & 18. The following have confirmed to attend: Representative Bryce Edgmon, Senator Andy Josephson, Senator Jesse Kiehl, Josh Revak of U.S. Representative Mary Peltola's office and ADOT Commissioner Ryan Anderson. I am working with our lobbyist, Dianne Blumer on the guest list and the itinerary.
- **Trilateral:** Scheduled meeting on July 24 to discuss abandoned vehicles and the opportunity for barges / backhaul. We're considering how a standing program can be created to process vehicles for 2-3 years. We've identified existing resources and some gaps we need to overcome. This initiative is gaining traction.
- **Landfill:** The baler was repaired on July 11 after two weeks of waiting for a part to fix the ram. By July 16 the landfill employees sorted, baled and placed 257 bales weighing over 319 tons in five days. In May there was a total of 208 bales processed for the month, so the team worked hard to clear out the building.
- **PCR Comprehensive Master Plan RFP:** Worked with PCR staff to create an RFP for a consultant to plan the next decade of parks and recreation in Unalaska. The RFP was issued on July 17, 2023 and will close on August 21, 2023. The RFP is available on the city website: <https://www.ci.unalaska.ak.us/publicworks/page/rfp-park-recreation-comprehensive-masterplan>
- **Employee Newsletter:** The first issue of a new bimonthly newsletter for employees is due out this week. Our organization is large and we have multiple locations. The newsletter's audience is our staff and this is one more way to reach out and communicate with each other more.
- **Employee Awards:** The City Manager presented a Gold Star Award to Patrick Bliss for his work coordinating the Japanese Training Squadron's visit in June 2023. In addition to arrival/departure procedures for two large military class vessels, Patrick worked with city departments and community organizations to present a schedule of activities for the visitors and citizens to experience together. The highlight of the visit was the service at Memorial Park.

The City Manager also presented Rockstar Awards to four landfill employees who worked diligently and expeditiously to remove 257 bales of trash from the bailer building. The employees are: Lilia Williams, Galileo Constantini, Merchan Rafer and Conner Zueger.

- **Staffing Update:** Hired Marjie Veeder as the Assistant City Manager. Three director positions remain unfilled or have contract employees. We are in the process of interviewing and hiring candidates for Police Chief, Finance Director and Planning Director. Names will be provided once offer letters are signed. The plan is to have everyone onboard and living in Unalaska by the end of September.

CITY OF UNALASKA  
UNALASKA, ALASKA

RESOLUTION 2023-32

A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIVE YEAR MASTER SERVICES AGREEMENT WITH GCI COMMUNICATION CORP. FOR DEDICATED INTERNET SERVICES

WHEREAS, the City of Unalaska is in need of dedicated internet services and issued a Request for Quote for such services; and

WHEREAS, pursuant to UCO 6.04.020, a contract requiring the payment of funds from the appropriations of later fiscal years shall be approved by City Council; and

WHEREAS, GCI has offered fiber optic internet service at the lowest cost for such services; and

WHEREAS, GCI is the most qualified and capable vendor to provide such services to the City; and

WHEREAS, it is in the best interest of the City of Unalaska to award a five-year agreement to GCI Communication Corp. for the provision of dedicated internet services.

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council authorizes the City Manager to enter into the attached five year Master Services Agreement with GCI Communication Corp. for the provision of dedicated internet services.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on July 25, 2023.

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Vincent M. Tutiakoff, Sr.  
Mayor

ATTEST:

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Estkarlen P. Magdaong  
Acting City Clerk

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## MEMORANDUM TO COUNCIL

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To: Mayor and City Council Members  
From: Jacob Whitaker, Information Systems Supervisor  
Through: Clay Darnell, Interim Finance Director  
Through: William Homka, City Manager  
Date: July 25<sup>th</sup>, 2023  
Re: Resolution 2023-32: Authorizing the City Manager to enter into a five year Master Services Agreement with GCI Communication Corp. for Dedicated Internet Services

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**SUMMARY:** Following evaluation of quotes received, Staff recommends that the City enter into a five year contract with GCI for dedicated internet services. Resolution 2023-32 will accomplish this objective.

At the July 11<sup>th</sup>, 2023 council meeting there was discussion about comparing fiber optic service and LEO satellite service. The City Manager requested that the Information Systems Division reach out for a third-party opinion. GCSIT provided the City an opinion affirming the benefits of fiber optic service over LEO satellite service. GCSIT's memo is attached.

**PREVIOUS COUNCIL ACTION:** There has been no previous Council action related to the proposed agreement.

**BACKGROUND:** GCI began offering fiber optic internet service to Unalaska in December, 2022. The City was already under a five year internet service contract with Fastwyre, however, the contract included a clause that Fastwyre would provide comparable fiber optic service to the City if fiber optic service became available in Unalaska. Unfortunately, Fastwyre was unable to provide such service under the provisions of the contract, therefore the City has given notice to terminate the contract with Fastwyre, and to proceed with going out again to bid.

**DISCUSSION:** A Request for Quote – Internet Services (RFQ) was issued on May 3<sup>rd</sup>, 2023. A copy of the RFQ is attached. The deadline to submit quotes was June 2<sup>nd</sup>, 2023. Quotes were submitted by Fastwyre, OptimERA, and GCI. The quotes were carefully reviewed, evaluated, and scored based on the vendor's experience, technical qualifications, demonstrated ability to perform the scope of work and the total cost.

Both Fastwyre and GCI provided quotes for fiber optic service, while OptimERA provided a quote for Starlink LEO satellite service. OptimERA's Starlink LEO Satellite service is the least expensive, but less preferable to fiber optic service due to the expected quality, performance, and reliability of the service type.

When comparing the cost per 1Mbps over a 1-year period the fiber optic service offered by GCI confers an 11% savings compared to the service offered by Fastwyre. There was also concern that Fastwyre might be unable to deliver fiber optic service on time, based upon their recent inability to do so under the City's current internet service contract.



Furthermore, we're recommending a five year contract with GCI for dedicated internet services in order to purchase a 90Mbps service at a 50% discounted rate, allowing the City to afford twice the amount of bandwidth offered under a 1-year contract. This would provide the City with the most high-quality bandwidth at the lowest price, while continuing to conform to the FY24 budgeted amount for internet services.

The increased bandwidth and service quality will allow the City to accommodate the increasing demands both internally and externally for services that rely on quality, high speed internet access, including remote access, online collaboration, cloud hosting, and a multitude of other online services.

**ALTERNATIVES:** Alternatives include 1) opting instead for a 1 year service contract with GCI at 45Mbps, or 2) remaining under our existing Fastwyre contract for satellite internet services at 30Mbps.

**FINANCIAL IMPLICATIONS:** The five year agreement for a 90 Mbps service will cost the City \$19,280 per month or \$231,360 annually which accords with the existing FY24 budgeted amount for internet service.

**LEGAL:** The City Attorney has reviewed and approved the proposed agreement.

**STAFF RECOMMENDATION:** We recommend that the City enter into a five year contract with GCI for dedicated internet services beginning in FY24, based on the results of the bidding process that concluded June 2, 2023. We believe GCI is offering the best service option for the City.

**PROPOSED MOTION:** I move to adopt Resolution 2023-32.

**CITY MANAGER COMMENTS:** I agree with the Staff Recommendation.

**ATTACHMENTS:**

- GCSIT Memo – Review of Fiber Optic and LEO Satellite technology
- Request for Quotes, Internet Service
- Scoring Matrix, RFQ, Internet Services
- Proposed Master Services Agreement



July 21, 2023

**Summary - City of Unalaska Primary Internet  
Review of Fiber Optic and LEO Satellite technology:**

**Fiber Optics Connections** – “FO” offer stability, predictability, and versatility, making them more desirable for a city's telecommunication needs in today's market. With almost 50 years of development, fiber optics technology has multiple proven installation types, and ensures adaptability to various environments. Its fixed and predictable low latency characteristics allow for fast and reliable data transmission, allowing real-time communication, it also has no limits on data transfer sizes.

Furthermore, fiber optics enable low (or no) packet loss, ensuring data integrity and reliability. This technology is highly scalable, with the proven ability to support a large number of users. This is done through light wave frequency-based multiplexing, allowing virtually unlimited data capacity.

Fiber optics installations also have 8–10-year life cycles. Upgrades and the incorporation of new innovations are easily facilitated by swapping out components or electronics on each end of the connection.

**Low Earth Orbit** – “LEO” Satellites can excel when you have flexible or mobile communication needs. They are finding success in point-to-multipoint use cases, however, are not well-suited for large data transfers. Present challenges that make them less desirable for any public telecommunication infrastructure.

LEO systems are more susceptible to distributed denial of service (DDoS) attacks due to their distributed connectivity model. The dynamic and changing connections between earth terminals and each LEO satellite can lead to connectivity blackouts and/or packet loss, affecting reliability.

LEO satellites also exhibit a higher opportunity for unpredictable latency, weather interference and electromagnetic (RF) interference can further disrupt data transmissions.

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Call us  
1 (866) 424-2766

Seattle Office  
1654 20th Ave  
Seattle, WA 98122

Anchorage Office  
3201 C Street, Ste 404  
Anchorage, AK 99503

Website  
[www.gcsit.com](http://www.gcsit.com)

Email us  
[info@gcsit.com](mailto:info@gcsit.com)



In summary, we believe fiber optics connections are a superior choice for any city in Alaska. The advantages in stability, predictability, low latency, scalability, security, and TCO, outweigh any advantage of being an early adopter of LOE for primary connection services. On the other hand, LEO satellites serve well as direct-to-consumer/direct-to-home (or boat) broadband access technology. We have seen this deployed in multiple locations as a backup/secondary wide area networking enterprise access technology, but have seen first-hand challenges related to vulnerability, latency, and data disruptions.

- GCSIT Engineering Team

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Seattle, WA 98122

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Anchorage, AK 99503

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CITY OF UNALASKA  
Finance Department, Information Systems Division  
REQUEST FOR QUOTE (RFQ) - INTERNET SERVICES

The City of Unalaska, Department of Finance, Information Systems Division ("City") is requesting quotes for dedicated internet services for the City for the term July 1, 2023, through June 30, 2024, as follows:

- 1) SCOPE OF SERVICES:
  - a) Dedicated internet service: minimum acceptable speeds of 30 Mbps download and 30 Mbps upload with a service level agreement for minimum downtime, mean time for repairs, and latency;
  - b) Minimum of ten (10) public static IP addresses for the City;
  - c) List the cost of each additional public static IP address requested by the City;
  - d) Provide access to public DNS servers that support DNSBL queries (i.e. *not* Google, OpenDNS, etc.);
  - e) Itemize any and all additional costs to the City for providing the services listed in paragraphs 1a, 1b, 1c and 1d to the City Hall facility (server room), if any.
- 2) The City requests that the vendor provide service options for increasing bandwidth up to 200 Mbps download, and to list discounts available for multi-year contract options (e.g. 2, 3 & 5 yrs.), including annual renewal dates.
- 3) The method of transport delivery (fiber optic, copper, satellite, microwave, etc.) should be specified in the bid. If last mile and middle mile differ, both methods of delivery should be specified in the bid.
- 4) Vendor will submit with their response to the request for quote a copy of their proposed agreement between the City and vendor to provide the requested services. Include with the submittal three customer references for the purpose of service evaluation.
- 5) Vendors interested in responding to this request must submit their quote no later than 5:00 p.m. on Friday, June 2<sup>nd</sup>, 2023 (AKDT). Any quotes received after that time may not be considered. Facsimile quotes will *not* be accepted. The sealed cost quotes must be in a package clearly marked **CITY INTERNET SERVICES RFQ** and addressed to the City of Unalaska, and will be received at the following location:

City Clerk  
City of Unalaska  
43 Raven Way  
P. O. Box 610  
Unalaska, Alaska 99685  
Telephone: (907) 581-1251

- 6) Only one quote from any individual, firm, partnership, or corporation, under the same or different names, will be considered.
- 7) The City reserves the right to waive any and all irregularities in any or all submitted quotes. The City reserves the right to reject any or all quotes, including without limitation the rights to reject any or all nonconforming, non-responsive, unbalanced or conditional quotes, and to reject the quote of any bidder if the City believes that it would not be in the best interest of the City to make an award to that bidder, whether because the quote is not responsive or the bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the City. The City also reserves the right to waive all informalities not involving price, time, or changes in the material specifications and to negotiate terms with the successful bidder. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.
- 8) Vendors responding to this Request for Quote shall be licensed to do business in the State of Alaska. The vendor shall obtain a City of Unalaska Business License prior to commencement of the scope of work, or provide existing license number if already obtained.

a) INSURANCE

1. Vendor agrees to furnish the City, before commencing any Physical Work related to this Agreement and as required elsewhere, the certificates of insurance as specified in these Documents. Vendor further agrees that the amount stated herein includes specific consideration for the insurance coverage's, including contractual liability, specified.
2. The Vendor shall carry and maintain throughout the life of this Agreement, at its own expense, insurance not less than the amounts and coverage herein specified, and the City of Unalaska, its employees and agents shall be named as additional insured under the insurance coverage so specified and where allowed, with respect to the performance of the work. There shall be no right of subrogation against the City or its agents performing work in connection with the work, and this waiver of subrogation shall be endorsed upon the policies. Insurance shall be placed with companies acceptable to the City of Unalaska, and these policies providing coverage thereunder shall contain provisions that no cancellation or material changes in the policy relative to this project shall become effective except upon 30 days prior written notice thereof to the City of Unalaska.
3. Prior to commencement of the work, the Vendor shall furnish certificates to the City of Unalaska, in duplicate, evidencing that the Insurance policy provisions required hereunder are in force. Acceptance by the City of Unalaska of deficient evidence does not constitute a waiver of Agreement requirements.
4. The Vendor shall furnish the City of Unalaska with certified copies of policies upon request. The minimum coverages and limits required are as follows:
  - 1) Workers' Compensation insurance in accordance with the statutory coverages required by the State of Alaska and Employers Liability insurance with limits not less than \$1,000,000 and, where applicable, insurance in compliance with any other statutory obligations, whether State or Federal, pertaining to the compensation of injured employees assigned to the work, including but not limited to Voluntary Compensation, Federal Longshoremen and Harbor Workers Act, Maritime and the Outer Continental Shelf's Land Act.

- 2) Commercial General Liability with limits not less than \$1,000,000 per Occurrence and \$2,000,000 Aggregate for Bodily Injury and Property Damage, including coverage for Premises and Operations Liability, Products and Completed Operations Liability, Contractual Liability, Broad Form Property Damage Liability and Personal Injury Liability. Coverage shall not contain any exclusion of Explosion, Collapse, or Underground. Coverage is to be endorsed to include a per project aggregate. Additionally, such insurance shall be considered primary to any other insurance carried by the City of Unalaska and the insurer will endorse the policy accordingly.
- 3) Commercial Automobile Liability on all owned, non-owned, hired and rented vehicles with limits of liability of not less than \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage per each accident or loss.
- 4) If applicable, Vendor's Equipment insurance covering all of the Vendor's equipment and machinery to be used in connection with the performance of the work specified in this Agreement. This coverage requirement may be waived at the discretion of the City of Unalaska if the Vendor self-insures the equipment and will waive all right of recovery against the City of Unalaska in writing.
- 5) Umbrella/Excess Liability insurance coverage of not less than \$1,000,000 per occurrence and annual aggregate providing coverage in excess of General Liability, Auto Liability, and Employers Liability.
- 6) If work involves use of aircraft, Aircraft Liability insurance covering all owned and non- owned aircraft with a per occurrence limit of not less than \$1,000,000.
- 7) If work involves use of watercraft, Protection and Indemnity insurance with limits not less than \$1,000,000 per occurrence. Hull and Machinery coverage is to be carried on the vessel for the full current market value. This coverage requirement may be waived at the discretion of the City of Unalaska if the Vendor self-insures the equipment and will waive all rights of recovery against the City of Unalaska in writing.
- 8) Where applicable, Professional Liability insurance with limits of not less than \$1,000,000 per claim and \$1,000,000 aggregate, subject to a maximum deductible of \$10,000 per claim. The City of Unalaska has the right to negotiate increase of deductibles subject to acceptable financial information of the policyholder.
- 9) Where applicable, Pollution Liability insurance with a project limit of not less than \$1,000,000 subject to a maximum deductible of \$10,000 to include coverage for Asbestos, Hazardous Materials, Lead or other related environmental hazards. The City of Unalaska has the right to negotiate increase of deductibles subject to acceptable financial information of the policyholder.

In the event Asbestos, Hazardous Materials, Lead or other related environmental hazards are transported by vehicle and/or marine vessel, the operator of such vehicles and vessels shall provide a Certificate of Insurance for the transportation of such materials (including loading and unloading) with limits of not less than \$1,000,000.

- 10) Builder's Risk Insurance: Coverage shall be provided on an "All Risk" completed value basis and protect the interests of the City, the Vendor and his sub-Vendors. Coverage shall include all materials, equipment and supplies that are intended for

specific installation in the project while such materials, supplies and equipment are located at the project site and in transit from port of arrival to job site and while temporarily located away from the project site.

5. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Vendor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expense.
  6. All insurance policies as described above except Professional Liability and Worker's Compensation, are required to be written on an "occurrence" basis. In the event occurrence coverage is not available, the Vendor agrees to maintain "claims made" coverage for a minimum of two years after project completion.
  7. If the Vendor employs sub-Vendors to perform any work hereunder, the Vendor agrees to require such sub-Vendors to obtain, carry, maintain, and keep in force during the time in which they are engaged in performing any work hereunder, policies of insurance which comply with the requirements as set forth in this section. This requirement is applicable to sub-Vendors of any tier.
  8. The Vendor is required to maintain all certificates of insurance during the course of the project. It is further agreed, that upon request by the City of Unalaska, the Vendor will provide copies of any and all sub-Vendor certificates of insurance for review of compliance.
  9. Failure by the Vendor to maintain the required insurance coverage or to comply with the above, may, at the option of the City of Unalaska, be deemed Defective Work and remedied in accordance with the Agreement.
- 9) A local review committee under the direction of the City of Unalaska, Department of Finance, Information Systems Supervisor, will review the quotes based on the following criteria:
- a) The experience of the vendor and technical qualifications with a demonstration of the ability to perform the Scope of Services (maximum 50 points); and
  - b) Total cost presented (maximum 50 points).
- 10) QUESTIONS: Direct any questions related to this request for quotes to the Information Systems Division Supervisor, Jacob Whitaker:

Mail: City of Unalaska  
Information Systems Division  
P. O. Box 610  
Unalaska, AK 99685

Telephone: (907) 581-1251 x3303

Email: [whitaker.jacob@ci.unalaska.ak.us](mailto:whitaker.jacob@ci.unalaska.ak.us)

Scoring Matrix		RFQ: Internet Services - July 1, 2023 - June 30, 2024								
Vendor	Annual Cost	Installation Cost	Other Costs	Total Cost	Migration Required (Y/N)	Bandwidth	Type	Contract Term	DNSBL (Y/N)	
Fastwyre	\$ 171,342.00	\$ -	\$ -	\$ 171,342.00	N	30/30Mbps	Fiber Optic	1	Y	
OptimERA	\$ 166,716.00	\$ -	\$ -	\$ 166,716.00	Y	50/50Mbps	LEO Satellite	1	Y	
GCI	\$ 227,400.00	\$ -	\$ -	\$ 227,400.00	Y	45/45Mbps	Fiber Optic	1	Y	
<b>Scoring</b>										
Exp. & Qualifications	Price*	Total Score			Notes	Date				
40	30	70			Concerned they may not be able to deliver the service based on prior experience	6/13/2023				
30	50	80			LEO Satellite service type is less preferable to fiber optic service	6/13/2023				
50	40	90			Ideal service type and better pricing than Fastwyre	6/13/2023				
<b>Comments</b>										
Collaborative scoring matrix completed by Clay Darnell (Interim Finance Director) and Jacob Whitaker (Information Systems Supervisor)										
<b>Scorer #1</b>										
Jacob Whitaker					<b>Scorer #2</b>					
Information Systems Supervisor					Clay Darnell					
					Interim Finance Director					
<b>Bids Received</b>										
5:00 p.m. June 2, 2023										
Vendor	On Time (Y/N)	RFQ Requirement Met (Y/N)								
FastWyre	Y	Y								
OptimERA	Y	Y								
GCI	Y	Y								
<b>Witness #1</b>										
Jacob Whitaker					<b>Witness #2</b>					
Information Systems Supervisor					Andre Kitsyuk					
					Computer Specialist					





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This Master Services Agreement (the "Agreement") is made and entered into as of the date of the last signature below ("Effective Date") by and between GCI Communication Corp. ("GCI"), an Alaska corporation, on its own behalf and on behalf of its affiliates and subsidiaries, having its principal place of business at 2550 Denali Street, Suite 1000, Anchorage, Alaska 99503 and City of Unalaska ("Customer"), having its principal place of business at 43 Raven Way, Unalaska, Alaska 99685 (each a "Party" and collectively, "the Parties").

### 1. SERVICE ORDERS AND STATEMENTS OF WORK

- 1.1 Customer wishes to engage GCI to provide services as identified in one or more Service Orders and/or Statements of Work. Managed services and Telecom services are provided via Service Orders. Professional services are provided via Statement(s) of Work (SOW).
- 1.2 The specific terms and conditions applicable to the services ("Services") to be provided by GCI pursuant to this Agreement, including the description of the Services and the obligations of each Party in connection therewith, applicable rates, fees, commissions and charges, termination rights, performance obligations, and service parameters are or will be set forth in the Services Summary and attached Service Order(s) and Statement(s) of Work. The Services Summary, Service Orders and Statements of Work entered into between the Parties are incorporated into the Agreement by reference and are governed by the terms of this Agreement. In the event of a conflict between the terms of this Agreement and the Service Order(s), the terms of the Service Order will prevail. In the event of a conflict between the terms of this Agreement and a Statement(s) of Work, the terms of this Agreement will prevail. All references to the "Agreement" will be deemed to include this document and its attachments, together with any and all Change Orders and SOW Revision Orders. All requests for Service additions, deletions or changes to existing Service(s) on Service Order(s) requires a Change Order to be executed by the authorized Customer representative and GCI. Change Orders will include the addition or deletion of Service(s) or the modifications to existing Service(s) and will also include a new services and pricing page, Attachment A to reflect the charges. Changes to the Statement of Work (SOW) shall use a SOW Revision Order and will include scope and pricing changes. Once signed by the parties, Change Orders are incorporated into the Agreement by reference.

### 2. PAYMENT

- 2.1 Service Charges. Customer agrees to pay all applicable charges associated with the Service(s) (the "Service Charges") when due. Delinquent bills will be assessed a late fee and a monthly finance charge. Applicable State and Federal taxes will be passed through as the responsibility of Customer.
- 2.2 Pricing for Professional Services. A Statement of Work will include the type of pricing to be used for professional services. If the Statement of Work specifies that pricing will be on a time and material basis, labor rates will be inclusive of wages, overhead, general and administrative expenses and profit. Fixed hourly rates or project fees will be billed as identified in each Statement of Work.
- 2.3 Materials Required for Professional Services. Payment for equipment and materials for professional services will be defined in the Statement of Work. All equipment and materials will be FOB GCI Offices unless otherwise identified in the Statement of Work. All costs (purchase of direct project materials, project consumables, rental of necessary equipment, etc.) will be billed as identified in the Statement of Work. The administrative time to procure the materials / rentals, if applicable, will be billed per the provided rates in the Statement of Work. Equipment, hardware, software and other products purchased for Customer, may or may not be returnable. Returns will be determined on a case by case basis with GCI having the final determination. If returns are accepted, they may be subject to a 20% return fee plus shipping, handling and restocking costs as well as being subject to the manufacture's or distributor's return policies.
- 2.4 Partial Month Billing for Service Orders. Customer will be billed a prorated share of all applicable charges for Services on Service orders installed, terminated or re-configured during the course of a monthly billing cycle. Professional services will be billed as indicated in the Statement of Work.
- 2.5 Billing Commencement. The Service Charges, as identified in the Services Summary and Service and Pricing, Attachment A, begin as specified in the applicable Service Order or Statement of Work.
- 2.6 Collections. Customer agrees that if GCI incurs collection or other legal costs as a result of nonpayment, Customer will be liable for the total past due amount, any returned check fees, and the costs of collection. These costs include, but are not limited to, any collection agency's fees, reasonable attorneys' fees, and arbitration or legal costs upon judgment.
- 2.7 Deposit. A cash deposit or a commercial letter of credit may be required based on a Customer's financial qualifications and the combined value of all payments required under the service order.

### 3. TERM AND TERMINATION

- 3.1 Term. The term ("Term") of this Agreement will begin on the Effective Date and continue for five (5) years. Thereafter, it will be automatically renewed for successive 1-year periods for so long as there is an active Service Order or Statement of Work in place between GCI and Customer, or until either Party gives the other Party written notice of termination at least sixty (60) days preceding the end of the initial or any renewal term. Any such termination is subject to the requirements and obligations of this Agreement, including any Service Orders, and will be effective at the end of the then expiring term, or at such later date as set forth in the notice.
- 3.2 Termination by GCI. GCI may terminate Service if Customer materially breaches this Agreement, including by failure to pay any amounts invoiced for Services when due, and if Customer does not cure such breach within fifteen (15) days after notice given to Customer in writing. If GCI terminates Service prior to the end of the Term due to Customer's material breach, Customer will be responsible for paying any early termination fees set forth in the applicable Service Order or Statement of Work and unreturned equipment fees. GCI may terminate this Agreement or suspend Service without notice (i) in order to prevent damage to or degradation of its Internet network integrity; (ii) to comply with any law, regulation, court order, or other governmental request order which requires immediate action; or (iii) to protect GCI from legal liability.



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- 3.3 **Termination by Customer.** Customer may terminate one or more Services at any time subject to being charged any early termination fee set forth in the applicable Service Order or Statement of Work, and subject to any advance notice required by a Service Order or Statement of Work.
- 3.4 **Effect of Termination.** Customer must return any GCI Equipment upon termination or Customer will be charged for such unreturned equipment. Termination of any or all of the Services does not relieve Customer of the obligation to pay for past due amounts and Service Charges incurred through the date of termination. Customer will be responsible to pay for all costs associated with the early termination, including termination fees, demobilization costs, equipment and material return costs, or any such other cost GCI may incur. If a Customer receiving a bundled service discount terminates one or more bundled Services, GCI may reduce or eliminate the discount.

#### 4. **PREMISES AND EQUIPMENT**

- 4.1 **Service Equipment on Customer Premises.** If access to any Customer building or related real property ("Customer's Premises") is required for the installation, maintenance, or removal of GCI Equipment or Customer Equipment used to provide the Service ("Service Equipment"), Customer will ensure that GCI has reasonable access to Customer's Premises and will identify and obtain any necessary third party consents and approvals, including but not limited to lessor consents and local land use approvals, if applicable. Customer will at its own expense be responsible for all site preparation activities necessary for installation of Service. Customer represents and warrants that Customer has good and marketable title or a good and valid leasehold interest to any portion of Customer's Premises where Service Equipment will be installed. Customer further represents and warrants that Customer's Premises are neither owned nor managed by the State of Alaska Department of Transportation and Public Facilities as an airport property, nor by any federal agency, including but not limited to the Bureau of Land Management, Indian Health Service, or Bureau of Indian Affairs. Customer shall defend, indemnify, and hold harmless GCI from any claims, suits, or enforcement proceedings, penalties, or relocation costs arising from or necessitated by breach of any representation or warranty provided by Customer in this paragraph.
- 4.2 **Damage During Installation.** Customer acknowledges that GCI may be required to perform internal wiring and other work at Customer's premises in order to install Service Equipment. Customer further understands that certain Service Equipment may be mounted to walls and ceilings in order for the Service to function properly. GCI will use commercially reasonable efforts to keep damage to walls, ceilings and premises to a minimum, but will not be responsible for repairing or returning Customer's premises to its original condition, except to the extent caused by GCI's gross negligence or willful misconduct.
- 4.3 **GCI Equipment**
- 4.3.1 "GCI Equipment" means all equipment and facilities installed or leased to Customer by GCI, except for Customer Equipment (defined below). GCI Equipment is for Customer's exclusive use only for purposes of using the Service during the Term and remains GCI's property. Customer agrees that it will not allow the GCI Equipment to be serviced by anyone other than GCI employees or agents. Except as otherwise provided in this Agreement, Customer may not permit any attachments to, alteration of, or tampering with the GCI Equipment. GCI may remove or change the GCI Equipment at its discretion at any time during the Term or following the termination of Service. Customer agrees that addition to, removal of, or changes to the GCI Equipment may interrupt Service. Customer agrees that the GCI Equipment must be returned to GCI at the end of the Term and that it will be in working order other than reasonable wear and tear. In the event the GCI Equipment is lost, stolen, damaged, destroyed, or otherwise not returned promptly, Customer agrees to pay the current replacement cost of the GCI Equipment.
- 4.3.2 GCI will use commercially reasonable efforts to maintain any GCI Equipment, to the extent such equipment is on GCI's side of the demarcation point, and subject to the noted exclusions. Unless specifically set out in writing, GCI will not provide or install any equipment on Customer's side of the demarcation point. During the Term, GCI will repair or replace defective GCI Equipment at no charge to Customer unless it is determined that Customer is responsible for such equipment failure. The cost of GCI service required to repair problems caused by Customer's failure to follow GCI's written instructions provided to Customer or by Customer's unauthorized repair, modification, or relocation of GCI Equipment, or by misuse or negligent acts, will be the responsibility of the Customer.
- 4.4 **Customer Equipment**
- 4.4.1 "Customer Equipment" means any Customer-owned, Customer-provided, or third-party hardware or software and that is used on the Customer's side of the demarcation point. GCI reserves the right to prohibit any Customer Equipment that it finds harmful.
- 4.4.2 Customer may not use or install any equipment on GCI's side of the demarcation point without permission from GCI in writing. GCI cannot guarantee that Customer Equipment will work with the Service. GCI may not be able to support or troubleshoot Customer Equipment and is not responsible for the ongoing maintenance of any Customer Equipment. Customer must cooperate with GCI in configuring and managing Customer Equipment in order to implement and operate the Service. GCI may, at its sole discretion, agree to service or troubleshoot Customer Equipment at Customer's request, at GCI's then-standard rates. Any such agreement by GCI must be in writing.

#### 5. **SECURITY, ACCEPTABLE USE, AND PRIVACY**

- 5.1 **Network Security.** In an effort to provide a secure Service, GCI deploys industry-recommended security measures on its network. In addition, GCI recommends the use of firewalls and security/malware software to protect Customer's systems and data. It is Customer's sole responsibility to take appropriate precautions to protect against damage to or destruction of hardware, software, files, and data. GCI is not responsible to Customer for unauthorized use of the Service or authorized access to Customer's data unless the unauthorized use or access results from GCI's failure to meet its security obligations stated in the Agreement. For terms applicable to the individual services GCI is providing to you, see the GCI Service Order for such service. GCI's obligations with respect to security of the Services are limited to those specifically set forth in this Agreement.



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- 5.2 **Account Security and Passwords.** Customer is responsible for maintaining the confidentiality of any passwords used to access or use the Services. Customer is fully responsible for all activities that occur under Customer's password or account, including any breach of the Agreement. Customer must notify GCI immediately upon learning of unauthorized access to the Service or Customer's account.
- 5.3 **Acceptable Use.** Customer agrees to comply with the Acceptable Use Policy when using the Service, which is available online at <https://www.gci.com/about/terms-conditions/acceptable-use-policy>. If Customer fails to comply, GCI may suspend or terminate Service. The Acceptable Use Policy may be changed by GCI from time to time without advance notice. In the event of such changes, the new Acceptable Use Policy will be posted online at the above link.
- 5.4 **Privacy.** Our Privacy Policy, which is available on our website at <https://www.gci.com/privacy-policy>, explains how GCI handles Customer's personal data, including the data that GCI collects and how we use it, and how we protect our Customers' privacy. By using the Service, Customer agrees to collection and use of data as described in the Privacy Policy. The Privacy Policy may be changed by GCI from time to time without advance notice. In the event of such changes, the new Privacy Policy will be posted online at the above link.
- 5.5 **CPNI Consent.** Under federal law, Customer has a right, and GCI has a duty, to protect the confidentiality of information about the amount, type and destination of Customer's wireless service usage. This information, called Customer Proprietary Network Information (CPNI), includes information that relates to the quantity, technical configuration, type, destination, location, and amount of use of GCI's service and related information in Customer's bills. It does not include Customer's name, address, or telephone number. GCI may use Customer's CPNI to provide or market GCI's wireless products and services to Customer, to protect GCI's right or property, to provide information to emergency personnel, and to protect Customer or others from fraudulent, abusive, or unlawful use of GCI's services. GCI also may use Customer's CPNI to comply with any law or legal process (such as a court order or subpoena). Customer's acceptance of the Agreement constitutes consent that GCI may use Customer's CPNI to market additional GCI services to Customer, including with third parties. Customer also consents to GCI sharing Customer's CPNI with other carriers to validate and/or accomplish any request for number portability into or out of GCI's Service. This consent survives the termination of Service and is valid until Customer removes it. To remove this consent at any time, notify GCI in writing by email at [gciprivacy@gci.com](mailto:gciprivacy@gci.com) or at the address set forth in Paragraph 8.4 below, providing (1) name, (2) Service address, (3) billing address, (4) telephone number including area code, and (5) service account number. Removing consent will not affect current Services.
- 5.6 **Pin Number.** The F.C.C. requires that customers set up and use a Private Identification Number ("PIN") when communicating with GCI to obtain certain information about, or to make certain changes to, its telephone account. Use of this PIN may be waived by the account owner or authorized account user, by contacting GCI Business Customer Service at 907-265-5454, or 800-800-7754 (Toll Free), with proper authentication ("PIN Waiver"). The PIN Waiver will remain in effect until revoked by the account owner.
- 5.7 **Content.** There may be content available through the Internet that is illegal, violates third party property or other rights, or is offensive. GCI is not responsible for the content contained on the Internet or otherwise available through the Service. GCI is not liable for any claims, losses, actions, damages, suits, or proceedings arising out of, or otherwise relating to, such content. Websites visited, or data received through the Service may contain viruses. It is Customer's sole responsibility to take appropriate precautions to protect against damage to or destruction of hardware, software, files, and data. GCI may, but is not required to, suspend or terminate availability of the Service if a virus is found on any Customer Equipment or in any communications sent or received through the Service.
- 5.8 **Use of Service.** Customer may not use or permit another to use GCI Equipment or the Service for any unlawful purposes. Customer may not post or transmit through the Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others (including copyrights, patents, trademarks, trade secrets or proprietary rights), that is unlawful, threatening, abusive, obstructive, harassing, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane, that encourages conduct that would constitute a criminal offense, gives rise to civil liability, or otherwise violates any law. Customer will not use GCI Equipment at any time at an address other than the service address specified in your account without GCI's prior written authorization. Customer agrees and represents that it will not resell or permit another to resell the Service in whole or in part. Customer acknowledges that it is accepting this Agreement on behalf of all persons who use GCI Equipment or Service at the service address and that Customer has sole responsibility for ensuring that all other users understand and comply with the terms and conditions of this Agreement. Customer further acknowledges and agrees that Customer will be solely responsible for any transactions, including, without limitation, purchases made through or in connection with the Services. Customer agrees to use all commercially reasonable efforts to prevent unauthorized access to, use of, or interference with use of the Services, and must notify GCI promptly of any unauthorized use, access, or interference.

## 6. SYSTEMS AND DATA.

- 6.1 **Data Files.** Customer's data files and the data contained therein shall be and remain Customer's property. Customer's data shall not be utilized by GCI for any purpose other than that of rendering Services to Customer under this Agreement, nor shall Customer's data or any part thereof be disclosed, sold, assigned, leased or otherwise disposed of to third parties by GCI, its employees or agents.
- 6.2 **Systems.** Customer is wholly responsible for the integrity and security of its systems and data. Customer will back up all systems and data and, on a schedule, determined by Customer.

## 7. PROFESSIONAL SERVICES.

- 7.1 **Statement of Work.** A Statement of Work (SOW) will apply to professional services provided under this Agreement and will set forth a full description and scope of the Services to be provided by GCI.
- 7.2 **Network and System Downtime.** Many network installations and other professional services require scheduled server or network down time. GCI will work with Customer to schedule project work to minimize the number and duration of disruptions and down time. All scheduled server and network down time activities are estimated durations only and subject to change by GCI. Customer acknowledges that in order for GCI to pass along certain cost efficiencies to Customer, server and network down time will be scheduled during the office



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hours of 8:00 AM to 5:00 PM Alaska Standard Time, whenever possible. Customer's users can often still use their computers during scheduled down time but will not be able to access some or all of the network resources or services. Down time may be pre-scheduled during weekend and evening hours but will result in overtime charges for labor to Customer.

- 7.3 Professional Service Investigations. Customer's systems, software and hardware characteristics may vary significantly between successive test points and sample intervals or Customer project locations reviewed by GCI in developing a Statement of Work cost, schedule and project plan. Because of the inherent uncertainties in these initial project evaluations, changed or unanticipated conditions may occur that could affect the total Statement of Work cost for professional services, as well as schedule and project plans. These conditions and cost together with the project execution effects are not the responsibility of GCI.
- 7.4 Travel and Other Expenses.
- 7.4.1 Travel Expenses. All travel will be FOB GCI offices, unless otherwise identified in the Statement of Work. All travel cost including but not limited to airfare, vehicle rental, lodging, meals etc. will be billed as identified in the Statement of Work. If administrative time to secure the arrangements for personnel and material are to be billed to Customer, it will be indicated in the Statement of Work at the provided labor rates in the Statement of Work. While all efforts are made to estimate these expenses, the actual expense may vary due to factors such as availability of specific lodging, rental cars, and airfare or for other reasons outside of the control of GCI. GCI will occasionally book fares that allow for flight schedule changes with no prior notice or additional charge. This is occasionally necessary due to the inability to precisely predict length of some project engagements due to Customer scheduling restraints or other factors. Wherever possible, GCI will book the lowest cost flights.
- 7.4.2 Lodging. GCI will book hotel accommodations and separate rooms for each GCI employee assigned to a Statement of Work. Hotel accommodations are chosen that are clean, with private bathrooms and shower facilities and that are priced according to GCI's internal travel policies.
- 7.4.3 Rental Car. GCI may utilize one rental car for each day on-site in a remote location. A rental car helps speed delivery of service and reduces waiting charges associated with taxis, buses, or private transportation from a Customer employee. Should Customer elect to provide ground transportation, formal arrangements must be made with GCI at least one business day in advance of a GCI's arrival at the Customer's location. GCI will charge for actual travel time should Customer elect to provide ground transportation.
- 7.4.4 Per Diem. Per Diem charges, if applicable, will be defined in the Statement of Work.
- 7.4.5 Travel Time. Travel time will be charged per individual professional resource as stated in the Statement of Work. Travel time will start from the time the professional resource leaves GCI's office, until he/she arrives at the Customer's site. Travel delays once the professional resource has departed, due to weather or any other reason outside of the Company's control, will be charged to the Customer at the rate shown in the Statement of Work.
- 7.4.6 Freight. Customer is responsible for all Customer purchased equipment transportation costs and expenses. Any costs incurred by GCI will be billed to Customer.
- 7.5 Standard of Care, Warranty and Limitations.
- 7.5.1 The standard of care applicable to GCI's Services will be the degree of skill and diligence normally employed by professional and technical IT support companies providing the same or similar Services at the time GCI's Services are performed. GCI will re-perform any Service not meeting this standard without additional compensation, subject to Customer providing GCI written notice of such non-conformance within sixty (60) days from the date of Service completion (Project Statement of Work Completion) of the Services. In any event, GCI's liability under this Agreement shall be limited to the obligation to re-perform any work not meeting the Statement of Work project specification.
- 7.5.2 GCI will pass through to Customer any manufacturer or supplier's warranty on all equipment, hardware or software purchased through GCI. GCI will work with Customer to integrate equipment, hardware or software supplied by the Customer into the project specification. GCI makes no warranties, either expressed or implied, concerning compatibility of hardware or software supplied by the Customer and GCI will not be responsible for any loss of or corruption of data and or program files and/or loss of production due to network installation, network failure or network component failure.
- 7.5.3 GCI does not warrant that the GCI supplied professional services, equipment, hardware or software will be error-free or operate without interruption, latency or delay. Except as specifically provided in this Agreement, GCI MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR TITLE. GCI exercises no control over and has no responsibility for Customer supplied equipment, hardware or software integrated into the project specifications and deliverables or content transmitted or accessible through the Service or any Customer connectivity service and disclaims any responsibility for the same.
- 7.6 GCI Personnel at Customer's Location. Customer agrees to provide GCI employees and subcontractors assigned to support the Statement of Work at Customer's location, a suitable place of work, which will comply with all applicable Federal, State and local health and safety laws and regulations. Customer will furnish to GCI copies of workplace conduct, health and safety and network rules and regulations so that GCI may instruct its personnel to abide by such rules and regulations. Customer agrees to provide GCI employees and subcontractors any Customer required safety and health training at Customer's sole cost and expense. In the event the work described in any Statement of Work under this Agreement requires the use of any personal protective or safety equipment, Customer will supply such equipment at Customer's sole cost and expense.





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#### 7.7 Changes to Statement of Work (SOW), Revision Orders.

- 7.7.1 All Customer requests for professional service(s) that are not specifically itemized in the Statement of Work require an approved SOW Revision Order signed by Customer and GCI. SOW Revision Orders will include the statement of the change to be performed, a labor estimate based on GCI's time and material rates and an amended work schedule, if applicable. Changes or additions of material and equipment costs, including freight, handling and any additional project mobilization costs will be listed separately in the SOW Revision Order.
- 7.7.2 All executed Revision Orders will be considered attached to this Agreement as an addendum and subject to the terms and conditions of the Agreement. While GCI will provide an estimate of the anticipated cost and schedule impacts for each Revision Order, GCI makes no guarantee as to the actual cost and schedule impacts created by the approved Revision Orders. Customer agrees, GCI retains the right to direct a Revision Order under this Agreement, approved and paid by Customer, which captures the reasonable cumulative impact costs of all Revision Orders approved under the individual Statement of Work.
- 7.7.3 Changes in laws or regulations not known or foreseeable on the date of the Statement of Work execution, which have an effect on the cost or schedule of GCI's Services, are subject to a request for a Revision Order under this Agreement.

#### 7.8 Project Close Out

- 7.8.1 GCI may send a notification of Project completion to Customer at the end of the project. GCI considers a project complete when all tasks have been completed and all deliverables turned over to the Customer. The Project (as detailed in the applicable Statement of Work) will be used as the guideline to determine Project completion.
- 7.8.2 GCI may request a meeting with Customer to review the Project completion report and to demonstrate the Project deliverables were completed. If there are any project deliverables Customer understands were not completed by GCI, such deliverables will be reviewed by GCI and a corrective action plan may be developed to satisfy any incomplete deliverables. If all tasks are found by Customer to be complete, Customer is expected to sign the project close out reports and GCI will close the project. If such signature is unreasonably withheld, GCI may invoice Customer for additional project management time.

### 8. LIABILITY AND DISPUTE RESOLUTION

- 8.1 Indemnification. GCI will indemnify, defend and hold Customer, its affiliates and their officers, directors, employees and agents harmless from and against any third party claims, liabilities, losses, damages and expenses (including reasonable attorney's fees) ("Claims") incurred, relating to or arising out of (i) personal injury or real property damage caused by the negligence or willful misconduct of GCI or its employees or agents, and (ii) infringement of a U.S. patent right or copyright in connection with authorized use by Customer of the Services. Customer will indemnify, defend and hold GCI, its affiliates and their officers, directors, employees and agents harmless from and against any Claims incurred, relating to or arising out of (i) personal injury or real property damage caused by the negligence or willful misconduct of Customer or its employees or agents, (ii) infringement of a U.S. patent right or copyright in connection with use by Customer with the Services of equipment, software or services not provided by GCI, and (iii) misuse of the Services by Customer or any users of the Services in violation of this Agreement. The indemnified Party will provide the indemnifying Party with prompt written notice of any Claim and permit the indemnifying Party to control the defense, settlement, adjustment or compromise of any Claim. The indemnified Party may employ counsel at its own expense to assist it with respect to any Claim. The indemnified Party will have no authority to settle any Claim on the indemnified Party's behalf. Nothing in this Section will limit any other remedies of the Parties.
- 8.2 Disclaimer of Warranties. GCI does not warrant that the GCI equipment or services will be error-free or operate without interruption, latency or delay. Except as specifically provided in this Agreement, GCI MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR TITLE. GCI exercises no control over and has no responsibility for content transmitted or accessible through the Service and disclaims any responsibility for such content.
- 8.3 LIMITATION OF LIABILITY. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF REVENUE, SALES, PROFITS OR DATA, WHETHER BASED ON BREACH OF CONTRACT, TORT OR ANY OTHER LEGAL THEORY OF LIABILITY, EVEN IF EITHER PARTY WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. GCI WILL NOT BE LIABLE FOR LOSSES THAT RESULT FROM CUSTOMER'S OR ITS USERS' USE OF OR INABILITY TO ACCESS ANY PART OF THE SERVICES; CUSTOMER'S OR ITS USERS' RELIANCE ON OR USE OF INFORMATION; SERVICE INTERRUPTIONS; LOSS, THEFT, OR DELETION OF FILES; OR ERRORS, DEFECTS, OR DELAYS IN OPERATION OR TRANSMISSION. GCI WILL NOT BE LIABLE FOR LOSSES DUE TO USE OF THIRD-PARTY PRODUCTS OR SERVICES. A PARTY'S LIABILITY FOR ANY ACTION OR INACTION, INCLUDING EARLY TERMINATION OF THIS AGREEMENT OR ANY SERVICE OR SERVICE ORDER WILL IN NO EVENT EXCEED GCI'S SERVICE CHARGES FOR A 12-MONTH PERIOD. This limitation of liability is an agreed-upon benefit of the bargain and remains in effect even if any remedy under the Agreement fails of its essential purpose.
- 8.4 Arbitration. Customer and GCI agree to resolve all disputes under this Agreement by binding arbitration. Each Party agrees to notify the other Party in writing of the nature of the dispute at least forty-five (45) days before initiating binding arbitration. The Parties will attempt to resolve the dispute informally. Any dispute between the Parties that cannot be resolved after forty-five (45) days will be finally resolved by a single neutral arbitrator in accordance with the Federal Arbitration Act ("FAA"). The arbitrator will have no power to make any award that provides for punitive or exemplary damages. The arbitrator may not consolidate more than one Party's claims and may not otherwise preside over any form of a representative or class proceeding. Any arbitration must be brought in the Party's individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. If for any reason a dispute is permitted to be brought in court, the Parties both agree to waive any right to a jury trial in any court action. The Parties acknowledge and agree that the FAA governs this agreement to arbitrate, that the existence and validity of this agreement will be determined in



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accordance with the FAA, that any arbitration between the Parties will be conducted in accordance with the FAA, and that any state arbitration statute or procedure does not apply. The arbitration will be conducted by the American Arbitration Association ("AAA") under its rules, in Anchorage, Alaska. Payment of all filing, administration, and arbitrator fees will be governed by the AAA's rules. The Parties will share the costs of arbitration equally unless the arbitration award provides otherwise. Each Party will bear its own fees, and the arbitrator will have no power to award attorney's fees except as may be permitted under the terms of this Agreement.

### 9. CONFIDENTIALITY

- 9.1 "Confidential Information" means information disclosed by either Party ("Disclosing Party") to the other Party ("Receiving Party") in connection with the negotiation or performance of this Agreement, even if before the Effective Date, that is marked as confidential or would be understood by a reasonable person to be confidential in nature.
- 9.2 Neither Party may at any time during or after the termination of this Agreement (i) disclose any Confidential Information to any third-party except with the specific prior written consent of the Disclosing Party or as expressly permitted by the terms of this Agreement; or (ii) use the Confidential Information for any purpose other than to perform its obligations under this Agreement. Both Parties must use the same degree of care in safeguarding the Confidential Information as it uses for its own confidential information of like importance, but in any case, no less than reasonable care. Upon discovery of any disclosure or misuse of Confidential Information, the Receiving Party will notify the Disclosing Party and will act to prevent any further disclosure or misuse.
- 9.3 The Parties' obligation of confidentiality and restriction on use will not apply to information that: (i) at the time of disclosure was available to the public; (ii) after disclosure became available to the public by publication or otherwise by a person other than Disclosing Party; (iii) was in the possession of either party or its subsidiaries or affiliates at the time of disclosure; (iv) was received by either party from a third party without an obligation of secrecy; or (v) was or is disclosed to another party by the Disclosing Party or its agents or authorized representatives without a corresponding obligation of confidence.
- 9.4 Each Party is permitted to disclose Confidential Information as required by law or regulation provided, however, that the Receiving Party must (i) if not prohibited by law or regulation, give the Disclosing Party written notice promptly upon receipt of a disclosure requirement and before the disclosure is made; (ii) take reasonable actions and provide reasonable assistance to Disclosing Party to secure confidential treatment of the Confidential Information; and (iii) disclose only such Confidential Information as is required.

### 10. MISCELLANEOUS

- 10.1 Right to Modify Agreement. Neither this Agreement nor any term or provision hereof may be changed, waived, discharged, amended, or modified orally, or in any manner other than by an instrument in writing signed by all the Parties hereto.
- 10.2 Use of Services. Customer will not use the Service for any purpose which is illegal, unlawful, or harassing, which infringes upon another's intellectual property rights, or which otherwise constitutes network abuse, and Customer will be responsible for any such use of the Service by Customer or its users.
- 10.3 Trademarks. Neither Party may use the other's name, trademark, trade names or other proprietary identifying symbols without the prior written approval of the other Party.
- 10.4 Notices. Unless explicitly stated otherwise, all notices required or permitted under this Agreement must be in writing, delivered personally or by U.S. mail, facsimile or electronic mail (followed by hard copy, in the case of fax or email) to the respective addresses set forth below, or such other person and/or address as a Party may notify the other from time to time in writing, and will be deemed effective upon receipt.
- |  |  |
|--|--|
| <p><b><u>Customer:</u></b></p> <p>William Homka, City Manager<br/>City of Unalaska<br/>43 Raven Way<br/>Unalaska, AK 99685</p> | <p><b><u>GCI:</u></b></p> <p>GCI Communication Corp.<br/>Attention: Corporate Counsel<br/>2550 Denali Street, Suite 1000<br/>Anchorage, AK 99503</p> |
|--|--|
- 10.5 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the successors and permitted assigns of the Parties hereto.
- 10.6 Assignment. Neither this Agreement, nor any of rights or obligations herein are transferable or assignable by either Party without the other Party's prior written consent and any attempted transfer or assignment hereof not in accordance herewith are null and void.
- 10.7 Severability. If any portion of this Agreement is held to be unenforceable, the unenforceable portion will be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the Parties and the remainder of the provisions will remain in full force and effect.
- 10.8 No Waiver. Either Party's failure to insist upon or enforce strict performance of any provision of the Agreement will not be construed as a waiver of any provision or right. Neither the course of conduct between Parties nor trade practice will act to modify any provision of this Agreement.
- 10.9 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Alaska, without regard to its conflicts of law provisions.
- 10.10 Entire Agreement. This Master Services Agreement, along with any Service Orders, Statements of Work and any exhibits or attachments thereto, constitute the complete agreement between the Parties and supersedes all prior understandings or arrangements between them regarding the subject matter of this Agreement.



**MASTER SERVICES AGREEMENT**

**GV-141**

- 10.11 Intellectual Property. All materials, software, formulas, calculations, records, reports, and data developed in performance of this Agreement as well as any materials given by GCI to Customer pursuant to this Agreement will remain the exclusive property of GCI and will be returned to GCI upon written request or at the end of this Agreement.
- 10.12 Force Majeure. "Force Majeure Event" means any cause beyond GCI's reasonable control and without the fault or negligence of GCI or its subcontractors, including but not limited to fire, flood, earthquake, volcanic activity, unusually severe weather, vandalism or external aggression to the communication facilities that is not attributable to GCI or its employees or agents, failure of satellite or plant structure, act of terrorism, sabotage, power outages outside of the reasonable control of GCI, tail circuit or local loop outage outside of the reasonable control of GCI, explosion, war, strike, embargo, pandemic, epidemic, government requirement, act (or failure to act) of civil or military authority, act of God, failure of a third party to grant or renew a materially required and non-substitutable right of way, permit, easement or other required authorization for use of the intended right of way (provided that GCI relief has used its commercially reasonable efforts to obtain the required right of way, permit, easement or other required authorization). No Party will be held liable for any delay or failure in performance of any part of this Agreement (other than the duty of payment) caused by a Force Majeure Event. If any Force Majeure Event occurs, the Party whose performance fails or is delayed because of such Force Majeure Event ("Delayed Party") will promptly give written notice thereof to the other Party. The Delayed Party will use all commercially reasonable efforts to avoid or mitigate performance delays despite a force majeure condition, and unless the force majeure substantially frustrates performance under the Agreement, will restore performance as soon as the Force Majeure Event is removed.
- 10.13 Mutual Non-Solicitation. The Parties agree that during the Term and for a period of 12 months thereafter, neither Party, including such Party's agents and Affiliates will directly, or indirectly offer employment to, employ, engage as an independent contractor, or otherwise obtain (or encourage any third party to retain) the services of any person employed within the preceding one hundred and eighty (180) days by the other Party or an Affiliate, who became known to such Party or its Affiliate in connection with the performance of this Agreement; provided, however, that this section shall not prohibit any person employed by GCI or an affiliate from applying to any publicly noticed opening with Customer nor prohibit Customer from hiring such person.
- 10.14 Representation on Authority of Signatories. Each person signing the Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver the Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized, and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

{Signatures on Next Page}



**MASTER SERVICES AGREEMENT  
GV-141**

SERVICES SUMMARY

SERVICES SUMMARY INFORMATION	
<b>Start Date:</b>	Date of final signature
<b>End Date:</b>	Per Service Order as indicated below or in the pricing table per location in Attachment A or per Statement of Work.
This Services Summary includes and incorporates by this reference:	Services and Pricing, Service Location(s), and Service notes, (Attachment A). <ul style="list-style-type: none"> <li>Regional Dedicated Internet Access GV-141-01, Attachment</li> </ul>

**THIS SERVICES SUMMARY** is governed by this Master Services Agreement MSA (“Agreement”) and is effective as of the Date of the last signature below. Capitalized terms not defined in this Services Summary will have the meaning provided in the Agreement. By signing below, Customer represents that it is authorized to sign the MSA and this Services Summary, acknowledges that it has carefully read and fully understood the MSA, the Services Summary and all attachments, Service Orders, Statements of Work, Change Orders and SOW Revision Orders hereto, and agrees to be bound by its terms. Facsimile and electronic signatures will be binding for all purposes.

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Master Service Agreement and Service Order Summary as of the date of the last signature below.

**City of Unalaska**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

**GCI Communication Corp.**

DocuSigned by:  
  
 \_\_\_\_\_  
BB747963964A4F1...  
 Authorized Signature

Brad Spees  
 \_\_\_\_\_  
 Name

VP & Operating Group Manager  
 \_\_\_\_\_  
 Title

6/30/2023  
 \_\_\_\_\_  
 Date Signed

DS  






**MASTER SERVICES AGREEMENT  
GV-141**

**ATTACHMENT A**

This Services and Pricing page Attachment is subject to the terms and conditions of this GCI Master Services Agreement MSA (“Agreement”) between GCI Communication Corp. (“Company” or “GCI”) and the Customer identified in this MSA (“Customer”) (each a “Party” and collectively, “the Parties”), and upon execution by the Parties becomes a part of the Agreement.

1. **SERVICES AND PRICING.** Pricing for services on Service Orders is located in the tables(s) below and pricing for Professional Services is located in each Statement of Work, if applicable.

See: General Dispatch Support for Professional Services Pricing.

Service Description	Service Location	Rate	Monthly Recurring Charges (MRC)	Term begins after Service Delivery Date	Install NRC
Regional Dedicated Internet Access	43 Raven Way Unalaska, AK 99685	90 Mbps	\$19,280.00	5 Years	\$0.00
<b>Regional Dedicated Internet Access Total</b>			<b>\$19,280.00</b>		

- 1.1 Only applicable for Monthly Recurring Charges: does not include taxes, regulatory surcharges, or non-recurring charges that may apply, amount billed to Customer may vary.

2. **SERVICE NOTES.**

None.

CITY OF UNALASKA  
UNALASKA, ALASKA

ORDINANCE 2023-08

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING UNALASKA CODE OF ORDINANCES § 3.56 EXECUTIVES TO ALLOW THE CITY MANAGER TO NEGOTIATE THE AMOUNT OF PERSONAL LEAVE FOR NEW EXECUTIVE LEVEL EMPLOYEES

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF UNALASKA, as follows:

**Section 1: Classification.** This Ordinance is a Code Ordinance.

**Section 2: Amendment of Section 3.56.020 RECRUITMENT AND APPOINTMENT.** Section 3.56.020 of the Unalaska Code of Ordinances is hereby amended to read as follows. [New language is underlined; and deleted language is ~~overstruck~~.]

**§ 3.56.020 RECRUITMENT AND APPOINTMENT.**

Executive positions by their nature and complexity are not subject to the normal procedures of recruitment and selection applicable to classified service positions. The City Manager may utilize any appropriate recruitment and referral sources and techniques, including, but not limited to: negotiating the amount of leave, offering a lump sum payment of a hiring bonus not to exceed \$10,000 less applicable withholdings to obtain the highest caliber employees for these positions and may appoint whomever the City Manager has determined can best discharge the duties of an executive position at their discretion. Any lump sum payment shall be contingent on agreement of the employee to reimburse the full amount of the incentive payment if the employee resigns before the employee's first anniversary date.

**Section 3: Amendment of Section 3.56.040 LEAVE.** Section 3.56.040 of the Unalaska Code of Ordinances is hereby amended to read as follows. [New language is underlined; and deleted language is ~~overstruck~~.]

**§ 3.56.040 LEAVE.**

The provisions of Chapter 3.52 shall govern leave for executive employees, subject to the provisions of 3.56.020.

**Section 4: Effective Date.** This ordinance is effective upon passage.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on August 8, 2023.

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Vincent M. Tutiakoff, Sr.  
Mayor

ATTEST:

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Estkarlen P. Magdaong  
Acting City Clerk

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## MEMORANDUM TO COUNCIL

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To: Mayor and City Council Members  
From: William Homka, City Manager  
Date: July 25, 2023  
Re: Ordinance 2023-08: An Ordinance of the Unalaska City Council amending Unalaska Code of Ordinances § 3.56 Executives to allow the City Manager to negotiate the amount of personal leave for new executive level employees

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**SUMMARY:** The Administration is working with Human Resources to fill key executive positions with the City. External candidates have asked if personal leave is negotiable. Chapter 3.56 'Executives' authorizes the City Manager to negotiate compensation, moving allowance and sign on bonuses as part of the recruitment process. However Chapter 3.56.040 'Leave' refers back to the city's personal leave accrual plan in Chapter 3.52.010.

**DISCUSSION:**

Paid time off (PTO) is becoming as important as income for more experienced and executive level candidates. All city employees (regular and executive) are subject to the City's personal leave plan per Chapter 3.56.040 Leave. All new employees accrue PTO at the same rate, regardless of experience. The City Manager cannot use personal leave as a recruitment tool to fill executive positions. The following is from Chapter 3.52.010 Leave:

Personal Leave Accrual Plan

- A. All regular full-time employees who are eligible to accrue leave, shall accrue personal leave at the rate of:
  1. First and second years of service beginning on the date of hire and ending on the date before the second anniversary date, 16 hours per month.
  2. Third and fourth years of service beginning on the third anniversary date and ending on the day before the fourth anniversary date, 20 hours per month.
  3. Fifth and sixth years of service beginning on the fourth anniversary date and ending on the date before the sixth anniversary date, 24 hours per month.
  4. Seventh and eighth years of service beginning on the sixth anniversary date and ending on the date before the eighth anniversary date, 28 hours per month.
  5. Ninth year of service and beyond beginning on the eighth anniversary date and ending on the date of separation from city service, 32 hours per month.
  
- B. Accrued unused personal leave shall not exceed 768 hours. Once any employee has accrued 768 hours of unused personal leave, the employee shall stop accruing personal leave until the employee's accrued unused personal leave is less than 768 hours.

Table 1: Unalaska Employee Personal Leave Plan illustrates the City's PTO in terms of hours per year and as 40 hour weeks. The administration prefers to fill executive positions with candidates having significant experience but we only offer paid time off at the entry level. Staff proposes to amend Chapter 3.56.040 by deleting the reference to Chapter 3.52.010 Personal Leave Plan and adding language to authorize the City Manager to negotiate personal leave for executives based on a candidate's professional experience.

**Table 1: Unalaska Employee Personal Leave Plan**

<b>Chapter 3.56.040 Personal Leave Plan</b>			
<b>Years</b>	<b>Hr/month</b>	<b>hr/year</b>	<b># 40 hr weeks</b>
1 & 2	16	192	4.8
3 & 4	20	240	6
5 & 6	24	288	7.2
7 & 8	28	336	8.4
9 +	32	384	9.6

Text Amendment

Unalaska City Code requires ordinances to have two readings and one public hearing with the City Council prior to a decision. Staff has prepared the text amendment, with new language underlined and deleted language shown with ~~strike thru~~. This text change is not complicated and only affects two sections: Section 3.56.020 Recruitment and Appointment and Section 3.56.040 Leave.

**§ 3.56.020 RECRUITMENT AND APPOINTMENT.**

Executive positions by their nature and complexity are not subject to the normal procedures of recruitment and selection applicable to classified service positions. The City Manager may utilize any appropriate recruitment and referral sources and techniques, including, but not limited to: negotiating the amount of leave for an experienced candidate so it is attractive to a candidate that would be leaving a position with significantly more leave; offering a lump sum payment of a hiring bonus not to exceed \$10,000 less applicable withholdings to obtain the highest caliber employees for these positions and may appoint whomever the City Manager has determined can best discharge the duties of an executive position at their discretion. Any lump sum payment shall be contingent on agreement of the employee to reimburse the full amount of the incentive payment if the employee resigns before the employee’s first anniversary date.

**~~§ 3.56.040 LEAVE.~~**

~~—The provisions of Chapter 3.52 shall govern leave for executive employees.~~

Chapter 3.56 Executives is included with this report as Attachment 1. The amendment eliminates Section 3.56.040 Leave and its cross reference to Section 3.52.010. Section 3.56.020 Recruitment and Appointment will add personal leave as a negotiable recruitment tool for the City Manager to use while negotiating employment offers for experienced executive candidates.

**ALTERNATIVES:** Council may adopt, amend or reject Ordinance 2023-08.

**FINANCIAL IMPLICATIONS:**

**LEGAL:**

**PROPOSED MOTION:** I move to adopt Ordinance 2023-08...

**STAFF RECOMMENDATION:** Staff recommends adoption of this amendment.

**CITY MANAGER COMMENTS:** I support this amendment.

One (1) attachment

# ATTACHMENT 1:

## CHAPTER 3.56: EXECUTIVES

### Section

- 3.56.010 Classification
- 3.56.020 Recruitment and appointment
- 3.56.030 Compensation
- 3.56.040 Leave
- 3.56.050 Dismissal, demotion and suspension
- 3.56.060 Demotion upon request
- 3.56.070 Exception to rules
- 3.56.080 Severance pay
- 3.56.090 Resignation

### **§ 3.56.010 CLASSIFICATION.**

Executive positions shall be included in the classification plan and allocated to an executive pay level as defined in the pay plan. Should the City Manager reassign the duties of an executive position in such a manner as to necessitate placement at a higher or lower executive pay level, such action shall require approval of the City Council.

### **§ 3.56.020 RECRUITMENT AND APPOINTMENT.**

Executive positions by their nature and complexity are not subject to the normal procedures of recruitment and selection applicable to classified service positions. The City Manager may utilize any appropriate recruitment and referral sources and techniques, including, but not limited to: negotiating the amount of leave for an experienced candidate so it is attractive to a candidate that would be leaving a position with significantly more leave; offering a lump sum payment of a hiring bonus not to exceed \$10,000 less applicable withholdings to obtain the highest caliber employees for these positions and may appoint whomever the City Manager has determined can best discharge the duties of an executive position at their discretion. Any lump sum payment shall be contingent on agreement of the employee to reimburse the full amount of the incentive payment if the employee resigns before the employee's first anniversary date.

(Am. Ord. 2006-22, passed 12-12-06; Am. Ord. 2019-10, passed 9-10-19)

### **§ 3.56.030 COMPENSATION.**

(A) Executive positions are assigned to an executive pay level based on the relative responsibility of the position.

(B) Executive employees shall be evaluated annually. The employee's performance must be rated at least satisfactory in order to be eligible for consideration of a wage increase on July 1 (or as otherwise provided for as defined in § [3.40.080](#) following the annual evaluation. The granting of an annual wage increase is a merit increase based on performance and not an automatic longevity increase. Merit wage increases for executive employees shall be provided only if the City Council by non-code ordinance adopted during consideration of the annual budget has authorized merit wage increases. Said increases shall be limited to the amount provided by the City Council. When an executive employee reaches the maximum pay rate in their pay range or if the percentage increase granted to other employees who are still within their pay ranges will cause the executive employee to reach or exceed the maximum pay rate in their pay range, merit increases equal to one-half the percentage increase granted to other employees who are still within their pay ranges may be granted annually on July 1. During the first year of employment, an executive employee will be advanced to a higher pay level on the July 1 following the date of hire only if the employee's date of hire is before April 1.

(C) With the exception of a hiring bonus, cost of living adjustments, merit increases, and travel allowance authorized by City Council, bonuses and special merit awards are not available to executive employees.

(D) The negotiated salary and any hiring incentive for executive employees shall be reported to the City Council upon the acceptance of the offer letter.

(Am. Ord. 99-01, passed 3-9-99; Am. Ord. 2006-22, passed 12-12-06; Am. Ord. 2019-10, passed 9-10-19)

#### ~~§ 3.56.040 LEAVE.~~

~~—The provisions of [Chapter 3.52](#) shall govern leave for executive employees.~~

#### **§ 3.56.050 DISMISSAL, DEMOTION AND SUSPENSION.**

(A) Employees occupying an executive position are appointed by the City Manager, and serve at the Manager's discretion. The City Manager may dismiss, demote or suspend any employee occupying an executive position for any reason with or without just cause.

(B) Any dismissal, demotion or termination of an executive employee without cause will be taken only after first placing the executive employee on paid leave for a period of up to five days during which time the City Manager shall consult with the City Attorney and any dismissal, demotion or termination with cause will be taken only after: 1) provision of a written statement of reasons for termination with cause to the executive employee at least five (5) days before the effective date of termination; and 2) consultation with the City Attorney and City Council in executive session with the City Manager present unless the executive employee requests a public discussion. The executive employee will be provided an opportunity to respond to the statement of reasons both in writing and in person either in a public session or an executive session at the employee's option. The final decision on dismissal of an executive employee will be made by the City Manager.

(C) An executive employee who is demoted to a classified service position shall serve a probationary period.

(Am. Ord. 99-01, passed 3-9-99; Am. Ord. 2019-10, passed 9-10-19)

**§ 3.56.060 DEMOTION UPON REQUEST.**

An executive employee who previously held status in the classified service and who requests demotion, may be placed in a vacant classified position at the same or a lower level position than the one in which status was previously held.

**§ 3.56.070 EXCEPTION TO RULES.**

The requirements of this chapter apply fully to all executive employees and are the only rules, other than the sections listed in § 3.04.040, which apply to executive employees except as otherwise provided by this title.

(Am. Ord. 2019-10, passed 9-10-19)

**§ 3.56.080 SEVERANCE PAY.**

(A) An executive employee who is dismissed without just cause shall receive severance pay in an amount up to 12 weeks of the executive employee's pay rate at the time of dismissal.

(B) The City Manager shall report all instances in which severance pay is granted to the City Council in a public document.

(Am. Ord. 99-01, passed 3-9-99; Am. Ord. 2019-10, passed 9-10-19)

**§ 3.56.090 RESIGNATION.**

(A) An executive employee who desires to resign shall give at least 30 days written notice to the City Manager.

(B) An executive employee may withdraw their resignation only with the approval of the City Manager.